



Legislation Details (With Text)

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Title:	Action on a Variance to the Rear Accessory Building Setback and the Accessory Building Setback from the Main Building, in Order to Allow a 68 square foot accessory building in the rear of a Single-Family Residence at 2121 Sheraton Drive; and Action on a Class 1(e) CEQA Categorical Exemption				
Sponsors:					
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Attachments:	1. Applicant's Application Justification, 2. Development Plans, 3. Department Comments, 4. Resolution to Deny, 5. Conditions of Approval, 6. PMM Applicant Presentation, 7. PMM Staff Presentation, 8. PMM Correspondence				

Date	Ver.	Action By	Action	Result
11/9/2022	1	Planning Commission	Adopted	Pass
11/9/2022	1	Planning Commission	Adopted	Pass

REPORT TO PLANNING COMMISSION

SUBJECT

Action on a Variance to the Rear Accessory Building Setback and the Accessory Building Setback from the Main Building, in Order to Allow a 68 square foot accessory building in the rear of a Single-Family Residence at 2121 Sheraton Drive; and Action on a Class 1(e) CEQA Categorical Exemption

File No.(s): PLN22-00441

Location: 2121 Sheraton Dr., a 7,000 square foot single-family residential lot, APN: 224-31-104; the property is zoned R1-6L - Single Family Residential.

Applicant: Jim Horner

Owner: Jim Horner

Request: Variance to the code required rear accessory building setback and the accessory building setback to the main building, in order to allow a 68 square foot accessory building in the rear of a single-family residential lot.

CEQA: Not required per Section 15270, Projects Which Are Disapproved. If approved, Categorically Exempt per Section 15301, Class 1(e) Additions to Existing Structures.

Staff Recommendation: To deny the accessory structure based on the requirements of City Code.

BACKGROUND

On August 3rd, 2022, the applicant, Jim Horner, filed an application for a variance to retain an existing 68 square foot accessory building without plumbing located in the rear setback area of a single-family residence. The project requires a variance in order to maintain the applicant's 'hobby hut' inside the rear five-foot accessory building setback and closer than six feet from the main

building.

The location of the accessory building in the rear yard formerly housed an outdoor spa. The applicant has chosen to replace this outdoor spa with the 68 square foot hobby hut. The City of Santa Clara does not require a building permit for structures under 100 square feet, however the City Code does specify that all accessory buildings shall be five feet away from the rear property line and six feet or more from the main building. The applicant has submitted evidence showing that within the subdivision tract for which the subject site is located, there are multiple accessory buildings within required setback areas that have not received permits or variances for their placement. Mr. Horner's partially finished 'hobby hut' has come to Planning Commission as a code complaint was received for the structure being in the accessory building setbacks.

The applicant is specifically requesting a variance of three feet five inches for the rear accessory building setback, where five feet is required, and a variance of three feet seven inches for the accessory building setback from a main building, where six feet is required.

DISCUSSION

The project proposes a 68 square foot accessory building that would not include plumbing. The applicant has stated that this 'hobby hut' would be for his own personal use to tinker and do hobbies. The proposal as completed would allow the applicant to continue construction on his hobby hut and maintain its location within the accessory building setbacks. The structure sits about four feet from the side setback and about two feet from the rear setback. The structure is about 2.5 feet from the main building.

The minimum required accessory building setback per Santa Clara City Code (SCCC) Section 18.66.020(d) is five feet from the rear property lines and three feet from the side property lines. The minimum required accessory building setback from the main building per Santa Clara City Code (SCCC) Section 18.66.020(f) is six feet.

The subject lot is trapezoid in shape, the rear portion is 44-feet in width and the front portion of the lot is about 112-feet in width. The minimum lot width in the R1-6L zone is 60 feet. Accessory buildings are not allowed to be constructed in the front yard per SCCC Section 18.66.020(b).

The Building Department has reviewed the project and has stated that an electrical permit would be required for any and all electrical work, and that structures less than 120 square feet are exempt from the requirements for a building permit, but must have one hour rated construction. The Fire Department has specified that given the size of the structure, the fire department has no comments nor conditions for the variance application. All departmental comments are attached to this staff report as 'Department Comments' for reference.

The applicant has provided a statement of justification for the proposed Variance attached to this staff report as 'Applicant's Application Justification' for review.

Zoning

The proposed project does not comply with the Chapter 18.66 Special Regulations Applicable to Residential Accessory Buildings, specifically Section 18.66.020 (d) and 18.66.020 (f). Pursuant to SCCC Section 18.108.010, where practical difficulties, unnecessary hardships, and effects, inconsistent with the general purposes of the Zoning Code may result from the strict application of certain provisions, variances may be granted. The location of the accessory building at the rear

eastern corner of the property, closest to the main structure where the lot is narrower, does not necessarily equate to an unnecessary hardship. The shape, dimensions, and size of the lot are not unusual. For these reasons and the findings in the Resolution attached to this staff report, there is insufficient evidence to support the Variance request.

Conclusion

The proposed Variance would allow the property owner to complete construction and maintain a 68 square foot accessory building that requires a variance due to its placement within the accessory building rear setback and its placement near the main building. The owner's intent is to optimize the front and side yards of his property and to reuse the former area of an above ground spa for his proposed hobby hut. The proposed structure is similar or smaller than other accessory buildings in the subdivision tract, most of which have not received a permit nor a variance for their placement.

ENVIRONMENTAL REVIEW

Staff's recommendation is that the Planning Commission deny the variance application. CEQA Guidelines Section 15270 provides that "CEQA does not apply to projects which a public agency rejects or disapproves."

If, however, the Commission votes to approve the variance, the project would be categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (e)(2), additions to existing facilities. The Project would make an addition to an existing structure of less than 10,000 square feet, the Project is located in an area where all public services and facilities are available, and the area where the Project is located is not environmentally sensitive.

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 October 27, 2022, 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 site. Planning Staff has not received public comments for this application during the preparation of this report.

RECOMMENDATION

Decline to utilize a Class 1 CEQA Categorical Exemption under CEQA Guidelines Section 15301(e) (2) and adopt a resolution to deny the Variance to the Rear Accessory Building Setback and the Accessory Building Setback from the Main Building for a 68 square foot hobby hut

Prepared by: Daniel Sobczak, Assistant Planner I

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Lesley Xavier, Planning Manager

ATTACHMENTS

1. Applicant's Application Justification

- 2. Development Plan
- 3. Department Comments
- 4. Resolution
- 5. Conditions of Approval