

**From:** Maryann Berkowitz <maryann.berkowitz@yahoo.com>  
**Sent:** Wednesday, April 8, 2020 4:40 PM  
**To:** Marcia Jensen; BSpector; Rob Rennie; Marico Sayoc; Joel Paulson; Attorney  
**Subject:** Fw: 104 Bella Vista Court- ADU Options 2020

Dear Town Council, we watched the meeting last evening and were chagrined to find the Town of Los Gatos unresponsive to the direction of the State of California as outlined in the letter attached. It sounded as if some issues were ignored and the concept that other municipalities are not following this guideline is of concern to us. The reason why this must be an attached dwelling is not an attempt to expand the footprint of our home. It is to ensure that we are providing a safe living quarter for my disabled 101 year old mother in her final years. Mr Rennie was correct in intimating that making detached ADU's easier to permit that attached will be less appealing to our neighborhoods. A detached ADU in our case would not allow a "reasonable accommodation" for my disabled mother who is sight, hearing and mobility impaired. Our proposed plan would have met all of her requirements, and would be hidden from the front and not imposing on our neighbors in any way. Please read the attached letter from California Department Of Housing & Community Development carefully and we would appreciate your replies. Thank you.

Respectfully, Laurence and MaryAnn Berkowitz

----- Forwarded Message -----

**From:** ADU <[adu@hcd.ca.gov](mailto:adu@hcd.ca.gov)>  
**To:** Maryann Berkowitz <[maryann.berkowitz@yahoo.com](mailto:maryann.berkowitz@yahoo.com)>; ADU <[ADU@hcd.ca.gov](mailto:ADU@hcd.ca.gov)>; [lauren@stefangeorge.com](mailto:lauren@stefangeorge.com) <[lauren@stefangeorge.com](mailto:lauren@stefangeorge.com)>; [abrams@bdplanning.com](mailto:abrams@bdplanning.com) <[abrams@bdplanning.com](mailto:abrams@bdplanning.com)>; Nickless, Greg@HCD <[Greg.Nickless@hcd.ca.gov](mailto:Greg.Nickless@hcd.ca.gov)>  
**Cc:** R. Laurence Berkowitz <[rberkowitz@gmail.com](mailto:rberkowitz@gmail.com)>  
**Sent:** Monday, March 9, 2020, 11:20:24 AM PDT  
**Subject:** RE: 104 Bella Vista Court- ADU Options 2020

Hi Maryann –

Please note that in the scenario you are describing, the 18-foot rear setback for an attached new ADU construction exceeds the burden placed by state ADU law and would be void and unenforceable.

The section of code outlining is 65852.2(a)(1)(D)(vii) which states “(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, **and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or**

**a new structure constructed in the same location and to the same dimensions as an existing structure.”**

Attached new construction (which is what I believe you are describing) is subject to the four foot setbacks, regardless of the local zoning code.

With regards to the storm easement and the specs for a detached ADU, you can also note that as part of Government Code 65852.2(c)(2)(C), (2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following...“(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.”

Best,