

LETTER FROM PROPERTY OWNER APPEALING DENIAL OF ZONING VARIANCE FOR OVER-IN-HEIGHT FRONT WALL.

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ATTACHMENT TO CITY OF LOS ANGELES PLANNING DEPARTMENT MASTER APPEAL FORM CP-7769 (02/10/04)

This appeal is filed under the authorizing legislation pursuant to Los Angeles Municipal Code.

1. The applicant is aggrieved by the Associate Zoning Administrator's determination decision because the denial of the variance and adjustment for the continued use and maintenance of an over-in-height fence and gates and pavement exceeding 50% of the front yard setback:
 - a) Represents a clear case of **SELECTIVE ENFORCEMENT**
 - b) Fails to recognize **WELL ESTABLISHED PRECEDENT**
 - c) Is predicated on **ERRORS CITED IN THE FINDINGS OF FACT**
 - d) Decision-maker erred and abused his discretion by making material factual errors, materially inappropriate and inaccurate assumptions, and overstepping his legal authority in his **FINDINGS**
 - e) Relies on **FALSE ALLEGATIONS** made at the public hearing and in the written submissions to the case file
 - f) Does not accurately reflect the findings of the **STAFF INVESTIGATOR'S REPORT**
 - g) Fails to give consideration to **MATERIAL ISSUES** presented in the original application

The applicant has made a significant architecturally sensitive improvement to the property that adds to the beauty of the neighborhood. The project increases the property value of both the subject property and the surrounding properties, mitigates the negative environmental impact created by the over-capacity traffic condition of the proximal secondary highway, addresses and corrects the hazardous ingress/egress condition, mitigates the noise and pollution generated by the highway, and makes the subject property conform to the prevailing pattern of front yard treatment existing along the south side of Los Feliz Blvd. The decision-maker's denial, if sustained, would cause economic damage to the applicant both in wasted construction, reconstruction, fee and legal expenses as well as in a reduction in his property value.

2. Following please find the applicant's analysis of the Associate Zoning Administrator's **MATERIAL ERRORS AND ABUSE OF DISCRETION** in his determination of this case.

- a) FINDINGS OF FACT

a. BACKGROUND

- i. “The property features a slight upslope north to south.”
 1. **FACT:** *The northerly property line is approximately three feet LOWER than the center of Los Feliz Blvd. The grade then rises about one foot toward the south to the building line (30 feet) and then slopes down a further 10 feet to the rear building line. This is significant in that the effective height of the subject fence and gates, as viewed from a car on the boulevard, is reduced by the drop (three feet) from the street to the sidewalk over the slopping 34-foot wide parkway. The effective visual height from the point of view of an automobile on the “Dedicated Scenic Secondary Highway” is thus lower than the standard code height of 42 inches. The fence does not negatively impact the sightline from the street to the house. One can still see a large portion of the house from the street. Indeed the visual impression one gets when driving past is that of a large architecturally significant estate, not a walled off enclave like so many of the other properties in the district. The subject fence and gates are lower than the majority of those along the boulevard.*
- ii. “The applicant has constructed an 8-foot in height concrete block wall with brick veneer between the two driveways.”

“...gates...approximately the same height as the subject wall.”

 1. **FACT:** *The height of the wall is misstated. The wall (as measured from the low side at the sidewalk) is 73 inches (6’1”) with column caps at 80 inches (6’8”). The Gates are 69 ½ inches (5’9 1/2”). Note: When measured from the natural original grade (the standard required by the code) the wall is 59 inches (4’11”) tall, (a 17 inch variance from code). Hardly an “8-foot” wall.*
- iii. “The property that would be most impacted by the subject over-in-height wall in the front yard is the adjoining property 5050 West Los Feliz Boulevard to the west. The adjoining property has a similar 34-foot parkway, topography and a driveway which (*sic*) runs along the easterly side of their property. The adjoining property also has an over-in-height masonry block wall in the front yard setback. Before the improvements on the subject property such as the second driveway and wall construction, there was no conflict between the adjoining properties. However, now that the subject wall has been added the adjacent property owners view has been blocked, particularly when backing out across the side walk.”
 1. **FACT:** *The two properties feature a mature dense foliage 8 foot-high hedge along the north~south property line that historically ended at the northerly property line (sidewalk). This hedge effectively blocked the view of pedestrians approaching when the residents backed out*

(or came out forward) from their driveway for many years. The applicant's improvements included joining with the neighbor at 5050 Los Feliz to widen their existing driveway from slightly narrower than nine feet to eleven feet wide, creating a double wide (22 feet) shared driveway approach across the parkway (with CLASS "A" PERMIT No.A2004-00-001657 issued on 7/13/04 by the City of Los Angeles Department of Public Works, Bureau of Engineering). As part of this improvement the most northerly bushes of the hedge were removed and the side yard division hedge was truncated to align with the new gate, 32 inches back from the sidewalk. The gates are Thirteen and a half feet wide (13' 6"), allowing for exceptional visibility. The combination of widening the existing driveway at 5050, adding a new extra wide driveway at 5042, the subject property, and setting back the opening from the sidewalk nearly three feet has greatly improved the safety to both pedestrians and the people using the driveways. The decision-maker's observation is in direct opposition to the facts.

iv. "Submitted with the application are four letters of support, dated between February 22, and 29, 2004, and signed by Kenneth Kevorkian, May Moore, Benjamin and Victoria Barbour, and Peter Leak, four of the six adjoining neighbors."

1. **FACT:** *Submitted with the application were seven (7) letters of support including ALL SEVEN (not six) of the abutting properties. Had the Zoning Administration followed their long established practice of employing an administrative hearing in lieu of a public hearing when all abutting property owners support (in writing) a request for a variance for fence height less than eight (8) feet and adjustments to landscaping requirements, the expense of a public hearing, and likely this appeal, could have been avoided.*

b. PUBLIC HEARING

i. "A hearing was held on December 6, 2004. Attended by the applicant, Council office, Neighborhood Council, Los Feliz Improvement Association, and residents on neighboring properties:"

1. **FACT:** *There was no "resident (s) on neighboring properties" in attendance. A speaker introduced himself as being a neighbor, but gave his address as somewhere in the 2700 (twenty seven hundred) block of Glendower Ave., over a mile away from the subject property.*

ii. "• The Los Feliz Improvement Association opposes the fence."

1. **FACT:** *The decision-maker has erred in giving weight to the LFIA opposition. The Los Feliz Improvement Association Zoning Committee was consulted in the*

earliest planning stages of this project. They made several recommendations regarding the design, several of which were incorporated. They stated that it was their policy not to endorse applications for variances from City building and zoning codes. They informed the applicant that after his presentation the committee would vote in executive session and subsequently inform the applicant whether the committee would oppose the prospective project or take no stand. No further communication was offered by LFIA until their representatives appeared at the public hearing. The applicant assumed that LFIA had decided to not oppose the project. This assumption by the applicant was bolstered when he received the summer 2004 issue of the LFIA "Los Feliz Observer," the newsletter of the association, and noted on page 2 of that publication (see attached copy) that LFIA had awarded its prestigious "Meliora" award for "Best Multi-Unit Building" to a duplex at 2630 St. George St. They cited in the award description that the developers had "...decided to redefine the noisy landscape to the poetry of their passion." The award winning property features a masonry and dense foliage over-in-height wall approximately eight (8) feet high. The article does not mention whether or not a zoning variance was obtained for this project or whether LFIA opposed or endorsed it.

- iii. "• There are inconsistencies between the application and what has resulted;...
 - 1. **FACT:** The decision-maker has properly characterized the scope of the issues in this case as "...continued use and maintenance..." since the fence and circular drive are existing and not "proposed." The changes made from the plan were in order to conform to handicap wheelchair ramp requirements that preclude the use of a curving ramp. The straightening of the ramp required a portion of the original planting bed to be incorporated into the new ramp design.
- iv. "• No other property has paved its front yard,"
 - 1. **FACT:** This is not true. Several homes along the south side of Los Feliz Blvd. have paved front yards. Indeed several use the front yard as their **ONLY** parking area, having no vehicular access to the rear. The decision-maker has erred in including and relying on this false allegation. (See photos).
- v. "• The fence and front pavement is a bad project that sets a bad precedent along this street.
 - 1. **FACT:** There is no issue of negative precedent in this case. **The STAFF INVESTIGATOR REPORT** of December 6, 2004 (attached) clearly states on page 2, ¶4

“Nearly 80% of the single-family dwellings on the south side of the street have over-in-height walls, fences and/or landscaping in the front yard setback area of their property.” Furthermore LFIA cites in their written contribution to the case file: *“ [There are] ...7 approved walls or fences along the entire stretch of Los Feliz Boulevard between Western and Vermont...”* The decision-maker has materially erred in giving consideration and weight to the false and unfounded issue of setting a bad precedent. **INDEED THERE IS CLEAR AND SUBSTANTIAL PRECEDENT, BOTH DE-FACTO AND OFFICIALLY PERMITTED AND APPROVED, THAT PRECEDENT SHOULD BE THE BASIS OF A SPEEDY OVERTURNING OF THE DECISION-MAKER’S DENIAL OF THE APPLICATION THAT IS THE SUBJECT OF THIS APPEAL.**

c. WRITTEN COMMUNICATIONS

- i. Juliet Kipperman alleged in a letter on behalf of LFIA that the application was only made subsequent to a Supplemental O.T.C being issued.
 1. **FACT:** *The decision-maker should not have given credence to this false allegation. The applicant began the application process months before any work was begun, and worked with the code enforcement office of Building and Safety in coordinating the application. Indeed the MASTER LAND USE PERMIT APPLICATION included with the application was notarized on 7/12/04, before any work was begun.*
- ii. Juliet Kipperman attached 14 photos to her letter that showed THE ONLY HOMES IN THE AREA (OF APPROXIMATELY 90) THAT SUPPORT LFIA’S POSITION. Ironically, 7 of those photos show paved front yards with autos parked in them.

b) FENCE HEIGHT FINDINGS

a. **Section 1. The wall/fence will not be in conformity with the public necessity, convenience, general welfare and good zoning practice.**

- i. “The applicant has constructed an 8-foot ...
 1. **FACT:** *The decision-maker again misstates the height of the fence at eight (8) feet in his rationale and justification for this finding. (See a), a., ii above)*
- ii. “Although there are many over-in-height fences in the vicinity along Los Feliz Boulevard, they are mostly constructed with either a see-through wrought iron design or have a lower elevation that does not significantly block views of the attractive large-scale homes from the Scenic Highway.”
 1. *Here the decision-maker again is in error regarding the facts. **FACT:** It is well documented in the photos that accompanied the original application that the predominate front yard treatment along the south side of Los Feliz Blvd.*

is a solid barrier at the northerly property line that is typically ten feet high, Where the material is wrought iron it is most often backed and over grown with dense hedges. Furthermore the decision-maker is in material error regarding his interpretation of the designation of Los Feliz Blvd. as a Scenic Secondary Highway. The scenic designation states, in part that: “Outstanding specimens of existing trees and plants located within the public right-of-way of a Scenic Highway shall be retained to the maximum extent feasible within the same public right-of-way.” The Scenic designation for Los Feliz Blvd. includes ONLY the public right of way and was made in conjunction with the declaration of Historic-Cultural Monument No. 67, i.e. the CEDAR TREES lining both sides of Los Feliz Blvd. in the parkway (public right of way), declared 9/2/1970. The boulevard is a Scenic Secondary Highway and NOT “Scenic Corridor,” as it is often mistakenly referred to in these findings. The “Scenic Highway” designation has no legal effect on the private property in residential zones along which it runs. The designated “Scenic Highway” runs from Western Ave. at Franklin north to Los Feliz Blvd., then east to Riverside Dr. and then south to Glendale Blvd. - for a distance of 16,354 feet. The Western Ave. portion and the western segment from Western Ave. to Nottingham Ave. have virtually no single-family homes facing the highway. The Streets are lined by Immaculate Heart, AFI, Griffith Park, and the embankment of the Los Feliz Estates on the northerly side, and the back fences of Laughlin Park homes on the southerly side – for a distance of 2740 feet. To the east of the subject property from Vermont Ave. to the end of the designated “Scenic Highway” the streets are lined along both sides with medium to large apartment buildings, some are charming and quaint, a few are exceptionally beautiful and architecturally significant, and the vast majority are one uglier-than-the-next built in the fifties and sixties, as well as a couple of gas stations – for a distance of 10,114 feet. The stretch of Los Feliz Blvd. between Nottingham Ave. and Vermont Ave., a distance of 2,700 feet, represents only 16% of the “Designated Scenic Highway” and is the only area on the route with single-family homes. Most of these homes have over-in-height walls or fences.

iii. “Further, it creates a visual obstruction that impedes pedestrian safety due to obstruction of vehicular view when egressing the subject property”

1. *The decision-maker has failed to properly analyze the safety elements that have been thoughtfully and effectively designed into the project, i.e.:*

- a. *The driveways are an extra wide eleven (11) feet as opposed to the required minimum of nine (9) feet or the original historical width of eight (8) feet.*
 - b. *The gates are fully opening sliders thirteen and a half feet (13'6") wide. Indeed they are wider than many flush-with-the-building driveway openings in built-up commercial areas with very heavy pedestrian traffic.*
 - c. *The gates are set back nearly three feet (32") from the sidewalk, dramatically improving not only the driver's view, but affording pedestrians an excellent sight line to any egressing vehicle.*
- iv. "Approval of the fence would establish a precedent that would invite fence height applications from other property owners along Los Feliz Boulevard..."
- 1. ***FACT:** This train pulled out of the station years ago. As the STAFF INVESTIGATOR REPORT clearly states the precedent is and has been long established. The fact that many of the properties with existing non-complying conditions are being used and maintained without interference renders the compliance enforcement in the applicant's situation a clear example of selective enforcement. The fact that there are many properties in the immediate area that enjoy the benefit of having been granted zoning variances is in and of itself a governing precedent. The decision-maker's failure to recognize and follow the well-established precedent (indeed to use the establishment of such a precedent as an argument against the applicant!) is a serious and completely outrageous abuse of his discretion and an error that demands the overturning of his denial in this case.*
- b. **Section 2. The wall/fence will not be in substantial conformance with the various elements and objective of the General Plan**
- i. "The property is not currently within the area of any specific plans or interim ordinances."
 - 1. *The decision-maker correctly observes that there are no extraordinary regulations or limitations imposed on the subject property by the city. Indeed the City of Los Angeles does not impose any aesthetic design constraints on fences or walls. Only within a Cultural Overlay Zone or for properties that have been declared Cultural-Historical Monuments (neither of which apply to the subject property) are any such restrictions applicable.*
 - ii. "The over-in-height solid wall fence is a visual obstruction that blocks view (*sic*) along this corridor and of the adjoining very large, architecturally significant single-family dwellings.
 - 1. ***FACT:** The decision-maker is in material error. The fence does not obstruct the view of the subject home from the*

highway (see discussion at: a), i, 1 above) nor does it obstruct the view from adjoining properties. The homes across the street on the north side are up on a slope approximately fifteen (15) feet above the properties on the south side. Standing in the front doorway at 5067 Los Feliz (directly across the street from the subject property) one can see the welcome mat at the front door of the subject property, unobstructed by the fence. Hardly an obstructed view of the home!

iii. The wall fence, as constructed, is adverse to the preservation of the aesthetics (sic) views of this scenic corridor, and as such will not be in substantial conformance with the various elements and objectives of the General Plan for this designated Scenic Secondary Highway.

1. The decision-maker is in material error in his interpretation of the Scenic Highway designation and the authority to control aesthetic elements on private property that that designation affords (and does NOT afford) him. The City of Los Angeles General Plan, Transportation Element, Chapter VI, Section D. "Scenic Highway Guidelines" (a complete copy of which is attached hereto) states "Corridor Plans for each designated Scenic Highway should be prepared in accordance with each Scenic Highway corridor's individual scenic character or concept. These Corridor Plans may be incorporated into specific plan or district plan ordinances. In the absence of such adopted Scenic Corridor Plans, the following interim guidelines are established as part of this Element: " There is no such specific plan or district plan ordinance adopted or in effect, so the interim guidelines are the only rules applicable. The "scenic features or resources" listed in the appendix E " Inventory of Designated Scenic Highways" of the Transportation Element of the General Plan are generic "Hillside and City Views", no special or extended authority is created or authorized for Los Feliz Blvd. The interim guidelines do not provide for any regulation of property beyond the public right-of-way with the single exception under ¶ 4 Signs / Outdoor Advertising sub ¶ "d. Designated Scenic Highways shall have first priority for removal of nonconforming billboards or signs. Such priority extends to properties located along, or within five hundred feet of the center line of, designated Scenic Highways." This exception obviously does not apply to the subject property.

c. Section "3. The wall/fence will be materially detrimental to the property or improvements in the same zone or vicinity in which the property is located."

i. "Although the applicant claims that the landscaped bed in front of the fence will soften the appearance of the fence, it is clear that it is too small in scale and therefore generally out of character with the landscaped parkway corridor that fronts along Los Feliz

Boulevard. This portion of Los Feliz Boulevard has a very wide parkway that is landscaped extensively in a manner that adds to the visual aesthetics of this designated Scenic Secondary Highway. As a result, the landscaped planter with dwarf shrubs appears miniature and not compatible with the surrounding properties.”

1. *The decision-maker is making irrelevant editorial comment on the aesthetic choices of plant materials on the private subject property, which is not within his jurisdiction or area of expertise (see b), b., iii, 1 above). Indeed the fence in question has no legal limitation as to aesthetic design or materials of construction. It could be chain link, bare cinder block or any other material; it is the height that the variance is being sought for, not the design. That said, however, the owner has used masonry including very costly used bricks cut into a veneer that is a premium high-end choice of building materials that offers a classic, enduring and virtually maintenance-free element to the streetscape. Brick walls, buildings, and the brick entry façades to the Los Feliz Estates are common elements along the boulevard. The selection of dwarf species of classic and typical Italian Cypress trees was made in order to avoid an out-of-scale condition to develop over time. A normal (non-dwarf) Italian Cypress would be expected to grow to 60~80 feet, while the dwarf will stop at around 8' over 20 years. The plants are freshly planted and will obviously grow larger than their current diminutive size. The decision-maker further displays confusion between the “very wide parkway” (a part of the public right-of-way) and the area within the private property that is the subject property. The parkway is not only part of the Dedicated Scenic Secondary Highway, but is also a Declared Historical-Cultural Monument (Declared 5/20/1970 # 67), and is (or ought to be if properly enforced) landscaped exclusively with Deodar Cedar trees. No other “extensive” landscaping in the public right-of-way is authorized. Since 1916 LFIA, in partnership with the City of Los Angeles, has maintained the Cedar Trees in the parkway. There was a mature Cedar tree in front of the subject property until the big rain and windstorm of April 2003, when it toppled over. The City Street Maintenance Department removed the tree on an emergency basis when it fell. They subsequently returned and dug-up and removed the stump in March of 2004. The owner of the subject property has prepared the parkway with a new sprinkler system, new seeded grass planting, and appropriate soil amendments for the planting of a replacement Cedar tree. The owner has*

offered to make a financial contribution to LFIA in order to obtain a larger more mature replacement tree than that usually provided. The owner awaits the arrival of the new tree, which will further enhance the beauty and value of the property and the area.

- ii. “Further, the fence is a solid wall with a brick veneer that is unlike all other fences in the area, as well as the architecture of the dwelling found on the subject property.

Other fences of the same height are typically constructed with wrought iron that lends a see-through view of the property behind the fence. Other solid construction fences in the vicinity are not as high as the subject fence being considered here. As a result, the requested fence appears out of place and not in character with other properties in the vicinity. The over-in-height solid wall fence, as constructed, will therefore be materially detrimental to the property and improvements on other properties in the vicinity in the same zone. In making the above finding, I have considered the environmental effects and appropriateness of materials, design and location of any proposed fence, including any effects on the view which may be enjoyed by the occupants of adjoining properties...”

1. *Again the decision-maker is in material error. He mistakenly finds fault with material choices and makes inappropriate judgments on subject matter outside his purview. These are NOT tract homes, and any attempt to dictate the aesthetic and design considerations in order to attain some kind of uniformity (i.e. wrought iron, foliage, or any another treatment) is antithetical to the architectural diversity of the “very large architecturally significant single-family residences” that are the asset they are. It is the choices of the INDIVIDUAL property owners and their professional designers, architects, and landscape architects that combine to make the Los Feliz area a unique and especially high value place to live.*

c) **ADJUSTMENT FINDINGS**

- a. **Section “4. The granting of an adjustment will not result in development compatible and consistent with the surrounding uses.”**

1. *Several homes along the south side of Los Feliz Blvd. have paved greater than 50% front yards. Indeed several use the front yard as their only parking area, having no vehicular access to the rear. (See photos accompanying original application.) The decision-maker has erred in not recognizing this precedent.*
- ii. “The question here is not whether or not to have a circular driveway, but whether an excessive portion of the front yard may be covered with pavement.
 1. *The decision-maker is correct in his endorsement of the circular driveway. The driveway (not including the*

handicap access ramp) now occupies 66% of the front yard. This is 16% greater than the standard (one part in six) The modest adjustment sought is slightly greater than the original 60/40 asked for in the application because the handicap access ramp design did not meet the ADA requirements or those of common sense and the curve had to be straightened out.

iii. “The granting of an adjustment to allow more than 50% of the front yard setback to be covered with pavement is clearly adverse to this Scenic Highway’s park-like appearance and therefore will result in development that is not compatible and consistent with the surrounding uses.”

1. *The surface (ground cover) of the area within the front-yard set back CANNOT BE SEEN from the “Scenic Highway,” whether the property has a three and one half foot fence (allowed by code) or a variance-permitted over-in-height fence, so the argument as to the appearance from the Scenic Highway is moot. As stated earlier, the Scenic Highway designation does not afford any additional burden on the private property abutting it.*

b. **Section “5. The granting of an adjustment will not be in conformity with the intent and purpose of the General Plan.”**

i. “The property is not currently within the area of any specific plans or interim ordinances.”

1. *The decision-maker correctly observes that there are no extraordinary regulations or limitations imposed on the subject property by the city through any scenic corridor ordinance, cultural-historic overlay zone or any other law or regulation.*

ii. “However, the pavement of over 50% of the front yard setback area will reduce the existing landscaped park-like appearance along Los Feliz Boulevard. Granting an adjustment to pave over 50% of the front yard setback area is therefore adverse to the preservation of the aesthetics (sic) views of this scenic corridor and as such will not be in conformance with the intent and purpose of the General Plan for this designated Scenic Secondary Highway.”

1. *The decision-maker again repeats his material error in applying “Scenic Highway” regulations outside the public right-of-way. It should be noted, however, that the subject property as it is now configured has received considerable praise from the immediate neighbors as a handsome addition to the appearance of the area. What was once a completely run-of-the mill old front lawn with a dying tree is now an attractive façade with classic character.*

c. **Section “6. The granting of an adjustment is not in conformance with the spirit and intent of the Planning and Zoning Code of the City.”**

- i. "... and as a result could lessen the value of property in this high value scenic neighborhood..."
 - 1. *The decision-maker is in material error in his uninformed speculation of the effect of the subject application on the property value of the subject property and the values in the area. Evidence will be offered at the appeal that will clearly demonstrate the dramatic increase in property value this project represents. A "Gated Los Feliz Estate" commands a price premium not enjoyed by similar, but unfenced, properties. Indeed the property adjoining to the west (5050 Los Feliz Blvd.) has been sold this week (January 7th) for a record price per square foot on the boulevard. This home was not listed on the market until AFTER the completion of the subject project. Clearly the application IS within the spirit and intent of the Planning and Zoning Code's interest in "stabilizing the value of property" as well as preserving the area's attractiveness.*
- d. **Section "7. There are adverse impacts from the proposed adjustment that have not been mitigated."**
 - i. "The adverse impacts of excessive paving of the front yard setback area is well documented via oral testimony at the public hearing and written communications to the file received from neighbors, the Los Feliz Improvement Association, and the Council office. The destruction of the park-like appearance of this scenic corridor by paving more than 50% of the front yard setback area is a visual blight and significantly alters and destroys the park-like appearance found along this scenic corridor, for which there is no acceptable alternate mitigation except to simply remove the offending pavement and restore suitable landscaping that is compatible with the character of this designated Scenic Secondary Highway and the abutting very large, architecturally significant houses."
 - 1. *For the decision-maker to refer to this property as a "visual blight" is both outrageous, insulting and factually in error. The planting beds and planters, with the exception of the beds at the base of the wall along the sidewalk, will not even be planted until the spring, when flowering plants are scheduled to go in. The barren yard should not be judged (and cannot be judged by someone without the necessary expertise and vision) at this time. The decision-maker is out of line. Furthermore there are no aesthetic or design requirements applicable in this case. The order to "restore suitable landscaping" is an overreach of the decision-makers authority.*
- e. **Section "8. The site and/or existing improvements do not make strict adherence to the zoning regulations impractical or infeasible."**
 - i. "The subject property is a large residential estate sized lot that is of a similar size and has a similar site development with an

architecturally significant single-family dwelling as is found on other properties with the same zone found in the vicinity. As such, the site and existing improvements thereon are not unique and have no special circumstances that make strict adherence to the zoning regulations impractical or infeasible. Any claimed hardship is self-imposed and not worthy of special consideration for the granting of the requested adjustment to pave more than 50% of the front yard setback area.”

1. *It should be noted that the Los Feliz area was developed in the 1920s when a typical affluent household might have one Model T and there was a PE Red car line just up the street at Vermont Avenue. In those days there was curbside parking available on Los Feliz Blvd. Today there is no parking in the street at any time. The once relatively calm Los Feliz Boulevard has become a Secondary Highway that becomes a Class II Major Highway a few blocks to the east at Vermont Ave. The boulevard is a major feeder to Interstate 5, the primary entrance to Griffith Park, and serves the constantly expanding former site of Franciscan Pottery. Many of the other properties along the south side of the boulevard have either inadequate or non-existent vehicular access and/or parking at the rear of their homes. There is plenty of precedent to request parking to be allowed on the subject property front area. However the applicant has additional unique special circumstances that make strict adherence to the zoning regulations impractical or infeasible. The rear parking at the subject property is more than 10 feet below the first floor and reached by stairs. **The decision-maker is cruel indeed when he suggests that the hardships of advanced age, artificial knees, and osteoarthritis are “self imposed” and “not worthy of special consideration.”** Both the applicant and his 90-year-old mother have handicap placards issued by the DMV and meet the widely recognized standards for special consideration.*

3. *The decision-maker failed to give consideration to MATERIAL ISSUES presented in the original application including:*

The applicant stated in the original application, “Indeed the main environmental goal of this project is to buffer the adverse impact caused by the massive traffic load that has been generated by the commercial development allowed along the boulevard to the east.” The applicant is well qualified to make observations with an historical perspective, having lived on Nottingham Ave. (one block from the subject property) as a child in the 40’s, 50’s and 60’s, and as a full-time adult homeowner in Los Feliz continuously since 1982. The Mayor concurs:

**CITY OF LOS ANGELES
MAYOR’S TRANSPORTATION TASK FORCE
(on Congestion, Mobility and Safety)**

March 2004

INTRODUCTION

For the past 15 years Los Angeles has had the worst traffic congestion in the nation. As the freeways have become more clogged, the congestion on City arterial streets has worsened. While major transit improvements have been built, a comprehensive system is still far from complete. Both high cost and lack of consensus have crippled major freeway improvements.

Severe congestion not only affects roadway users, it affects Los Angeles neighborhoods. To avoid the delays on major roadways, motorists use local streets, negatively impacting the quality of life of residents and compromising the safety of children. Some local streets carry several times their intended volume of traffic.

Excessive speeding is a common complaint. These conditions contribute to the more than 25,000 injury crashes reported annually on Los Angeles streets.

To improve these conditions Mayor James Hahn created a Transportation Task Force.

There can be no doubt that in addition to the city-wide worsening of traffic and congestion due to population growth, lack of freeway development, an incomplete rapid transit system, and a myriad of other causes, that Los Feliz Boulevard has been especially heavily impacted because of the development of the former Franciscan Pottery site into a massive, and constantly expanding, retail- church- school complex. It is The City of Los Angeles that has approved and permitted this development with little regard as to its impact on the quality of life, safety, and property values of the nearby residential district.

The subject application is for a project the main goal of which is to restore, as much as possible, the quality of life, safety, and value that the City's actions have deprived the property. The mitigating effect of the project is dramatic. The new fence and gates dramatically reduce the virtually constant roar of traffic. Acoustic measurements will be presented at the appeal hearing.

The applicant pointed out in the original application that the prevailing pattern of development, the character of the area, and the height of existing fences, walls, and hedges located in the immediate area were ALL consistent with this request for variance and adjustment. The decision-maker materially erred and abused his discretion in ignoring these clear precedents.