

Capitola Planning Commission

Agenda Report



Meeting: October 5, 2023
From: Community Development Department
Topic: 421 Riverview Avenue

Permit Number: #22-0216

APN: 035-132-04

Design Permit to construct a detached garage with a second story ADU. The application includes a Variance request for the required front setback for detached garages, two ADU deviations for the ADU required second-story front setback and privacy mitigations, and an exception to exceed driveway width. The project is located within the R-1 (Single-Family Residential) 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: Steve Owens

Representative: Dennis Norton, Filed: 06.01.22

Recommended Action: Accept staff presentation, discuss the design including the exception for driveway width, and consider either continuing the application to the next meeting with direction or approving application #22-0216 based on Conditions and Findings for Approval.

Applicant Proposal:

The applicant is proposing to construct a new detached two-car garage with a 476 square-foot upper-story accessory dwelling unit (ADU). The project is located in the R-1 (Single-Family Residential) zoning district along Soquel Creek. The applicant is requesting a Variance to construct the detached garage within the required 40-foot front setback, an ADU deviation for required 20-foot second-story front setback, and a second ADU deviation for required privacy mitigations.

Background:

On August 30, 2023, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Representative, Erika Senyk: informed the applicant that they will need to submit a temporary sediment and erosion control plan with the building permit submittal. Ms. Senyk inquired as to overall proposed site permeability, to which the applicant noted the driveway will be replaced with new semi-permeable pavers.

Building Department Representative, Eric Martin: noted that 1-hour fire rated walls will be required for garage and ADU walls between the two structures and where the new structure is less than five feet from a property line.

Associate Planner, Sean Sesanto: informed the applicant that they will need to submit a shared use and maintenance agreement for a proposed gate because of its placement across two properties. He noted that the minimum front setback for a second story ADU is 20 feet, which requires the applicant either push the ADU two feet back or request a deviation from ADU standards. Planner Sesanto also explained that to comply with FEMA requirements, the building submittal will need to include a no-rise study and the garage doors will likely need to have breakaway panels.

Following the Development and Design Review meeting, the applicant submitted revised plans showing the proposed gateway entirely on the subject property and decided to pursue a deviation from front setback standards for the ADU.

Development Standards:

The following table outlines the zoning code requirements for development in the R-1 Zoning District. Requests for a Variance and ADU deviation are noted in the relevant table locations.

R-1 (Residential Single-Family) Zoning District

Development Standards		
Building Height		
R-1 Regulation	Existing	Proposed
Detached ADU: 25 ft.	N/A	21 ft. 6 in.
Floor Area Ratio (FAR)		
	Existing	Proposed
Lot size	2,707 sq. ft.	2,707 sq. ft.
Maximum Floor Area Ratio	57% (Max 1,543 sq. ft.)	57% (Max 1,543 sq. ft.)
Primary Dwelling	788 sq. ft.	788 sq. ft.
First Story Accessory Structure (Detached Garage)	N/A	434 sq. ft.
<i>Garage Exemption</i>	N/A	-207 sq. ft.
Second Story Detached ADU	N/A	476 sq. ft.
Total FAR	29.1% (788 sq. ft.)	55.1% (1,491 sq. ft.)
Setbacks for ADU and Detached Garage		
<i>*Table only specifies setbacks for the proposed structure, not the existing primary dwelling</i>		
	R-1 regulation	Proposed
Front Yard 1st Story	Det. Garage: 40 ft.	Garage: 20 ft. Variance requested
Front Yard 2nd Story	ADU: 20 ft.	ADU: 18 ft. ADU Deviation requested
Side Yard 1st Story	Garage: 3 ft.	North: 4 ft. South: 5 ft.
Side Yard 2nd Story	ADU: 4 ft.	North: 4 ft. South: 5 ft.
Rear Yard 1st Story	Garage: 3 ft.	Garage: 49 ft. 3 in.
Rear Yard 2nd Story	ADU: 4 ft.	ADU: 49 ft. 2 in.

Development Standards			
Building Height			
R-1 Regulation	Existing		Proposed
Detached ADU: 25 ft.	N/A		21 ft. 6 in.
Floor Area Ratio (FAR)			
	Existing		Proposed
Lot size	2,707 sq. ft.		2,707 sq. ft.
Maximum Floor Area Ratio	57% (Max 1,543 sq. ft.)		57% (Max 1,543 sq. ft.)
Primary Dwelling	788 sq. ft.		788 sq. ft.
First Story Accessory Structure (Detached Garage)	N/A		434 sq. ft.
<i>Garage Exemption</i>	N/A		-207 sq. ft.
Second Story Detached ADU	N/A		476 sq. ft.
Total FAR	29.1% (788 sq. ft.)		55.1% (1,491 sq. ft.)
Setbacks for ADU and Detached Garage			
<i>*Table only specifies setbacks for the proposed structure, not the existing primary dwelling</i>			
	R-1 regulation	Proposed	
Front Yard 1st Story	Det. Garage: 40 ft.	Garage: 20 ft. Variance requested	
Front Yard 2nd Story	ADU: 20 ft.	ADU: 18 ft. ADU Deviation requested	
Side Yard 1st Story	Garage: 3 ft.	North: 4 ft. South: 5 ft.	
Side Yard 2nd Story	ADU: 4 ft.	North: 4 ft. South: 5 ft.	
Rear Yard 1st Story	Garage: 3 ft.	Garage: 49 ft. 3 in.	
Rear Yard 2nd Story	ADU: 4 ft.	ADU: 49 ft. 2 in.	
Parking			
1,500 sq. ft. or less: 2 per SFD	Required	Existing	Proposed
ADU: One space			
	3 spaces total 0 covered 3 uncovered	4 spaces total 0 covered 4 uncovered	4 spaces total 2 covered 2 uncovered
Underground Utilities: Required with 25% increase in area			Required
Private Open Space, Minimum			
Regulation		Proposed	
48 sq. ft.		85 sq. ft.	

Discussion:

The existing residence at 421 Riverview Drive is a non-historic one-story, single-family home located in the Riverview Terrace neighborhood, situated near the Capitola trestle and adjacent to both the Soquel Creek and the Riverview Pathway.

Design Permit:

The applicant is proposing to construct a new two-story accessory structure in front of the existing residence facing Riverview Avenue. The new structure includes a 434 square-foot, two-car garage on the ground floor with a 476 square-foot ADU on the second story. The new unit is accessed from the exterior stairway between the two structures.

The new structure is designed to complement the existing residence by matching the stucco siding and extending the tile mansard roof to create a breezeway between both structures. The ADU also has a horizontal board accent and metal-and-glass garage doors on the front elevation. The ADU has a flat roof pitch that matches the existing residence. Except for the connecting breezeway and roof repair, the primary structure will not be altered. The upper floor ADU cantilevers over the front wall of the garage below by two feet towards Riverview Avenue. With the granting of the requested variance and ADU deviations, the new structure complies with development standards for the R-1 zoning district and applicable Design Review Criteria (Attachment 4).

ADU Objective Design Standards:

Two-story ADUs are subject to the objective design standards in CMC §17.74.090. The objective design standards are included below in underline followed by staff analysis.

- A. Entrance Orientation – Detached ADU. The primary entrance to a detached accessory dwelling unit shall face the front or interior of the parcel unless the accessory dwelling unit is directly accessible from an alley or a public street.

Staff Analysis: The primary entrance to the ADU faces both the interior and rear of the parcel and is directly accessible from the street.

- B. Privacy Impacts. To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within eight feet of an interior side or rear property line abutting a residential use:

1. For a single-story wall or the first story of a two-story wall, privacy impacts shall be minimized by either:
 - a. A six-foot solid fence on the property line; or
 - b. Clerestory or opaque windows for all windows facing the adjacent property.
2. For a second-story wall, all windows facing the adjacent property shall be clerestory or opaque.

Staff Analysis: Second-story windows facing the adjacent property to the north will have opaque treatment to provide light egress only. South-facing windows are within eight feet of an abutting residential use but will overlook the neighboring driveway and front corner of the neighboring residence. The applicant did not include opaque treatment on the south-facing windows and is requesting an ADU deviation from this objective standard. The request is covered further in the ADU deviations section.

- C. Second-Story Decks and Balconies. Second-story decks and balconies shall be located and designed to minimize privacy impacts on adjacent residential properties, as determined by the Planning Commission through the design permit approval process.

Staff Analysis: The proposed exterior staircase has been designed for egress purposes.

- D. Architectural Details. For detached ADUs, the roof pitch be 4:12, except that the ADU roof pitch may match the primary dwelling.

Staff Analysis: The existing dwelling and proposed ADU both utilize a flat roof.

- E. Building Additions to Historic Structures.

Staff Analysis: Not applicable.

Floodplain Management:

Based on the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM), 421 Riverview Avenue is located in a Special Flood Hazard Area Zone AE. The submitted elevation certificate states the lot has a Base Flood Elevation (BFE) of 19.6 feet. The new habitable space is located above the BFE, which complies with floodplain restrictions for new residential uses and development. As part of the approval, a no-rise study will be required at time of building permit and certifications during construction.

Landscape:

The existing driveway is flanked by raised landscape areas with a tree in each corner. The current application removes the landscaping bed on the south and west ends of the driveway. One four-foot-wide landscape bed is proposed along the north side of the driveway. The existing driveway will be replaced with permeable pavers that continue along the entrance pathway to both units. The application includes the removal of the four existing trees. The applicant is proposing to plant two trees: one on each side of the driveway. Condition #9 requires the applicant to plant two new trees on site, which will secure the goal of fifteen percent canopy coverage for new residential development, pursuant to CMC §12.12.190(C).

Driveway:

Pursuant to 7.76.040, in the R-1 zoning district, the width of a parking space in the required front area may not exceed forty percent of lot width up to a maximum of twenty feet, except that all lots may have a parking space of up to fourteen feet in width regardless of lot width. The Planning Commission may allow a larger parking area within the required front and exterior side setback areas with a design permit if the larger parking area incorporates design features, such as impervious materials and enhanced landscaping, which minimize visual impacts to the neighborhood.

The subject property at 421 Riverview Avenue is 30 feet wide, which would allow new driveways a maximum width of 14 feet. The existing driveway is 21 feet wide, flanked by raised landscape areas on either side, with a tree in each corner. The current application removes the landscaping on the south side and adds a walkway. The existing asphalt driveway will be replaced with 20 feet by 20 feet semi-permeable pavers. One four-foot-wide landscape bed is proposed along the north side of the driveway. The existing and proposed softscape is minimal overall and reduces along with the front setback area. Staff recommends the Planning Commission discuss the proposed landscaping and driveway and determine whether the standard for *enhanced landscaping which minimize visual impacts to the neighborhood* is met to allow a driveway width greater than 14 feet.

Variance:

The applicant is seeking approval of a variance to the required 40-foot front setback for detached garages to construct the garage 20 feet from the front property line.

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: Due to the floodplain requirements for new construction, unique circumstances exist on the subject property which generally do not apply to other R-1 zoned properties within Capitola. The subject property is located within a Special Flood Hazard Area as identified by FEMA. Although this existing dwelling is located within the base flood elevation (BFE), new habitable construction must be located above the BFE. In order to comply with a 40-foot front setback for detached garages, the applicant would need to demolish the existing dwelling, which could not be reconstructed at grade due to floodplain restrictions.

- 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: The strict application of the zoning code would deprive the subject property of covered parking and limit further development of the site that is enjoyed within the same zone and the vicinity. Numerous Riverview Avenue enjoy the privilege of attached and detached garages along the street. Of the 13 other properties between Blue Gum Avenue and the trestle that abut both Riverview Avenue and the creek, four properties have dwellings with non-conforming front setbacks, and three properties have detached garages with non-conforming front setbacks.

- 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: A variance is necessary to allow a garage on the site, which is a substantial aspect of R-1 zoned residential properties and in the vicinity. Most properties in the vicinity possess some arrangement of garage or carport along the street frontage.

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

Staff Analysis: The project involves a new detached garage and accessory dwelling unit located within the required front yard setback. A detached garage is required to have a 40-foot front yard setback, whereas an attached garage is required to have 20 feet. The proposed detached garage provides a twenty-foot setback. The granting of a variance would not negatively impact the public, 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 variance does not constitute a grant of special privilege. Numerous Riverview Avenue homes abutting Soquel Creek have a unique development pattern with their principal elevations facing the creek and pathway and structures located close to the street. Of the 13 other properties between Blue Gum Avenue and the trestle that abut both Riverview Avenue and the creek, four properties have dwellings with non-conforming front setbacks, and three properties have detached garages with non-conforming front setbacks.

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

Staff Analysis: The granting of a variance will not have an impact on coastal resources. Existing nearby resources will be maintained, as further described in the Coastal Development Permit findings.

ADU Deviation from Standards:

The required front setback for accessory dwelling units is 20 feet for second-story construction. The applicant is seeking approval of a deviation from ADU standards to reduce the setback to 18 feet. Additionally, the applicant is requesting an ADU deviation for the required privacy mitigations for two south-facing windows, which otherwise would need to be opaque or clerestory windows due to proximity to an adjacent residential use.

Pursuant to §17.74.100, the Planning Commission, on the basis of the evidence submitted at the hearing, may grant the ADU a deviation when it finds:

A. The project deviation is necessary due to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.

Staff Analysis, Front Setback: Special circumstances applicable to the subject property exist that would deprive the subject property of privileges enjoyed by other properties in the vicinity and within the zone with the strict application of this chapter. The subject property is located within a Special Flood Hazard Area as identified by FEMA. As such, new habitable space must be located above the base flood elevation (BFE), which limits ADU construction to the upper story. The proposed detached ADU is located in front of the existing dwelling and has limited alternative placement to meet the minimum side setback to the north and fire separation and ADU egress to the rear. The south side is offset from the minimum setback by one foot for better light access along the primary dwelling pathway. As noted in the variance findings, four of the thirteen nearby properties along the creek have dwellings with non-conforming front setbacks.

Staff Analysis, Privacy: The proposed ADU is located towards the front of the lot, whereas the neighboring residence at 419 Riverview Avenue is situated towards the rear of its lot. The proposed south-facing windows within the second-story ADU will overlook the neighboring driveway and front corner of their residence. Subsequently, the ADU will not overlook the neighboring rear yard and has limited overlapping view of its residence structure. During its review, staff found the south-facing windows to possess limited privacy concern to either property due to the relative locations of the ADU and the residence at 419 Riverview Avenue.

CEQA:

Section 15303 of the CEQA Guidelines exempts the construction of small facilities or structures, including a second dwelling unit in a residential zone. The proposed project includes the construction of a new residential structure which includes one ADU in the R-1 (Single-Family Residential) zoning district.

Attachments:

1. 421 Riverview Avenue – Plan Set
2. 421 Riverview Avenue – Color and Material Information
3. 421 Riverview Avenue – Variance Request
4. Design Permit Review Criteria

Conditions of Approval:

1. The project approval consists of construction of a detached accessory structure that includes a 434 square-foot garage and 476 square-foot, second-story accessory dwelling unit. The maximum Floor Area Ratio for the 2,707 square foot property is 57% (1,543 square feet). The total FAR of the project is 55.1% with a total of 1,491 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 October 5, 2023, 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 a 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 building permit, the site plan shall indicate a minimum of 48 square feet of appropriate dedicated open space for the accessory dwelling unit, to the satisfaction of the Community Development Department.
8. 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.
9. Prior to issuance of a Certificate of Occupancy, the applicant shall demonstrate compliance with the tree removal permit authorized by this permit for 4 trees to be removed from the property. Two replacement trees shall be planted on-site and in the ground and be reflected in the final landscape plan.

10. Prior to issuance of building permit, all Planning fees associated with permit #22-0216 shall be paid in full.
11. Prior to issuance of building permit, the developer shall pay Affordable housing impact fees as required to assure compliance with the City of Capitola Affordable Housing Impact Fee Ordinance.
12. 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.
13. 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.
14. 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).
15. 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.
16. 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.
17. 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
18. 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.
19. 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.

20. 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.
21. 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.
22. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
23. 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.
24. 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 such that the lighting is not directly visible from the public right-of-way or adjoining properties.
25. At the time of building permit application for construction within the floodplain or floodway, the applicant shall provide a "No Rise Study", performed by a licensed engineer, in which verification of the structure's impact on the floodplain or floodway is provided.
26. For new residential construction located within the floodplain/floodway, elevation certificates shall be provided at the following stages of construction: 1) prior to building permit issuance; 2) at the time of rough frame inspection; and 3) prior to the finalization of the building permit. The certificates shall be prepared by a licensed engineer or surveyor. The certificate shall document that all residential occupancies are constructed above the Base Flood Elevation (BFE) as per the latest edition of the FEMA Flood Insurance Rate Map.

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 project. With the granting of a Variance and ADU deviation for front setbacks, the proposed accessory structure complies with the development standards of the R-1 zoning district.

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 a new detached garage and second story ADU. With the granting of a Variance and ADU deviations, the project complies with all applicable provisions of the zoning code and municipal code.

C. 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 project and determined the proposed detached structure will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

D. 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. The proposed detached structure complies with all applicable design review criteria in Section 17.120.070. Additionally, the structure also complies with the objective design standards for Accessory Dwelling Units.

E. For projects in residential neighborhoods, 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 for the new detached structure. The ADU and garage design complement the existing dwelling with matching stucco siding and gateway, flat-pitch roof, and continuation of the roof tile pattern for the new breezeway. The project will maintain the character, scale, and development pattern of the neighborhood.

Accessory Dwelling Unit Findings:

A. The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.

The exterior design of the ADU is compatible with the primary dwelling with similar material and architectural form. The ADU utilizes matching stucco siding, roof tile breezeway, and flat pitched roof, with a modern horizontal board accents on the front.

B. The exterior design is in harmony with, and maintains the scale of, the neighborhood.

The exterior design is in harmony with and maintains the scale of the neighborhood. The proposed ADU utilizes similar materials and design to the subject property's existing primary dwelling. With respect to scale, two-story dwellings are common along Riverview Avenue, with many located close to the street. The proposed ADU is located 18 feet from the front property line and is within the 22-foot maximum ADU height limit.

C. The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.

The proposed project is a single-bedroom ADU on a site that is adequately parked. The ADU will not create excessive noise, traffic, or parking congestion.

D. The accessory dwelling unit has or will have access to adequate water and sewer service as determined by the applicable service provider.

The proposed ADU is located on a developed lot in a residential neighborhood with adequate water and sewer service.

- E. Adequate open space and landscaping have been provided that are usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provide for privacy and screening of adjacent properties.**

The ADU has been designed and sited to provide mutual privacy for the new unit, the primary dwelling, and adjacent residential properties. In addition to dedicated exterior access, a condition has been added to ensure adequate open space is provided for the ADU.

- F. The location and design of the accessory dwelling unit maintain a compatible relationship to adjacent properties and do not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.**

The proposed ADU is located in the rear of the property. Potential impacts to privacy, light, air, solar access, and parking have been considered and mitigated. The location and design of the ADU maintains a compatible relationship with adjacent properties.

- G. The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.**

The new external stair case is located in the middle of the lot between the ADU and primary dwelling. Windows near the side property line will be opaque for privacy. The design of the ADU, with siding materials similar to the primary residence and similar roof pitch, complements the design of the primary residence and does not visually dominate it or the surrounding properties.

- H. The site plan is consistent with physical development policies of the general plan, any area plan or specific plan, or other city policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the local coastal plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.**

The location of the proposed ADU complies with the development standards in CMC §17.74.080. The project is within the coastal zone and complies with the local coastal plan.

- I. The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.**

The project does not impair public views of the ocean or scenic coastal areas. Existing nearby coastal resources will be maintained, as further described in the Coastal Development Permit findings.

- J. The project deviation is necessary due to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.**

Front Setback: Special circumstances applicable to the subject property exist that would deprive the subject property of privileges enjoyed by other properties in the vicinity and within the zone with the strict application of this chapter. The subject property is located within a Special Flood Hazard Area as identified by FEMA. As such, new habitable space must be located above the base flood elevation (BFE), which limits ADU construction to the upper story. The proposed detached ADU is located in front of the existing dwelling and has limited alternative placement to meet the minimum side setback to the north and fire separation and ADU egress to the rear. The south side is offset from the minimum setback by one foot for better light access along the primary dwelling pathway. As noted in the variance findings, four of the thirteen nearby properties along the creek have dwellings with non-conforming front setbacks.

South-facing Windows: Special circumstances existing with respect to the proposed development and surroundings. The proposed ADU is located towards the front of the lot, whereas the neighboring residence at 419 Riverview Avenue is situated towards the rear of its lot. During review, staff found the south-facing windows to possess limited privacy concerns, overlooking the neighboring property's driveway and the front corner of the residence.

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.**

Due to the floodplain requirements for new construction, unique circumstances exist on the subject property which generally do not apply to other R-1 zoned properties within Capitola. The subject property is located within a Special Flood Hazard Area as identified by FEMA. Although this existing dwelling is located within the base flood elevation (BFE), new habitable construction must be located above the BFE. In order to comply with a 40-foot front setback for detached garages, the applicant would need to demolish the existing dwelling, which could not be reconstructed at grade due to floodplain restrictions.

- 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.**

The strict application of the zoning code would deprive the subject property of covered parking and limit further development of the site that is enjoyed within the same zone and the vicinity. Within the R-1 zoning district, covered parking is often a privilege and requirement for new single-family construction and in neighborhoods such as the Riverview Terrace.

- 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.**

A variance is necessary to allow a garage on the site, which is a substantial aspect of R-1 zoned residential properties and in the vicinity. Most properties in the vicinity possess some arrangement of garage or carport.

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.

The project involves a new detached garage and accessory dwelling unit located within the required front yard setback. A detached garage is required to have a 40-foot front yard setback, whereas an attached garage is required to have 20 feet. The proposed detached garage provides a twenty-foot setback. The granting of a variance would not negatively impact the public, 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.

The variance does not constitute a grant of special privilege. Numerous Riverview Avenue homes abutting Soquel Creek have a unique development pattern with their principal elevations facing the creek and pathway and structures located close to the street. Of the 13 other properties between Blue Gum Avenue and the trestle that abut both Riverview Avenue and the creek, four properties have dwellings with non-conforming front setbacks, and three properties have detached garages with non-conforming front setbacks.

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

The granting of a variance will not have an impact on coastal resources. Existing nearby resources will be maintained, as further described in the Coastal Development Permit findings.

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 421 Riverview 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 421 Riverview Avenue adjacent the Soquel Creek. The new detached structure is located between the street and the primary dwelling. The project will not impact vegetation, natural habitats, or natural resources, and is consistent with the allowed use.

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

The project maintains existing public access. A portion of the Riverview public pathway runs across the rear of the lot along Soquel Creek. The project is located at the front of the property towards the street and will not interfere with the existing pathway.

E. The project maintains or enhances opportunities for visitors.

The project involves a new detached garage and accessory dwelling unit and will not negatively impact visitor serving opportunities.

F. The project maintains or enhances coastal resources.

The project maintains existing coastal resources. A portion of the Riverview public pathway runs across the rear of the lot along Soquel Creek. The project is located at the front of the property towards the street and will not interfere with the existing pathway.

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.

The proposed residential project complies with all applicable design criteria, design guidelines, area plans, and development standards. The operating characteristics are consistent with the R-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 a detached accessory dwelling unit and garage 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.

CEQA Findings:

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

Section 15303 of the CEQA Guidelines exempts the construction of small facilities or structures, including but not limited to second dwelling units in a residential zone. The project involves the construction of a detached garage and accessory dwelling unit within a residential zoning district. No adverse environmental impacts were discovered during review of the proposed project.

Prepared By: Sean Sesanto