

Town of Los Gatos Town Council
Attention Sean Mullin
Re 118 Olive St Los Gatos Ca 95030

March 14, 2022
Application 5-21-013

Dear Mr. Mullin,

This letter is in response to the Appeal of Planning Commission Decision which is dated February 22nd 2022 regarding 118 Olive Street.

Basis of Appeal: Appellant claims the approval was based on incomplete or inaccurate information at Planning Commission.

Abstract Summary: There is no new information in this appeal from the appellant, all arguments were heard and ruled upon during the decision for approval. If any errors or emissions are deemed, we object that the basis of any finding would not have changed the outcome of the decision. Fundamentally, the applicants project to have FAR and front/side yard setbacks exceptions are in line with the existing neighborhood pattern and all public comments in written and verbal communications were considered in the Planning Department and/or Planning Commission decision.

Background: The project had an initial Planning Commission meeting on January 12, 2022 in which the proposed project at 118 Olive resulted in a continuation for a hearing on February 9, 2022.

Summary of the continuance reasoning: The Planning Commission had support from all members to proceed with an approval, but asked that further due diligence of the applicants needed to be conducted, specifically to do more outreach to the 2 neighbors to each side and the 5 across the street. However, the Commission Members noted the project was unlikely to change given the constraints of the applicant's project and that the project rightfully received support of approval from the Planning Department. During the discussion, one item was marked as a concession, a proposed roof terrace was eliminated per the request of 120 Olive.

Summary of the Planning Commission meeting on February 9th, 2022: The Planning Commission confirms the applicant completed all the requested due diligence and unanimously approved the project in accordance with Planning Department support for approval.

Project Summary:

The project parcel, like every Olive Street parcel is non-confirming in terms of area and dimensions for its designated zoning. The projects setbacks are in line with the context of the neighborhood, most of the homes have less front and side setbacks. We looked closely at the existing development standards of the neighborhood, then worked with the Town Design Guidelines, Town Staff, Town Consulting Architect, Planning Commission and with the neighbors, including with neighbors' input to eliminate the front terrace as well as maximize

privacy balancing all sides of the home to gain unanimous approval of the project with the Town. There are many neighbor supporters of the project, which some of whom voiced opinions during the first Planning Meeting.

To clarify: The project is not the largest (or smallest if that is the desired metric) on the block in terms of any planning metric- FAR, dimension, height, basement, setbacks etc. This project is intentionally designed through much work with the above mentioned parties to fit in the neighborhood.

Responses to Appeal:

Appeal Item 1:

1. Plans to be revised to include omitted and accurate information and condition of approval added regarding building permit submittal

1A. Plans are incomplete and do not include: A Construction Management and Job Sequencing Plan, Geotech/Soils Stability Report and peer review, Site Grading Plan and Dewatering Mitigation Plan, stitch pier design for access and soil stability indicating total scope of soils export/import. (Plan currently indicates an obvious error of only 0.9 cubic yards being exported.) Storage/staging areas for lumber, waste containers, toilet, wash out area, and worker parking are also lacking from the plans.

A sampling of omitted dimensions/call outs are: sectionals, rear setback, rear deck elevation and dimensions, and partial west side setbacks . . . The plans need to be revised prior to council approval.

Response item 1:

Projects in the planning phase do not require construction management, job sequencing plan, geo/soils, peer review site grading/dewatering plan, stitch pier design, staging and storage design, waste containers or parking, unless specifically called out by way of site conditions/zoning. This project was not subject to those during planning review because the conditions do not warrant them at this time, but may be subject to review as part of the building permit process and/or the conditional of planning approval. The Planning and Building Department makes those determinations based on code compliance and site conditions.

All required dimensions were included in the drawings for Planning Department review. Some dimensions which may bring more clarity during the building permit process may have not yet been included, but will likely be part of that process at the appropriate time.

As discussed in both Town Planning Commission meetings, the rear deck elevation is less than required and is a walk-out condition from the ground level of the house, it is not elevated to produce a condition to invade any neighbor's privacy. To further clarify, the elevation of the rear deck is the same height as the existing floor finish of the home or lower as indicated on the Civil drawings. The required rear setback for the home is 20' and this project is in greater compliance than required.

Appeal Item 2:

2. Add street repair condition of approval

2A. A significant number of trucks and heavy equipment will be necessary to construct the home and off haul dirt associated with the basement. It will be very challenging for the narrow streets to accommodate these trucks and equipment and there will likely be significant damage done.

Response item 2:

Projects in the planning phase do not require many of these items, however, there are required Conditions of Approval which are already part of the project: Not listed here, but there are 12 pages of Conditions of Approval of 70 items, all of which occur at the phases of work after Planning Approval.

To note: There have been several construction projects on this block over the last several years, including one which was a completely new build, with a basement.

Appeal Item 3:

3. New home to comply with minimum 5-foot side yard setbacks OR remove basement from plans

3A. Safety/Welfare: The stitch piercing necessary to construct a basement will cause excessive ground shaking and potential damage to the adjacent 80 year old home which is situated on a sloped lot with sump pumps underneath. This issue is further compounded by the request for reduced setbacks.

Response item 3:

Projects in the planning phase do not require means and methods of construction review.

Several homes on this block have less than 3' side yard setback, including the neighbor at 120 Olive. There are also homes with basements in this neighborhood.

Stitch Pier method of construction is an industry accepted means of engineering. This method is used on even smaller 0' lot line properties. The means and methods of construction are not part of the Planning Review Process.

To Note: The soils engineer, structural engineer, architect, contractor, and homeowner all have insurances. The integrity of the design and code compliance is all part of the building permit process and construction inspections, not planning review.

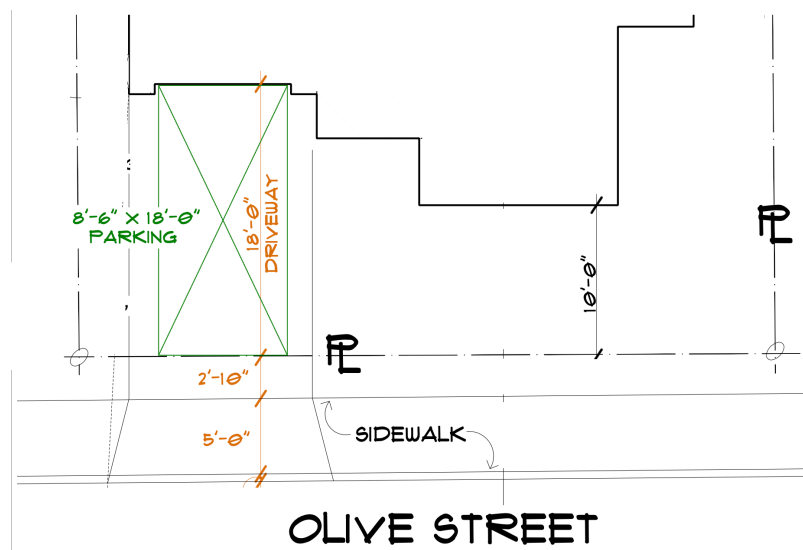
Appeal Item 4:

4. Minimum 20-foot driveway added to site plan which does not include public right-of-way

4A. Emergency access: The narrow street width and lack of viable on-site parking will make it more difficult for cars/trucks in general and more importantly emergency vehicles to access the homes on Olive Street.

Response item 4:

The Town requirement for a driveway is not 20', it is 18'. The project site has an 18' driveway to property line and includes than another 2'+ to the public right of way. The project is in compliance with code. Illustrated below:



To Note: This neighborhood has several driveways which are non-complaint, including several homes with no driveway space to park, in addition to many of the garages being constructed to not actually be able to park a car. The Town Planning Department and Planning Commission specifically reviewed this project in that context as we are adding park-able driveway (code compliant) space and adding a function (code compliant) garage, thus positively impacting to the reduction of off-street parking.

Appeal Item 5:

5. New home not to exceed FAR calculation or basement to be removed from the plans

5A. The FAR calculations for a non-conforming lot is already adjusted to a higher allowable coverage than conforming lots. The 1195sf basement is in addition to the allowable FAR. Additionally, the use of a basement was established to aid enlarging homes without unnecessarily impacting the neighborhood with excessive and out of scale designs.

Response item 5:

This part of the project was specifically reviewed by the Planning Commission and the Planning Department. The drawings provided for planning review purposes in total is a 1195sf basement, but if reviewed against the portions of basement garage space and living area it would actually be less: Basement living: 809sf, Basement Garage: 386. The design of this project is in scale with the neighborhood as reviewed by the Town Design Guidelines, Town Staff, the Town Consulting Architect and Planning Commission. The mass and presence of the home is less than the 3 story home at the corner on 546 San Benito and homes at 125, 127 and 135 Olive as well as being very similar to its direct neighbor at 120 Olive. This is illustrated on Sheet A1.1 on the plans in

profile, but was also witnessed by the Town Planning Department and Planning Commission whom all visited the site before unanimously approving the project. To also add, the story poles have been up since October 2021 (and are still up), giving proper notice for all to weigh in.

The above ground massing is consistent with Town code 29.40.072 and was reviewed in such context with the appropriate basement usage. The second story of the project is less than the footprint of the ground floor, bringing scale to the streetscape that blends with the neighborhood pattern as well as having articulation to not be a solid mass block. 61% of the massing is on the ground level and 39% on the second story.

Appeal Item 6:

6. New home to comply w/ minimum front and side setbacks of 15 and 5 feet respectively

6A. There are no compelling or inherent constraints that prevent the proposed house from being built with very slight modifications.

Response item 6:

This part of the project was specifically reviewed by the Planning Commission and the Planning Department. In fact, the Planning Commission acknowledged the constraints of this property are very tight and believed the work from the Town Architect, Planning Department and Architect of Record did a detailed job to explain why each part of the project warranted its use. Specifically citing the complaint garage and its use of the modified setback to gain compliance was well received to help ease parking concerns while also balancing the needs of the homeowners to gain a livable space inside the house and backyard to suit the needs of growing young families as the live in Los Gatos.

Summary of the direct neighbor's setbacks who exceed allowable:

Address	Side yard	Front yard
110 Olive	both sided less than 3'	4'
112	3'	8'9"
120	3' on 2 story home	11'
125	1'	5'
127	1'6"	7'
129	under 2'	
131	under 2'	8'
133	3'	7'

Other Appeal Documents:

Response to Letter included in Appeal of Planning Commission Decision from Resident at 110 Olive dated February 20th, 2022:

As stated in our desk item, submitted prior to the February 9th, 2022 Planning Commission meeting: We understand everyone is entitled to voice their opinions, including changing their mind. Regarding Jim's letter, we have specially talked with him on two separate occasions where he agreed with supporting our project if we didn't use a specific contractor for whom he has strong negative feeling. We are very aware some neighbors may choose to change their

mind to avoid potential conflict when deciding to support an appeal or approval, but are pointing out that all our interactions with him have been represented accurately.

Response to desk item, inadvertent left out during Planning Commission meeting:

A letter appears to have been inadvertently not included as part of the process, however, during both Planning Commission meetings each of the topics included in this letter were specifically cited and considered during the approval. Including: Planning Commissions acceptable of applicants neighborhood outreach, parking and driveway conditions, setbacks, square footage/FAR, rear deck height and overall height.

Other Notable Context:

In the last decade(s) on this block, only 1 other home has been approved for new construction project versus a renovation. The rules to be approved are cumbersome and can also be cost prohibitive. However, in the only other example of new construction, all of the same FAR, basement allowance and setbacks exceptions occurred similar to our approved plans. The reason for this is because the code allows these exceptions on non-conforming parcels, which the Town Planning Department has reviewed and approved in accordance with as part of their recommendations.

Likewise, the existing home at 120 Olive Street (the Appellant) has all of the same exceptions on their property that the applicant has on their proposed approved plans. Specifically, FAR is exceeded, the front setback is less than 15', the side yard setback is 3' and additionally has a non-conforming driveway. Furthermore, as noted, the other community members who signed the appeal letter also have these exceptions on their properties.

To clarify, as noted in several of the Appeal Responses items, every home on this block has some variation of an exception to at least 1, but almost in every case, multiple exceptions to the planning code because they are all uniformly non-conforming lots. If a house on this block were to be required to meet all of these planning guidelines, without use of these exceptions: It would not fit into the neighborhood fabric and streetscape. By evidence: not one single house on this block has been built in compliance with a new build or renovation project nor is any existing house in compliance as grandfathered into today's guidelines.

Sincerely,
The Reichert Family