

## Variance Justifications

All three of the following findings must be made in order to approve a Variance application.

The Sunnyvale Municipal code states that all three of the following justifications must be met before granting the Variance. Please provide us information on how your project meets all of the following criteria.

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 of privileges enjoyed by other properties in the vicinity and within the same zoning district.

Our home at 1102 Viscaino Ave. Sunnyvale, CA 94086 is a corner lot home in a residential zone. The property itself and the properties to both sides and front are in the R0 zone. The property to the rear is R3 Medium Density Residential. The split-level home was built in 1963 with an attached deck and pergola off the mid-level at the back of the house. The 55-year-old wooden deck/pergola structure became a hazard and was removed in early 2018. The deck was more than 18" high because of its location off the mid-level of the house. We planned to replace the deck and pergola with a similar one though a bit larger area (extending further into the backyard). The deck that was demolished was 18 ft wide (along the back of the house) and extended 8 feet into the backyard. It ended flush with the side of the house closest to Leota Ave. The new planned deck is 15 feet wide and 14 feet into the backyard. The exceptional circumstance is that the house itself is not within the 20 ft side setback to the edge of the curb. The house was built 19 feet from the curb (not including the chimney which extends an additional 22 inches toward the curb). Other properties in the same vicinity have the same floor plan as our home and were also built with attached decks. Most of these homes are not on a corner lot, and therefore do not have the same issue with the side setback when replacing their decks. See attached photos and drawings for reference. If the deck were built 1 foot in from the edge of the house, the 42" required railing would terminate in the middle of a dining room window and thus be aesthetically displeasing from both the inside (dining room) and outside (deck) of the house. If the deck were built even further in from the side edge of the house, the railing could terminate between two dining room windows, but the useable deck space would be limited, the offset from the house would appear awkward, and the backyard space would be split less favorably for its other uses. The house at the other end of Viscaino (1162 Viscaino Ave on the corner with Carneros Ave.) has the reverse floor plan of ours and also has a 19' setback to the street. Instead of replacing their deck, the previous owners opted to add on a room to the back of the house. The addition extends flush with the edge of the house at 19' from the side curb. Another corner lot example in our neighborhood at 1096 Polk Ave does not appear to have been remodeled but is only 15.5' from the side curb (not including the chimney which is less than 14' from the curb).

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 planned deck and pergola attached to the house will (if approved) be flush with the edge of the house and be the same distance from the side curb as the previous attached deck and pergola that were in place for the last 55 years. The deck will be obscured from view by the existing fence. Access to the deck would be the same as prior (through the backyard and from the dining room of the house). The back and side yards are fully fenced. There is no impact on public welfare. The property will be enhanced by the new, sturdy functional deck. There is no impact on the corner vision triangle because the deck will be in the back of the house. The rear setback will be in compliance.

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.

The intent and purpose of the 20-foot side setback from the curb is probably to maintain the low-density residential look and feel of the area and to ensure visibility around the corner. The existing house and previous deck/pergola have been in place at 19 feet from the curb (and the edge of the chimney at 17 feet 2 inches from the curb) since 1963 without complaint or even notice. In fact, as the property owners we did not realize that there was a setback compliance issue for the 14 years we have owned the house - until it was time to replace the deck. We do not believe that a replacement deck/pergola will change the low density look and feel of the neighborhood even if it is a bit larger in area. There will be no visible change from the front of the house and no effect on the corner vision triangle. The pergola will be visible from the side of the house above the fence (as the old one was). The deck itself will not be visible from the street because it will be behind the side fence. The intent and purpose of the side setback will still be served. As property owners we do not believe we would be gaining any special privileges compared to other surrounding property owners. We only wish to replace the original deck with another that would preserve the alignment with the edge of the house.



Original deck and pergola before demolition (early 2018). Structural compromise is evident as 'sagging' and boards were rotted out creating a safety hazard.



Views of the back of the house from the backyard after removal of the original deck/pergola. To the right of the door are the two dining room windows. The one furthest to the right would be impacted by moving the deck a foot in to achieve the 20 ft side setback to the curb. To the left of the door are kitchen windows. The large rainwater catchment tanks will be housed under the new deck and be used for backyard irrigation of native plants and a vegetable garden. To the right side of the back of the house are a heat pump, shed, and the side fence.

Original deck built in 1963 shown in **2004** when we bought the house. It looks in fine condition, but deteriorated over the next 14 years with use, a climbing rose bush on the pergola and planter boxes along the railings.



Example of the retractable fabric shade we would like to use on the pergola. It would shade the deck from sun and rain when extended. When retracted, the fabric folds up and is out of the way (as in this example).

**Addendum to Variance Justification for 1102 Viscaino Ave.** to add existing shed located in the reducible front yard. Note that our primary request relates to the setback for the backyard deck and that the request to keep the shed is of secondary importance. If there is reason to deny the request to be allowed to keep this utility building, we hope that this will not preclude consideration of our primary request regarding the deck.

**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 of privileges enjoyed by other properties in the vicinity and within the same zoning district.**

Other properties in the vicinity that are not on corner lots have the privilege to put a shed or utility building in their side yards with zero setback for storage and protection of equipment or supplies. While sheds can be unsightly if visible to the street, it seems that corner lot properties could be allowed to put a shed or small utility building (< 8 ft high and < 120 sq. ft) behind a fence just as those with interior properties can do. The side of the house is a very convenient location for supplemental storage and does not interfere with the other uses or visual appeal of the backyard. In addition, we have noticed that around 30% of corner lot homes in the area also have a shed or utility building in the reducible front yard (behind fences). This is perhaps because many corner lot homeowners (ourselves included when we built the shed) do not realize that they have a ‘reducible front yard’ and that sheds are prohibited there. By requesting a variance for replacing a deck with the same setback as the previous one we could be ‘deprived’ of the privilege’ to have a shed which is enjoyed by many corner lot neighbors who do not ask for permission regarding their utility buildings and who suffer no consequences.

**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 shed is behind a 6 ft fence and the roof is barely visible from across the street. It serves as storage and protection of equipment and therefore we feel it is an improvement to our property and its uses. Being a low structure behind a fence and having the ability to lock it means it is virtually invisible and wholly inaccessible to the public. Granting of the Variance will not have any detrimental effect to the public welfare.

**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.**

The intent and purpose of not allowing a shed in the reducible front yard is probably to maintain the low-density residential look and feel of the area, to ensure the corner vision triangle is clear of obstruction and to maintain a desirable appearance of the property along the side street. By allowing a shed in the current location the intent and purpose is still being served. The shed is hardly visible behind the fence, it does not interfere with the vision triangle, and the fence maintains a desirable appearance along the street. We do not believe we would be gaining any special privileges compared to other surrounding property owners. Behind fences on corner lots these utility buildings are discreet and do not detract from the character of the neighborhood.



Side of house looking from Leota Ave. Shed roof is barely visible to the left of the chimney.