

Minutes  
**City of Newport Planning Commission Regular Session**  
**Monday, August 9, 2010**

**Commissioners Present:** Jim Patrick, Melanie Sarazin, Mark Fisher, Rod Croteau, Glen Small, and Gary East.

**Commissioners Absent:** John Rehfuss.

**City Staff Present:** Community Development Director (CDD) Derrick Tokos and Senior Administrative Assistant Wanda Haney.

Chair Patrick called the meeting to order in the Council Chambers of Newport City Hall at 7:00 p.m. He noted for anyone attending for the hearing on the sign variance requested by Gold Motors scheduled for tonight, that the hearing was cancelled because the variance was not needed.

**A. Approval of Minutes.**

1. Approval of the work session and regular session Planning Commission meeting minutes of July 26, 2010.

**MOTION** was made by Commissioner Fisher, seconded by Commissioner Sarazin, to approve the minutes of both Planning Commission meetings of July 26, 2010, as presented. The motion carried unanimously in a voice vote.

**B. Consent Calendar.**

1. Final Order for File No. 5-CUP-10. Final Order approving a conditional use permit as requested by the Port of Newport to allow disposal of dredged material from two Port of Newport construction projects on property located at 1430 SE Bay Blvd. The Planning Commission held a public hearing on this matter on July 26, 2010.

Tokos noted that the copy of the Final Order before the Chair for his signature contained a revision to clarify the condition regarding hauling of material on public roads. The original had said 'no material', and that has been changed to 'no wet material' because some dry material will be hauled.

**MOTION** was made by Commissioner Small, seconded by Commissioner Fisher, to approve the Final Order for File No. 5-CUP-10 as clarified. The motion carried unanimously in a voice vote.

2. Final Order for File No. 6-CUP-10. Final Order approving a conditional use permit as requested by the Oregon State University Hatfield Marine Science Center to allow construction of a cobble/pebble dynamic revetment along 500 lineal feet of the Yaquina Bay shoreline at the northeast edge of the Hatfield Marine Science Center located at 2030 SE Marine Science Dr. The Planning Commission held a public hearing on this matter on July 26, 2010.

**MOTION** was made by Commissioner Croteau, seconded by Commissioner Fisher, to approve the Final Order for File No. 6-CUP-10 as presented. The motion carried unanimously in a voice vote.

**C. Citizen/Public Comment.** No comments regarding non-agenda items.

**D. New Business.** No new business to discuss.

**E. Public Hearings.**

Quasi-Judicial Land Use Actions:

Chair Patrick opened the public hearing portion of the meeting at 7:03 p.m. by reading the statement of rights and relevance. He asked the Commissioners for declarations of conflicts of interest, ex parte contact, bias, or site visits. Croteau, Sarazin, Fisher, and Small all declared site visits. Patrick asked for objections to any of the Planning Commissioners or the Commission as a whole hearing this matter; and no objections were heard.

1. File No. 2-VAR-10. A request submitted by Dale & Mary Brewster for approval of a variance to Section 2-3-2.015/"Garage Setback" of the Newport Zoning Ordinance (NZO) (No. 1308, as amended) to allow construction of an addition to an existing garage that would result in a garage setback of 6 feet rather than the required 20 feet (a 14-foot variance, or 70%). The subject property is located at 907 NE Eads St; Assessor's Map 11-11-05-DB, Tax Lot 9901.

1 Planning Commission meeting minutes 8/9/10.

Chair Patrick opened the public hearing for File No. 2-VAR-10 at 7:04 by reading the summary of the request from the agenda. He asked for the staff report. Tokos noted that there is a second variance request involved in that the second front yard would be reduced from 10 feet to 6.1 feet (or 39%) as discussed in the staff report. This comes before the Planning Commission because the request is for a variance of 70% for the accessory structure, which requires a 20-foot setback for the garage entrance. Tokos noted that the criteria set out for a variance are pretty strict. The applicant must demonstrate that they are seeking to do something that other people can do on similarly situated property. They need to show a compelling reason why they should be able to do something of this nature. There isn't a circumstance that doesn't apply to other properties in the vicinity. It would have to be something such as the lot is overly narrow or is too steep to build the garage similar to the neighbors. Tokos said that in his evaluation and having conducted a site visit, he couldn't find a way that there was a circumstance unique to this property. It is relatively flat and not overly narrow. The lot contains a house and a garage built to 650 square feet, which is not different than others in the area. The applicant states that they would like maximum use of their property. Tokos said that he understands that. That gets to criterion #2 that it can't be of the applicant's doing. They want to maximize use, which is their interest and not outside their control. Tokos said that showing practical difficulty is a high bar. Because the lot is developed with a home and a garage, which is reasonable and comparable to other, Tokos said that there is not a way to get to unnecessary hardship. Adjustments are easier, but are limited to 40%. Tokos said that the staff recommendation is that the request doesn't meet the variance criteria.

**Proponents:** The applicants, Dale and Mary Brewster, 907 NE Eads, came forward. Brewster said that he can't find any other way because of how their property is designed. The way their house is laid out, they can't access the garage from the side of the house. To get the 20-foot setback, they would have to come around the house. Anything 18 feet or bigger isn't going to make the corner. That is why they wanted to put the garage door at the end. They will not be parking in front of the garage. They have double parking in front of the house, which will remain the same as it is. Brewster said that they looked at all angles, and this is the only layout they could come up with in order to get the garage long enough to work on vehicles and have them covered; which is why he is trying to make the garage bigger. He said that the first time they converted the attached garage into living space to make the house larger, he had wanted to build a bigger garage. When he came in he was told that 625 feet was the biggest he could build the garage. If he knew that by attaching the garage to the house in some fashion he could have built bigger, he wouldn't be going through this now. Brewster said that he is not compromising the 12-foot right-of-way for the City to have sidewalks if they chose to. He said that cars wouldn't be in the street. Traffic wouldn't be affected. There still would be room on the side of the house to park something. In response to a question from Fisher regarding an explanation of the second setback variance noted in the staff report, Tokos said that is also on 9<sup>th</sup> Street; both setback variances are on 9<sup>th</sup>. He explained that these are two separate variances for two different requirements. The garage entrance setback requirement is 20 feet; and this is a corner lot, so there is the standard setback from 9<sup>th</sup> Street as well. Small asked if the existing garage is now accessed from 9<sup>th</sup> Street, and Brewster confirmed that it is. For confirmation, Sarazin asked Brewster when he built the existing garage if the breezeway option wasn't explained to him. Brewster said no; that when he built, he was told it was as big as he could go. If he had been told of the options, he would have gone with that. He would have attached it to the house and made it bigger by building longer and higher. Tokos verified that if a structure is attached to the primary building such as by a roof or a wall, then it is considered part of the main structure, and there is no size limit. It can be built to the maximum building height. If detached, the accessory structure is limited to 625 square feet and 15 feet in height. He said that the garage setback still applies whether it is an accessory structure or an attached garage, and the structural setback still applies. Small said that they heard the Community Development Director explain the criteria that apply here, and the Commission is limited by that criteria. The first is that there are circumstances or conditions that apply to this property that don't apply to other properties in the vicinity. Small asked the applicant what is unique about this property. Ms. Brewster said that it is the location where they were told they could go closer to the street but in order to have the garage door back 20 feet, they would have to access the garage from Eads Street. They would have to go along side of the house to go into the garage. She said they go straight into the garage from 9<sup>th</sup> right now. The Commissioners discussed if there was anything that could be done to make this work. Tokos noted that the existing home and garage currently meet setbacks. He said there is room to make modest changes, but not of this nature. If the applicant comes up with a proposal that meets setback, then there is no reason for the variance. Possible alternatives were discussed. Sarazin asked Brewster what he would do with the motor home that is parked there. Brewster said that other items would be in the garage, the motor home would be along side of the house, a car out front would be gone. When he adds to the garage, cars that are in storage would come inside the new structure, giving him an opportunity to work on those inside the garage. Right now he lays out in the gravel to work on them. He said there are more options to do things with a bigger garage. Ms. Brewster said they would raise the height of the garage also. Sarazin said that when she visited the site, she noticed that there were a lot of "toys", she is wondering how it will help to build a garage in the space the motor home is occupying, and there is another trailer as well. Brewster said there are things he doesn't have room to bring home. He noted that the little trailer is not his. The Jeep goes, and there are others that will be leaving. He is trying to bring cars in and not leave them exposed to the weather.

There were no other proponents present wishing to testify.

**Opponents or Interested Parties:** There were no opponents or interested parties present wishing to testify.

Patrick closed the hearing at 7:26 p.m. for deliberation. Small said that he is concerned about the criteria the Commission has to work with. Number one is that there are conditions that apply to this property that don't to others; as the criterion reads, such things as topography, size, and shape. Lots of stuff that you want to store is not in the criteria that are used to allow a variance. Small said that, unfortunately, on that he would have to vote no. Croteau said it comes down to the criteria as an issue. He said that he has sympathy for the situation. He appreciates that the applicant tried to look at alternatives. But to grant a variance to the applicant for the reasons stated, we would be compelled to grant this to all neighbors that asked for it. Croteau said his inclination is to vote no. Fisher said that he would love to find a way to do this. He agrees with Small. He asked the applicant to think of some other way and come back for a hearing again. East agreed that it comes down to the criteria. In looking at the plot plan, the applicant has options to increase the garage and meet setbacks. East said that he also would have to vote no. Sarazin agreed with Fisher in that she would love to help the applicant. She said we all want more space. She also has a motor home that she has to pay to store. Sarazin said that the criteria are not able to be met here. Patrick said that based on the criteria, there is no way to grant the variance. The request doesn't meet the criteria.

**MOTION** was made by Commissioner Small, seconded by Commissioner East, to deny the variance request because the criteria are not met. The motion carried unanimously in a voice vote, and the variance is denied.

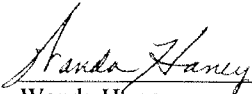
2. File No. 3-VAR-10. A request submitted by Gold Motors, Inc. (The Gold Family Trust of 1994, property owners) (Mike Henneman, authorized representative) for approval of variances for the number and area of permitted signs for property at 1422 N Coast Hwy (Assessor's Map 11-11-05-AC, Tax Lot 4700).

***THIS ITEM WAS SCHEDULED, BUT THE HEARING ON THIS APPLICATION WAS CANCELLED BECAUSE THE REQUEST IS PERMITTED OUTHRIGHT UNDER NMC 10.10.100, AND NO VARIANCE IS NEEDED.***

F. Unfinished Business. There was no unfinished business to discuss.

G. Adjournment. There being no further business to come before the Planning Commission, the meeting adjourned at 7:30 p.m.

Respectfully submitted,

  
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Wanda Haney  
Senior Administrative Assistant