



Sunnyvale

Appeal of Planning Commission Denial of Variance
Application
(PLNG-2023-0642)
160 S. Pastoria Ave.

Wendy Lao, Associate Planner
City Council, March 25, 2025

Site Context

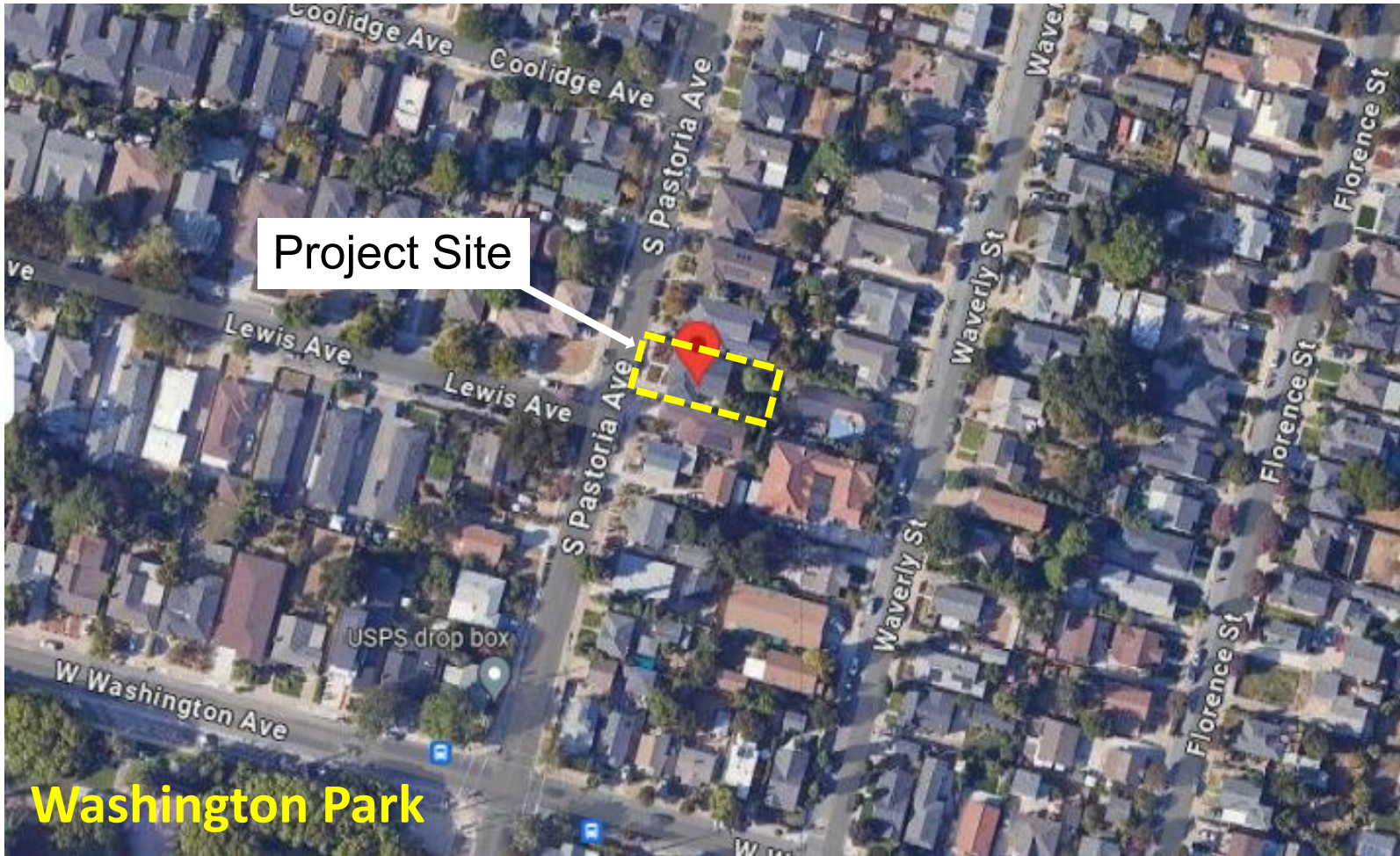


Image Source: Google Maps, 2024

Street	Lot	Dimensions
LEWIS	1	50' x 155'
	2	50' x 155'
	3	50' x 155'
	4	50' x 155'
LEWIS	5	50' x 155'
	6	50' x 155'
	7	50' x 155'
	8	50' x 155'
LEWIS	9	50' x 155'
	10	50' x 155'
	11	50' x 155'
	12	50' x 155'
LEWIS	13	50' x 155'
	14	50' x 155'
	15	50' x 155'
	16	50' x 155'
LEWIS	17	50' x 155'
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	19	50' x 155'
	20	50' x 155'
LEWIS	21	50' x 155'
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LEWIS	29	50' x 155'
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LEWIS	33	50' x 155'
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	35	50' x 155'
	36	50' x 155'
LEWIS	37	50' x 155'
	38	50' x 155'
	39	50' x 155'
	40	50' x 155'
LEWIS	41	50' x 155'
	42	50' x 155'
	43	50' x 155'
	44	50' x 155'
LEWIS	45	50' x 155'
	46	50' x 155'
	47	50' x 155'
	48	50' x 155'

Site Plan & Photo

Pastoria Ave.

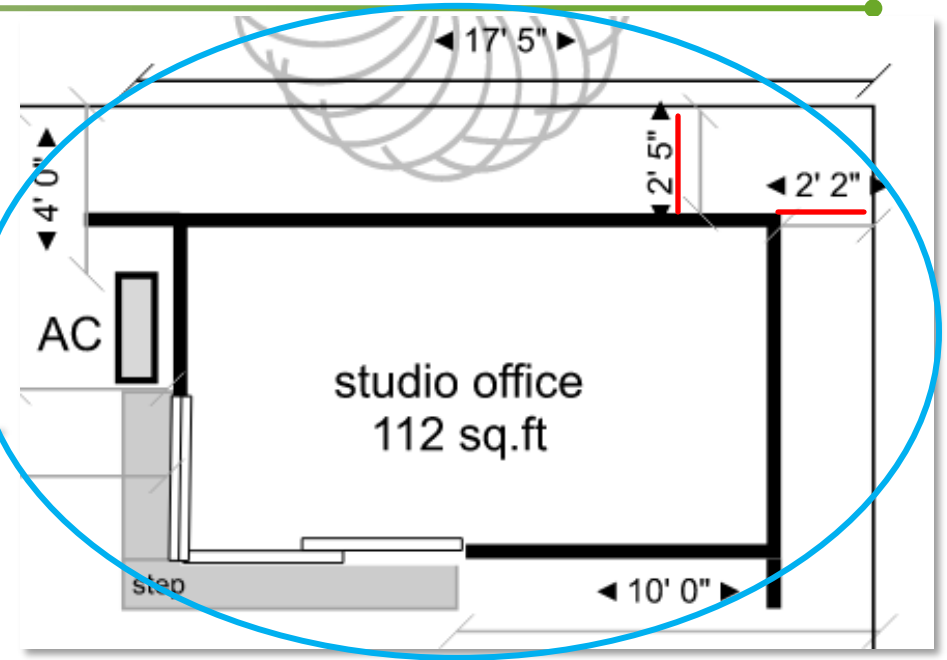
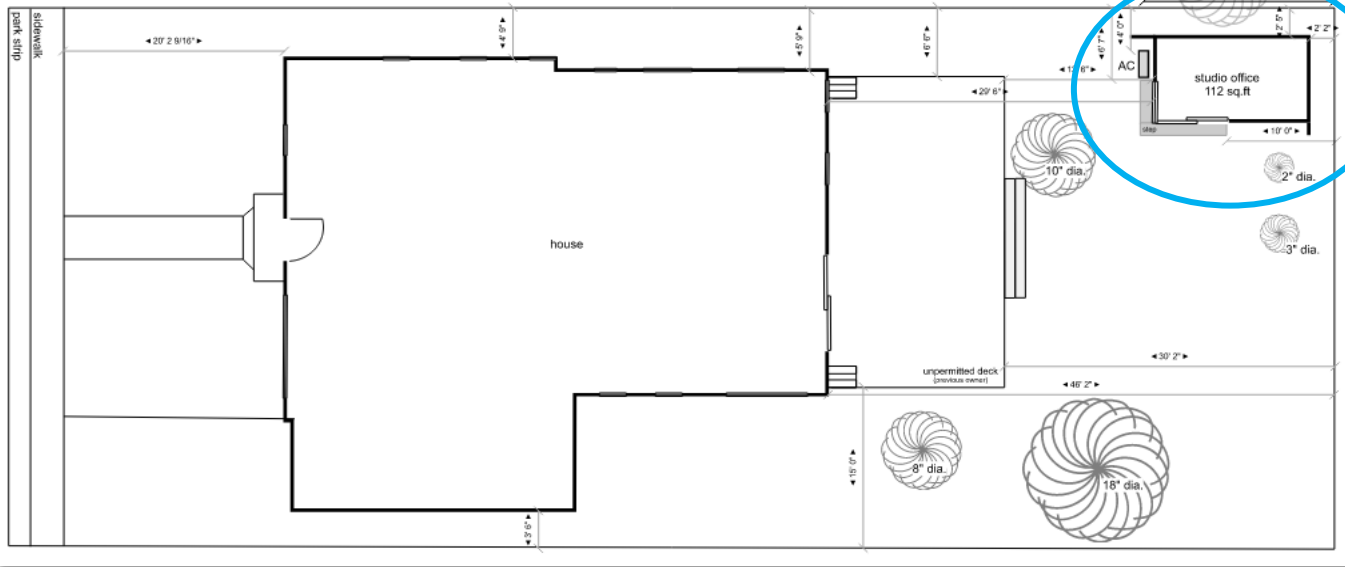


Image Sources: Applicant

Code Compliance

Minimum Setback Requirements

Height	Front Yard	Side Yard	Rear Yard
Up to 8 ft.	n/a	0 ft.	0 ft.
Between 8-15 ft.	n/a	4 ft. (Zoning setback)	10 ft.

Proposed Structure

Height	Front Yard	Side Yard	Rear Yard
9 ft. 11 in. height	n/a	2 ft. 5 in.	2 ft. 2 in.

Background

- ❖ 7/10/23: Neighborhood Complaint
- ❖ 9/1/23: Applicant submitted Variance application
- ❖ 11/29/23: Zoning Administrator hearing; application denied
- ❖ 12/14/23: Applicant filed appeal of ZA decision
- ❖ 4/22/24: Planning Commission hearing #1
- ❖ 5/28/24: Planning Commission hearing #2: application denied
- ❖ 6/10/24: Applicant filed appeal of PC decision

Variance Finding 1

“There are exceptional or extraordinary circumstances or conditions applicable to the property or use involved which do not apply generally to property, improvements or uses within the same zoning district.”

Applicant’s Justification

1. Lot is substandard in size; only 50 ft. wide.
2. Relocating the accessory structure could negatively impact neighbor privacy or root area of a heritage Magnolia tree

Staff Response

1. Standard 5,750 sq. ft. rectangular-shaped lot (50’ W x 115’ D)
2. Code allows flexibility in accessory structure height, size, and location.
3. Community concerns

Neighbor Feedback



Variance Finding 2

“The approving of such 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.”

Applicant’s Justification

1. Applicant received some neighbor support for home office
2. An ADU could be larger and cause more significant impacts to property and neighbors

Staff Response

1. Complaints received
2. Lack of permits is a safety concern
3. Offices not the same as ADUs.

Variance Finding 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.”

Applicant’s Justification

1. Applicant would not be provided special privileges not available to surrounding property owners
2. Aerial view of neighborhood shows many accessory structures built with little or no setbacks

Staff Response

1. Previous Variance granted for an accessory structure brought the project into compliance with parking code requirements.
2. Satellite view is not adequate in determining whether neighboring accessory structures are code-compliant.

Additional Justifications by Applicant

- A. Some Commissioners encouraged applicant to appeal to City Council
 - Support home office
 - PC lacks legislative authority to go beyond the current code in granting the variance
 - Request to revise municipal code to allow increased height and reduced setbacks for detached offices when smaller than 120 square feet

- B. Current ordinances encourage homeowners to construct larger ADUs, although smaller, simpler, and less costly structures serve the original purpose.

Additional Justifications by Applicant (continued)

C. Home office would:

- Support housing affordability
- Help reduce climate impacts due to reduced traveling
- Generate less parking demand compared to an ADU

D. Significant personal costs

Staff Response to Applicant's Additional Justifications

- Planning Commission voted to deny application, with one abstention and 2 absent.
- California law requires city's decision-making body to evaluate project based on current regulations.
- The state law supports the development of ADUs, and restricts cities' ability to deny them.
- City staff has not conducted a study to determine whether ADUs are primarily being used as offices rather than residential purposes.
- Cannot review applicant's financial circumstances



Options to Modify the Structure for Compliance

- ❖ Reduce structure to 8 feet in height
- ❖ Relocate structure to comply with 4-foot side and 10-foot rear yard setback requirements
- ❖ Expand structure and convert to ADU

- ❖ Any option that includes power and where building is used as a “habitable” space requires a Building Permit.

Recommendation

Alternatives

1. Deny the appeal and uphold decision of the Planning Commission to deny the Variance
2. If Findings can be made, grant the appeal and approve the Variance subject to draft conditions
3. Alternative 2 with modifications.

Staff Recommendation

Alternative 1. Deny the appeal and uphold decision of the Planning Commission to deny the Variance for the accessory structure.