



**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, Hearing Officer, and/or Planning Division staff for the week ending July 13, 2012

---

**ZONING ADMINISTRATOR ACTIONS  
JULY 11, 2012**

Item 1: Demler Residence - Modification Permit No. MD2012-009 (PA2012-060)  
23 Linda Isle

Action: Approved by Resolution No. ZA2012-027      Council District 2

**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. ZA2012-027

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2012-009 FOR THE LOCATION OF A REQUIRED THIRD PARKING SPACE LOCATED AT 23 LINDA ISLE (PA2012-060)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Garcia on behalf of the property owners, David and Sharman Demler, with respect to property located at 23 Linda Isle, and legally described as Lot 23, Tract 4003 of Newport Beach requesting approval of a Modification Permit.
2. The applicant proposes to construct additions that will result in a residence that exceeds 4,000 square feet (not including the garage area) and proposes that the additional required garage parking space for residences exceeding 4,000 square feet be provided on the 20-foot-driveway.
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 and the Coastal Land Use Plan category is Single-Unit Residential Detached - (RSD-B, 6.0 - 9.9 DU/AC).
5. A public hearing was held on July 11, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. 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.

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed project involves the addition of square footage to an existing single family residence that results in the requirement that an additional parking space be provided on the site. This exemption includes additions to the existing structure up to 50 percent of the existing floor area or 2,500 square feet, whichever is less. This project therefore qualifies for this exemption.

### SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

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

#### Facts in Support of Finding:

1. Each property on Linda Isle is developed with either two or three garage parking spaces (depending on the width and size of the lot). Additionally, the front 25 feet adjacent to the street on most lots is developed with a five-foot-wide sidewalk directly in front of the garage, a 20-foot driveway, and typically two or three community association guest parking spaces adjacent to the 20-foot driveway.
2. The subject property has a two-car garage and two community association guest parking spaces adjacent to the 20-foot driveway. This configuration will not change with the proposed project.
3. The requested modification permit will allow the applicant to locate a third required parking space on the 20-foot driveway. Pursuant to Zoning Code Section 20.40.090.C.3.a, parking in front setback areas in front of a garage set back a minimum of 20 feet is allowed.

#### Finding:

*B. 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 location of the community association guest parking spaces and the width of the lot (45 feet) precludes development of a wider driveway to accommodate a third garage parking space.
2. The provision of a third garage parking space (two tandem spaces) would require a significant expansion of the scope of the work, since the addition of a tandem space to the garage would require relocating or significantly altering the existing kitchen area.

Finding:

*C. 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 location of the community association guest parking spaces and the width of the lot (45 feet) precludes development of a wider driveway to accommodate a third garage parking space.
3. The provision of a third garage parking space (two tandem spaces) would require a significant expansion of the scope of the work, since the addition of a tandem space to the garage would require relocating the existing kitchen area.

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 granting of a Modification Permit allows the applicant to locate a third parking space required by the Zoning Code for residences that exceed 4,000 square feet on the 20-foot driveway rather than within the garage. The Homeowner's Association allows parking in this area and site visits confirm the residents park vehicles in their driveways.
3. The location of the community association guest parking spaces and the width of the lot (45 feet) precludes development of a wider driveway to accommodate a third garage parking space.
4. The provision of a third garage parking space (two tandem spaces) would require a significant expansion of the scope of the work, since the addition of a tandem space to the garage would require relocating the existing kitchen area.
5. Requiring a third parking space would result in the loss of a community association guest parking space or requiring a tandem space. Both scenarios would significantly expand the scope of the project.

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.*

### Fact in Support of Finding

1. The existing development on the property is a single-family residence and the proposed development is a single-family residence. As such, there is no change to the density or intensity.
2. The Zoning Code recognizes that driveways are an appropriate location to park a vehicle by allowing parking in front setback areas in front of a garage set back a minimum of 20 feet.
3. Linda Isle is a gated community is not subject to beach traffic and the associated parking issues related to a typical beach community. Additionally overflow and guest parking spaces are provided by the original design of the community.
4. The proposed additions will result in a residence that is similar in scale to others on Linda Isle.

### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves PA2012-060 for MD2012-009, 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 days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 11<sup>th</sup> DAY OF JULY, 2012.**



\_\_\_\_\_  
Brenda Wisneski, AICP, 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. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.
3. The required third parking space shall be located within the 20-foot driveway located on the subject property.
4. A copy of the resolution with conditions of approval shall be incorporated into the Building Division and field sets of plans prior to the issuance of building permits.
5. Coastal Commission approval shall be obtained prior to building permit issuance.
6. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
7. 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 Demler Residence Parking Modification including, but not limited to, the PA2012-060 for MD2012-009. 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.