

RESOLUTION NO. 204433

DEC 16 1971

WHEREAS, JAY and PATRICIA MARTIN, "Applicant," filed an application for a zone variance under Zoning Administrator Case No. 10750 to (1) construct a second dwelling unit above existing garage which observes 0' side yard and 9' rear yard, addition also to observe 0' side yard and 9' rear yard where 3' side and 15' rear yards are required and where a single family dwelling only is permitted on a 2,400 square foot lot in the R-2 Zone (54% coverage permitted by Res. 4451); and (2) erect 44' on east property line and 65' on west property line (109') and 8' high wood fence where 6' high fence is permitted in required side yard, at 821 Allerton Court, between Mission Boulevard and Bayside Lane, more particularly described as Lot C, Block 6, Mission Beach, in the R-2 Zone; and

WHEREAS, the Zoning Administrator of The City of San Diego held a public hearing on Zoning Administrator Case No. 10750 pursuant to Section 101.0502 of the San Diego Municipal Code on September 10, 1971, and denied the request for said variance, which decision was filed in the office of the City Clerk on September 16, 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 October 18, 1971, upheld the decision of the Zoning Administrator under Case No. 10750 and denied the variance and filed the same in the office of the City Clerk on November 5, 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 November 15, 1971; and

WHEREAS, said appeal was set for public hearing and was heard on December 16, 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) construct a second dwelling unit above existing garage which observes 0' side yard and 9' rear yard, addition also to observe 0' side yard and 9' rear yard where 3' side and 15' rear yards are required and where a single family dwelling only is permitted on a 2400 square foot lot in the R-2 Zone (54% coverage permitted by Res. 4451); and (2) erect 44' on

east property line and 65' on west property line (109') a 6' high wood fence, at 821 Allerton Court, between Mission Boulevard and Bayside Lane, more particularly described as Lot C, Block 6, Mission Beach, in the R-2 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 JAY and PATRICIA MARTIN from the decision of the Board of Zoning Appeals and does hereby grant to JAY and PATRICIA MARTIN 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

cav
12/29/71

VARIANCE - CITY COUNCIL
(Case No. 10750)

This variance is granted by the Council of The City of San Diego to JAY and PATRICIA MARTIN, "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. 204433, adopted December 16, 1971, by the City Council of The City of San Diego.

1. Permission is hereby granted to Applicant under Zoning Administrator Case No. 10750 to (1) construct a second dwelling unit above existing garage which observes 0' side yard and 9' rear yard, addition also to observe 0' side yard and 9' rear yard where 3' side and 15' rear yards are required and where a single family dwelling only is permitted on a 2,400 square foot lot in the R-2 Zone (54% coverage permitted by Res. 4451); and (2) erect 44' on east property line and 65' on west property line (109') a 6' high wood fence, at 821 Allerton Court, between Mission Boulevard and Bayside Lane, more particularly described as Lot C, Block 6, Mission Beach, in the R-2 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 within 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

RESOLUTION NO. 204334

DEC 7 1971

WHEREAS, the Division of Highways, Department of Public Works, State of California is in the process of acquiring rights of way for the purpose of the construction of State Highway 94/805 Interchange, in the City of San Diego; and

WHEREAS, portions of said proposed freeway cross portions of Lots 12, 19 and 20, of Horton's Purchase of the Ex-Mission Lands of San Diego, according to Map thereof No. 283, filed March 9, 1878, in the office of the San Diego County Recorder, owned by The City of San Diego, and said Division of Highways, Department of Public Works, State of California, desires to purchase said City-owned property for said proposed freeway, together with drainage easements in said Lots 19 and 20 and a temporary construction easement in a portion of said Lot 20; and

WHEREAS, Section 22.0907 of the San Diego Municipal Code authorizes the conveyance of City property to public agencies for public purposes without complying with the provisions relating to the advertising for bids and auction sales contained in the Municipal Code; and

WHEREAS, said Division of Highways, Department of Public Works, State of California, has appraised said property, and has offered to pay to the City the sum of Eighty-Five Thousand Three Hundred Dollars (\$85,300.00) for a grant deed conveying said City-owned property, drainage easements and temporary easement, as more particularly described in said grant deed; and

MICROFILMED
MAR 22 1978

Passed and adopted by the Council of The City of San Diego on DEC 16 1971,
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<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"/>
Jim Bates	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

Judith A. Wilson, Deputy.

(Seal)

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 SAN DIEGO, CALIF.

Office of the City Clerk, San Diego, California

Resolution Number 204433 Adopted DEC 16 1971
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