

**FROM THE DESK OF JON PERICA
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July 3, 2013

BY HAND DELIVERY or EMAIL to patrice.lattimore@lacity.org

Honorable Los Angeles City Council
c/o June Lagmay, City Clerk
200 N. Spring Street, Room 395
Los Angeles, Ca 91002

**RE: COUNCIL FILE 13-0804 -- JUSTIFICATION TO DENY PROJECT APPEAL –
ZA 2012-1395-ZV-ZAA-1A**

Dear Honorable Council members

My name is Jon Perica and I am a retired City Zoning Administrator. I am assisting Victor Marmon on behalf of the owners of 333 Copa de Oro Road, which is adjacent to the subject property.

In the 35 years that I worked in the Planning Department, I acted on over 2,500 Planning Department cases, and I know what supportable Zone Variance Findings are. A Variance can only be approved if all the required five findings can be made to support the project. Even the failure to make just one required finding means you cannot approve the project. None of the five findings can be justified by the facts.

Finding #1 requires facts that the **City** caused a hardship that justified the applicant's over-height house request. The applicant is already building a 36-ft tall house by right. What was the City hardship that prevented the applicant from building its house on its two acre plus site? The simple answer is that there was no City imposed hardship. Having already obtained its building permit for a 36-ft house, the applicant now wants a variance for a 50-ft high house because it wants a larger house than it is now building. However, the applicant chose where to site the house and it chose the footprint of the house. The house could have been sited away from Stone Canyon Creek where the difference between the natural grade and the higher finished grade created by the applicant is less, but the applicant did not do this. The house could have been designed as a wider or deeper house, but it was not. Now the applicant wants a special privilege to build an over-height house. This is an **applicant** created situation; it is not a City-imposed hardship. The City is not permitted to bail out the poor design of the house with a variance. These facts don't justify this finding.

Finding #2 requires the identification of special circumstances involving the property or surroundings that do not generally apply to other properties in the same zone and vicinity.

The subject site is in a hillside area and has a sloping terrain which the applicant has graded for a house under construction. These general characteristics describe most of the other similar properties in the local community. The zoning is the same in this part of the community. The applicant has identified no significant unique characteristic that justifies supporting this finding.

Finding #3 requires that “the variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of the special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question”. Since at least 1970, the Planning Department has interpreted the “same vicinity” as being within a 500-ft radius of the subject property. Thus, the Planning Department requires all zone variance applications to submit a 500-ft radius map showing all the surrounding uses. This 500-ft distance is the standard City-defined distance to review any zone variance case according to the City’s interpretation of the vicinity requirements in Finding #3. The applicant previously cited 6 possible over-height precedent approvals. Three of these cases are not in the same zone. Four are not in the vicinity (with two being over three and eight miles away), or involve lots significantly different in size (with one lot being 70% larger) or involve measuring the height from an adjacent structure attached to the house (e.g., an underground parking area under a tennis court), and not from the house itself. The compared properties are required to have similar physical constraints causing the special circumstances and practical difficulties or unnecessary hardships and be in the same vicinity and the same zone. These cases do not meet this requirement. Again, on Finding #3, the facts don’t justify this variance request.

Finding #4 requires that the project will not be materially detrimental to the public welfare or injurious to the property in the same zone or vicinity. There are problems with the City environmental assessment. The City approved 2006 Mitigated Negative Declaration does not assess a 50-ft tall project which will have unmitigated wind, shade, shadow, and noise impacts on the environment. In addition, a variance grant will set a terrible precedent for other homes to be built beyond the by-right limit in this zone of 30-ft (for a flat roof) or 36-ft (for a sloped roof) under the Baseline Hillside Ordinance. The difference between 50-ft and the Baseline Hillside Ordinance by-right height limit is a huge impact on visibility and scale. Many other future homes would cite this possible approval and ask for a similar height. Further, this site could be subdivided into 4 lots, so an approval of this variance could result in 4 over-height houses being built on this site.

Finding #5 requires that the project will not adversely affect the General Plan. The Bel Air-Beverly Crest Community Plan has many goals and policies but there is an overriding policy that says all new residential development be “compatible” with adjacent properties. The vast majority of existing homes within the 500-ft radius for this variance request, are within the previous height limit of 36-ft. This house would start a trend locally to have over-height homes as the new standard and that would fundamentally change the character of the local homes. This request sets a bad precedent and opens the door for excessive height home not consistent with the existing community scale.

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Since the factual findings cannot be made for any of the required five findings, the applicant's zone variance request cannot be legally approved. We therefore respectfully request that you deny the appeal by voting against the motion before you.

A handwritten signature in black ink that reads "Jon Perica". The signature is written in a cursive, flowing style.

Jon Perica