
FW: Application 251357 — October 28 Planning Commission

From Riley Rhodes <Riley.Rhodes@santacruzcountyca.gov>
Date Mon 10/19/2026 2:29 PM
To Rebecca Rockom <Rebecca.Rockom@santacruzcountyca.gov>

Correspondence regarding 251357.



Riley Rhodes

Planning Technician
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 [Book time to meet with me](#)

From: John Stott <jpstott@gmail.com>
Sent: Monday, October 19, 2026 2:27 PM
To: Riley Rhodes <Riley.Rhodes@santacruzcountyca.gov>
Subject: Application 251357 — October 28 Planning Commission

******CAUTION:**This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email.****

Dear Planning Commission Members,

I am writing to urge you to deny the application under review and support our community's appeal.

My name is John Stott. I am Mary Jo Bernstein's cousin—my great-grandmother originally bought the lots on 18th Ave, behind the home at 154 Sunny Cove. Today, I own the side of the duplex located at 137 18th Avenue, and my fence connects directly to the fence this structure was built against. The structure in question is so substantial that it even has its own address number on it, and I question that though nominally it is a shed, it may be intended for other uses besides storing the owner's possessions.

Our neighborhood's character is defined by open yards, not imposing walls. Proper property setbacks are precisely what keep it that way and maintain the integrity of our community.

Properties in the neighborhood are regularly being updated and in some cases completely replaced, but these projects should adhere to the rules and regulations that the planning commission has put in place in order to maintain the character and ensure the safety of all in the community. My understanding is that variances are usually granted because strict enforcement would cause a unique hardship due to special conditions of a specific property. I do not see a "unique hardship" in this particular case, but I do see major inconsistencies within the "limitations applied to other properties in the area", as well as a true lack of "harmony with the general intent of the zoning objectives".

If this application is approved, it will send a clear and dangerous message to every property owner in the area: build first without permission, get red-tagged, apply afterward, and easily secure a variance. This sets a terrible precedent that undermines our local zoning rules.

This is a decision that impacts the future of the entire neighborhood, not just one individual shed. Please protect our community standards and deny this application.

Sincerely,

John Stott
137 18th Avenue

SUPPLEMENTAL CORRESPONDENCE NO. 3

Appellant's Response to the Staff Letter dated September 11, 2026 and the Applicant's Letter dated October 15, 2026

Application 251357 — 154 Sunny Cove Drive (APN 028-221-16) — Planning Commission, October 28, 2026, Item 8

October 22, 2026

Santa Cruz County Planning Commission

c/o Riley Rhodes, Commission Support; Rebecca Rockom, Project Planner

701 Ocean Street, Santa Cruz, CA 95060

Members of the Commission:

This responds to the staff letter in your packet, dated September 11, 2026, and to the applicant's letter dated October 15, 2026, which was not in the packet and was distributed on October 22. The staff letter was written eight days after the appeal was filed and before Supplemental Correspondence No. 1 (October 2) and No. 2 (October 13); it does not address either. What is before the Commission that was not before the Zoning Administrator: the appellant's stamped survey (September 2), the staff letter's statement that the parcel is 4,000 square feet (September 11), the applicant's own stamped survey (October 15), and the County's record of every variance it has heard since 2023 (Attachments 1 and 3). It was prepared by the project planner who prepared the August staff report and reviewed by the Principal Planner who presided at the August 21 hearing. The appellant responds in four parts, one for each of the four facts that decide this appeal. The box below is the whole of it; the four parts, the gaps in the record, and the four attachments are the record behind each line. Packet pages are those of the Commission's packet; "Appeal, Exhibit" refers to the exhibits attached to the appeal (packet pp. 5-49) and "staff report Exhibit" to the exhibits of the Zoning Administrator staff report (packet pp. 50-95).

Zero compliance. Zero setback. Zero reasons. Over the neighbor's property line.

Why this application cannot be approved

- **Zero compliance.** Ordered with "Permitting: No" on the form. Twice the floor area the code allows without a permit, taller than allowed, on the property lines where the zone requires five feet on the side and fifteen at the rear, with walls staff says must be modified to meet the building code. Red-tagged April 24, 2025; Notice of Violation recorded June 5, 2025. The County offered the conforming shed at the red tag and in four letters; the applicant declined each time. (Part 1.)
- **Zero setback.** The applicant's surveyor measured the lot on August 1, 2025 — fourteen weeks after the red tag, three weeks before the application. On August 18 the applicant's consultant told the County's investigator the survey was coming "soon"; on August 20, "We have the survey." The application was filed August 22. The applicant's written findings put the lot at 3,883 square feet; nothing filed placed any part of the structure on or over the property line. The survey, as now produced, measures 4,000 square feet and places the siding on the line and the eave over it. It was first produced with the applicant's letter dated October 15, 2026, and reached the appellant on October 22. (Part 2; applicant's Attachment 6.)
- **Zero reasons.** Since January 2023 the Zoning Administrator has heard 71 variance requests; 69 approved, none denied. Seven recognized construction done without a permit; six cite a condition of the land. This one cited the size of the lot; staff struck that on August 18 and

wrote nothing in its place. The staff letter names no circumstance. The applicant's eight-page letter names none. What is offered instead — other owners' 1930s structures, the appellant's own pre-ordinance garage, the storage of bicycles — is not a circumstance of this land. (Part 3; Attachments 1 and 3.)

- **Over the neighbor's property line.** Two stamped surveys — the appellant's and the applicant's — place the wall on the property line and the roof over it, onto 145 18th Avenue. Staff's reply was that "a formal survey has not been provided." Staff's own rule: if any portion crosses the line, the building "would need to be modified or reconstructed." In 2024, a neighbor's telephone call about a possible line conflict on an undeveloped lot produced a survey condition "to prevent potential encroachment" (Application 231105). Here the encroachment is surveyed and there is no condition. A variance modifies the County's setback; it cannot move a property line. (Part 4.)
- **Request:** deny the variance and, on that basis, grant the appeal. If the Commission is inclined to any other action, continue to a date certain for a measured survey of the parcel and the structure, with the foundation exposed so it can be located. Measure first.

Part 1. Zero compliance — what was built, and what the County offered instead.

The structure was ordered on December 23, 2024. The order form in the approved plan set identifies the use as "Custom Shop" and states "Permitting: No" (staff report Exhibit D, packet p. 67; enlarged at Attachment 4). As built it is approximately 234 square feet where the code allows 120 without a permit, 11 feet 9 inches tall where the code allows 10, and on the side and rear property lines, where the zone requires five feet on the side and fifteen at the rear. A shed small enough to qualify for the exemption — 120 square feet, 10 feet tall — could sit three feet from the lines with no variance or other development approval (staff report, packet p. 52). At the hearing, staff stated that "the building will likely need to be modified to comply with the building code given where its openings are" and that "that whole wall assembly on both the side and rear" would need to be modified (Appeal, Exhibit E — the hearing transcript — packet p. 45). It was red-tagged on April 24, 2025. A Notice of Violation was recorded against the parcel on June 5, 2025: "oversized accessory structure within side and rear yard in coastal zone without permits" (Appeal, Exhibit F, packet pp. 48–49; code case NV25236). None of this appears in the staff report or the staff letter, which describe the structure only as one to "recognize."

The staff letter states: "Staff advised the applicant to reconstruct the shed to conform to this standard, but the applicant decided to proceed with a variance request to recognize the existing structure" (p. 3). That advice was given at the red tag in April 2025 and in four letters dated September 26, 2025, November 20, 2025, March 11, 2026, and May 27, 2026 (Appeal, Exhibit D). The applicant's counsel answered on April 28, 2026 that 120 square feet "is not a structure of sufficient size" (Supplemental No. 1, Exhibit S-9). A conforming non-habitable accessory structure — up to 120 square feet, 10 feet tall, three feet from the lines — fits behind the residence on the applicant's own plan dimensions (Appeal, Section IV). A structure meeting that standard, verified by survey, would end this appeal. Denial of the variance takes nothing from the applicant that the code gives him.

Part 2. Zero setback — the application, and the survey of August 1, 2025.

The applicant's letter dated October 15, 2026 attaches, as Attachment 6, a boundary survey by Jeff S. Nielsen, LS 6832, Mid Coast Engineers, Job No. 25085 — the job number on the surveyed detail in the approved plan set. Sheet 1 (dated October 6, 2026) carries the note: "SURVEYED ON AUGUST 1, 2025 AT

THE REQUEST OF EDDIE SHIMMON. RE-SURVEYED ON SEPTEMBER 30, 2026 AT THE REQUEST OF EDDIE SHIMMON; SEE DETAIL ON SHEET 2.” Sheet 2 is dated October 5, 2026.

The County’s code investigator asked on August 18, 2025 whether “any determination or survey has been made.” The applicant’s consultant answered the same day: “We should have the survey soon.” On August 20, 2025 — the day the investigator proposed a Stipulation and Order for an August 29 Administrative Hearing — the consultant wrote: “We have the survey and the Building Designer went out today to measure, etc to prepare plans for the discretionary application” (Supplemental No. 1, Exhibit S-1 and Chronology). The fieldwork was then nineteen days old. The application was filed on August 22, 2025.

What the applicant’s survey shows	What the application and the staff report said
Lot 5 measured 99.98 × 39.99 ft and 100.01 × 40.03 ft — 4,000 square feet (record 40 × 100, Map 12 M 1).	Applicant’s Variance Findings: “The size of the property is only 3,883 sq. ft.” (packet p. 90). Staff report: 3,833 sq. ft.; “The special circumstance in this case is the small size of the parcel” (packet p. 52).
“SHED SIDING ON PROPERTY LINE.” “0.36’ EAVE TO P.L.” and “0.08’ SHED TRIM TO P.L.” over the line onto 145 18th Avenue. “EAVE ON P.L.” on the south line. Fence centerline 0.29 ft onto 145 18th Avenue.	Plan detail (same job): foundation annotated 0.2 and 0.5 ft inside the lines; no eave line drawn on the two boundary sides; no dimension from the roof edge to the line. Staff report: built “to within less than one foot” of the lines (packet p. 52). Staff to the Zoning Administrator at the hearing: “The existing building is more than zero feet from the side rear lines, it’s not built on the fence, it’s built adjacent to the fence” (Appeal, Exhibit E, packet p. 44).
Fieldwork August 1, 2025: fourteen weeks after the red tag of April 24, 2025; three weeks before the application of August 22, 2025. “We have the survey,” August 20, 2025.	Survey first produced with the applicant’s letter dated October 15, 2026, after a re-survey on September 30, 2026; distributed to the appellant October 22. The appeal’s request for the complete survey (September 3, 2026) was not answered. Staff letter, September 11, 2026: “a formal survey has not been provided.”

Sheet 2 labels its east-line notes — the eave, the trim and the fence centerline — “ON LOT 6.” The lot east of the structure, where those notes point, is Lot 18 (145 18th Avenue), as both sheets label it; Lot 6 is the side neighbor to the south.

Three pairs of figures, for the record. The applicant’s findings stated the lot at 3,883 square feet; his survey measures 4,000. His plan detail placed the foundation 0.2 feet inside the line; his survey places the siding on it. His letter describes the overhang as “approximately four inches” and the trim as “approximately one-half inch” (p. 5); the sheet it attaches reads 0.36 and 0.08 feet — four and a third inches and one inch.

The applicant’s letter states that the overhang “was already known” and “was the basis of application for removal” (p. 4). The Zoning Administrator’s stated reason for requiring no correction in the meantime was a “good faith application” (Appeal, Exhibit E, packet p. 46). That finding was made without the survey.

The staff letter now states that the parcel “can be assumed” to be a 40 × 100 foot rectangle and that 4,000 square feet is “likely more accurate” than the 3,833 square feet in the County GIS (p. 2). The appellant agrees it is 4,000; so does the applicant’s survey; so does the County’s own 2009 file for the

house (Application 09-0126, applicant's Attachment 5). The original finding named "the small size of the parcel" as a special circumstance; the August 18 revision struck it; the Zoning Administrator's stated reasoning referred to "a reduced parcel size of 170 square feet" (Appeal, Exhibit E, packet p. 44). That deficit never existed. With the parcel at 4,000 square feet, the lot-coverage point in Section III of the appeal falls away; the appellant withdraws it.

Part 3. Zero reasons — five things about the land, and none of them is present.

County Code section 13.10.230(C) describes what a special circumstance looks like: "special circumstances applicable to the property, including size, shape, topography, location, and surrounding existing structures." Each is a fact about the land itself. On this parcel:

1. **Size.** 4,000 square feet — the zone minimum, a standard lot. The staff letter now says so (p. 2); the applicant's own findings said 3,883; the applicant's own survey says 4,000. Appeal Exhibit A plots Lot 5 of Map 12 M 1 at 40 × 100 feet of record, identical to each Sunny Cove lot shown on the recorded map. In every other report in this period in which Finding 1 cited the size of a parcel, there was less buildable land than the zone requires — thirteen parcels below the zone minimum, and one with its buildable area halved by slope (Attachment 3, Table B).
2. **Shape.** A rectangle, 40 by 100, like each Sunny Cove lot shown on the recorded map.
3. **Topography.** Flat — 2 to 3 percent slope (staff report Exhibit F).
4. **Location.** A residential block. Staff report Exhibit F maps no geologic hazard, no fire hazard, no sensitive habitat, and no other constraint.
5. **Surrounding existing structures.** A structure next to the lot that constrains it — one that blocks light, access, or the buildable area. None has been identified. The residence itself is where the 2013–14 permits placed it (CDP 09-0126; B-132628), in compliance with every setback, with a compliant rear yard behind it (Appeal, Section IV); the Zoning Administrator described that placement as the applicant's choice: "perhaps that's why the Applicant chose that location in the first place or maybe to get a little more functionality out of their rear yard" (Appeal, Exhibit E, packet p. 44). A choice made for functionality is a personal circumstance, not a circumstance of the land, and a condition shared by every built-out lot in the district is not special. The Zoning Administrator stated the circumstance a second way: "it's really a matter of there not being anywhere else on the parcel to place the proposed shed" (Appeal, Exhibit E, packet p. 44). The proposed shed is the 234-square-foot one the applicant chose. The shed the code allows fits (Part 1; the applicant's own photograph at packet p. 89 marks a 120-square-foot outline on its floor). The circumstance is the choice. And on any reading of "surrounding existing structures," a neighbor's structure cannot deprive this lot of anything.

None of the five is present. The finding also requires that strict application "deprive such property of privileges enjoyed by other property in the vicinity." It does not: the conforming shed fits. The applicant can have what every neighbor can have. The variance would give him more.

The Zoning Administrator offered a third reason: that "the back wall of the shed functions similar to that of a fence" (Appeal, Exhibit E, packet p. 44). A fence may stand on a property line because it is a fence — no roof to drain onto the neighbor, no wall assembly subject to the fire code, no openings, no interior. If a building wall at the line were a fence, there would be no rear-yard setback left to vary, on this lot or any other.

What is offered instead is not about the land. The staff letter offers two comparisons; the applicant's letter adds a third:

6. **Other sheds and garages in the neighborhood.** The letter states that nearby accessory structures “appear to be near or adjacent to” property lines (p. 3); the applicant says “at least seven” of fifteen homes have them. No structure is identified, measured, dated, or checked for a permit. The Zoning Administrator himself described them as examples of reduced setbacks, “non-conformities aside” (Appeal, Exhibit E, packet p. 44). The only evidence in the record of their age and size is the testimony of two neighbors at the August 21 hearing that the surrounding sheds and garages date to the 1930s and are small. Structures that predate the setback ordinance are legally nonconforming; the appellant's own one-car garage at 145 18th Avenue, which the applicant's letter features, is one of them — built in the 1930s, never altered, not before the Commission. A grandfathered structure is not a privilege available to any property under the code today. And a comparison to what other owners have is not a circumstance of this lot; it is a question under the third finding (special privilege), not the first. This comparison has been offered four times — in the applicant's April 28 letter, in the staff report, in the staff letter, and in the applicant's October 15 letter — and it is most of what the October 15 letter contains.
7. **A garage.** The staff letter compares the structure to a garage that may be built to a zero setback on a small parcel with an administrative approval (p. 3). The County Code defines a garage as a structure “designed for the storage of motor vehicles and large enough to accommodate at least one compact car parking space” (SCCC 13.10.700-G). This structure has no vehicle access, and the applicant's own order form identifies its use as “Custom Shop” (staff report Exhibit D). On the applicant's site plan the side yards are approximately five feet wide, the north side yard is occupied by the residence's permitted light well, and the structure's only approachable face is 3'6" to 5'7" from the rear wall of the residence. No driveway can reach it without removing part of the house. The applicant did not apply for a garage because no garage can be located there. A garage at a zero setback would in any case require its own Level IV approval and findings — none of which were applied for or noticed — and the code allows no openings in garage walls less than five feet from a side or rear line (SCCC 13.10.611(D)(6)(a)(i)); this structure has glazed openings within tenths of a foot of both. The comparison is to a building that could not be built on this lot.
8. **What the applicant would like to store.** The applicant's letter argues that the shed will hold bicycles, equipment and motorized scooters, that it is not visible from the street, and that neighbors signed letters of support. None is a variance finding. The three letters in support (packet pp. 93–95) are identical form letters dated June 26–30, 2025, before the application was filed.

After the staff report, the staff letter, and the applicant's letter, no one has identified a circumstance of this land. The sentence that remains in Finding 1 — “the small size of the parcel and the location of the existing residence on the lot are the special circumstances affecting the subject property” — is the same sentence used in the Zoning Administrator's report for 1240 Graham Hill Road, Application 241467 (2025), a different parcel in a different zone district, where the parcel was in fact smaller than the minimum. In that case, and in each of the other six after-the-fact variances heard by the Zoning Administrator since 2023, Finding 1 names a physical condition of the land — a slope, a creek, a flood zone, a right-of-way, or a lot smaller than the zone allows. Here it does not. (Attachments 1 and 3.)

Part 4. Over the neighbor's property line — two surveys, one rule, and nothing in the approval that meets it.

The staff letter states that the walls “appear to be located within the established fence line, but a formal survey has not been provided” (p. 2). The appeal was filed with a survey: Appeal Exhibit A, GV Land Surveying, Job V26077, signed and stamped by Vernon Little, PLS 8701, September 2, 2026. It finds the shed wall at the property line (0.01–0.03 ft), the roof overhang 0.47–0.49 ft over the line onto 145 18th Avenue, and the metal building frame, ribs, and main roof beam over the line. The concrete foundation could not be located because the fence blocked access. No surveyor's setback certification was obtained before the slab was poured. The applicant's survey (Part 2) now places the siding on the line, the eave 0.36 ft and the trim 0.08 ft over it, and the fence centerline 0.29 ft onto 145 18th Avenue. The fence line is not the property line — the applicant's own surveyed detail in staff report Exhibit D draws “EXISTING FENCE” and “PROP LINE” as separate lines — and the appellant's fence cap was cut to fit around the structure's wall and frame (Supplemental No. 2, Photo 2). The applicant's letter says all the surveys are consistent. They are: two surveyors, two instruments, one answer — the wall on the line and the roof over it.

The staff letter states the governing rule: “If any portion of the structure extends across the property boundary, the building would need to be modified or reconstructed” (p. 3). On both surveys, portions of the structure do. The applicant's answer is that removing the eave and trim resolves it. It does not: removing an eave does not move a wall that both surveyors place on the line, and the appellant's surveyor places the frame, ribs and main roof beam over it; the applicant's sheet does not address the frame. The drawing the Zoning Administrator approved plots the foundation 0.2 and 0.5 ft inside the lines and the wall inside them; the structure as built is on the line. Condition I recognizes the structure “as indicated on the approved Exhibit D” (packet p. 62) — a drawing that is wrong by the only dimension the variance turns on. The applicant also states that the foundation is 0.2 and 0.5 ft inside the lines; those are the figures from the 2025 plan detail, the survey sheet states that shed points and the fence were measured, not that the foundation was exposed, and on the two sides that face a property line the foundation is under the wall and the fence. No one has seen it.

A variance modifies the County's setback standard as applied to the applicant's parcel. It confers no right to occupy the neighbor's land, and no condition, plan note, or trimmed eave moves a wall that is on the line. The County's practice when a property line is in question is on the record: in Application 231105 (December 20, 2024), after a neighbor telephoned about a potential property-line conflict on an undeveloped lot, staff added Condition II.A.5 — “A survey of the property must be provided with the building permit plans” — “in order to prevent potential encroachment of the proposed development onto neighboring properties.” That was a telephone call about a possible encroachment by a building not yet built. This is two stamped surveys of an actual one, and the letter offers no condition; it says only that a building inspector “can require” a survey “if the structure is not located as indicated” — which cannot be known without one. Of the 49 Zoning Administrator reports since 2023 that could be searched, none approved a structure that the record places on a neighbor's land (Attachment 3, Table C). Denial does not prolong the encroachment. On denial the Notice of Violation recorded June 5, 2025 stands, and the corrective action the County posted on April 24, 2025 applies as written: “obtain required permits to recognize, or resize structure and move to meet shed exemptions, or remove structure” (Supplemental No. 1, Chronology). The structure the code allows stands three feet inside the line.

Gaps in the record.

The following are facts in the Commission's packet that the staff report and the staff letter do not mention, or mention without answering.

Community input. Four neighbors objected before the decision: Kathleen Gleitsmann, 135 18th Avenue (January 17, 2026; attached to the staff report as Exhibit G, packet pp. 82–83); John Stott, 137 18th Avenue (August 20, 2026, packet pp. 127–128); the appellant (August 15–19, 2026, packet pp. 96–126); and Neddi Gleitsmann, who spoke at the August 21 hearing. The staff letter states that correspondence “both in support of and in opposition” was received and reviewed (p. 1). It names no objector and answers none of the points raised. In the one other after-the-fact variance in this period that drew a neighbor objection — 437 Anchorage Avenue, Application 231273 (2023) — staff responded by adding two conditions, cutting the porch roof back to a two-foot setback and raising the fence (Attachment 1).

The conditions. The modifications staff described at the hearing — the openings and “that whole wall assembly on both the side and rear” (Appeal, Exhibit E, packet p. 45) — appear nowhere in the conditions of approval (packet pp. 62–63). The removal of the eaves appears only as a note on the plans (“REMOVE O.H.”), incorporated by Condition I; no condition states the requirement, sets a deadline, or requires verification by survey. The conditions set no date by which anything must be done. The permit form reads “Exp. Date (If not exercised): See Conditions”; the conditions state none, and the permit runs three years.

The staff letter also does not address:

- The four written determinations that a variance “may not be necessary,” and the absence of any record explaining the reversal between May 27 and July 14, 2026 (Supplemental No. 1, Section 2, Exhibits S-2, S-3).
- The required three-foot separation between the structure and the residence's light well, SCCC 13.10.611(D)(7), which was not varied, noticed, or dimensioned (Appeal, Section VII; Supplemental No. 1, Section 1).
- The builder's acknowledgment of the encroachment and the limits of the proposed fix (Supplemental No. 1, Section 1, Exhibit S-11).
- The Coastal Development Permit findings and the Local Coastal Program policies raised in the appeal (Appeal, Section VII).
- The CEQA ground: the Class 3 exemption was applied to completed construction without permits, in the coastal zone and a mapped scenic area, with no analysis under CEQA Guidelines section 15300.2 (Appeal, Section VII).
- The five questions submitted with Supplemental No. 1, restated below.

Questions for staff

The staff letter states that “the required variance findings have been made” (p. 3) but does not say what the special circumstance is. The appellant asks that the following be answered on the record before the Commission acts:

1. **What is the special circumstance?** Of the five the code describes — size, shape, topography, location, surrounding existing structures — which one, and what document shows it? The comparisons offered (other structures in the neighborhood; a garage; the applicant's storage needs) are not circumstances of this lot.

2. **What changed between May 27 and July 14, 2026?**
3. **Which structures in the neighborhood support the finding — what size, what setback, and what permit status?**
4. **What does this approval require the applicant to do, and by what date?**
5. **How will the building inspector know whether the structure is located as drawn, when two surveys say it is not?**

Request

The appellant asks the Commission to deny the variance and the coastal development permit that depends on it and, on that basis, grant the appeal. Denial does not overrule staff; it adopts the position staff put in writing at the red tag and in four letters. The applicant retains the right to build the conforming structure the County described to him in April 2025 and four times since.

The appellant renews three requests made in the appeal. First, the requested finding (Appeal, Section VIII): that the parcel possesses no special circumstance within the meaning of Government Code section 65906 and SCCC 13.10.230(C). Second, that the Commission decide the matter rather than remand it to the Zoning Administrator; if the Commission wants a measurement, a continuance to a date certain for a measured survey keeps the matter before the Commission, while a remand invites a further rationale, not a measurement. Third, that each Commissioner disclose on the record, before the item is heard, any communication outside the public record and any site visit (Appeal, Ex Parte Disclosure).

The appellant does not consent to approval in any form. Conditions govern how an approved structure is built; they do not supply the special circumstance the code requires before anything is approved, and a survey condition or a smaller structure written at the dais leaves Finding 1 as empty as it is now. If the Commission nonetheless affirms, the conditions at Appeal Section VIII.2 should at minimum apply — surveyor verification of the structure's location before any permit issues, eave removal verified by survey, a building permit application within 90 days, a one-year expiration, and written findings naming the parcel area and the special circumstance the approval rests on — so that the approval can be enforced and the record states what it rests on.

All grounds stated in the appeal and in Supplemental Correspondence Nos. 1 and 2 are preserved. The appellant asks that the County's audio recordings of the August 21, 2026 hearing and of this hearing be preserved as part of the record of this application.

Respectfully submitted,



David Bernstein
Manager, Milly Rose LLC, owner of 145 18th Avenue (APN 028-221-24)
Appellant
408 857 9872 | davidrbernstein@yahoo.com

Attachment 1: After-the-fact variances heard by the Zoning Administrator, 2023–2026.

Attachment 2: Summary.

Attachment 3: Variance decisions of the Zoning Administrator, 2023–2026 — counts, lot-size findings, and property lines.

Attachment 4: The structure's order form, enlarged.

cc: Mark A. Massara, Esq., counsel for the applicant (by email)

ATTACHMENT 1**After-the-fact variances heard by the Zoning Administrator, January 2023 – September 2026**

Compiled by the appellant from the Zoning Administrator agendas and staff reports posted on the County's website. Application numbers and hearing dates are given so that each entry can be checked against the posted report. Seven applications in this period sought a variance to recognize construction done without a permit; this is the seventh. (Two further items described on their agendas as recognizing existing work, Applications 231171 and 241006, could not be opened.) In each of the other six, Finding 1 identifies a physical condition of the land.

Hearing	Application	Property	Built without a permit	Special circumstance stated in Finding 1	Opposition in file
Oct 20, 2023	231273	437 Anchorage Ave, Santa Cruz	House re-framed with a raised plate height and added roof peak; porch roof	Parcel 2,297 sq ft where 5,000 sq ft is required; existing nonconforming footprint	One neighbor (height, porch encroachment); staff added two conditions in response
Apr 5, 2024	231477	7350 Viewpoint Rd, Aptos	Portions of the house and an ADU	Steep topography of the parcel	None
May 3, 2024	201399	6005 Laguna Rd, Santa Cruz	Reconstruction of a nonconforming house	Creek and riparian corridor on the west line; flood zone	None (neighbor "not objecting")
Mar 6, 2026	251377	226 Highland Dr, Aptos	Decks, 12-ft retaining wall, 13.5-ft fence (code case NV25271)	Slopes exceeding 50 percent; limited buildable area	None
May 15, 2026	261033	471 Hawk Ridge Ln, Watsonville	Garage/ADU foundation set 3.5 ft from the right-of-way	Sloping topography bisecting the site; right-of-way location	None
Aug 21, 2026	251354	1200 Valencia Rd, Aptos	380 sq ft deck and retaining wall	2.5 acres at 30-50 percent slopes	None
Aug 21, 2026	251357	154 Sunny Cove Dr, Santa Cruz	234 sq ft shed at a zero setback (code case NV25236)	"The small size of the parcel and the location of the existing residence on the lot." Parcel-size basis struck Aug 18, 2026.	Four neighbors, in writing and at the hearing; no change to the project or conditions

The Finding 1 sentence used for 154 Sunny Cove Drive also appears, with the same wording, in the Zoning Administrator's report for 1240 Graham Hill Road, Application 241467 (heard August 29 / September 5, 2025), a 17,194-square-foot parcel in the R-1-20 district.

Sources: County of Santa Cruz, Zoning Administrator agendas (www2.santacruzcountycalifornia.gov/planning/plnmeetings, Zoning Administrator) and the staff report posted for each hearing date and item.

ATTACHMENT 2 — SUMMARY

Zero compliance. Zero setback. Zero reasons. Over the neighbor's property line.

1. Built without a permit — on purpose.

"Permitting: No" on the order form. Twice the size the code allows without one. Taller than allowed. On the line where the zone requires 5 feet and 15. Walls staff says must be modified to meet the building code. Red-tagged. Violation recorded against the lot.

2. Asked for a zero setback with the wrong facts — while holding the right ones.

Aug 1, 2025: his surveyor measures the lot. Aug 18, to the County: survey coming "soon." Aug 20: "We have the survey." Aug 22: applies — lot "only 3,883 sq. ft." (survey: 4,000), walls drawn inside the line, nothing about the roof over it. The survey reaches the County fourteen months later.

3. Nobody has named a reason. Nobody.

The staff report's reason was crossed out August 18. The staff letter names none. Eight pages from the applicant's lawyer name none. The only reason in the record is a choice — in the Zoning Administrator's words, "perhaps that's why the Applicant chose that location." A legal shed fits. The County offered it four times. He said no.

4. The only argument offered: buildings that don't count.

Sheds from the 1930s, built before there was a setback rule. The appellant's garage, the same. A grandfathered building isn't a privilege anyone can apply for — the code calls it nonconforming. It has been offered anyway: in April, at the hearing, in the staff letter, and again on October 15. It is most of what the applicant's lawyer wrote.

5. Every other after-the-fact approval since 2023 had a reason on the land.

Seven of them. Six: a slope, a creek, a flood zone, a road, a lot too small to build on. This one: nothing.

6. It's over the line. Not found in any other application since 2023 — and nothing the Commission can vote on fixes it.

Two surveyors put the wall on the line and the roof over it. A variance changes the County's setback; it can't move a property line. No condition, no plan note, no trimmed eave moves a wall that's on the line.

No reason to grant it. One reason it can't be.

ATTACHMENT 3**Variance decisions of the Zoning Administrator, January 2023 – September 2026**

Compiled by the appellant on October 21–22, 2026 from County records: the Zoning Administrator agendas posted at www2.santacruzcountyca.gov/planning/plnmeetings, the staff report posted for each item, and the County's permit-status page for each application ([www2.santacruzcountyca.gov/PlanningApplicationStatus/Pln?n=\[application number\]](http://www2.santacruzcountyca.gov/PlanningApplicationStatus/Pln?n=[application number])). The County does not post Zoning Administrator minutes or action letters for this period; the status page is the only published record of each decision. The full list of 71 applications, by application number and hearing date, is available on request.

Table A. Counts

Item	Count
Variance applications on Zoning Administrator agendas, January 2023 – September 2026	71
County status: Approved	69
County status: Denied	0
County status: Withdrawn (after an appeal of the approval was filed) / Pending (hearing cancelled)	1 / 1
Staff reports that could be read (three are scanned images without text; two would not load)	66
Staff recommendation: approve with conditions / deny	66 / 0
Applications in which the variance recognized construction done without a permit (Attachment 1)	7
Of those seven, Finding 1 names a physical condition of the land	6
Of those seven, a neighbor objected before the decision / staff responded with a change or condition	2 / 1

Table B. Every report in which Finding 1 cited the size of the parcel

Zone minimum and parcel size as stated in each report. Three further reports could not be re-opened and are not listed (231491, 241438, 241353).

Hearing	Application	Property	Zone — minimum	Parcel	Smaller than the minimum?
May 19, 2023	221299	271 Rio Del Mar Blvd, Aptos	RM-2.5 — 2,500 sq ft	1,915 sq ft	Yes
Aug 4, 2023	221386	1531 Jennifer Dr, Aptos	R-1-10 — 10,000 sq ft	18,600 sq ft	No — buildable area halved by slope
Oct 20, 2023	231273	437 Anchorage Ave, Santa Cruz	R-1-5-PP — 5,000 sq ft	2,297 sq ft	Yes
Dec 20, 2024	231105	APN 042-191-10 (no situs), Aptos	R-1-4 — 4,000 sq ft	3,354 sq ft	Yes
Dec 20, 2024	231514	231 Lake Ct, Aptos	R-1-4 — 4,000 sq ft	3,789 sq ft	Yes

Hearing	Application	Property	Zone — minimum	Parcel	Smaller than the minimum?
Dec 20, 2024	231502	303 Beach Dr, Aptos	R-1-6 — 6,000 sq ft	4,704 sq ft	Yes
May 2, 2025	241383	3615 Moana Way, Santa Cruz	R-1-4-PP — 4,000 sq ft	2,405 sq ft	Yes
Jun 6, 2025	241462	2601 East Cliff Dr, Santa Cruz	R-1-3.5 — 3,500 sq ft	2,178 sq ft	Yes
Aug 1, 2025	241430	41 6th Ave, Santa Cruz	R-1-3.5 — 3,500 sq ft	2,400 sq ft	Yes
Aug 15, 2025	241425	480 6th Ave, Santa Cruz	R-1-3.5 — 3,500 sq ft	2,475 sq ft	Yes
Aug 29, 2025	241467	1240 Graham Hill Rd, Santa Cruz	R-1-20 — 20,000 sq ft	17,194 sq ft	Yes
Feb 13, 2026	251178	31 Rockview Dr, Santa Cruz	R-1-5-PP — 5,000 sq ft	3,750 sq ft	Yes
Mar 6, 2026	251208	437 Beach Dr, Aptos	R-1-8 — 8,000 sq ft	3,267 sq ft	Yes
May 1, 2026	251433	530 5th Ave, Santa Cruz	R-1-3.5 — 3,500 sq ft	2,004 sq ft	Yes
Aug 21, 2026	251357	154 Sunny Cove Dr, Santa Cruz	R-1-4 — 4,000 sq ft	3,833 sq ft (GIS estimate, July report); 4,000 sq ft (staff letter, Sept 11)	No — equal

Table C. Property lines and surveys

Of the 66 reports that could be read (Table A), 64 — all but this application and one other — were searched for any statement that a structure crosses onto an adjacent private property, for a survey in the record, and for a condition requiring a survey. Forty-nine opened; fifteen returned server errors on the day of the search and are not counted.

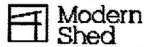
Item	Result
Reports stating that a structure crosses onto a neighbor's private property without the neighbor's consent	0 of 49
Reports with a survey in the record (boundary or topographic)	23 of 49
Reports with a condition requiring a boundary survey	1 — Application 231105 (Dec 20, 2024): after a neighbor telephoned about a potential property-line conflict on an undeveloped lot, Condition II.A.5 was added, "A survey of the property must be provided with the building permit plans," "in order to prevent potential encroachment of the proposed development onto neighboring properties"
Application 251357	Two stamped surveys place the wall on the line and the roof over it onto 145 18th Avenue. No survey condition.

ATTACHMENT 4**The structure's order form, dated December 23, 2024 — enlarged**

Enlarged from the approved plan set (Exhibit D to the staff report, sheet 2; packet p. 67), where it is reproduced at a size that cannot be read. Upper portion of the form shown; the complete form is on that sheet.

Note the box at the top center: "Permitting: No." At the top right: "Use: Custom Shop." Dated 12/23/24.

Docusign Envelope ID: 330CB581-6F80-4493-877D-54DE045114EF



Date: 12/23/24
Sales Rep/Ph #: Jeff Bergerson
360-789-7822
Installer: Dave W
Quote expires: 01/06/25

Model: Front Wall
Revised: R5
Job #: 2410-141
Height restriction: 0
Permitting: No

Customer name: Ed Shimon
Location: 154 Sunny Cove Dr
Santa Cruz, CA 95062
Size: 18 X 13
Use: Custom Shop

Specifications**Base Framing Package**

INITIAL

Sides B and D 12x, 14x

Standard walls include: (exceptions/options listed lower on page), 2x4 studs, R13 batt insulation, 7/16" OSB exterior sheathing, (ZipWall on open joint siding), pre-assembled top cap and transom glass frames with insulated double pane glass units. Roof and floor: see below

Wall Framing and Insulation:

2x6 replaces 2x4 wall framing-May be required for permitting- holes drilled for roping

R-21 Insulation-May be required for permitting

Front Wall Bearing Design

Front wall bears roof weight (eliminates roof beam) exchanges transom igus for traditional windows

Options

Customized design or violates panelization rules

Interior Wall Covering

8" MDF shiplap-primed

Electrical Preparations

Ceiling chase in all roof panels except ends above rake walls.(Allows overhead electrical box connection.)

Roof System

Roof system includes 1/2" plywood sheathing, roofing felt, snap-loc standing seam metal roofing and trim, glulam beam, ceiling liner, flashing and fascia. See below for rafter size and insulation value.

Classic - roof style

Water & Ice shield roofing underlayment -required in snowy or rainy climates and coastal regions

Specialty Finishes 24GA roofing upgrade - Ocean Guard

2x8 joist-rafters, R-50 rigid foam insulation - unvented, (1) 6.75x9.5 Glulam 14'

Upgrade roof overhang eaves: 18" Side A. 6" sides, B, C, D

Ceiling Liner

1x6 Cedar tight knot Tongue & Groove (replaces standard Pine T & G)

Floor System:

No floor system-Concrete slab by others. (Pressure treated bottom plate included)

Exterior Siding: (Unpainted unless specified below)

Open Joint rain screen. Factory PAINTED includes ZipWall and special vapor

Hardie Board w battens ***16" O.C. Smooth finish, Includes house wrap, window/door/corner trim (UNPAINTED)

Upper trim-Top cap/fascia - Unpainted

Extra Wall Height

0.50 Taller walls for more ceiling height-(number of feet in decimal to left)

Doors: - All doors include lock-sets

1 Framing for Larger Door (door by others)

Windows: - includes framing (all operable windows include screens)**Milgard Windows**

Custom ordered A250 Thermally Improved Aluminum windows (Int. & Ext. Anodized Aluminum - Silver)

1 48 x 18 Awning (annealed) with screen

1 120 x 18 (Split) Picture Transoms (annealed)

2 82 x 18 (Short leg = 7.75) Picture Transom (annealed)

Interior window trim:

Window trim by others

Crating / Loading

Hand loading into enclosed trailer for delivery

NOTES TO FABRICATION:



Side A,C,D
Side B

