



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** October 6, 2021

**TO:** Hearing Officer

**SUBJECT:** Minor Variance #11943

**LOCATION:** 265 Marguerita Lane

**APPLICANT:** Thomas N. Havel, Havel Architects

**ZONING DESIGNATION:** RS-6 (Single-Family Residential, 0-6 dwelling units per acre)

**GENERAL PLAN DESIGNATION:** Low Density Residential

**CASE PLANNER:** Emma Carrico

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Minor Variance #11943 with the conditions in Attachment B.

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**PROJECT PROPOSAL:** Minor Variance: To allow a 63 square-foot single-story rear addition to an existing single-story single-family residence to encroach into the required 25-foot rear setback. The existing rear setback is legal non-conforming at 16'-7" at its closest point and the setback for the proposed addition would be 11'-5". No protected trees are proposed to be removed as part of the project.

**ENVIRONMENTAL DETERMINATION:** This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, § 15301, Class 1, Existing Facilities, and there are no features that distinguish this project from others in the exempt class, therefore there are no unusual circumstances. Section 15301 exempts additions to existing structures, provided the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less. The proposed addition would increase the floor area by 63 square feet, which is less than 50 percent of the existing floor area, and therefore would not exceed the threshold of the Class 1 exemption.

**Site characteristics:** The subject site is a 4,500 square foot parcel located on the north side of Marguerita Lane, a private cul-de-sac south of Allendale Road and north of South Euclid Avenue. The site is improved with one single-family residence built in 1927, an accessory structure used for storage, and a single-car carport with access via Marguerita Lane. The front 12'-6" of the site is occupied by half of a 25-foot wide private road easement for Marguerita Lane. The subject site and 15 other surrounding parcels are designated as the Marguerita Lane Historic District on the National Register of Historic Places.

**Adjacent Uses:**  
North – Multi-Family Residential  
South – Single-Family Residential  
East – Single-Family Residential  
West – Single-Family Residential

**Adjacent Zoning:**  
North – RM-32 (Multi-Family Residential, 0-32 dwelling units per acre)  
South – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)  
East – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)  
West – RS-6 (Single-Family Residential, 0-6 dwelling units per acre)

**Previous zoning cases on this property:** None.

**PROJECT DESCRIPTION:**

The applicant, Thomas N. Havel on behalf of the property owner, has submitted a Minor Variance application to allow a 63 square-foot single-story rear addition to an existing single-story single-family residence to encroach into the required 25-foot rear setback. The existing rear setback is legal non-conforming at 16'-7" at its closest point and the setback for the proposed addition would 11'-5". No protected trees are proposed to be removed as part of the project. The site is located within the RS-6 (Single-Family Residential, 0-6 dwelling units per acre) zoning district. The proposed addition will include a bathroom with accessibility features so that the property owner can continue to age in place safely.

**ANALYSIS:**

Minor Variance

Pursuant to Table 6-4 of Zoning Code Section 17.61.080 (Variances), adjustments to required setbacks are allowed subject to approval of a Minor Variance. The Hearing Officer may approve a Minor Variance to adjust a required setback only after making five findings in the affirmative pursuant to Zoning Code Section 17.61.080.G (Findings and Decision). These findings are to be made separately for each request. The general purpose of review is to identify compliance with the Zoning Code and General Plan, whether exceptional or extraordinary circumstances exist, whether the application is necessary for the preservation and enjoyment of property rights, and to ensure no detriment or injury to surrounding properties. In addition, a Minor Variance shall not be granted that would have the effect of granting a special privilege not shared by other property

owners in the vicinity and under identical zoning districts. Lastly, cost to the applicant of strict compliance with a regulation shall not be the primary reason for granting the Minor Variance. There are exceptional or extraordinary circumstances or conditions that apply to the project site, which do not apply generally to sites in the same zoning district.

The existing residence is located toward the rear of the site, with a 29' front setback and a 16'-7" rear setback. Furthermore, a private road easement traverses the front 12'-6" of the site, reducing the buildable site area. An addition to the front of the existing residence would adversely affect the architectural integrity of the structure, which is located within the Marguerita Lane Historic District.

The proposed addition is subject to the development standards of the RS-6 (Single-Family Residential, 0-6 dwelling units per acre) zoning district provided in Zoning Code Section 17.22.040 (RS and RM-12 Residential Districts Development Standards). With the exception of the requested Minor Variance, the proposed project complies with all other applicable development standards, as shown in table below.

Development Feature		Requirement	Proposed Project	Analysis
<b>RS-6 – General Development Standards; Residence</b>				
Density (0-6 du per acre)		one dwelling unit per lot	one dwelling unit	Complies
Maximum Allowable Floor Area Ratio		30% of lot size + 500 square feet; 1,850 square feet	1,281 square feet	Complies
Maximum Allowable Site Coverage		No max site coverage for sites < 7,200 square feet	Site area = 4,500 square feet	Complies
Minimum Setbacks	Front	25 feet	29 feet	Complies
	Rear	25 feet	11'-5"	Minor Variance Requested
	Sides	5 feet and encroachment plane	10'-7" (W) 36 feet (E)	Complies
Height		28 feet, top plate 10 feet	14'-8", top plate 8'-4"	Complies
Parking		two spaces per unit on-site	one space on-site	Legal non-conforming

Tree Protection Ordinance

Municipal Code Chapter 8.52 (City Trees and Tree Protection Ordinance) establishes standards for the protection and removal of protected trees on private property. No trees are proposed to be removed as a part of the project. There are no protected trees on the site that would require a tree protection plan during project construction.

**GENERAL PLAN CONSISTENCY:**

The subject site is improved with one dwelling unit and a two-car tandem garage, all constructed with permits and applicable entitlements. The site is designated as Low Density Residential in the General Plan Land Use Element. General Plan Land Use Policy 8.1 (Identify and Protect Historic Resources) encourages the identification and protection of historic resources that represent significant examples of the City's history. General Plan Land Use Policy 21.5 (Housing Character

and Design) encourages the renovation of existing housing stock in single- and multi-family neighborhoods, which should reflect the unique neighborhood character and qualities; building form, scale, and massing; and, architectural design. General Plan Housing Policy HE-1.2 (Property Conditions) is to maintain the quality of rental and ownership housing by ensuring compliance with City building codes and standards, and by facilitating and promoting the renovation, improvement, and rehabilitation of housing. By allowing the reduced rear setback requested in this minor variance application, the project would be able to proceed as a rear addition. An addition to the rear of the structure would prevent the modification of the historic resource in a more visible way such as a side or front addition, thereby complying with the intent of the aforementioned General Plan Land Use policies by allowing for the renovation of existing housing stock while still preserving the existing character of the residential neighborhood. The site use would remain a single-family residence and consistent with the land use designation

**ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, § 15301, Class 1, Existing Facilities, and there are no features that distinguish this project from others in the exempt class, therefore there are no unusual circumstances. Section 15301 exempts additions to existing structures, provided the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition or 2,500 square feet, whichever is less. The proposed addition would increase the floor area by 63 square feet, which is less than 50 percent of the existing floor area, and therefore would not exceed the threshold of the Class 1 exemption.

**REVIEW BY OTHER DEPARTMENTS:**

The proposed project was reviewed by the Building and Safety Division, Fire Department, and Design and Historic Preservation Section. The Fire Department and Building Division provided no comments or conditions. The Design and Historic Preservation Section confirmed that while the property is within the Marguerita Lane Historic District, the proposed addition would not be visible from the street and therefore a finding of consistency with the Secretary of the Interior's Standards pursuant to Zoning Code Section 17.62.090.D.2 is not required.

**CONCLUSION:**

Staff has analyzed the proposed project and determined that the findings required for approval of the Minor Variance can be made. The proposed project meets most applicable development standards of the RS-6 zoning district as required by the Zoning Code. The project as proposed will not create an impact to any historical resource or be detrimental to surrounding property. Therefore, staff recommends that the Hearing Officer approve the Minor Variance subject to the Findings in Attachment A and recommended Conditions of Approval in Attachment B.

**ATTACHMENTS:**

- Attachment A: Minor Conditional Use Permit Findings
- Attachment B: Recommended Conditions of Approval

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR MINOR VARIANCE #11943**

Minor Variance: To allow a reduced rear yard setback of 11'-5" where the minimum requirement is 25 feet.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* There are two limiting factors applicable to the subject site that are atypical compared generally to other RS-6 properties. The front 12'-5" of the subject site is occupied by half of a 25-foot easement for Marguerita Lane, resulting in 750 square feet of the lot being unbuildable. The subject site is also located within a historic district, which prevents a second story addition, front addition, or side additions visible from the front. This limits the potential for both horizontal and vertical additions that would be possible by right on parcels in the same zoning district.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Due to the restrictions detailed in Finding #1, the opportunities for an addition to the residence that would otherwise be available to other property owners in the same zoning district are limited for the subject site. The property owner is requesting the minor variance and proposing the rear addition in order to construct accessibility features necessary to facilitate aging-in-place in the existing residence, something most property owners of RS-6 zoned parcels are able to do by right. Denying the requested minor variance would likely eventually result in the property owner no longer being able to live in the existing residence, and would substantially limit their ability to utilize the same property rights afforded to property owners of other parcels in the same district.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The proposed rear addition will not be visible from any roadway or publicly accessible area in the vicinity. It will not have any visual impacts and will not compromise the character of the Marguerita Lane Historic District or the surrounding neighborhood. The project is consistent with the existing residential use on the site, and will not be detrimental to surrounding property or property owners.
4. *Granting the application is consistent with the General Plan and the purposes of Title 17 of the Municipal Code and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The project as proposed is consistent with Land Use Policy 8.1 (Identify and Protect Historic Resources), Land Use Policy 21.5 (Housing Character and Design), and Housing Policy HE-1.2 (Property Conditions) of the General Plan. The project will also comply with all development standards of the RS-6 zoning district as specified in Title 17, beyond the requested rear setback reduction.
5. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of designing a project that would fully comply with the RS-6 zoning district development standards was not considered in review of this application.

**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR MINOR VARIANCE #11943**

The applicant or successor in interest shall meet the following conditions:

General

1. The site plan, floor plan, demolition plans, elevations, and building sections, submitted for building permits shall substantially conform to plans stamped “Approved at Hearing, October 6, 2021”, except as modified herein.
2. The right granted under this application must be enacted within 24 months from the effective date of approval. It shall expire and become void, unless an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions – Extensions of Time).
3. The approval of the Minor Variance allows the construction of a 63 square foot addition to the rear of the residence to encroach into the required 25-foot rear setback, resulting in a setback of 11’-5” from the rear property line.
4. The applicant or successor in interest shall meet the applicable code requirements of all City Departments.
5. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
6. The proposed project, Activity Number **ZENT2021-00062** is subject to a Final Zoning Inspection prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. Contact Emma Carrico, Zoning Section, at 626-744-7361 to schedule an inspection appointment time.

Zoning Section

7. The applicant shall comply with all requirements of the Zoning Code, including the applicable development standards provided in Chapter 17.22 (Residential Zoning Districts).
8. Any above ground mechanical equipment shall be located at least five feet from all property lines and shall comply with the screening requirements of Section 17.40.150 (Screening) of the Zoning Code.
9. The project shall comply with the Municipal Code Chapter 8.52 (City Trees and Tree Protection Ordinance). A tree inventory, protection, retention plan shall be submitted to the Zoning Administrator for approval prior to the issuance of any building or grading permits. Any proposal to remove a protected tree requires approval of a Tree Removal Application prior to the issuance of building permits.
10. The applicant or successor in interest shall comply with all requirements of Municipal Code Chapter 9.36 (Noise Restrictions). Specifically, all construction activities shall adhere to Municipal Code Section 9.36.070 (Construction Projects) and Section 9.36.080 (Construction Equipment).

11. At no time shall construction activities, including, but not limited to, construction materials, vehicles and equipment, obstruct access to vehicular driveways of adjacent properties.