

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF SANTA CLARA, CALIFORNIA TO OVERRULE THE  
APPEAL AND UPHOLD THE ZONING ADMINISTRATOR'S  
DENIAL OF THE MINOR MODIFICATION REQUEST FOR THE  
PROPERTY LOCATED AT 1940 AVENIDA DE LAS ROSAS,  
SANTA CLARA, CALIFORNIA**

PLN2018-13473

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS  
FOLLOWS:**

**WHEREAS**, on August 16, 2018, Jerivette and Jay Ecalnir, ("Applicant") filed a Planning Application for the 0.14 acre property located site at 1940 Avenida De Las Rosas ("Project Site");

**WHEREAS**, the Applicants request Architectural Review Approval of a proposed remodel and 522 square-foot addition to an existing three bedroom and two bathroom house, resulting in a four bedroom and three bathroom house with an attached 464 square foot two car garage to remain; and a Zoning Administrator Minor Modification to permit the building addition in the rear yard at a proposed 15-foot setback from the rear property line, where a minimum 20-foot rear yard building setback is required ("Project"), as shown on the Development Plans attached hereto and incorporated herein by this reference;

**WHEREAS**, on September 7, 2018, the request for Minor Modification was denied by the Zoning Administrator, since modifications are limited to those situations where there are unusual conditions applying to the land or building which do not apply generally in the same district, or that the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner;

**WHEREAS**, on September 14, 2018, the Applicants that were not satisfied with the decision of the Zoning Administrator appealed the decision to the Planning Commission;

**WHEREAS**, on November 2, 2018, the notice of public hearing for the November 14, 2018, Planning Commission meeting for this item was posted at least three conspicuous locations within 300 feet of the project site and was mailed to property owners within 300 foot radius; and

**WHEREAS**, on November 14, 2018, the Planning Commission held a duly noticed public hearing to consider the appeal of the Zoning Administrator's Denial of the Minor Modification request, at which time all interested persons were given an opportunity to provide testimony and present evidence, both in support of and in opposition to the appeal.

**NOW THEREFORE, BE IT FURTHER RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA AS FOLLOWS:**

1. That the Planning Commission hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

2. That the Planning Commission hereby overrules the appeal filed by the appellants of the Zoning Administrator's denial.

3. That pursuant to SCCC Section 18.108.40, the Planning Commission determines that all of the following required findings do not exist to support the Minor Modification request:

A. That there are unusual conditions applying to the land or building which do not apply generally in the same district.

B. That the granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the petitioner.

C. That the granting of such variance shall not, under the circumstances of the particular case, materially affect adversely the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood of the applicant's property, and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

D. That the granting of the variance is in keeping with the purpose and intent of this title. (Zoning Ord. § 54-4).

4. That, based on the findings set forth in this Resolution and the evidence in the City Staff Report, the Planning Commission hereby overrules the appeal and upholds the Zoning Administrator's denial of the Minor Modification as set forth herein, and as detailed in the attached development plans.

5. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE 14<sup>th</sup> DAY OF NOVEMBER, 2018, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAINED: COMMISSIONERS:

ATTEST: \_\_\_\_\_

ANDREW CRABTREE  
DIRECTOR OF COMMUNITY DEVELOPMENT  
CITY OF SANTA CLARA

Attachments Incorporated by Reference:

1. Development Plan

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