



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 17-0922, Version: 1

REPORT TO PLANNING COMMISSION

File #: 2015-7144

Location: 584 Crawford Drive (APN: 201-33-042)

Zoning: R-0

Proposed Project: Appeal of a decision by the Zoning Administrator to deny the following:

DESIGN REVIEW for a 1,142 sq. ft. one-story addition to an existing 1,227 sq. ft. one-story single-family home (2,369 sq. ft. living area and 1,205 sq. ft. garage), resulting in 3,574 sq. ft. and 36% FAR. The project includes attaching the existing garage to the home and a minor architectural modification to the existing front porch.

VARIANCE to allow a 12-foot, 4-inch combined side yard setback when 15 feet is required.

Applicant / Appellant / Owner: Bob Fuselier

Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions that include minor additions to an existing-single family residence (CEQA Guidelines Section 15301).

Project Planner: George Schroeder, (408) 730-7443, gschroeder@sunnyvale.ca.gov

SUMMARY OF ZONING ADMINISTRATOR ACTION

The Zoning Administrator considered this item on August 30, 2017 (see Attachment 5 for the Report to Zoning Administrator and Attachment 6 for meeting minutes). No members of the public were in attendance. The Zoning Administrator took the item under advisement to consider the applicant's justifications at the hearing and subsequently denied the Design Review permit and Variance on August 31st. The Zoning Administrator was unable to make the required finding that there are exceptional or extraordinary circumstances or conditions applicable to the property that prevents the project design from meeting City zoning requirements.

APPEAL

The applicant filed an appeal of the Zoning Administrator's denial on September 13, 2017. No other appeals were received during the 15-day appeal period. The applicant's basis for the appeal is included in Attachment 7. The applicant lists the following reasons for the appeal:

1. There are exceptional and extraordinary conditions on the project site, particularly a large nonconforming detached garage that is unique to other properties in the City. There is also a large setback from the garage to the nearest structure on the neighboring property which is consistent with the intent of setback requirements.
2. Staff's suggested alternatives to meet the combined side yard setback requirement would create undue hardships in terms of increased project costs, potential protected tree removal, and impacts to the desired floor plan.
3. The project is subject to a nonconforming code section (SMC 19.50.020) that allows the home to expand without requiring a Variance since there is no increase in nonconformity. The garage will

not be expanded into the required setback and the proposed addition follows the existing conforming building setback on the opposite side.

4. Other new structures in the neighborhood were built with closer setbacks and more floor area than what is proposed with the project. The proposed addition will not be visible from the street and will not impact neighboring properties.

Pursuant to Sunnyvale Municipal Code (SMC) Section 19.98.070 (f)(2) and (3), the Planning Commission hearing is a de novo hearing and the Planning Commission is not bound by the decision that has been appealed or limited to the issues raised in the appeal by the appellant. After the hearing, the Planning Commission shall affirm, modify, or reverse the original decision based on the evidence and findings.

STAFF COMMENTS ON THE APPEAL

1. Exceptional and Extraordinary Conditions

The applicant states that the size and location of the existing detached garage presents an exceptional condition that is not present in the neighborhood or City. The 1,205 square-foot garage is larger than typically found in the city and is considered nonconforming because its side setback of 2'-4". The applicant proposes to attach the garage to the house in conjunction with a 1,142-square foot, one-story addition. The garage itself does not require a variance because it is legal non-conforming and there would be no increase in nonconformity for the garage, because it would not be enlarged in area or height, nor be located closer to the side property line. But attaching the garage to the house would result in one principal structure, which is subject to the combined side yard setback requirement.

The need for a Variance for the project is due to the house addition design. In calculating the combined side yard setback requirement, the total of both sides must be at least 15 feet. In the subject application, that would require the setback for the addition along the east property line to be 12'-8" rather than 10' as requested. Although the existing garage location close to the west property line results in a larger setback requirement for the addition along the east property line, the property is relatively wide at 75', which provides sufficient room for an addition to the home.

There are two options available to avoid the need for a Variance. One would be to move the addition along the east property line an additional 2'-8" to meet the required 15' combined side yard setback. The other option would be to not connect the home to the existing garage and maintain a 5' separation between the house addition and garage because the combined side yard setback requirement does not apply to detached accessory structures.

Staff maintains the position that the property is not considered unique to the neighborhood or R-0 zoning district, because the lot is rectangular and has the same approximate dimensions as most other properties in the neighborhood. Additionally, the lot area of 9,921 sq. ft. exceeds the 6,000 sq. ft. minimum lot size of the zoning district, and the lot width of 75 feet exceeds the 57-foot minimum lot width of the zoning district, and there are many other design options that could meet the setback requirements and allow additions to the home.

2. Undue Hardship

The applicant lists reasons for how staff's suggested alternatives to comply with the combined side

yard setback requirement would create undue hardships. Additional project costs would be involved with these alternatives, such as increasing the setback of the proposed addition, or the full or partial demolition of the garage to meet the combined setback requirement. The applicant states that increasing the setback of the proposed addition would impact the form and function of the floor plan. Additionally, the applicant believes that increasing the setback would lead to shifting floor area further to the rear of the property, which may impact an existing protected tree.

The alternatives suggested by staff are a typical consideration for property owners that intend to retain nonconforming structures in conjunction with addition projects. Staff finds that minor changes to the floor plan layout could accommodate the proposed addition, while meeting the combined side yard setback requirement. Staff does not find that implementing the additional setback on the proposed addition would impact an existing protected tree in the rear yard. The tree is 12 feet away from the rear of the currently proposed addition and there is 28 feet of area between the addition and the existing garage where the addition could be relocated.

3. Interpretation of the Nonconforming Code Section

The applicant believes that SMC Section 19.50.020 relieves his project from having to meet the combined side yard setback requirement. This code section allows existing legal nonconforming structures (such as the existing garage) to be repaired, altered, enlarged or replaced by-right if no increase in nonconformities (such as encroaching further into the required setback) will result. SMC Section 19.50.020 allows the garage to remain in its current location with a nonconforming minimum side yard setback, because it is not increasing in nonconformity.

The combined side yard setback requirement is triggered because the garage would be attached to the house, which makes it one principal structure. If the garage is to be retained in its current location with a 2'-4" side yard setback, then the addition on the opposite side of the garage would need to be setback a total of 12'-8" to meet the 15-foot combined side yard setback requirement. Alternatively, the garage could remain detached from the house so that it is not subject to the combined side yard setback requirement.

The applicant contends that SMC Section 19.50.020 would allow the addition as proposed on the opposite side of the garage, because it follows the existing building wall line and does not increase the nonconformity. This building wall line is currently conforming in both the minimum and combined side yard setback, and does not fall under this code section. Even if the wall was nonconforming, expanding it along a nonconforming setback would increase the nonconformity. SMC Section 19.50.020 only applies to retention of existing legal nonconforming structures, not proposed additions.

4. Inconsistency in Neighborhood Development

The applicant claims that the strict application of the code standards that pertain to existing structures deprive them of other privileges enjoyed by other property owners in the neighborhood. This is supported by examples of other properties that built larger homes with closer setbacks than what is proposed with the project. The applicant notes that their project will not impact neighboring properties because the addition would not be visible from the street and it follows the existing side yard setback. The additional 2'-8" setback needed for the proposed addition to meet the combined side yard setback would not significantly contribute to neighbor's privacy and building separation as intended in the code.

The combined side yard setback requirement went into effect in 2009, and the reduced setback examples that the applicant mentions are from projects that were approved prior to adoption of this code requirement. There have not been any Variance applications or approvals for combined side yard setbacks in the neighborhood since the requirement went into effect. The applicant is also able to build a similar-sized home as others in the neighborhood. Staff can make the finding that the proposed project would not be materially detrimental to the public welfare or injurious to other properties in the neighborhood, but approving the Variance could set a precedent and may grant a special privilege to the property owner not enjoyed by applicants that have built additions after the combined side yard setback requirement went into effect.

PUBLIC CONTACT

58 notices were sent to surrounding property owners and residents within a 300-foot radius of the subject site in addition to standard noticing practices, including advertisement in the Sunnyvale Sun Newspaper and on-site posting. No written correspondence or calls were received from the public at the time of staff report production.

ALTERNATIVES

1. Deny the appeal and affirm the Zoning Administrator's determination to deny the Design Review permit and Variance.
2. Grant the appeal and reverse the Zoning Administrator's determination to deny the Design Review permit and Variance with recommended Conditions in Attachment 2.
3. Grant the appeal and reverse the Zoning Administrator's determination to deny the Design Review permit and Variance with modified conditions.

RECOMMENDATION

Alternative 1. Deny the appeal and affirm the Zoning Administrator's determination to deny the Design Review permit and Variance.

If the Planning Commission is able to make the required findings and approve the project, staff has included Conditions of Approval in Attachment 2.

Prepared by: George Schroeder, Senior Planner

Reviewed by: Ryan Kuchenig, Senior Planner

Approved by: Andrew Miner, Planning Officer

ATTACHMENTS

1. Noticing and Vicinity Map
2. Standard Requirements and Recommended Conditions of Approval (if approved) **(updated with Planning Commission hearing date)**
3. Site and Architectural Plans
4. Applicant's Variance Justifications

Additional Attachments for Report to Planning Commission

5. Report to Zoning Administrator 17-0820, August 30, 2017 (without attachments)
6. Minutes from the Zoning Administrator Meeting of August 30, 2017
7. Applicant's Basis for the Appeal