

MONTEREY COUNTY ZONING ADMINISTRATOR

Meeting: January 11, 2007 Time: 8:00 AM	Agenda Item No.: 4
Project Description: Variance to allow an eight foot side yard setback reduction thereby decreasing the existing setback requirement from 20 feet to 12 feet, and Design Approval for a partially constructed 272 square foot master bedroom addition to an existing 3,771 square foot residence. This permit is to clear CE050382. No grading or tree removal is proposed.	
Project Location: 18 Mentone Drive Carmel Highlands	APN: 243-193-002-000
Planning File Number: PLN060475	Name: Kenneth Dekker/Owner Charlie Stone/Agent
Plan Area: Carmel Land Use Plan	Flagged and staked: No (existing development)
Zoning Designation: : ("LDR/1-D (CZ)" [Low Density Residential, 1 acre per unit with Design Control Overlay (Coastal Zone)])	
CEQA Action: Categorically Exempt per section 15301(e) additions to existing structures	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Zoning Administrator approve the Variance and Design Approval based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions (**Exhibit C**).

PROJECT OVERVIEW:

The project includes the construction of a 272 square foot master bedroom addition without the benefit of planning or building permits. Due to the ailing health of the homeowner, the master bedroom was enlarged to accommodate necessary medical equipment that would otherwise be located in portions of the home inaccessible to the occupants. In order to legalize the addition, the applicant requests approval of a Variance and Design Approval. A Variance is required in this instance as the structure is located approximately 12 feet from the side yard while the minimum side yard setback required by the Zoning Ordinance is 20 feet.

After analyzing the constraints and location of this parcel staff has determined that a side yard setback Variance can be justified for the following reasons. The addition is located on the most level portion of the parcel. Surrounding vacant portions of the parcel include slopes ranging from 30 to 60 percent. These areas are to be avoided to maintain consistency with County policy. Location of the addition elsewhere on the parcel may require the removal of protected Monterey pine trees or Oak trees of landmark status, both of which should be avoided. Upon researching previous approvals, staff has determined that the granting of this Variance would not constitute a grant of special privilege as a number of reductions in side yard setbacks have been made within the Carmel Highlands. This includes a 2002 Variance for the reduction of a side yard setback from 20 feet to 12 feet (PLN020241) and a 2004 Variance for the reduction of a side yard setback from 20 feet to nine (9) feet (PLN030263). Finally, the Variance does not grant a use or activity that is not otherwise expressly authorized by the zoning regulations governing the parcel of property as the use proposed is allowed per Section 20.14.040 of the Zoning Regulations (Title 20) for the "LDR" district.

OTHER AGENCY INVOLVEMENT:

- ✓ Carmel Highlands Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. Conditions recommended by the Carmel Highlands Fire Protection District and the RMA-Planning Department have been incorporated into the condition compliance reporting plan (**Exhibit C**).

On October 16, 2006 the Carmel Highlands Land Use Advisory Committee (LUAC) recommended approval of the project (5-0). The LUAC provided the following comments: the project is located next to a greenbelt and this use is not objectionable to the neighbor.

Note: The decision on this project is appealable to the Board of Supervisors per Section 20.86.030 of the Monterey County Zoning Ordinance (Title 20).

Shandell Frank
Associate Planner
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December 22, 2006

cc: Zoning Administrator, Jeff Main; Carmel Highlands Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Carl Holm, Interim Planning Manager; Shandell Frank; Carol Allen; Kenneth and Marianne Dekker; Charlie Stone; Christine Kemp, Planning File PLN060475.

Attachments: Exhibit A Project Data Sheet
 Exhibit B Recommended Findings and Evidence
 Exhibit C Recommended Conditions of Approval
 Exhibit D Site Plan, Elevations, Floor Plans

This report was reviewed by Bob Schubert, Acting Planning and Building Services Manager

EXHIBIT B

RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, the Carmel Area Land Use Plan, the Carmel Area Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20), which designates this area as appropriate for development.

- EVIDENCE:** (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- (b) The property is located at 18 Mentone Drive, Carmel (Assessor's Parcel Number 243-193-002-000), Carmel Area Land Use Plan. The parcel is zoned Low Density Residential, one acre per unit, Design District Overlay, in the Coastal Zone ("LDR/1-D (CZ)"). The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 20, and is therefore suitable for the proposed development.
- (c) The project planner conducted a site inspection on December 4, 2006 to verify that the project on the subject parcel conforms to the plans listed above.
- (d) The project is not visible from a public viewing area, nor is development proposed on slopes greater than 30%.
- (e) The project as proposed does not include the removal of trees or other major vegetation.
- (f) Due to the request for a Variance, the project was referred to the Carmel Highlands Land Use Advisory Committee (LUAC). On October 16, 2006, the LUAC recommend approval of the project 5-0.
- (g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN060475.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:** (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Carmel Highlands Fire Protection District, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
- (b) Technical reports by outside archaeological consultants indicated that there are not physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs. The following report has been prepared:
- "Preliminary Archaeological Reconnaissance of Assessor's Parcel 243-193-002-000, in Carmel Highlands" (LIB060617) prepared by Mary Doane and Gary Breschini, Salinas, California, September 12, 2006.*
- (c) Staff conducted a site inspection on December 4, 2006 to verify that the site is suitable for this use.

(d) Materials in Project File PLN060475.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review.

EVIDENCE: (a) California Environmental Quality Act (CEQA) Guidelines Section 15301(e), categorically exempts additions to existing structures.

(b) No adverse environmental effects were identified during staff review of the development application nor during a site visit on December 4, 2006.

(c) See preceding and following findings and supporting evidence.

4. **FINDING: NO VIOLATIONS** – With the issuance of this permit the subject property will be in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County’s zoning ordinance. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff verification of the Monterey County RMA-Planning Department and Building Services records indicated that no violations exist on the subject property except for those which would be corrected through this permit.

5. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

EVIDENCE: Preceding findings and supporting evidence.

6. **FINDING: VARIANCE (Special Circumstances)** – Because of special circumstances applicable to the subject property the strict application of Title 20 is found to deprive subject property of privileges enjoyed by other properties in the vicinity under identical zone classification.

EVIDENCE: (a) Surrounding vacant portions of the site include slopes ranging from 30 to 60%.

(b) Construction of the addition in any other location of the parcel would require removal of protected trees.

(c) Existing development precludes the relocation of the addition.

(d) The applicant’s letter of justification for the Variance in file PLN060475.

(e) A site visit by the project planner on December 4, 2006.

7. **FINDING: VARIANCE (Special Privileges)** – The Variance does 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: (a) A Variance for the reduction of a side yard setback from 20 feet to 12 feet (PLN020241/ Hansen) was granted by the Zoning Administrator on October 10, 2002 for a property at 229 Lower Walden Road (APN 241-241-007-000).

(b) A Variance for the reduction of a side yard setback from 20 feet to nine (9) feet (PLN303263/Garren) was granted by the Zoning Administrator on April 29, 2004 for a property at 225 Lower Walden Road (APN 241-241-001-000).

(c) See Finding #6

8. FINDING: VARIANCE (Granting a Special Use or Activity) – 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: (a) The use proposed is allowed per Section 20.14.040 of the Zoning Regulations (Title 20) for the “LDR” district.
(b) The use proposed is consistent with the Carmel Area Land Use Plan and the Carmel Area coastal Implementation Plan.
(c) See Finding #6

9. FINDING: APPEALABILITY - The decision on this project is appealable to the Board of Supervisors.

EVIDENCE: Section 20.86.030 Monterey County Zoning Ordinance (Title 20).

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)				
2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 060475) was approved by the Zoning Administrator for Assessor's Parcel Number 243-193-002-000 on January 11, 2007. The permit was granted subject to <u>6</u> conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (RMA - Planning Department)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner/ Applicant/ Archaeologist	Ongoing	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
4.		<p>PD021 - DEED RESTRICTION - FIRE HAZARD Prior to the issuance of a building permit the applicant shall record a deed restriction which states: "The parcel is located in a high fire hazard area and development may be subject to certain restrictions required as per Section 20.146.080.D.3. of the Carmel Area Coastal Implementation Plan and per the standards for development of residential property." (RMA – Planning Department)</p>	Submittal of approved and Recorded Deed Restriction to RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits.	
5.		<p>FIRE011 - ADDRESSES FOR BUILDINGS All buildings shall be issued an address in accordance with Monterey County Ordinance No. 1241. Each occupancy, except accessory buildings, shall have its own permanently posted address. When multiple occupancies exist within a single building, each individual occupancy shall be separately identified by its own address. Letters, numbers and symbols for addresses shall be a minimum of 4-inch height, 1/2-inch stroke, contrasting with the background color of the sign, and shall be Arabic. The sign and numbers shall be reflective and made of a noncombustible material. Address signs shall be placed at each driveway entrance and at each driveway split. Address signs shall be and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter. Address signs along one-way roads shall be visible from both directions of travel. Where multiple addresses are required at a single driveway, they shall be mounted on a single sign. Where a roadway provides access solely to a single commercial occupancy, the address sign shall be placed at the nearest road intersection providing access to that site. Permanent address numbers shall be posted prior to requesting final clearance. (Carmel Highlands Fire Protection District)</p>	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Owner/ Applicant	Prior to issuance of building permit.	
			Applicant shall schedule fire department clearance inspection.	Owner/ Applicant	Prior to final building Inspection.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
6.		FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD) Remove combustible vegetation from within a minimum of 30 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. (Carmel Highlands Fire Protection District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Owner/ Applicant	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection.	Owner/ Applicant	Prior to final building inspection	