



**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending December 11, 2015

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**ZONING ADMINISTRATOR ACTIONS  
DECEMBER 10, 2015**

- Item 1: 20441 Bay View Avenue Modification Permit No. MD2015-010 (PA2015-187)  
Site Address: 20441 Bay View Avenue  
*Action: Approved by Resolution No. ZA2015-064* Council District 3
- Item 2: 1207 and 1215 Dolphin Terrace Lot Line Adjustment No. LA2015-006 (PA2015-193)  
Site Address: 1207 and 1215 Dolphin Terrace  
*Action: Approved by Resolution No. ZA2015-065* Council District 5

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

## RESOLUTION NO. ZA2015-064

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2015-010 FOR A 17-PERCENT ADDITION TO AN EXISTING NONCONFORMING SINGLE-UNIT RESIDENCE LOCATED AT 20441 BAY VIEW AVENUE (PA2015-187)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steven and Michelle Wulfestieg, with respect to property located at 20441 Bay View Avenue, and legally described as Lot 25 in Tract 01501 requesting approval of a Modification Permit.
2. The applicant proposes a modification permit to allow an approximately 17-percent addition to an existing non-conforming single-family residence where the Zoning Code limits additions to 10 percent of the existing gross floor area when the required parking dimensions are not provided. The non-conforming garage currently provides 19 feet, 5 inches in width by 21 feet, 5 inches in depth, where a minimum of a 20-foot by 20-foot dimension is required. The garage dimensions were in compliance with the Zoning Code when the property was annexed from the County in 2003.
3. The subject property is located within the Single-Unit Residential Detached Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-C).
5. A public hearing was held on December 10, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities) of the Guidelines for CEQA.
2. This exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The

proposed project is a 263-square-foot addition to an existing single-residence in a developed neighborhood and is not within an environmentally sensitive area.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. The requested modification will be compatible with existing development in the neighborhood.*

#### Facts in Support of Finding:

1. The neighborhood is comprised of one- and two- story single-unit dwellings. The Modification Permit will allow expansion of the existing single-story, single-unit dwelling, which is compatible with other properties in the neighborhood.
2. The addition would increase the dwelling by 263 square feet, to provide for a new ADA compliant master bathroom and laundry room. The proposed alterations will comply with all applicable development standards, including height, setbacks, and open volume and will not intensify or alter the existing nonconforming parking.
3. The proposed addition will result in a total floor area of approximately 1,784 square feet (including the 447-square-foot garage), which is equal or less than the bulk and scale of the other single-unit dwellings within the neighborhood.
4. The existing development on the property is a single-family dwelling. As such, there is no change to the density or intensity as a result of the proposed remodel and addition.

#### Finding:

- B. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

#### Facts in Support of Finding:

1. The interior dimensions of the existing two-car garage were compliant with the County of Orange Zoning Code at the time of construction. The area was annexed from the County in 2003 and at the time of annexation the existing garage was compliant with the Newport Beach Zoning Code. However, as a result of amendments to the Zoning Code, the two-car garage is now substandard in size, and is therefore legal nonconforming.

2. Moving the garage wall that is not within the area of the proposed construction would be costly and significantly increase the scope of the project in order to gain 7 inches of garage width.
3. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two (2) vehicles.

Finding:

- C. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

1. The addition is expanding towards the rear yard of the property. Increasing the width of the garage to 20 feet would affect the side of the property and result in a practical difficulty by requiring significant structural alterations to the structure and a significant expansion in the scope of work in order to increase the depth of the garage by approximately 7 inches.
2. The existing garage provides two (2) useable garage spaces only slightly less than the required width therefore fulfilling the intent of the Zoning Code by providing adequate parking on site. Approval of the Modification Permit allows the applicant to continue using the existing two-car garage, which has not proven detrimental to the occupants or neighbors of the dwelling.

Finding:

- D. There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

1. The alternative would require that the applicant bring the existing two-car garage into conformance by expanding the garage width. Expanding the garage width would require significant alterations to the structure well beyond the scope of the planned small addition.
2. The other alternative is to reduce the size of the addition to not more than 10 percent of the existing floor area of the structure and comply with the requirements of the Zoning Code. Given the proposal is to create an ADA bathroom and laundry room based on the existing small one-story dwelling, a redesign to reduce the size of the addition will not allow the project to meet these objectives of the applicant.

Finding:

*E. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding:

1. The proposed one-story addition would maintain all required setbacks and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The existing nonconforming garage has not proven to be detrimental to the occupants of the property, nearby properties, the neighborhood, or the City and is adequate in width to park two (2) vehicles.
3. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2015-010, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>th</sup> DAY OF DECEMBER, 2015.**

BY:



Patrick J. Alford  
Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior dimensions (19 feet, 5 inches wide by 21 feet, 5 inches deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two (2) vehicles.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
5. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department, including for the existing improvements that were constructed without the benefit of building permits. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current property owner or the leasing agent.
7. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
8. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 20441 Bay View Avenue Modification including, but not limited to, MD2015-010 (PA2015-187). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth

in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2015-065

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2015-006 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 1207 AND 1215 DOLPHIN TERRACE (PA2015-193)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture, on behalf of Diyar Irvine, LLC, with respect to property located at 1207 and 1215 Dolphin Terrace, and legally described as Lot 6 of Tract No. 1700 and Lot 1 of Tract No. 2334, requesting approval of a lot line adjustment.
2. The applicant proposes to adjust the interior boundary between two (2) contiguous parcels located along Dolphin Terrace. Land will be taken from 1215 Dolphin Terrace and allocated to 1207 Dolphin Terrace. There will be no change in the number of parcels.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-A).
5. A public hearing was held on December 10, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and qualifies for a Class 5 (Minor Alterations in Land Use Limitations) categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15305, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act).
2. The Class 5 exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including minor lot line adjustments. The proposed boundary adjustment affects the interior lot line between two properties and there will be no change in land use or density. Furthermore, the resulting demolition or alteration of

existing structures to accommodate the boundary adjustment only requires a ministerial permit. The structures involved are not significant historic resources for the purpose of CEQA.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Approval of the lot line adjustment will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot line adjustment is consistent with the legislative intent of this title.*

#### Facts in Support of Finding:

1. The proposed boundary adjustment will not change the single-unit residential use of each property. The General Plan Land Use Designation, Single-Unit Residential Detached (RS-D), which is intended for detached single-family residential dwelling units will be maintained for each parcel.
2. The proposed boundary adjustment will not result in a development pattern which is inconsistent with the surrounding neighborhood. Each of the resulting parcels will continue to allow for single-unit development, which is consistent with the existing General Plan Land Use and zoning designations.
3. The proposed boundary adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustments) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where land taken from one (1) lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
4. The resulting lot widths and area will maintain consistency with the development pattern within the surrounding neighborhood.
5. The subdivision is consistent with the General Plan, does not affect open space areas in the City, does not negatively impact surrounding land owners, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood, because the adjustment affects an interior lot line between two (2) adjacent lots.

Finding:

- B. *The number of parcels resulting from the lot line adjustment remains the same as before the lot line adjustment.*

Facts in Support of Finding:

1. The proposed boundary adjustment will shift the interior boundary between two (2) adjacent parcels. No additional lots will result from the adjustment and the number remains the same as before the lot line adjustment.

Finding:

- C. *The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

1. The proposed boundary adjustment will reallocate approximately 1,717 square feet from 1215 Dolphin Terrace to 1207 Dolphin Terrace. The existing area of 1215 Dolphin Terrace is approximately 14,052 square feet. The proposed lot line adjustment will reduce the area to approximately 12,335 square feet. The existing area of 1207 Dolphin Terrace is approximately 12,382 square feet. The proposed lot line adjustment would increase the area to approximately 14,099 square feet.
2. The proposed parcels maintain consistency with the minimum size requirements of the Zoning Code including the minimum 50 feet width and 5,000-square-foot minimum site area requirement for interior lots in the R-1 Zoning District.

Finding:

- D. *Neither the lots as adjusted nor adjoining parcels will be deprived of legal access as a result of the lot line adjustment.*

Facts in Support of Finding:

1. The proposed boundary adjustment affects the interior lot line between two (2) adjacent lots. Legal access to the properties will be maintained from Dolphin Terrace.

Finding:

- E. *That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Facts in Support of Finding:

1. The proposed boundary adjustment will not impact vehicular access and the existing curb cuts along Dolphin Terrace will be maintained for each parcel.

Finding:

- F. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Facts in Support of Finding:

1. The final configuration of the proposed parcels does not result in a requirement for revised setbacks since the parcels are not to be reoriented. The required setbacks applicable to lots in the R-1 Zoning District shall continue to apply to the adjusted lots per the Zoning Code.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2015-006, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 10<sup>TH</sup> DAY OF DECEMBER, 2015.**

By:



Patrick J. Alford  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
3. Prior to recordation of the lot line adjustment, all existing structures are required to be demolished or relocated to comply with applicable setback requirements.
4. Prior to recordation of the lot line adjustment, the applicant shall submit the exhibits to the Public Works Department for final review and approval.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 1207 AND 1215 Dolphin Terrace Lot Line Adjustment including, but not limited to, LA2015-006 (PA2015-193). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.