



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 21-053

March 16, 2021

Introduced: 3/3/2021

Current Status: RMA Administration -
Consent

Version: 1

Matter Type: BoS Resolution

Consider an appeal of a Zoning Administrator decision to approve a Design Approval for a fence ranging in height from four to six feet and consider waiving the fee for the appeal.

[PLN190255/SMITH & RADER, 99 Second Street, Spreckels (APN 177-061-003-000)]

RECOMMENDATION

Staff recommends that the Board of Supervisors:

- a. Find the project, which consists of the replacement of an existing structure, categorically exempt per CEQA Guidelines section 15302;
- b. Consider additional information requested by the Board on the November 5, 2020;
- c. Grant the appeal by Rosana Rader and Michael Smith from the July 30, 2020 decision of the Zoning Administrator to approve an after the fact Design Approval, as modified by the Zoning Administrator, for minor additions to an existing single-family dwelling and a fence ranging in height from four to six feet on the property lines (Llano Street and Second Street); at 99 Second Street, Spreckels;
- d. Accept the appellants proposal to modify the fence by removing alternating boards resulting in 1/2-inch voids that would give an "open-patterned" appearance along Second and Llano Streets. The appellants would also reduce the rear fencing four feet along the property lines back to the edge of the two houses; and
- e. Waive the appeal fee.

PROJECT INFORMATION

Property Owners: Smith, Michael A and Rader, Rosana

APN: 177-061-003-000

Parcel Size: 0.173 acre (7,536 sq. ft)

Zoning: HDR/5.1-HR-DHigh Density Residential/5.1 acres per unit-Historic Resource-Design Control District

SUMMARY

On November 5, 2020, the Board considered an appeal of the Zoning Administrator's decision to approve a Design Approval for a fence at 99 Second Street, Spreckels, conditioned upon applicants modifying the fence to include open slats and be limited to a four-foot height in accordance with the Spreckels Design Guidelines. The Board continued this matter to November 17, 2020, directing staff to evaluate options for reimbursement of certain costs associated with replacing the fence. Due to delays in obtaining financial information and other circumstances beyond staff's control, the matter was again continued to December 1, 2020, January 12, 2021, February 2, 2021, March 2, 2021 and now

March 16, 2021.

Appellants provided three estimates for the cost of modifying the fence. The first estimate included modifying the existing fence to create an open pattern and reducing its height in a portion of the “side yard”, as conditioned by the Zoning Administrator’s July 30, 2020 decision. The second and third estimates were for complete removal and construction of a new fence meeting the standards. Modifying the fence as required by the Zoning Administrator was estimated at \$8,910.00, while replacing the fence was estimated at between \$16,500 and \$17,680. Staff reviewed these estimates and concluded that the fence could be modified to conform with standards for substantially less.

DISCUSSION

Appellants provided the following estimates for both the modification of the existing fence and for removing the existing fence and installing a new fence in its place:

- Past modification of the fence(s), including both labor and materials estimated at \$8,910.00. To date, appellant has only provided him an estimate has been received.
- Architectural design estimates of \$525.00 (includes design changes to the existing house).
- New fence in full conformance with the Spreckels Design Guidelines: The appellants submitted two estimates: \$16,500 and \$17,680. These two estimates are to replace the fence in its entirety with a new fence.
- Total permit fees the applicants have paid to the County of Monterey: \$182.21 (original over the counter Design Approval)

To staff’s knowledge, appellants have not incurred other County fees. The Appeal fee of \$3,540 was not paid. Staff informed appellants that the appeal process requires the appeal fee, which may only be reimbursed upon Board approval. Here, staff recommends that the Board waive this fee due to staff’s error in the permitting and review process.

Staff believes that appellants’ estimates for installing a new fence and removing the existing fence to conform with the Spreckels Design Guidelines are excessive. However, appellants have submitted a proposal to modify the replacement fence rather than to install a new fence. The image attached to this report provides a sample fence design that would remove alternating boards and result in 1/2-inch voids, which would give an “open-patterned” appearance along Second and Llanos Streets. Appellants also propose reducing the rear fencing 4 feet along the property lines back to the edge of the two houses.

Should the Board agree to the appellants’ proposed modifications, the County could help pay the cost to remove the alternating boards that would result in 1/2-inch voids. No estimate has been submitted for this new proposal. Consequently, Staff recommends that the Board impose a condition of approval that would require receipts of actual costs incurred for this new proposal by the appellants at reasonable rates.

Policy S2.1 of the Spreckels Design Guidelines states that front-yard fencing should generally be constructed of wood slats in an open work pattern. The policy does not warrant a white picket fence. Other fences in the vicinity have an open work pattern as appellants propose. Rather than have the

existing fence removed, staff is agreeable to appellants' proposal. Staff believes this proposal is consistent with both the Spreckels Design Guidelines and neighborhood character and has prepared a draft Resolution to that effect.

Alternatively, the Board could consider granting the appeal of the Zoning Administrator's decision and allow the fence to remain in its current configuration but consider the fence "legal nonconforming" (legal in that it was originally approved under PLN190255, but nonconforming to the Spreckels Design Guidelines). In that case, staff would not recommend reimbursing the applicants for costs incurred in constructing the fence but would still recommend waiving the appeal fee.

If the Board takes the latter course, staff recommends the Board adopt a Resolution of Intent to Approve and direct staff to come back with a revised Resolution for its consideration.

ENVIRONMENTAL REVIEW

CEQA Guidelines section 15302 categorically exempts projects consisting of replacement or reconstruction of existing structures where the new structure will be located on the same site as the structure replaced. Staff concluded that the new fence meets this standard. CEQA Guidelines section 15300.2 lists exceptions where an exemption may not apply: location, cumulative impact, significant effect, scenic highways, hazardous waste. Based on the evidence before it, staff concluded no such exceptions apply.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES

This action represents effective and timely response to our HCD customers. Processing this appeal in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Elizabeth Gonzales, Supervising Planner
Reviewed by: Craig Spencer, HCD Services Manager **CS**
Approved by: Erik Lundquist, HCD Chief of Planning

The following attachments are on file with the Clerk of the Board:

- Attachment A - Draft Resolution
- Attachment B - Estimated cost of original fence modification as conditioned by ZA
- Attachment C - Estimated Costs of Replacement
- Attachment D - Sample Image

cc: Front Counter Copy; Elizabeth Gonzales, Supervising Planner, Craig Spencer, HCD Planning Services Manager; Erik Lundquist, HCD Chief of Planning; Michael Smith and Rosana Rader, Owners; Eddie Takashima, neighboring owner; Jim Riley, SNDR chair; The Open Monterey Project (Molly Erickson); Land Watch (Executive Director); Project File PLN190255