

RESOLUTION NUMBER R-286650

ADOPTED ON NOVEMBER 28, 1995

WHEREAS, Bruce Greene, AIA, appealed the decision of the Board of Zoning Appeals in partially denying the request for variance, submitted by Peter Bulkley, the subject property is more particularly described as Lot 20, Block 46, La Jolla Park, Map 352, located at 1585 Coast Walk, in the La Jolla Community Plan area, in the R1-5000 zone, Coastal zone, and Coastal Height Limitation zone; and

WHEREAS, the matter was set for public hearing on November 28, 1995, testimony having been heard, 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, that the request for variances to the Municipal Code of the City by Peter Bulkley for his property at 1585 Coast Walk noted as numbers 1 through 6 on the Board of Zoning Appeals Project Summary Sheet, C-21160, be granted, provided that the following conditions are met:

1. The property owner shall enter into an encroachment removal agreement with the City for the improvements on his

property that encroach into the public right-of-way. Such agreement shall stipulate that the City can require removal of the improvements at any time. While this has always been the City's right, this formalizes the agreements and serves notice on the property owner and any subsequent property owners. The property owner shall indemnify the City against any liability resulting from such encroachments. The property owner shall not allow any further improvements to be placed on his property that encroach into the public right-of-way.

2. The property owner shall remove from Coast Walk the metal poles that form the boundary of a parking place in front of 1585 Coast Walk and repair the pavement where these poles were placed to the satisfaction of the Development Services Department of the City of San Diego. The owner shall further refrain from any future efforts to establish private parking in the public right-of-way.

3. The property owner shall obtain any other necessary permits from the City.

4. That the issuance of any permits by the City of San Diego does not authorize the applicant for said permits to violate and Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species, Act, etc. and any amendments thereto.

5. That this variance, the encroachment removal agreement and indemnification of the City of San Diego from liability for

any improvements to the property of 1585 Coast Walk in the public right-of-way shall be signed and notarized by the applicant and returned to Zoning Services to be recorded with the County Recorder, within thirty (30) days of the receipt of this resolution.

6. Due to the unusual topography and unusual access from partially improved, adjacent public right-of-way, there are circumstances which are peculiar to this property and which do not apply generally to the land or buildings in the neighborhood. These circumstances are such that strict application of the applicable ordinances would deprive the applicant of the reasonable use of his land and house. Thus, the necessary findings as specified in Municipal Code section 101.0502.D are hereby made by this Council concerning these variances.

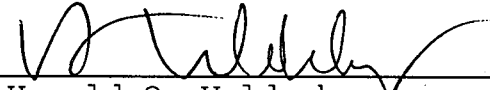
BE IT FURTHER RESOLVED, that the Council hereby directs the City Manager to implement a procedure such that any future application from any Coast Walk property owner calling into question the location of the portion of the public right-of-way abutting their property shall be resolved at the expense of the property owner.

BE IT FURTHER RESOLVED, that if the property owner fails to agree or to comply with any of the conditions as specified in this motion, the Council's decision is to let stand the decision of the Board of Zoning Appeals.

BE IT FURTHER RESOLVED, that the appeal of Bruce Greene, is granted; the decision of the Board of Zoning Appeals is overruled, and the variance is hereby granted to Peter Bulkley, under the terms and conditions set forth above.

APPROVED: JOHN W. WITT, City Attorney

By



Harold O. Valderhaug
Chief Deputy City Attorney

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12/07/95
Or.Dept:Clerk
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