

RESOLUTION NO. 030329

A.P. # 125-082-023-000

In the matter of the application of  
**Charles & Sara Limbach (PLN030329)**

**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, to allow to reduce the non-conforming side setback from 6' (E) to 3.5' (P) to allow the construction of a 48 sq. ft. addition to an existing single family residence. The project is located at 18950 Pesante Road, Salinas, North County Non-Coastal area, came on regularly for hearing before the Zoning Administrator on July 8, 2004.

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

- 1. FINDING: CONSISTENCY & SITE SUITABILITY – The Limbach Variance** as described in Condition #1, and as conditioned, is consistent with the plans, policies, requirements and standards of the Monterey County General Plan, the North County Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 18950 Pesante Road, Salinas (Assessor's Parcel Number 125-082-023-000), North County Area and is zoned "LDR/2.5" or Low Density Residential, 2.5 acres per unit. The site is physically suitable for the use proposed.

**EVIDENCE:** (a) The application and plans submitted for the Variance are found in file PLN030329 at the Monterey County Planning and Building Inspection Department.  
(b) Staff conducted a site visit on January 28, 2004 to verify that the proposed project, with exception of the Variance to the non-conforming side setback, complies with regulations in Title 21, as well as policies in the North County Area Plan. The proposed project will not have a significant adverse effect on the public viewshed as conditioned.  
(c) The North County Land Use Advisory Committee reviewed the Variance and recommended approval by a vote of 4-0 on September 17, 2003. The LUAC made no other recommendations.  
(d) The project has been reviewed and found in compliance under Monterey County Ordinance 21, sections 21.14.030 and 21.72.040.  
(e) The project has been reviewed by the Monterey County Planning and Building Inspection Department, North County Fire Protection District, Monterey County Water Resources Agency, Monterey County Public Works Department, Monterey County Parks Department, and Monterey County Health Department. There has been no indication from these 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.

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

**EVIDENCE:** (a) CEQA Guidelines Section 15301(e)(1) categorically exempts single-family residence additions, such as the proposed the proposed addition above, from environmental review.

- 1) No adverse environmental effects were identified during staff review of the

development application and during the site visit. There are no environmentally sensitive habitats or trees that would be impacted. There are no unusual circumstances related to the project or property. Visual impacts would not be significant.

2) The applicant is required to comply with Title 16 (Environment) of the Monterey County Code in terms of grading and erosion control requirements. These recommendations are included as permit conditions.

3. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.

**EVIDENCE:** Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.

4. **FINDING: VARIANCE (SPECIAL CIRCUMSTANCES AND NO GRANT OF SPECIAL PRIVILEGES)** – There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. As a result, the strict application of Title 21 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The Combined Development Permit and Design Approval described in Condition #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. Variances are granted on a case-by-case basis and the findings and evidence for this project do not necessarily apply to other parcels.

**EVIDENCE:** (a) The shape of the subject property, was created when the State purchased the newly created adjacent parcel in the early 1970's. The side setback for the existing structure was much smaller than for other parcels in the vicinity, which generally meet or exceed the zoning district's density requirement of 20 feet. Additionally, the property is severely constrained by slopes exceeding 30% and the existence of numerous protected Live Oaks. There is only one suitable location for the addition to support the existing structure that is not on slopes exceeding 30% and requires the removal of no Oak trees. This location meets all setback requirements except for the side setback. The strict application of the 20-foot front setback requirement for main structures deprives the subject property of the accessory structure privilege enjoyed by other properties in the vicinity and under identical zone classification. These properties are not as constrained due to a larger side setback areas to work with. As a result, they are able to meet all applicable policies and regulations, including the 20-foot front setback requirement for main structures, and are able to the ability to repair and maintain their structures.

**EVIDENCE:** (b) Approval of the Variance as described in Condition #1 and Finding #1, will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification because the project meets all applicable policies and regulations with the exception of the 20-foot side setback requirement. Other properties in the vicinity and identical zoning classification are subject to the same policies and regulations.

**EVIDENCE:** (c) Staff's site visit and analysis of other properties in the vicinity and under identical zone classification.

**EVIDENCE:** (d) The application and plans submitted for the Combined Development Permit and Design Approval, including the Variance Justification Letter, in project file PLN030329 at the Monterey County Planning and Building Inspection Department.

**EVIDENCE:** (e) Testimony by Mr. Quintero regarding the necessity to move the exterior wall in order to meet Code requirements for cantilevered second story. The testimony included a recommendation from their structural engineer regarding wall placement.

5. **FINDING: VARIANCE (NO GRANT OF UNAUTHORIZED USE)** – The Variance does not grant a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

**EVIDENCE:** (a) The use is allowed per Section 21.14.030.A, Uses Allowed in the Low Density Residential zoning district.

6. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to 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 improvement in the neighborhood; or to the general welfare of the County.

**EVIDENCE:** Preceding findings and supporting evidence.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Planning Commission.

**EVIDENCE:** Section 21.80.040 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 attached conditions.

**PASSED AND ADOPTED** this 8th day of July, 2004.

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MIKE NOVO  
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 PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

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 Salinas.

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