



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

October 24, 2012

**File Number:** 2012-7680

**Permit Type:** Variance

**Location:** 431 Purisima Ave. (near Sutter Ave.) (APN: 165-06-062)

**Applicant/Owner:** Emily Gutierrez / Richard and Emily Gutierrez

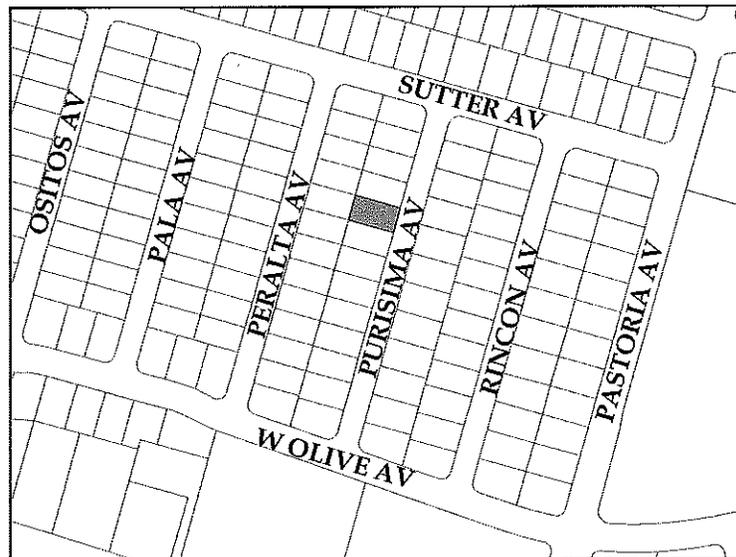
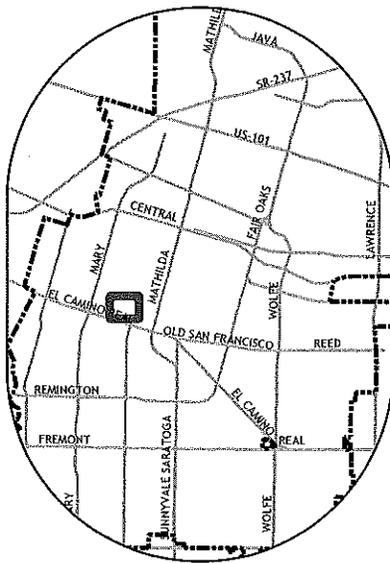
**Staff Contact:** Ryan Kuchenig, Associate Planner, (408) 730-7431

**Project Description:** To allow a combined side yard setback of 10' where 11' is required to accommodate a front and rear one-story addition to an existing single family home

**Reason for Permit:** A Variance is required for an addition that does not meet the required combined side yard setbacks

**Issues:** Setbacks

**Recommendation:** Approve with Conditions



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Residential Low Density	Same
Zoning District:	R-0	Same
Lot Size:	5,500	Same
Total Sq. Ft.:	1,522	2,318
Lot Coverage:	27.6%	42.1%
Parking:	2 (covered) + 2 (uncovered)	Same
Front Setback:	25' 6"	20' 5"
Left Setback:	5'	Same
Right Setback:	5'	Same
Rear Setback:	20'	Same

<b>Previous Planning Projects related to Subject Application:</b>	<b>No</b>
<b>Neighborhood Preservation Complaints:</b>	<b>No</b>
<b>Deviations from Standard Zoning Requirements:</b> The proposed project would extend the current combined 10' side yards setbacks which do not meet current requirements.	<b>Yes</b>

**Site Plan:** The existing home is situated on a mid-block lot in a neighborhood predominately developed with older homes built during the 1950s. Several homes in the neighborhood have been modified since original construction, including second story additions as well one-story additions affecting the appearance from the street. The existing home is considered legal nonconforming with regard to lot size, lot width and the combined side yard setbacks. The existing home maintains a 5' setback on each side. Although the minimum setback of 4' for one side is met, the combined side yard of 11' does not meet the standard which is based on 20% of the lot width (measured at the front yard setback). Prior to 2009, the combined side yard setback requirement had been 12'. The proposed 796 square foot addition would extend the home on each side towards the front and the back. The additions would allow for a larger living room, garage, and interior remodel that results in additional bedrooms and bathrooms.

The new living area at the front of the home would occupy space currently utilized as a front porch; therefore, the amount of covered area at this location is not being increased, but rather converted to living area. The proposed addition toward the back of the home, which is currently partially utilized as a sunroom, is considered an increase in the non-conforming setbacks. The addition would not extend any further beyond the current 5' setback line of the

house. The garage is proposed to be extended 5' to a 20' 5" setback from front the property line (For more detail, reference the Site Plan in Attachment B.)

**Floor Plan:** The existing home contains three bedrooms and two bathrooms and would be modified to contain four bedrooms and three bathrooms. Additional modifications are proposed to add a family room, dining area, and laundry room as well as enlarge a kitchen. The front addition to the garage is needed to allow remodeling for the additional bathroom and laundry room. A 120 s.f. rear covered patio is also proposed adjacent to the new family room along the extended five foot setback. (See Floor Plan in Attachment B for more detail.)

**Architecture:** The proposed additions will result in an updated and more contemporary appearance to the current ranch style home. This is proposed by replacing the wood siding that currently exists on the home and introducing a combination of stucco and stone base material. The roof form at the front will be modified through the removal of an existing porch with a smaller gabled front entry area. Additional modifications to the roof result in an increased height for the home; however, the same roof slope and overall scale of the structure is maintained. The new roofed area will match the composition roofing material of the existing home. The updated design of the home is compatible in overall scale of the existing home and similar to those found in more recent construction in the neighborhood.

**Parking:** The site currently maintains a two car garage and driveway for the parking of two additional cars, per Sunnyvale Municipal Code standards. The additional five foot extension of the garage and interior modifications results in increased area for the garage; however, it does not meet the required 400 square feet for two-car garages. Since the current garage (378 s.f.) was originally intended and legally constructed for two cars and meets the required 17' wide by 18' deep dimensions, it is not required to be brought up to Code. The remodeled garage will be approximately 394 s.f.

**Variance Justification:** The applicant has provided justifications and a list of homes within the neighborhood that have been either granted Variances or building permits for similar construction in Attachment C. Although this statement can be verified for many of the provided examples, specific standards at the time of these approvals have since changed in certain instances.

**Public Contact:** A total of 10 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No letters were received.

**Environmental Determination:** A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

**FINDINGS**

In order to approve the Variance the following three findings must be made:

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district. **(Finding met)**

The subject property is considered substandard in terms of lot size (less than 6,000 s.f.) and lot width (less than 57'). Neighbors along the same side of the street and further west share this characteristic, while properties across the street and further east meet these specific standards. Requiring the applicant to redesign to meet the current combined side yard setback will sacrifice design. As noted by the applicant, staff has considered and approved Variance applications for projects that propose additions along a non-conforming side setback within the surrounding area. In these cases, a similar substandard lot size and width conditions exist. Specifically, the proposed 10' combined side yard setback Variance request is similar to the properties at 467 Nuestra Avenue, 418 Ositos Avenue, and 1085 Polk Avenue where the extensions were granted.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. **(Finding met)**

The proposed addition to the front would modify the visual appearance and create a more contemporary design to the home. Such improvements are in character with recent construction found elsewhere in the neighborhood. The addition would extend along an existing five foot setback adjacent to a two-story home and would not be visible from the public street. The additions would not create a detrimental impact to the property or immediate neighborhood. The project meets the minimum required side yard setback, which also allows sufficient access along the side of the home.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. **(Finding met)**

There are several properties in the area that have built additions along the same 10-foot combined side-yard setback. Some of these additions were constructed prior to the current combined setback requirement,

while others received Variance approvals. Granting the Variance will not constitute a special privilege, but rather would allow the applicant to enjoy the same privileges as other property owners in the immediate neighborhood.

**ALTERNATIVES:**

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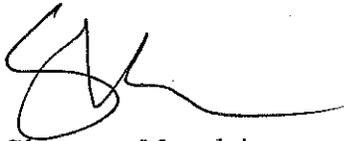
1. Approve the Variance with recommended Conditions in Attachment A.
2. Approve the Variance with modifications.
3. Deny the Variance.

**RECOMMENDATION**

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Alternative 1. Approve the Variance with recommended Conditions in Attachment A.

Reviewed by:

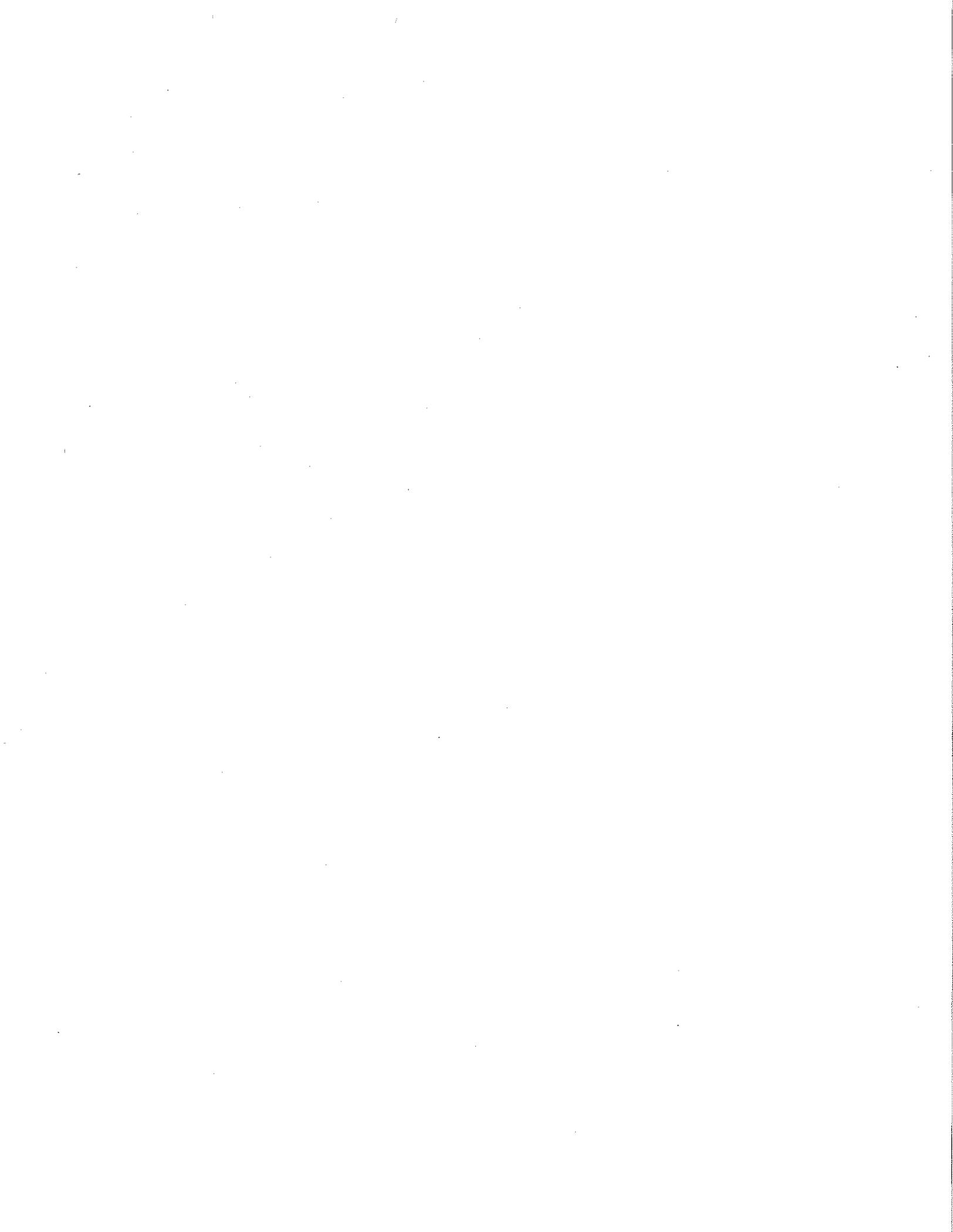


Shaunn Mendrin  
Senior Planner

Prepared By: Ryan M. Kuchenig, Associate Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Variance Justifications from the Applicant
- D. Photo of the Existing Home
- E. Photos of Neighboring Homes



**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
October 24, 2012**

**Planning Application 2012-7680**

431 Purisima Ave

Variance from combined side yard setbacks  
to allow 10' where 11' is required.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.**

**GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

**GC-2. PERMIT EXPIRATION:**

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not

exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-3. TREES:

No protected trees are approved for removal as part of this project. [SDR] [PLANNING]

GC-4 GARAGE:

The noted water heater location noted on the provided plans shall remain clear of the required 17' x 18' dimension for the parking of vehicles within the garage.

**BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).**

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. BLUEPRINT FOR A CLEAN BAY:

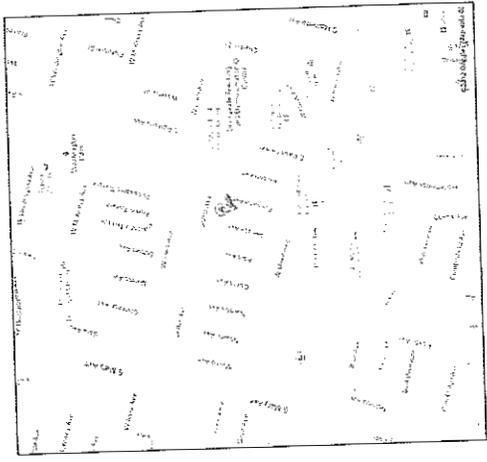
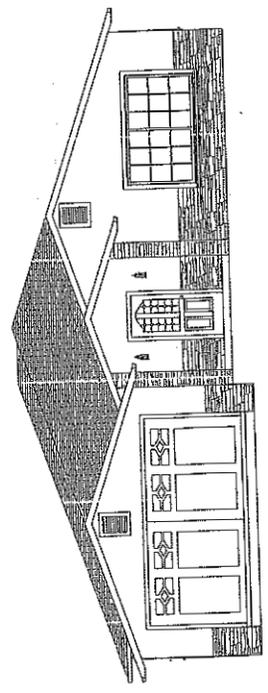
The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

REVISION	DATE

ROOM ADDITION FOR:  
**RICHARD & EMILY GUTIERREZ**  
 431 PURSIMA AVENUE, SUNNYVALE, CA 94086  
 408-636-6421



DATE	08/12/12
SCALE	3/16" = 1'
DRAWN	
JOB	
SHEET	A1



LOCATION MAP

**PROJECT INDEX**

A1: SITE PLAN, PROJECT INFORMATION,  
 PROJECT INDEX & LOCATION MAP  
 A2: EXISTING FLOOR PLAN, EXISTING  
 ADDITION  
 A3: PROPOSED NEW FLOOR  
 A4: ELEVATIONS

ALL CONSTRUCTION SHALL COMPLY WITH THE  
 2010 CBC, CMC, CFC, CEC, CAC & THE 2009 CA  
 ENERGY CODE

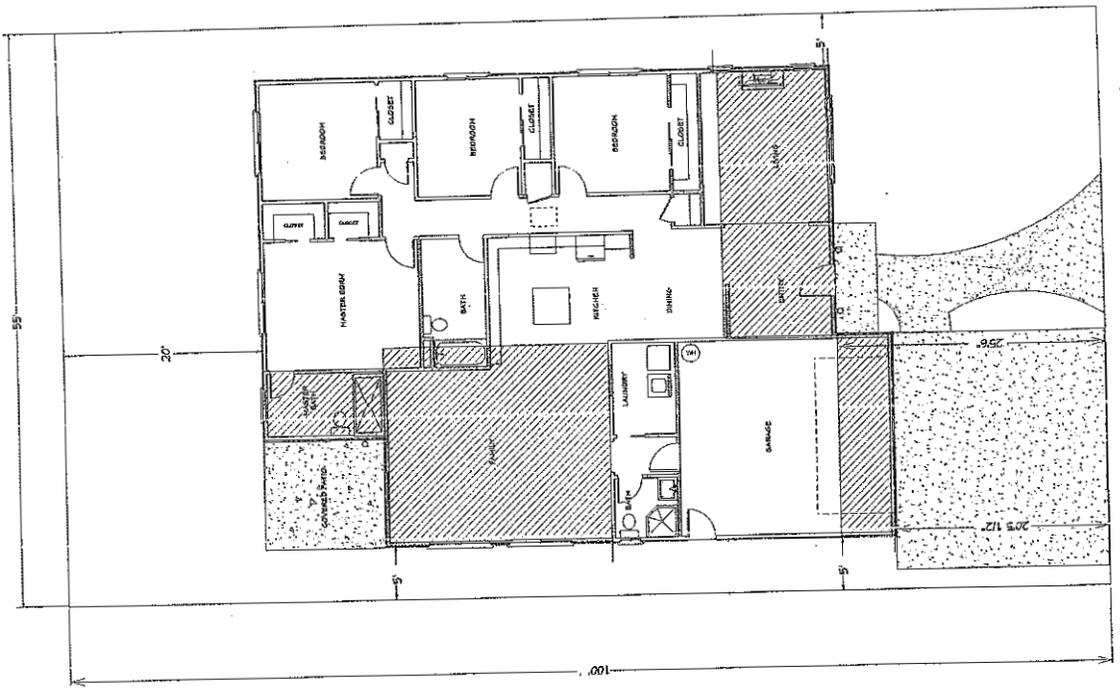
**PROJECT INFORMATION**

OWNER: RICHARD & EMILY GUTIERREZ  
 JOB SITE ADDRESS: 431 PURSIMA AVENUE,  
 SUNNYVALE, CA 94086  
 408-636-6421

APR 19, 08-02  
 LOT SIZE: 5,500  
 ZONING: R1

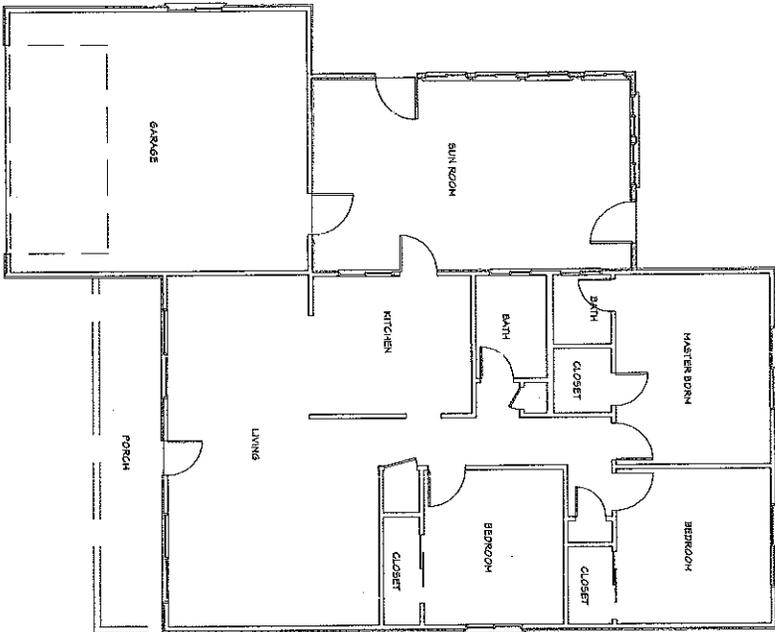
EXISTING LIVING AREA: 1,114 SF  
 EXISTING GARAGE AREA: 275 SF  
 (B) FLOOR AREA RATIO: 27%  
 NEW PROPOSED ADDITION: 756 SF  
 TOTAL NEW LIVING AREA: 1,870 SF  
 (N) FLOOR AREA RATIO: 41% SF  
 (INCLUDES TOTAL ROOF AREA)

**SCOPE OF WORK**  
 ADDITION



SITE PLAN

EXISTING FLOOR & ROOF PLAN



ROOM ADDITION FOR:  
**RICHARD & EMILY GUTIERREZ**  
 431 PURISIMA AVENUE, SUNNYVALE, CA 94086  
 408-636-6421

REVISION	DATE

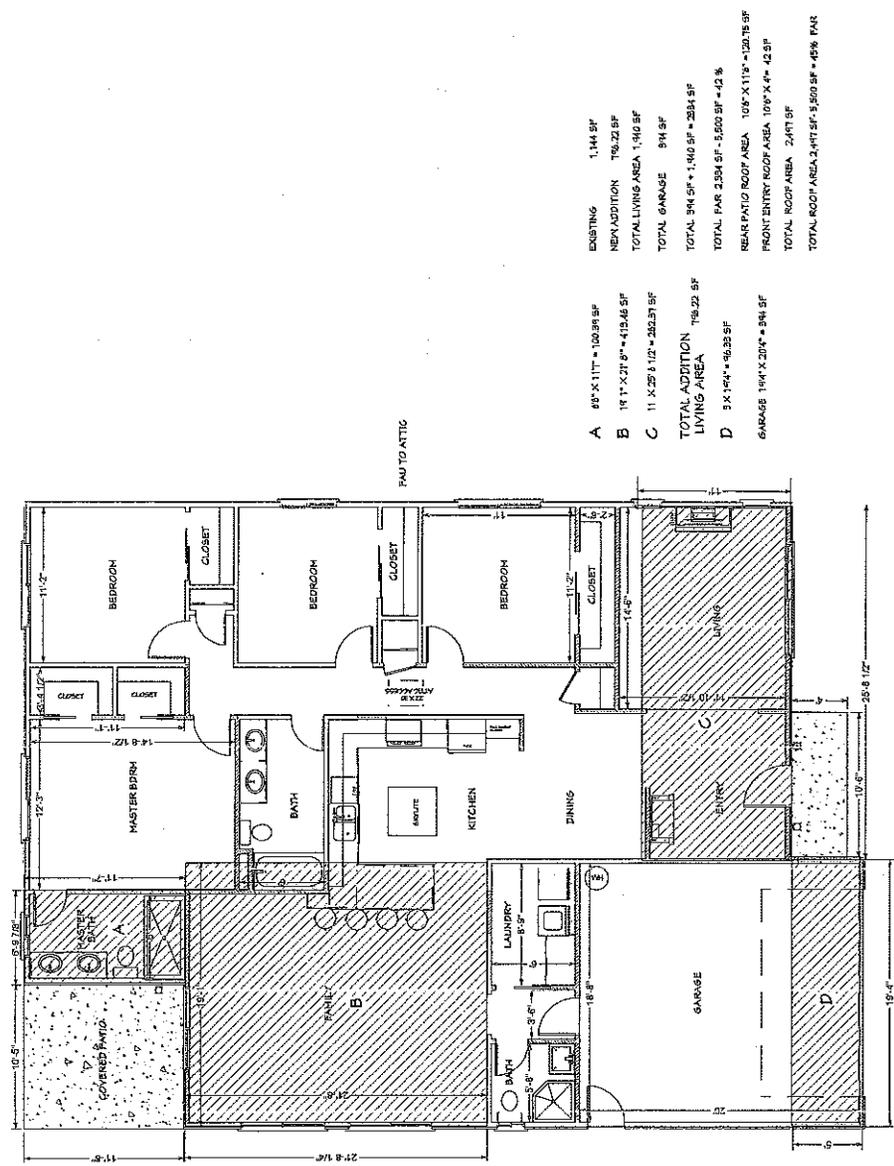
DATE	09/12/12
SCALE	1/4" = 1'
DESIGNER	
PROJECT	A2

REVISION	DATE

ROOM ADDITION FOR:  
**RICHARD & EMILY GUTIERREZ**  
 431 PURSIMA AVENUE, SUNNYVALE, CA 94086  
 408-636-6421



DATE	04/12/12
SCALE	1/4" = 1'
DRAWN	
CHECKED	
SHEET	A3



A	8'0" X 11'1" = 100.89 SF	EXISTING	1,144 SF
B	14'1" X 21'8" = 419.46 SF	NEW ADDITION	16,202 SF
C	11' X 25'5 1/2" = 282.51 SF	TOTAL LIVING AREA	1,910 SF
D	5' X 14'4" = 72.20 SF	TOTAL GARAGE	814 SF
TOTAL ADDITION LIVING AREA		TOTAL	394.54 SF = 1,910 SF = 234.54 SF
GARAGES 14'4" X 20'4" = 294 SF		TOTAL PAR	2,394 SF = 5,000 SF = 42 %
REAR PATIO ROOF AREA 10'6" X 11'9" = 123.75 SF		REAR PATIO ROOF AREA	10'6" X 11'9" = 123.75 SF
FRONT ENTRY ROOF AREA 10'6" X 4' = 42.36 SF		FRONT ENTRY ROOF AREA	10'6" X 4' = 42.36 SF
TOTAL ROOF AREA 3,417 SF = 5,000 SF = 49% PAR		TOTAL ROOF AREA	3,417 SF = 5,000 SF = 49% PAR

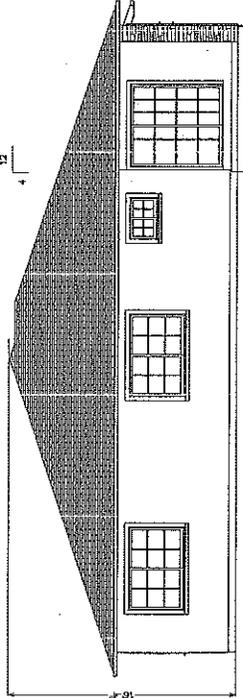
NEW FLOOR PLAN

REVISION	DATE

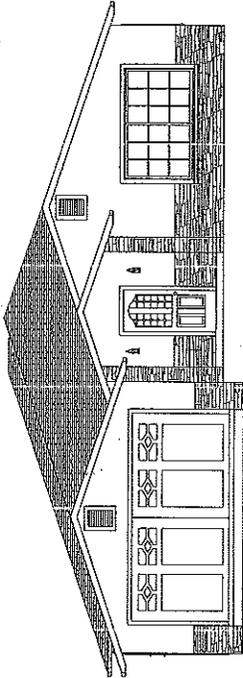
ROOM ADDITION FOR:  
**RICHARD & EMILY GUTIERREZ**  
 431 PORISINDA AVENUE, SANNVALE, CA 94086  
 408-636-6421



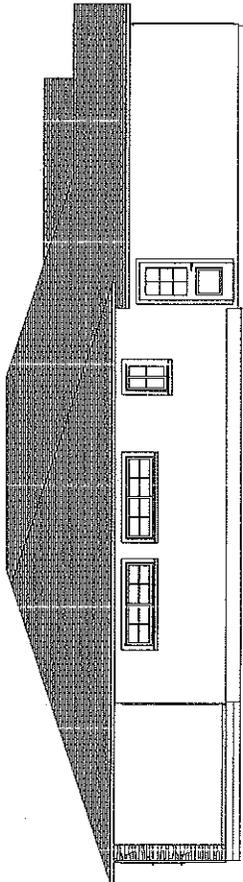
DATE	07/12/12
SCALE	1/4" = 1'
DRAWN	
CHECKED	
DATE	
SHEET	A4



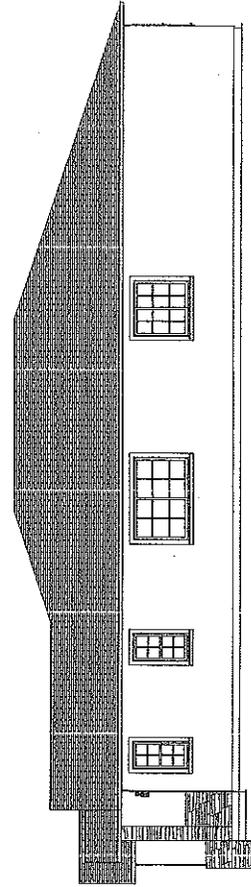
REAR ELEVATION



FRONT ELEVATION



LEFT ELEVATION



RIGHT ELEVATION

**Variance Justification Form for 431 Purisima Ave**

- 1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.**

I am requesting a variance to allow a total side yard setback of 10 feet in lieu of the minimum 11 feet allowed under current code. The lot sizes in the 7 block neighborhood between Pastoria and Mary tend to be 5,500 s.f. These lots are generally 500 s.f. smaller than the 6,000 s.f. required lot size in an R-0 zoning district. This smaller lot size makes it very difficult to achieve an good design for an addition. Allowing a 10 foot side yard setback (5 feet on either side of the house) rather than the current 11 feet will create a more uniform and straight line with the new addition in both the front and rear of the home. If the variance is not granted, it will cause the front/side of the home to come in one foot, thus impairing curb appeal and flow, both inside and out. In addition, the increased setback will enhance the livability of the residence by allowing a more organized and reasonable remodel.

I have a family of 5 and allowing a 5 foot setback on each side will allow for additional habitable space including a bedroom which is greatly needed with three children. In addition, our construction costs will decrease significantly by using straight lines when constructing the walls as well as the roofing of the garage.

- 2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.**

The granting of a variance will have no impact to the public, surrounding properties, or any use within the immediate vicinity. A precedent has been set by other additions in the area of similar size and design. In fact, there have been numerous homes within the 7 block area of similar lot size, house size and architectural style that have been granted a variance of a 5 foot set back. (See included pictures.)

Both immediate neighbors have been advised of the construction plans and have signed a form in support of the addition. The proposed variance will be of like design and materials of other homes with similar additions. If approved, the project will continue to meet the minimum required side setback by allowing adequate access along both sides of the home.

- 3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.**

By approving the variance, the intent and purpose of the ordinance will continue to be served and there will be no special privileges granted. There have been several variances to allow additions to be built along non-conforming setbacks on my street as well as within my neighborhood. Upon granting of the variance, the quality of the existing house will be upgraded thus improving the neighborhood.

Granting the variance will allow my family the same privileges as my neighbors and of other such property owners in the surrounding neighborhood. Upon a quick investigation, I observed the following homes that were either granted a variance by Planning or granted a building permit by Building for an addition within the 5 foot setback.

- |  |  |
|--|--|
| 439 Purisima (planning 1983 w. Second story) | 409 Nuestra (building 1965)  |
| 453 Purisima (planning 1960)                 | 417 Nuestra (building 1975)  |
| 485 Purisima (building 1976)                 | 425 Nuestra (planning 2006)  |
| 493 Purisima (building 1990)                 | 432 Nuestra (planning 1974)  |
|  | 439 Nuestra (planning 2005 w. 2nd story)                                   |
| 478 Peralta (planning 1966)                  | 445 Nuestra (building 1968)  |
| 475 Peralta (planning 1966)                  | 453 Nuestra (building 1964)  |
| 453 Peralta (building 1981)                  | 454 Nuestra (building 1962, 1993)  |
|  | 467 Nuestra (planning 2005)  |
| 431 Pala (building 1965)                     | 468 Nuestra (bldg 1962, 2nd story 1990 bldg)                               |
| 439 Pala (building 1958)                     | 475 Nuestra (planning 2005)  |
| 440 Pala (building 1999)                     | 478 Nuestra (building 1964)  |
| 426 Pala (building 1961)                     | 485 Nuestra (building 1964)  |
| 410 Pala (building 1985)                     | 486 Nuestra (building 1962, 1998)  |
| 418 Pala (planning 1967)                     | 489 Nuestra (building 1962)  |
| 445 Pala (planning 1967)                     | 492 Nuestra (?)  |
| 467 Pala (planning 1973)                     |  |
|  | 409 Ositos (building 1982 for patio, building permit for addition in 2001) |
| 417 Molino (building permit 1989)            | 417 Ositos (building 1962, 2001)   |
| 425 Molino (building 2004)                   | 418 Ositos (planning 2007)   |
| 439 Molino (building 1962)                   | 426 Ositos (building 1964)   |
| 440 Molino (building 1960)                   | 432 Ositos (building 1985)   |
| 475 Molino (planning 1966)                   | 439 Ositos (building 1964)   |
| 486 Molino (planning 1979)                   | 446 Ositos (?)   |
| 494 Molino (planning 1967)                   | 453 Ositos (building 1962)   |
|  | 454 Ositos (planning 1967)   |
| 440 Novato (planning 1969)                   | 478 Ositos (building 1964)   |
| 439 Novato (planning 1983 w. second story)   | 485 Ositos (planning 1967)   |
| 425 Novato (building 1975)                   | 491 Ositos (?)   |
| 431 Novato (building 1974)                   |  |
| 453 Novato (building 1977)                   |  |
| 454 Novato (building 1972)                   |  |
| 468 Novato (building 1985)                   |  |
| 475 Novato (building 1976)                   |  |
| 478 Novato (building 1964)                   |  |
| 486 Novato (planning 1979)                   |  |
| 494 Novato (planning 1967)                   |  |

431 Purisima Ave - existing w/o setback variance





402 Novato



Similar design of proposed addition to 431 Purisima Ave.

2011- Addition to front of house enlarging living, dining room and garage.

1999- Side yard addition behind garage

493 Purisima Ave



2008- Addition to front of house enlarging living/dining room and extending porch.  
1990- Side yard addition behind garage

440 Peralta Ave.



2005- Addition to the front of garage and the rear of garage.

931 W. Washington Ave



2011- Addition to front of house enlarging living and dining room  
1965- Side yard addition behind garage