



## Legislation Details (With Text)

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<b>On agenda:</b>	11/14/2018	<b>Final action:</b>			
<b>Title:</b>	Public Hearing: Action on Appeal of Zoning Administrator Denial of Minor Modification for the property at 1940 Avenida De Las Rosas				
<b>Sponsors:</b>					
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<b>Code sections:</b>					
<b>Attachments:</b>	1. Project Data Summary.pdf, 2. Development Plans.pdf, 3. Zoning Modification Denial Letter.pdf, 4. Applicant's Statement of Justification.pdf, 5. Applicant's Petition of Support.pdf, 6. Applicant's Appeal Letter.pdf, 7. Resolution to Uphold the Zoning Administrator Denial of Minor Modification.pdf				

Date	Ver.	Action By	Action	Result
11/14/2018	1	Planning Commission	Approved	Pass

## REPORT TO PLANNING COMMISSION

### SUBJECT

Public Hearing: Action on Appeal of Zoning Administrator Denial of Minor Modification for the property at 1940 Avenida De Las Rosas

### BACKGROUND

The applicants Jerivette and Jay Ecalnir submitted a proposal to remodel and construct a 522 square foot rear living area addition to their existing house. In order to permit the proposed rear addition, the owners filed an application for Architectural Review Approval and a Minor Modification to allow the rear addition at a 15-foot setback from the rear property line, where a minimum 20-foot rear yard is required for a house in the R1-6L Zoning District.

The request for Minor Modification was denied by the Zoning Administrator on September 7, 2018 (letter attached) because the finding required for the administrative variance could not be met. The applicants are not satisfied with the determination of the Zoning Administrator, and filed an appeal of the decision within seven days on September 14, 2018.

### DISCUSSION

The property is zoned Single Family Residential (R1-6L). The subject property is a rectangular lot of a standard lot size of 6,000 square feet, and has a standard lot width of 60 feet - both of which meet the current minimum standards for R1-6L zoned properties. The house is positioned on the property at a 21-foot - 6-inch setback from the front property line, at the minimum standard setback of five-feet from the east side property line, at a six-foot, six-inch setback from the west side property line, and a 34-foot, 6-inch setback from the rear south property line where a minimum 20-foot rear yard building setback is required.

The applicant has provided a statement of justification for the Modification to permit the rear addition at a proposed 15-foot setback from the rear property line, dated August 15, 2018. Based on Chapter 18.90 of the Santa Clara City Code (SCCC), a “Minor Modification” shall in no event be deemed to be greater than twenty-five percent (25%) of the dimensions of an area, space, height, or other requirement provided for in this title, and where the proposed alteration or variation exceeds such twenty-five percent (25%) of any requirement, the modification shall be deemed to be a “Variance”.

Minor Modifications require the Zoning Administrator to make all of the Variance findings listed in Section 18.108.40 of the SCCC. The Planning Commission must also make these findings in order to approve the subject appeal. Staff was not able to make the key finding “that there are unusual conditions applying to the land or building which do not apply generally in the same district, because the lot is rectangular in shape and existing 1,340 square-foot three-bedroom and two-bathroom house currently meets the minimum prescribed development standards for properties located in R1-6L Zoning Districts.

The applicant has been unable to present any facts that would meet the requirements of Section 18.108.40 of the Code. The Commission does not have the authority to grant a variance unless it can articulate a factual basis to legally justify such a finding.

### **ENVIRONMENTAL REVIEW**

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Section 15301, Existing Facilities.

### **FISCAL IMPACT**

There is no impact to the City for processing the requested application other than administrative staff time and expense typically covered by processing fees paid by the applicant.

### **COORDINATION**

This report has been coordinated with the City Attorney’s Office.

### **PUBLIC CONTACT**

On October 11, 2018, a notice of public hearing of this item was posted in at least three conspicuous locations within 300 feet of the project site and mailed to property owners within 300 feet of the project site.

The applicant has submitted a petition for support of the project signed by some residents in the neighborhood. Planning staff has not received any other public comments for this application.

### **ALTERNATIVES**

1. Overrule the appeal and uphold the Zoning Administrator’s decision denying the minor modification.
2. Sustain the appeal by adopting legally sufficient factual findings for a variance and overturn the Zoning Administrator’s decision and approve the requested minor modification.

### **RECOMMENDATION**

Alternative 1:

1. Overrule the appeal and uphold the Zoning Administrator’s decision denying the minor modification.

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Approved by: Reena Brilliot, Planning Manager

**ATTACHMENTS**

1. Project Data Summary
2. Development Plans
3. Zoning Modification Denial Letter
4. Applicant's Statement of Justification
5. Applicant's Petition of Support
6. Applicant's Appeal Letter
7. Resolution to Uphold the Zoning Administrator Denial of Minor Modification