

**P.C. RESOLUTION NO. 2023-784**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS APPROVING VARIANCE NO. VAR-2023-003 AND ZONING CLEARANCE NO. ZCL-2023-083, A REQUEST FOR A VARIANCE AND A ZONING CLEARANCE TO CONSTRUCT A 297 SQ. FT. ADDITION TO THE WEST SIDE OF AN EXISTING 2,440 SQ. FT. SINGLE-FAMILY RESIDENCE WITH A NON-CONFORMING SIDE YARD SETBACK (WEST SIDE) LOCATED AT 4041 SCUYLKILL DRIVE (APN: 2079-018-017) WITHIN THE RESIDENTIAL SINGLE FAMILY (RS) ZONING DISTRICT. THE REQUEST IS TO ALLOW FOR THE CONTINUATION OF A 7 FT. SIDE YARD SETBACK TO EXPAND THE FIRST LEVEL KITCHEN.**

**Section 1. The Planning Commission has considered all of the evidence submitted into the administrative record which includes, but is not limited to:**

1. Agenda report prepared by the Community Development Department.
2. Staff presentation at the public hearing held on December 7, 2023 before the Planning Commission.
3. The City of Calabasas Land Use and Development Code, General Plan, and all other applicable regulations and codes.
4. Public comments, both written and oral, received and/or submitted at, or prior to, the public hearing, supporting and/or opposing the applicant's request.
5. Testimony and/or comments from the applicant and its representatives submitted to the City in both written and oral form at, or prior to, the public hearing.
6. All related documents received and/or submitted at or prior to the public hearing.

**Section 2. Based on the foregoing evidence, the Planning Commission finds that:**

1. The applicant submitted an application and plans for Zoning Clearance No. ZCL-2023-083 on March 21, 2023 and Variance No. VAR-2023-003 on September 26, 2023.
2. The project application and plans were reviewed by the Development Review Committee on October 11, 2023.
3. On October 19, 2023, the application was deemed complete and the applicant was notified.
4. Notice of the December 7, 2023 Planning Commission public hearing was posted at Gelson's market, Juan Bautista De Anza Park, the Calabasas Tennis and Swim Center, and at Calabasas City Hall.
5. Notice of the December 7, 2023 Planning Commission public hearing was provided to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
6. Notice of the December 7, 2023 Planning Commission public hearing was mailed or delivered at least ten (10) days prior to the hearing to the project applicant.
7. Notice of the December 7, 2023 Planning Commission public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).
8. A noticed public hearing was held by the Planning Commission on December 7, 2023.
9. The project site is currently zoned Residential Single Family (RS).
10. The land use designation for the project site under the City's adopted General is Single-Family Residential (R-SF).
11. Properties surrounding the project site are zoned Residential Single Family (RS) and have General Plan land use designations of Single Family Residential (R-SF).

**Section 3. In view of all of the evidence and based on the foregoing findings, the Planning Commission concludes as follows:**

**FINDINGS**

Section 17.62.080 Calabasas Municipal Code allows the review authority to approve a Conditional Use Permit provided that the following findings are made:

1. *That there are special circumstances applicable to the property which do not generally apply to other properties in the same zoning district (i.e., size, shape, topography, location or surroundings), such that the strict application of this chapter denies the property owner privileges enjoyed by other property owners in the vicinity and in identical zoning districts;*

The RS-zoned subject property is located in the Greater Mulwood HOA which is made up of primarily rectangular shaped lots. Conversely, the subject parcel is pie shaped with an existing non-conforming side yard setback. Additionally, the entire rear portion of the structure is built with a second story cantilever overlapping the first story by two feet. The proposed addition will align the first floor with the second floor, making it more structurally stable and more energy efficient. Additionally, the proposed addition will expand the kitchen area within the area of the non-conforming west side setback, making it more spacious and user friendly, consistent with the kitchens of typical residences in the area. Therefore, the proposed addition meets this finding.

2. *That granting the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought;*

The existing residence is uniquely situated on a pie-shaped property so that it does not conform with the 10-foot side yard setback requirement. Additionally, the entire rear portion of the residence contains a second floor that is cantilevered over the first floor. To this end, the proposed addition is designed to align the first floor with the existing second floor condition to make the residence more structurally sound and energy efficient, and modestly expand the kitchen area while continuing the existing non-conforming side setback of 7 ft. as is required by Code. However, since only a small portion of the west side of the residence is non-conforming, application of Section 17.72.020(B) of the Municipal Code, which limits the size of additions to non-conforming structures to 50 percent of the length and area of the portion of the existing structure that is non-conforming, would prevent the applicant from reasonably expanding the existing kitchen area. Therefore, this finding can be made.

3. *That granting the variance would not constitute the granting of a special privilege inconsistent with the limitations of other properties in the same zoning district;*

This neighborhood was originally constructed under the Los Angeles County jurisdiction with the side setback regulations being 5 ft. rather than the current development standard of 10 feet. Because of this particular property having a unique pie shape, and an existing residence that is already partially situated within the currently-required side yard setback, an addition to the property is

very limited. Granting this variance will allow the property owner to improve their home, consistent with other properties in the same (RS) zoning district. Therefore, granting this variance does not constitute granting a special privilege and meets this finding.

4. *That granting the variance will not be detrimental to the public health, safety or welfare, or injurious to property or improvements in the vicinity and zoning district in which the property is located; and*

The modest addition is at the rear of the subject property and will maintain the current setback distance from the property line. There will be no impact to the public health, safety or welfare and this finding can be made.

5. *That granting the variance is consistent with the General Plan and any applicable specific plan.*

The General Plan's land use designation for the subject property is Residential, Single-Family (R-SF), which allows for development of a single-family residence. Construction of this modest addition will not change the existing land use of the subject property. Therefore, the project is consistent with the Land Use Element of the General Plan. The subject property is not located in an area subject to a specific plan. Granting this variance is consistent with the General Plan and this finding can be made.

**Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the Planning Commission approves Variance No. VAR-2023-003 and Zoning Clearance No. ZCL-2023-083 subject to the following agreements and conditions:**

#### **I. INDEMNIFICATION AGREEMENT**

The City has determined that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of File No(s). VAR-2023-003 and ZCL-2023-083, or the activities conducted pursuant to this File No(s). VAR-2023-003 and ZCL-2023-083. Accordingly, to the fullest extent permitted by law, the applicant and property owner, and their successor and assigns, shall defend, indemnify and hold harmless the City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of File No(s). VAR-2023-003 and ZCL-2023-083, or the activities

conducted pursuant to File No(s). VAR-2023-003 and ZCL-2023-083. The applicant and property owner, and their successor and assigns, shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

## **II. CONDITIONS OF APPROVAL**

### **Community Development Department/Planning/Building and Safety**

1. The proposed project shall be built in compliance with the approved plans on file with the Planning Division.
2. All project conditions shall be imprinted on the title sheet of the construction drawings. The approved set of plans shall be retained on-site for the review of Building Inspectors. Prior to any use of the project site, all conditions of approval shall be completed to the satisfaction of the Director of Community Development.
3. The project approved herein is depicted on those sets of drawings, elevations, etc., stamped approved by staff on the approval date. Any modifications to these plans must be approved by the Department of Community Development staff prior to the changes on the working drawings or in the field. Changes considered substantial by the Planning staff must be reviewed by the Planning Commission. The determination of whether or not a change is substantial shall be made by the Director of Community Development.
4. Prior to issuance of grading or building permits, plans shall be reviewed and approved by the Department of Community Development to ensure compliance with the plans approved by the Planning Commission. The plans shall comply with the conditions contained herein, the Calabasas Municipal Code, and all City Resolutions and Ordinances.
5. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the applicant or its successors to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of the conditions of approval may result in the revocation of this approval.
6. This grant shall not be effective for any purposes until after the applicant, or its successors, and the owner of the property involved (if other than the applicant) have recorded an affidavit of acceptance of this resolution with the Los Angeles County Recorder's Office, and a certified copy of the recorded document is filed with the Community Development Department.

7. This approval shall be valid for one year and eleven days from the date of adoption of the resolution. The permit may be extended in accordance with Title 17 Land Use and Development Code, Article VI - Land Use and Development Permits.
8. All ground and roof-mounted equipment is required to be fully screened from view. Upon final inspection, Planning Division staff may require additional screening if warranted, through either landscaping, walls or a combination thereof.
9. All exterior lights are subject to the provisions set forth in the Lighting Ordinance Chapter 17.20 of the Land Use and Development Code.
10. Prior to commencement of construction, all necessary building permits must be obtained from the Building and Safety Division.
11. The project must comply with the building codes of Title 15.04 of the CMC at the time of building plan check submittal.
12. The project is located within a designated Very High Fire Hazard Severity Zone. The requirements of Chapter 15.04.900 of the CMC shall be incorporated into all plans.
13. The applicant shall provide the construction contractor(s) and each subcontractor related to the project a copy of the final project Conditions of Approval. The applicant and the City agree that these conditions shall be enforceable through all legal and equitable remedies, including the imposition of fines against each and every person who conducts any activity on behalf of the applicant on or near the project site. The applicant, property owner, and general construction contractor are ultimately responsible for all actions or omissions of a subcontractor.
14. Construction Activities - Hours of construction activity shall be limited to:
  - i. 7:00 a.m. to 6:00 p.m., Monday through Friday
  - ii. 8:00 a.m. to 5:00 p.m., Saturday

Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely affect adjacent residences or schools. No vehicles involved in construction of this project shall block the roadway at any time. The applicant or its successors shall notify the director of Transportation and Intergovernmental Relations of the construction employee parking locations, prior to commencement of construction.

## **Public Works Department/Environmental Services Division**

15. During the term of the City permit, the contractor, their employees, and subcontractors shall implement appropriate Best Management Practices (BMPs) to prevent pollution to local storm drains and waterways. Sediments, construction debris, paint, trash, concrete truck wash water and other chemical waste from construction sites left on the ground and streets unprotected, or washed into storm drains, causes pollution in local waterways via the storm drain system is against City ordinances and State laws. The BMPs implemented shall be consistent with City of Calabasas Municipal Code Chapters 8.28. Failure to implement appropriate BMPs shall result in project delays through City issued "Stop Work Notices" and/or fines levied against the owner/developer/contractor.
16. The applicant and contractors shall implement all reasonable efforts to reuse and recycle 75% of construction and demolition debris, to use environmentally friendly materials, and to provide energy efficient buildings, equipment, and systems.
17. Per the Calabasas Municipal Code Chapter 8.16, "no person shall collect and/or dispose of municipal solid waste or recyclable materials in the city without having first been issued a solid waste collection permit. Such permit shall be in addition to any business license or permit otherwise required by the City of Calabasas." The following companies and the only trash haulers authorized to operate in the City of Calabasas: American Reclamation (1-888-999-9330), Consolidated Disposal Service (1-800-299-4898), Recology (1-800-633-9933), Universal Waste Systems (1-800-631-7016), Waste Management/G.I. Industries (1-800-675-1171). An Encroachment Permit from the City Public Works Department is required prior to placing a refuse bin/container on any public street.

## **Los Angeles County Fire Department**

Obtain any applicable permits and approvals from the Los Angeles County Fire Department.

**Section 5. All documents described in Section 1 of PC Resolution No. 2023-784 are deemed incorporated by reference as set forth at length.**

PLANNING COMMISSION RESOLUTION NO. 2023-784 PASSED,  
APPROVED AND ADOPTED this 4<sup>th</sup> day of January 2024.

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Michael Harrison,  
Chairperson

ATTEST:

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Michael Klein, AICP  
Community Development Director

APPROVED AS TO FORM:

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City Attorney

Planning Commission Resolution No. 2023-784, was adopted by the Planning Commission at a regular meeting held January 4, 2023, and that it was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

“The Secretary of the Planning Commission shall certify the adoption of this Resolution, and transmit copies of this Resolution to the applicant along with proof of mailing in the form required by law and enter a copy of this Resolution in the book of Resolutions of the Planning Commission. Section 1094.6 of the Civil Code of Procedure governs the time in which judicial review of this decision may be sought.”