

LYNNE MOUNDAY  
CALIFORNIA  
ZONING ADMINISTRATOR

STATE OF  
COUNTY OF MONTEREY  
RESOLUTION NO. 010488

A.P. # 008-371-003-000

In the matter of the application of  
**John & Judy Keller (PLN010488)**

FINDINGS & DECISION

for a Variance, in accordance with Title 20 (Zoning) Chapter 20.78 (Variances) of the Monterey County Code, to allow a reduction of the side yard setback from 20 feet to 5 feet; a Variance to increase the allowable lot coverage from 15% to 18.4%; a Variance to increase the allowable floor area ratio from 17.5% to 27.2% for the construction of a 470 sq. ft. single-story addition to an existing 4,905 sq. ft. two-story single family residence; and Design Approval, located at 3187 Del Ciervo Road, Pebble Beach, east of the intersection of Crespi Lane and Del Ciervo Road, Del Monte Forest area, Coastal Zone, came on regularly for hearing before the Zoning Administrator on August 8, 2002.

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

#### FINDINGS OF FACT

- FINDING:** The subject project is for a Variance to allow a reduction of the side yard setback from 20 feet to 5 feet; a Variance to increase the allowable lot coverage from 15% to 18.4%; a Variance to increase the allowable floor area ratio from 17.5% to 27.2%; and Design Approval to allow construction of a 470 sq. ft. single-story addition to an existing 4,905 sq. ft. two-story single family residence and reduction of impervious surface from 4,874 sq. ft. to 2,261 sq. ft. The property is located at 3187 Del Ciervo Road, Pebble Beach (Assessor's Parcel Number 008-371-003-000), Del Monte Forest area, Coastal Zone. The parcel is zoned "LDR/1/5-D (CZ)" or Low Density Residential 1.5 acres/unit and Design Control District. Except for the Variance request, the project described in the application and accompanying materials conforms with the plans, policies, requirements and standards of the Del Monte Forest Land Use Plan, Del Monte Forest Coastal Implementation Plan (Part 5), Part 6 of the Coastal Implementation Plan, and the Monterey County Zoning Ordinance (Title 20). With regards to setbacks and coverage, the subject property is not in compliance with the rules and regulations pertaining to the zoning code. Because the proposed variances would not apply to these non-conforming structures, they may remain non-conforming while allowing approval of the setback variance.

**EVIDENCE:** The subject parcel and existing house constitute a legal non-conforming parcel size and structure. The 0.45 parcel is located in a district zoned for 1.5 acre lots. The existing structure has a 17 foot side yard setback on the western boundary and a 1.5-foot front yard setback and does not meet the required side yard setback of 20 feet or front yard setback of 30 feet. However, the proposed addition will not enlarge or extend the existing nonconforming setbacks. In addition, the existing lot coverage of 15.9% exceeds the 15% maximum allowed, while the existing floor area ratio of 24.8% exceeds the 17.5% maximum allowed.

- EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
- a) The certified Del Monte Forest Land Use Plan
  - b) The certified Monterey County Coastal Implementation Plan regulations for Low Density Residential and Design Control District or the "LDR/1.5-D (CZ)" District in the Coastal Zone, and
  - c) Monterey County Coastal Implementation Plan regulations for development in the Del Monte Forest Land Use Plan.
- EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.
- EVIDENCE:** Field inspection by the project planner on May 22, 2002 to verify that, except for the variance request and the current legal nonconforming aspects of the project, the proposed project complies with the Monterey County Coastal Implementation Plan (Part 5).
- EVIDENCE:** Design Approval Request form with plans recommended for denial on May 23, 2002 by the Del Monte Forest Land Use Advisory Committee by a vote of 7 for denial and 0 against denial (Exhibit "C").
- EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.
- EVIDENCE:** Archaeological Report written by Mary Doane, B.A. and Trudy Haversat, RPA, of Archaeological Consulting, March 11, 2002.
- EVIDENCE:** Biological Report prepared by Jeffrey B. Froke, PhD, Wildlife and Wildland Ecologist, July 22, 2002 found no evidence of sensitive or riparian habitat in the vicinity of the project along the adjacent utility easement/wildlife corridor.

2. **FINDING:** The site is suitable for the use proposed.

**EVIDENCE:** There has been no testimony received, either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, applicable Fire Department, Public Works Department and Environmental Health Division. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed.

3. **FINDING:** The establishment, maintenance, or operation of the use or buildings applied for will not under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

**EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, appropriate Fire Department, Public Works Department, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

4. **FINDING:** The proposed project will not have a significant environmental impact.  
**EVIDENCE:** CEQA Guidelines section 15301, dealing with new construction categorically exempts this type of project from environmental review. No adverse environmental impacts were identified during review of the proposed project.
5. **FINDING:** There are special circumstances applicable to the subject property related to all three variance applications described in Finding #1, including size, shape, topography, location or surroundings, that the strict application of Title 20 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. Although it was determined that special circumstances exist, variances are granted on a case-by-case basis and the findings and evidence contained for the subject property do not necessarily apply to other parcels.  
**EVIDENCE:** The size of the subject property, 0.45 acres, is much smaller than other parcels in the vicinity, which generally meet or exceed the zoning district's minimum size of 1.5 acres. The result is that the maximum square footage allowed on the subject parcel based on lot coverage and floor area ratio is significantly less than on neighboring parcels.  
**EVIDENCE:** The subject parcel is irregularly shaped and contains areas of 30% slope, two factors which seriously constrain the developable area. Although the project proposed to reduce the side yard setback to 5 feet, an adequate setback from the neighboring parcel will be maintained due to the 20-foot wide utility easement/wildlife corridor running between the two neighboring parcels.  
**EVIDENCE:** The application and plans submitted for the Variance, including the justification letter (Exhibit "D"), in the project file at the Monterey County Planning and Building Inspection Department.
6. **FINDING:** All three variance applications for the project described in Finding #1 do not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification in which such property is situated.  
**EVIDENCE:** The project proposes a modest 470 square foot addition increasing the total square footage to 5,375 square feet comparable to a rough neighborhood average of 5,500 square feet. Limitations on lot coverage and floor area ratio are intended to control the bulk and mass of structures in proportion to the size of the parcel. The proposed addition is barely visible from the road and will not significantly add to the bulk or mass. The proposed house is consistent in size with neighboring residences.  
**EVIDENCE:** Allowable lot coverage and floor area ratio for the "LDR," Low Density Residential District, is 15% and 17.5% respectively. The proposed addition would increase the lot coverage to 18.4% and the floor area ratio to 27.2%. Research of Planning and Building Inspection files revealed that similar variances were granted to Baldwin (PLN980338) for front yard setback, lot coverage and FAR, and to Keeley (PLN980381) for lot coverage and floor area ratio. In addition, numerous other variances have been granted in the neighborhood allowing a reduction of the side yard setback including ZA05399, ZA05593 and ZA06117.  
**EVIDENCE:** The application and plans submitted for the Variance, including the justification letter, in the project file at the Monterey County Planning and Building Inspection Department.
7. **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 allowed per Section 20.14.040.A, Principal Uses Allowed in the Low Density Residential (CZ) zoning district.

8. **FINDING:** The qualifications of Findings 5 and 6 apply to the land, structure, or use of which the Variance is sought.
- EVIDENCE:** The Variance is a request to reduce the required side yard setback and exceed the allowable lot coverage and floor area ratio for the designated zoning district. As described in Findings 5 and 6, 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 5 and 6.
9. **FINDING:** The project is appealable to the Board of Supervisors and the California Coastal Commission.
- EVIDENCE:** Sections 20.78.050.E, 20.86.070 and 20.86.080 of the Monterey County Coastal Implementation Plan.

## **DECISION**

It is the decision of said Zoning Administrator of the County of Monterey that said application for a variance be granted as shown on the attached sketch and subject to the following conditions:

1. This permit allows a Variance to allow a reduction of the side yard setback from 20 feet to 5 feet; a Variance to increase the allowable lot coverage from 15% to 18.4%; a Variance to increase the allowable floor area ratio from 17.5% to 27.2%; and Design Approval to allow construction of a 470 sq. ft. single-story addition to an existing 4,905 sq. ft. two-story single family residence and reduction of impervious surface from 4,874 sq. ft. to 2,261 sq. ft. The 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 the Issuance of Grading and Building Permits:**

2. The applicant shall record a notice which states: "A permit (Resolution 010488) was approved by the Zoning Administrator for Assessor's Parcel Number 008-371-003-000 on August 8, 2002. The permit was granted subject to 13 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)**

3. All exterior lighting shall be unobtrusive, compatible 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 Department)**
4. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
5. Prior to issuance of grading or building permits, a drainage plan shall be prepared addressing on-site and off-site impacts, to include retention/percolation facilities to mitigate the impact of impervious surface storm water runoff. Necessary improvements shall be constructed in accordance with approved plans. **(Water Resources Agency)**
6. Prior to the issuance of a building permit, the applicant shall obtain from the Monterey County Water Resources Agency (MCWRA), proof of water availability on the property, in the form of an approved Water Release Form. **(Water Resources Agency)**
7. Size of letters, numbers and symbols for addresses shall be a minimum of 3 inch letter height, 3/8 inch stroke, contrasting with the background color of the sign. **(Pebble Beach Community Services District)**
8. All buildings shall have a permanently posted address, which shall be placed at each driveway entrance 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, and the address shall be visible and legible from the road on which the address is located. **(Pebble Beach Community Services District)**

**Prior to Final Building Inspection/Occupancy:**

9. The applicant shall comply with Ordinance No. 3932, or as subsequently amended, 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)**
10. The site shall be landscaped. At least three weeks prior to occupancy, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. The project will be subject to a landscape plan review fee which shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, species, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey

County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection Department)**

11. Prior to final the applicant shall reduce the impervious surface coverage from 4,874 sq. ft. to 2,261 sq. ft. as shown on the project plans and replace 2,261 sq. ft. of impervious driveway surface with approved pervious material subject to approval by the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**

**Continuous Permit Conditions:**

12. 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 it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection 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. **(Planning and Building Inspection)**

13. All landscaped areas and/or fences shall be continuously maintained by the property owner and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 8th day of August, 20021.

Original Signed By:

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LYNNE MOUNDAY  
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

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 90<sup>th</sup> 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 Monterey.

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