



# SAN FRANCISCO PLANNING DEPARTMENT

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## Variance Decision

*Date:* August 28, 2007  
*Case No.:* **2007.0345V**  
*Project Address:* **60-62 PEARL STREET**  
*Zoning:* RM-1 (Residential, Mixed, Low Density)  
105-E Height and Bulk District  
*Block/Lot:* 3502/051  
*Applicant:* Phil Rossington  
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### DESCRIPTION OF VARIANCE – REAR YARD VARIANCE SOUGHT:

The proposal is to construct a new rear deck at the first floor to the rear of the existing two-story over garage, three-family dwelling.

**Planning Code Section 134(c)(2)** requires a minimum rear yard depth of 45 percent of the lot depth. The requirement may be reduced by averaging the depth of the adjacent buildings. The subject property has a required rear yard depth of approximately 26 feet. The existing building encroaches approximately seven feet into the required rear yard, leaving an existing rear yard of approximately 19 feet. The project proposes the construction of a new deck at the first floor above the ground floor garage and rooms. The new deck of approximately six feet wide by nine feet deep would be approximately eight feet above grade, leaving a rear yard of approximately ten feet from the deck and up to 19 feet elsewhere.

### PROCEDURAL BACKGROUND:

1. The Zoning Administrator held a public hearing on Variance Application No. **2007.0345V** on **Wednesday, June 27, 2007**.
2. This proposal was determined to be categorically exempt from Environmental Review.
3. Neighborhood notification under Planning Code Section 311 was processed separately and expired on July 28, 2007.

**DECISION:**

**GRANTED**, in general conformity with plans filed with this application to construct a new rear deck at the first floor to the rear of the existing two-story over garage, three-family dwelling, and subject to the following conditions:

1. Any further physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

**FINDINGS:**

Section 305(c) of the Planning Code states that in order to grant a variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

**FINDING 1.**

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other properties or uses in the same class of district.

**Requirement Met.**

- A. The subject property is in a neighborhood containing buildings with non-complying structures, building extensions, and/or decks at the rear. The proposed six feet wide by nine feet deep rear deck at the ground level would be approximately eight feet above grade and would not extend higher or deeper than the existing adjacent rear decks.
- B. There are many other properties on the same block with structures with similar, if not larger, building height, lot coverage, and extension into the mid-block open space.
- C. Due to the existing topography, permitting the rear deck allows access to the rear yard at the ground level. The subject property will still maintain a larger rear yard than some of the properties on the block.

**FINDING 2.**

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in a practical difficulty or unnecessary hardship not created by or attributed to the applicant or the owner of the property.

**Requirement Met.**

- A. The literal enforcement of the Planning Code requirements for minimum rear yard imposes undue hardship on the applicant/owners without any compensating public benefit since there are other buildings in the surrounding area that have a similar development pattern to the subject property. Disapproving the variance would deny the owners the parity of treatment and would inappropriately restrict development of this property.
- B. The proposed eight-foot high rear deck at the ground floor provides direct access to a rear yard that is approximately eight feet higher. The deck would be at the same elevation as the existing rear yard.

**FINDING 3.**

That such variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

**Requirement Met.**

- A. The rear addition cannot be constructed in any other fashion without requiring a Variance. The amount of rear yard encroachment is similar to, if not less than, the other properties on the block.
- B. The approval of this variance will allow the applicants to use the subject property in a manner consistent with the surrounding land uses and in conformance with the requirements of the Planning Code. The neighborhood consists of mostly single-family, two-family and multi-unit dwellings of similar or larger lot coverage and rear yard encroachment.

**FINDING 4.**

That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

**Requirement Met.**

- A. The Department has not received any comments regarding the proposal since the filing of the application.
- B. The granting of this variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity, nor will it adversely impact the mid-block open space. The proposed project would not be out of character with the surrounding development pattern.

**FINDING 5.**

The granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

**Requirement Met.**

- A. The proposal is in harmony with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development.
- B. The proposal is consistent with the policies of the General Plan, including the following Residence Element objectives and policies:

**OBJECTIVE 12 TO PROVIDE A QUALITY LIVING ENVIRONMENT**

Policy 12.4 Promote construction of well-designed housing that conserves the existing neighborhood character.

- C. Planning Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:
  - 1. Existing neighborhood retail uses will not be adversely affected by the proposed project.
  - 2. The proposed project is consistent with the existing the building pattern within the neighborhood.
  - 3. The proposal will preserve the existing dwelling units.
  - 4. The proposed project does not affect neighborhood parking or public transit. The existing garage is maintained.
  - 5. The project will have no effect on the City's industrial and service sectors.
  - 6. The project will not require a seismic upgrade of the structure.
  - 7. The project will have no effect on the City's landmarks or historic buildings.
  - 8. The project would not affect any existing or planned public parks or open spaces.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

**APPEAL: Any aggrieved person may appeal this variance decision to the Board of Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Third Floor, or call 575-6880.**

Very truly yours,

Lawrence B. Badiner  
Zoning Administrator

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THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.