

**FINDINGS AND CONDITIONS OF APPROVAL FOR THE APPROVAL OF COUNTY FILE #VR08-1008, JOHN AND JERILYN HORNYAK (Appellants/Applicants/Owners), IN THE EL SOBRANTE AREA OF CONTRA COSTA COUNTY.**

**PROJECT FINDINGS**

**Variance Findings:**

1. 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 in which the subject property is located.

***Project Finding:** Approval of variances to allow for an approximately 19' tall deck within the required setbacks, would not constitute a grant of special privilege for the subject property. The existing deck is built within an area where rolling hillsides typically present challenges to development. Thus, the placement and design of the deck is a practical approach available to the property owner at this time. Therefore, this variance does not grant a special privilege inconsistent with the limitations of other properties in the vicinity.*

2. That because of special circumstance 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 the rights enjoyed by other properties in the vicinity and within the identical land use district.

***Project Finding:** Although the subject parcel is not substandard for the R-6 Zoning District, the lot drops in elevation approximately 40' in a southerly direction. Due to the lot's uneven topography, the deck design is a practical approach to compensate for the property's significant elevation changes. Furthermore, the entire deck is not 19' in height. The majority of the deck is significantly less tall, only the portion of the deck that includes the privacy screening reaches a height of 19'. The deck does appear to have similar characteristics as other structures in the immediate neighborhood. Thus, the property would be deprived of the rights enjoyed by other properties in vicinity if the strict application of the respective zoning regulations were enforced.*

3. That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the property is located.

***Project Finding:** The R-6 zoning district requires the deck to be setback a minimum of 5 feet; however, the topographical conditions necessitate the current design of the deck. As conditioned, the property owner would be responsible for compliance with the 2007 California Building Code and the*

*Building Inspection Process. Thus, as conditioned the subject deck would conform to the intent and purpose of the R-6 land use district.*

**CONDITIONS OF APPROVAL**

1. \_\_\_\_\_ Development is approved as generally shown on plans submitted with the application received by the Contra Costa County, Department of Conservation and Development on January 30, 2008.

Potential Adjustment to Accommodate Reduction in Side Yard Requirements to Comply with Building Code – In anticipation that the necessary improvements to allow the proposed (existing) deck to comply with the building code, this permit authorizes reductions from the side yard requirements shown of the application site plan. However, prior to issuance of a building permit, the final construction plans shall be subject to review and approval of designs by the Zoning Administrator to verify that the improvements are similar to those proposed in the variance application site plans.

2. \_\_\_\_\_ Variance approval is granted to allow for an existing 19 ft. tall deck that meets the requirements of Section 26-2.2006 of the County Ordinance Code as follows:

- **Zero-foot side yard setback granted** (5-foot minimum required)
- **A minimum 10-foot aggregate side yard granted** (15-foot minimum required)

3. \_\_\_\_\_ Within **90 days** of the effective date of this variance permit, the applicant shall apply for a building permit to allow the proposed deck.

4. \_\_\_\_\_ Construction Restrictions:

All construction activities shall be limited to the hours of 7:30 A.M. to 5:00 P.M., Monday through Friday, and shall be 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/Presidents’ Day (State and Federal)  
Lincoln’s Birthday (State)  
Cesar Chavez Day (State)  
Memorial Day (State and 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 specific details on the actual day the state and federal holidays occur, please visit the following websites:

Federal Holidays     <http://www.opm.gov/fedhol/2006.asp>

California Holidays   <http://www.edd.ca.gov/eddstholiday.htm>

5. \_\_\_\_\_ This application is subject to an initial application fee of \$1,000, which was paid with the application submittal. Any additional fee due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever comes first. The fees include costs through permit issuance plus five working days for file preparation.

### **ADVISORY NOTES**

THE FOLLOWING INFORMATION DOES NOT CONSTITUTE CONDITIONS OF APPROVAL. IT IS PROVIDED TO ALERT THE APPLICANT TO LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES TO WHICH THIS PROJECT MAY BE SUBJECT.

**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 90-day period after the project is approved.

The ninety (90) day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by the 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 Community Development Department within the 90 days of the approval date of this permit.

**B. Comply with the requirements of the Building Inspection Division.**

Compliance with the 2007 California Building Code will be necessary for your approved project which in part includes the following:

- a) "A 1-hour fire rated wall with no openings will be required where the edge of the deck is within 3 feet of the property line. The wall shall extend from a continuous foundation at the base to at least the top of the deck surface".

- b) “If the 1-hour fire rated wall is not provided, the portion of the deck within 5 foot of the property line must be noncombustible materials, heavy timber construction or fire-resistant treated wood”.
  - c) “All work shall conform to the 2007 California Building Code (2007 CBC) and Contra Costa County Ordinances”.
  - d) Structural calculations by an engineer or architect licensed in the State of California will be required for the deck, privacy screen and railing”.
- B.** Please be aware that the Building Inspection Division requires a site survey prepared by a licensed surveyor and survey stakes as part of the building permit procedure to verify correct location of improvements in the field.
- C.** Prior to seeking a building permit, construction plans shall be stamped by the West County Wastewater District.