

# MASTER APPEAL FORM

City of Los Angeles – Department of City Planning

APPEAL TO THE: West Los Angeles Area Planning Commission  
(DIRECTOR, AREA PLANNING COMMISSION, CITY PLANNING COMMISSION, CITY COUNCIL)

REGARDING CASE #: ZA 2012-1402(ZV)(ZAA)(ZAD)

PROJECT ADDRESS: 10550 West Bellagio Road, Los Angeles, CA 90077

FINAL DATE TO APPEAL: November 19, 2013

- TYPE OF APPEAL:
1.  Appeal by Applicant
  2.  Appeal by a person, other than the applicant, claiming to be aggrieved
  3.  Appeal by applicant or aggrieved person from a determination made by the Department of Building and Safety

## APPELLANT INFORMATION – Please print clearly

Name: Janice A. Lazarof, individually and as Trustee of the of the Henri and Janice A. Lazarof Family Trust dated June 10, 1985, as amended

- Are you filing for yourself or on behalf of another party, organization or company?

Self       Other: \_\_\_\_\_

Address: c/o Marmon Law Offices, 1875 Century Park East, Ste. 1600

Los Angeles, CA      Zip: 90067-2517

Telephone: (310) 551-8120      E-mail: vmarmon@earthlink.net

- Are you filing to support the original applicant's position?

Yes       No

## REPRESENTATIVE INFORMATION

Name: Victor I. Marmon, Marmon Law Offices

Address: 1875 Century Park East, Ste 1600

Los Angeles, CA      Zip: 90067-2517

Telephone: 310-551-8120      E-mail: vmarmon@earthlink.net

This application is to be used for any appeals authorized by the Los Angeles Municipal Code for discretionary actions administered by the Department of City Planning.

**JUSTIFICATION/REASON FOR APPEALING** – Please provide on separate sheet.

Are you appealing the entire decision or parts of it?

- Entire  Part

Your justification/reason must state:

- The reasons for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

**ADDITIONAL INFORMATION/REQUIREMENTS**

- Eight (8) copies of the following documents are required (1 original and 7 duplicates):
  - Master Appeal Form
  - Justification/Reason for Appealing document
  - Original Determination Letter
- Original applicants must provide the original receipt required to calculate 85% filing fee.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Applicants filing per 12.26 K “Appeals from Building Department Determinations” are considered original applicants and must provide notice per 12.26 K 7.
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (i.e. ZA, APC, CPC, etc...) makes a determination for a project that is not further appealable.

*“If a nonelected decision-making body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency’s elected decision-making body, if any.”*  
 –CA Public Resources Code § 21151 (c)

I certify that the statements contained in this application are complete and true:

Appellant Signature: Victor I. Marmon Date: 11/14/13  
 Victor I. Marmon, attorney for Janice A. Lazarof, individually and as  
 Trustee of the Henri and Janice A. Lazarof Family Trust dated June 10, 1985, as amended

<i>Planning Staff Use Only</i>		
Amount	\$ 106.80	Reviewed and Accepted by
Receipt No:	0261080799	Deemed Complete by
		Date
		11/14/13

- Determination Authority Notified  Original Receipt and BTC Receipt (if original applicant)

Attachment to Master Appeal Form

Appeal to the West Los Angeles Area Planning Commission

Case No. ZA 2012-1402(ZV)(ZAA)(ZAD)

Project Address: 10550 West Bellagio Road, Los Angeles, CA 90077

Appellant: Janice A. Lazarof, individually and as Trustee of the Henri and Janice A. Lazarof Family Trust dated June 10, 1985, as amended

1. The reasons for the appeal

Appellant respectfully submits this appeal to the West Los Angeles Area Planning Commission of the decision in this Case by Associate Zoning Administrator Tokunaga (the "ZA") to grant the Height Variance (the "variance") from Section 12.21 C.10(d) of the Los Angeles Municipal Code.

Among the reasons for the appeal are that (a) the granting of the variance is not legally justified; (b) the granting of the variance confers a special privilege on the applicant; (c) the granting of the variance sets a precedent inconsistent with the purpose, intent, and literal wording of the Baseline Hillside Ordinance that can be used to justify other over-height houses that are out of character with the community; and (d) the conditions creating the supposed need for the variance were self-imposed by the applicant.

2. Why you believe the decision-maker erred or abused their [his] discretion

The ZA made numerous errors of fact and law that were used to justify the zone variance findings. These errors include, but are not limited to (a) invalid, unsupported assertions of fact concerning, among other things, the topography of the property; (b) legally incorrect determinations of how height is measured under the Baseline Hillside Ordinance ("BHO"); (c) using percentages to justify a height variance when there is no basis for using percentages as a basis for any of the five necessary findings for a zone variance; and (d) false descriptions of the purpose and intent of the BHO.

The ZA committed abuse of discretion, among other things, in that the ZA failed to support his decision with adequate findings, and the ZA failed to support his findings with substantial evidence. Further the ZA's granting of a height variance by making the five required findings ("Findings") in this Case is completely inconsistent with his determination that none of the Findings could be made for the property immediately to the south at 360 N. Stone Canyon Road, property owned by the same applicant, subdivided by the same applicant, site-planned by the same applicant, graded by the same applicant, and with similar size, shape topography, location

and surroundings as the subject property. That decision, and this Commission's unanimous determination twice to deny the variance on that parcel, were legally correct but were overturned by a blatantly political decision of the City Council utilizing Charter Section 245 to grant the applicant a **special favor** in complete derogation of code and other legal requirements. The Council's decision is not yet final because it is still within the time for judicial review, and it will not withstand judicial challenge. This Commission is not compelled to follow that illegal and unsupportable Council decision. This Commission made explicit findings based upon substantial evidence rejecting the height variance on the adjacent parcel to the south, and this Commission should do so here as well.

3. Specific points at issue in this appeal include, but are not limited to the following

Finding 1. The strict application of the provisions of the zoning ordinance would NOT result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations because, among other reasons: (a) no hardship or practical difficulty requiring the requested height variance was established by substantial evidence; and (b) the applicant's aesthetic desire for a consistent roofline is not a valid basis for making this finding.

Finding 2. There are NO special circumstances applicable to the subject property, such as size, shape, topography, location or surroundings, that do not apply generally to other property in the same zone and vicinity because, among other reasons: (a) the ZA did not analyze the size, shape, topography, location and surroundings of the subject property in comparison to other properties in the same zone and vicinity; and (b) the supposed special circumstances cited by the ZA as "evidence" to support the zone variance findings were voluntarily agreed to by the applicant and /or are circumstances that were created by the applicant, including but not limited to the following: (1) The applicant chose the configuration and shape of its lots; (2) the applicant accepted the parcel map conditions and mitigation measures adopted by the West Los Angeles APC in December 2006, including, but not limited to, the parcel map conditions and mitigation measures relating to protection of Stone Canyon Creek and the buffer zone along the Creek, and the applicant did not seek to overturn these conditions and mitigation measures in court, including those that are now claimed to justify the height variance; (3) in May 2011 the applicant recorded a covenant and agreement voluntarily agreeing to abide by all of the parcel map conditions and mitigation measures, including those that are now claimed to justify the height variance; (4) the applicant created the slope of its lots when it graded the entire building site; (5) the applicant chose the location of its house next to Stone Canyon Creek; (6) the applicant chose the design of its house, when, as demonstrated by uncontradicted substantial evidence, the applicant could have designed its house differently to meet the zoning code's height limit.

Finding 3. The variance is NOT 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, because, among other reasons: There was no substantial evidence before the ZA of any property right or use that is generally possessed by other property in the same zone and vicinity but which, because of special circumstances *not caused by the applicant* and practical difficulties and unnecessary hardships, *for which there is no substantial*

*evidence*, is denied to the property in question. Further, there was substantial, uncontradicted evidence in this Case, ignored by the ZA, that the applicant can build a single family home on the subject property that complies with law.

Finding 4. The granting of the variance WILL BE materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located because, among other reasons, the ZA's analysis of views is factually incorrect and not supported by substantial evidence. Further, the ZA ignores the substantial evidence of the detrimental impact of granting the height variance caused by the precedent of approving an over-height house without proper justification.

Finding 5. The granting of the variance WILL adversely affect ELEMENTS of the General Plan because, among other reasons, the ZA's own finding # 5 shows that the height variance is inconsistent with the BHO and therefore adversely affects the General Plan. Further, the ZA ignores substantial evidence that the height variance conflicts with the Bel Air Beverly Crest Specific Plan, and the ZA does not provide any justification for a height that is inconsistent with the zoning code when a by-right house can be built on the site as shown by uncontradicted substantial evidence. Finally, since the other four Findings cannot be made, Finding 5 cannot be made as well.

4. How you are aggrieved by the decision

Appellant lives adjacent to the subject property on the east. Appellant is directly affected by the granting of the variance. The granting of the variance will be a precedent that will be cited by other property owners for height variances that will change the character of the vicinity, the Bel Air community, and hillside areas throughout the City. The granting of the variance is illegal.

END OF ATTACHMENT