

RESOLUTION NO. 202942  
(Case No. 10367)

JUN 17 1971

WHEREAS, ANITA M. WINTERS, owner, "Applicant," filed an application for a variance under Zoning Administrator Case No. 10367 to (1) provide four new parking spaces on lot within existing five units and four garages, parking to be located 15' from curb and 1' from front property line where 18' from curb and 3' from property line are required, and (2) erect approximately 30' of 4' high retaining wall observing 0' front yard where maximum 3' wall is permitted in required 15' front yard at 3968-3974 32nd Street, more particularly described as Lots 41 and 42, Block 210, University Heights, in the R-4 Zone; and

WHEREAS, the Zoning Administrator of The City of San Diego held a public hearing on Zoning Administrator Case No. 10367 pursuant to Section 101.0502 of the San Diego Municipal Code on March 12, 1971, and denied the request for said variance, which decision was filed in the office of the City Clerk on March 22, 1971; and

WHEREAS, Applicant appealed the decision of the Zoning Administrator to the Board of Zoning Appeals pursuant to Section 101.0504 of the San Diego Municipal Code; and

WHEREAS, the Board of Zoning Appeals on April 26, 1971 agreed to continue Applicant's request to May 10, 1971 at which time Applicant submitted an amended request to provide three new parking spaces instead of four with 30' curb cut instead of 32' as originally requested, to be located 15' from curb and 1' from front property line where 18' from curb and 3' from property line are required; and

WHEREAS, the Board of Zoning Appeals on May 10, 1971, considered said amended request and upheld the decision of the Zoning Administrator under Case No. 10367, and denied the variance and filed the same in the office of the City Clerk on May 19, 1971; and

WHEREAS, pursuant to the provisions of Section 101.0505 of the San Diego Municipal Code, Applicant filed an appeal from the decision of the Board of Zoning Appeals to the City Council on May 27, 1971; and

WHEREAS, said appeal was set for public hearing and was heard on June 17, 1971, testimony having been heard and evidence having been submitted and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That all of the following facts exist with respect to the granting of a variance that allows Applicant to (1) provide three new parking spaces with 30' curb cut to be located 15' from curb and 1' from front property line where 18' from curb and 3' from property line are required, and (2) erect approximately 30' of 4' high retaining wall observing 0' front yard where maximum 3' wall is permitted in required 15' front yard, at 3968-3974 32nd Street, more particularly described as Lots 41 and 42, Block 210, University Heights, in the R-4 Zone.

1. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings

and do not apply generally to the land or buildings in the neighborhood. Such conditions have not resulted from any act of the Applicant subsequent to the adoption of the applicable zoning ordinance.

2. The aforesaid circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the Applicant of the reasonable use of the land or buildings and that the variance granted by the City is the minimum variance that will accomplish this purpose.

3. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

4. The granting of the variance will not adversely affect the Progress Guide and General Plan for the City of San Diego.

The above findings are further supported by the minutes, tape of the proceedings, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the City Council does hereby grant the appeal of Anita M. Winters from the decision of the Board of Zoning Appeals and does hereby grant to ANITA M. WINTERS a variance in the form and with the terms and conditions as set forth in the variance attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By C. Alan Sumption  
C. Alan Sumption, Deputy

CAS:cav  
7/1/71

VARIANCE - CITY COUNCIL  
(Case No. 10367)

This variance is granted by the Council of The City of San Diego to ANITA M. WINTERS, owner, "Applicant," for the purposes and terms and on the conditions as set out herein pursuant to the authority contained in Section 101.0502 of the San Diego Municipal Code and related parts thereof and Resolution No. 202942, adopted June 17, 1971 by the City Council of The City of San Diego.

1. Permission is hereby granted to Applicant under Zoning Administrator Case No. 10367 to (1) provide three new parking spaces with 30' curb cut to be located 15' from curb and 1' from front property line where 18' from curb and 3' from property line are required, and (2) erect approximately 30' of 4' high retaining wall observing 0' front yard where maximum 3' wall is permitted in required 15' front yard, at 3968-3974 32nd Street, more particularly described as Lots 41 and 42, Block 210, University Heights, in the R-4 Zone.

2. Applicant shall fully comply with all the provisions of the San Diego Building Code.

3. The effectiveness of this variance is expressly conditioned upon and the same shall not become effective for any purpose unless and until the following events shall have occurred:

a. Applicant shall have agreed to each and every condition hereof by having this variance signed with 90 days of the Council's decision.

b. This variance, executed as indicated, shall have been recorded in the office of the County Recorder.

4. This variance shall inure to the benefit of and shall constitute a covenant running with the land, and the terms, conditions and provisions hereof shall be binding upon Applicant and any successor or successors thereto and the interest of any such successor shall be subject to each and every condition herein set out.

5. This variance is not a permit or license, and any permit or license required by law must be obtained from the proper department.

6. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this variance or any default on the part of Applicant or its successors in interest shall be deemed a material breach hereof and this variance may be cancelled or revoked. Cancellation or revocation may be instituted by City or Applicant. The Zoning Administrator shall set the matter for public hearing before the Board of Zoning Appeals giving it the same notice as provided in Section 101.0502 of the San Diego Municipal Code. An appeal from the decision of the Board of Zoning Appeals may be taken to the City Council by any interested person within ten days after the decision is filed with the City Clerk. The Clerk shall set the matter for public hearing before the City Council giving the same notice as provided in Section 101.0502.

7. Any zone variance granted by the City shall be null and void and shall be revoked automatically 18 months after its effective date unless the use or construction permitted, or both, is commenced before said time expires, in accordance with Municipal Code Section 101.0508.

Passed and adopted by the Council of The City of San Diego on  
June 17, 1971.





Passed and adopted by the Council of The City of San Diego on JUN 17 1971,  
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Schaefer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Frank Curran	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

FRANK CURRAN  
Mayor of The City of San Diego, California.  
EDWARD NIELSEN  
~~JOHN LOCKWOOD~~  
City Clerk of The City of San Diego, California.

(Seal)

By Edna F. Hamel, Deputy *ie*

Office of the City Clerk, San Diego, California

Resolution Number 202942 Adopted JUN 17 1971