

**Filing Fee**☒ Applicant: \$ 1,779<sup>04</sup>☐ Non-applicant \$ 711<sup>85</sup>

For Office Use

Received by: \_\_\_\_\_

**APPEAL TO THE CITY COUNCIL****SECTION 1. APPELLANT INFORMATION**

Todd Miller 1953 Chorro St. San Luis Obispo, CA 93401

Name Mailing Address and Zip Code

(805)235-2969

Phone

Fax

Daniel J. Knight

1103 Johnson Avenue, CA 93401

Representative's Name Mailing Address and Zip Code

Atty. for Appellant 805-316-1180 ext. 2 N/A

Title Phone Fax

**SECTION 2. SUBJECT OF APPEAL**

1. In accordance with the procedures set forth in Title 1, Chapter 1.20 of the San Luis Obispo Municipal Code (copy attached), I hereby appeal the decision of the:

Planning Commission

(Name of Officer, Committee or Commission decision being appealed)

2. The date the decision being appealed was rendered: Sept. 8, 2021

3. The application or project was entitled: Request for setback exception for accessory structure at 1953 Chorro St.

4. I discussed the matter with the following City staff member:

Steve Sheats, Kyle Van Leeuwen, Cassidy McSurdy, Roger Maggio, Walter Oetzell on July 8, 2019-Apr 2021

(Staff Member's Name and Department) (Date)

5. Has this matter been the subject of a previous appeal? If so, when was it heard and by whom:  
The Planning Commission on Sept. 8, 2021

**SECTION 3. REASON FOR APPEAL**

Explain specifically what action/s you are appealing and why you believe the Council should consider your appeal. Include what evidence you have that supports your appeal. *You may attach additional pages, if necessary. This form continues on the other side.*

**Reason for Appeal continued**

**See attached.**

**SECTION 4. APPELLANT'S RESPONSIBILITY**

The San Luis Obispo City Council values public participation in local government and encourages all forms of citizen involvement. However, due to real costs associated with City Council consideration of an appeal, including public notification, all appeals pertaining to a planning application or project are subject to the following **filing fee, which must accompany the appeal form: Applicant = \$ 1,779.04, Non-applicant = \$ 711.85.**

Your right to exercise an appeal comes with certain responsibilities. If you file an appeal, please understand that it must be heard within 45 days from filing this form, except for matters arising under Chapter 17.66 of the zoning code which shall be governed by that Chapter. You will be notified in writing of the exact date your appeal will be heard before the Council. You or your representative will be expected to attend the public hearing, and to be prepared to make your case. Your testimony is limited to 10 minutes.

A continuance may be granted under certain and unusual circumstances. If you feel you need to request a continuance, you must submit your request in writing to the City Clerk. Please be advised that if your request for continuance is received after the appeal is noticed to the public, the Council may not be able to grant the request for continuance. *Submitting a request for continuance does not guarantee that it will be granted; that action is at the discretion of the City Council.*

***I hereby agree to appear and/or send a representative to appear on my behalf when said appeal is scheduled for a public hearing before the City Council.***



(Signature of Appellant)

Sept.17, 2021

(Date)

**This item is hereby calendared for** \_\_\_\_\_

**cc:** City Attorney  
City Manager  
Department Head  
Advisory Body Chairperson  
Advisory Body Liaison  
City Clerk (original)

TODD MILLER  
1953 Chorro St.  
San Luis Obispo, CA 93401

SEPT 17, 2021

Date

Pay to the  
Order of

CITY OF SLO

\$ 1,779.04

One thousand seven hundred and seventy-nine

<sup>04</sup>/<sub>100</sub> Dollars



Photo  
Safe  
Deposit®  
Details on back



Wells Fargo Bank, N.A.  
California  
wellsfargo.com

For

Todd Miller

# GARAGE TIMELINE

**July 5, 2019** 9am: Code Enforcement Ofc. Steve Sheats red tags the project

**July 5, 2019** 5:15pm, I call Steve to acknowledge receipt of the stop work notice and let him know I'll be in on Monday morning to discuss. (Left a message because it was after 5 when I got home, and the City offices were closed)

**July 6, 2019:** I email Steve as a follow-up to the phone call on 5<sup>th</sup>

**July 8, 2019:** I meet with Steve and Kyle in the City's building/planning Dept. and we discuss what is needed in order to move forward on the project. There is no mention that something like this can't be built, even when I inform them that the house is on the Master List of Historic Properties.

**2<sup>nd</sup> week of July 2019:** I call Fire Marshal Roger Maggio and leave a message, asking if the building needs to have a sprinkler system. ROGER NEVER RETURNS THE CALL.

**Sept. 3, 2019:** Submitted plans and paperwork requesting variance to the setback and paid \$891 fee. Planner Kyle Van Leeuwen states it was ok to complete the building. I offered to provide photos to show how the City allowed accessory structures to be built in back yards (on the property/fence lines, and closer than 5') and Kyle stated that he wouldn't need photos because he knew how everything was built and he wouldn't have a problem getting this approved. Also discussed with Kyle that especially with garages, they need to be close to the property line on these narrow lots, in order to avoid having to "jockey" the vehicle in and out of the garage, around the rear corner of the building, and in my case, the giant palm tree. Kyle indicated that it made sense, and again, would not be an issue.

**Sept. 27, 2019:** Cassidy McSurdy emails asking for a Notice of Incomplete Filing be responded to.

**Oct. 9-10, 2019:** Cassidy and I discuss that the notice is not accurate, and I ask her to correct it and resubmit. I also tell her that Kyle Van Leeuwen is the one who told me to complete it, that he'd have no problem getting it through, and that he didn't need photos showing how things were built in these neighborhoods. She begins talking about how it doesn't fit in with the historic nature of this neighborhood. I tell her that the historic nature is that everything and anything has been allowed to be built here, and that regardless, the garage can barely be seen, and only for a second or 2, while driving down the 700 block of High St.

Cassidy writes back that my biggest concerns are with Building/Fire/Engineering, because of having it close to the property line, and that "...**as to design, there is the ability to work with Planning to find a resolution.**" She says that could be as simple as painting it to match my house.

**Oct. 15, 2019** 9:30am: Met with Planner Cassidy McSurdy and Fire Marshal Roger Maggio

Discussed:

- Whether it could be painted.
- Softening the look to High St. using vegetation like bamboo or something on trellises.
- Using 5/8" thick sheetrock and fireproof seam sealant to create 1hr fire walls on the side and end nearest the fences.
- Providing engineering drawings for how it's constructed, and bolted down.
- There is never any discussion that it can't exist.

**Oct. 16, 2019:** Cassidy emails to tell me that she's discussed the project with her head planners, and they think that since the building can't really be painted, some sort of planting may work well, and we can discuss that further.

**Oct. 29, 2020:** Hannah Nguyen sends a letter detailing that the building will not be allowed due to it's non-conformance as compared to size, building material, and style.

**March 1, 2021:** I turn in the plaque from my home, and a letter of resignation from the City's Master List of Historic Properties.

**April 2021:** Contact is made by Walter Oetzell, and a site visit is allowed. Walter refuses to recognize that the 20 ton Canary Islands Palm tree exists and would prevent egress of vehicles in, and out of the garage if the garage was moved inward toward the tree, and forward toward the tree. Walter will not recognize that the conversation with Kyle Van Leeuwen happened; allowing me to finish the building, and stating that Kyle would have no problem getting the variance for setbacks. Walter states there are no records that the emails or formal meeting with Cassidy McSurdy and Roger Maggio took place, and simply states that she took a job with the county, like so many of his counterparts have, and no longer works for the City. He states that she left no record of contact with me in any sort of file, whether it was photos she'd taken, or the emails she and I had exchanged, or the minutes from the meeting that she, Roger, and I had.

**SITE CONSIDERATIONS THAT REQUIRED THE SHAPE AND POSITION OF BUILDING & SHOULD ALL FOR AN EXCEPTION TO THE SETBACK:**

- **My lot is smaller than a standard 50' wide City lot in this neighborhood, because the City allowed Vern and Kathy Haney at 1947/1949 Chorro St. to pour their side driveway, 1.5' into my property (prior to my purchase in '93) so that the Haney's could "qualify" to have and build a 2<sup>nd</sup> home, at the rear of the property. They didn't have the req'd 12' wide driveway, so stealing some of my property allowed the 12'.**
- **There is a giant Canary Islands Palm at the rear of the residence, which we relocate and saved at the behest of the City, prior to moving the residence onto the site in '93. It should be further noted that this was a requirement of the City as to its location for planting in relation to the residence. The position of the tree and the residence make driving a vehicle into a wider building, or a building which is moved closer to the tree by observing the 5' setbacks, nearly impossible.**
- **My lot is not flat. The placement of the carport as it currently sits is in a depression that masks the height of the carport below the adjacent buildings. The lot slopes rearward from Chorro St. and to the south toward High St. The long narrow shape of the garage fits the slope angles in that corner of the property. Conversely, a garage positioned fully across the rear of the lot with 4 parking spaces would require the entire rear area of the lot to be re-engineered, and re-graded to accommodate the drainage changes that the current placement accommodates.**
- **The long narrow shape allows the garage to be placed the furthest away from Vern and Kathy Haney's home, at 1949/1947 Chorro, so as not to visually crowd their home and views. The garage in its current position is literally lower than their home and their 6' tall fencing, which is installed up onto a concrete retaining wall, which makes their fence and its screening approximately 9' above my yard, thus hiding the garage. Unless they climb onto their fence and look over, or walk out onto their 2<sup>nd</sup> story fire escape stairway. My garage is not visually offensive to the Haney's.**
- **The garage is placed alongside the backyard of the abandoned residence at 1965 Chorro, which has a similarly large garage/shop in the back yard, built right onto my property line. Visually, my garage is not offensive to this abandoned property, because their garage hides my garage, as do their**

acacia trees. During the pendency of this matter, the vegetation has further concealed my garage.

- The long narrow shape of my garage in its current position is the least visually exposed to the large 2 story apartments directly behind my property (at 730 High St.) If my garage was positioned across the rear of my lot, it would present as a visual wall, 40 feet wide, vs. being only 20' wide, as it is currently positioned.
- Due to the position of the garage, fencing, shade structure, bamboo, and trees of the 2 adjacent lots to the south, my garage is almost not visible to the 700 block of High St, unless you walk down the driveway at 730 High St. and viewed my garage from their property.
- The morning glory that I have planted is doing a fantastic job of hiding the fence and the building, requires no water, blooms year round, and requires no maintenance. This is the planting solution that Planner Cassidy McSurdy and I discussed in Oct. 2019.
- My neighbors have all written letters to the City, stating that they have no issues with my garage, either in how it looks, it's size, or where it is located. The neighbor directly across the street from my residence didn't even know the garage was there, because it cannot be seen from Chorro St.
- The metal construction of the garage does not take away from the neighborhood, my lot, or my Victorian home. There is every style of architecture in this neighborhood and the surrounding blocks, from every decade in the last 150yrs. Including large apartment buildings, converted train cars, a gas station, a car repair shop, wood buildings, stucco buildings, and metal buildings. My garage is intended to look like a vintage garage/shop that would have been built in the early years of my Victorian home. As an example of trying to fit the garage into the time period of the Victorian home, there are non-functioning lights on the outside of the building meant only to make it fit into the time period of the Victorian home.
- Owning a Victorian home is not and should not be a punitive or limiting experience, and there are no actual laws that say it is. Whether or not my home is on the Master List of Historic Properties, there has never been a contract presented to, and signed by me, stating, implying, or indicating, that my home and property would be more highly scrutinized for how Victorian and period correct "vintage" everything looks. I have a right, as the owner of the property, and a resident of California, to develop the property that I own, in such a way as to benefit my ownership and my enjoyment of my property, so long, as here, it does not take away from adjacent properties.
- Owning a fully restored Victorian should not and does not force me into only being allowed to have a single car "carriage house" just like it doesn't keep me from having plumbing, flush toilets, a heating system, hot water, and a fire sprinkler system. I have every right to have a nice garage, just like

**anyone else in this City has along with those similar property owners on my block. I simply want to be able to park my vehicles on the property that I own, so that they are safe, off the street, and out of the weather. The statements that the building is too big, is a detriment to the neighborhood and home, and is of an incongruous material/s are false. A walk around the neighborhood, and letters from my neighbors proves that.**