



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 20-0594, Version: 1

REPORT TO THE ZONING ADMINISTRATOR

SUBJECT

Proposed Project:

VARIANCE: to allow a 999-square foot attached Accessory Dwelling Unit (ADU) that covers more than 25% of the required rear yard. The project also includes a 522-square foot addition to the front of the existing single-family home, resulting in a total floor area of 3,562 square feet and 42% floor area ratio (FAR).

Location: 814 Selkirk Place (APN: 316-27-028)

File #: 2020-7207

Zoning: R0 - Low Density Residential

Applicant / Owner: Orchard Home Design (applicant) / Ralph Dalla Betta Trustee & Et Al (owner)

Environmental Review: Class 3 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Momoko Ishijima, 408-730-7532, mishijima@sunnyvale.ca.gov

BACKGROUND

Description of Proposed Project

The applicant requests a Variance to allow construction of a 999-square foot attached Accessory Dwelling Unit (ADU) that covers more than 25% of the required rear yard. Per Sunnyvale Municipal Code (SMC) Section 19.48.050, any single story main or accessory structure in any residential zoning district may extend into the required rear yard not to exceed 25% coverage. The existing residence has an extension that has an approximately 15% coverage of the required rear yard. The project proposes to remove the existing bedroom and bathroom, and construct a new attached ADU with two bedrooms, two bathrooms, a kitchen, and living area, resulting in a rear yard coverage of 52%.

In early 2019, the Sunnyvale City Council adopted a new ADU ordinance (SMC Chapter 19.79) to ensure that Sunnyvale's requirements for ADUs are consistent with the 2019 amendments to the State law (California Gov. Code Section 65852.2). The ordinance creates two categories of ADUs: streamlined ADUs, which are approved with a building permit only, and non-streamlined ADUs, which require a Miscellaneous Plan Permit (MPP).

The subject application is considered non-streamlined because the proposed ADU is attached to the main residence and is more than 800 square feet in size. The proposed ADU complies with the ADU standards specified in SMC 19.79.040 with regard to size (an ADU with two or more bedrooms can be up to 1,000 square feet), height, and setbacks. However, non-streamlined ADUs must meet other zoning standards in the Municipal Code, including the restrictions on rear-yard lot coverage, as long as those standards do not prohibit construction of an ADU that is at least 800 square feet, 16 feet in height with four-foot side and rear setbacks [SMC Section 19.79.040(f)]. Therefore, a variance

approval would not be required for an 800-square foot ADU (regardless of the rear yard coverage). The variance is only requested to allow the additional 199 square feet.

The project also includes a 522-square foot addition in the front of the existing residence for a new master bedroom suite. The front addition is not part of the proposed ADU and does not require a variance.

See Attachment 1 for a map of the vicinity and mailing area for notices, Attachment 2 for the Data Table, and Attachment 4 for Site and Architectural Plans.

Previous Actions on the Site

The existing single-story, single-family residence was constructed in 1960. On August 20, 1975, a Building Permit (#1803-2165) was issued for the construction of a new bedroom and bathroom in the rear. On September 23, 2015, a Miscellaneous Plan Permit (#2015-7825) was approved to allow a Large Family Day Care for up to 14 children. The day care use is no longer in operation. On October 2, 2019, a Miscellaneous Plan Permit (#2019-7706) was approved to allow a 697-square foot ADU addition in the front, and a 163-square foot addition in the rear, for a total floor area of 3,243 square feet and 40% FAR.

ENVIRONMENTAL REVIEW

Class 3 Categorical Exemption (new construction or conversion of small structures) relieves this project from the California Environmental Quality Act (CEQA) provisions.

DISCUSSION

Site Layout and Architecture

The project site is located on the southeast corner of Selkirk Place and Killdeer Court. The 8,552.74-square foot lot is within a housing tract developed in 1960. The zoning is R-0 (Low Density Residential) and the surrounding uses are single-family residences all around. The project site is approximately 0.4 mile southwest of the Homestead Road and North Wolfe Road intersection.

The lots in this neighborhood are typically 60 feet wide by 110 feet deep, which are considered standard for lot width and area by Sunnyvale Municipal Code standards. The project site is on a corner and the residence was constructed with a long porch and the front door orientation on Selkirk Place, which is the wider frontage; and the garage and driveway on Killdeer Court, which is the narrower frontage. SMC defines the rear yard on a corner lot as the opposite width on the narrower frontage. The Killdeer Court frontage (west side) is the front property line and the opposing property line on the east side is the rear property line. The lot is narrower at the front property line (68 feet) and wider at the rear property line (79 feet). Additionally, due to the rectilinear shape of the existing residence located and covering the center of the lot; most of the usable yard space is along the south side on what is considered the side yard, although it functions more like a rear yard for this residence.

The existing residence has an extension into the rear yard that has an approximately 15% coverage of the required rear yard. The project proposes to remove the existing bedroom and bathroom, and construct a new attached ADU with two bedrooms, two bathrooms, a kitchen and living area, and 52% coverage of the required rear yard. The addition to the front is for a new master bedroom suite.

The architecture of the existing house is Ranch style with simple forms, a low-pitched roof with

gabled and Dutch gabled ends, and the front door recessed under a porch. The horizontal lines and deep eaves that characterize the Ranch style architecture are emphasized by the long rectilinear shape of the home. The proposed additions in the front and rear of the residence are conforming with the existing Ranch style design with plate heights that are consistent and roof heights that are subordinate to the main roof ridge. The existing house is 17 feet five inches to the ridge and the height of the ADU is 15 feet five inches to the ridge, and 15 feet 10 inches to the ridge for the front addition.

Applicant's Variance Justifications

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

- The size and shape of the Property are such that a strict application of SMC Section 19.48.050 will unjustly deprive Applicants the ability to construct an ADU that would otherwise be permissible to residents with larger parcels and/or larger rear yards. The Property is a corner lot located at the intersection of Selkirk Place and Killdeer Court. For this corner lot, the City has treated the thin, western side (facing Killdeer Ct.) as the "front" of the parcel, which designates the similarly thin, eastern side of the parcel as the "rear" yard. Due to this unique configuration of the parcel, Applicants are left with an extraordinarily small rear yard.
- Granting the Variance would not be detrimental to the public welfare, or injurious to the Property, improvements thereon, or uses within the immediate vicinity. The rear yard setbacks of 9 ft. 7 inches and 5 ft. 8 inches at various points from the ADU creates sufficient separation from the neighbors to the east, and is certainly more than the maximum 4-foot rear yard setback requirement for ADUs which is codified under new state ADU laws. These setbacks will allow sufficient light and ventilation throughout Applicant's rear yard. Further, an ADU of this size would not jeopardize the primary dwelling on the Property. The 999 sq. ft. ADU will not result in detrimental effects on neighboring uses, nor impact the viewsheds, noise levels or traffic currently experienced in the Property's vicinity.
- Granting the Variance requested herein will still respect the intent and spirit of the development standards in the SMC. Waiving rear yard requirements would not implicate other development standards for which the proposed ADU would satisfy, e.g., density, height, front and side yard setbacks, and overall "lot coverage." Granting this variance would not create any special privileges not enjoyed by surrounding property owners, but would enhance the design and cohesiveness of the ADU on the Property.

The applicant has submitted an additional comment letter (Attachment 8) to provide clarification that the proposed ADU would not be used for short-term rentals, the project includes the removal of 342 square feet of existing floor area from the rear of the home, and the proposed FAR at 42% is less than the 45% maximum permitted.

The letter includes a site plan which includes a parking space for the ADU and a new driveway cut on Selkirk Place. This parking space was not included in the Site and Architectural Plans previously provided by the applicant (Attachment 4). Staff has included a condition of approval (Attachment 3) requiring an Off-Site Improvement Plan and Encroachment Permit review and approval from the Department of Public Works for any work in the public right-of-way.

State Accessory Dwelling Unit Legislation

The State of California enacted new legislation related to ADUs (AB 881, AB 68, and SB 13). The City of Sunnyvale City Council adopted an urgency ordinance on December 10, 2019, amending sections of the SMC related to ADUs to make the City's ADU regulations consistent with the new state laws. The new regulations were codified as SMC Chapter 19.77, subsequently re-numbered as Chapter 19.79. The ordinance went into effect in February 2020. As required by state law, the City's ADU regulations provide for streamlined approval (building permit only) of ADUs that meet certain criteria. For ADUs that do not qualify for streamlined approval because it is a newly constructed, attached ADU that is more than 800 square feet in size, then the ADU is subject to additional zoning requirements of the SMC. State law allows the City to impose additional requirements on non-streamlined ADUs, as long as those requirements do not preclude the construction of an ADU that is at least 800 square feet in size, no more than 16 feet in height, and has four-foot side and rear setbacks.

Development Standards

The proposed project complies with the applicable development standards as set forth in the Sunnyvale Municipal Code, except for the maximum 25% coverage when a main or accessory structure extends more than 10 feet into the required rear yard. As stated in the project description, SMC Section 19.48.050 requires that in any residential zoning district, the main or accessory structure may extend into the required rear yard not to exceed 25% coverage. The project proposes to remove the existing bedroom and bathroom, and construct a new attached ADU with a rear yard coverage of 52%.

Variance Findings (SMC 19.84.050)

(1) *Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.*

The intent of the required rear yard rule is to allow for orderly development while still maintaining usable private open space on a residential lot. Most single-story, single-family residential lots in Sunnyvale are configured with a one- or two-car garage in the front with living space behind the garage. The project site is located on a corner lot with a slightly trapezoidal lot shape, and with the orientation of the front door on Selkirk Place, which is the wider frontage. The rectilinear residence is located in the center of the lot with most of the usable yard space along the south side on what is considered the side yard under strict application of the SMC. Because of the orientation of the front door on Selkirk Place, the required rear yard has functioned as a side yard, and the side yard has functioned as a rear yard with ample private open space, which will be maintained with the proposed ADU addition. Furthermore, under the State law, an 800-square foot ADU would be permitted regardless of the rear yard coverage, and the variance request is for the additional 199 square feet. Due to the unusual shape of the lot and the placement of the existing residence in the middle of the lot, a strict application of the Municipal Code standards for rear yard coverage would deprive the privileges enjoyed by other properties in order to accommodate the placement of a 999-square foot ADU that meets all other City standards.

(2) *The granting of the 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.

With regard to neighborhood impacts, there is little if any difference between allowing a 999-square foot ADU versus an 800-square foot ADU. There is already a similar smaller extension of the main house into the required rear yard. This structure is not visible from the street due to the existing fence and landscaping. The addition would be larger than the existing structure, however, the overall height is low at 15 feet five inches, and the setback along the rear varies between five feet eight inches and nine feet seven inches, which exceed the State requirement of four feet.

(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.

Staff finds that the requested rear yard coverage deviation is reasonable due to the existing configuration of the house with most of the usable yard space located along the side, negligible privacy and visual impacts to the adjacent neighbors, and consistency with other development standards including lot coverage.

The required rear yard for the project site is 1,555.21 square feet. Even if the 999-square foot ADU and the front addition were constructed, because of the location and shape of the main residence, there would still be approximately 1,000 square feet of yard space preserved on the south side. Additionally, the lot coverage is proposed to be 44%, which is less than the maximum 45% coverage. Due to orientation of the front door on Selkirk Place, the required rear yard has functioned as a side yard and the side yard has functioned as a rear yard, which will be maintained with the proposed ADU addition.

Strict application of SMC 19.48.050 in this case, would prioritize the preservation of open space in the smaller part of the lot that is (as a practical matter) the applicant's "side" yard, while not protecting the space in the larger area which has a greater potential for meeting the needs of future occupants for outdoor activities, children's play areas, pets, gardening, etc. In addition, the applicant's proposed 999-square foot, 2-bedroom ADU will provide critically needed housing and furthers the City's policy (stated in SMC 19.79.010) of encouraging ADU construction as a way to meet the community's housing needs.

TIMING

ADUs must be approved within sixty days of a complete application. The MPP application for the proposed ADU and addition were received on March 25, 2020. The applicant has granted the City an extension until June 19, 2020 (Attachment 7) to hold this variance hearing and issue a decision.

PUBLIC CONTACT

62 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. Staff has received two correspondences expressing support of the project, and two inquiries related to the details of the project.

ALTERNATIVES

1. Approve the Variance with recommended Conditions in Attachment 3.

2. Approve the Variance with modifications.
3. Deny the Variance.

RECOMMENDATION

Alternative 1. Approve the Variance with recommended Conditions in Attachment 3.

Prepared by: Momoko Ishijima, Senior Planner

Approved by: Noren Caliva-Lepe, Principal Planner

ATTACHMENTS

1. Vicinity and Noticing Maps
2. Project Data Table
3. Recommended Conditions of Approval
4. Site and Architectural Plans
5. Variance Justification from the Applicant
6. Letters from Neighbors
7. Time Extension Agreement
8. Clarification Letter from the Applicant