

Capitola Planning Commission

Agenda Report



Meeting: August 18, 2022

From: Community Development Department

Topic: 1350 49th Avenue

Permit Number: #22-0035

APN: 034-068-14

Permit amendment for a Design Permit and Variance to construct first- and second-story additions on an existing single-family residence with a variance to the required side yard setback located at 1350 49th Avenue within the R-1 (Single-Family) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Rick Aberle

Representative: John Hofacre, Filed: 01.31.22

Applicant Proposal:

The applicant is proposing an amendment to an approved design permit and variance from 2018 for first- and second-story additions to an existing single-story, single-family residence. The application includes numerous modifications including a new covered front porch, additional massing on the second story, structural changes within an encroachment area, and modifications to the roof, siding, windows, and doors. The residence is located at 1350 49th Avenue within the R-1 (Single-Family) zoning district.

Background:

On May 3, 2018, the Planning Commission approved Permit #18-0050 for a Design Permit application and Variance to remodel the existing home.

On January 31, 2022, the applicant submitted an application to amend the 2018 application.

On June 22, 2022, Development and Design Review Staff reviewed the application and provided the applicant with the direction regarding the need for an encroachment permit to work within the public right of way and separately, for an agreement with the adjacent private property owner to improve the existing encroachment.

On July 17, 2022, the Planning Commission heard the application and continued the item to the following meeting. The Commission directed staff to obtain guidance from the City Attorney regarding the proposed improvements to the existing encroachment into 1335 Prospect Avenue.

On August 11, the City attorney provided a memorandum regarding the applicant's proposal to improve the existing encroachment into the neighboring property (attachment 6). There are no new changes to the staff report other than a revision to Condition of Approval # 23 which now states "Prior to issuance of a building permit, the applicant shall provide documentation of a signed

access agreement that references the existing encroachment and includes permission from the owner(s) of 1335 Prospect Avenue to access the northerly side yard of 1335 Prospect Avenue to conduct the work as described in the amended permit.”

Development Standards:

With approval of a Variance for the side setback, the proposed project complies with all development standards for the R-1 zoning district, as outlined in the table below.

Development Standards			
Building Height			
R-1 Regulation	Existing		Proposed
25 ft.	25 ft.		22 ft.
Floor Area Ratio (FAR)			
	Existing		Proposed
Lot Size	3,216 sq. ft.		3,216 sq. ft.
Maximum Floor Area Ratio	57% (Max 1,833 sq. ft.)		57% (Max 1,833 sq. ft.)
First Story Floor Area	1,152 sq. ft.		1,386 sq. ft.
Second Story Floor Area	N/A		446 sq. ft.
TOTAL FAR	35.8% (1,152 sq. ft.)		57% (1,832 sq. ft.)
Yards			
	R-1 Regulation	Existing	Proposed
Front Yard 1st Story	15 ft.	11 ft. 6 in.	11 ft. 6 in. Existing Nonconforming
Front Yard 2nd Story & Garage	20 ft.	N/A	2 nd Story: 20 ft. 2 in. Garage: 20 ft.
Side Yard 1st Story	10% lot width	Lot width 67 ft. 7 in. 6 ft. 9 in. min.	North: 5 ft. 9 in. Variance Requested South: 0 ft. Existing Nonconforming
Side Yard 2nd Story	15% of width	Lot width 67 ft. 7 in. 10 ft. 2 in. min	North: 10 ft. 11 in. South: 33 ft. 7 in.
Rear Yard 1st Story	20% of lot depth	Lot depth 50 ft. 10 in. 10 ft. 2 in. min.	10 in. Existing Nonconforming Existing Nonconforming
Rear Yard 2nd Story	20% of lot depth	Lot depth 50 ft. 10 in. 10 ft. 2 in. min	10 ft. 2 in.
Encroachments	Existing residence encroaches into the southern property at 1335 Prospect Avenue by 30 inches. Project would remove a section of the encroachment and reduce maximum extent to 29 inches.		
Parking			
	Required	Existing	Proposed
Residential (from 1,501 up to 2,000 sq. ft.)	2 spaces total 1 covered 1 uncovered	1 spaces total 0 covered 1 uncovered	2 spaces total 1 covered 1 uncovered
Underground Utilities: required with 25% increase in area			Required

Discussion:

The existing residence at 1350 49th Avenue is a one-story, nonconforming, single-family home. The lot is located in the Jewel Box neighborhood at the intersection of Topaz Street and 49th Avenue. Residential structures in the area include one- and two-story single-family homes and the Surf and Sand Mobile Home Park.

Design Permit:

The proposed addition includes a new one-car garage and 446 square foot second-story living space, with new area to the home totaling 680 square feet. The second story living space includes a master bedroom, master bath, and closet. The remodel features stucco siding, and gabled roofs with standing metal seam instead of the current composite shingle. Attachment 1 includes the plans for the current application. Attachment 2 includes the plans from the previously approved application

A comprehensive list of alterations between the previously approved design and the proposed amendment have been included as attachment 3. These include:

1. A large covered front porch.
2. Relocation of massing to the second-story.
3. A number of structural changes for fire protection, specifically in the areas that currently encroach into the adjacent property.
4. Change in roof material.
5. Change in siding material.
6. Numerous changes to first- and second-story windows and doors.

When considering a design permit application, the Planning Commission shall evaluate applications to ensure they satisfy the *Design Review Criteria* (attachment 7) outlined in §17.120.070. Staff has reviewed the proposed amendment and found the design to be in compliance with the considerations to the extent they apply.

Non-Conforming Structure

The existing residence encroaches into the required first-story front, south-side, and rear setbacks and is therefore a legal non-conforming structure. Pursuant to code section 17.92.070, structural alterations to an existing non-complying structure may not exceed 80 percent of the present fair market value of the structure. Staff reviewed the submitted Construction Cost Breakdown and estimates the proposed alterations are approximately 78 percent of the present fair market value of the structure, therefore the alterations are permissible.

Variance

The applicant is seeking approval of a variance to allow a 13-inch encroachment into the side setback so that the garage can provide the required 10-foot by 20-foot covered parking space. Neither the variance request nor the circumstances under which they have been requested have changed from the previously approved application.

Pursuant to §17.128.060, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant a variance permit when it finds:

- A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.**

Staff Analysis: The lot has an irregular shape as a four-sided polygon with no parallel sides. Typical lots in the Jewel Box neighborhood are rectangular in shape and measure

approximately 40 feet wide by 80 feet deep. The subject lot is unique in that it is wide but lacks depth, ranging from 29 to 46 feet. The frontage is 60 feet wide, and the side lot lines are 30 feet deep on the south side and 71 feet deep on the north side. The required 15-foot front yard setback and 20 percent rear yard setback result in a limited and narrow building envelope. The unique lot shape provides an atypical area in which to locate a rectangular garage.

B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.

Staff Analysis: Most properties in the vicinity and zone in which the property is located area able to accommodate the required 10-foot by 20-foot covered parking space due to the fact they are regularly shaped.

C. The variance is necessary to preserve a substantial property right possessed by other property in the vicinity or in the same zone as the subject property.

Staff Analysis: Most R-1 properties within the vicinity possess covered parking spaces.

D. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.

Staff Analysis: The granting of a variance enables the property to provide on-site covered parking which is both required by residential development standards will reduce street parking demand. The variance will not be materially detrimental to the public health, safety, or welfare, or be injurious to the properties or improvements in the vicinity or in the same zone as the subject property.

E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.

Staff Analysis: The majority of properties within the neighborhood either possess garages, have lot shapes and sizes better able to accommodate the strict application of side setbacks, or both. Therefore, the variance does not constitute a grant of special privilege.

F. The variance will not have adverse impacts on coastal resources.

Staff Analysis: The variance will not negatively impact coastal resources.

CEQA:

Section 15332 of the CEQA Guidelines exempts projects characterized as in-fill development. The proposed project involves additions to an existing single-family residence located in the R-1 (Single-Family Residential) zoning district. The project meets all criteria of exemption 15332 and no adverse environmental impacts were discovered during review of the proposed project.

Recommendation:

Staff recommends the Planning Commission approve application #22-0035 with the following Conditions and Findings for Approval.

Attachments:

1. Proposed Plan Set
2. Previously Approved Plan Set
3. Project Description
4. Color and Information Board
5. Variance Letter
6. Memo Regarding 1350 49th Avenue Encroachment
7. Design Permit Design Review Criteria

Conditions of Approval:

1. The project approval consists of a 680 square-foot of first- and second-story additions with a variance for the side yard setback. The maximum Floor Area Ratio for the 3,216 square foot property is 57% (1,883 square feet). The total FAR of the project is 57% with a total of 1,832 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on August 18, 2022, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
4. At time of submittal for building permit review, Public Works Standard Detail SMP STRM shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with the Public Works Standard Detail BMP STRM.
5. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
6. Prior to issuance of building permit, a landscape plan shall be submitted and approved by the Community Development Department. The landscape plan can be produced by the property owner, landscape professional, or landscape architect. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of any proposed (but not required) irrigation systems.
7. Prior to issuance of a Certificate of Occupancy, the applicant shall complete landscape work to reflect the approval of the Planning Commission. Specifically, required landscape areas, all required tree plantings, privacy mitigations, erosion controls, irrigation systems, and any other required measures shall be addressed to the satisfaction of the Community Development Director.
8. Prior to issuance of building permit, all Planning fees associated with permit #22-0035 shall be paid in full.

9. Prior to issuance of building permit, the developer shall pay Affordable housing in-lieu fees as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
10. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
11. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
12. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
13. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
14. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
15. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
16. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
17. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
18. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.156.080.

19. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
20. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
21. Prior to issuance of building permits, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
22. Outdoor lighting shall comply with all relevant standards pursuant to Municipal Code Section 17.96.110, including that all outdoor lighting shall be shielded and directed downward.
23. Prior to issuance of a building permit, the applicant shall provide documentation of a signed access agreement that references the existing encroachment and includes permission from the owner(s) of 1335 Prospect Avenue to access the northerly side yard of 1335 Prospect Avenue to conduct the work as described in the amended permit.

Design Permit Findings

- A. The proposed project is consistent with the general plan, local coastal program, and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.**

Community Development Staff and the Planning Commission have reviewed the proposed additions to an existing residence and new attached garage. With the granting of a variance to the side setback of the primary residence, the project secures the purpose of the General Plan, and Local Coastal Program, and design policies and regulations adopted by the City Council.

- B. The proposed project complies with all applicable provisions of the zoning code and municipal code.**

Community Development Staff and the Planning Commission have reviewed the application for additions to an existing residence and new attached garage. With the granting of a variance to the side setback of the primary residence, the project complies with all applicable provisions of the zoning code and municipal code.

- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).**

Section 15332 of the CEQA Guidelines exempts projects characterized as in-fill development meeting the described conditions. The proposed project involves additions to an existing single-family residence located in the R-1 (Single-Family Residential) zoning district. The project meets all applicable general plan policies and zoning regulations; the project site does not have any identified habitat value; the project will not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site is and can be adequately served by all required utilities and public services.

D. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

Community Development Staff and the Planning Commission have reviewed the reviewed the proposed additions. The proposed project will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

E. The proposed project complies with all applicable design review criteria in Section 17.120.070 (Design review criteria).

The Community Development Staff and the Planning Commission have reviewed the application. With the granting of a variance to the side setback of the primary residence, the proposed complies with all applicable design review criteria in Section 17.120.070.

F. The proposed project maintains the character, scale, and development pattern of the neighborhood.

Community Development Staff and the Planning Commission have all reviewed the application. The design of the remodeled residence will fit in nicely with the existing neighborhood. The project will maintain the character, scale, and development pattern of the neighborhood.

Variance Findings

A. There are unique circumstances applicable to the subject property, including size, shape, topography, location, or surroundings, that do not generally apply to other properties in the vicinity or in the same zone as the subject property.

Staff Analysis: The lot has an irregular shape as a four-sided polygon with no parallel sides. Typical lots in the Jewel Box neighborhood are rectangular in shape and measure approximately 40 feet wide by 80 feet deep. The subject lot is unique in that it is wide but lacks depth, ranging from 29 to 46 feet. The frontage is 60 feet wide, and the side lot lines are 30 feet deep on the south side and 71 feet deep on the north side. The required 15-foot front yard setback and 20 percent rear yard setback result in a limited and narrow building envelope. The unique lot shape provides an atypical area in which to locate a rectangular garage.

B. The strict application of the zoning code requirements would deprive the subject property of privileges enjoyed by other property in the vicinity or in the same zone as the subject property.

Staff Analysis: Most properties in the vicinity and zone in which the property is located area able to accommodate the required 10-foot by 20-foot covered parking space due to the fact they are regularly shaped.

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- E. The variance does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity or in the same zone as the subject property.**

Staff Analysis: The majority of properties within the neighborhood either possess garages, have lot shapes and sizes better able to accommodate the strict application of side setbacks, or both. Therefore, the variance does not constitute a grant of special privilege.

- F. The variance will not have adverse impacts on coastal resources**

Staff Analysis: The variance will not negatively impact coastal resources.

Coastal Development Permit Findings:

- A. The project is consistent with the LCP land use plan, and the LCP implementation program.**

The proposed development conforms to the City's certified Local Coastal Plan (LCP) land use plan and the LCP implementation program.

- B. The project maintains or enhances public views.**

The proposed project is located on private property at 1350 49th Avenue. The project will not negatively impact public landmarks and/or public views.

- C. The project maintains or enhances vegetation, natural habitats and natural resources.**

The proposed project is located at 1350 49th Avenue. The proposed project will maintain or enhance vegetation consistent with the allowed use and will not have an effect on natural habitats or natural resources.

- D. The project maintains or enhances low-cost public recreational access, including to the beach and ocean.**

The project will not negatively impact low-cost public recreational access.

- E. The project maintains or enhances opportunities for visitors.**

The project will not negatively impact visitor serving opportunities.

- F. The project maintains or enhances coastal resources.**

The project involves residential additions on private property and will not negatively impact coastal resources.

- G. The project, including its design, location, size, and operating characteristics, is consistent with all applicable design plans and/or area plans incorporated into the LCP.**

With the granting of a variance for the side setback of the primary residence the proposed residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the 0R-1 (Single-Family Residential) zone.

H. The project is consistent with the LCP goal of encouraging appropriate coastal development and land uses, including coastal priority development and land uses (i.e., visitor serving development and public access and recreation).

The project involves additions to an existing residence on a residential lot of record. The project is consistent with the LCP goals for appropriate coastal development and land uses. The use is an allowed use consistent with the R-1 zoning district.

Prepared by: Sean Sesanto