



City of Sunnyvale

Agenda Item

23-1081

Agenda Date: 11/29/2023

REPORT TO THE ZONING ADMINISTRATOR

SUBJECT

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

BACKGROUND

Description of Proposed Project

The subject single-family property has an existing, unpermitted accessory structure near the northeastern corner of the rear yard utilized as a home office. The 112-square foot structure has a height of nine feet, eleven inches from grade, a side yard setback of two feet, five inches where four feet minimum is required, and rear setback of two feet two inches where 10 feet minimum is required. The applicant is proposing to keep the existing structure and relocate the existing unpermitted air conditioning unit out of the side and rear setback area. See Attachment 4 for the site and architectural plans.

Per Sunnyvale Municipal Code (SMC) Section 19.40.030, accessory structures with an eight- to 15-foot height require a Miscellaneous Plan Permit (MPP) with notice. Per SMC Section 19.40.040, detached habitable spaces and utility buildings with an eight- to 15-foot height require minimum side yard setbacks that match the underlying zoning district, and a minimum of ten feet to the rear property line. The minimum side yard setback in the R-2 zoning district is four feet.

Therefore, a Variance is required to legalize the structure with non-conforming side yard and rear yard setbacks.

See Attachment 1 for a map of the vicinity and mailing area for notices.

Previous Actions on the Site

A Neighborhood Preservation complaint was filed in 2023 for construction of a large structure in the back yard without any permits. Two closed code enforcement cases were found, including car repair in the driveway and another for having a storage pod in the driveway. In 2015, a Design Review

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Planning application was approved for a first floor addition to an existing single family home. Multiple building permits have been issued over the years for plumbing, electrical, roofing, and related to the 2015 addition.

ENVIRONMENTAL REVIEW

A Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions. Class 3 Categorical Exemptions include construction of limited numbers of new, small facilities or structures.

DISCUSSION

Site Layout and Architecture

The subject property is located midblock on the east side of South Pastoria Avenue near the intersection with Lewis Avenue, a few blocks west of downtown Sunnyvale. The 5,750-square foot parcel contains a 1,508 square-foot home and a 280 square-foot attached garage in addition to the subject accessory structure and a rear yard uncovered deck. The existing floor area ratio (FAR) is approximately 31 percent. Adjacent homes are a mix of single- and two-family dwellings. The lots in this subdivision are typically narrow (50-foot widths) and line up evenly in a grid, with side and rear yards mirroring each other, and detached garages typically organized behind the residence towards the rear yard. Accessory structures are also common in the rear yards throughout the neighborhood.

The adjacent property to the south at 164 South Pastoria Avenue is a one-story single-family home with a large open rear yard. One accessory structure was found in the rear yard along the property lines in the southeast corner. The adjacent property to the north at 156 South Pastoria Avenue is a one-story single-family home. The house has had a few additions over the years and one of them extends into the rear yard on the side adjacent to the subject property. That addition appears to meet the minimum setback requirements for R-2 Zoning District. The properties are separated by a 5-foot, 8-inch high solid wood fence. From an inspection photo dated July 27, 2023, that addition is easily visible from the subject property. No accessory structures are visible from aerial photos.

The parcel to the rear of the subject property at 159 Waverly Street is a one-story single-family home. Aerial photos identified two accessory structures in the rear yard, including one that is approximately three feet from the rear property line and one foot from the side property line. From Neighborhood Preservation inspection photos dated July 20, 2023 and July 27, 2023, the structure along the rear property line is visible from the subject property and appears to be greater than eight feet in height.

The proposed design of the accessory structure is a simple rectangular floor plan accessed from a large sliding door facing into the rear yard at the south elevation. The wood structure has a shed roof which starts at eight feet, seven inches on the north side and rises to nine feet, 11 inches on the south side. The vertical cedar wood and corrugated metal siding, dark window and door frames, and roof design create a modern aesthetic, which is loosely compatible with the finishes and minimal traditional architecture of the main residence.

Applicant's Variance Justifications

The applicant has provided justifications to support the Variance request (see Attachment 5). The following is a summary of the justifications:

- The two neighboring properties are built within 4 feet of the property line and moving the

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accessory structure office back would impede their views.

- The neighbors on all three sides of the property support the office structure as designed.
- The structure serves a similar purpose to an ADU, but with much less impact on the surrounding properties.
- Other similar structures in the neighborhood.

Development Standards

SMC Chapter 19.34 establishes the minimum front yard, side yard, and rear yard building setbacks for all zoning districts. The intent of these regulations is to ensure that structures do not impact the privacy, light, air, and enjoyment of adjacent properties. While the accessory structure on the subject lot is not overly disruptive, the site is not constrained in any way by its size or shape. In fact, the parcel's existing floor area ratio (FAR) of 31% is well under the 45% allowed in the R-2 zoning district, and there is area to develop additional floor area within required setbacks. Moreover, the rectangular lot dimensions of approximately 50 feet wide by 115 feet deep are similar to other lots on the same street.

Staff found four other related variance applications in the surrounding neighborhood within the past fifty years. Each variance was approved for reduced rear or side setbacks from the minimum required.

While there are some similarities between the past variances and this one, including substantially reduced rear setbacks from normal development standards, there are no exceptional or extraordinary circumstances or conditions dictated by the size, shape, topography, location, or surroundings of the property that would deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

In the opinion of staff, all the required findings for a variance cannot be met. The requested side and rear yard deviations are unreasonable due to inconsistency with the intent and purposes of regulations found within SMC Title 19 as well as the required findings to grant a variance. See Attachment 2 for recommended Variance denial findings. Therefore, staff recommends that Zoning Administrator deny the Variance.

PUBLIC CONTACT

112 notices were sent to surrounding property owners and residents adjacent to the subject site in addition to standard noticing practices, including advertisement in the Sunnyvale Sun Newspaper and on-site posting. No letters or calls were received from the public by staff.

ALTERNATIVES

1. Make the Findings for approval in Attachment 6 and Approve the Variance Permit with recommended Conditions in Attachment 3.
2. Make the Findings for approval in Attachment 6 and Approve the Variance Permit with modifications.
3. Make the Findings for Denial in Attachment 2 and Deny the Variance Permit.

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RECOMMENDATION

Alternative 3. Make the Findings for Denial in Attachment 2 and Deny the Variance Permit

Prepared by: Robby Miller, Associate Planner
Approved by: Momoko Ishijima, Senior Planner

ATTACHMENTS

1. Vicinity and Noticing Maps
2. Recommended Findings (Denial)
3. Recommended Conditions of Approval
4. Site and Architectural Plans
5. Justifications Letter from the Applicant
6. Recommended Findings (Approval)