# City of Brisbane Planning Commission Agenda Report 

TO: Planning Commission
For the Meeting of 6/13/2019
SUBJECT: Variance V-2-19; 163 Santa Clara Street; R-1 District; Variance for additions to a single-family dwelling to exceed the 20 foot height limit within 15 feet of the front property line and for the eaves of the addition to encroach up to 1 foot, 6 inches from the north side property line; Cameron Helland, applicant; Ambert Yeung, owner.

REQUEST: The applicant requests Planning Commission approval of a variance to the 20 ft height limit within 15 ft of the front property line and to the $2 \mathrm{ft}, 6$ inch setback requirement for roof eaves to the side property line to allow approximately 142 sq ft of additions to an existing singlefamily home with nonconforming lot coverage and setbacks.

RECOMMENDATION: Approve Variance V-2-19 in part by approving the requested height limit variance and denying the requested eave setback variance via adoption of Resolution V-2-19, containing the findings and conditions of approval.

ENVIRONMENTAL DETERMINATION: Additions to an existing single-family home are categorically exempt from the provisions of the California Environmental Quality Act per Section 15301(e) of the CEQA Guidelines. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

APPLICABLE CODE SECTIONS: The R-1 District development standards are located in BMC Section 17.060.040. Regulations for alterations of nonconforming structures are contained in BMC Chapter 17.38. Variance application procedures and findings are located in BMC Chapter 17.46.

## ANALYSIS AND FINDINGS:

## Project Description

The subject property is a substandard lot with respect to the minimum lot size, width, and depth requirements of the R-1 District, measuring approximately $2,444 \mathrm{sq} \mathrm{ft} \mathrm{in} \mathrm{size}$,25 feet in width, and 98 feet in depth. The property features an approximately $31 \%$ cross-slope upward (southeast) from Santa Clara Street. The site is developed with a two-level duplex and a one-car garage totaling $1,618 \mathrm{sq} \mathrm{ft}$ (including a 200 sq ft exemption for the garage as allowed per BMC Section 17.06.040.F). The existing duplex use, lot coverage, and setbacks of existing development on the property do not conform to the R-1 District standards.

The project would convert the nonconforming duplex unit to a conforming single-family dwelling and accessory dwelling unit and add approximately 142 sq ft of additions to the structure consistent with BMC Section 17.38.080. As the project would result in a conforming single-family use (with

ADU), no Use Permit is required to allow expansion of the structure as would otherwise be required per BMC Section 17.38.030.

The project would add approximately 94 sq ft at the first level (ADU), and approximately 48 sq ft at the second level (single-family home) within the existing structural footprint of the building, resulting in no increase in the existing nonconforming lot coverage. The additions would comply with the required 3 ft side and $7 \mathrm{ft}, 10$ inch (block average) front setbacks and the maximum floor area of $1,760 \mathrm{sq} \mathrm{ft}$. However, the additions would exceed the 20 ft height limit within 15 ft of the front property line by approximately $4 \mathrm{ft}, 1 \mathrm{inch}$. Additionally, the proposed eaves of the addition would be setback $1 \mathrm{ft}, 6$ inches from the north side property line where a minimum setback of $2 \mathrm{ft}, 6$ inches is allowed by BMC Section 17.32.070.A.1.a.

## Variance Analysis

In order to approve a Variance per BMC Section 17.46.010, the Planning Commission must find that special circumstances are applicable to the property such that strict application of the zoning regulation would deprive the property of privileges enjoyed by other properties in the vicinity in the same zoning district, and must impose conditions to assure that the adjustment does not constitute a grant of special privilege.

Special Circumstances Applicable to Subject Property: Based on staff's review of the 26 properties in the 100 -block of Santa Clara Street, while the lot's substandard size alone would not be unusual, the degree of discrepancy between the north and south side lot lines, resulting angled front lot line, and cross-slope make the property's situation unique. Attachment C shows the neighborhood context in an aerial view and provides assessor parcel maps showing lot dimensions for comparison purposes.

The subject property has an approximately $31 \%$ cross-slope rising from its northwest corner to its southeast corner, and an angled front property line resulting from a 12 ft discrepancy in the length of the north and south side property lines. These circumstances, combined with the existing nonconforming lot coverage of the existing structure, constrain expansion of the home to a narrow, angled band within the existing footprint of the structure, toward Santa Clara Street. As shown on the applicant's site plan, the southern portion of the proposed additions falls just outside the area of the lot subject to the 20 ft height limit within 15 ft of the front property line, but the northern portion extends into this area due to the angle of the front property line.

While special circumstances exist to support the requested variance to the 20 ft height limit within 15 ft of the front lot line, no circumstances appear to exist to support the requested variance to the 2 $\mathrm{ft}, 6$ inch setback for roof eaves. While the requested setback variance would allow for the new roof eaves to be flush with the existing building wall- an aesthetically appealing architectural design- the eaves could be reduced from their proposed $2 \mathrm{ft}, 2$ inch dimension to comply with the $2 \mathrm{ft}, 6$ inch setback and still provide a 1 ft , 2 inch overhang. As such, staff is recommending that the eave design be modified to comply with the $2 \mathrm{ft}, 6$ inch setback in the plans submitted for the building permit.

Privileges Enjoyed by Others in the Vicinity Deprived to Subject Property: In the R-1 District, structures within 15 ft of the front lot line may not exceed 20 ft in height, though the maximum height for any other location on the lot may be 28 ft or 30 ft , depending on the slope of the lot. Strict application of the 20 ft height limitation in the only area of the subject property where expansion may occur (limited by the circumstances described above) would allow for only the first level (ADU) to be expanded as designed, and would preclude expansion of the second level (the singlefamily dwelling). Other lots in the 100 -block of Santa Clara Street are not similarly encumbered, whether due to their larger size or the lesser degree of the angle of their front property lines to Santa Clara Street.

While strict application of the 20 ft height limit within 15 ft of the front lot line would deprive the property owner of privileges enjoyed by others in the vicinity, strict application of the $2 \mathrm{ft}, 6$ inch setback requirement for roof eaves would not prevent reasonable expansion of the existing dwelling. As indicated in the previous section, the addition eaves could be reduced to $1 \mathrm{ft}, 2$ inches in dimension in order to comply with the setback.

It should be noted that both the ADU and single-family dwelling would retain the same number of bedrooms (one and two, respectively). The square footage of both the ADU and single-family dwelling would remain modest at 632 sq ft and $1,128 \mathrm{sq} \mathrm{ft}$, respectively.

Conditions Necessary to Prevent a Grant of Special Privilege: To ensure the height variance would not constitute a grant of special privilege, Conditions of Approval A. 1 and A. 2 require new door and window openings and exterior materials to meet all applicable California Building and Fire Code standards in regards to fire rating, design, and operation. Additionally, Condition of Approval A. 3 requires that the pre-existing structure be brought into conformity with the standards for new construction to eliminate existing health or safety hazards if the Building Official determines the alterations constitute a "major rebuild", per BMC Section 15.08.140. Lastly, Condition of Approval A. 4 requires that existing nonconforming roof eaves be eliminated in the submitted roof plan, such that the only nonconforming eaves would be the eaves associated with the additions subject to this variance request.

No conditions of approval are included for the request for the eave setback variance as staff is not recommending approval of that part of the request.

## ATTACHMENTS:

A. Draft Resolution V-2-19 with recommended Findings and Conditions of Approval
B. Vicinity map
C. Project data table
D. Neighborhood aerial and assessor parcel maps (100-block of Santa Clara Street)
E. Applicant's supporting statements and plans


# A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE CONDITIONALLY APPROVING VARIANCE V-2-19 FOR ADDITIONS TO 163 SANTA CLARA STREET 

WHEREAS, Cameron Helland applied to the City of Brisbane for Variance approval for construction of additions to a single-family dwelling at 163 Santa Clara Street to exceed the 20 foot height limit within 15 feet of the front lot line, and for the eaves of the additions to encroach within 1 foot, 6 inches from the side property lines, such application being identified as V-2-19; and

WHEREAS, on June 13, 2019, the Planning Commission conducted a hearing of the application, publicly noticed in compliance with Brisbane Municipal Code Chapters 1.12 and 17.54, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application, and the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; pursuant to Section 15301(e) of the State CEQA Guidelines; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein, as Exhibit A, in connection with the requested Variance review;

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of June 13, 2019 did resolve as follows:

Variance V-2-19 is approved in part by approving the requested height limit variance and denying the requested eave setback variance via adoption of Resolution V-2-19, containing the findings and conditions of approval.

ADOPTED this $13^{\text {th }}$ day of June, 2019, by the following vote:
AYES:
NOES:
ABSENT:

PAMALA SAYASANE
Chairperson

## ATTEST:

JOHN A. SWIECKI, Community Development Director

## DRAFT

## EXHIBIT A

Action Taken: Partial approval of Variance V-2-19, approving the requested variance to the 20 ft height limit within 15 ft of the front lot line and denying the requested eave setback variance, per the staff memorandum with attachments, via adoption of Resolution V-2-19.

## Findings:

## Variance V-2-19

- The granted variance to the 20 ft height limit requirement within 15 ft of the front property line is subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is located, per the conditions of approval contained in Exhibit A, specifically, Conditions of Approval A.1, A.2, A.3, and A.4.
- Because of special circumstances applicable to subject property, specifically its $31 \%$ southeast cross-slope, angled front property line resulting from a 12 ft discrepancy between the north and south side property lines, and the existing nonconforming lot coverage of the existing structure, expansion of the home is constrained to a narrow, angled band within the existing footprint of the structure. The strict application of the 20 ft height limit within 15 ft of the front property line is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification, namely to expand the single-family home within allowable setbacks, floor area, and lot coverage limitations of the R-1 District. However, the applicant's variance request for the setback requirements for roof eaves is not supported by special circumstances and its strict application would not deny the property owner of privileges enjoyed by others in the vicinity, and that part of the variance request is hereby denied.


## DRAFT

## Conditions of Approval:

## Prior to Issuance of a Building Permit

A. The applicant shall obtain a building permit prior to proceeding with construction. Plans submitted for the building permit shall substantially conform to plans on file in the City of Brisbane Planning Department, subject to the following conditions:

1. The submitted plans shall show the eaves for the addition with no less than a $2 \mathrm{ft}, 6$ inch setback from the side property lines. Additionally, existing nonconforming roof eaves shall be eliminated in submitted roof plans.
2. Any new or modified window or door openings in existing walls encroaching within required setbacks shall conform to all applicable California Building Code and Fire Code provisions, as determined by the Building Official.
3. All new exterior materials, including but not limited to siding and roof, shall be firerated consistent with all applicable California Building Code and Fire Code requirements, as determined by the Building Official.
4. The pre-existing structure shall be brought into conformity with the standards for new construction as the Building Official may determine to be necessary or appropriate to eliminate existing health or safety hazards, including, but not limited to, defects in structural integrity, defective or inadequate electrical installations, defective or inadequate fire sprinkler, sanitary sewer or storm drainage facilities, and substandard street access to the property should the Building Official determine that the alterations will constitute a "major rebuild", where $75 \%$ or more of the combined surface area of the interior walls and ceilings of the habitable rooms are to be removed to expose support members, per BMC Section 15.08.140.
B. Prior to issuance of a building permit, the applicant shall obtain an encroachment permit from the Department of Public Works for any proposed construction activity and private improvements within the public right-of-way.
C. Prior to issuance of a building permit, an agreement shall be recorded between the owner and the City whereby the owner waives the right to protest the inclusion of the property within an underground utility district.
D. Prior to issuance of a building permit, the applicant shall obtain an Accessory Dwelling Unit Permit from the Planning Director.

## Other Conditions

E. All glass shall be nonreflective, and all exterior lighting shall be located so as not to cast glare upward or onto surrounding streets or properties.
F. Water and sanitary sewer service and storm drainage details shall be subject to approval by the City Engineer.
G. Drawings depicting all work completed and proposed shall be provided to the satisfaction of the City. Exposure of covered work may also be required to demonstrate compliance with building code requirements.
H. The permittees agree to indemnify, defend and hold the City and its officers, officials, boards, commissions, employees and volunteers harmless from and against any claim, action or proceeding brought by any third party to attack, set aside modify or annul the approval, permit or other entitlement given to the applicant, or any of the proceedings, acts, or determinations taken, done or made prior to the granting of such approval, permit, or entitlement.
I. Minor modifications may be approved by the Planning Director in conformance with all requirements of the Municipal Code.
J. The Variance permit approval shall expire two years from its effective date (at the end of the appeal period) if a Building Permit has not been issued for the approved project or if the Building Permit, once issued, is allowed to expire prior to final inspection.

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Neighborhood Aerial and Assessor Parcel Maps


Neighborhood Aerial and Assessor Parcel Maps

$\triangle$ AMENDED MAP TOWN OF VISITACION SUBS $12 \& 3$ RSM $6 / 45$
$\triangle$ PARCEL MAP VOL $42 / 59$

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## Project Data Table

| ADDRESS | 163 Santa Clara Street |  |  |  |  |
| :---: | :---: | :---: | :---: | :---: | :---: |
| APN | 007242220 |  |  |  |  |
| ZONING DISTRICT | R-1 District |  |  |  |  |
| Development Standard | Existing | Proposed | Min/Max | Complies | Does not comply |
| Lot Area | 2444 SF | n/a | 5,000 SF | X Lot of record |  |
| Lot Slope | 31\% | $\mathrm{n} / \mathrm{a}$ | n/a | n/a |  |
| Lot Coverage | 1240 SF or 51\% | $\mathrm{n} / \mathrm{c}$ | 977.6 or 40\% |  | X existing |
| Floor Area | 1818 SF gross - <br> 200 SF garage = <br> 1618 SF or 0.66 <br> FAR | $\begin{aligned} & +142 \mathrm{SF}=1960 \mathrm{SF} \\ & \text { gross }-200 \mathrm{SF} \\ & \text { garage }=1760 \text { or } \\ & 0.72 \mathrm{FAR} \end{aligned}$ | 1760 or 0.72 FAR | X |  |
| Setbacks |  |  |  |  |  |
| N Side Lot Line | 1' | Additions: | 3' | X Additions |  |
| S Side Lot Line | 1.2' | Additions: | 3' | X Additions |  |
| Rear Lot Line | 35.3' | Additions: | 10' | X |  |
| Front Lot Line | 12' | Additions: 7' 10" | 7' 10" (block average) | X |  |
| Garage | Front: 01 | $\mathrm{n} / \mathrm{c}$ | 0' | X |  |
|  | N Side: 1.17' | $\mathrm{n} / \mathrm{c}$ | 3' |  | X existing |
|  | S Side: ~ 6' | $\mathrm{n} / \mathrm{c}$ | 3' | X |  |
| Eaves | 0' | Additions: 1' 6" to side lot line | 2' 6' to side lot line |  | X Variance |
| Height | 18' 6" | Additions: 24' 1" | 30' | X |  |
| 15' from front lot line | n/a | Additions: 24' ${ }^{\prime \prime}$ | 20' |  | X Variance |
| Parking | 2 (1 covered) | $\mathrm{n} / \mathrm{c}$ | ADU: 0 Main home: <br> 2 (1 covered) | X |  |

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## Attachment E

HELLAND ARCHITECTURE

Project: Santa Clara Street (BzL) Remodel

Address: 163 Santa Clara Street, Brisbane, CA 94005
APN: 007242220
Owner: Ambert Yeung
Date: 4/18/2019

## Variance Application - Supporting Statements - Attachment A

1) What special circumstances, such as size, shape, or topography of the property, or its location or surroundings, apply to your site?

The subject property is $<2,500 \mathrm{sq}$. ft. and is a long, narrow lot on a steeply sloping ( $>20 \%$ ) site. The front property line cuts across at $26^{\circ}$ which is the greatest on the 100 block of Santa Clara Street and is the only $2,500 \mathrm{sq}$. ft . lot affected to this degree. Due to historical reasons the 50 ft . right-of-way of Santa Clara Street runs directly along the front facade of the garage structure. After the adoption of modern planning code, this property fell into non-conformance for its side and front setbacks and lot coverage. The existing property is surrounded on three sides (to the North, East and South) by neighboring, multi-level structures. Three, mature and over-grown pine trees, rooted along the property line of the neighbor to the North, shade the rear half of our property for a majority of the day. As a result of the steeply sloping site and the proximity of the neighboring structures and vegetation, the primary access to light and views is at the front half (western-most) facing side of the property.

## 2) How do these special circumstances impact your site when the Zoning Ordinance is applied to the site?

Due to the extensive grade change from the back of the property (high-point) to the front (low-point), the existing building is a terracing structure, stepping down the property from the rear yard to the front yard driveway abutting Santa Clara Street. As a result, the only expansion option to achieve the small lots maximum floor area ratio is to move the front facade forward. One alternative that was considered involves excavating deep into the hillside which is impossible due to the existing lot coverage, excessive associated costs, and would result in significant excavation into below grade space. The only compliant solution would require lowering the top floor roof height significantly and then angling the front facade at $26^{\circ}$ which is awkward and undesirable.

The side setback non-conformance affects any modification to the existing roofline and eaves structure. In order to move in the direction of compliance, our current proposal voluntarily removes the eaves and traditional gutters along both sides of the house and incorporates them into the roofline thus reducing the overall non-conformance by 71 sq . ft . and proposes to continue this feature through the front addition and eave.
3) What privileges enjoyed by other properties in the vicinity and same zoning district would you be deprived of when the Zoning Ordinance is applied to your site, given its special circumstances?

Due to the existing non-compliance of the lot coverage area and the side-yard setback, the only significant and viable development that can occur on the site is at the front of the property and over the existing patio to reach the allowable floor area ratio. Both adjacent properties that share the $26^{\circ}$ front property line have lot sizes far greater that would allow significant property expansion due to its layout and respective floor area ratio and thus are not constrained by this issue. Since we cannot expand the building's overall footprint, we are seeking a minor variance to permit the building height of 25 ' within 15' of the front property line, so we can expand the livable floor area of both floors over a portion of the existing front patio. Additionally, we are offering to remove the existing, non-compliant roof eaves and integrate the gutter system into the roof itself, a challenging design that would be best implemented as a straight line along the entire roof edge.
4) What conditions of approval could be attached to the variance to assure that you comply with the intent of the Zoning Ordinance and other applicable regulations?

- No expansion beyond the existing building footprint
- Overall building height to remain unchanged and roof slope and roof profile to match existing
- Existing non-compliant roof eaves and gutters will be removed and integrated into the roof design


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EXISTING FRONT FACADE - VEW From Santa clara street




SITE PHOTO - VIEW 02


SITE PHOTO - VIEW 03

ambert yeung, on wednesday, APRIL 10, 2019 REFERENCE SITE MAP



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