



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

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION
FROM: Seimone Jurjis, Assistant City Manager/Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Community Development Director for the week ending August 25, 2023.

**ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS
AUGUST 24, 2023**

Item 1: Allison Residence Modification Permit (PA2022-0318)
Site Address: 306 St. Andrews Road

Action: Approved by Resolution No. ZA2023-057	Council District	2
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APPEAL PERIOD: An appeal or call for review 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 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. ZA2023-057

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A MODIFICATION PERMIT FOR AN ADDITION GREATER THAN 10 PERCENT TO A SINGLE-UNIT DWELLING WITH A LEGAL NONCONFORMING GARAGE LOCATED AT 306 ST. ANDREWS ROAD (PA2022-0318)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Allison and Kathleen Ensley (“Applicants”), with respect to property located at 306 St. Andrews Road, and legally described as Lot 44 of Tract No. 1220 requesting approval of a modification permit.
2. The Applicants propose the remodel and addition to an existing single-unit dwelling with a garage that is considered legal nonconforming due to its interior dimensions. The existing garage provides the minimum required depth of 20 feet; however, the existing width is substandard at 18 feet, 2 inches, whereas the requirement is 20 feet. The modification permit is necessary because the applicant proposes to add more than 10 percent of the existing square footage without altering the garage for compliance. The proposed addition is 852 square feet and results in a total of 3,180 square feet for the residence (including the garage).
3. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on August 24, 2023, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This exemption includes the construction of one (1) single-unit dwelling in a residential zone. The proposed project is an 852-square-foot addition to an existing single-unit

dwelling within 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 NBMC, 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 existing development is a 2,328 square-foot, single-unit dwelling with an attached two (2)-car garage. The neighborhood is comprised of one (1)-story and two (2)-story single-unit and two (2)-unit dwellings. The modification permit will allow expansion of the existing two (2)-story, single-unit dwelling, which is compatible with other properties in the neighborhood.
2. The addition would provide more living area for the family by increasing the size of the dwelling unit by 852 square feet. The addition is two (2) stories and is consistent with the design and height of other properties in the neighborhood.
3. There is no change to the density or the use 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 existing structure was built in the early 1950s and complied with development standards, including parking requirements, at the time of construction. Subsequent amendments to the standards have rendered the interior clear dimensions of the existing two (2)-car garage to be substandard in size.
2. NBMC Subsection 20.38.030(C) (Nonconforming Uses and Structures – Determination of Nonconformity) defines a “legal nonconforming structure” as any structure that was lawfully erected but does not conform with the current development standards for the zoning district in which it is located by reason of adoption or amendment of the Zoning Code. The subject property is considered legal nonconforming due to the substandard interior garage dimensions.

3. The garage is covered by a gambrel roof over the second story that extends from the main ridge beam of the house. Modifying the garage walls, which are not within the area of the proposed construction, would require reframing the entire garage. Reframing the garage would significantly increase the scope and cost of the project.
4. 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 exterior wall of the garage is located one (1) foot, one (1) inch from the required side setback. The current development standards would require the garage wall be moved one (1) foot and 10 inches to achieve the Code-required 20-foot width. This would place the garage wall within the required four (4)-foot side yard setback, which is not allowed by the Zoning Code.
2. Relocating the interior garage wall one (1) foot and 10 inches south to achieve the 20-foot clear dimension for width, would encroach into the dining area of the dwelling space and is contrary to the purpose of the proposed addition. This would also require reframing the garage walls, which would add significant scope and cost to the project.

Finding:

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

Facts in Support of Finding:

1. Bringing the garage into compliance with current Zoning Code requirements would provide a negligible benefit but it would unreasonably require significant alterations to the structure well beyond the scope of the planned addition.
2. The intent of the project is to provide additional living area, including a new laundry room, a larger kitchen, and a new family room. A redesign to reduce the size of the addition to 232.8 square feet will significantly impact the objectives of the project and would not provide similar benefits to the Applicants.

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.

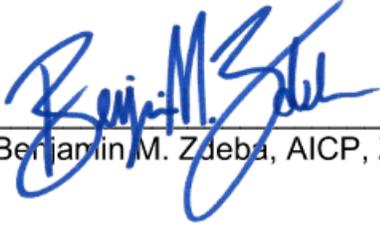
Facts in Support of Finding:

1. The proposed construction conforms to all applicable development standards, including floor area limit, setbacks, height, 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 proposed project maintains more than the minimum three (3)-foot side yard for fire access in accordance with Zoning Code Section 20.30.110 (Setbacks Regulations and Exceptions), Subsection A(1)(c).
3. The approval of this modification permit is conditioned such that the Applicants are required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
4. In addition to the two (2)-car garage, the property includes a driveway adequate in size to accommodate parking for two (2) additional vehicles on-site, minimizing demand for on-street parking.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Modification Permit filed as PA2022-0318, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 24TH DAY OF AUGUST, 2023.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicants shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
4. This Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. Any change to the approved plans, shall require review by the Planning Division. An amendment to or the processing of a new modification permit may be required.
6. 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.
7. *Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior clear dimensions (18 feet, 2 inches wide by minimum 20 feet deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two vehicles.*
8. Prior to the issuance of a building permit, the Applicants shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. 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 business owner, property owner or the leasing agent.
10. Construction activities shall comply with Section 10.28.040 (Loud and Unreasonable Noise - Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7

a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

11. This approval shall expire and become void unless exercised within 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 NBMC.
12. To the fullest extent permitted by law, Applicants 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 Allison Residence Addition including, but not limited to **Modification Permit No. PA2022-0318**. 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 Applicants, City, and/or the parties initiating or bringing such proceeding. The Applicants 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 Applicants shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition