

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 030593

A.P.# 161-042-017-000

In the matter of the application of
Marc & Miki VonBerg (PLN030593)

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 for a 6 ft. addition to the allowed 20 ft. maximum height and design approval for a 2,064 sq. ft. two story addition to an existing 3,570 sq. ft. single family residence. The property is located at 22340 Toro Hills Drive, Salinas, Toro area, came on regularly for hearing before the Zoning Administrator on June 24, 2004.

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

FINDINGS AND EVIDENCE

1. FINDING: CONSISTENCY AND SITE SUITABILITY - The Von Berg Variance and Design Approval (PLN030593), as described in Condition No. 1 and as conditioned, is consistent with the Toro Area Plan and the Monterey County Zoning Ordinance (Title 21). The parcel is zoned “MDR/B-6-D-(20)”, (‘Medium Density Residential,’ Design Review, and 20 ft maximum height limit). The site of the proposed construction is located at 22340 Toro Hills Drive, Salinas (Assessor’s Parcel Number 161-042-017-000), in the Toro planning area. The site is physically suitable for the use proposed.

- EVIDENCE:**
- (a) The application and plans submitted for the Combined Development Permit in project file PLN030593 at the Monterey County Planning and Building Inspection Department.
 - (b) The project planner conducted a site visit to verify that the proposed project complies with applicable regulations. No adverse environmental effects (visual or other) were identified during staff review of the development application at the time of the site visit.
 - (c) The Toro Land Use Advisory Committee (LUAC) reviewed the project on April 26, 2004, and recommended approval (7 – 0, with 1 absent).
 - (d) The project has been reviewed by the Monterey County Planning and Building Inspection Department, Salinas Rural Fire District, Monterey County Water Resources Agency, Monterey County Public Works Department, and the 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.
 - (e) Preceding findings and supporting evidence.

2. **FINDING: CEQA:** - The project is exempt from environmental review.
EVIDENCE: (a) No adverse environmental effects were identified during staff review of the development application or during the planner's site visit.
(b) CEQA Guidelines Section 15301(e) categorically exempts additions to existing structures.
(c) Preceding and following findings and supporting evidence.
3. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property. Zoning violation abatement cost, if any, have been paid.
EVIDENCE: Staff reviewed Monterey County Planning and Building Inspection Department records and has found no violations on the subject properties.
4. **FINDING: VARIANCE** - The variance, as described meets all the requirements for approval set forth in Title 21 zoning ordinance as described below. Because of special circumstances applicable to subject property, including size, shape, topography, location, or surroundings, the strict application of Title 21 is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The variance does not constitute a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. The use for an addition to a single-family residence is expressly authorized by the zone regulation governing the property.
EVIDENCE: (a) The average height of over 50% of the houses in the vicinity is over the 26 ft maximum height proposed by the applicant.
(b) Seven of the eleven houses in the immediate vicinity of the property were surveyed by Baseline Land Surveyors, Inc. on January 29, 2004. The surveyor found that the average height of the seven houses was 28.8 ft.
(c) Materials and photographs in project file PLN030593.
(d) Preceding and following findings and supporting evidence.
(e) The 3 ft. and 5 ft. retaining walls on the site show that the original grade was higher than currently exists at the site. Height from average natural grade cannot be calculated.
(f) Testimony from staff regarding a blanket variance for this portion of the subdivision. That seems to be clear from the number of houses in the neighborhood that exceed the 20 ft. height limit without separate variances.
(g) The house will not be visible from Highway 68.
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, happiness, 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: APPEALABILITY** - The decision on this 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 attached conditions.

PASSED AND ADOPTED this 24th day of June, 2004.

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 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.