



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 15-0941, Version: 1

REPORT TO THE ZONING ADMINISTRATOR

File #: 2015-7770

Location: 1023 Lochness Ct. (APN: 313-35-030)

Applicant / Owner: American Remodelers Inc., Ryan Houston (applicant) /Rajiv Kadaba (owner)

Proposed Project:

USE PERMIT to demolish an existing unpermitted 104 sq. ft. addition, legalize an existing unpermitted 17 sq. ft., and add a 73 sq. ft. bathroom to a permitted 448 sq. ft. accessory structure resulting in a 538 sq. ft. habitable accessory structure, which is 88 sq. ft. larger than the 450 sq. ft. allowed without a Use Permit. The existing house (unchanged) and accessory structure will total 2,697 sq. ft., resulting in 28.8% FAR.

Reason for Permit: A Use Permit is required in R-0 zoning districts for accessory structures that exceed 450 sq. ft.

Project Planner: Teresa Zarrin, (408) 730-7429, tzarrin@sunnyvale.ca.gov

Issues: Setbacks, accessory structure size and height, compliance with Chapter 19.76 - short-term rental of residential property

Recommendation: Approve with conditions

PROJECT DESCRIPTION

	Existing	Proposed
Zoning District:	R-0	Same
Lot Size:	9,377	9,377
Gross Floor Area:	2,607 Total: 1,757 (living area) 402 (garage) 448 (studio permitted, actual 465)	2,697 Total: 1,757 (living area) 402 (garage) 538 (studio actual 465 + 73 bathroom)
Lot Coverage (%):	30	31
Right Setback:	5'3" house	Same
Left Setback:	10'2" studio	Same
Rear Setback	9'5" (existing, permitted)	9'5" (existing, permitted) 10' (new)
Rear Yard Encroachment (%)	8.5	7.6

Previous Permits related to Subject Application: Building Permit 1811-3002 issued in 1967 for a 448 sq. ft. hobby shop	Yes
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<p>Neighborhood Preservation History: 8/26/15: Citation Appeal Hearing: Hearing Officer upheld the \$100 citation for operating a hotel/motel in an R-O zoning district. 7/13/15: Complaint - Owner is listing their property via airbnb with a 1 day minimum again. Citation issued for \$200 based on the advertisement via airbnb, the owner continues to operate short term rental. One night minimum. 6/23/15: Citation issued for \$100 for operating a hotel/motel in an R-O zoning district. 6/16/15: Complaint - airbnb, Remodeled the shed in the back yard and, now people are also living in the shed. RP said they heard one of the renters and said that he is only staying at the place for a week. Inspection Comment - airbnb website checked and no listing found, the accessory structure has a Building Permit issued in 1967. 2/12/15: Complaint - Homeowner is renting out 4 individual rooms on a nightly basis, like a hotel. Inspection Response: Property owner contacted and reminded that rentals are allowed only for more than 30 days. Applicant asked to provide rental agreements.</p>	<p>Yes</p>
<p>Deviations from Standard Zoning Requirements</p>	<p>None</p>

Background: Sunnyvale Municipal Code (SMC) Chapter 19.46 limits the total area of all accessory structures to no more than 450 square feet, unless otherwise approved by a Use Permit. The purpose of the area limitation is to ensure sufficient space in the rear yard for open recreation and to reduce potential impacts to adjacent residents.

A 448 sq. ft. accessory structure of was permitted for the property in 1967. The existing structure is 569 sq. ft.:

- 448 sq. ft. (permitted)
 - + 17 sq. ft. (unpermitted, built larger than permitted in 1967)
 - +104 sq. ft. (unpermitted addition built after 1967)
- 569 sq. ft.

The applicant proposes to demolish the 104 sq. ft. unpermitted addition, legalize the 17 sq. ft. of unpermitted square feet, and add a 73 sq. ft. bathroom. The resulting accessory structure would total 538 sq. ft. (465 sq. ft. existing plus 73 sq. ft. bathroom) and requires approval through a Use Permit.

Use: The proposed habitable structure includes two rooms (meditation room and gallery) totaling 465 sq. ft., plus a 73 sq. ft. bathroom. The bathroom includes a sink, toilet and a shower. The utility building includes electrical outlets, space heater and a wall furnace. There is no kitchen or wet bar in the plan. The structure qualifies as “detached habitable space” (SMC 19.12.020(1)(a)), because it does not include a kitchen.

Site Layout: The property is a 9,377 sq. ft. wedge-shaped lot on a cul-de-sac. The front property width at the curb is 25 ft. and the rear property line is 148 ft. in length. The existing home sits towards the front of the property and contains a two-car garage. No modifications are proposed to the existing home.

The accessory structure is located in the left, rear corner of the property and complies with all development standards. The structure provides a 10 ft. (9'5" existing, permitted) rear property line setback (10 ft. required), a 10'2" left side setback (4' required), and a rear yard encroachment of 7.6% (25% maximum allowed). The remaining rear yard is approximately 22' x 70', which enables adequate area for open recreation in the rear yard.

The possibility of creating an accessory living unit was explored; however, the current driveway is 17 ft. long on the left side, which is 3 ft. short of the required 20 ft. depth. The property is considered legal non-conforming with only one legal uncovered parking space on the property. There is not enough room in the front yard and the curb frontage is too narrow at 25' to provide a total of three uncovered parking spaces as required if an accessory living unit is to be added to the property.

Architecture: The proposed accessory structure addition has been designed to match the existing accessory structure and the main Ranch-style home, with vertical strip siding and composition roofing. The proposed accessory structure ranges in height from 9' 3" to 12' 5", where 15' maximum is permitted.

Neighborhood Impacts / Compatibility: The accessory structure is not changing on the (already permitted) south, east and west elevations. The north elevation is adding one 2.5' x 4' window for the bathroom. Staff does not expect privacy or noise impacts, as the project complies with setback requirements and contains minimal openings. In addition, the accessory structure is architecturally compatible with the existing home and will not be visible from the street.

Public Contact: 73 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.

Planning staff received two emails regarding the proposed accessory structure. Each letter notes objections to the accessory structure, because of its use as an airbnb rental. The neighbors cite problems such as 30-35 short term (less than 30 day rental) tenants coming and going in the neighborhood, since they started the business. The letters also note, parking issues and litter being left in the cul-de-sac by tenants. One letter states that the tenants are told to park on Quail Ave. It is uncertain if this is part of the rental agreement.

Short-Term Rental of Residential Property: The proposed accessory structure is a detached habitable space as mentioned above. A detached habitable space is defined in Zoning Code (section 19.12.020) as:

"Detached habitable space" is defined as "An accessory structure which is detached from the main structure and meets the minimum requirements of the building code for human occupancy. For the purposes of this subsection, detached habitable spaces **do not have cooking and/or eating facilities** and may not qualify as accessory living units. If a detached habitable space has cooking and/or eating facilities, it is regulated as an accessory living unit."

The new regulations in Chapter 19.76 of the SMC pertaining to short-term rental (less than 30 days)

of residential property, adopted by the City Council on 9/29/15, do not prohibit people from renting detached habitable spaces, and in fact expressly allow it. The new regulations only prohibit rental of non-habitable spaces for sleeping such as tents and sheds. When the ordinance becomes effective on November 12th (unless the Council doesn't take action on it at the October 13th second reading hearing), the proposed accessory structure can be rented on a short term basis as long as the property owner complies with the existing ordinance.

Environmental Determination: A Categorical Exemption Class 1 (e) (additions to existing structures) relieves this project from CEQA provisions.

FINDINGS

In order to approve the Use Permit the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

Policy LT-4.4 Preserve and enhance the high quality character of residential neighborhoods.
Policy CC-3.2 Ensure site design is compatible with the natural and surrounding built environment.

Staff finds that the project allows the applicant to make use of a large rear yard while ensuring that the design and location of the structure is consistent with the existing home and other accessory structures found in the neighborhood.

Staff was able to make the required finding as described above.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

The accessory structure is architecturally compatible with the existing home and will not be visible from the street. Privacy and noise impacts are not expected as the project complies with setback requirements and contains minimal openings. The project also meets the intent of restricting the size of accessory structures as the structure encroaches 7.6% into the required 20-foot rear yard and maintains adequate area for open recreation.

Staff was able to make the required finding as described above.

ALTERNATIVES

1. Approve the Use Permit with recommended Conditions in Attachment 2.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

RECOMMENDATION

Alternative 1. Approve the Use Permit with recommended Conditions in Attachment 2.

Prepared by: Teresa Zarrin, Associate Planner

Approved by: Gerri Caruso, Principal Planner

ATTACHMENTS

1. Vicinity and Noticing Maps
2. Recommended Conditions of Approval
3. Site and Architectural Plans
4. Use Permit Justifications
5. Comment Letters