



**TOWN OF LOS GATOS  
PLANNING COMMISSION  
REPORT**

MEETING DATE: 10/27/2021

ITEM NO: 3

DATE: October 22, 2021

TO: Planning Commission

FROM: Joel Paulson, Community Development Director

SUBJECT: Requesting Approval for a Variance from the Town Code for the Height of an Accessory Structure and Length of Driveway, and an Exception to the Hillside Development Standards and Guidelines for the Setbacks of an Accessory Structure on Property Zoned R-1:10. Located at 56 Kimble Avenue. APN 529-33-035. Variance Application V-20-002. Property Owner: Peter Lisherness and Kim Nguyen. Applicant: Jay Plett. Project Planner: Jocelyn Shoopman.

**RECOMMENDATION:**

Consider approval of a request for a variance from the Town Code for the height of an accessory structure and length of driveway, and an exception to the Hillside Development Standards and Guidelines for the setbacks of an accessory structure on property zoned R-1:10, located at 56 Kimble Avenue.

**PROJECT DATA:**

General Plan Designation: Low Density Residential

Zoning Designation: R-1:10

Applicable Plans & Standards: General Plan and Hillside Development Standards and Guidelines

Existing Parcel Size: 7,865 square feet

**Surrounding Area:**

	Existing Land Use	General Plan	Zoning
North	Residential	Low Density Residential	R-1:10
South	Residential	Low Density Residential	R-1:20
East	Residential	Low Density Residential	R-1:20
West	Residential	Low Density Residential	R-1:10, R-1:20

**PREPARED BY:** Jocelyn Shoopman  
Associate Planner

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Reviewed by: Planning Manager and Community Development Director

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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.

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.
- The project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the exception of the reduced front setback and the variances requested in this application.
- As required by Section 29.10.265 (3) of the Town Code for modification of zoning rules on nonconforming lots, including setback requirements.
- As required by Section 29.20.170 of the Town Code for granting a Variance application.
- As required by the Hillside Development Standards and Guidelines that the project complies with the Hillside Development Standards and Guidelines with the exception of the setback exceptions requested in this application.

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 Kimble Avenue (Exhibit 1), accessed off Rogers Road. The 7,865-square foot lot contains a 1,212-square foot single-family residence. The applicant is proposing a 498-square foot detached garage in order to accommodate covered parking on the site with an 800-square foot Accessory Dwelling Unit (ADU) below.

The project is being considered by the Planning Commission because the applicant is requesting a reduced front setback pursuant to Section 29.10.265 (3) for a nonconforming lot. In addition, the applicant is requesting approval of a variance application for a driveway length between seven feet and 15 feet, three inches, where a driveway length of 18 feet is required, and a 20-foot-tall accessory structure with an ADU below, where the maximum height of an ADU is 16 feet. Lastly, the applicant is requesting an exception to the Hillside Development Standards and Guidelines (HDS&G) for a front setback of seven feet, whereas a minimum of 12 feet, six inches is required, a rear setback of 16 feet six inches, whereas a minimum of 20 feet is required, and a side setback of five feet, whereas a minimum of 10 feet is required. The HDS&G requires that accessory structures and ADUs shall have the same setback requirements as the main building.

PROJECT DESCRIPTION:

A. Location and Surrounding Neighborhood

The subject property is located on the west side of Kimble Avenue (Exhibit 1), accessed off of Rogers Road. The surrounding properties are low density single-family residences located within the Hillside area of the HDS&G.

B. Project Summary

The applicant is proposing to construct a new detached garage with an ADU below, which would result in a reduced front setback, a variance from the Town Code for the height of an accessory structure and the length of driveway, and an exception to the HDS&G for setbacks of an accessory structure as the project is located within the Hillside area and is subject to the HDS&G.

C. Zoning Compliance

The proposed project complies with the coverage limitations and parking requirements. The zoning permits a single-family dwelling and detached accessory structure. The property is considered to be a nonconforming lot due to the fact that it is less than the minimum lot area of 10,000 square feet and has a lot depth less than the minimum of 100 feet. The applicant is requesting a reduced front yard setback as allowed by Town Code Section 29.10.265 (3) for nonconforming properties when it is found to be compatible with the neighborhood. In addition, pursuant to Section 29.40.060 of the Town Code, one-quarter of the depth of the lot exceeds a slope of 20 percent, therefore, the minimum required front yard setback of 25 feet is reduced by 50 percent to 12 feet, six inches.

DISCUSSION:

A. Front Setback Reduction

In evaluating the request for reduced setbacks, the setbacks of structures in the immediate and extended neighborhood are reviewed to determine if the request is compatible with the neighborhood. The applicant is proposing a front setback of seven feet as outlined below. There are residences and detached structures in the immediate neighborhood with reduced front setbacks, as demonstrated by the applicant on Sheet A-1.1 of Exhibit 7, which displays images of structures with similar building setbacks in both the immediate neighborhood along Rogers Street and extended neighborhood along Cleland Avenue. If the Planning Commission determines that the front reduced setback is compatible with the neighborhood, the request can be approved as allowed by Section 29.10.265 (3) of the Town Code.

DISCUSSION (continued):**B. Hillside Development Standards and Guidelines**

The subject property is 7,865 square feet and contains a 1,212-square foot single-family residence. The applicant is requesting an exception to the HDS&G for the setbacks of an accessory structure. Pursuant to Section E. of Chapter 7 (Landscape Design), accessory structures and ADUs shall have the same setback requirements as the main building in the Hillside area. The applicant has provided written justification for the exception to the HDS&G (Exhibit 4), which includes siting the structure in its proposed location for the least disturbance to the natural vegetation and existing trees, siting of the detached garage within the Least Restrictive Development Area (LRDA), and a compatible siting with the primary residence, which has a nonconforming front setback of approximately 11 feet, six inches, whereas the required front setback is 12 feet, six inches.

Required Setbacks		Proposed Setbacks	
<b>Front</b>	12 feet, six inches	<b>Front</b>	7 feet
<b>Side</b>	10 feet	<b>Side</b>	5 feet
<b>Rear</b>	20 feet	<b>Rear</b>	16 feet, six inches

**C. Variance - Height**

The applicant is requesting a variance for the height of an accessory structure to accommodate the proposed detached garage and ADU below. Pursuant to Town Code, an ADU is limited to a maximum height of 16 feet. The applicant has provided written justification for the variance (Exhibit 4), which includes that the proposed structure will follow the form of the natural grade and is compatible with the primary structure in terms of building form and architectural style. The letter states that the proposed height of the detached structure from Rogers Street would be 14 feet and approximately 20 feet from Kimble Avenue as the grade steps down to the rear of the property. The Town Code defines height as the height of all structures from the natural or finished grade, whichever is lower and creates a lower profile, to the uppermost point of the roof edge, wall, parapet, mansard, or other point directly above that grade.

Due to the width of Kimble Avenue, no street parking is permitted. The applicant has provided written justification that the new detached garage and existing open parking deck will allow for additional cars to be parked on-site (Exhibit 4). Based on this analysis, staff recommends that the Planning Commission make the required findings as detailed below in Section E for granting a variance. The Planning Commission must make both of the findings provided below, in addition to reviewing the design for compatibility with the immediate neighborhood (Exhibit 7) to approve the variance for the height as proposed.

DISCUSSION (continued):

D. Variance – Driveway Length

The applicant is requesting a variance for the driveway length to accommodate the proposed detached garage and an ADU below. The applicant is proposing a 498-square foot detached garage in order to accommodate covered parking on the site. Currently, the property contains a single-family residence and an open parking deck. The Town Code requires that when a garage, with a sliding or overhead roll-up door, unenclosed parking space, or carport opens onto a street (excluding alleys) the length of the driveway shall not be less than 18 feet. The applicant is proposing a driveway length that is between seven feet and 15 feet, three inches from the property line adjacent to Rogers Street.

The applicant has provided written justification for the variance (Exhibit 4), which states that the proposed structure location is the most optimal based on the sloping topography of the site and the detached garage is in compliance with the LRDA. In addition, the applicant states that the proposed driveway length is in conformity or better than existing conditions with neighboring properties (Exhibit 4). The applicant has provided images (Sheet A-1.1 of Exhibit 7) showing properties in the area with similar driveway lengths. The images provided by the applicant illustrates that there are several structures in the adjacent area with nonconforming driveway lengths. Based on this analysis, staff recommends that the Planning Commission make the required findings as detailed below in Section E. for granting a variance. The Planning Commission must make both of the findings provided below, in addition to reviewing the design for compatibility with the immediate neighborhood (Exhibit 7) to approve the variance for the driveway length as proposed.

E. Findings to Grant a Variance

As required by Section 29.20.170 of the Town Code, the deciding body, on the basis of the evidence submitted at the hearing, may grant a variance if it finds that (Exhibit 2):

- (1) Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zone; and
- (2) The granting of a variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone which such property is situated.

DISCUSSION (continued):

F. Tree Impacts

The applicant's arborist prepared a report for the site and made recommendations for the project (Exhibit 5). The applicant's arborist report was peer reviewed by the Town's consulting arborist (Exhibit 6). The project site contains five protected trees. The applicant is not proposing to remove any existing on-site trees and all trees are proposed to remain. Tree #63 is the closest tree to the area of development and is a 30-inch Coast Live Oak tree that is considered to be a large, protected tree pursuant to the Tree Protection Ordinance. Both the applicant's arborist and the Town's consulting arborist have made recommendations that excavation within the canopy of tree #63 be done by hand in order to preserve the large, protected tree. If the project is approved, all required tree protection measures would be implemented prior to construction and maintained for the duration of construction activity. Arborist recommendations for tree protection have been included in the Conditions of Approval to mitigate impacts to protected trees (Exhibit 3).

G. 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 of the Planning Commission hearing was sent to neighboring property owners and occupants. Public comments are provided in Exhibit 8.

CONCLUSION:

A. Summary

The proposed project would allow the applicant to construct a 498-square foot detached garage and an ADU below. As discussed in this report, the project is requesting a reduced front setback, as well as a variance to grant a driveway length of between seven feet and 15 feet, three inches, and a 20-foot-tall detached accessory structure. In addition, the project is requesting an exception to the HDS&G for setbacks of an accessory structure as the project is located within the Hillside area.

The proposed front setback of seven feet is compatible with the immediate neighborhood and the existing single-family residence has a nonconforming front setback of 11 feet, six inches, whereas the required front setback is 12 feet, six inches. The proposed driveway

CONCLUSION (continued):

length of between seven feet and 15 feet, three inches from the property line adjacent to Rogers Street is compatible with the immediate neighborhood and adjacent structures with nonconforming driveway lengths. Lastly, the height of the detached garage and ADU below at 14 feet from Rogers Avenue and stepping down to approximately 20 feet from Kimble Avenue due to the sloping topography of the site is compatible with the primary residence.

B. Recommendation

Based on the analysis above, staff recommends approval of the Variance application subject to the recommended conditions of approval (Exhibit 3). If the Planning Commission finds merit with the proposed project, it should:

1. Make the finding that the proposed project is categorically exempt, pursuant to Section 15303: New Construction or Conversion of Small Structures of the California Environmental Quality Act as adopted by the Town (Exhibit 2);
2. Make the finding that the project complies with the objective standards of Chapter 29 of the Town Code other than the requested reduced front setback and variances (Zoning Regulations) (Exhibit 2);
3. Make the finding as required by Section 29.10.265 (3) of the Town Code that the reduced front setback on the nonconforming lot is compatible with the neighborhood (Exhibit 2);
4. Make the required findings as required by Section 29.20.170 of the Town Code for granting a Variance (Exhibit 2);
5. Make the finding that the project is in compliance with the Hillside Development Standards and Guidelines other than the requested exceptions (Exhibit 2); and
6. Approve Variance Application V-20-002 with the conditions contained in Exhibit 3 and development plans in Exhibit 7.

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

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SUBJECT: 56 Kimble Avenue/V-20-002

DATE: October 22, 2021

EXHIBITS (continued):

3. Recommended Conditions of Approval
4. Project Description and Letter of Justification, received July 12, 2021
5. Letter from the Property Owner, received October 17, 2021
6. Applicant's Arborist Report, received November 6, 2020
7. Consulting Arborist's Peer Review Report, received August 18, 2021
8. Development plans, received August 30, 2021