



**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

Associate Planner Robby Miller presented the staff report with a slide presentation.

At Commissioner Davis' request, Associate Planner Miller addressed the information presented in the attachment titled "Responses to Planning Commission Questions 20240528." Commissioner Davis confirmed with Principal Planner Julia Klein that unless a neighbor files a complaint and further research is conducted, it is uncertain whether the utility buildings noted in this attachment are compliant with Zoning ordinances. Principal Planner Klein added that detached structures that are under 120 square feet, less than 8 feet in height, and do not include utilities are not subject to a Planning permit. Commissioner Davis stated that for this reason, the City has no documentation of such structures.

Commissioner Serrone and Principal Planner Klein discussed the different fire codes that would apply depending on the height and square footage of an accessory structure and whether the structure includes utilities.

Commissioner Serrone confirmed with Principal Planner Klein that none of the Variances for accessory structures or Accessory Dwelling Units (ADUs) within 300 feet of the subject property were denied.

Commissioner Serrone confirmed with Associate Planner Miller that the subject structure received complaints from two residents, one of which lives near the subject property. Planning Officer Shaunn Mendrin added that since a formal complaint was filed with the City's Neighborhood Preservation division, the case must be resolved.

Vice Chair Iglesias questioned whether the subject structure was converted to an ADU since there are two addresses for the subject property on Google Maps. Principal Planner Klein responded that the information in Google Maps is inaccurate as the subject structure has not been converted to an ADU.

Commissioner Shukla questioned the possible outcomes whether the Planning

Commission grants the requested Variance for the subject structure. Principal Planner Klein explained that if the Variance is denied, the applicant would need to remove the subject structure, convert it to an ADU that meets City requirements, or appeal the Planning Commission's decision to the City Council. Principal Planner Klein stated that if the Variance is granted, the accessory structure would be subject to applicable building code and other life/safety requirements. Associate Planner Miller noted that the project plans show the relocation of the air conditioner unit.

Chair Pyne reiterated the applicable Alternatives that the Planning Commissioners may consider for this agenda item.

Chair Pyne confirmed with Planning Officer Mendrin that a simple majority is needed to carry the motion for this agenda item.

Chair Pyne opened the Public Hearing.

Scott McClennan, property owner and applicant, provided an oral presentation.

Commissioner Davis confirmed with Mr. McClennan that the power grid for the subject accessory structure is the same one that supplies power to the single-family house on the subject property.

Vice Chair Iglesias shared that he contacted and spoke to a representative of the company that built the subject structure and was told that the company is not responsible for ensuring that their products are compliant with City requirements. Vice Chair Iglesias asked the applicant to clarify the nature of his correspondence with the company. Mr. McClennan stated that he communicated with the company representatives, but he did not confirm permitting requirements with City staff. He added that if the Variance is granted, he will ensure that the subject structure complies with building and life/safety requirements. Vice Chair Iglesias expressed his concerns with setting a precedence through the granting of the Variance.

Commissioner Shukla stated that while she may empathize with the applicant's case, City requirements for the subject accessory structure must be met. Mr. McClennan responded that he believes the City's requirements for such structures are ambiguous and recommends the City take this opportunity to make it clear.

Commissioner Shukla encouraged the applicant to consider converting the subject structure to an ADU.

Chair Pyne opened the Public Hearing.

Stephen Meier spoke in support of the Variance and the subject accessory structure and explained why.

Mr. McClennan presented additional information to support his case.

Chair Pyne closed the Public Hearing.

Vice Chair Iglesias questioned whether the Planning Commission may approve the Variance for the subject accessory structure and provided additional comments on the matter.

Vice Chair Iglesias confirmed with Planning Officer Mendrin that if the Variance for the subject structure is granted, it would be difficult for the Planning Commission to deny Variance requests for similar structures moving forward. Principal Planner Klein emphasized the role of staff and Commissioners in following existing City requirements. Principal Planner Klein further clarified that regardless of whether there may be merit in reevaluating existing City requirements for accessory structures, the subject matter before the Commission is whether the findings can be made to support the requested Variance based upon existing City requirements.

Commissioner Serrone stated that the Planning Commission does not have the authority to grant the Variance since the accessory structure does not meet existing City requirements. Planning Officer Mendrin reminded the Planning Commissioners that they may propose a study issue to reevaluate applicable standards for accessory structures and make changes accordingly.

Commissioner Davis confirmed with Planning Officer Mendrin that in the event the Variance is denied, the applicant may appeal the Planning Commission's decision to the City Council within fifteen days.

Commissioner Davis spoke in favor of undergoing a study issue process to reevaluate existing City requirements for accessory structures. Until these code changes are implemented however, Commissioner Davis stated that the Variance may not be granted.

MOTION: Commissioner Davis moved and Commissioner Shukla seconded the

motion to approve Alternative 1 – Deny the appeal and uphold the Zoning Administrator’s decision to deny the Variance for the accessory structure based on the Recommended Findings for Denial in Attachment 1.

Commissioner Shukla voiced her support of the motion and explained why.

Chair Pyne confirmed his support of the motion since not all Findings for the Variance have been met. He also expressed his support of a study issue process to reevaluate City policies for accessory structures.

Vice Chair Iglesias stated that he will be abstaining from voting and explained why.

The motion carried by the following vote:

**Yes:** 4 - Chair Pyne  
Commissioner Davis  
Commissioner Serrone  
Commissioner Shukla

**No:** 0

**Absent:** 2 - Commissioner Howard  
Commissioner Howe

**Abstained:** 1 - Vice Chair Iglesias

This decision is final unless appealed or called up for review by the City Council by 5:00 PM on Wednesday, June 12, 2024.