



Date Filed:

BOARD OF APPEALS

MAY 27 2014

APPEAL # V14-102

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **Angus Pera**, hereby appeal the following departmental action: **GRANTING** of **Variance CASE NO. 2013.0179V** by the **Zoning Administrator** which was issued or became effective on: **May 15, 2014**, to:

Alice Barkley for the property located at: **3660 - 21st Street.**

3660 - 21st Street LLC

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **July 03, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Respondent's and Other Parties' Briefs are due on or before: **July 17, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

ZA Variance Holder

Only photographs and drawings may be submitted by the parties at hearing.

Hearing Date: **Wednesday, July 23, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows: See attached.

Appellant or Agent (Circle One):
Signature: *Sue C Heston*
Print Name: SUE C HESTON

Appeal of Variance Decision - 3660 21st Street

2013.0179V - May 15, 2014

BOARD OF APPEALS

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Appellant - Angus Pera, 3666 21st Street, 94114

The variance decision is very difficult to understand in light of the plans for the project which were mailed out in conjunction with the Section 311 notice. As slightly amended they were later supplied for the Planning Commission DR hearing. No separate plans were provided for the notice of the variance hearing.

The modifications in the variance do not appear to match any version that was presented publicly before the Planning Commission DR hearing which was also the variance hearing.

Appellant Angus Pera lives at 3666 20th Street adjacent to the proposed 3660 21st Street construction. He is directly affected by required variance Finding 4 - the variance will not be "materially detrimental injurious to the property of improvements in the vicinity." The modifications described on pp. 2 and 3 are not understandable.

X Angus Pera



SAN FRANCISCO PLANNING DEPARTMENT

Variance Decision

(Reissued May 15, 2014)

Date: May 15, 2014 ✓
Case No.: 2013.0179V
Project Address: 3660 21st Street
Zoning: RH-1 (Residential House, One-Family)
 Dolores Heights Special Use District
 40-X Height and Bulk District
Block/Lot: 3605/019
Project Sponsor: Alice Barkley
 McKenna Long & Aldridge LLP
 Rincon Center II 121 Spear Street, Suite 200
 San Francisco, CA 94105
Staff Contact: Michael Smith – (415) 558-6322
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DESCRIPTION OF VARIANCES – FRONT SETBACK, REAR YARD, AND STREET FRONTAGE VARIANCES SOUGHT:

The subject property contains four existing structures. There are two detached garages located at the front of the lot, a single-family residence located at the rear of the lot, and an accessory greenhouse structure located to the east of the residence which is connected by a covered breezeway. The proposal is to remove both garages at the front of the property and construct a new two-car garage at the east side of the front of the lot. The greenhouse structure would also be removed and replaced by an addition to the east side of the building. An addition would also be constructed at the front of the building. There would be a minimal increase in the height of the building and the light well on the west side of the building would be infilled.

Section 132 of the Planning Code requires a 15-foot front setback for the subject property based upon the average front setback of the two adjacent buildings. The proposal is to remove the two existing detached garages within the front setback and construct a detached, two-car garage at the east side of the front of the lot. The proposed garage would measure approximately 20'-9" square, approximately 14 feet in height above the curb, and extend to the front property line thus encroaching 15 feet into the required front setback.

Section 241 of the Planning Code requires a rear yard of approximately 51'-4" (45%) measured from the rear property line. The proposed enlargement of the rear portion of the building, the side addition, and the light well infill would encroach into the required rear yard; therefore, the project requires a variance from the rear yard requirement of the Planning Code.

Section 144 of the Planning Code does not permit a street-facing garage structure to extend closer to the street than a primary building façade. The proposed detached garage structure would extend 15-feet closer to the street than the primary building façade; therefore, the project requires a variance from the street frontage requirements of the Planning Code.

PROCEDURAL BACKGROUND:

1. The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.
2. The Acting Zoning Administrator held a public hearing on **Variance Application No. 2013.0179V** on **March 6, 2014**.
3. Planning Code Section 311 notification was completed through separate notice for Building Permit Application No. 2013.03.29.3348 from September 13, 2013 to October 13, 2013. One Discretionary Review requests was received from the adjacent neighbor to the west.
4. On March 6, 2014, the Planning Commission held a duly-noticed public hearing to consider Discretionary Review of Building Permit Application No. 2013.03.29.3348 (Case No. 2013.0179D). At this hearing, the Planning Commission voted unanimously to not take Discretionary Review and approve the project as proposed (DRA-0353).

DECISION:

GRANTED, in general conformity with the plans on file with this application, shown as EXHIBIT A, to construct additions to an existing single-family dwelling and construct a detached garage at the front of the lot, subject to the following conditions:

1. Any future physical expansion, even in the buildable area, shall be subject to a new variance request before the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character and scale.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owner of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.
5. This Variance Decision and the recorded Notice of Special Restrictions shall be reproduced on the Index Sheet of the construction plans submitted with the Site or Building Permit Application for the Project. This Index Sheet of the construction plans shall reference the Variance Case Number.
6. To reduce impacts on the uphill neighbor, the upper roof deck shall be eliminated, and the lower roof garden may be expanded to compensate for the loss of the upper roof deck. The low-sloping roof above the master bedroom may be extended to cover the area that was previously the upper roof deck, and the roof above the living room may become flat to accommodate the expanded lower roof garden.

7. The heights of the roofs above the bedroom and guest suite shall be reduced to further reduce impacts on the uphill neighbor.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

Requirement Met.

- A. The subject property is unique in that it is a double-wide lot that is developed with a "ranch style" dwelling with two detached garages at the front of the lot. The low slung nature of the development affords unprotected public views over the property from 21st Street and unprotected private views over the property from nearby residences.
- B. The subject building is unique in that it is located primarily within the required rear yard; however, the building was constructed in 1923 and thus predates the rear yard requirements for the Dolores Heights Special Use District.
- C. The existing building is primarily located on the west side of the lot with a majority of the open space located on the east side of the lot. Most properties within this District have a majority of their open space located at the rear of the lot behind the building.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

Requirement Met.

- A. The abnormal siting of the subject and adjacent building is not attributable to the current property owners. Literal enforcement of the Planning Code would encourage taller development towards the front of the lot which is a departure from how the lot is currently developed creating a hardship for the property owner(s).
- B. At 15 feet, the required front setback for the subject property is the maximum required by the Code and greater than what generally applies within this District. The larger front setback requirement combined with the 45% rear yard requirement greatly reduces the subject property's buildable area resulting in an unnecessary hardship with no compensating public benefit.

- C. Literal enforcement of the Code would encourage the retention of the two existing detached garages at the front of the property instead of consolidating the structures as proposed to create more open space at the front of the lot.

FINDING 3.

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

Requirement Met.

- A. Granting this variance will allow the subject property owner(s) to develop the property in a manner that is consistent with the existing development on the lot which is a property right shared by other property within the District.
- B. Because the existing building is located primarily within the required rear yard, further development of the property within the buildable area of the lot would result in the loss of usable open space. The ability to maintain open space on one's property is a substantial property right possessed by other property within the District.

FINDING 4.

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

Requirement Met.

- A. The existing building is far below the permitted height limit for the District. Granting the variance would allow the owner(s) to maintain the building's relative height and develop the property in a manner that would protect public and private views.
- B. The adjacent neighbor at 3666 21st Street requested Discretionary Review of the project citing among other concerns how the project could upset public and private views over the property. By a vote of +7 -0, the Commission decided that the project is consistent with neighborhood character because it retains the building's existing nonconforming "Ranch Style" layout with a minimal increase in building height. Furthermore, the Commission agreed that the objective of the Dolores Heights Special Use District to protect public and private views is enforced through the additional Code provisions for height and rear yard in Section 241 of the Planning Code. The reduction in height that would result from the proposed conditions of approval would reduce impacts on the adjacent neighbor and further protect public views over the subject property.

FINDING 5.

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

Requirement Met.

- A. This development is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development.
- B. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. The project meets all relevant policies, including conserving neighborhood character, and maintaining housing stock.
 1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
 2. The proposed project will be in keeping with the existing housing and neighborhood character through retention of the existing building siting and scale. The proposal will preserve the existing single-family dwelling unit on the property.
 3. The proposed project will have no effect on the City's supply of affordable housing.
 4. The proposed project would retain two off-street parking spaces for the property and remove the second curb cut to help preserve neighborhood on-street parking. The project would not adversely affect public transit.
 5. The project will have no effect on the City's industrial and service sectors.
 6. The proposed project will be constructed in accordance with current Building Codes to protect against injury and loss of life in an earthquake.
 7. The project will have no effect on the City's landmarks or historic buildings.
 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a)

(Reissued) Variance Decision
May 15, 2014

CASE NO. 2013.0179V
3660 21st Street

and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1650 Mission Street, 3rd Floor (Room 304) or call 575-6880.

Very truly yours,



John Rahaim
Acting Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

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HD 8/20/14



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BOARD OF APPEALS

JUL 31 2014 ✓

APPEAL # 14-102 *CS*

July 31, 2014

Ann Lazarus, President
Board of Appeals
1650 Mission St Suite 304
San Francisco CA 94103

**V14-102 3660 21st Street (2013.0179V Zoning Administrator Variance)
Board of Appeals hearing - AUGUST 20, 2014**

Dear President Lazarus:

Appellant Angus Pera owns 3666 21st St, west and uphill of Chris Cox' proposed demolition/new construction of 3660 21st St. His parents, Guido (CCSF carpenter) and Janet (wedding planner) bought 3666 21st St over 60 years ago and resided there until they died. Angus and his wife Mariann (Gift Center showroom manager) moved into the family home with his wife raising their children there until Mariann died in 2012. He is a retired CCSF employee.

On March 6, 2014 the Planning Commission conducted a joint hearing on the Discretionary Review and variance. The variance hearing was "closed" on March 6 to await the Variance decision.¹ Nevertheless the Planning Department plus Cox's architect and attorney embarked on an exchange of emails on further revisions to 3660 21st St plans, including Revision 4 of those Plans. The Revisions were kept secret from the affected neighbors who were never informed about changes and whether clarifications might be needed. The developer refused to discuss these plans with either the Peras or other neighbors.²

¹ Exhibit 1 What is appealed is Variance Decision (Reissued 5/15/14). For brevity it is called Variance Decision.

² Exhibit 2 Chronology of emails between Planning & Cox' attorney and architect until Variance Decision issued.

The Variance Decision was issued May 13, 2014 and released to the Cox "team." When the Variance Decision was sent to neighbors two days later Pera had unanswered questions about revision details. Changes described in Variance did not match any version of the **Rev 2 and 3 plans** presented at Commission/variance hearing. Pera was unaware of project changes in **Rev 4 Plans**, the basis for Variance Decision, until his attorney unearthed **Rev 4 plans** in Smith's email files AFTER the Variance was issued AND APPEALED.³

Pera continues to have concerns about lack of plan details, as well as specific changes in massing, would affect his home. Since he did not have the Rev 4 Plans until recently and was never contacted by Cox' architect, he does not know the extent of the changes made.⁴

Rev 2 Plans (and some Rev 3 drawings) before the Planning Commission and Zoning Administrator for the March 6 hearing are at **Exhibit 7**.⁵ **Rev 4 Plans**, the basis for the Variance Decision, but not referenced as the plans describing the Variance, are **Exhibit 8**.

Pera, the person most affected by the 3660 21st St variance, asks the Board to require INFORMATION and then specify modifications to the project since details are missing from Rev 4 Plans which implement the Variance Decision. These involve details of extensions above roof level, mechanical equipment, and the nature of the property line setback.

³ **Exhibit 3** is the 3D project rendering submitted by Cox architect along with Rev 4 project plans.

⁴ Adding confusion is language on p. 2 of the Variance Decision - "in general conformity with the plans on file with this application, shown as EXHIBIT A..." There is **NO EXHIBIT A to Variance Decision**, NO EXHIBIT A in any of the plans prior to the March 6 joint hearing. The Commission considered **Exhibit 7** Revision 2 and Revision 3 plans.

⁵ Due to their bulk Developer's plans used for Variance, and those used for March 6 joint hearing, are at end of Exhibits, **Exhibits 7 and 8**.

Steep slope setting of 3660 21st Street in Dolores Heights affects its neighbors

3660 21st St is in the Dolores Heights Special Use District. To protect rear yard views in this steep area, the District requires a greater than normal rear yard. The 3660 site is extremely steep west to east and moderately steep south to north.⁶ The original owner took advantage of those views by building the 3660 house against the rear property line. The house built was a ranch-style house with extensive gardens. 3660 residents had extensive downtown views to the northeast from that placement.

Cox proposes to demolish then rebuild the 3660 house and garage so that it extends from required front setback, thru the "middle" of the lot and is built almost to the rear lot line.⁷ Because Mr. Pera's home sits in the "middle" of his lot with NE corner windows, buildings in the rear and middle of the 3660 21st Street lot are located right outside his windows.

At the March 6 hearing, DR requester Arran Pera (Angus' son) suggested that the parties meet to talk about specific aspects of construction in the setbacks. This was also encouraged by Commissioner Hillis. (Exhibit 5) Nevertheless Cox' team refused to show the revisions to affected neighbors, Pera or Tice-Wallner. This appeal hearing is their FIRST opportunity to address details that appear to have been ignored in Variance Decision and Rev 4 Plans.

Rev 4 plans - plans never called out in the Variance Decision - expand building envelope to the west property line (roof garden), filling in the area between the living room and the kitchen adding a 55 sq ft pantry. Unspecific solar panels are added to the roof. Vent stacks are

⁶ Exhibit 4 is the Terrain Map in the Dolores Heights Special Use District showing the steep slope

⁷ The front and rear setback lines are shown in the plans as dashed lines.

missing. Roof and deck plantings are unspecified. There are a series of issues the Variance failed to resolve, which this Board must address. Design details that could increase various heights and seriously affect the neighbors. The Board must insist on answers to the questions below and add clarifying limits.

There are no "names" for the various structural sections that have their own identity and roofs. Lacking such, the terms used here starting at REAR to 21st St are here called -

*1-story **Living Room** (roof garden)*

*2-story **middle building** - Kitchen/Family Room/Master Bedroom (solar panels)*

*2-story **Dining room/Bedroom** (green roof)*

*2-story **Guest Suite/Bedroom** (green roof)*

*1-story **Garage** (green roof)*

Mechanical Venting Stack - how and where is kitchen vented?

With building expansion along the west property line there are unaddressed issues. The substantial mechanical shaft is not shown all floors. It is located on the property line next to the kitchen. **Exh 8 sheet A2.11**. It will presumably contain venting stacks for the mechanical equipment in the basement and vent through the roof. No mechanical shaft is shown on the basement plan (Ibid. A2.10), the 2nd Floor Plan (Ibid. A2.12) or the roof plan (Ibid. A2.13).

The 2010 CA Mechanical Code (the code under which the permit was applied for) states that a chimney for residential-type or low heat appliances (water heater, boiler, furnace, oven, range, etc.) shall extend **at least three feet above the highest point where it passes through a**

roof of a building and **at least two feet higher than any portion of a building within a horizontal distance of ten feet.** (Section 802.5.2 Termination) Additional requirements are that the termination point be ten feet from the property line, openings, etc. (Section 506.9 Exhaust Outlets)

None of this is on **Exh 8 Rev. 4 Plans.** Venting could have a significant effect on views from windows in Pera home. The venting should not be located on the rear 45% of the lot or on middle building roof. This must be set out in the drawings. Is there is an alternative plan for these floors? Show it on the drawings. How this is being designed needs to be shown both in plan and elevation, including distance from the property line and the height above the roof.

Roof deck Over Living room

This deck is entirely in the required rear yard. To preserve the view of the uphill neighbors the Board should require that no Structure, Artwork, furniture, plantings or fireplaces taller than 5 feet may be placed on the roof garden over the living room. Privacy screening plantings or railings/barriers located along the western property line should not exceed 42 inches (the height of the guardrail) to preserve the view of Dolores Park for the uphill neighbors. This is shown in the drawings but must be an explicit condition.

Only a portion of the guardrail is shown as a solid wall, with the top portion shown as glass. This is a required one hour wall. Question - is this fire rated glass going to be clear or translucent? This relates to privacy issues and should be detailed. Is there a clear condition that guardrail height must be minimum of 42" above floor surface? What is the limit on height since there are no dimensions on the plans?

SOLAR PANELS - AMBIGUITY DUE TO LACK OF DETAILS

The Variance Decision is silent on solar panels - despite (a) being shown on sloped roof of Middle building in **Exh 8 Rev 4** plans which are the basis for the Variance, and (b) the Cox architect proposed language dealing with inclusion of solar panels in the variance decision. (**Exhibit 2** emails 3/11/ 14 and 4/2/14 Shank to Smith)

The roof plans before the Planning Commission (**Exh 7 A2.13 Rev 3**) showed no solar panels. The drawing of same area submitted for the variance decision (**Exh. 8 A2.13 Rev 4**) shows solar panels on the sloping roof of the Middle building where roof deck was eliminated. The building and roof are mostly in the required rear yard, i.e. covered by this Variance.

The solar panels are merely described on **Exh 8 A2.13** as “low profile solar panels.”

- What EXACT type of solar panels are planned?
- Fixed or adjustable?
- What is the maximum height of those solar panels over the surface of the roof?

Elevation per Topographic Survey?

- What is the tilt of the solar panels?
- Does tilt remain at winter setting taking into account SF weather pattern?
- The drawings show a roof pitch of about 5 degrees; but the best angle for solar panels is

These and other questions were raised by architect Lerner. A detail section showing the actual solar panel and the roof needs to be provided and that profile needs to be reflected in the elevations shown. The Peras’ neighbor across 21st St, Wendy Tice-Wallner, raised questions about heights of proposed buildings and the impact they could have on her. This would include

solar panels. Cox' architect identified her potential concern about the location of solar panels.

(Exhibit 2 4/2/14 email Shank to Smith)

The height and placement of the solar panels, adjacent to the Pera residence, could have a more profound effect on the Peras than shown. They will be right outside the kitchen window. THIS LACK OF DETAIL ON THE SOLAR PANELS IS TROUBLING IN THAT Plan Rev 4 is the basis for the Variance Decision.⁸

Extension of Roof Over Family Room (Middle building)

Upper roof deck along the west of Middle building was removed. Good. At the same time the northern edge of the roof was increased to the north. That enlarged roof was extended all the way to the Pera property line while the roof height INCREASED on the north. Problem. The roof pitch is for solar panels - which are not mentioned in the Variance decision.

Extending the (Middle building) low-sloping roof above the master bedroom further west to cover the previous "upper roof deck" greatly impacts the Pera home. It adds an additional 3' in height and an additional 2' in length to the 2nd story. This is in the 45% rear yard

⁸ The Boundary and Topographic Survey (**Exhibits 7 and 8**) indicate that the bottom of Pera's kitchen window is **322.8'** (322'-9-1/2"). The existing (to be demolished) stair tower parapet is shown as **323.33'** (323'-4") for a difference of **6-1/2"**. The top of the sloped roof with the solar panels is shown on **Exhibit 8 sheet A3.11** as being **323.375'** (323'-4-1/2"). If the relationship of the survey points is reasonably accurate, the sill of the kitchen window would be 6-1/2 lower than the top of the stair tower parapet. His architect set up a laser level in the kitchen window at 9pm on 7/17/14 and directed the laser beam, which is self leveling, at the tower. Both observed the beam to hit the tower about 5" below the top of the tower (the level is 2" above the surface it sits on). Based on that Lerner stated that that the top of existing stair tower is about 7" above the window sill. Thus the elevations shown on the Survey are reasonably accurate. Leading to concern about lack of details in solar panels to be added onto that roof.

setback area along the western property line. The roof extension can be seen by comparing **Exh 7 Sheet L1.02** (3/6 hearing) to **Exh 8 L1.01** (Variance plans).

The roof has been raised along the north (all the way to the Pera property) so that roof slopes down to the south. The area is already being filled in by the family room. **Exh 8 Sheet A2.12**. Now the variance intends to raise the roof AND EXTEND THAT RAISED ROOF all the way to the Pera residence.

Green Roofs

Another area of ambiguity. The proposed plantings could potentially add to the height of the underlying buildings. To protect the rather spectacular views from public right-of-way on 21st Street, to uphill neighbors, and to those across the street, the Board should require that plantings shall not exceed 1 ft in height on any green roof at any given time.⁹ Further, that plantings be maintained to keep the maximum height limit of 319' 11 1/4" (Cox' survey) in mind. Access to green roofs should be for maintenance purposes **only**. No artwork, furniture or structures should be placed on green roofs at any time.

Exhibit 8 Rev 4 Plans, Sheet L1.01 shows the "Flavor" of the proposed plantings on the Roof Deck and Green Roofs. The actual plantings could vary significantly, affecting Pera and public views more than the "flavors" indicate. Understanding that the exact plantings may take time to select, a height limit on the plantings could be established. For example, the bushes shown on west side of roof

⁹ **Exhibit 6** is letters of residents from the neighborhood area stating concerns about development of this site

garden near property line could be limited to the minimum guardrail height required at this location which is 42" high. While green roofs typically include grasses and low types of vegetation, is Cox including trees or bushes? The same symbol is shown on roof garden. Specific heights should be set out to avoid later surprises.

Finally there needs to be a description of what structural elements are going to be on the roofs, since nothing is shown. Mechanical shafts? Vent stacks? Pipes on sloped roofs? Are those possible? They should be explicitly banned.

Trees for Sidewalk and in Yard

The preliminary landscape site plan (**Exhibit 8 L1.01**) proposes the following fast growing, big trees which seem inappropriate given the special need to protect both public and private views:

- **River Birch** - (5 of them in garden) - 50-90 ft in height. Average growth is 36 inches per growing season. **Tree in courtyard between guest suite and main house eliminated as a potential view obstruction.**
- **Maidenhair Tree** (Street trees) - These trees grow to 65 feet and females put off obnoxious smell from fruit. The tree grows 1-2 ft PER SEASON. Considering the pedestrian and car traffic looking at views from public right-of-way these seem like poor choices for preserving public and private views

Consideration should be given to trees that do not exceed height of house.

In summary, because the Cox architect and attorney appear to have been instructed to NOT meet with affected neighbors as they were developing **Rev 4 Plans** for the Variance Decision, Appellant had no opportunity to ask questions that should be answered and incorporated in the Board's decision. Solar panels details? Venting stack? Plantings?

Beyond those questions, effort has been made to create and extend extensive views for the Cox property which will have major views from the required rear yard. The Pera home at 3666 - which is located in the "middle" buildable area, will see a (slightly) pitched roof outside which has been extended to the common property line. It will intrude into the view out their kitchen window. Areas formerly protected have already been incorporated into the Middle building structure. Adding a pitched roof all the way west to the property line seems unwarranted.

Respectfully submitted,



Sue Hestor

For Angus Pera

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