

Board Meeting Date: November 13, 2018
Special Notice / Hearing: 10-Day Notice
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: EXECUTIVE SUMMARY: Consideration of an appeal of the Zoning Hearing Officer's approval of a Non-Conforming Use Permit to enlarge an existing non-conforming single-family residence on a non-conforming parcel, by adding 180 sq. ft. to the first floor, while maintaining non-conforming side yard setbacks of 2' (right side) and 3' (left side) where 5' is the minimum required side yard setback; a new 698 sq. ft. second-story which will encroach into the 16'/45 degree daylight plane; and to allow the second required covered parking space to be uncovered and tandem to an existing one-car garage; on a non-conforming 2,549 sq. ft. parcel located at 338 Rutherford Avenue in the unincorporated Redwood City (Sequoia Tract) area of San Mateo County.

County File Number: PLN 2017-00517 (Kameli)

RECOMMENDATION:

Deny the appeal and uphold the Zoning Hearing Officer's (ZHO) decision to approve the Non-Conforming Use Permit (PLN 2017-00517), by making the required findings and adopting the conditions of approval in Attachment A.

BACKGROUND:

The appellant has appealed the ZHO's decision to approve a Non-Conforming Use Permit to enlarge an existing non-conforming single-family residence on a non-conforming 2,549 sq. ft. parcel in the Sequoia Tract area of San Mateo County. The proposed first floor additions involve extending the 2' non-conforming right side yard setback 14' toward the front of the parcel to create a new front entrance and extending the 3' left yard side setback at the garage 3'-3" toward the front of the parcel to move the existing one-car garage slightly forward. The minimum required side yard setbacks of the "S-74" Zoning District are 5 feet. Additionally, the proposed new 698 sq. ft. second-story will slightly encroach into the 16'/45° daylight plane that is required in the "S-74" Zoning District, but otherwise will be recessed from the first floor footprint in compliance with the minimum 5' side yard setbacks.

The applicant is also requesting an exception to the Zoning Regulations' requirement for two covered, side-by-side parking spaces. The applicant is proposing an uncovered tandem parking space in the driveway, in front of the existing one-car garage (which will be maintained).

DISCUSSION:

On March 15, 2018, the Zoning Hearing Officer (ZHO) continued the consideration of the subject application to the April 5, 2018 ZHO hearing to allow time for the applicant and a nearby project opponent to discuss the proposed project in more detail before a decision was rendered by the Zoning Hearing Officer. On April 5, 2018, the ZHO approved the subject Non-Conforming Use Permit by making the required findings and imposing the conditions of approval included in Attachment A of the Board of Supervisors' report. An appeal was filed on April 19, 2018 by the project opponent.

Key issues raised by the appeal included assertion that the applicant made no attempt to comply with the zoning requirements; is requesting too many exceptions; proposes an addition that is not appropriately sized and massed to the project parcel or neighborhood; proposes a daylight plane encroachment that will have detrimental impact on adjacent homes, including the appellant's home; and that approval would set a precedent for the neighboring substandard-sized parcel to seek similar exceptions that would directly impact the appellant's property. Additional key issues raised by the appellant to the Planning Commission were that the project can only be approved through the issuance of multiple variances; the project is inconsistent with the County's General Plan; and the County's action fails to comply with the California Environmental Quality Act (CEQA).

At its public hearing on July 25, 2018, the Planning Commission considered the appeal. Staff responded to the key issues raised by the appeal, noting that the applicant has made reasonable effort to comply with zoning standards based on the existing non-conforming conditions of the project site; the additions would be in compliance with the maximum allowed lot coverage and floor area for development on a substandard-sized parcel; there is no limit to the number of exceptions requested under a Non-Conforming Use Permit; the proposed two-story residence will be compatible with the residential development pattern of the neighborhood; the daylight plane encroachment generates minimal impact to the immediate neighboring property; and approval of the project does not set precedent for the approval of other projects as each project is evaluated separately. Furthermore, the County's Zoning Regulations offers a Non-Conforming Use Permit as a method to allow relief from the strict zoning regulations when an existing project site is determined to be non-conforming; the project is in compliance with the General Plan; and the CEQA Guidelines provide a categorical exemption under Section 15301, Class I, for the proposed project, as discussed in detail in the Board of Supervisors' report.

The Planning Commission voted (2-2) on a motion to deny the appeal and uphold the ZHO's approval; one Planning Commissioner was absent. Since there was not a majority vote in favor of the motion, the motion failed, and no subsequent motion was made. Therefore, the ZHO's approval remained in effect. An appeal was filed on August 8, 2018 by the appellant.

As mentioned above, staff has responded to the key issues raised by the appeal to the Board of Supervisors, provided in the Board of Supervisors' report dated November 6, 2018.

County Counsel has reviewed the report as to form.

Approval of this project contributes to the Shared Vision 2025 of a Livable Community by providing an affordable and reasonable option for the property owner to revitalize and expand an existing residence for continued single-family residential use.

FISCAL IMPACT:

No fiscal impact.