

RESOLUTION NO. 20-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA
UPHOLDING THE PLANNING COMMISSION'S DECISION TO DENY WITHOUT PREJUDICE
AN APPLICATION FOR A VARIANCE AT 759 WILSON AVENUE (V1102963)**

WHEREAS on August 9, 2006, Michael Stanley appeared before the Design Review Board for a recommendation to the Planning Commission to add on to his home located at 759 Wilson Avenue; and

WHEREAS the matter was heard by the Design Review Board, and the Design Review board voted unanimously 6-0-0 to recommend denial of the applicant's request; and

WHEREAS the applicant made modifications to the proposed design that were not consistent with the direction of the Design Review Board; and

WHEREAS on November 2, 2006, the applicant presented the revised drawing to the Planning Commission at a Public Hearing on the Variances requested to the front and side yard setbacks; and

WHEREAS, after all factual presentations were presented to the Planning Commission and testimony was received from those who chose to speak, the Planning Commission found that the applicant could redesign the proposed addition in a way that would not require a variance and voted to deny the applicant's request; and

WHEREAS, a timely appeal to the City Council was received on November 13, 2006 within the 10 day appeal period; and

WHEREAS on January 23, 2007, the City Council of the City of Richmond, California held a duly noticed public hearing to consider the merits of the variance project and appeal, and hear testimony in favor of, and in opposition to, the project; and

WHEREAS, following the public hearing, and based upon all oral and written information presented at or before the hearing, the City Council does find and resolve as follows:

SECTION I: FINDINGS

In order to grant a variance, the City Council must adopt 5 standard findings.

1. That because of special circumstances or conditions applicable to the subject property, including size, shape, topography, or location, strict application of the requirements of the City of Richmond Zoning Ordinance will deprive such property of such privileges enjoyed by the property in the vicinity and zone in which the property is situated.

***Criterion not satisfied.** The lot is substandard and irregularly shaped as are other properties in the surrounding area. The applicant submitted photos of houses in the immediate area that also share the issue of nonconforming front yard setback; however, with minor modifications the proposed addition can be constructed in conformance with the Zoning Ordinance, and the physical irregularities of the property do not affect the use of the property. The required finding (Finding 1) cannot be made.*

2. The variances will not be detrimental or injurious to property or improvement in the vicinity of the subject property, or the public health, safety or general welfare.

***Criterion not satisfied.** Construction of the proposed deck in the side yard set back area and the stairs to the second floor in the front setback area do not conform to the required 3'-6" requirement or the required front yard setback of 10*

feet, and could potentially pose a privacy issue with the abutting residence, and the street frontage. The required finding (2) cannot be made.

3. The variance is consistent with the purposes of the Richmond Zoning Ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

Criterion not satisfied. Approving the applicant's request for variances would be a grant of special privilege that would be inconsistent with the limitations on other properties in the vicinity and same SFR-3 Single Family Low Density Residential District. Granting the encroachment of the deck into the side yard would reduce the required setback to inches, and establish a benefit to the property owner denied to other properties. Additionally, encroaching into the front yard setback with stairs as shown on the front elevation would bring the front of the house much closer to the sidewalk and street – within 5 feet. Constructing interior stairs would eliminate the need for a variance and bring the proposed project into conformance with the Zoning Ordinance. The required finding (Finding 3) cannot be made.

4. The variance granted will not authorize a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

Criterion not satisfied. The use remains single-family residential, which is an allowed use in the SFR-3 Single Family Low Density Residential District where the property is located. However, as proposed, the deck structure and front staircase to the new second story does not comply with the minimum required setbacks of the Zoning Ordinance. The required finding (Finding 4) cannot be made.

5. All findings shall be based upon the factual presentation to the hearing body.

Criteria Satisfied. All findings presented here are based on the information contained within the Staff report and as presented to the Planning Commission and the City Council during the public hearings.

SECTION II: STATEMENT TO DENY VARIANCE

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Richmond, California hereby upholds the Planning Commission's action and denies Variance Application V-1102963, as described in the Planning Commission Staff report dated November 2, 2006, and the City Council Staff report dated January 23, 2007, incorporated herein by reference.

I certify that the foregoing resolution was adopted by the City Council of the City of Richmond, California at a duly noticed meeting held on March 6, 2007:

Ayes: Councilmembers Butt, Marquez, Rogers, Sandhu, Viramontes, and Mayor McLaughlin

Noes: None

Abstentions: None

Absent: Councilmembers Bates, Lopez, and Thurmond

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to Form:

JOHN EASTMAN
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of Resolution No. 20-07, finally passed and adopted by the Council of the City of Richmond at a meeting held on March 6, 2007.