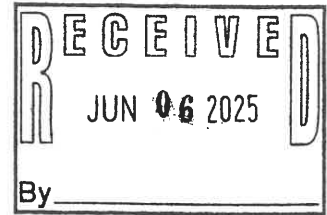


Appeal of Contra Costa County ZA decision regarding 279 Colusa Avenue, Kensington, CA / May 5, 2025

TO:

Department of Conservation and Development (C/O Ashley Thiry)
30 Muir Road
Martinez, CA 94553



FROM:

David and Sandra Gerstel, Owners of 283 Colusa Avenue, Kensington, CA
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First Reason for Appeal

Disregard of ADU Law by ZA and KMAC:

*****Please see Contra Costa Code Chapter 82-24- ADU**

The passages in the chapter relevant to this appeal read as follows:

82-24.012 (a - 1 - D). In the Kensington (-K) combining district, an attached accessory dwelling unit may not exceed eight hundred fifty square feet if the accessory dwelling unit provides one bedroom and may not exceed one thousand square feet if the accessory dwelling unit provides more than one bedroom.

Comment by DG: The applicants are seeking to re-classify as an ADU the existing two-bedroom home at the front of 283 Colusa. However, at 1450 square feet it is well over the 1000 square foot limit stated in the above code. The applicants are attempting to call it a just under 1000 square foot ADU by "detaching" the existing first story garage and workshop/storage areas that are beneath the two-bedroom second story and somehow "attaching" them to the proposed 1650 square foot new house they propose to build at the rear of their lot. Nowhere does the CC County ADU Chapter allow for such a maneuver.

82-24.012 (f-2). If an accessory dwelling unit is detached from a primary dwelling unit, the accessory dwelling unit must be an internal conversion of a detached garage or other accessory building, or new construction.

Comment by DG: The two-bedroom home the applicants are seeking to re-classify as an ADU is not new construction as called for in the section of the code cited above. And it is not an accessory building. It is a full sized two story and two-bedroom existing home with a garage and workspace that is currently occupied by the applicants. (If they want a larger home for

themselves, they can remodel their existing home and build a legitimate ADU in their rear yard.)

***Please see Contra Costa County Code Chapter 88-36

The passages in the chapter relevant to this appeal reads as follows:

88-36.012: A residential unit or any portion of a residential unit that is located within a front, back, or side yard area applicable to residential construction in the zone in which the lot is located may not exceed 16 feet in height.

The existing full-sized two-story home at 283 Colusa is at least 19 feet in height (14 steps from grade to first floor = 8+ feet; door = 7'; from top of door trim to top of roof wall = 4'+; Total is over 19 feet.)

Comment by DG: The full-sized home the applicants are seeking to reclassify as an ADU substantially exceeds the height limit allowed under the Contra Costa Code for ADUs.

Note – I attempted to point out the laws governing ADUs and development in Kensington to both KMAC and the ZA. KMAC members repeatedly and rudely cut me off. The ZA declined to consider the law regarding ADUS, saying that he had no jurisdiction. However, while the state law governing ADUS requires ministerial procedures, that requirement extends to specific kinds of construction. It does not extend the requirement to re-classifying an existing full-size home as an ADU by fictitiously amputating part of the home and attaching it to another structure.

Second Reason for Appeal

Disregard for KMAC Combining Ordinance protections for neighboring property at 283 Colusa:

Contrary to the findings of the ZA that the proposed development does not compromise privacy or property value, it clearly does both at my property at 283 Colusa. As a result, it disregards the requirements of the KMAC Ordinance and fails to achieve the required balance between the interests of the owners of 279 Colusa and the interests of my wife and myself.

The Ordinance states that while it protects the rights of property owners to develop their properties, that right must be exercised and balanced with the rights of neighbors by “minimizing impacts upon neighbors” and “must *protect the value* and enjoyment of neighbors’ property.” Specifically, the ordinance states that neighbor’s access to views and their privacy should be taken into account.

The new structure proposed for 279 Colusa does not incorporate the required protections for neighbors but would in fact do the following:

- 1) It would compromise privacy at 283 Colusa. It features at its western end a balcony and along its southern wall windows which will afford views directly into bedrooms and

other living spaces at 283 Colusa. The balcony will also afford views directly down into the front yard and front deck at 283 Colusa, the now private outdoor living spaces at the property. (The ZA's finding that the balcony is oriented to the west is only partially correct, for it is also oriented to the east toward 283 Colusa, our property.)

- 2) The proposed new structure for 279 Colusa is much longer than the small house at 283 Colusa and as a result would loom above both the front and back yards of 283 Colusa. Thereby it would shut off the sky and views of the woodland beyond the property and replace the current pleasant feeling of openness with confinement.
- 3) The above impacts would severely impact the livability of the property.
- 4) As a result, *the value of the property will be seriously diminished.* The ZA found otherwise. But he is not correct. There is no way that a large new house built eight feet away from the property line between 279 and 283 Colusa, looming over both the front and back yards of 283, commanding views from its deck and through its second story windows of the bedrooms and other living spaces at 283, will not impair the value of the property. Of course it will, and likely a great deal.

In sum, if the county permits the proposed development at 283 Colusa, it will have disregarded the requirement for development that balances applicants' and neighbors' interests. The applicants would have been given everything they have asked for (except an outrageous roof top deck which would have compromised the views and privacy of several neighbors who strenuously objected to it). And while the applicants' interests would be catered to, my interests would be almost entirely disregarded. The value of my 283 Colusa property, which I built and have carefully cared for over four decades would be seriously diminished.

Third Reason for Appeal

Bad Precedent for neighborhood:

If the County approves the proposed development for 279 Colusa it will have established a bad precedent for the neighborhood. It would be allowing the applicants to build a second full-sized home on a narrow substandard lot by fictitiously "detaching" part of their existing home and "attaching" it to a large proposed new home.

The result would be two structures far exceeding - by around 30% - the .5 FAR (Floor Area to Parcel Size Ratio) that is the normal maximum.

That would serve as an awful precedent for further development along the 200 block of Colusa. (If the applicants are allowed to go ahead as proposed, why should other homeowners not be allowed to fictitiously detach part of existing homes and build a second large home on their substandard lots?) The result of such development would be extreme crowding of the neighborhood. Residents of the 200 block of Coventry Road, which parallels Colusa and is just above it, would face tall two-story homes close to the rear of their yards. Those homes would block out access to sun and sky and create a confined feeling in what are now pleasantly open spaces.

Contrary to what the applicants claim and the ZA found, there is no similar development along the 200 block of Colusa. Generally, the other properties include a single-family home at the front of the yard with, in some cases, a single-story accessory building to the rear. At 283 Colusa the home at the rear of the yard is two stories over less than half its width and is only 1350 square feet. The ADU structure at the front of the property is 960 square feet. Together the two buildings are far under the .5 FAR threshold, unlike the proposed development for 283 Colusa.

If the county allows the applicants to proceed as they have proposed, the county will have seriously compromised both my property and the surrounding neighborhood. Unfortunately, the ZA paid no attention to the concerns regarding precedent expressed not only by me but by other neighbors.

As my neighbors, Ellen and Rob Hanak Valletta, wrote to me in an email, "Thanks David. I found it interesting that they completely ignored comments and concerns from neighbors. And they erroneously assume that this construction will raise other neighbors' property values. There's absolutely no basis for that conclusion."

I agree. Some construction may raise property values in a neighborhood. But to say all construction does is an over-generalization. The proposed new construction for 283 Colusa certainly will not.

Conclusion:

It is clearly not the intention of the ADU laws, which provide for building small cottages on R-1 lots with existing homes, to force such development as is proposed for 279 Colusa.

If the County approves the proposed development, it is allowing two full sized homes, one of 1450 square feet, one of 1680 square feet on a single substandard R-1 lot. The proposed development would be a bad precedent for the neighborhood and seriously diminish the livability and value of my property.

As my wife succinctly puts it, "Are they really going to allow two big houses to be squeezed onto that small lot?"

PLEASE SEE ATTACHED LETTERS FROM NEIGHBORS

Thank you,

David Gerstel