



**variance justification letter**

<b>to:</b>	<b>contact info:</b>	<b>date:</b>
City of Los Altos, Planning Div. 1 San Antonio Road Los Altos, CA 94022	650.947.2750	04.13.23

<b>attention:</b>	<b>square three #:</b>	<b>Los Altos zone:</b>
Jia Liu	22101	R1-20

<b>project location:</b>	<b>project type:</b>	<b>a.p.n.:</b>
5790 Arboretum Drive Los Altos, CA 94024	residential remodel/addition	342.04.093

Dear Ms. Liu,

On behalf of Lisa and Marwan Eways, we are applying for a variance for a remodel/ addition project to an existing two level single family residence at 5790 Arboretum Drive. This variance is required because 1) the existing house is nonconforming with respect to the 20 ft. side yard building setback and the 25 ft. side yard second story setback along the entire south side of the existing residence, 2) we are proposing a 280 sf roof deck accessed from the upper level main living space on the south west corner of the existing residence and 3) we would like to integrate the roof deck with the existing architecture and site in a simple harmonious fashion consistent with the City’s Design Guidelines Philosophy.

The primary goal of the Eways family is to add an accessible private outdoor space from their main upper level living space (family, breakfast, kitchen) for enjoyment of their rear yard. It is currently very difficult to access the rear yard and requires traversing many stairs or inaccessible outdoor walkways. This is especially difficult for the Eways’ large extended family when they visit, many of who are elderly or have special needs. The addition of a modest size roof deck adjacent to the main living spaces with a stair leading to the rear yard would solve this problem, which otherwise would require a complete re-design of the house.

The 21,690 sf steeply sloping lot is located on Arboretum Drive in the R1-20 zoning district and is Owned by the Eways family. This site is one of about 7 lots on Arboretum which are characterized by steeply sloping topography, while the majority of the lots (about 54) in the immediate neighborhood zoning district are relatively flat. The property is surrounded on three sides by fairly dense tree coverage, many of which are mature oak trees. The topography of the site slopes down from the street with a total approximate elevation change from high (front)

to low (rear) of 57 ft. There is a steeply sloping driveway from the street down to the residence's main upper level, which is approximately 12 ft lower than the street, hunkering the residence into the hillside so it appears as a modest one-story structure as viewed from the street. The main living spaces (kitchen, dining, family and living) are located on the main level. The elevation change from the main level to the rear private yard is approximately 23 ft and there is no direct access to the private rear yard from the main living spaces.

The existing residence was legally built approximately 20 years ago under the jurisdiction of the Santa Clara County Department of Planning and Building due to the property being within unincorporated Santa Clara County at that time. In 2006, after the home was built, the property was annexed into the City of Los Altos, beyond the control of the Owners.

We are proposing to add a modest size (280 sf) roof deck adjacent to and directly accessed from the main living space (family, breakfast, kitchen) on the main upper level of the residence, with a 16'-6" side yard setback where 25' is required. The primary design goal is for the family to have an easily accessible outdoor area from their main living space from a broad glass door to enjoy their private rear yard for grilling, dining and relaxing. The design concept for integrating the roof deck into the existing architecture and providing a functional outdoor space adjacent to the upper level living spaces, given the challenging topography of the site, is to locate the roof deck atop a an approximately 190 sf addition at the lower level. The proposed flat roof over the lower level addition extends outward as a "roof eave" on three sides to provide an appropriate size outdoor space and facilitate the construction of a stair down to the lower level deck and continuing down to grade. Not only does this concept for the roof deck support integrate well with the existing architecture, it facilitates the construction of a deck, which is approximately 23 ft above grade, within the realm of conventional single-family residential construction materials and methods. Constructing a self-supported deck 23 ft above grade designed to resist seismic lateral forces would require an exotic and robust steel structure, which would be an unsustainable and a much less architecturally integrated design solution.

Pursuant to [Los Altos Zoning Code Section 14.76.070 B.](#), the city may grant a variance as applied if, on the basis of the application and the evidence submitted, the commission must make the following findings:

**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 of the Los Altos Zoning Code.**

The design of the proposed modest size roof deck is consistent with the objectives of the zoning plan set forth in *Article 1 of Chapter 14.02*. The granting of the proposed variance is particularly consistent with the following objectives:

*F. To protect and enhance real property values within the city; and*

Adding an accessible private outdoor space from the main upper level living space (family, breakfast, kitchen) for enjoyment of the rear yard would be a tremendous enhancement to the real property value. It is currently very difficult to access the rear yard and requires traversing many stairs or inaccessible outdoor walkways.

*G. To conserve the city's natural beauty, to improve its appearance, and to preserve and enhance its distinctive physical character.*

Strict compliance with the required 25 ft side yard setback for the roof deck, would locate the start of the roof deck at the mid-point of the family, breakfast, kitchen space and shifting the deck toward the north interior of the property, off-set with the proposed lower level addition below intended to support the roof deck. This would require off-setting the addition on the lower level or it would require the addition of a steel support system for a portion of the deck, both of which would be functionally awkward and architecturally incongruous. Additionally, shifting the roof deck further north would interfere with an existing mature oak tree and would likely require its removal. Without the granting of an exception to the side yard setback, it would not be possible to sustainably design an outdoor deck directly accessible from the main living spaces on the main upper level of the residence to comply with the City's *Single-Family Residential Design Guidelines* for remodels and additions so that they "...look as if the original house design included the addition." (Sec. 5.2)

**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; and**

The granting of this application will not be detrimental to health, safety, or welfare persons living or working in the vicinity or injurious to property or improvements in the vicinity. Due to the fact that the proposed roof deck is only 280 sf and is located entirely at the rear of the existing home, it will not be noticeable from the public view and will not negatively add to the bulk or mass of the existing structure. The elevation of the deck is also about 12 ft lower than the elevation of the street.

Additionally, the proposed roof deck poses no privacy issues with the two side neighboring properties and the neighbors are supportive of the project- see attached emails. There are three primary reasons there are no privacy issues with the proposed roof deck. One, the proposed roof deck is not in alignment with the neighboring structure, two, there are existing mature trees and vegetation along the side yard between the roof deck and the neighboring property and three, we are proposing a 5'-6" high privacy wall on the side of the roof deck facing the neighboring property. It should be noted that the neighboring residences to the

south and north each have existing second floor decks which are not compliant with the 25' side yard setback.

**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.**

There are several special circumstances applicable to this property, which justify a variance from the strict application the zoning code and they are outlined as follows:

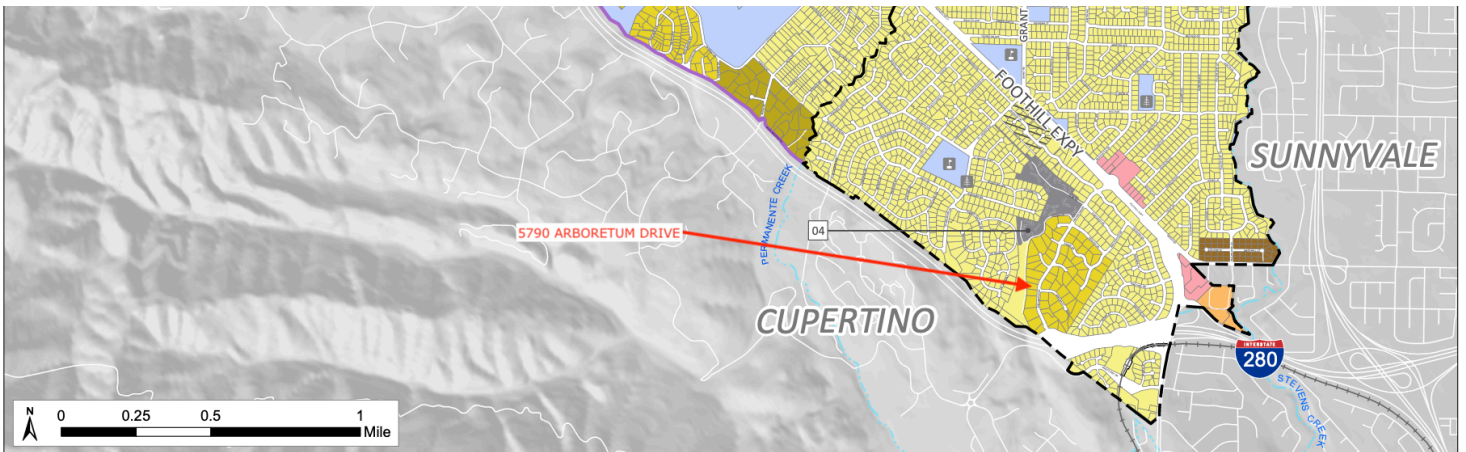
1. The lot is very steeply sloping away from the street creating a significant challenge to access the private rear yard from the main interior living spaces of the home. We realize there are other sloping lots within the city, however, there are only a small percentage of lots with steeply sloping topography in this immediate neighborhood zoning district. This lot, by virtue of its topography, is generally inconsistent with the overall character of the neighborhood. The vast majority of other properties in the neighborhood can simply walk out a few steps down from their residences to enjoy their private rear yard. There are about 61 properties with this small R1-20 zoning district enclave and only 7 of these lots have steep topography ( $\pm 11\%$ ). See attached zoning map.
2. Without the granting of an exception to the side yard setback, it would not be possible to design an outdoor deck directly accessible from the main living spaces on the main upper level of the residence to comply with the City's *Single-Family Residential Design Guidelines* for remodels and additions so that they "...look as if the original house design included the addition." (Sec. 5.2)
3. The home was built fairly recently, in 2003, yet because it was built to comply with the zoning standards of the County of Santa Clara, now that the property has been annexed to the City of Los Altos, the home is non-compliant for it's side yard building setbacks. Both levels of the home have a side yard setback of 15 ft where the required setbacks are 20 ft for one story structures and 25 ft for two story structures. This particular circumstance is unique to the City and only a very small percentage of properties would have a similar situation.
4. Without the granting of an exception to the side yard setback, it would not be possible to design an outdoor space directly accessible from the main living areas on the upper level of the residence without removing a mature 24" diameter oak tree. The current proposed roof deck design preserves the tree.

Sincerely,

Thomas P. Carrubba, Principal Architect C28276  
**square three architecture**












**PARTIAL CITY OF LOS ALTOS ZONING MAP**








**ZONING DESIGNATIONS**



**Residential**

-  Single-Family (R1-H)
-  Single-Family (R1-10)
-  Single-Family (R1-20)
-  Single-Family (R1-40)
-  Multiple-Family (R3-1)
-  Multiple Family (R3-1.8)
-  Multiple-Family (R3-3)
-  Multiple-Family (R3-4.5)
-  Multiple-Family (R3-5)



**Commercial/Office**

-  Commercial Neighborhood (CN)
-  Commercial Thoroughfare (CT)
-  Commercial Downtown (CD)
-  Commercial Downtown/  
Multiple-Family (CD/R3)
-  Commercial Retail Sales (CRS)
-  Commercial Retail Sales/  
Office (CRS/OAD)
-  Office/Administrative (OA)



**Planned**

-  Planned Community (PC)
-  Planned Unit Development (PUD)

**Public/Community Facilities**

-  Public & Community Facilities (PCF)
-  Public & Community Facilities/  
Single-Family (PCF/R1-10)

**Overlay**

-  Single-Story Overlay (R1-S)
-  Loyola Corners Specific Plan (LCSP)

**Map Features**

-  City Boundary
-  Sphere of Influence
-  Railroad
-  Creek

**Public Facilities**

-  School
-  Park
-  Fire Station
-  Police Station
-  City Hall

\* Creek corridors and Montclair Park shown as approximate.

Sources:  
 City of Los Altos  
 Santa Clara County  
 RRM Design Group

# PHOTO EXHIBITS



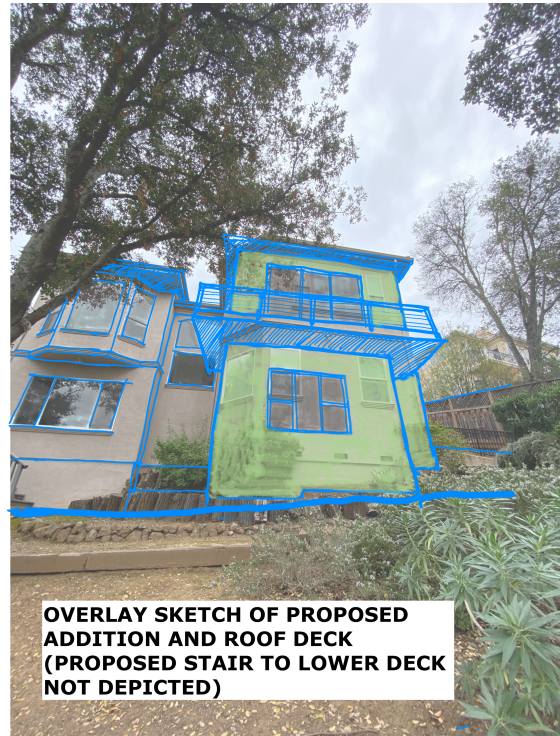
VIEW OF RESIDENCE FROM STREET



VIEW TO THE SOUTH SIDE YARD @ AREA OF PROPOSED ADDITION & ROOF DECK



VIEW OF REAR OF HOUSE @ PROPOSED ADDITION/ROOF DECK LOCATION



OVERLAY SKETCH OF PROPOSED ADDITION AND ROOF DECK (PROPOSED STAIR TO LOWER DECK NOT DEPICTED)



OAK TREE NEAR PROPOSED ADDITION & ROOF DECK

**From:** Steve Decker steve@zookacreative.com  
**Subject:** 5790 Arboretum Dr I project support  
**Date:** December 1, 2022 at 8:22 PM  
**To:** camdens@squarethree.com  
**Cc:** Marwan Eways meways@yahoo.com, Hot Wife anne@thedeckerfamily.com

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SD

Greetings

This note is in reference to the construction project @ 5790 Arboretum Dr

We live at 5770 Arboretum, next door to the Eway's residence.

They have shared the plans for the proposed remodel/addition project as submitted to the city. We support the plan and see no problem with this project going forward.

If you have any questions, please let me know,

Kind regards,  
-Steve & Anne Decker  
(408) 203-5616

**From:** jerry schoening schoen95js@yahoo.com  
**Subject:** 5790 Arboretum Dr. Project statement for Los Altos City Planning  
**Date:** November 21, 2022 at 10:31 AM  
**To:** camdens@squarethree.com  
**Cc:** Shahla Sheikholeslam shahlash16@yahoo.com, marwan eways meways@yahoo.com

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JS

We are the neighbor to the Eways residence at 5790 Arboretum Dr. We had an opportunity to review the Eways' proposed remodel/addition project as submitted to the city. We support the plan and see no problem with this project going forward.

Jerry Schoening & Shahla Sheikholeslam