

## City of Burlingame

*Special Permit, Variance, and Conditional Use Permits for Accessory Structures*

**Address:** 400 Chapin Lane

**Meeting Date:** February 11, 2019

**Request:** Application for a Special Permit, Variance, and Conditional Use Permits for two new accessory structures to be used as a recreation room/accessory living quarter and as a detached garage.

**Applicants and Property Owners:** Richard and Christina Jones

**APN:** 028-282-110

**Architect:** Ryan Morris, Morris Architecture

**Lot Area:** 15,770 SF

**General Plan:** Low Density Residential

**Zoning:** R-1

**Environmental Review Status:** The project is Categorically Exempt from review pursuant to the California Environmental Quality Act (CEQA), per Section 15303 (e), which states that construction or conversion of limited numbers of new, small facilities or structures including accessory (appurtenant) structures including garages, carports, patios, swimming pools and fences is exempt from environmental review.

**Summary of Request:** An application for a Special Permit, Variance and Conditional Use Permits for two new accessory structures to be used as a recreation room/accessory living quarters and as a detached garage was originally approved by the Planning Commission on August 14, 2017. A building permit for the project is now ready to be issued, however it was not pulled by the property owner and the approval for the project expired on August 24, 2018. The applicant is now applying for approval of the same project approved by the Planning Commission in August 2017; there are no changes proposed to the originally approved project with this application.

**History:** Following is a history of the application (Planning Commission meeting minutes are included in the staff report):

- January 9, 2017 – An application for a Special Permit, Variances, and Conditional Use Permits for a two-story accessory structure to be used as a recreation room/accessory living quarter and garage was reviewed at a Study Meeting by the Planning Commission and referred to the Regular Action calendar.
- August 14, 2017 – After substantial revisions that included separating the proposed garage and recreation room/accessory living quarters into two single-story buildings, the project returned to the Planning Commission for Action and was approved.
- May 4, 2018 – Building permit approved for issuance.
- August 2018 – During the building permit process, it was discovered that the licensed survey used for the project was inaccurate. The survey showed the rear property line for the subject site in the correct location, but showed the existing fence one foot on the property abutting the rear of the subject site, at 1565 Bellevue Avenue, Hillsborough. Additional research by the architect showed that the existing fence was located on the rear property line shared by the two properties at 400 Chapin Lane, Burlingame and 1565 Bellevue Avenue, Hillsborough.

Information submitted by the owner to correct the inaccuracy was reviewed by the Public Works Division and the plans submitted for a building permit were revised to reflect the field conditions. The originally approved plans for the project included demolishing the existing rear fence and rebuilding it on the property line; however since the existing fence was determined to be located on the property line, this fence will remain in place. The property owners to the rear of the rear of the subject site, at 1565 Bellevue Avenue, Hillsborough, were notified of the change.

- August 24, 2018 – Approval for Planning entitlements expired.

- January 30, 2019 – Subject site property owner submitted an application to renew the expired Planning entitlements; no changes (other than a correction to the rear fence location) have been made to the project approved by the Planning Commission on August 14, 2017.

**Site Description:** The subject property is a corner lot with frontages on Chapin Avenue and Chapin Lane. The Burlingame City limit line is at the dead end of Chapin Lane, and the subject lot abuts the Town of Hillsborough.

The property address is on Chapin Lane, although the main entrance faces Chapin Avenue. The frontage on Chapin Avenue meets the zoning code definition of the front of the lot. The existing single family dwelling is two-stories with a lower level/basement. In the rear yard there is a pool as well as two existing accessory structures; the first structure is a combined storage and pool equipment shed on the right side of the rear yard and the second structure is a single story garage and pool house structure on the left side of the rear yard.

The existing single-story garage and pool house structure was approved to be built in its current location with Setback Variances that were granted in 1964. The uses in this existing single-story detached accessory structure include parking, a sauna, a full bathroom (sink, toilet, and shower), and a recreation room/accessory living quarters.

Planning Staff notes that Design Review and the Historical Resource Analysis requirement do not apply to this project. C.S. 25.57.070.010(a) requires Design Review for single-family houses and duplexes, but not for work proposed solely to accessory structures on a property. The Historic Resource Analysis requirement for properties in the Burlingame Park No. 2 subdivision only applies only when there are alterations to the primary structure on a property.

**Project Description:** The applicant is proposing to demolish the existing single-story accessory structure at the rear, left side of the property to build two new, single-story accessory structures that will be used as a garage and as a recreation room/accessory living quarters. With the proposed accessory structures, the property meets all lot coverage and floor area requirements.

The proposed garage totals 572 SF and provides two covered spaces (20' x 20' required interior space). The existing and proposed garage doors face Chapin Lane. The proposed garage location is 1'-3" from the exterior side property line, where a side setback of 7'-6" is required and therefore the applicant is requesting a Side Setback Variance for the detached garage.

The proposed single-story accessory structure that will be used as a recreation room/accessory living quarters is located in the rear 30% of the lot and is exempt from setback requirements. The proposed accessory structure is 749 SF and contains a bedroom, a full bath, and a kitchen area. However, no cooking unit is proposed and therefore the structure does not meet the definition of an Accessory Dwelling Unit. The proposed accessory structure requires a Conditional Use Permit for the proposed use and for a full bathroom (shower, sink, and toilet). The proposed structure requires a Special Permit for a length and width of more than 28 feet (29'-3" x 38'-4" structure is proposed).

There is an existing protected-size Redwood Tree in the rear yard that is approximately 2'-6" feet from foundation of the existing single-story pool house/garage and from the foundations for the proposed accessory structures. The applicant has submitted a Certified Arborist report (dated January 19, 2017 and addendum dated August 8, 2017) to detail a tree protection plan and construction recommendations.

The existing house has 7 bedrooms (1 in the basement/lower level, 1 on the first floor, and 5 on the second floor). The existing covered parking is accessed from a driveway cut on Chapin Lane and is non-conforming in the number of spaces (1 covered space existing where 2 covered spaces are required). There is one existing uncovered parking space that is accessed from a second driveway cut on Chapin Lane. The uncovered parking space is non-conforming because it is not located in a driveway that leads to covered parking (there was a porte cochere at the rear of the house that was converted to living space after 1951); however the uncovered parking space will not be altered and it is therefore allowed to maintain its non-conforming status.

The proposed garage accessory structure provides two code-compliant covered parking spaces. The proposed two covered parking spaces and the existing non-conforming uncovered parking space meet the parking code requirement for number of parking spaces (2 covered spaces and 1 uncovered space) for any dwelling with 5 or more bedrooms. With this project, there are no changes proposed to the main house and no additional parking is required for accessory living quarters that are not a secondary dwelling unit.

The applicant is requesting the following applications:

- **Special Permit** for length or width greater than 28 feet (where a width of 29'-3" and a length of 38'-4" inches is proposed for the accessory living quarters) (C.S. 25.26.035(e));
- **Side Setback Variance** to the first floor (7'-6" required to the first floor where 1'-3" is proposed at the closest wall of the detached garage) (C.S. 25.26.72(e)(2));
- **Conditional Use Permit** for two (2) or more accessory structures, each having over one hundred (100) square feet gross floor area (572 SF proposed garage, 749 SF proposed accessory living quarters, and 196 SF existing pool equipment shed (C.S. 25.60.010(a));
- **Conditional Use Permit** for any single accessory structure to exceed six hundred (600) square feet of gross floor area (749 SF for the proposed accessory living quarters structure) (C.S. 25.60.010(b));
- **Conditional Use Permit** for all accessory structures on a single lot to exceed a total of eight hundred (800) square feet of gross floor area (1,517 total SF proposed for three accessory structures) (C.S. 25.60.010(c));
- **Conditional Use Permit** for a bath, shower, or toilet in an accessory structure (full bath with a shower, sink, and toilet in the accessory living quarters structure) (C.S. 25.60.010(j)); and
- **Conditional Use Permit** for the rear structure to be used as accessory living quarters and a recreation room (C.S. 25.60.010(m)).

*This space intentionally left blank.*

400 Chapin Lane  
Lot Area: 15,770 SF

Plans date stamped: January 30, 2019

ACCESSORY STRUCTURE(S)	Existing	Plans dated July 27, 2017	Plans dated January 30, 2019	Revised Plans dated July 27, 2017
<b>Front</b>	Existing single-story structure is in the rear yard (in the rear 40% of the lot)	Two, single-story accessory structures in the rear yard (the garage is forward of the rear 40% of the lot, the accessory living quarters structure is in the rear 30% of the lot)	No change	Two, single-story accessory structures in the rear yard (the garage is forward of the rear 40% of the lot, the accessory living quarters structure is in the rear 30% of the lot)
<b>Side (right):</b>	73'-0"	No change	No change	No change
<b>(left):</b>	0'-5" <sup>1</sup>	1'-3" <sup>2</sup> (to the garage) 1'-0" (to the accessory living quarters)		1'-3" <sup>2</sup> (to the garage) 1'-0" (to the accessory living quarters)
<b>(second floor exterior- left side along Chapin Lane)</b>	---	Second floor was eliminated		Second floor was eliminated
<b>Rear (1st flr):</b>	10'-9"	1'-2"	No change	1'-2"
<b>(2nd flr):</b>	n/a	Second floor was eliminated		Second floor was eliminated
<b>Size of structures (excluding the pool shed):</b>	760 SF	1,321 SF	No change	1,321 SF

<sup>1</sup> Approved with setback variances granted in 1964.

<sup>2</sup> Proposed side and rear setback variances requested for the one, two-story accessory structure.

<sup>3</sup> Proposed side setback variance requested for the single-story detached garage only (7'-6" required where 1'-3" is proposed).

**Staff Comments:** The Planning Division notes that this application was brought directly to the Planning Commission as a Consent Calendar Item since the same project was already approved by the Planning Commission and there are no changes proposed to the previous approvals.

**Findings for a Conditional Use Permit:** In order to grant a Conditional Use Permit, the Planning Commission must find that the following conditions exist on the property (Code Section 25.52.020, a-c):

- (a) The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity and will not be detrimental to the public health, safety, general welfare or convenience;
- (b) The proposed use will be located and conducted in a manner in accord with the Burlingame general plan and the purposes of this title;
- (c) The planning commission may impose such reasonable conditions or restrictions as it deems necessary to secure the purposes of this title and to assure operation of the use in a manner compatible with the aesthetics, mass, bulk and character of existing and potential uses on adjoining properties in the general vicinity.

**Suggested Conditional Use Permit Findings:** The proposed accessory structures will not be detrimental or injurious to property or improvements in the vicinity as they are similar to the existing accessory structure uses and will contain accessory living space and parking for the main residence. The proposed accessory living quarters and parking are uses that are consistent with the land use designation in the General Plan. The proposed roof design reduces the appearance of the structures from the street and from the neighboring properties and the overall heights meet code requirements. The accessory structure will be finished with materials to match the existing house. For these reasons the project may be found to be compatible with the requirements of the City's Conditional Use Permit criteria

**Findings for a Special Permit:** In order to grant a Special Permit, the Planning Commission must find that the following conditions exist on the property (Code Section 25.51.020 a-d):

- (a) The blend of mass, scale and dominant structural characteristics of the new construction or addition are consistent with the existing structure's design and with the existing street and neighborhood;
- (b) the variety of roof line, facade, exterior finish materials and elevations of the proposed new structure or addition are consistent with the existing structure, street and neighborhood;
- (c) the proposed project is consistent with the residential design guidelines adopted by the city; and
- (d) removal of any trees located within the footprint of any new structure or addition is necessary and is consistent with the city's reforestation requirements, and the mitigation for the removal that is proposed is appropriate.

**Suggested Special Permit Findings:** The applicant is requesting a Special Permit for length and width of the proposed accessory living quarters structure. The proposed materials for this structure are consistent with the main residence on the property and the proposed plate height and ridge height meet the code requirements. This structure is exempt from setbacks because it is located in the rear 30% of the lot. The design of the structure places the shortest length wall so that it faces the adjacent neighbor and this wall faces an existing garage and parking area on the neighboring property. For these reasons the proposed design may be found to be consistent with the City's residential design guidelines and otherwise meets all zoning code requirements.

**Findings for Variance:** In order to grant a variance the Planning Commission must find that the following conditions exist on the property (Code Section 25.54.020 a-d):

- (a) there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the same district;
- (b) the granting of the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship;
- (c) the granting of the application will not be detrimental or injurious to property or improvements in the

vicinity and will not be detrimental to the public health, safety, general welfare or convenience; and

- (d) that the use of the property will be compatible with the aesthetics, mass, bulk and character of existing and potential uses of properties in the general vicinity.

**Suggested Variance Findings (Side Setback to the garage):** That the location of the proposed garage is necessary to maintain the existing neighborhood patterns that include the existing driveway curb cuts along Chapin Lane. That the proposed side setback variance for the garage is necessary to preserve the existing Redwood Tree located at the rear, left side of the property. That the original garage was granted a side setback variance at this location and has been in place for over 50 years and the proposed garage location does not represent a greater impact on the street or to neighboring adjacent properties. That the construction will meet the requirements of the California Building and Fire Codes, 2016 Edition as amended by the City of Burlingame, and therefore will not be detrimental to public health, safety, or welfare; and that the proposed project complies with lot coverage, floor area ratio and height requirements and therefore is compatible with the aesthetics, mass and character of the property and of adjacent properties and the neighborhood. For these reasons, the proposed project may be found to be compatible with the Variance criteria.

**Planning Commission Action:**

The Planning Commission should conduct a public hearing on the application, and consider public testimony and the analysis contained within the staff report. Action should include specific findings supporting the Planning Commission's decision, and should be affirmed by resolution of the Planning Commission. The reasons for any action should be stated clearly for the record. At the public hearing the following conditions should be considered:

1. that the non-garage accessory structure shall not include a cooking unit and that this accessory structure shall not be used for living purposes as an accessory dwelling unit without the property owner first amending the required Planning and Building permits and obtaining an Accessory Dwelling Unit permit from the Planning Division;
2. that the project shall be built as shown on the plans submitted to the Planning Division date stamped January 30, 2019, sheets A0.1 through A3.3; including that there shall be no cooking unit in the accessory structure and that there shall not be a separate electric meter for the accessory structure;
3. that if either accessory structure (garage or accessory living quarters) is demolished or the envelope changed at a later date the Conditional Use Permit, Special Permit, and Variance shall be void or shall be amended to reflect the changes;
4. that the January 19, 2017 Certified Arborist report and August 8, 2017 Addendum shall be approved by the Parks Department at the time of Building Permit application and that the reports shall be included in all plan sets, including the job site copy of the plan set;
5. that the property owner shall be responsible for implementing and maintaining all tree protection measures as defined in the January 19, 2017 Arborist Report, including having an Arborist meet with and brief construction personnel regarding the tree protection measures prior to demolition or construction on the site; and that prior to any demolition or construction on the site, each of the tree protection measures will be installed and inspected by a Certified Arborist and a letter of compliance will be submitted to the City Arborist;
6. that should the existing Protected size Redwood Tree on site be removed or be determined to need to be removed, the property owner shall first submit an amendment to the approved Conditional Use Permit, Special Permit, and Variance application to the Planning Commission; and the owner shall apply for and be granted a Protected Size Tree Removal permit from the Parks Division as part of the amendment application;

7. that a certified arborist shall be on site during any demolition, grading, digging, root cutting, or tree trimming activities that take place within the designated tree protection zones, including the digging of the pier holes for the piling foundation, and the City Arborist may also stop work for any violation of the conditions related to the protection, conservation and maintenance of the Redwood tree on the site;
8. that any recycling containers, debris boxes or dumpsters for the construction project shall be placed upon the private property, if feasible, as determined by the Community Development Director;
9. that demolition or removal of the existing structures and any grading or earth moving on the site shall not occur until a building permit has been issued and such site work shall be required to comply with all the regulations of the Bay Area Air Quality Management District;
10. that the project shall comply with the Construction and Demolition Debris Recycling Ordinance which requires affected demolition, new construction and alteration projects to submit a Waste Reduction plan and meet recycling requirements; any partial or full demolition of a structure, interior or exterior, shall require a demolition permit; and
11. that the project shall meet all the requirements of the California Building and Uniform Fire Codes, in effect at time of building permit submittal, as amended by the City of Burlingame.

Erika Lewit  
Senior Planner

c: Ryan Morris, Architect

Attachments:

January 9 and August 14, 2017 Planning Commission Minutes  
Arborist Report, dated January 19, 2017 and Addendum dated August 8, 2017  
Application to the Planning Commission  
Special Permit Application  
Variance Application  
Conditional Use Permit Application  
Resolution (Proposed)  
Notice of Public Hearing – Mailed February 1, 2019  
Area Map