

2. Development Permit 14-18

Applicant – Myles Noyes

The Planning Commission will consider a Variance to retain a front porch that was constructed within the required front setback without a permit. The property is located at 807 Saratoga Avenue (APN 060-101-024) in the Low Density Residential (R1) Zone.

Planner II Reese presented the staff report.

Commissioner Long inquired what the required minimum front setback was in the 1980's. Planner Reese stated that staff did not have documentation stating the setback, but that the structure did not have a permit to be constructed. Director Buckingham added that staff has been unable to locate zoning regulations prior to about 1994. The issue is that it was illegally constructed. If it had been legally established, then staff would assume that it complied with regulations in effect at the time.

Commissioner Long requested information on the code enforcement process and hearing. Director Buckingham replied that the code enforcement case was opened when someone was interested in purchasing the home and reviewed the permit file. The code enforcement case was placed on hold when a demolition permit was issued to remove the structures. All of the illegally constructed structures were removed, except for the front porch.

Commissioner Rodman requested clarification on the procedure and the number of findings that are required. Planner Reese stated that all four findings are needed to be made in order to grant the variance. Chair Laferriere clarified that although the draft resolution includes three findings that cannot be met, the Commission should review all four and determine which findings they can or cannot not make.

Commissioner Alex requested about the notification process to notify potential buyers of code enforcement issues. Director Buckingham stated that in general, when someone is intending to purchase a property, they come in to review the building permit file. When staff becomes aware of an issue, such as construction without a permit, a code enforcement case is opened, regardless if that individual purchases the property or not. However, in this particular case, there was a letter in the file from prior staff that had identified that the removal of the porch was required. When current staff learned that the porch still existed, a letter was sent to the seller and seller's agent, and included a copy in the building permit file so that anyone looking at the file would be made aware of the issue. He also stated that he had had a meeting with the current owners (i.e., the applicants) and informed them of the outstanding code enforcement issue of the illegal construction, including the front porch, prior to them purchasing the house.

Chair Laferriere opened the public hearing and invited the applicants to speak.

Myles and Cecilia Noyes, Grover Beach residents, thanked staff for disclosing that most of the illegal construction was removed. They previously were in the southeasterly portion of the City where the neighborhood was uniform and understand why things should be one way or another. He stated that they received a copy of the letter addressed to the previous owner, Mr. Hogge, but did not receive formal notification. He stated that a prior owner, Mr. Barber, did all of the illegal work, and when Mr. Hogge purchased the property in 2000, it went through escrow without anyone identifying the illegal construction. When they purchased the property, they understood what needed to be done due to the substandard construction. They also stated that when they identified the examples of other properties with similar situations, they did not understand "vicinity" or that homes on corner lots could

be addressed and oriented to the side street. Mr. and Mrs. Noyes distributed to the Commission photos of the ramp and porch structure and stated that the four foot by seven foot porch cannot be rebuilt due to the six-foot depth of the existing ramp. When the home was reroofed, the roofing contractor stated that the porch appears to have been constructed correctly. They stated that their site is unique due to its elevation as compared to the street because the property is two feet above the sidewalk, and the floor of the house is 18 inches above the property, so the floor is 4 ½ feet above the sidewalk. In addition, the site is three feet higher than the property to the east and two feet higher than the property to the north. He stated, that although ADA regulations don't apply to residential structures, ADA requires landings at the end of ramps in front of doors are required to be protected from inclement weather.

Commissioner Alex stated that he could not make the first finding, regarding uniqueness due to topography. Mr. Noyes disagreed, stating that the topography is unique for this neighborhood because it is a few feet above adjacent parcels and the public right of way.

Dorothy Avila, Grover Beach resident, attested that a previous owner, Mr. Barber, constructed the unpermitted structures at night, and on holidays and weekends. She inquired why escrow did not tell Mr. Hogge that there was illegal construction, and stated that the current owners should not be penalized for the porch.

Brad Keller, Grover Beach resident, stated the house looks much better now because of the improvements by the Noyes', and that the current owners should not be penalized for the illegal construction. He stated that the City has known about the illegal structures for a number of years, and believes the onus is on the City for not following up. He is concerned with the appearance of the house without a porch.

Chair Laferriere closed the public hearing.

Planner Reese clarified that the ramp and the low wall is not subject to the setback requirements, just the covered porch. Director Buckingham added the only structures allowed in the front setback are structures three feet in height or less such as picket fences, low walls, decks, and ramps.

Chair Laferriere inquired if there was a statute of limitation or timeframe that comes into play. Director Buckingham stated there is not a statute of limitations on illegal construction. There is also no City inspection during real estate transactions to determine if illegal construction has occurred. It is the responsibility of the owner or real estate agent to disclose. Although the porch has curb appeal, State law does not consider the aesthetics of the structure as part of the required findings to grant a variance.

Commissioner Long confirmed that a porch that conforms to the original size of four feet by seven feet could be rebuilt. Director Buckingham stated that even though the porch was removed, staff is supportive of it being rebuilt to replace what was there previously.

Commissioner Alex requested clarification on accessibility requirements. Director Buckingham stated that if for some reason the ramp or landing exceeded the three feet in height in order to serve the building, there is a process called Reasonable Accommodation that can approve an exception. In regards to a covered landing, there are many examples of uncovered landings in commercial developments.

The Commission reviewed the findings and came to the following conclusions:

1. *There are special circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features, etc.) that do not apply generally to other properties in the vicinity in the same zone.*
 - The lot is only 100 feet in depth, instead of the City's very common 150 feet, but 100 feet is also not uncommon enough to state that it is unique. The porch has been widened and deepened.
 - The topography is similar to other sites.
 - Unique topography could be a reason for a ramp, but not a wider and deeper porch.
2. *Strict compliance with Development Code standards would deprive the subject property of privileges enjoyed by other property in the vicinity and in the same zone.*
 - There are other porches in the current front setback, but this is a modified, larger porch. If the porch was smaller, they would have a small porch, just like neighboring structures.
 - If the original porch size is rebuilt, then the property would not be deprived of having a covered porch.
3. *Approving the Variance would not constitute a granting of special privilege inconsistent with the limitations on other properties in the same vicinity and zone.*
 - The variance would decrease the front yard setback to provide a larger porch, granting a special privilege.
4. *The requested Variance would not allow a use or activity that is not otherwise expressly authorized by the regulations governing the subject parcel.*
 - No issue. This finding can be made because porches are permitted.

Action: It was m/s by Commissioner Rodman/Commissioner Long to adopt Resolution No. 14-13. The motion carried on the following roll call vote:

AYES: Commissioners Alex, Long, Rodman, and Chair Laferriere.
NOES: Commissioners – None.
ABSENT: Vice Chair Blum.
ABSTAIN: Commissioners – None.

Resolution No. 14-13: Resolution of the Grover Beach Planning Commission Denying a Variance for Development Permit 14-18 (807 Saratoga Avenue)



RESOLUTION NO. 14-13

RESOLUTION OF THE GROVER BEACH PLANNING COMMISSION DENYING A VARIANCE FOR DEVELOPMENT PERMIT 14-18 (807 SARATOGA AVENUE)

WHEREAS, the Planning Commission for the City of Grover Beach has received for its review and consideration a staff report in connection with Development Permit 14-18 for a variance to allow a front porch to encroach into the front setback at 807 Saratoga Avenue (APN 060-101-024) in the Low Density Residential (R1) Zone; and

WHEREAS, the Notice of Public Hearing was properly advertised and publicly posted in the manner required by law; and

WHEREAS the Planning Commission reviewed and considered the proposed project for Development Permit 14-18 at Public Hearing on December 9, 2014; and

WHEREAS, the Planning Commission for the City of Grover Beach in its independent judgment make the following findings of denial in accordance with Development Code Section 6.20.100(F) based on all written documentation and oral testimony that comprised the administrative record as follows:

1. *There are **no** special circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features, etc.) that do not apply generally to other properties in the vicinity in the same zone.* There are no special physical circumstances or conditions that exists on the subject property. The property is a rectangular lot measuring 50-feet by 100-feet. There are many lots throughout the City and in the vicinity of the site that measure 50-feet by 100-feet. Therefore, there is nothing unusual or unique about the size or shape of the site. The site also has the same sloping topography and the same surroundings (i.e., other residential lots) as lots in the vicinity and there are no unique physical features (e.g., in a floodplain or special soils conditions).
2. *Strict compliance with Development Code standards would **not** deprive the subject property of privileges enjoyed by other property in the vicinity and in the same zone.* There is insufficient evidence in the record to demonstrate that strict compliance with the current front setback would deprive the subject site of privileges enjoyed by other properties in the vicinity. Based on examples submitted by the applicant, there are two other properties in the vicinity (i.e., on Saratoga Avenue within the same block) that have structures that encroach into the required minimum front setback of 20-feet. Both structures located at 849 and 857 Saratoga were legally constructed and have front setbacks of approximately 8 and 9-feet, respectively. The subject site has a 6-foot legal non-conforming front setback and is requesting a variance to allow a 4-foot setback for an existing covered front porch that was illegally constructed in the 1980's and is not a legal non-conforming structure. Therefore, the subject site already has a setback that is less than the other two properties and would provide the subject property with a privilege that is **not** enjoyed by other properties in the vicinity.

The applicant also submitted two other properties that have structures that encroach into the required minimum front setback of 20-feet. However, both are over 1000-feet, or three blocks, from the subject site and do not meet the criteria for being in the vicinity of the subject site. Further, both structures are legal non-conforming and cannot increase

the encroachment into the front setback consistent with the two residences at 849 and 857 Saratoga Avenue.

3. *Approving the Variance **would** constitute a granting of special privilege inconsistent with the limitations on other properties in the same vicinity and zone.* The R1 zone requires a minimum 20-foot front setback. All new development and additions (including covered porches) are required to meet the minimum 20-foot front setback. The limitations created by the front setback are consistently applied throughout the City. Therefore, approving a Variance to allow the expanded porch would be a special privilege inconsistent with the limitations on other properties in the R1 zone.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Grover Beach **DOES HEREBY DENY** the Variance for Development Permit 14-18.

On motion by Commissioner Rodman, seconded by Commissioner Long, and on the following roll-call vote, to wit:

AYES: Commissioners Alex, Long, Rodman, and Chair Laferriere.
NOES: Commissioners – None.
ABSENT: Vice Chair Blum.
ABSTAIN: Commissioners – None.

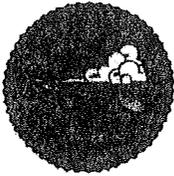
the foregoing RESOLUTION NO. 14-13 was **PASSED, APPROVED, and ADOPTED** at a Regular Meeting of the City of Grover Beach Planning Commission on this 9th day of December, 2014.

COPY

JOHN LAFERRIERE, CHAIR

Attest:

BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR
SECRETARY TO THE PLANNING COMMISSION



Appeal of Planning Commission Action to the City Council

Date Stamp - City Clerk's Office:

CITY OF GROVER BEACH

DEC 29 2014

RECEIVED

Name of Appellant: Myles & Cecilia Noyes

Address: 807 Saratoga Ave Grover Beach

Application Being Appealed: No: 14-18' 807 Saratoga ave.

Applicant (if other than Appellant): _____

Date of Commission Action: 12-9-2014 Description of Commission Action: Grover Beach

Planning Commission denied Development Permit Application No: 14-18,
a request for approval of a variance to allow front porch to be permitted
within required front setback at 807 Saratoga Ave.

Project Location: 807 Saratoga Ave. G.B. APN 14-18

Must check one: Coastal Zone - or - Non-Coastal Zone

Project Description: Request for approval of a variance to allow a
front porch to be permitted within the required front setback at
807 Saratoga Ave. G.B.

Reason for Appeal: we are appealing the Planning Commission denial of our front
porch to be permitted within the required front setback at 807 Saratoga Ave.
The front porch was built in the early 80's. At the time there was record
of what the code was for setback minimums. The front porch enhance the look of
the home and the neighborhood. The front porch extends 2 feet more than
the original home design.

Signature: [Signature] Cecilia Noyes Date: 12-29-14

Mailing Address: 807 Saratoga Ave. Grover Beach Ca. 93433

Daytime Phone Number: [Redacted] Email address: [Redacted]

Receipt # for Filing Fee 570958 Date Received by City 12/29/2014

- Original - City Clerk
- Copy - Planning Division

[Signature]
City Clerk -or- Representative Signature