



## PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

### STAFF REPORT

**DATE:** May 1, 2019

**TO:** Hearing Officer

**SUBJECT:** Variance #11902

**LOCATION:** 2412 Brigden Road

**APPLICANT:** Shoghig Yepremian

**ZONING DESIGNATION:** RS-6 (Single-family Residential, 0-6 dwelling units per acre)

**GENERAL PLAN DESIGNATION:** Low Density Residential

**CASE PLANNER:** Jennifer Driver

**STAFF RECOMMENDATION:** Adopt the Environmental Determination and the Specific Findings in Attachment A to **disapprove** Variance #11902.

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**PROJECT PROPOSAL:** Variance: To permit the total gross floor area on-site to exceed the permitted 2,437 square feet by 402 square feet, for a total size of 2,839 square feet. The application proposes to enclose (retroactively) an existing 119 square-foot covered porch into floor area, as part of an existing 330 square-foot accessory structure.

**ENVIRONMENTAL DETERMINATION:** This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved).

#### BACKGROUND:

**Site characteristics:** The subject site is a 6,547 square-foot rectangular-shaped lot, located on the south side of Brigden Road between North Martelo Road to the west and North Altadena Drive to the east. The site is currently developed with a two-story 2,066 square-foot single-family residence, a 324 square-foot two-car garage, and the subject 330 square-foot accessory structure, for a total gross floor area of 2,720 square feet. The 330 square-foot accessory structure includes an unenclosed,

covered 119 square-foot porch, which has been enclosed without permits, and is the focus of the present project.

**Adjacent Uses:** North: Single-family residences  
South: Single-family residences  
East: Single-family residences  
West: Single-family residences

**Adjacent Zoning:** North: RS-6 (Single-family Residential, 0-6 dwelling units per acre)  
South: RS-6 (Single-family Residential, 0-6 dwelling units per acre)  
East: RS-6 (Single-family Residential, 0-6 dwelling units per acre)  
West: RS-6 (Single-family Residential, 0-6 dwelling units per acre)

**Previous cases on this property:** None.

**PROJECT DESCRIPTION:**

The applicant, Shoghig Yepremian, on behalf of the owners, has submitted a Variance application to permit the retroactive enclosure of an existing 119 square-foot covered porch to convert it to floor area, as part of an existing accessory structure. Currently the accessory structure is 330 square feet in size, and after the porch enclosure, would result in a 449 square-foot accessory structure.

The site is currently developed with structures totaling 2,720 square feet, and the proposed enclosure of the 119 square-foot covered porch would result in a total of 2,839 square feet on-site, where 2,437 square feet is permitted, a difference of 402 square feet. A Variance is required to exceed the maximum permitted gross floor area.

**ANALYSIS:**

The subject site is located within the RS-6 (Single-family Residential, 0-6 dwelling units per acre) zoning district, and pursuant to Sections 17.22.040 and 17.50.250 of the Zoning Code, the maximum permitted gross floor area for parcels less than 12,000 square feet is 30 percent of the lot area plus 500 square feet. Gross floor area means the floor area between the floor and roof above it, as measured from the outside edge of the exterior walls of the main structure and all accessory structures, including required parking (either garage or carport). Any portion of a structure, including stairwells, over 17 feet in interior height, is counted twice for purposes of computing floor area. In addition, Table 2-3 in Section 17.22.040, excludes an unenclosed covered porch from the gross floor calculation, if more than one side does not abut an enclosed space and if each non-abutting side is at least 60% open.

Furthermore, Section 17.50.250 (Residential Structures: Accessory Uses and Structures) establishes both the maximum amount of floor area permitted for accessory structures in the RS-6 zoning district, as well as which portions of a structure would count towards the total amount of floor area permitted on-site for accessory structures. The cumulative floor area of all accessory structures in the RS-6 zoning district can total either six percent of the lot size, or 600 square feet, whichever is less, and includes the following exception:

“An accessory structure (or portion of an accessory structure) with a roof that is at least 50 percent open shall not be included in the calculation of the maximum allowable size.

All other accessory structures shall be counted in the calculation of the maximum allowable size including carports, gazebos, or covered patio or porches.”

The subject accessory structure includes an unenclosed porch, with a solid roof, where two sides are at least 60% open. As a result, the covered unenclosed porch is not included in the overall maximum gross floor area calculation, but is counted toward the cumulative size of accessory structures. As a result, the enclosure of the covered porch does not increase the floor area calculation for accessory structures, but increases the overall gross floor area for the site.

*Variance: To exceed the maximum gross floor area permitted.*

In applying the above standards to the subject 6,457 square-foot site, the maximum allowable gross floor area for the site is 2,437 square feet, and 600 square feet for all accessory structures combined. The existing 2,066 square-foot residence, 324 square-foot two-car garage, and 330 square-foot accessory structure total 2,720 gross square feet and exceeds the permissible amount of floor area for the site by 283 square feet. The enclosure of the 119 square-foot covered porch would further increase the gross floor area overall above what is allowed by the Zoning Code by a total of 402 square feet. A Variance is required to further exceed the development standards established for the RS-6 zoning district.

Pursuant to Table 6-4 of Zoning Code Section 17.61.080 (Variances), deviations from the Floor Area requirements are subject to a Variance application. The Hearing Officer may approve a Variance to exceed the allowed amount of floor area on-site only after making five findings in the affirmative pursuant to Zoning Code Section 17.61.080.G (Findings and Decision). The general purpose of review is to identify compliance with the Zoning Code and General Plan, whether exceptional or extraordinary circumstances exist, whether the application is necessary for the preservation and enjoyment of property rights, and to ensure no detriment or injury to surrounding properties. In addition, a Variance shall not be granted that would have the effect of granting a special privilege not shared by other property owners in the vicinity and under identical zoning districts. Lastly, cost to the applicant of strict compliance with a regulation shall not be the primary reason for granting the Variance.

In considering the proposed application and required findings, staff does not find that there are exceptional circumstances that would justify an addition that results in the maximum allowable gross floor area to be further exceeded above what is presently constructed on the already overbuilt site. The property owner is not suffering a hardship nor losing a substantial property right by not being allowed to enclose the porch of the accessory structure. The property right in question is the applicant's ability to develop a single-family residence in accordance with the provisions of the Zoning Code. The subject site already accommodates a total amount of floor area that exceeds the permitted amount. The gross floor area development standard is a requirement that is based on the size and zone of the lot. This allowable floor area standard is uniform for all single-family properties in that the amount is proportional to the lot size. Further, General Plan Land Use Element Policies 21.1 and 21.5 encourage the development of structures that are compatible in terms of size and massing to those in the same zoning district. Approval of a Variance to exceed the maximum allowable gross floor area contradicts the Land Use Policies, it is not required for the preservation and enjoyment of a substantial property right, and would constitute a grant of special privilege not afforded to other single-family property owners in the same zoning district.

In addition, the enclosure of the covered porch is not being completed to bring the property into compliance with a zoning development standard or to correct a building code safety problem or

other unusual circumstance. The request for enclosure of the covered porch is not for historic preservation of the structure or significant architectural feature, tree preservation, unusual topography, or atypical location.

Therefore, staff does not believe that there are extraordinary circumstances applicable to the project site, that the Variance is not necessary for the preservation and enjoyment of a substantial property right or necessary to bring the site further into alignment with the Zoning Code and General Plan.

#### **GENERAL PLAN CONSISTENCY:**

The subject site is designated as Low Density Residential in the General Plan Land Use Element. The use of the site would remain a single-family residence; therefore, the character of the single-family neighborhood would be maintained. However, the project is not consistent with the adopted General Plan Policies, including Policy 21.1 (Residential Neighborhoods – Appropriate Scale and Massing), which discourages mansionization by requiring building scale and massing that is compatible with existing development in residential neighborhoods. In addition, Policy 21.5 (Housing Character and Design), encourages the renovation of existing single-family homes to reflect the unique neighborhood character and qualities, including lot sizes; building form, scale, massing, and relationship to street frontages; architectural design and landscaped setbacks. The development standards for maximum allowable floor area of the Zoning Code were created to implement the General Plan policies by addressing the disproportional scale and massing of buildings on-site. The proposed 119 square-foot addition to the overall site floor area would conflict with Policies 21.1 and 21.5 because it would create a structure that is out of scale massing wise and would impede the visual character of the neighborhood. It would also be detrimental to the efforts in providing and maintaining features, such as maximum on-site massing, that unify and enhance the character of the neighborhood.

#### **ENVIRONMENTAL REVIEW:**

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(5); Administrative Code, Title 14, Chapter 3, §15270(a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

In the event the Hearing Officer decides to approve Variance #11902, the project could qualify for an exemption pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15301(e), Class 1, (Existing Facility), and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Class 1 exempts projects that involve additions to existing structures, provided that the alteration or addition will not result in an increase of more than 50% of the existing floor area.

#### **REVIEW BY OTHER CITY DEPARTMENTS:**

The proposal was reviewed by the Department of Transportation, Fire Department, Department of Public Works, Building and Safety Section, and the Design and Historic Preservation (DHP) Division. The DHP Section, Fire Department and Department of Transportation had no comments at this time. The Public Works Department and Building and Safety Division have provided

comments and recommended conditions of approval, which would be incorporated should the project be approved.

**CONCLUSION:**

Staff finds that the findings necessary for approving the Variance request to exceed the maximum allowable floor area for a site by 402 square feet cannot be made. There are no exceptional or extraordinary circumstances or conditions applicable to the development of the site that would support the deviation from the maximum amount of floor area on-site. The granting of this Variance is not in conformance with the goals, policies, and objectives of the General Plan. Therefore, staff recommends that the Hearing Officer disapprove the application.

Attachment:

Attachment A: Variance Findings

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR VARIANCE #11902**

Variance – To exceed the maximum gross floor area permitted.

1. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The site is not unique in terms of size, shape, topography or historical significance and is subject to the same maximum floor area development standard as other surrounding properties in the RS-6 zoning district. The enclosure of the covered porch is not being completed to bring the property into compliance with a zoning development standard or to correct a building code safety problem or other unusual circumstance. The request for enclosure of the covered porch is not for historic preservation of the structure or significant architectural feature, tree preservation, zoning code compliance, unusual topography, or atypical location. The subject parcel is rectangular and relatively flat, which are ideal conditions for development. The enclosure of the covered porch would increase the degree of non-conformity with regard to maximum allowable gross floor area. The maximum allowable floor area standard is applicable to all single-family properties in the RS-6 zoning district to ensure compatibility with the area with appropriately sized development with respect to the size of the lot. A single-family residence with a two-car garage and accessory structure has already been constructed on the site, and already exceeds the permitted amount of floor area on-site. The enclosure would worsen the difference between the constructed and permitted floor area on-site and it does not correct a non-conforming condition. As a result, there are no exceptional or extraordinary circumstances or conditions applicable to the site.
  
2. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* The subject property is already developed with a 2,066 square-foot house, a 324 square-foot, two-car garage and a 330 square-foot accessory structure. The house contains three bedrooms and three baths, a two-car garage and a 330 square-foot accessory structure, which is in common with other single-family residences along the street. Approval of the variance to exceed the maximum allowable floor area is not necessary to correct a zoning or building code violation. The Variance, however, is being requested to retroactively correct the illegal enclosure of the porch of the accessory structure. However, disapproval of this variance request does not deny the property owner use of the house in its entirety or portion thereof. The property and residence are still functional single-family entities similar to other single-family residences in the vicinity. Thus, disapproval does not result in an unreasonable property loss and the variance request is not necessary for preservation or enjoyment of property rights.