

City of Hesperia STAFF REPORT



DATE: September 12, 2019
TO: Planning Commission
FROM: Chris Borchert, Principal Planner
BY: Daniel Alcayaga, Senior Planner
SUBJECT: Variance VAR19-00003; Applicant: Heraclio Herrera; APN: 0411-271-18

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2019-21, approving VAR19-00003.

BACKGROUND

Proposal: A Variance to allow an accessory building (attached guest house and garage) to exceed the maximum height of 16 feet when located within 30 feet of a side or rear property line. The building is approximately 17.6 feet in height, 5 feet from the side property line and 10 feet from the rear property line (Attachment 1).

Location: 8968 Grapefruit Avenue

Current General Plan, Zoning and Land Uses: The site is within the Single-Family Residence with a minimum lot size of 18,000 square feet (R1-18000). The surrounding land is designated as noted on Attachment 2. The surrounding properties on all sides contain single-family residences (Attachment 3). The primary house on the subject property was completed in 2018.

ISSUES/ANALYSIS

The applicant proposes a 1,328 square foot accessory building, which includes a 360 square foot guest house and 968 square foot garage, both of which are attached. Guest houses are allowed provided they do not exceed 499 square feet in size and do not have a kitchen. The accessory building does not propose a kitchen and meets the size requirement. The proposed building has an appearance of a two-story building; however, the floor plan is one-story from inside with recessed ceilings over the garage.

Pursuant to Section 16.20.410, accessory buildings that exceed a height of 16 feet must be placed a minimum of 30 feet away from side and rear property lines. Accessory building that do not exceed a height of 16 feet must satisfy the minimum standard setbacks of the respective zone. In the R1-18000, the standard setback is 5 feet on the side yard and 15 feet on the rear yard. Additionally, accessory buildings that do not exceed a height of 16 feet can encroach into the standard 15-foot rear setback, but not more than 5 feet, as long the encroachment does not exceed 25% of the total rear yard. The standard height limitation in the R1-18000 zone is 35 feet or a maximum of 2 ½ stories, but this only applies to the primary house and/or accessory buildings placed 30 feet away from side and rear property lines.

The applicant is requesting a Variance to place the proposed accessory building within the required 30-foot side and rear setbacks and exceed the 16-foot height limitation. The accessory building in question proposes a height of 17.6 feet, a five-foot side yard setback, and 10-foot rear yard setback. The highest point of the accessory building is actually 19 feet, but the height is based on an average. When determining height, the code defines the height as the distance between the ground adjacent to the building and the point (average) between the top plate and the highest point of the gable/hip roof.

Findings for a Variance: Staff believes the findings for a Variance can be made as there is an unusual and unique circumstance limited to the property. There is a 20-foot natural drainage course running through the property (Attachment 1). This drainage course bisects the property between the primary house and the proposed accessory building. Strict enforcement of the 30-foot side and rear setback, and requiring the building to stay out of the natural drainage course prevents the property owner from having an accessory building on the property, which is a privilege enjoyed by surrounding properties. The natural drainage course pushes the accessory building to be located towards the north west corner of the property necessitating encroachment of the required 30-foot setback.

Chronology of Events: On January 11, 2019, the applicant submitted building plans for an accessory building (attached guest house and garage). Plans were approved by the Building and Safety Department, and building permits were issued on March 28, 2019. During construction, the City received a complaint from a member of the public citing that there are no two-story buildings in the neighborhood. During a field investigation, staff learned that building permit was issued with an incorrect building height and incorrect setbacks. On August 2, 2019, a stop work order notice was issued by the Building and Safety Department. Presently, the applicant has the option of modifying the construction to meet the standard (i.e. reduce the average height of the building to 16 feet) or obtain approval of a Variance. On August 5, 2019, the applicant filed a Variance.

Environmental: Approval of the Variance is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: The natural drainage course and strict enforcement of the 30-foot rear and side setbacks limits placement of the accessory building on the property. The strict enforcement of the setbacks regulations deprives the property owner of having an accessory building, which is a privilege enjoyed by surrounding properties. The project meets the standards of the Development Code with approval of the Variance.

FISCAL IMPACT

None.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Site Plan
2. General Plan
3. Aerial Photo

4. Building Elevations
5. Resolution No. PC-2019-21, with list of conditions