



**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 12/14/2022

ITEM NO: 3

DATE: December 9, 2022
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Requesting Approval for Construction of an Accessory Structure Requiring Variances to Accessory Structure Lot Coverage Standards and Side and Rear Setback Requirements in the University-Edelen Historic District on Property Zoned R-1D:LHP. **Located at 202 University Avenue.** APN 529-04-001. Variance Application V-22-003. Property Owner: Tyler and Kristine Shewey. Applicant: Jay Plett, Architect.

RECOMMENDATION:

Denial.

PROJECT DATA:

General Plan Designation: Medium Density Residential
Zoning Designation: R-1D:LHP – Single-family residential downtown (5,000-square foot minimum) with a Landmark and Historic Preservation overlay
Applicable Plans & Standards: General Plan, Residential Design Guidelines
Parcel Size: 6,380 square feet
Surrounding Area:

	Existing Land Use	General Plan	Zoning
North	Residential	Medium Density Residential	R-1D:LHP
South	Residential	Office Professional	O:LHP
East	Residential	Medium Density Residential	R-1D:LHP
West	Residential	Medium Density Residential	R-1D:LHP

PREPARED BY: SEAN MULLIN, AICP
Senior Planner

Reviewed by: Planning Manager and Community Development Director

CEQA:

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

FINDINGS:

- As required, the project is Categorically Exempt pursuant to the adopted Guidelines for the Implementation of the California Environmental Quality Act, Section 15303: New Construction.
- As required, the project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the exception of the request for Variances to accessory structure lot coverage standards and side and rear setback requirements.
- As required by Section 29.20.170 of the Town Code for granting Variances to accessory structure lot coverage standards and side and rear setback requirements.
- As required, that the project complies with the Residential Design Guidelines.

ACTION:

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

BACKGROUND:

The subject property is located on the northeast corner of University and Miles Avenues in the University-Edelen Historic District (Exhibit 1). The subject property is approximately 6,380 square feet, where 5,000 square feet is required for a parcel in the R-1D zone. The site is developed with a 1,167.5-square foot Italianate Victorian single-story residence. The existing residence is approximately 22 feet tall with the main floor located above a crawl space that projects above grade.

On January 21, 2022, the Planning Commission approved Architecture and Site Application S-21-019 for the construction of a second-story addition to the contributing single-family residence to exceed floor area ratio (FAR) standards and construction of an accessory structure (detached garage) with reduced side and rear setbacks (Exhibit 4). Pursuant to the Town Code, required side and rear yard setbacks for accessory structures may be reduced to no less than three feet when the deciding body finds that the proposed setbacks are compatible with the neighborhood and consistent with the Residential Design Guidelines. The Planning Commission made the required findings and approved the reduced side and rear setbacks of three feet for the detached garage (Exhibit 5). The applicant has since revised the location of the detached garage to include a side setback of one foot and a rear setback of one foot, six inches. The revised setbacks require approval of a Variance.

BACKGROUND (continued):

In addition to the revised location, the applicant revised the dimensions of the detached garage. The revised dimensions increased the size of the garage from the previously approved 484 square feet to 518 square feet. Pursuant to the Town Code, accessory structures are limited to a maximum lot coverage of 15 percent exclusive of required building setbacks. The maximum accessory structure lot coverage for the subject property is 485 square feet. The revised detached garage exceeds the allowed accessory structure lot coverage and requires approval of a Variance.

On August 24, 2022, the Historic Preservation Committee (HPC) reviewed the proposed project and forwarded a recommendation of approval (Exhibit 6).

PROJECT DESCRIPTION:

The project is being considered by the Planning Commission as the applicant is requesting approval for construction of an accessory structure requiring Variances to the Town Code for accessory structure lot coverage standards and side and rear setback requirements in the University-Edelen Historic District on property zoned R-1D:LHP.

A. Location and Surrounding Neighborhood

The subject property is approximately 6,380 square feet, located on the northeast corner of University and Miles Avenues in the University-Edelen Historic District (Exhibit 1). The property is developed with an Italianate Victorian single-story residence constructed around 1898 and identified as a contributor to the University-Edelen Historic District. The subject site and surrounding properties are comprised of single-family homes.

B. Project Summary

The applicant proposes construction of a 513-square foot detached garage requiring Variances to the Town Code for accessory structure lot coverage standards and side and rear setback requirements.

C. Zoning Compliance

The subject property is approximately 6,380 square feet, where 5,000 square feet is required for a parcel in the R-1D zone. Accessory structures are permitted in the R-1D zone and the proposed detached garage complies with the zoning regulations for height and parking. The applicant requests approval of Variances to the Town Code for accessory

PROJECT DESCRIPTION (continued):

structure lot coverage standards and side and rear setback requirements and has provided a Letter of Justification discussing these requests (Exhibit 7).

DISCUSSION:

A. Project Summary

The proposed detached garage would be located in the northeast corner of the property, similar to the previous approval. The proposed garage would match the residence in form, materials, and details. The applicant is requesting Variances to accessory structure lot coverage standards, for a side setback of one foot, and a rear setback of one foot, six inches, where five feet is required. The applicant provided a Letter of Justification discussing the project and the requested Variances (Exhibit 7).

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 can make the following findings:

1. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the 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.

B. Variance – Accessory Structure Lot Coverage

Section 29.40.015 (A)(5) of the Town Code limits accessory structure lot coverage to 15 percent of the lot exclusive of the required setback. As applied to the subject property, the R-1D zone requires a front setback of 15 feet along University Avenue, a rear setback of 20 feet at the eastern property line, a side setback of five feet at the northern property line, and a street-side setback of 10 feet along Miles Avenue. The gross size of the lot is 6,380 square feet. After removing the area of the required setbacks, the net lot area is 3,234 square feet, and the 15 percent limit for accessory structure lot coverage is 485 square feet. The proposed detached garage would cover 518 square feet of the lot, or 16 percent, requiring approval of a Variance.

In their Letter of Justification, the applicant indicates that the required 10-foot street-side setback is an undue burden and presents a special circumstance applicable to the property that reduces the net lot area and allowable accessory structure lot coverage below the

DISCUSSION (continued):

limitations of an interior lot of similar size (Exhibit 7). The applicant states that if the subject property were an interior lot rather than a corner lot, the allowable accessory structure lot coverage would increase to 537 square feet and the proposed 518-square foot garage would have a lot coverage of 14 percent, which would not require a Variance. The applicant provided lot coverage information showing that the proposed lot coverage of 16 percent would be within the range of lot coverages of properties in the immediate neighborhood (Exhibit 9, Sheet NP-1). Lastly, the applicant indicates that the proposed size of the detached garage is required to adhere to the inherent vertical design form characteristic of the Italianate architectural style required to blend with the planned second-story ADU.

Staff Analysis

The subject property exceeds the minimum lot size requirements for the R-1D zone. The required street-side setback is applicable to the subject property due to its location on the corner of University and Miles Avenues. The immediate neighborhood includes 13 properties, 10 of which are currently developed with accessory structures. All properties in the immediate neighborhood are zoned R-1D:LHP except one, which is zoned O:LHP; however, all of the properties are a single-family residential use. The accessory structure lot coverages within the immediate neighborhood range from six percent to 25 percent as reflected in the table below. The corner lot configuration and required street-side setbacks are not unique to the immediate neighborhood, which includes five corner lots. Two of these corner lots exceed the Town Code standards for accessory structure lot coverage. The proposed lot coverage of 16 percent would be consistent with the development in the immediate neighborhood.

Neighborhood Accessory Structure Lot Coverage

Address	Zoning	Accessory Structure Lot Coverage (percent)
123 University Avenue*	R-1D:LHP	18
126 University Avenue	R-1D:LHP	12
128 University Avenue*	O:LHP	11
201 University Avenue*	R-1D:LHP	14
202 University Avenue*	R-1D:LHP	16
205 University Avenue	R-1D:LHP	9
209 University Avenue	R-1D:LHP	13
210 University Avenue	R-1D:LHP	6
217 University Avenue	R-1D:LHP	14
129 Edelen Avenue*	R-1D:LHP	15
68 Miles Avenue*	R-1D:LHP	25
* Corner lot		

DISCUSSION (continued):

With regards to the first required finding, the corner lot configuration and required street-side setback do not represent a special circumstance applicable to the property. With regards to the second required finding, the proposed accessory structure lot coverage of 16 percent would be consistent with the development on properties in the immediate neighborhood and would not constitute a grant of special privilege.

C. Variance – Accessory Structure Setbacks

Section 29.40.015 (A)(4) of the Town Code requires that accessory structures are at least five feet from any property line. Required side and rear yard setbacks for accessory structures may be reduced to no less than three feet through a Minor Residential Development application when the proposed setbacks are found to be compatible with the neighborhood and consistent with the Residential Design Guidelines. The proposed detached garage includes a side setback of one foot and a rear setback of one foot, six inches, requiring approval of a Variance.

In their Letter of Justification, the applicant indicates that the proposed setbacks were determined after consulting with two adjacent neighbors and addressing their concerns for maintaining light and view corridors to the hills (Exhibit 7). The applicant provided setback information for accessory structures in the immediate neighborhood (Exhibit 9, Sheet NP-1) and states that the reduced setbacks would be consistent with the neighborhood pattern.

Staff Analysis

As stated above, the subject property exceeds the minimum lot size requirements for the R-1D zone. There are five other corner properties in the immediate neighborhood and the lot configuration and required street-side setbacks are not unique to the subject property. Of the 13 properties in the immediate neighborhood, 10 are currently developed with accessory structures all having at least one setback of five feet or less as reflected in the table below. Seven of the accessory structures have at least one setback of less than three feet. The proposed detached garage with a side setback of one foot and a rear setback of one foot, six inches would be consistent with the development in the immediate neighborhood.

DISCUSSION (continued):**Neighborhood Accessory Structure Setbacks**

Address	Zoning	Side Setback	Rear Setback
123 University Avenue*	R-1D:LHP	0	1
126 University Avenue	R-1D:LHP	0	0
128 University Avenue*	O:LHP	0	0
201 University Avenue*	R-1D:LHP	3	3
202 University Avenue*	R-1D:LHP	1.5	1
205 University Avenue	R-1D:LHP	1	6
209 University Avenue	R-1D:LHP	5	6
210 University Avenue	R-1D:LHP	2	3
217 University Avenue	R-1D:LHP	0	10
129 Edelen Avenue*	R-1D:LHP	0	0
68 Miles Avenue*	R-1D:LHP	3	3
* Corner lot			

With regards to the first required finding, the corner lot configuration and required street-side setback do not represent a special circumstance applicable to the property. With regards to the second required finding, the proposed accessory structure setbacks would be consistent with the development on properties in the immediate neighborhood and would not constitute a grant of special privilege.

D. Neighborhood Outreach

The Letter of Justification indicates that the applicant worked extensively with the immediate neighbors to the north and east in siting the revised garage to ensure conservation of existing light and view corridors (Exhibit 7). Additionally, the applicant provided a summary of their outreach efforts for the approved Architecture and Site application, which included a detached garage in a similar location (Exhibit 4).

E. CEQA Determination

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

PUBLIC COMMENTS:

Public comments received by 11:00 a.m., Friday, December 9, 2022, are included as Exhibit 8.

CONCLUSION:

A. Summary

The applicant is requesting approval for construction of an accessory structure requiring Variances from the Town Code for accessory structure lot coverage standards and side and rear setback requirements on property zoned R-1D:LHP.

B. Recommendation

Based on the analysis provided in this report, staff recommends denial of the Variance application as the first required finding for granting a Variance cannot be made.

C. Alternatives

Alternatively, the Commission can:

1. Approve the application by taking the following actions:
 - a. 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 (Exhibit 2);
 - b. Make the finding that the proposed project meets the objective standards of Chapter 29 of the Town Code (Zoning Regulations) with the exception of the request for a Variance to accessory structure lot coverage standards and side and rear setback requirements (Exhibit 2);
 - c. Make the findings as required by Section 29.20.170 of the Town Code for granting a Variance to accessory structure lot coverage standards and side and rear setback requirements (Exhibit 2);
 - d. Make the finding required by the Town's Residential Design Guidelines that the project complies with the Residential Design Guidelines (Exhibit 2);
 - e. Approve Variance application V-22-003 with the conditions contained in Exhibit 3 and the development plans in Exhibit 9.
2. Approve the application with additional and/or modified conditions; or
3. Continue the matter to a date certain with specific direction.

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SUBJECT: 202 University Avenue/V-22-003

DATE: December 14, 2022

EXHIBITS:

1. Location Map
2. Required Findings
3. Recommended Draft Conditions of Approval
4. Planning Commission Staff Report with Exhibits, January 26, 2022
5. Planning Commission Action Letter, January 26, 2022
6. Historic Preservation Committee Action Letter, August 24, 2022
7. Letter of Justification
8. Public comments received by 11:00 a.m., Friday, December 9, 2022
9. Development Plans

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