

(R-89-275)

RESOLUTION NUMBER R-271405

ADOPTED ON JULY 12, 1988

WHEREAS, on April 20, 1988, the Board of Zoning Appeals considered the appeal of Leslie Caroline Cumming, Case No. C-19850, from the denial of the Zoning Administrator of her request to maintain (1) a floor area ratio of .75 where .60 is the maximum permitted; (2) 50'0" of combination fence/retaining wall in the rear yard, 7'6" in height, where a maximum height of 6'0" is permitted; and (3) approximately 30'0" of combination fence/ retaining wall in the east side yard, 7'6" in height, where a maximum height of 6'0" is permitted - Portions of Lots 22 and 24, Block 4, First Addition to South La Jolla, Map 891, located at 358 Belvedere Street, RI-5000 Zone, Coastal Zone, Proposition "D" Height Limitation Zone; and

WHEREAS, in arriving at their decision, the Board of Zoning Appeals considered the staff report, decision of the Zoning Administrator, the plans and materials submitted prior to and at the public hearing, an inspection of the subject property, and public testimony presented at the hearing; and

WHEREAS, the Board of Zoning Appeals found the request could be partially approved. With regard to the overheight combination retaining walls and fences, the Board believed that the topography of the lot created unusual circumstances to approve the diminimus request. As to the increase in floor area ratio, the Board did not believe any special circumstances existed. The

appellant, working with a licensed architect, knew the allowable floor area ratio; and

WHEREAS, in view of the foregoing, the Board of Zoning Appeals believed that the variance, as approved, was the minimum necessary to allow reasonable use as enjoyed by surrounding development and was viewed as fulfilling the purpose and intent of the zoning regulations and was not seen as injurious to the neighborhood; and

WHEREAS, due to the minimal nature of the variance as approved, adverse impacts on the General Plan for The City of San Diego were not anticipated; and

WHEREAS, as indicated above, the Board of Zoning Appeals partially granted the appeal and modified the decision of the Zoning Administrator; and

WHEREAS, on July 12, 1988, the Council for The City of San Diego considered the appeal of Leslie Caroline Cumming, Case No. C-19850, from the partial approval of the Board of Zoning Appeals as indicated above; and

WHEREAS, in arriving at its decision, the City Council considered the staff report, the decisions of the Zoning Administrator and Board of Zoning Appeals, the plans and materials submitted prior to and at the public hearing and public testimony presented at the hearing; and

WHEREAS, the City Council found that they could not grant the appeal. Given the physical use of the land, findings did not exist to justify the increased bulk of the structure. Appellant worked with an architect and contractor who knew or should have known they were exceeding the allowable floor area ratio; and

WHEREAS, the City Council believed that denial of the variance would not deprive appellant of reasonable use of the subject property; and

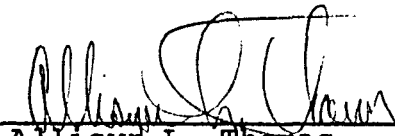
WHEREAS, the City Council determined that granting the variance would have adverse impacts on the General Plan for the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED, by the Council for The City of San Diego that the appeal of Leslie Caroline Cumming, Case No. C-19850, is hereby denied and the decision of the Board of Zoning Appeals is sustained.

BE IT FURTHER RESOLVED, that the decision of the City Council is final.

APPROVED: John W. Witt, City Attorney

By


Allisyn L. Thomas
Deputy City Attorney

ALT:wk
08/02/88
Or.Dept:Clerk
R-89-275
Form=r.none

Passed and adopted by the Council of The City of San Diego on **JUL 12 1988**,
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
 Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By *Shonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

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