

RESOLUTION NO. 2023-xx

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
DENYING APPEAL NO. 23-0001 AND UPHOLDING THE PLANNING
COMMISSION'S DENIAL OF DESIGN REVIEW AND VARIANCE APPLICATIONS
FOR RESIDENTIAL IMPROVEMENTS TO AN EXSTING SINGLE-FAMILY
RESIDENCE AT 5790 ARBORETUM DRIVE**

WHEREAS, the City of Los Altos received applications for Design Review (File Number SC22-0009) and Variance (File Number V23-0002) from Marwan and Lisa Eways, (Applicant), for the construction of a 190 square-foot addition and a 465 square-foot deck expansion at the first story and an eight square-foot addition and a new 327 square-foot outdoor deck at the second story to the existing single-family residence, hereafter referred to as the "Project";

WHEREAS, said Project is located in the R1-20 District, which allows single-family housing as a permitted use and shall be developed per Los Altos Municipal Code Chapter 14.10; and

WHEREAS, the variance is requested for a reduction in the required second story side setback from 25 feet to 16 feet and six inches for the second story deck; and

WHEREAS, the property owner submits that the property's unique topography, as well as the location of existing trees and structures, make it difficult to comply with the required second story side setback; and

WHEREAS, said Project is exempt from environmental review under Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines because CEQA does not apply to projects which are disapproved; and

WHEREAS, on February 15, 2023, the Design Review Commission held a public meeting to discuss the design review of said Project and continued to the project to a meeting date uncertain; and

WHEREAS, on February 28, 2023, upon the approval of the zoning code amendments to implement the adopted 2023-2031 Housing Element by the City Council, the Planning Commission is the approval authority for said Project; and

WHEREAS, on May 18, 2023, the Planning Commission conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project, and at the conclusion of the hearing, the Planning Commission denied said project; and

WHEREAS, the decision of the Planning Commission was appealed to the City Council by Marwan and Lisa Eways in a time and manner prescribed by the City of Los Altos Municipal Code Chapter 1.12; and

WHEREAS, on June 27, 2023, the City Council conducted a duly noticed public hearing at which members of the public were afforded an opportunity to comment upon the appeal, and at the conclusion of the hearing, the City Council denied said appeal and upheld the decision of the Planning Commission; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos hereby denies appeal No. 23-0001 and upholds the Planning Commission's denial of design review and variance applications for residential improvements to an existing single-family residence at 5790 Arboretum Drive subject to the Findings in Exhibit A attached hereto and incorporated by reference.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 27th day of June 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sally Meadows, Mayor

Attest:

Melissa Thurman, City Clerk

EXHIBIT A

FINDINGS

SC22-0029 & V23-0002 at 5790 Arboretum Drive

Design Review

With regard to the improvements to the existing two-story residence, the Planning Commission finds the following in accordance with Section 14.76.060 of the Municipal Code:

- A. The proposed structure or alteration complies with all provisions of this chapter;

This finding cannot be made because:

The proposed second-story deck does not meet the objective side setback requirements set forth in LAMC Sections 14.10.080 and 14.66.210.

- B. The height, elevations and placement on the site of the proposed main or accessory structure or addition, when considered with reference to the nature and location of residential structures on adjacent lots, and will consider the topographic and geologic constraints imposed by particular building site conditions;

This finding cannot be made because:

The height, elevations, and placement on the site of the proposed addition to the existing house is found not compatible when considered with reference to the nature and location of residential structures on adjacent lots, and will not consider the topographic and geologic constraints imposed by particular building site conditions because the proposed project, specifically for the second-story deck does not comply with the objective setback requirement and is further found not compatible with the location of the residential structures on adjacent lots that are developed after annexation of the neighborhood.

- C. The natural landscape will be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized;

This finding cannot be made because:

The natural landscape will not be preserved insofar as practicable by minimizing tree and soil removal; grade changes shall be minimized because the proposed project will disturb existing grading and conduct soil removal or soil filling in order to construct the first story addition situated on the natural slope.

- D. The orientation of the proposed main or accessory structure or addition in relation to the immediate neighborhood will minimize excessive bulk;

This finding cannot be made because:

The orientation of the house in relation to the immediate neighborhood will not minimize excessive bulk because the proposed second story deck with a five-foot and six-inch solid screening wall will encroach into the required side yard resulting a bulky appearance due to the close distance than allowed in the zoning code.

- E. General architectural considerations, including the size and scale, the architectural relationship with the site and other buildings, building materials and similar elements have been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings on the same project site; and

This finding cannot be made because:

General architectural considerations, including the size and scale, the architectural relationship with the site and other buildings, building materials, and similar elements have not been incorporated in order to insure the compatibility of the development with its design concept and the character of adjacent buildings on the same project site because the proposed second story deck is eight feet and six inches less than the required second story setback will lead to an incompatible pattern with the character of adjacent buildings that are subject to the current city standards for development.

- F. The proposed structures have been designed to follow the natural contours of the site with minimal grading, minimal impervious cover and maximum erosion protection. A stepped foundation shall be required where the average slope beneath the proposed structure is ten (10) percent or greater.

This finding cannot be made because:

The proposed house improvements have not been designed to follow the natural contours of the site with minimal grading, minimum impervious cover, and maximum erosion protection because of the proposed addition will alter the natural topography by placing the first story addition, the staircase to the second story deck, and the expansion of the first story deck.

Variance

With regard to the improvements to the existing two-story residence, the Planning Commission finds the following in accordance with Section 14.76.070 B. of the Municipal Code:

- A. That the granting of the variance will be consistent with the objectives of the zoning plan set forth in Article 1 of Chapter 14.02.

This finding cannot be made because:

Granting of the variance will not be consistent with the objectives of the zoning plan because it does not meet the objective of ensuring a harmonious and convenient relationship among land uses, as specified in Section 14.02.020 B. of the Municipal Code that will deviate the second story side setback standard from the city's zoning regulations. Furthermore, granting the variance is not necessary to meet other objectives. Staff found that there are alternative design options available for the proposed deck that can achieve the same goal.

- B. That the granting of the variance will not be detrimental to the health, safety, or welfare of persons living or working in the vicinity or injurious to property or improvements in the vicinity.

This finding cannot be made because:

Granting the variance could have negative impacts on the surrounding area because the project does not meet the zoning setback standards established to provide better ventilation, sound isolation, reduced lighting and glare, increased landscaping, and access to emergency services between properties and structures.

- C. That variances from the provisions of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

This finding cannot be made because:

The steeply sloping topography is not considered special circumstance that would deprive the property owners' privileges because the owners have other options to achieve similar results for the enjoyment of their property by implementing a modified deck design as staff explained earlier in the report. The non-conformity of the existing home due to its development under the County's regulations does not justify further deviations from the current City setback requirements. The exception to allow the first-story deck's expansion in the zoning code acknowledges a non-conforming structure's existence and the desire from homeowners to align new development with the structure in a limited way.