



CUPERTINO

APPEAL FORM



1. Application No.: R-2018-20, INT-2018-01
2. Applicant(s) Name: Clayton Johnson (Lau residence)
3. Project Planner: Gian Paolo Martire
4. Appellant(s) Name: Elisa Herberg
 Address: 15595 Karin Ln, Monte Sereno, CA 95030
 Phone Number: (408) 608-5110
 Email: elisah@stanfordalumni.org

5. Please check one:

Note: Do not use this form for Administrative Citation decisions (1.16), Petitions for Reconsideration (2.08.096), or Damage to Public Trees (14.12)

a. Appeals regarding Title 19 (Zoning) and 14.18 (Protected Private Trees):

- ☒ Administrative decision (14 calendar days after decision to appeal)
- ☐ Planning Commission decision (14 calendar days after decision to appeal)
- ☐ Design Review Committee decision (14 calendar days after decision to appeal)

b. Other appeals:

- ☐ Director of Community Development decision regarding Tentative Maps (18.20) (14 calendar days after decision to appeal)
- ☐ Street Improvements (14.04) (30 calendar days after date of decision to appeal)
- ☐ Code Enforcement regarding Massage Permits (9.06) (5 business days after receipt of notice of decision to appeal)
- ☐ Solicitor's Identification Permit (5.20) (10 calendar days after denial notice to appeal)

6. Date of decision or mailing of notice of decision: Aug. 9, 2018
7. Specifically state the grounds and basis for appeal: see attached

Please complete form, include appeal fee of \$266.00 pursuant to Resolution No. 18-039 (\$662.04 for massage application appeals), and return to the attention of the City Clerk, 10300 Torre Avenue, Cupertino, (408) 777-3223.

19.12.170 Appeals.

A. An appeal may be filed by any person, firm or corporation aggrieved or affected by any grant, denial, modification or revocation of any permit, or any determination or interpretation related to any provision of this title.

B. Filing:

1. An appeal shall be in writing on forms prescribed by the City and shall be filed during regular office hours with the City Clerk within fourteen calendar days after the City decision or if a notice of decision is not required, from the date of the decision or determination, under this title. An appeal not filed within such time shall be barred. The appeal shall state the grounds and basis thereof.

2. Appeals under this chapter are subject to an appeal fee as prescribed by resolution of the City Council.

C. Noticing: Notice of hearing shall be given in the same manner in which the original notice was given. If a project with no noticing is appealed, appropriate noticing shall be determined by the Director of Community Development.

D. Appeal hearing body shall be determined in accord with Section [19.12.030](#).

E. Decision of the appeal hearing body: The decision or determination of the appeal hearing body on any appeal shall be final and effective immediately.

F. Notice of Decision: Notice of the appeal hearing body's decision shall be mailed to the original applicant, to the person filing the appeal, and to any other person who has filed a written request with the City Clerk.

I am appealing the decision for the Front Yard Interpretation to designate Bette Ave. as the front lot line. Currently, their setback is over 14' from our property line. This is the same setback for our across Bette Ave. neighbors. They have the same front of the house
(10551 Bette Ave)

built on the long side of their lot. Many of the ^{corner} homes in the development (I saw at least 6) are built front yard on the long side of the lot with their short side against their neighbors backyard.

The developer built the corner lot homes, now considered non-conforming, with a setback of 5' or so to the newer homes backyard while the older homes (occupied) were given special consideration (concession?) and built almost 3 times further away (about 14' 6" or so).

Front yard Interpretation is all about setbacks. If the front yard Interp. is approved should the owner be allowed to encroach on a setback that was clearly made to get the development approved by the existing neighbors and city?

Elisa Herberg
owner - 6693 Clifford Dr.

Benjamin Fu, hearing officer, heard our concerns but would not respond to them. I am also concerned about the camphor tree being removed and the encroaching setbacks, including a 2nd story. Please see pictures attached and meeting notes with neighbors. I also included a follow-up with questions from me that

were not answered yet.



The roof line and beige wall plus camphor tree
is 10550 Bette Avenue as seen from the
backyard of 6693 Clifford Drive.



6707 Clifford Dr
x Bette Ave.
Backyard

10551 Bette Ave.
x Glenview Ave
Sideyard



10550 Bette Ave,

6693
Clifford Dr.

Meeting Notes

RE: 10550 Bette Avenue, Cupertino, CA 95014

Date: 8/22/18

Time: 7:00-8:30 pm

Location: Starbucks, Stevens Creek & DeAnza

Parties Present: Stephen Lau, Elisa Herberg, Clayton Johnson

Over the course of our 1.5 hour meeting, we discussed the design in detail, describing the floor plan, elevations and site plan. The following modifications and/or clarifications to the existing southern facing site plan and elevation were agreed to by both parties:

1. The plate height for the upper level windows facing 6693 Clifford Drive, the Herberg's property, are at 5 feet sill height from the finished floor.
2. The Italian Cypress hedge will be planted with minimum 10 foot tall trees.
3. The existing tree at the bedroom area will be preserved if possible. If, not, two additional 10 foot tall Italian Cypress will be planted in its place to screen the bedroom from view.

Elisa Herberg

From: Elisa Herberg [elisah@stanfordalumni.org]
Sent: Thursday, August 23, 2018 11:37 AM
To: 'Clayton Johnson'
Cc: 'Stephen Lau'; 'gianm@cupertino.org'; 'Elisa Herberg'
Subject: RE: 10550 Bette Avenue Meeting Notes

Attachments: 10550 Bette Ave Starbucks Meeting Notes Aug2018.pdf



10550 Bette Ave
Starbucks Meet...

Clayton,

For #1 we also discussed the possibility that there are no bedroom windows facing our backyard from the second floor. Anyone my height would easily be able to look down from those windows into our yard. It is also easier to place a bed, 5 foot or higher chest of drawers, closet, television set (you will be looking in to the sun since it is the south side), etc. Something to think about...

For #2 I appreciate you calling it a hedge which is as we discussed so there won't be gaps where it is no longer a privacy screen. Thank you. I trust an arborist will know the correct spacing for the trees. I realize you don't want them too close together as well.

For #3 Thank you for including saving the camphor tree which is quite tall by now. I read they live from 100 to 150 years. This can be a beautiful way to provide privacy for those 20 or so feet that it covers. (Two Italian cypress would not be a hedge for this much area.)

An additional line item should be added about the first floor setback on the south side. For us, your Front Yard Interpretation is all about setbacks. Your setbacks are for our comfort and our setbacks are for your comfort. We discussed my concerns about this setback going from almost 15 feet down to 5 feet 8 inches is more than encroaching on the setback that has existed since the development was built. Although David is out of town he wants to make sure that the Front Yard Interpretation does not take advantage of Cupertino's current minimum setbacks to our detriment.

We talked about moving the first floor south side bedroom wall back to match the garage side wall. This minimal change is a huge concession for us who never thought the property could be added to in our direction.

We also discussed the second story setback that we expected to be 25' but is 20'. I hope privacy plantings will take care of this issue

Let me know what you can do about the setback issue.

Thank you,
Elisa Herberg

P.S. I did enjoy getting the chance to see your addition (on paper) and get to talk with you both.

-----Original Message-----

From: Clayton Johnson [mailto:clayton.premierebuilders@gmail.com]
Sent: Thursday, August 23, 2018 9:01 AM
To: Elisa Herberg
Cc: Clayton Johnson; Stephen Lau
Subject: 10550 Bette Avenue Meeting Notes

Good Morning Elisa,

Thank you for taking the time to speak with us last night. I've attached some notes from our meeting below. Please let us know if you have any questions or concerns.

Sincerely,
Clayton Johnson
Premiere Builders
408.205.0611