



City of Sunnyvale

Excerpt Meeting Minutes - Final Zoning Administrator Hearing

Wednesday, November 29, 2023

3:00 PM

Teleconference: City Web Stream

CALL TO ORDER

George Schroeder, Zoning Administrator, called the meeting to order at 3:00 p.m.

PUBLIC HEARINGS

[23-1081](#)

Proposed Project:

VARIANCE to legalize an existing 112 square foot detached accessory structure in the rear yard of a single-family property with a 2-foot 5-inch side setback where 4 feet minimum is required, and a 2-foot 2-inch rear yard setback where 10 feet minimum is required.

Location: 160 South Pastoria Avenue (APN: 165-15-007)

File #: PLNG-2023-0642

Zoning: R-2 (Low Medium Density Residential)

Applicant / Owner: Scott McClennan (applicant) / Tracy and Scott McClennan (owner)

Environmental Review: Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Robby Miller, 408-730-7429,
rmiller@sunnyvale.ca.gov

Mr. Schroeder inquired with Robby Miller, Project Planner, if there were any additions to the staff report.

Mr. Miller gave a brief presentation outlining the description of the project. Mr. Miller noted that staff was able to meet the findings for Neighbor Impacts (Finding 2) and Precedence (Finding 3), but was not able to meet the Physical Restraints (Finding 1) findings for the Variance.

Mr. Miller acknowledged one public comment received in disapproval of the variance. The public comment expressed concern regarding fire access for firefighters. Mr. Miller noted the member of the public may not have been aware that the project is located in the back part of the lot.

Mr. Schroeder inquired with Mr. Miller if there was a history of any Variances in the neighborhood.

Mr. Miller noted four previous Variances. He noted one case a Variance was granted for an accessory dwelling unit (ADU) on top of a garage. Another was for a two-story structure behind the home. One was for an addition to a detached garage. Another Variance was granted for another ADU on top of a garage.

Mr. Schroeder inquired if the carport accessory structure example was the only accessory structure example found.

Mr. Schroeder inquired with the applicant if there were any additions or comments.

Scott McClennan, applicant, gave a brief presentation explained the backyard studio office was built to not impact neighbors. Mr. McClennan noted that unfortunately the City's requirement that the structure be under eight-ft. tall was missed when the structure was built. Mr. McClennan noted ADUs are allowed to be up to 16-ft. tall and expressed that he wanted the most minimal cost-effective structure to meet the family's needs.

Mr. McClennan explained the variance findings and expressed that the structure was the minimum development to meet their need. He argued that the Physical Restraints findings are met because they would be deprived of privileges enjoyed by other nonconforming units in the area. He explained that the use is a studio office, not an ADU or a garden shed. The structure was built with minimal neighborhood impact in mind. Mr. McClennan stated it would be unfair to require him to move or change the structure to meet new ADU requirements. He noted that the lot width is 50-ft. which is under the minimum requirement of 76-ft. which creates a long, narrow property shape.

Mr. McClennan stated that he believes this shape is the reason other properties in the vicinity have been granted Variances. He noted 119 S. Pastoria, 168 S. Pastoria, 388 S. Pastoria, and 389 S. Pastoria Ave. as examples. An existing deck and a tree limits the options on one side and a large heritage tree limits the space on another side. Mr. McClennan stated that moving or changing the structure would cause the Neighborhood Impacts and Intent of Purpose of Ordinance findings to not be met.

He stated the structure as built has less impact than the noted example structures. Three letters from neighbors in support of the project were shown.

Mr. Schroeder inquired with Mr. McClennan asked if there were any other

considerations on why the structure was placed where it is currently situated.

Mr. McClennan stated that not impacting the neighbors' views and fitting into its surroundings were the main concerns when building the structure.

Mr. Schroeder inquired if there was a foundation on the structure or if it was portable.

Mr. McClennan stated the structure is not portable, it has concrete pilings.

Mr. Schroeder opened the hearing to public comments.

Sarah Sterry, neighbor, stated they have not been impacted by the studio office structure. Ms. Sterry noted any changes to the structure would cause their house to feel impacted. She expressed approval of the variance.

Rachel Nishimoto, neighbor, also expressed support of no changes to the structure. Ms. Nishimoto stated it would be counterproductive to make the structure larger and it would negatively impact all parties involved. She expressed support of the variance.

Mr. Schroeder inquired if Mr. McClennan had any further comments.

Mr. McClennan had no further comments, but hoped the support of his neighbors would be considered.

Mr. Schroeder inquired with Mr. Miller if the previous Variance examples he provided were only for the main house or if there were any accessory structure examples.

Mr. Miller confirmed that one was an accessory structure to a garage and one was an ADU on top of a garage.

Mr. Schroeder closed the hearing to public comments.

Mr. Schroeder noted that accessory structures and ADUs are different and are subject to different rules and guidelines. ADUs are considered an important form of housing in the region and state and are subject to lesser setback standards. This structure would be considered a detached habitable space. Mr. Schroeder stated

that there do seem to be a few feasible locations on the property to meet the setback requirements.

Mr. Schroeder noted that the City does not have any policies regarding the protection of views. He acknowledged that the neighbors expressed that they do not feel impacted by the 8-ft. structure, but he is still unable to make all the required findings for a Variance. The lot appears to be standard compared to others in the neighborhood and there should be other locations to meet the standards. Mr. Schroeder is able to make Finding 2, but not Findings 1 and 3. He stated a special privilege would be granted if the Variance is approved. He acknowledged the examples provided by Mr. McClennan, and other sheds on neighborhood aerial photos with lesser setbacks, but their permit history was unclear.

ACTION: Make the Findings for Denial in Attachment 2 and Deny the Variance Permit.