



**CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
COMMUNITY DEVELOPMENT DIVISION**

APPROVED PERMIT

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|------------|--|------------------------|--|
| APPLICANT: | Bill Hansell 217 Arlington Avenue Kensington, CA 94707 | APPLICATION NO.: | CDVR21-01040 |
| | | ASSESSOR'S PARCEL NO.: | 570-050-021 |
| | | PROJECT LOCATION: | 215 Arlington Avenue Kensington, CA 94707 |
| OWNER: | Kensington Fire Protection District 217 Arlington Avenue Kensington, CA 94707 | ZONING DISTRICT: | R-6, -TOV, -K |
| | | APPROVED DATE: | March 7, 2022 |
| | | EFFECTIVE DATE: | March 18, 2022 |

Unless this matter is appealed within the period of time prescribed by law, a VARIANCE PERMIT to allow a 15-foot ¼-inch front yard setback (where 20-feet is the minimum) and a 3-foot, 5-inch side yard setback (where 5-feet is the minimum) to enclose an existing, approximately 345-square-foot, second story deck space within the existing Kensington Public Safety Building in the KENSINGTON area is hereby APPROVED, subject to the attached conditions of approval.

Aruna M. Bhat
County Zoning Administrator

By: 
Lashun C. Cross
Deputy Zoning Administrator

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE (1) YEAR from the effective date if the action allowed by this permit is not undertaken within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDVR21-01040;
BILL HANSELL (APPLICANT) AND KENSINGTON FIRE PROTECTION DISTRICT
(OWNER) AS APPROVED BY THE ZONING ADMINISTRATOR ON MARCH 7, 2022**

I. Growth Management Performance Standards

1. Traffic: The project is for the enclosure of a portion of an existing second level deck. The project will not generate any additional traffic trips to and from the project site. The applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements, and the project is not anticipated to increase traffic trips within the immediate neighborhood.
2. Water: The subject property currently receives water service from East Bay Municipal District. The enclosure of a portion of an existing second level deck will not increase the need for water on the site.
3. Sanitary Sewer: The Growth Management Program (GMP) requires that new development demonstrate that adequate sanitary sewer quantity and quality can be provided. The subject property currently receives sanitary sewer service from Steve Sanitary District. The enclosure of a portion of an existing second level deck will not increase the need for sanitary services.
4. Fire Protection: The subject property is within the Kensington Fire Protection District area. The enclosure of a portion of an existing second level deck will not generate more demand for fire protection facilities at the site.
5. Public Protection: Public protection standards under the GMP require that a Sheriff facility standard of 155 square feet of station area and support facilities per 1,000 in population shall be maintained within the unincorporated area of the County. The project will not increase the population and thus will not increase the demand for police service facilities.
6. Parks & Recreation: The project will not increase the demand for parks or recreation facilities, as the project will not increase housing stock in the unincorporated area of the County.
7. Flood Control & Drainage: The parcel is located in flood zone X. Additionally, the project will not increase the amount of impervious surface substantially that would

change existing drainage patterns. Therefore, the project will not create a hazard associated with any existing flood hazard condition.

II. Variance Findings

1. ***Required Finding: That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.***

Project Finding: A variance was originally granted for the existing building to allow for the maximum use of the site for the public safety building. The project is enclosing an existing deck and is an extension of the existing building elevation and does not create a smaller side yard or front yard than what currently exists. This deck is already built at a variance and enclosing the deck would not further exacerbate the front setback. Therefore, the variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective R-6 land use district in which the subject property is located.

2. ***Required Finding: That because of special circumstances 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 of the rights enjoyed by other properties in the vicinity and within the identical land use district.***

Project Finding: The building is currently existing in the current location since the construction in the 1970's. The project is utilizing the existing space which limits the amount of area where the project could be. The existing building was built towards the street side of the parcel due to there being the Hayward Fault Seismic Hazard Zone in the rear, this prevented the building from being built further in the rear yard. As such, the only option to increase conditioned space is to enclose the existing 2nd story deck. Additionally, the building currently sits at a 15' - 1/4" front setback and a 3' - 5" side yard setback. The proposal simply encloses a portion of an existing second level deck that does not further encroach into any setback. The enclosure remains flush with this established non-conforming side yard and front yard and does not create a smaller side yard. Thus, strict application of the R-6 zoning regulations would deprive the subject property of the rights enjoyed by other properties in the immediate vicinity and within the identical land use district.

3. *Required Finding: 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 overall intent and purpose of the R-6 is to promote the development of single-family residences and those uses auxiliary to them. While a fire station is not inherently a single-family use, it is an allowed use under Contra Costa County Code 84-4.404 – Uses – Requiring land use permit. As such, a land use permit was approved for this Fire Station (241-67). The variance request would be to enclose an existing space that would not expand the overall building footprint or height. Therefore, the variance request is consistent with the intent and purpose of the respective land use district and prior approvals for the fire station.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDVR21-01040:

Project Approval

1. **This Variance approval** is granted to allow a 15-foot ¼-inch front yard setback (where 20-feet is the minimum) and a 3-foot, 5-inch side yard (where 5-feet is the minimum) to enclose an existing 345-square-foot, second story deck space on the existing Kensington Public Safety Building that meets the requirements of Section 26-2.2006 of the County Ordinance Code.

The Variance approvals described above are generally based on the following:

- Variance application and related materials submitted to the Community Development Division (CDD) on December 9, 2021;
- Revised Architectural Plans submitted to DCD on February 4, 2022.

General Provisions

2. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of an application for a new Variance permit.

Payment of Fees

3. This application is subject to an initial application deposit of \$3,412 which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first. The applicant may obtain current costs by contacting the project planner.

If the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

Noise Attenuation of Mechanical Equipment

4. The applicant shall implement common practical solutions to attenuate the sound of rooftop mechanical equipment, which shall include shielding the garage exhaust fan and adding sound-deadening material to the Energy Recovery Ventilation (EVR) unit, which must be added to comply with Title 24 Energy requirements. It is understood that all of the older existing equipment will be removed as part of the project scope of work and the new units will meet code requirements.

Existing Conditions and New Foundation Work Review

5. The applicant shall conduct a visual pre-construction review on the project site with the immediate neighbors at 219 Arlington Ave, Kensington, to photograph the existing conditions of the shared property line, for future reference. The applicant will use drilled piers instead of pile driving per the recommendation of the geotechnical consultant, as drilling is relatively quiet and does not impact adjacent surfaces.

The applicant's geotechnical consultant shall observe and document the installation of foundations and observe the condition and test the compaction of any fill placed at the site. The geotechnical consultant shall check that the contractor's work conforms to the geotechnical aspects of the plans and specifications, to ensure that the foundation system and paved areas are constructed in accordance with the design recommendations.

Construction Period Restrictions and Requirements

6. The applicant shall comply with the following restrictions and requirements:
 - A. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are 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 (Federal)
- Lincoln's Birthday (State)

President's Day (State)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Juneteenth National Independence Holiday (Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (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: [Federal Holidays \(opm.gov\)](http://www.opm.gov)
California Holidays: <http://www.ftb.ca.gov/aboutftb/holidays.shtml>

- B. Transportation of large trucks and heavy equipment is subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.
- C. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows.
- D. All internal combustion engines shall be fitted with mufflers that are in good condition and stationary noise-generating equipment such as air compressors shall be located as far away from existing residences as possible.
- E. Construction equipment and materials shall be stored onsite.
- F. The construction site shall be maintained in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be disposed of as necessary.
- G. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles.
- H. All stationary noise-generating equipment such as air compressors and concrete pumps shall be located as far away from adjacent residences as possible.

ADVISORY NOTES

ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.

- A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

- B. Prior to applying for a building permit, the applicant is strongly encouraged to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the project:

- Contra Costa County Building Inspection Division
- Contra Costa County Environmental Health Division
- East Bay Municipal District
- Kensington Fire Protection District
- Stege Sanitary District