



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/13/2023

ITEM NO: 7

DATE: December 8, 2023
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval for Reduced Front Yard Setbacks on a Non-Conforming Property Zoned R-1:8. **Located at 517 San Benito Avenue.** APN 410-18-018. Architecture and Site Application S-23-024. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures. Property Owner: Candace Zaheri. Applicant: John Gutknecht. Project Planner: Ryan Safty.

RECOMMENDATION:

Consider approval of a request for reduced front yard setbacks on a non-conforming property zoned R-1:8, located at 517 San Benito Avenue.

PROJECT DATA:

General Plan Designation: Medium Density Residential
Zoning Designation: R-1:8 – Single-Family Residential
Applicable Plans & Standards: General Plan, Residential Design Guidelines
Parcel Size: 5,750 square feet
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Medium Density Residential	R-1:8
South	Residential	Medium Density Residential	R-1:8
East	Residential	Medium Density Residential	R-1D
West	Residential	Medium Density Residential	R-1:8

CEQA:

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PREPARED BY: Ryan Safty
Associate Planner

Reviewed by: Planning Manager and Community Development Director

FINDINGS:

- The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures;
- As required by Section 29.10.265 of the Town Code for granting a setback exception on a non-conforming lot;
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations); and
- The project is in compliance with the Residential Design Guidelines for single-family residences not located in hillside areas.

ACTION:

The decision of the Planning Commission is final unless appealed within ten days.

BACKGROUND:

The subject property is located on the west side of San Benito Avenue, just north of the intersection of San Benito Avenue and Andrews Street (Exhibit 1). The immediate neighborhood consists of single-family residential properties, with an R-1:8 zone on the west side of San Benito Avenue and R-1D zone on the east side.

The property is 5,750 square feet and zoned R-1:8. The minimum lot size for R-1:8 zoned properties is 8,000 square feet, and therefore the property is existing legal non-conforming to minimum lot size. The four properties south of the subject property on the west side of San Benito are all approximately the same size as the subject property and are also zoned R-1:8, and therefore they are also non-conforming as to the minimum lot size of the zone.

On September 30, 2021, the owner applied for a building permit for a 494-square foot addition to the rear and side of the existing home, as well as an interior remodel. Building Permit B21-0944 was originally issued on January 21, 2022, and then issued again on June 22, 2022, following plan revisions (Exhibit 4).

On June 22, 2023, Planning staff visited the site to conduct a final inspection for the work conducted pursuant to B21-0944 and found that a new covered entry was constructed at the front of the residence that was not shown on the building permit plans. Staff informed the applicant that we could not approve the work or issue occupancy as the new front entry was not shown or approved in the building permit plans and that a revision to the building permit would be required to show and permit this new work.

BACKGROUND (continued):

The applicant updated the project plans which showed the posts of the covered entry encroaching into the required front yard setback. On August 16, 2023, the applicant applied for an Architecture and Site Application to request a reduced front yard setback on a non-conforming lot to allow the front porch.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the west side of San Benito Avenue, just north of the intersection of San Benito Avenue and Andrews Street (Exhibit 1). The immediate neighborhood consists of single-family residential properties, with an R-1:8 zone on the west side of San Benito Avenue and R-1D zone on the east side.

B. Project Summary and Zoning Compliance

The applicant is requesting approval for a reduced front yard setback on a non-conforming lot. The applicant constructed a new gabled, covered entry at the front of the house with posts that are 16 feet, six inches from the front property line when 25 feet is required by the zone. The parcel is 5,750 square feet when the minimum of the R-1:8 zone is 8,000 square feet, and therefore is considered legal non-conforming. The applicant is requesting an exception pursuant to Town Code Section 29.10.265 – Nonconforming Lots:

The following provisions apply to nonconforming lots: [...] (3) Any rule of the zone including front, side, and rear yard requirements may be modified by the terms of the architecture and site approval so that the building and its use will be compatible with the neighborhood.

DISCUSSION:

A. Architecture and Site Analysis

The applicant has submitted an Architecture and Site Application (S-23-024) to legalize unpermitted work to the front of the house that projects into the required front setback. As noted in the project plans (Exhibit 5) and Letter of Justification (Exhibit 6), the front post of the covered entry has a 16-foot, six-inch front setback when 25 feet is required.

According to the application materials provided, the house previously had a covered entry with a shed roof with posts that project further into the required front setback, with a 13-foot, five-inch front setback. However, the Town could not locate permits for the previous covered entry that, according to Google Maps Streetview imagery, was constructed

DISCUSSION (continued):

sometime following 2015. Additionally, the previous covered entry was approved for removal with Building Permit B21-0944 and was not shown to be replaced or reconstructed. Therefore, any allowance to keep or continue an existing non-conformity was lost when the previous covered entry was demolished as there were no approved plans to replace it. Any proposal to construct a new covered entry in the same or similar location requires approval of an Architecture and Site application for reduced setbacks on a non-conforming lot.

The new covered front porch creates a gabled entry for the residence. The roof materials are asphalt shingles to match the rest of the home, with vertical wood siding on the exposed gable to compliment the horizontal siding on the rest of the residence. The base of the supporting posts is wrapped with stone, and the furthest edge of the column base has a front setback of approximately 16 feet, six inches.

Pursuant to Town Code Section 29.10.265(3) – Nonconforming Lots – the required front setback may be modified by the deciding body if it's found that the building and its use will be compatible with the neighborhood. The applicant provided information on neighborhood compatibility within Exhibits 5 and 6, which is based on a site visit with staff to measure the setbacks of each neighboring property on the west side of San Benito Avenue.

The survey focused on the west side of San Benito Avenue, from the Andrews Street and Thurston Street intersections. This portion of San Benito Avenue includes seven properties, including the subject property, all of which are zoned R-1:8. The survey found that of the six neighboring properties on the west side of San Benito Avenue, four do not comply with the required 25-foot front yard setback: 515 San Benito has a front setback of approximately 19 feet, nine inches; 513 San Benito has a front setback of approximately 13 feet, six inches; 505 San Benito has a front setback of approximately 24 feet, four inches; and 501 San Benito has a front setback of approximately 21 feet, three inches. These four properties are all south of the subject property, with the two properties to the north complying with the required setback. The average front setback of the six neighboring properties on the west side of San Benito Avenue is approximately 21 feet, eight inches. The average setback of the four non-conforming properties south of the subject property on the west side of San Benito is approximately 19 feet, eight inches. The subject application proposes to legalize a covered entry with a 16-foot, six-inch front setback. The covered entry on the subject property would have the second smallest front setback on this side of the street and would be approximately five feet closer to the front property line than the neighborhood average for this side of the street.

DISCUSSION (continued):

The east side of the street is zoned R-1D as opposed to R-1:8. The front setback requirement in the R-1D zone is 15 feet compared to 25 feet for R-1:8 zoned properties. All five properties in the R-1D zone on the east side of San Benito comply with the required 15-foot front setback requirement. The average front setback of these five properties is approximately 16 feet, four inches. Although the zone is different across the street, the built conditions frame the neighborhood context and are important to review with this exception request. When averaging the front setback of all neighbors within the block (both sides of the street with two different zones), the average setback is approximately 19 feet. The covered entry on the subject property would be approximately two feet, six inches closer to the front property line than the neighborhood average.

B. Neighbor Outreach

Within the Letter of Justification (Exhibit 6), the applicant mentioned that they have consulted with several of the neighbors who have verbally expressed support of the project. No support letters have been provided.

C. Environmental Review

The project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures.

PUBLIC COMMENTS:

Written notice was sent to property owners and tenants within 300 feet of the subject property. At the time of preparation of this report, no public comment has been received.

CONCLUSION:

A. Summary

The applicant is requesting approval for a reduced front yard setback on a non-conforming lot. The applicant constructed a new gabled covered entry at the front of the house with posts that are 16 feet, six inches from the front property line when 25 feet is required by Town Code. The parcel is 5,750 square feet where the minimum parcel size of the R-1:8 zone is 8,000 square feet, and therefore is considered a non-conforming lot. Town Code Section 29.10.265(3) allows the deciding body to modify the front setback requirement of a non-conforming lot if it's found that the building and its use will be compatible with the neighborhood.

CONCLUSION (continued):

B. Recommendation

Staff recommends that the Planning Commission review the application materials and staff report and consider the setback exception request. If the Planning Commission can find that the location of the projecting covered entry is compatible with the neighborhood, and finds merit with the proposed project, it should:

1. Make the finding that the proposed project is categorically exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction or Conversion of Small Structures (Exhibit 2);
2. Make the finding as required by Section 29.10.265 of the Town Code for allowing an exception to setbacks on a non-conforming property (Exhibit 2);
3. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code except the requested front yard setback reduction (Exhibit 2);
4. Make the considerations as required by Section 29.20.150 of the Town Code for granting approval of an Architecture and Site application (Exhibit 2);
5. Make the finding that the project is in compliance with the Residential Design Guidelines for single-family residences not located in hillside areas (Exhibit 2); and
6. Approve Architecture and Site Application S-23-024 with the draft conditions contained in Exhibit 3 and the development plans in Exhibit 5.

C. Alternatives

Alternatively, the Commission can:

1. Continue the matter to a date certain with specific direction;
2. Approve the application with additional and/or modified conditions; or
3. Deny the application.

EXHIBITS:

1. Location Map
2. Required Findings and Considerations
3. Recommended Conditions of Approval
4. Building Permit B21-0944 Approved Plans
5. Development Plans, Received November 2, 2023
6. Letter of Justification, Received November 2, 2023