

MONTEREY COUNTY PLANNING COMMISSION

Meeting: July 11, 2007	Time: 9:00 a.m.	Agenda Item No.:
Project Description: Fee Waiver request for a Variance to allow a 278 square foot bedroom addition constructed prior to 1974, without the benefit of permits, which encroaches into the 20 foot rear setback approximately 12 feet and; a 133 square foot bathroom addition constructed from 2004-2005, without the benefit of permits, which encroaches into the rear setback approximately 10 feet.		
Project Location: 8195 El Camino Estrada, Carmel Valley		APN: 169-051-002-000
Planning File Number: PD070590		Name: Nancy Kessler, Property Owner
Plan Area: Carmel Valley Master Plan		Flagged and staked: N/A
Zoning Designation: : "LDR/2.5-D-S" [Low Density Residential, 2.5 acres per unit with Design Control and Site Plan Review Overlays]		
CEQA Action: Categorically Exempt per Section 15301		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Planning Commission deny the waiver of fees for the Variance, but not require the doubling of the fees due to the violation.

Optional Planning Commission actions:

- 1) Deny the waiver of fees for the Variance and require the doubling of the Variance fees due to the violation.
- 2) Approve the waiver of fees for the Variance, understanding that all building permit and design review fees are to remain doubled.

PROJECT OVERVIEW:

On August 29, 2000, The Monterey County Board of Supervisors adopted a permit processing fee waiver policy (see Exhibit B). The policy designates the Planning Commission as the appropriate authority to consider fee waivers not meeting the criteria that allows for the Resource Management Agency – Planning Director’s administrative approval.

A code enforcement case was opened on the Kessler property June 15, 2004 for among other things, an addition to the main residence constructed without the benefit of permits. A Design Approval was applied for to clear the violation on February 15, 2005. The project was assigned to a new planner January 2007; it was at that time the applicant was informed of the Variance requirement. Staff is recommending that the double fee for the Variance be waived due to the length of time it took to identify that a Variance was required. The applicant has already paid double fees for the building permit and design approval. Background information on the Variance (PLN070120) is attached as Exhibit A. A public hearing for the project is scheduled for hearing before the Zoning Administrator on July 12, 2007.

OTHER AGENCY INVOLVEMENT:

- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency

The above checked agencies and departments have reviewed this project. To date staff has received confirmation that Environmental Health and Public Works support staff recommendation for waiver of the double fee for the Variance due to the violation. Staff has not yet heard from the Water Resources Agency.

Note: The decision on this project is appealable to the Monterey County Board of Supervisors.

Brittany Nicholson
(831) 755-5854, nicholsonb@co.monterey.ca.us
June 01, 2007

cc: Planning Commission Members (10); County Counsel; Public Works Department; Environmental Health Division; Water Resources Agency; Brittany Nicholson, Planner; Carol Allen; Nancy Kessler, Applicant; Marj Ingram, Agent; File PD070590.

Attachments: Exhibit A Project Overview
Exhibit B Fee Waiver Policy

EXHIBIT “A” PROJECT OVERVIEW

The subject property is a 0.25 acre parcel located at 8195 El Camino Estrada in Carmel Valley (Assessor’s Parcel Number 169-051-002-000) within the James Meadow Tract. The parcel is zoned Low Density Residential, 2.5 acre minimum with Design Control and Site Plan review overlays or “LDR/2.5-D-S”. The property contains two residences. The first residence was constructed before 1941 (per Assessor’s Records); the second residence was constructed before 1950 (per Assessor’s Records).

The original 662 square foot residence was constructed prior to the establishment of zoning on the subject parcel. In 1941, the property received a zoning designation of “K-B-4” or Agricultural – Residential with a building site overlay. The K-B-4 zoning classification required a 20 foot rear setback, rendering the 662 square foot residence “legal non-conforming” in regards to the rear setback. The zoning remained such until 1957 when the property was re-classified as “R-1-A-B-4” or One Family Residence with Limited Agriculture and Building Site overlays. Sometime between 1941 and 1974 a 278 square foot bedroom addition was constructed, without the benefit of permits, encroaching into the required rear setback of 20 feet approximately 12 feet. The parcel received the current zoning classification of LDR/2.5-D-S in the early 1990’s, which also requires a rear 20 foot rear setback. A 133 square foot bathroom addition was constructed, without the benefit of permits, between 2004 and 2005, encroaching into the 20 foot rear setback, approximately 10 feet.

Staff is recommending approval of the Variance based on a combination of the following site constraints: 1) The LDR site development standards require a minimum building site of one acre (unless otherwise approved as part of a residential subdivision). Typically, one acre provides an adequate amount of area for a single family dwelling to be constructed in compliance with all of the site development standards mandated by the Low Density Residential zoning designation. In this case however, the Low Density Residential site development standards, specifically the required setback leave the parcel with a building site of approximately 3,990 square feet. 2) The recently permitted and installed 2,000 gallon septic tank and respective drain fields reduce the building site to approximately, 1,312 square feet. 3) The primary unit consisting of 662 square feet was established encroaching into what is now the required rear setback from 10 to 14 feet. The location of the additions in relation to the house better achieve internal circulation required by Monterey County code. 4) Requiring the additions to meet the rear setback requirement would have forced development on slopes of 30% or greater. 5) The second dwelling unit on the lot reduces the area available for an addition. The second unit and respective setbacks from it to a main unit leave the parcel with a building site of 640 square feet completely comprised of thirty percent slopes. These referenced reductions of the build-able portions of the lot deprive the subject property of privileges enjoyed by other properties in the vicinity and under the identical zone classification as the subject property. Approval of this variance would legalize the only bedroom and the second bathroom for the main residence on the lot. Properties in the immediate vicinity of the lot, which are under the same zone classification, have the privilege of one to four bedroom main dwellings with one to three bathrooms. Approval of this Variance would not constitute the granting of a special privilege inconsistent with the limitations upon other properties in the vicinity and under the same zoning classification. Four Variances to setback requirements have been approved in the immediate vicinity of the subject property (planning file numbers: ZA94042, ZA95007, ZA03753 and ZA06649). This Variance is tied to a residential use, which is authorized by the residential zone governing the subject parcel.