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Title: Public Hearing: Action on an Appeal of a Zoning Administrator Denial of a Minor Modification for the property at 2133 Santa Cruz Avenue

Sponsors:

Indexes:

Code sections:

Attachments: 1. Resolution to Uphold the Zoning Administrator Denial of Minor Modification, 2. Project Data Summary, 3. Development Plans, 4. Zoning Modification Denial Letter, 5. Applicant's Letter of Justification, 6. Staff PowerPoint, 7. Applicant PowerPoint, 8. PMM Correspondence - Cate (support), 9. PMM Correspondence - Cate (questions)

Date	Ver.	Action By	Action	Result
9/23/2020	1	Planning Commission	Approved	Pass
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REPORT TO PLANNING COMMISSION

SUBJECT

Public Hearing: Action on an Appeal of a Zoning Administrator Denial of a Minor Modification for the property at 2133 Santa Cruz Avenue

REPORT IN BRIEF

Project: Appeal of a Zoning Administrator Denial of a Minor Modification for an encroachment into the required 20-foot setback associated with a proposed 427 square-foot addition at the rear and side of the existing single-family home located at 2133 Santa Cruz Avenue

Applicant: Ramin Zohoor

Owner: Devin and Nicole Bissman

General Plan: Very Low Density Residential

Zoning: Single-Family Residential (R1-6L)

Site Area: 5,062 square feet

Existing Site Conditions: One-story 1,104 square-foot residence with an attached 410 square-foot garage

Surrounding Land Uses

North: Single-family residences

South: Single-family residences

East: Single-family residences

West: Single-family residences

Issues: Consistency with the City's General Plan and Zoning Ordinance.

Staff Recommendation: Deny the appeal and uphold the Zoning Administrator denial of the Minor Modification.

BACKGROUND

On June 8, 2020 the applicant, Ramin Zohoor, on behalf of the owners, Devin and Nicole Bissman, submitted a proposal to remodel and construct a 427 square-foot rear and side addition and 50 square-foot front porch addition to their existing 1,104 square-foot house. In order to permit the proposed addition, the owners filed an application for Architectural Review Approval and a Minor Modification to allow the rear addition at a 17'4" setback from the rear property line, where a minimum 20-foot rear yard is required for a house in the R1-6L Zoning District. The existing rear setback is 17'4" and is considered legal nonconforming as it was permitted at the time of the house's construction in 1955. Section 18.94.020(b) of the Zoning Ordinance states that a legal nonconforming building, the use of which is not legal nonconforming, may be expanded in conformance with all of the current development standards of the zoning district in which it is located. The portion of the addition within the required 20-foot setback area would total approximately eight square feet and requires a Minor Modification to permit the nonconforming expansion.

The request for a Minor Modification was denied by the Zoning Administrator on August 3, 2020 (Attachment 3) because the findings required for the modification were not met. On August 10, 2020, the applicants filed a timely appeal of the Zoning Administrator determination.

DISCUSSION

The property is zoned Single Family Residential (R1-6L). The subject property is substandard in size and width at approximately 5,062 square feet where 6,000 square feet it required and 50 feet wide where 60 feet is required. However, the lot is of a standard rectangular shape with ample side setbacks, and Santa Clara has many lots this size. The existing house is positioned on the property at a 20-foot front setback, side setbacks ranging from five feet to 14'4", and a rear setback of 17'4", where 20 feet is required.

The applicant has provided a statement of justification for the Modification to permit the rear addition at a proposed 17'4" setback from the rear property line (Attachment 4). Based on Chapter 18.90 of the Santa Clara City Code (SCCC), a "Minor Modification" shall in no event be deemed to be greater than twenty-five percent (25%) of the dimensions of an area, space, height, or other requirement provided for in this title, and where the proposed alteration or variation exceeds such twenty-five percent (25%) of any requirement, the modification shall be deemed to be a "Variance".

Minor Modifications require the Zoning Administrator to make the same findings that are required for a Variance listed in Section 18.108.040 of the SCCC. The Planning Commission must also make these findings to in order to approve the subject appeal and approve the variance. Staff was not able to make the key finding "that there are unusual conditions applying to the land or building which do not apply generally in the same district," because the lot is rectangular in shape, is one of many lots of this size, and the applicants can expand the square footage within the required setback area.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301(e), (Class 1 "Existing Facilities"), because the project is a 477 square foot addition to an 1,104 square foot existing structure that will not result in an increase of more than 50 percent of the floor area of the structure before the addition.

FISCAL IMPACT

There is no impact to the City for processing the requested application other than administrative staff time and expense typically covered by processing fees paid by the applicant.

COORDINATION

This report has been coordinated with the City Attorney's Office.

PUBLIC CONTACT

On September 11, 2020, a notice of public hearing of this item was posted in at least three conspicuous locations within 300 feet of the project site and mailed to property owners within 300 feet of the project.

ALTERNATIVES

1. Adopt a resolution to deny the appeal and uphold the Zoning Administrator's decision denying the minor modification.
2. Sustain the appeal by adopting legally sufficient factual findings for a variance, overturn the Zoning Administrator's decision, and approve the requested Minor Modification.

RECOMMENDATION

1. Adopt a resolution to deny the appeal and uphold the Zoning Administrator's decision denying the minor modification.

Prepared by: Rebecca Bustos, Senior Planner

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Reena Brilliot, Planning Manager

ATTACHMENTS

1. Resolution to Uphold the Zoning Administrator Denial of Minor Modification
2. Project Data Summary
3. Development Plans
4. Zoning Modification Denial Letter
5. Applicant's Statement of Justification