

Capitola Planning Commission

Agenda Report



Meeting: January 22, 2025

From: Community Development Department

Address: 1550 45th Avenue

Project Description: Application #24-0145. APN: 034-032-19. Design Permit for first- and second-story additions and attached accessory dwelling unit to an existing single-family residence and a Variance request for the minimum required setback for an attached garage. The project is located within the R-1 (Single-Family Residential) zoning district. The project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Recommended Action: Consider Application #24-0145 and **approve** the project based on the attached Conditions and Findings for Approval.

Property Owner: Josh & Amy Kathleen Schelhorse

Representative: Sherry Hrabko, Filed: 4/25/24

Background: On June 12, 2024, Development and Design Review Staff reviewed the application and provided the applicant with the following direction:

Public Works Representative, Erika Senyk: Directed the applicant to include pervious and impervious surface calculations on the plans and noted that Best Management Practices (BMPs) are required on the construction plans. Also noted that damaged curbs, gutters, or sidewalks will need to be replaced as part of the project. She encouraged the applicants to utilize surfaces with higher permeabilities, such as permeable pavers instead of concrete, wherever surfaces are going to be replaced. She also suggested placing a rain barrel at the inner rear corner of the building.

Building Official, Eric Martin: Observed that the project scope will effectively double the size of the current home and include significant remodeling of the existing space, which for building permit purposes may have to be classified as new construction. Mr. Martin informed the applicants that the construction plans will need a demolition plan including a detailed scope of work. He encouraged the applicants to consider construction waste management and material staging before work begins due to the limited space. He also asked how kitchen ventilation will run for both the primary dwelling and the ADU, and if an engineer had evaluated the existing foundation for the increased load.

Associate Planner, Sean Sesanto: Discussed comment letter items and noted the applicant would need to either locate the garage wall back five feet from the front building wall along 45th Avenue or apply for a variance. Mr. Sesanto also observed a fence did not exist between their neighbor and where the proposed ADU entrance would be, and suggested the project include a six-foot fence. Amy Schelhorse, homeowner, noted that the absence of a fence has been a preference shared by her and her neighbor.

Following the Development and Design Review meeting, the applicant submitted a variance request for the garage setback and revised plans addressing comment letter items including incorporating permeable pavers into the landscape.

Development Standards: The following table outlines the zoning code requirements for development in the R-1 Zoning District. The property is a corner lot. Pursuant to Capitola Municipal Code §17.16.030(B)(5)(a), narrowest street frontage is considered the front parcel line.

For development standards purposes, the front yard is along Emerald Street. The applicant is seeking a variance to the required front garage setback from the front building wall.

Development Standards			
Building Height			
R-1 Regulation	Existing		Proposed
25 ft.	12 ft. 6 in.		24 ft. 10 in.
Floor Area Ratio (FAR)			
	Existing		Proposed
Lot size	3,198 sq. ft.		3,198 sq. ft.
Maximum Floor Area Ratio	57% (Max 1,822 sq. ft.)		57% (Max 1,822 sq. ft.)
First Story Floor Area	1,168 sq. ft.		Primary: 864 sq. ft. ADU: 360 sq. ft.
Second Story Floor Area	N/A		Primary: 958 sq. ft. <i>92 sq. ft. deck exemption</i>
Total FAR	36.5% (Max 1,168 sq. ft.)		68.2% (2,182 sq. ft.) <i>Guaranteed Allowance for 360 sq. ft. ADU</i>
Setbacks			
	R-1 regulation	Existing	Proposed
Front Yard 1st Story	15 ft.	15 ft. 2 in.	15 ft. 2 in.
Front Yard 2nd Story & Garage	20 ft.	2 nd : N/A Garage: 55 ft. 5 in.	2 nd : 20 ft. Garage: 55 ft. 5 in.
Interior Side Yard 1st Story	10% lot width	4 ft. min.	4 ft. 9 in.
Interior Side Yard 2nd Story	15% of width	6 ft. min	N/A
Exterior Side Yard	10 ft.		1 st : 11 ft. 7 in. 2 nd : N/A
Rear Yard on Corner Lot	Minimum interior side yard of the adjacent property, no less than 4 ft. 4 ft.		1 st : 12 ft. 9 in. 2 nd : N/A
Parking			
Residential (1,501 to 2,000 sq. ft.)	Required	Existing	Proposed
	2 spaces total	2 spaces total	2 spaces total
	1 covered 1 uncovered	1 covered 1 uncovered	1 covered 1 uncovered
Underground Utilities: Required with 25% increase in area			Required

Discussion: The property is a corner lot located at the intersection of 45th Avenue and Emerald Street within the Jewel Box neighborhood, surrounded by one- and two-story single-family residences. The property is comparable to nearby R-1 properties in the Jewel Box in terms of size and dimensions.

Design Permit: The application includes a remodel of an existing residence and the addition of a new second story with a deck. The proposal also converts a portion of the ground level into a 358-square-foot, internally accessible ADU and creates a new 1,028 square-foot second story addition, serving the primary residence. The remodel retains the existing board and batten exterior and extends use of the same materials to the proposed additions. The new second story addition includes an open gable roof and a covered second-story deck.

Limited Standard ADU:

The application includes the conversion of existing habitable space into a 360 square-foot internal accessory dwelling unit. Conversion ADUs are ministerial permits that must comply only with the requirements for “Units subject to limited standards” in CMC §17.74.050(A), as follows:

1. The internal accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than one hundred fifty square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the second story of an existing accessory structure shall be limited to accommodating ingress and egress.
The ADU is situated within the footprint of the existing primary dwelling.
2. The unit has exterior access from the proposed or existing single-family dwelling.
The ADU includes independent exterior access.
3. The side and rear setbacks are sufficient for fire and safety.
The ADU provides rear and side yard setbacks exceeding four feet, which are consistent with new construction ADUs and is sufficient for fire and safety.
4. The junior accessory dwelling unit complies with Government Code Section 65852.22.
The ADU has been designed to comply with applicable state standards for junior ADUs.

Floor Area Ratio:

The project also exceeds the maximum allowed Floor Area Ratio (FAR) by 360 square feet. Pursuant to the *guaranteed allowance standard* of §17.74.040(H), the maximum allowed FAR may not prohibit an ADU that is up to 800 square feet in size with four-foot rear and side yard setbacks and a height not exceeding 16 feet, provided the ADU complies with all other applicable standards. The ADU is less than 800 square feet in size, less than 16 feet in height, provides four-foot rear and side setbacks, and complies with all other applicable standards. The project exceeds the FAR by 360, which is equal to the size of the ADU; therefore, the *guaranteed allowance* standard applies, and the additions are permissible.

Design Review Criteria: When considering design permit applications, the city shall evaluate applications to ensure that they satisfy the Design Review Criteria listed in 17.120.070, comply with the development standards of the zoning district, conform to policies of the general plan, the local coastal program, and any applicable specific plan, and are consistent with any other policies or guidelines the city council may adopt for this purpose. To obtain design permit approval, projects must satisfy these criteria to the extent they apply. Staff prepared analysis for the following Design Review Criteria directly applicable to the proposed project. The complete list of Design Review Criteria is included as Attachment #3.

- F. Privacy. The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimize privacy impacts on adjacent properties and provide adequate privacy for project occupants.
The dedicated ADU egress faces the adjacent residence at 4525 Emerald Street. Currently, a fence does not separate the two properties. The applicant has indicated they and the adjacent homeowner prefer openness between their properties rather than having a fence. Additionally, Limited Standards ADUs are not subject to privacy impact design standards. The proposed second-story deck faces the front yard and has been designed to comply with applicable second story deck standards.

- Q. Lighting. Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.
 All outdoor lighting shall comply with all relevant standards pursuant to Capitola Municipal Code (CMC) Section 17.96.110, including 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. Condition of Approval #22 requires compliance with Capitola’s light trespass requirements.

Non-Conforming Structure: The existing dwelling includes an attached garage which does not comply with the required minimum setback of five feet from the building wall of the primary structure facing 45th Avenue and is therefore considered a legal non-conforming structure. Pursuant to Capitola Municipal Code §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 or otherwise must bring the structure into full compliance with the code. Staff estimate the project valuation exceeds 80 percent of the present fair market value of the structure based on the City formula. The applicant is requesting a variance to the development standard, discussed in the next section.

Variance: The garage is accessed from 45th Avenue, which is considered the property’s exterior side property line within the zoning code. An exterior side yard has a ten-foot minimum setback. In addition to the ten-foot setback, attached garages must also to be stepped back a minimum of five feet behind the building wall of the primary structure, pursuant to §17.16.020(B)(4)(a). The applicant is requesting a variance from the additional five-foot setback for the attached garage. The proposed design has the attached garage located one foot behind the wall of the primary structure along 45th Avenue. The main reason for the variance request is due to the development being located on a corner with garage access from the exterior side. The lot is 40 feet by 80 feet in dimension, which is typical; however, corner lots with garages accessed off the street side presents challenges in design due to the limited 40 feet depth and required setbacks.

Pursuant to §17.128.060, the Planning Commission may grant a variance when it makes all of the following underlined 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 subject property has a lot width of 40 feet and depth of 80 feet, which is comparable to properties within the R-1 zone. However, compared to regular lots, corner lots have a more restrictive 10-foot street side setback and relaxed rear setback, typically four feet. As is the case in this application, corner lot standards result in longer, narrower homes with garages accessed from the side rather than the front. When accounting for side setbacks, minimum required garage dimensions, and the five-foot garage setback from the primary building wall, a typical 40-foot-wide lot has little or no design margin for compliance. Therefore, access of a corner lot from the side property line poses an unusual circumstance in the application of the five-foot garage articulation requirement when compared to other properties in the R-1 zone.

Example, street side garage with 40 ft. lot width	
Street side setback	10 ft.
5 ft. garage setback from front wall	5 ft.
Garage depth <i>Minimum 20ft. deep space with 6" walls</i>	21 ft.
Inner side setback	4 ft.
Total	40 ft.

- 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: Eleven nearby corner lots within the R-1 zone were evaluated, all along 45th Avenue. Ten of the properties include garages, seven of which are attached garages accessed from the side property line (45th Avenue). Only one of the seven attached garages complies with the five-foot setback requirement. The strict application of this requirement on a would deprive the subject property of a design commonly enjoyed on similar properties in the same zone.
- 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: As described in Finding A, corner lot development standards limit practicality of front-facing garages and are typically accessed from the side instead. Eleven nearby corner lots within the R-1 zone were evaluated, all along 45th Avenue. Ten of the properties include garages, seven of which are attached garages accessed from the side (45th Avenue). Only one of the seven attached garages complies with the 5-foot setback requirement. The granting of a variance would preserve a property right possessed by corner lots within the vicinity and R-1 zone.
- 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 proposed garage design results in a full-sized garage meeting the on-site parking goals. The design is comparable to nearby corner lots within the R-1 Zone. Approval of the variance will 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: Eleven nearby corner lots within the R-1 zone were evaluated, seven of which have attached garages. Only one of the seven identified properties complies with the five-foot garage articulation standard. The variance does not constitute a grant of special privilege.
- F. The variance will not have adverse impacts on coastal resources.
Staff Analysis: The project does not impact nearby coastal resources.

Landscape and Trees: The project keeps an existing magnolia tree and proposes one new redbud tree. At maturity, the proposed trees will secure the 15% canopy coverage requirements for new construction and major removals, pursuant to CMC Section 12.12.190(C). The proposed landscaping includes a new front patio with permeable pavers. The application proposes to retain much of the naturally landscaped areas, which entails the temporary potting and relocation of plants during construction. Condition #6 requires the applicant to submit a landscape plan with details of the restored landscape and new surfaces at time of building permit application.

CEQA: Section §15303(b) of the CEQA Guidelines exempts new construction or conversion of existing structures for a single-family residence and a secondary dwelling unit. The project involves alterations to an existing single-family residence, including the partial conversion to include a secondary dwelling unit.

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. The proposed single-family residence complies with the development standards of the R-1 (Single-Family Residential) zoning district. With the granting of a variance, 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 the proposed residential project. With the granting of a variance, 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 §15303(b) of the CEQA Guidelines exempts new construction or conversion of existing structures for a single-family residence and a secondary dwelling unit and is subject to Section 753.5 of Title 14 of the California Code of Regulations. The project involves alterations to an existing single-family residence, including the partial conversion to include a secondary dwelling unit. The project is located within the R-1 (Single-Family Residential) zoning district. No adverse environmental impacts were discovered during review of the proposed project.

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 project. The proposed single-family residence will not be detrimental to 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. The proposed residence 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 for the remodeled single-family residence and internal accessory dwelling unit. The project improves the site while retaining some of the existing residences' style. The two units maintain the scale, character, 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.

The subject property has a lot width of 40 feet and depth of 80 feet, which is comparable to properties within the R-1 zone. However, compared to regular lots, corner lots have a more restrictive 10-foot street side setback and relaxed rear setback, typically four feet. As is the case in this application, corner lot standards result in longer, narrower homes with garages accessed from the side rather than the front. When accounting for side setbacks, minimum required garage dimensions, and the five-foot garage setback from the primary building wall, a typical 40-foot-wide lot has little or no design margin for compliance. Therefore, access of a corner lot from the side property line poses an unusual circumstance in the application of the five-foot garage articulation requirement when compared to other properties in the R-1 zone.

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.

Eleven nearby corner lots within the R-1 zone were evaluated, all along 45th Avenue. Ten of the properties include garages, seven of which are attached garages accessed from the side property line (45th Avenue). Only one of the seven attached garages complies with the 5-foot setback requirement. The strict application of this requirement would deprive the subject property of a design commonly enjoyed on similar properties in the same zone.

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.

As described in Finding A, corner lot development standards limit practicality of front-facing garages and are typically accessed from the side instead. Eleven nearby corner lots within the R-1 zone were evaluated, all along 45th Avenue. Ten of the properties include garages, seven of which are attached garages accessed from the side (45th Avenue). Only one of the seven attached garages complies with the five-foot setback requirement. The granting of a variance would preserve a property right possessed by corner lots within the vicinity and R-1 zone.

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 proposed garage design results in a full-sized garage meeting the on-site parking goals. The design is comparable to nearby corner lots within the R-1 Zone. Approval of the variance will 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.

Eleven nearby corner lots within the R-1 zone were evaluated, seven of which have attached garages. Only one of the seven identified properties complies with the five-foot garage articulation standard. The variance does not constitute a grant of special privilege.

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

The property will not impact nearby coastal resources.

Conditions of Approval:

1. The project approval consists of a single-family remodel, including first- and secondary-story additions, and conversion of existing space into an accessory dwelling unit. The approval includes a Variance for the requirement that attached garages must be set back five feet from the building front wall. The maximum Floor Area Ratio for the 3,198 square foot property is 57% (1,822 square feet). The total FAR of the project is 68.2% with a total of 2,182 square feet, including a 360 square-foot accessory dwelling unit that is subject to the Guaranteed Allowance. The project is 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 January 22, 2025, 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 all Planning Commission requirements. The plan shall identify planting 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 #24-0145 shall be paid in full.
9. 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.
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. Site runoff shall not drain onto adjacent parcels or over sidewalks.
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 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.
23. Prior to a Building Department final and/or issuance of a Certificate of Occupancy, final inspections by the Planning and Public Works Departments are required.
24. Prior to a issuance of a Certificate of Occupancy, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:
 - a. The accessory dwelling unit may not be used for vacation rentals; and
 - b. The accessory dwelling unit shall not be sold separately from the primary dwelling; and
 - c. For junior accessory dwelling units:
 - i. The dwelling shall be restricted to the allowable size; and
 - ii. The property owner must occupy occupancy either the primary dwelling unit or the junior accessory dwelling unit on the property.
 - d. The deed restriction shall lapse upon removal of the accessory dwelling unit.

Attachments:

1. 1550 45th Avenue – Plan Set
2. 1550 45th Avenue – Variance Letter
3. Design Review Criteria

Report Prepared By: Sean Sesanto, Associate Planner

Reviewed By: Rosie Wyatt, Acting Deputy City Clerk

Approved By: Katie Herlihy, Community Development Director