

MIKE NOVO
ZONING ADMINISTRATOR

STATE OF CALIFORNIA
COUNTY OF MONTEREY

RESOLUTION NO. 040400

A.P.# 416-191-019-000

In the matter of the application of
Dennis & Catherine Derley (PLN040400)

FINDINGS & DECISION

for a Variance in accordance with Title 21 (Zoning) Chapter 21.72 (Variances) of the Monterey County Code, to allow for reduction in front yard setback requirements and Design Approval to construct a 342 sq. ft. addition with a 649 sq. ft. roof deck over the addition and a 324 sq. ft carport. The property is located at 10695 Saddle Road, Monterey, Greater Monterey Peninsula area. The project came on regularly for hearing before the Zoning Administrator on February 24, 2005.

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

- FINDING:** The proposed project (PLN040400) as described in Condition No. 1 and as conditioned conforms with the plans, policies, requirements, and standards of the General Plan, Greater Monterey Peninsula Area plan and Monterey County Zoning Ordinance (Title 21). The property is the Derley residence located at 10695 Saddle Road (Assessor's Parcel Number 416-191-019-000). The parcel is zoned Rural Density Residential/Design Approval/ Building Site ("RDR/5.1-D-S). The land use entitlements conferred by this permit shall not commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. The subject site 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 application and plans submitted for the Variance and Design Approval in project file PLN040400 at the Monterey County Planning and Building Inspection Department.

EVIDENCE: Design Approval Request form with plans and a recommendation for approval (3-0) from the Greater Monterey Land Use Advisory Committee.

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, the Salinas Rural Fire Protection District, the 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.

EVIDENCE: The Greater Monterey Land Use Advisory Committee voted 3-0 to recommend approval of the variance and Design Approval.

- 2. FINDING:** That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
- EVIDENCE:** Project Plans in PLN040400 indicate that approximately 72% of the parcel is slope in excess of 30 percent which limits the development potential of the site. Saddle Road and an attendant 84 foot-wide road and utility easement also bisects the property east-to-west, which further constrains the site.
- EVIDENCE:** Section 21.06.1030 of the zoning code establishes that front yard setbacks are measured from "...private or public road right-of-way(s) ...".
- EVIDENCE:** A variance was issued in March 1991 to allow the existing single family dwelling to be built 29+ feet within the FY setback.
- EVIDENCE:** Material in the administrative file No. PLN040400
- EVIDENCE:** The road is located at the farther side of the road and utility easement, with steep slopes between the house and road.
- EVIDENCE:** The Greater Monterey Land Use Advisory Committee voted 3-0 to recommend approval of the variance and Design Approval.
- 3. FINDING:** 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:** Project Plans in PLN040400 indicate that approximately 72% of the parcel is slope in excess of 30 percent which limits the development potential of the site. Saddle Road and an attendant 84 foot-wide road and utility easement also bisects the property east-to-west, which further constrains the site.
- EVIDENCE:** Section 21.06.1030 of the zoning code establishes that front yard setbacks are measured from "...private or public road right-of-way(s) ...".
- EVIDENCE:** A variance was issued in March 1991 to allow the existing single family dwelling to be built 29+ feet within the FY setback.
- EVIDENCE:** Material in the administrative file No. PLN040400
- EVIDENCE:** The Greater Monterey Land Use Advisory Committee voted 3-0 to recommend approval of the variance and Design Approval.
- 4. FINDING:** In order to build the existing dwelling, a variance was issued in March of 1991 authorizing development within the existing front yard setback.
- EVIDENCE:** Material in the Administrative file No. PLN040400
- EVIDENCE:** A variance was issued in March 1991 to allow the existing single family dwelling to be built 29+ feet within the FY setback.
- 5. FINDING:** The potential building areas on the parcel are constrained by the steep topography (72% of the parcel > 30% slope) and the presence of an existing road (Saddle) and 84' wide road and utility easement that bisects the parcel. There are few, if any, alternatives on the 2.5 acre site to increase habitable square footage than to add on to the existing dwelling.
- EVIDENCE:** Project Plans in PLN040400 indicate that approximately 72% of the parcel is slope in excess of 30 percent which limits the development potential of the site. Saddle Road and an attendant 84 foot-wide road and utility easement also bisects the property east-to-west,

which further constrains the site.

EVIDENCE: Section 21.06.1030 of the zoning code establishes that front yard setbacks are measured from "...private or public road right-of-way(s) ...".

EVIDENCE: A variance was issued in March 1991 to allow the existing single family dwelling to be built 29+ feet within the FY setback.

EVIDENCE: Material in the Administrative file PLN040400

EVIDENCE: The Greater Monterey Land Use Advisory Committee voted 3-0 to recommend approval of the variance and Design Approval.

6. FINDING: The approved project will not have a significant adverse impact on the environment.

EVIDENCE: Section 15303(a) of the California Environmental Quality Act Guidelines (New Construction or Conversion of Small Structures) categorically exempts this project from environmental review.

EVIDENCE: Application materials in project file PLN040400

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, the Salinas Rural Fire Protection District, 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.

7. FINDING: The establishment, maintenance, or operation of the use or building 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 Planning and Building Inspection Department, Environmental Health Department, the Public Works Department, Rural Salinas Fire Protection District, and the 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.

EVIDENCE: Application materials in project file PLN040400.

EVIDENCE: The Greater Monterey Land Use Advisory Committee voted 3-0 to recommend approval of the variance and Design Approval.

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 February 2005.

MIKE NOVO
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON MARCH 17, 2005.

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 MARCH 27, 2005.

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.

**Monterey County Planning and Building Inspection
Condition Compliance and/or Mitigation Monitoring Reporting
Plan**

Project Name: Derley
APNs: 416-191-019-000

No: PLN040400

Approval by: Zoning Administrator

Date: February 24, 2005

**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

<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>
1		<p>PBD029 - SPECIFIC USES ONLY This variance and Design Approval permit (PLN040400) allows for a reduction in front yard setback requirements and Design Approval to construct a 342 sq. ft. (first-story) addition with a 649 sq. ft. roof deck over it. The property is located at 10695 Saddle Road, Monterey, (Assessor's Parcel Number 416-191-019-000). This permit was approved 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)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other- wise stated	
2		<p>PBD025 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 040400) was approved by the Zoning Administrator for Assessor's Parcel Number 416-191-019-000 on February 24, 2005. The permit was granted subject to 11 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)</p>	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	

<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>
3		PBD030 - STOP WORK - RESOURCES FOUND 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 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)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection 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	
4		The berm located on the north side of the house shall be retained during installation of the cassettes that support the deck. Existing trees shall remain. No tree removal is authorized. (Planning and Building Inspection)	Final inspection; ongoing	Applicant	Ongoing	
5		WR43 - WATER AVAILABILITY CERTIFICATION The applicant shall obtain from the Monterey County Water Resources Agency, proof of water availability on the property, in the form of an approved Monterey Peninsula Water Management District Water Release Form. (Water Resources Agency)	Submit the Water Release Form to the Water Resources Agency for review and approval.	Owner/ Applicant	Prior to issuance of any building permits	

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6		<p>WR40 - WATER CONSERVATION MEASURES 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:</p> <p>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.</p> <p>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)</p>	Compliance to be verified by building inspector at final inspection.	Owner/ Applicant	Prior to final building inspection/occupancy	

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7		<p>FIRE007 - DRIVEWAYS <i>Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius of curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. Salinas Rural Fire District.</i></p>	<p>Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.</p>	<p><i>Applicant or owner</i></p>	<p>Prior to issuance of grading and/or building permit.</p>	

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8		<p>FIRE011 - ADDRESSES FOR BUILDINGS</p> <p><i>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. Salinas Rural Fire District.</i></p>	<p>Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.</p>	<p><i>Applicant or owner</i></p>	<p>Prior to issuance of building permit.</p>	
			<p><i>Applicant shall schedule fire dept. clearance inspection</i></p>	<p><i>Applicant or owner</i></p>	<p>Prior to final building inspection</p>	

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9		FIRE020 - DEFENSIBLE SPACE REQUIREMENTS (HAZARDOUS CONDITIONS) <i>Remove combustible vegetation from within a minimum of 50 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional fire protection or firebreaks approved by the Reviewing 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. Salinas Rural Fire District.</i>	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	<i>Applicant or owner</i>	Prior to issuance of grading and/or building permit.	
			<i>Applicant shall schedule fire dept. clearance inspection</i>	<i>Applicant or owner</i>	Prior to final building inspection	
10		FIRE021 - FIRE PROTECTION EQUIPMENT & SYSTEMS - FIRE SPRINKLER SYSTEM (STANDARD) <i>The building(s) and attached garage(s) shall be fully protected with automatic fire sprinkler system(s). Installation shall be in accordance with the applicable NFPA standard. A minimum of four (4) sets of plans for fire sprinkler systems must be submitted by a California licensed C-16 contractor and approved prior to installation. This requirement is not intended to delay issuance of a building permit. A rough sprinkler inspection must be scheduled by the installing contractor and completed prior to requesting a framing inspection. Salinas Rural Fire District.</i>	Applicant shall enumerate as “Fire Dept. Notes” on plans.	<i>Applicant or owner</i>	Prior to issuance of building permit.	
			<i>Applicant shall schedule fire dept. rough sprinkler inspection</i>	<i>Applicant or owner</i>	Prior to framing inspection	

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			<i>Applicant shall schedule fire dept. final sprinkler inspection</i>	<i>Applicant or owner</i>	Prior to final building inspection	
11		FIRE027 - ROOF CONSTRUCTION - (VERY HIGH HAZARD SEVERITY ZONE) All new structures, and all existing structures receiving new roofing over 50 percent or more of the existing roof surface within a one-year period, shall require a minimum of ICBO Class A roof construction. Salinas Rural Fire District.	Applicant shall enumerate as "Fire Dept. Notes" on plans.	<i>Applicant or owner</i>	Prior to issuance of building permit.	
		End of Conditions				