

NO. 010027

A.P.# 030-085-013-000

In the matter of the application of
Ricardo Sanchez (PLN010027)

FINDINGS & DECISION

for a Variance to Section 21.42.030F, in accordance with Title 21 (Zoning) Chapter 21.72 (Variances) of the Monterey County Code, from the required 5-foot side yard setbacks for a second floor addition in a Castroville High Density Residential zoning district ("HDR/15-Z"), located at 10921 and 10923 Geil Street, Castroville, North Monterey County, came on regularly for hearing before the Zoning Administrator on August 9, 2001.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto, now makes the following findings and decision:

FINDINGS OF FACT

1. **FINDING:** The subject Variance is for a second story addition to an existing single family dwelling that encroaches upon the 5-foot side yard setback required in a High Density Residential zoning district (HDR/15-Z). The property has two existing residences, located at 10921 and 10923 Geil Street (Assessor's Parcel Number 030-085-013-000) in the unincorporated community of Castroville. The Variance is requested for a second story addition to the 10921 Geil Street residence. Except for the Variance request, the project conforms to the plans, policies, requirements and standards of the General Plan, North County Area Plan, and the Monterey County Zoning Ordinance (Title 21). The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21 and any zoning violation abatement costs have been paid.
EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and the North County Area Plan.
EVIDENCE: The application and plans submitted for the Variance are in the project file at the Monterey County Planning and Building Inspection Department.
EVIDENCE: The project planner conducted a site visit on June 28th, 2001 to verify that the proposed project complies with the Monterey County Zoning Ordinance.
EVIDENCE: North County Non-Coastal Land Use Advisory Committee Request form indicating a tied vote by the Committee members (see Exhibit "E" of July 26, 2001 staff report).
EVIDENCE: Chapter 21.10 of Title 21 and Sections 21.72.040 B. ("Variances") of the Monterey County Ordinance, Title 21. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.
2. **FINDING:** The proposed project will not have a significant environmental impact.
EVIDENCE: Section #15301 and 15305 (a) of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review. No adverse environmental impacts were identified during staff review of the development application. No change in use will occur from the variance request.

3. **FINDING:** Special circumstances applicable to subject property, including size, shape, topography, location or surroundings, justify the request for a Variance based on the strict application of Title 21.
EVIDENCE: There are structural restrictions that justify allowing the proposed second floor to encroach into the setback. Construction of a second story on the existing structure requires that the walls be located directly above the existing first floor walls. To set the walls in would require extensive reconstruction of the existing single story structure.
EVIDENCE: The application and plans submitted for the Variance in the project file.
EVIDENCE: The site visit by the Planner on June 28th, 2001.
EVIDENCE: The existing single family dwelling already encroaches into the side yard setbacks by 3 feet from the northerly side property line and 2 feet from the southerly side property line. The proposed second floor at the southerly side of the existing rear residence would raise the height of the structure to approximately 16 feet at the southerly side property line.
4. **FINDING:** To grant the Variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
EVIDENCE: Non-conforming structural encroachments into the side yard setback are located within the same residential district and in the vicinity of the subject parcel, and even within the same block. One project has a variance to a side yard setback (APN 030-048-011). Four others are non-conforming situations with reduced side yard setbacks.
EVIDENCE: The application and plans submitted for the Variance in the project file at the Monterey County Planning and Building Inspection Department.
EVIDENCE: The site visit by the Planner on June 28th, 2001 and the Zoning Administrator.
5. **FINDING:** The qualifications of Findings 3 and 4 apply to the land, structure, or use of which the Variance is sought.
EVIDENCE: The Variance is a request to encroach into the side yard setbacks. As described in Findings 3 and 4, a Variance can only be approved where the limitation causing the Variance request meets all of the following criteria: 1) a physical constraint related to the subject property, 2) deprives the property of privileges enjoyed by other similarly situated properties, and 3) the Variance would not be a grant of special privileges inconsistent with other similarly situated properties. See evidence for Findings 3 and 4, which demonstrate the proposal meets all these criteria.
6. **FINDING:** The Variance does not grant a use or activity that is not otherwise expressly authorized by the zone regulation governing the parcel of property.
EVIDENCE: The use is an allowed use per Section 21.10.030.B, Uses Allowed, High Density Residential zoning district.
7. **FINDING:** The project is appealable to the Planning Commission.
EVIDENCE: Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21).

DECISION

THEREFORE, it is the decision of said Zoning Administrator that said application for Variance be granted as shown on the attached sketch, and subject to the following conditions:

1. The subject Variance allows for a variance to the required side yard setback for a second story addition to an existing one story residence at 10921 Geil Street (Assessor's Parcel Number 030-085-013-00). This variance does not apply if the existing structure requires reconstruction. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

Prior to Issuance of Building and Grading Permits:

2. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. **(Planning and Building Inspection)**
3. The applicant shall record a notice which states: "A variance (Resolution 010027) was approved by the Zoning Administrator for Assessor's Parcel Number 030-085-013-000 on August 9, 2001. The permit was granted subject to 9 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
4. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The exterior lighting plan shall be subject to approval by the

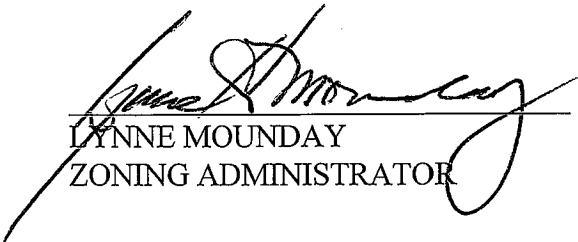
Director of Planning and Building Inspection, prior to the issuance of building permits. **(Planning and Building Inspection)**

5. Obtain all required sewer permits from CSA 14 and Monterey Regional Water Pollution Control Agency. **(Public Works)**
6. No openings (doors or windows) on wall with 3-foot setback from property line. **(North County Fire District)**
7. Label all rooms as to use on the plans submitted for the building permit. **(Planning and Building Inspection)**
8. The roof eave, including rain gutters, on the south side of the building shall not encroach over the property line. The south side of the building shall have a roof equipped with rain gutters and drains to direct runoff away from adjacent properties. Prior to final inspection, the rain gutters shall be verified as installed in compliance with this condition. **(Planning and Building Inspection)**

Prior to Final Building Inspection/Occupancy

9. The applicant shall comply with Ordinance No. 3932 of the Monterey County Water Resources Agency pertaining to mandatory water conservation regulations. The regulations for new construction require, but are not limited to:
 - a) All toilets shall be ultra-low flush toilets with a maximum tank size or flush capacity of 1.6 gallons, all shower heads shall have a maximum flow capacity of 2.5 gallons per minute, and all hot water faucets that have more than ten feet of pipe between the faucet and the hot water heater serving such faucet shall be equipped with a hot water recirculating system.
 - b) Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. **(Water Resources Agency & Planning and Building Inspection)**

PASSED AND ADOPTED this 9th day of August, 2001.


LYNNE MOUNDAY
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON **AUG 17 2001**

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **AUG 27 2001**

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.

