



1 Land Use and Planning Committee
2 Task Force Report to Venice Neighborhood Council Board of Officers
3 As Of February 20, 2007

4 2337 S. McKinley Avenue, Venice, CA
5 Request for Variance Denied
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10 Case Number: ZA 2006-6447 (ZAD)
11 Address: 2337 S. McKinley, Venice, CA
12 Zoning: R-1-1-0
13 Size of Parcel: 7,440 sq. ft.
14 Proposed Use: Variance to maintain existing over-in-height fence
15 Permit Application Date: July 24, 2006 (after being cited by Building & Safety in Order to
16 Comply)

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18 Applicants: P. Kevin Morris, Trustee
19 Presenters & Owners: Matt Stone and Angela Howard
20

21 Zoning Administrator Hearing: October 5, 2006
22 ZA Determination postponed to Feb. 1, 2007 for LUPC hearing
23 Feb. 1, 2007 hearing postponed until Feb. 21, 2007 for VNC
24 Board's decision
25

26 Dates heard by LUPC: January 24, 2007 - Request for Variance Denied (see below).
27

28 WLA Area Planning February 21, 2007
29 Commission Dates:

30
31 Attachments: Pictures of subject property (see weblink: [McKinley015](#))
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34 Motion by LUPC on January 24, 2007:
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36 "To deny the application as present and that [LUPC] express that the fence height ordinance be strongly
37 enforced." [Motion made by Rob Aronson and seconded by Phil Raider]. 5-4-0 Motion passed.

38 **Project:**
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40 Project Description. As taken from the LUPC Project Form submitted by the applicant:
41 “Applicant built a fence along the front property line of Applicant’s residence. Applicant seeks the
42 [VNC’s] approval of the fence. Applicant is prepared to present to the VNC evidence of the
43 neighborhood’s predominant support of the subject fence.”
44

45 Background. 2337 S. McKinley Avenue seeks a variance for a fence they built along their
46 property line, which was built without the requisite permits and which does not comply with the
47 LAMC or VSP. The fence is an eight (8) foot high, opaque fence, wrapping around the south lot of
48 the two-lot property, extending on Olive from McKinley to Beach Court, which intersects with the
49 rear alley. The fence has a two-door gate that is higher by approximately one (1) to two (2) feet. [See
50 Pictures of properties attached or go to the following weblink: [McKinley015](#)].
51

52 On or around May 24, 2006, the subject property received an Order to Comply from the Department
53 of Building & Safety for the over-in-height fence(s) in the required front yard, and construction of an
54 approximate six foot high block wall fence in the front yard being performed without the required
55 permits, inspections and approvals.
56

57 On October 5, 2006, a hearing was held before the Zoning Administrator, at the West Los Angeles
58 Municipal Building. ZA postponed its determination on the subject property’s request for a variance
59 until February 1, 2007, to allow the LUPC and the VNC to make findings and recommendations
60 concerning the request. On February 1, 2007, the ZA again postponed the hearing date on this matter
61 until February 21, 2007 so as to consider the VNC Board’s recommendations.
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63 Project governed by the Los Angeles Municipal Code (LAMC) and the Venice Specific Plan
64 (VSP). 2337 S. McKinley is in the Southeast Neighborhood of Venice. Since the VSP does not discuss
65 fence heights in this neighborhood, the LAMC governs. As noted below, since 2337 S. McKinley is
66 not in an Agricultural or Suburban Zone, and because it is not a Fence Height District, any front yard
67 fence built on this property must be no greater than three and a half (3 ½) feet in height above the
68 natural ground.
69

70 The LAMC defines “fence” and “wall” as latticework, ornamental fences, screen walls, hedges or
71 thick growths of shrubs or trees. It also states that fence and wall height shall be measured from the
72 natural ground level. [LAMC § 12.22.C.20.f.1]. The LAMC states that front yard fences may not be
73 more than three and one-half feet in height above the natural ground level. [LAMC § 12.22.C.20.f.2].
74 The only two exceptions allowed per the Code, besides those authorized by a Zoning Administrator
75 pursuant to Section 12.24 X.7., are (1) the higher limits in the Agricultural (A) and Suburban (RA)
76 zones (Suburban zone) [LAMC § 12.22.C.20.f.2] and (2) the FH District [LAMC § 13.10].¹
77

¹ FH Districts permit open wrought iron fences over 3'6" in height in areas where special circumstances dictate. To permit the maximum allowable height under the Ordinance, fences in FH Districts must satisfy eleven (11) development regulations (e.g., the fence must be substantially open, allowing a significant amount of visibility, among other things). [See LAMC, § 13.10C].

78 The VSP allows higher fences in the Ballona Lagoon West Bank, Ballona Lagoon (Grand Canal) East
79 Bank and the Lagoon Buffer Strip of the Silver Strand, [VSP §§ 10.A., B, C.3]. Although the Venice
80 Community Plan and the VSP do not discuss the design of fences for other neighborhoods subject to
81 these Plans, leaving these matters to the LAMC, their intent is to preserve and enhance the varied and
82 distinct residential character and integrity of existing residential neighborhoods. They note that
83 existing residential neighborhoods should be protected from encroachment by uses that are
84 incompatible as to scale and character, or would otherwise diminish quality of life.

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86 **Arguments For & Against Project Made at January 24, 2007 LUPC Hearing:**

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88 Public Comment: Applicants did not present any arguments indicating unique hardship, infeasibility
89 or impracticality of applying strict adherence to the LAMC and VSP requirements. Owners did indicate
90 willingness to compromise and comply with conditions (presumably re openness, visibility and/or additional
91 setbacks). Roughly eight community members and neighbors spoke in support of the project, citing: (1) the
92 new fence looks nicer than the old fence (which was apparently higher); (2) privacy; and (3) that other people
93 in the neighborhood have oversized fences. [Note at least two other properties with oversized fences on
94 McKinley were cited by Building & Safety in the summer of 2006. Building & Safety issued Orders to Comply.
95 The owners requested variances and had hearings before two different Zoning Administrators. One request
96 was denied. The other was conditionally granted (any portion of the fence over 3 ½ feet would have to be
97 substantially open and allow for visibility of at least 4 inches between and among visual barriers). *Both of these*
98 *decisions were appealed.* The appeals are set to be heard on February 21, 2007.] At least three community
99 members and neighbors spoke against the proposed project, stating the fence looked like a “fortress” and
100 “Bagdhad,” among other things.

101
102 LUPC Discussion: Fences & Hedges Task Force Report to LUPC re 2337 S McKinley recommended
103 variance request be denied. Other LUPC members noted that ignorance of the law is no excuse from
104 compliance. The way to solve privacy is to utilize window coverings. Security is not a concern in this
105 neighborhood (as presumably in a fence height district), it is a safe neighborhood. While the fence maybe
106 beautiful, not a design competition. Adherence to the law is important. The fence does not go with character
107 of neighborhood and not in accordance with LAMC or VSP requirements. Some discussion re a conditional
108 variance granted to Frank Gehry (on Harding & Grandview) for a 6 foot and 8 foot high fence along three
109 properties. This fence must be set back ten feet, with a landscaped buffer. Some further discussion re a
110 conditional variance granted to a property owner who apparently was allowed to build a fence so long as any
111 portion over 3 ½ feet was substantially open and allowed for visibility (the “David Hertz Case”). A motion
112 was made to conditionally grant the variance to “allow the applicant to have the same fence condition as given
113 in the David Hertz Case.” [Jim Murez made the motion; Sylvianne Dugan seconded it]. Motion Failed 3-6-0.
114 As noted above, another motion was made: “To deny the application as present and that [LUPC] express that
115 the fence height ordinance be strongly enforced.” [Motion made by Rob Aronson and seconded by Phil
116 Raider]. 5-4-0 Motion passed. LUPC Denies Request for Variance.