

FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDVR22-01062, RYAN BOSWORTH (APPLICANT) AND RYAN BOSWORTH & TOMMY TRAN (OWNERS)

FINDINGS

I. Variance Findings

- 1. Required Finding:** *That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations of other properties in the vicinity and the respective land use district.*

Project Finding: The subject property fronts Canyon Lake Drive in Port Costa, an area established in the 1880s prior to the adoption of the County zoning ordinance. The project involves variances to allow a 3-foot side yard (where 5 feet is required) and an 8-foot aggregate side yard (where 10 feet is required) for the construction of a new, 2-1/2 story, 3,187-square-foot single-family residence with an attached two-car garage. The project also involves a variance to allow a 0-foot side yard (where 3 feet is required) for the construction of a new deck. Similar to nearby properties, the subject property does not meet the minimum R-6 Single-Family Residential zoning district standards of 6,000 square feet for lot size and 60 feet for minimum average lot width. In addition, many homes in the area were constructed before the County zoning ordinance was adopted resulting in existing side yards that do not meet today's requirements. Thus, it is expected that other property owners will be faced with similar side yard setback challenges as improvements to or replacement of older homes on substandard lots in the area occur. Therefore, the approval of the variance requests for substandard side yards and a substandard side yard aggregate to allow construction of a new single-family residence and deck is not a grant of special privilege and is not inconsistent with the limitations of other properties in the vicinity and the respective land use district.

Although only one off-street parking space is required for the subject property, the project includes a two-car garage. The project involves a variance to allow one of the two parking spaces within the garage to be 9 feet wide by 16 feet long (where 9 feet by 19 feet is required). Given that the project site is located in a Special Flood Hazard Area (100-year flood boundary) as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, the first floor living space has been designed at a higher elevation than the unconditioned garage. The shortened parking space will accommodate stairs to the first floor of living space, a water heater, and other mechanical equipment for the home. As the Special Flood Hazard Area spans the length of Canyon Lake Drive, approval of the variance request to allow one off-street parking space that is a substandard length is not a grant of special privilege and is not inconsistent with the limitations of other properties in the same Special Flood Hazard Area as designated by FEMA.

- 2. Required Finding:** *That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of rights enjoyed by other properties in the vicinity and within the identical land use district.*

Project Finding: The special circumstance of the substandard side yards of the property was created when the lot was created. The property's buildable area is constrained by the substandard size of the lot and the substandard, 33-foot average width. Thus, if enforced, the R-6 zoning district standards for a 5-foot side yard and a 10-foot side yard aggregate would leave the lot with a developable width of only 18 feet. The developable area of the property is further reduced by the existence of a 100-plus year-old drainage culvert for Bull Valley Creek spanning the property. As such, many feasible options for rebuilding the residence would likely require a variance. Also, other properties in the vicinity have been granted similar side yard variances for improvements to their residences including expansion of their living space. Likewise, due to the special circumstance of being located within a FEMA-designated special flood zone, the lower-level living space has been designed at a higher elevation than the unconditioned, attached garage with a stair case from the garage to the living space. Thus, due to the special circumstances of the subject property's size, the existence of a drainage culvert for the area, and location within a special flood zone, granting the variance requests to allow a 3-foot side yard and an 8-foot side yard aggregate for a new residence, to allow a 0-foot side yard for a new accessory structure (deck), and to allow a 16-foot-long off-street parking space, is necessary to ensure that the current rights available to the subject property are preserved, similar to how properties in the vicinity and within the R-6 zoning district continue to enjoy similar privileges.

- 3. Required Finding:** *That any variance authorized substantially meets the intent and purpose of the respective land use district in which the subject property is located.*

Project Finding: The intent and purpose of the R-6 Single-Family Residential District is to promote the orderly development and maintenance of residential uses and the accessory structures normally auxiliary to a single-family dwelling. This includes allowing residential dwelling improvements compatible with the surrounding neighborhood. The variance will allow the property owners to construct a new residence with a two-car garage and deck that will be compatible with other single-family residences in the vicinity. The use of the subject property will remain residential, with one single-family residence.

II. Small Lot Design Review Findings

Prior to the issuance of a building permit on a substandard lot, the Zoning Administrator must review the proposed structure's compatibility and impact on the surrounding neighborhood in terms of the following:

1. **Location:** The previous residence on the lot was located towards the center of the property, with 25- and 35-foot front setbacks, a 1-foot, 10-inch side yard on the west, and an 8-foot, 9-inch side yard on the east. As designed, with 15- and 34-foot front setbacks and 3-foot and 5-foot side yard setbacks, the residence will maintain a fairly central position on the property with respect to the two frontages while reducing the encroachment of the building into the required side yard area. The deck and wading pool are located on the northern side of the home between the retaining wall and the base of the sloped area of the lot, which are the ideal locations for these improvements to provide a private, outdoor area for the property owners to enjoy. In general, the location of the new residence and improvements are consistent with the development pattern found in the surrounding Port Costa neighborhood.
2. **Size:** The 2-1/2-story single-family residence will have 2,903 square feet of living area, 284 square feet of covered porch and balcony area, and a 427-square-foot attached garage. The total building footprint of the residence is approximately 1,264 square feet, which equates to approximately 38% coverage of the 3,300-square-foot lot. Based on available information, nearby residences generally range in size from approximately 662 square feet to 6,014 square feet. The new deck is approximately 400 square feet with an 87-square-foot wading pool which is compatible with similar yard improvements for the enjoyment of a residential property. Therefore, the residence and project will be compatible with other homes and residential properties in the vicinity regarding size.
3. **Height:** The height of the 2-1/2 story residence will be up to 34 feet, 3-1/8 inches, which is below the maximum 35-foot height allowed in the R-6 zoning district. The height of the home is consistent with other two- to three-story residences in the vicinity. The new deck will be approximately 2 feet in height and is consistent with similar yard improvements for the enjoyment of a residential property.
4. **Design:** The neighborhood mainly consists of homes designed in bungalow, craftsman, stick, Queen Anne, Folk Victorian, and cottage architectural styles. The contemporary Folk Victorian style of the new residence features simple intersecting gables, lap siding, balcony spindles and rail, and the vertical proportions of late-19th-century homes. As such, the design is compatible with the architectural styles within the Port Costa Historic District.

IV. CEQA Findings

The project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, specifically paragraph (a) which exempts the construction of one single-family residence in a residential zone and paragraph (e) which exempts the new construction of small accessory structures including but not limited to decks and pools.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDVR22-01062

Project Approval

1. **Variance approval** is granted for:
 - A 3-foot side yard (where 5 feet is required) along the western property boundary and an 8-foot side yard aggregate (where 15 feet is required) for a new single-family residence;
 - A 0-foot side yard (where 3 feet is required) along the eastern property boundary for a new deck; and
 - One 9 feet wide by 16 feet long off-street parking space (where a 19-foot length is required) in a two-car garage.
2. **Small Lot Design Review approval** is granted to allow the construction of a new, 2,903-square-foot single-family residence with 284 square feet of covered porch and balcony area, and a 427-square-foot attached garage, an approximately 400 square-foot deck, and 87-square-foot wading pool, as shown on the approved plans.
3. The approvals described above are granted based on and as shown on the following documents:
 - Application and materials received by the Department of Conservation and Development, Community Development Division (CDD) on November 2, 2022.
 - Revised project plans received on March 12, 2026.

Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of an application for a new Variance or Small Lot Design Review Permit.

General Provisions

4. Grading and building permits from the County shall be obtained, as necessary, for any development approved as part of this permit.

5. **Prior to requesting a roof deck nail inspection, but after completion of roof frame**, the applicant shall submit evidence, for review and approval of CDD, from a licensed surveyor on the field elevations of the roof ridgeline points and the heights of the building as measured from natural grade or finished floor, whichever is lowest, indicated on building permit plans for purposes of determining compliance with maximum height limits of 35-feet.

Application Costs

6. This variance permit application was subject to an initial deposit of \$4,250.00. Applications are subject to time and material costs if the application review expenses exceed the initial deposit. **Any additional fees due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

Historical Resources (Port Costa Historic District)

7. **Prior to CDD stamp-approval of plans for the issuance of building permits**, the applicant shall submit a color palette for the exterior of the residence to staff of the CDD for review and approval.
8. **Prior to final building inspection**, applicant shall submit as-built color photographs to staff of the CDD for review and verification that the approved elevations (including design and shown exterior building materials) were correctly executed on site.

Construction Restrictions

9. The owners and their contractors shall comply with the following restrictions and requirements:
 - A. All construction activities, including delivery of construction materials, shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)

Birthday of Martin Luther King, Jr. (State and Federal)

Washington's Birthday (Federal)
Lincoln's Birthday (State)
President's Day (State and Federal)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Juneteenth (Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (State and Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For details on the dates the State and Federal holidays occur, please visit the following websites:

Federal: <http://www.federalreserve.gov/aboutthefed/k8.htm>

State: <http://www.sos.ca.gov/state-holidays/>

- B. Transporting of heavy equipment and trucks shall be limited to weekdays between the hours of 9:00 AM and 4:00 PM and prohibited on Federal and State holidays.
- C. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows and to minimize project-related disruptions to adjacent properties.
- D. Construction equipment and materials shall be stored onsite.
- E. The construction site shall be maintained in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be disposed of, as necessary.
- F. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles.
- G. All stationary noise-generating equipment such as air compressors and concrete pumps shall be located as far away from adjacent residences as possible.

Cultural Resources

The following conditions shall be included on all sets of construction drawings:

10. Should archaeological materials be uncovered during grading, trenching, or other on-site excavation(s), all earthwork within 50 feet, or a larger distance as determined necessary by a qualified archaeologist, of the materials shall be stopped until a qualified archeologist certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American Tribe that has requested consultation and/or demonstrated interest in the project, has had an opportunity to evaluate the significance of the find, and, if deemed necessary, suggest appropriate mitigation(s).
11. If any significant cultural materials such as artifacts, human burials, or the like are encountered during construction operations, such operations shall cease within 10 feet of the find, the CDD shall be notified within 24 hours, and a qualified archaeologist contacted and retained for further recommendations. Significant cultural materials include, but are not limited to, aboriginal human remains, chipped stone, groundstone, shell and bone artifacts, concentrations of fire cracked rock, ash, or charcoal. Historical materials can include wood, stone, concrete, or adobe footings, walls and other structural remains; debris-filled wells or privies; and deposits of wood, glass ceramics, and other refuse.
12. Appropriate mitigation of any discovered cultural resources may include monitoring of further construction and/or systematic excavation of the resources. Any artifacts or samples collected as part of the initial discovery, monitoring, or mitigation phases shall be properly conserved, catalogued, evaluated, and curated, and a report shall be prepared documenting the methods, results, and recommendations. The report shall be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.
13. Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may be those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the land owner for treatment and disposition of the ancestor's remains. The land owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.

Drainage Culvert

14. **Prior to CDD stamp-approval of plans for issuance of a building permit**, the applicant shall submit for review by the CDD, and the County Public Works Department, Engineering Division, the results of a field survey based on "potholing" or other approved underground location assessment which verifies the culvert's physical location on the subject property.
15. **Prior to CDD stamp-approval of plans for issuance of a building permit**, the applicant shall submit a licensed structural engineer's report which verifies that the construction and location of the foundation of the residence will not compromise the structural integrity of the existing drainage culvert, or the culvert wall, based on the location identified in the County approved field survey.

PUBLIC WORKS

CONDITIONS OF APPROVAL FOR PERMIT CDVR22-01062

Applicant shall comply with the requirements of Title 8, Title 9, and Title 10 of the Ordinance Code. Any exceptions must be stipulated in these Conditions of Approval. Conditions of Approval are based on the site plan submitted to the Department of Conservation and Development on March 12, 2026.

COMPLY WITH THE FOLLOWING CONDITIONS OF APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT UNLESS OTHERWISE STATED.

Miscellaneous Drainage Requirements

16. A private storm drain easement in favor of the immediate upstream property owner, 11 feet in width shall be dedicated over the 5-foot-wide Bull Valley Creek cobbled culvert traversing the site. This dedication shall be recorded **prior to final inspection**.

Floodplain Management

17. The project is located in a Special Flood Hazard Area (100-year flood boundary) as designated on the Federal Emergency Management Agency's Flood Insurance Rate Maps. The applicant shall be aware of and comply with the requirements of the National Flood Insurance Program (Federal) and the County Floodplain Management Ordinance as they pertain to development and future construction of any structures on this property.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

- A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq., the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90-days of the approval date of this permit.

- B. Additional requirements may be imposed by the following agencies and departments:

- Contra Costa County Building Inspection Division
- Contra Costa Environmental Health Division
- Crockett-Carquinez Fire Protection District
- Crockett Sanitary District
- Contra Costa Water District

The Applicant is strongly encouraged to review these agencies' requirements prior to continuing with the project.

- C. Applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the West Contra Costa (WCC) Transportation and Hercules/Rodeo/Crockett Areas of Benefit as adopted by the Board of Supervisors. Payment is required prior to issuance of a building permit.

- D. The Applicant is advised that a subsequent design review or variance approval may be required if the results of the County approved field survey pursuant to COA #13 and/or the structural engineer's report pursuant to COA #14 indicate that the location or design of the residence will need to be altered.