



CITY OF SUNNYVALE REPORT PLANNING COMMISSION HEARING

April 23, 2012

File Number: 2012-7034

Permit Type: Variance

Location: 317 Hiddenlake Drive (near Lakebird Drive) (110-21-046)

Staff Contact: Diana O'Dell, Senior Planner, (408) 730-7257

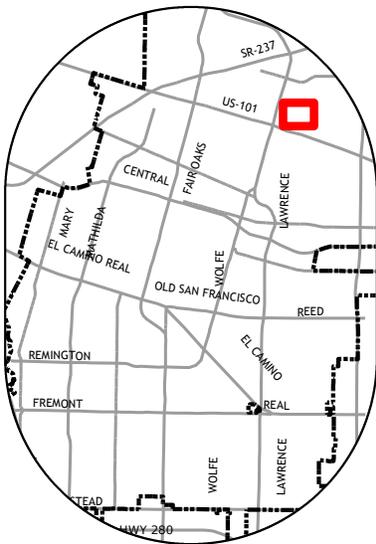
Project Description: Appeal of a decision by the Zoning Administrator to deny a Variance from SMC 19.46.060(a) (5) to allow partial conversion of a garage to living space. The conversion results in one covered parking space where two is required.

Reason for Permit: A Variance is required for any conversion of a garage that does not replace the covered parking on-site.

Issues: Parking and Neighborhood Compatibility

Zoning Administrator Decision: Deny the Variance

Staff Recommendation: Deny the appeal and uphold the decision of the Zoning Administrator to deny the Variance.



500

Feet

PROJECT DESCRIPTION

	Existing	Proposed
General Plan:	Residential Low Density	Same
Zoning District:	R-0	Same
Lot Size:	5,670 sq. ft.	Same
Lot Width:	54 ft.	Same
Parking:	1 covered and 2 uncovered	Same
Lot Coverage:	25% (1,468 sq. ft. total)	Same

Previous Planning Projects related to Subject Application	No
Neighborhood Preservation Complaints: On November 2, 2011, NP received a complaint about a garage conversion at the subject property. After inspecting the garage, the Neighborhood Preservation Division advised them of the options to reconvert the garage or apply for a Variance. (NP Case 2011-3997)	Yes
Deviations from Standard Zoning Requirements: Deviation from SMC 19.46.060(a) (5) requiring replacement covered parking for any conversion of garage space.	Yes

Use Description: The property owner has converted half of the garage into an office space. The remaining garage area is usable for parking.

Floor Plan: An area of 13 ft. by 9 ft. was converted to an office. This conversion leaves an area over 9 ft. wide by 20 ft. deep for the parking of one vehicle. (Attachment B, Plans).

Exterior Changes: There are no exterior changes proposed. The garage door remains operable.

Converted Garages in the Lakewood Area: Since 2003, there have been 42 Neighborhood Preservation complaints regarding converted garages in the Lakewood area. Approximately 33% of the complaints were for garages that were not considered “converted” (i.e. no partition walls were installed and the garage door remains operable.) Another 40% of complaints resulted in the partition walls being removed and the garage door being reinstalled. Approximately 15% were found to have a previous permit legalizing the garage, and only two received planning approval by building replacement parking. No variances were found recently granting garage conversions in the Lakewood area. One Variance for a garage conversion at 697 Lakewood Drive was denied by City Council after two appeals.

Public Contact: Eight notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No letters or comments were received.

Environmental Determination: A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

Zoning Administrator Hearing: On February 29, 2012 the Zoning Administrator heard this item. No members of the public attended the hearing. After receiving testimony from the property owner, the Zoning Administrator denied the Variance because the findings could not be met.

Appeal: The property owner has appealed this decision. In the appeal letter (Attachment F), reference is made to the following points:

- Approximately 20% of the homes in the neighborhood have converted garages.
- The removal of one garage space does not create a parking impact on the neighborhood, as the owner's two vehicles are parked on the driveway.
- Other homes in the neighborhood have significantly more than two vehicles which creates a parking impact on the neighborhood.
- Concern is expressed about how staff and the Zoning Administrator made the findings.

Staff agrees that the parking impact from this conversion is minimal. It is not uncommon for homeowners to use the garage as a storage room and park on the driveway. The conversion of one parking space to an office would not have an impact different from converting one parking space to sports equipment storage. Staff finds that Finding #2 can be met.

However, there are two primary differences in this office conversion. First, the conversion is permanent. Flooring, walls, and a heating system have all been installed. Legalizing it will add to the "living" area of the home as described by the City and the County Assessor's office. In addition, converting the space into parking would require a more significant financial investment than removing stored materials.

The finding that staff finds the most difficult to make is that there is something exceptional or extraordinary about the property or use. As described below, staff cannot make that finding. In order to approve a Variance, all three findings must be made.

FINDINGS

In order to approve the Variance the following findings must be made:

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district. ***[Finding not met]***

The lot is typical for the subdivision in the Lakewood area. The lot widths in the area vary from 53 to 55 ft. in the nearby area (See Attachment C, Assessor Parcel Map).

While there are legal garage conversions in the nearby area, this privilege does not appear to be widely shared throughout the neighborhood. Over 85% of garage conversion complaints received in the last nine years resulted in the provision of two covered spaces.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district. ***[Finding met]***

The purpose of the garage conversion requirement is to ensure that private properties provide adequate on-site parking. It is common for garages in single-family homes to be used for storage as opposed to vehicle parking. The site still maintains one covered parking space and two uncovered spaces on the driveway.

3. Upon granting of the variance the intent and purpose of the ordinance will still be served and the recipient of the variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district. ***[Finding not met]***

The property owner has submitted a justification letter explaining the garage conversion (See Attachment D, Applicant Letter). Staff understands the desire for additional floor area, and agrees that converting existing garage area can be the most economical way to gain additional space.

Staff also agrees that there are legal garage conversions in the area; however, this right is not shared extensively throughout the neighborhood.

However, the code requires two covered spaces for single-family homes. Staff does not find that the intent of the code would be served by granting this Variance.

ALTERNATIVES:

1. Deny the appeal and uphold the decision of the Zoning Administrator to deny the Variance.
2. Grant the appeal and approve the Variance with recommended Conditions in Attachment A.
3. Grant the appeal and approve the Variance with modifications.

RECOMMENDATION

Alternative 1. Deny the appeal and uphold the decision of the Zoning Administrator to deny the Variance.

Approved by:

Trudi Ryan
Planning Officer
Prepared By: Diana O'Dell, Senior Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Project Plans
- C. Assessor Parcel Map
- D. Letter from the Applicant
- E. Minutes from Zoning Administrator Hearing of February 29, 2012
- F. Appeal Letter from the Applicant

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
April 23, 2012**

Planning Application 2012-7034
317 Hiddenlake Drive
Variance to allow an office space within a garage

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE
APPROVED PROJECT.**

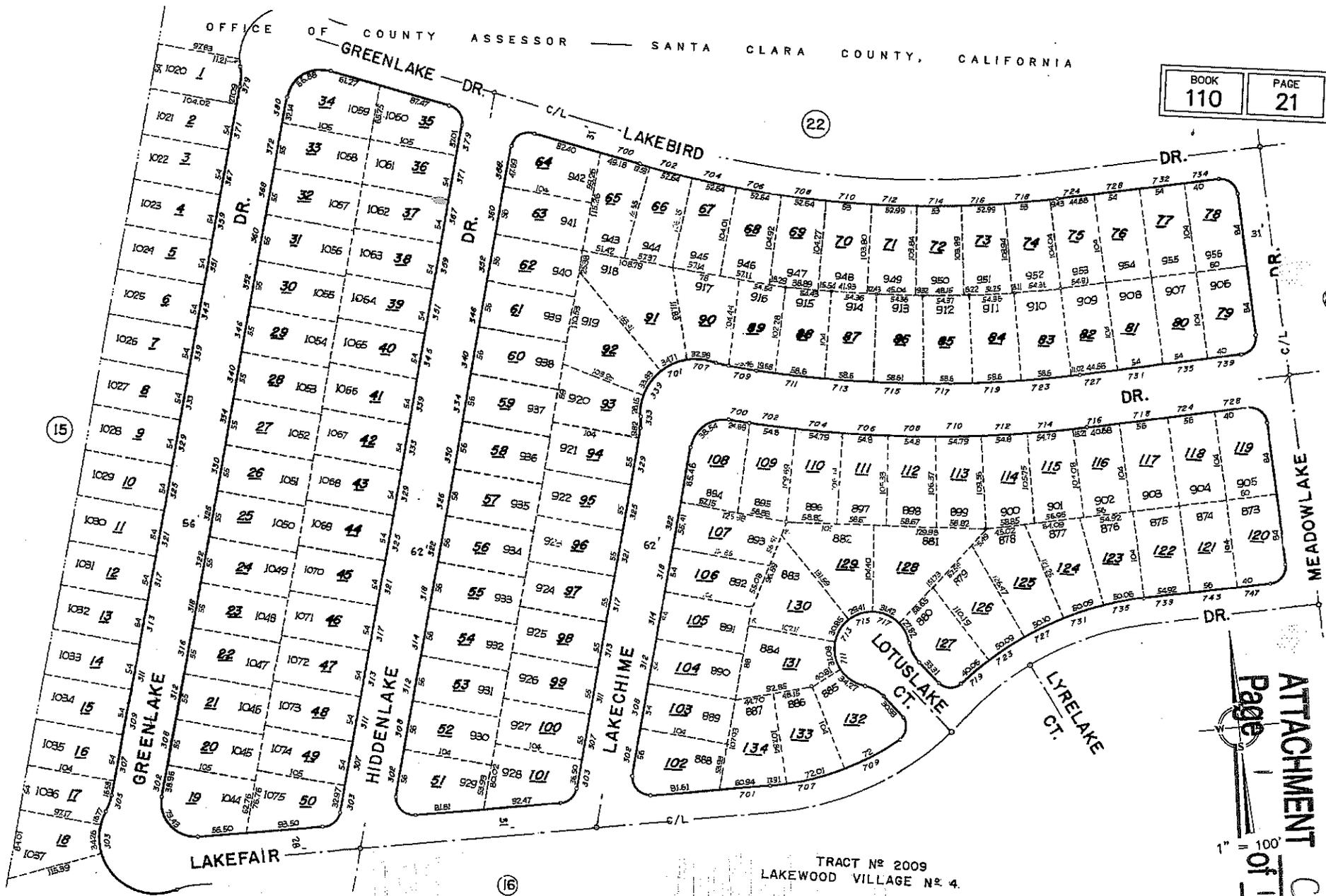
GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform to the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not

exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)



TRACT No. 2009
LAKEWOOD VILLAGE No. 4.

ATTACHMENT
Page 1 of 1

1" = 100'

LAWRENCE E. STONE — ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2007-2008

Variance Justification

#1: I live in a 3 bedroom home in Sunnyvale in Lakewood Village. When we first bought the house approx 9 years ago the 3 bedrooms were sufficient to meet our needs. As my step-daughter and son grew up in the community, I began to be more involved in Sunnyvale community and school organization as well as my work becoming more and more busy which has created the necessity of a home office in which to conduct my involvement and paperwork. I am currently on the board of directors of Sunnyvale National Little League Baseball as the Safety Officer, Columbia Middle School Site Council, Columbia Music Boosters and work from home approx 10-15 hours a week writing letters of medical necessity and doing paperwork for spinal cord injury and neurological injury patients for them to be provided power wheelchair thru their health insurance. All this has created the need to have multiple filing systems, computers and a large desk on which to work. In the house as it was, there was no space to do this. My wife and I use the master bedroom, my 11 year old son uses the rear bedroom and my 18 year old expecting step-daughter uses the bedroom closes to the living room. My wife and I go for walks around a two mile course thru the neighborhood, and as we walked we would notice that a large number of the homes in our neighborhood had the garage converted. We decided that would be the answer to our need for an office space. So approx 5-6 years ago I added two walls in the garage to make a room in which to use as an office. It never even crossed my mind that a permit was required since it was just adding an internal wall and raising the floor so to not be on cold concrete. Because of the placement of my house on the property, it precludes me from doing any other kind of modification to accommodate the need for office space while maintaining the required covered and uncovered parking other than building a second story or a major remodel project which would be an outrageous expense for some office space. I have worked with two planning guys to try to figure out a way to add covered parking but each attempt ends with a different ordinance or setback blocking the attempt. My son has gone to multiple birthday parties for friends and classmates of his in the neighborhood that are being held in a large family room which exist in those homes because the entire garage has been converted. The variance that I am requesting is not

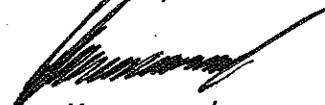
out of line for my neighborhood and a large percentage of the families currently enjoy this privilege.

#2: The granting of the requested variance to the ordinance requiring two covered parking spaces will have no impact detrimental or otherwise to the welfare of the public, the property or the immediate vicinity. It is not visible to anyone from public accessible areas and poses no injury or destruction to the property.

#3: I believe the intent and purpose of the ordinance requiring the two covered and two non-covered parking spaces it to prevent a huge number of vehicles from being parked on the city street and to prevent the garage from being converted into a rentable apartment. Our intent for the space is office space and it's too small of a space for someone to live in. My wife and I only have two vehicles which we park in the driveway each night. We never use the garage or public street for parking, rather we use the garage for storage. If the variance is granted, it would not be a special privilege not enjoyed by other property owners as a large percentage of those already have this privilege.

I would make a plea to be allowed to retain the office that already exists in my garage. Before I built the office in there, I was using the same space to conduct my obligations but was having to go in and out thru the exterior garage door on the patio and was cutoff from the rest of the family during the time I was in there working and it was very cold in the winter and very hot in the summer. Now, the room is kept the same temperature as the rest of the house since there is a door leading into the dining room where air from the house circulates thru it. Also, I am in an area where my children or wife can talk to me or ask a question by just coming down the hall rather than having to put on shoes and a jacket to go outside thru the patio and into the garage to ask or tell me something. I would hope to not have to go back to using the space like I was before. It would be such ashame as I made the office look the same as the inside of the house.

Thank You,


Jay Krusemark

317 Hiddenlake Dr. Sunnyvale, CA 94089



MINUTES
Wednesday, February 29, 2012

FILE #: 2012-7034
Location: 317 Hiddenlake Dr. (APN: 110-21-046)
Proposed Project: Variance from SMC 19.46.060(a)(5) to allow partial conversion of a garage to living space, resulting in one covered parking space where two is required in an R-0 (Low Density Residential) zoning district.
Environmental Review: Categorically Exempt Class 1
Staff Contact: Diana O'Dell, 408-730-7257, dodell@ci.sunnyvale.ca.us

In attendance: Jay Krusemark, Applicant; Andrew Miner, Zoning Administrator; Diana O'Dell, Project Planner; Luis Uribe, Staff Office Assistant.

Mr. Andrew Miner, Zoning Administrator, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Mr. Miner announced the subject application.

Diana O'Dell, Project Planner, presented the item and stated that the garage door is operable. There has been high number of garage conversions in this area, and staff has done a lot of research on the conversions. Ms. O'Dell stated there was a Neighborhood Preservation case for a garage conversion across the street at 314 Hiddenlake, and it stated in their file that the conversion had been removed.

Mr. Miner opened the public hearing.

Jay Krusemark, Applicant, received and reviewed a copy of the staff report. The applicant stated that he has seen other properties with conversions that have added pavement to create another parking space. Mr. Krusemark stated that he understands the reasoning for the two covered parking spaces and that parking will not be an issue on their end. He also stated that some of the properties in the neighborhood house multiple families' which creates parking issues.

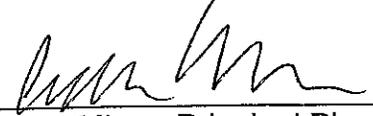
Mr. Miner closed the public hearing.

Denied, Mr. Miner was unable to make the findings.

Mr. Miner stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 2:19 p.m.

Minutes approved by:



Andrew Miner, Principal Planner

Variance Justification Appeal Letter

To Whom It May Concern,

I disagree with the City of Sunnyvale's denial of the variance for a garage conversion and wish to have it looked at again.

In finding #1 it was stated that "while there are some legal garage conversions in the nearby area, this privilege does not appear to be widely shared throughout the neighborhood. Over 85% of the garage conversion complaints received in the last nine years resulted in the provision of two covered spaces." I applied to have an additional covered space and was denied because the shape and layout of my lot prohibited one from being installed while being able to meet other city ordinances of setbacks and amount of covered space in the front. I observed there to be approx 20% of the homes in the surrounding neighborhood having garage conversions. So what is the percentage that is considered by the city to be widespread? Most of the homes that added the required covered parking do not meet the no more than 50% covered front setback which is what denied my permit for the additional covered parking. Because I am unable to install the additional required covered parking space, I feel that would meet the requirement of circumstances or conditions of the property including size, shape topography and surrounding which deprives me of the same privileges shared by many properties in the same vicinity and same zoning district.

In finding #2 and #3 I again believe that the findings are met. The addition of the office in my garage does not have a single effect on the surrounding area. I only own two vehicles and park them both in my two uncovered parking spaces. The purpose of the ordinance is to ensure adequate parking on the street, which will not be changed at all by the granting of the variance. In addition the ordinance is being circumvented by others in the immediate area that are completely legal. For example, the two houses directly across the street, house many who own homes in the central valley and work in the Sunnyvale area during the week and go home on the weekend. During any weeknight evening these two houses produce 12-14 vehicles that use street parking in addition to an additional 5 vehicles that park in the driveways. The purpose of the ordinance is to try to prevent this, but is targeting the wrong thing. With my garage door

still functional and no visible change to the property and no additional parking being used I believe that I also meet the requirements of #2 and #3

I am unable to ascertain a standard by which these findings are judged other than personal opinion. In my justification letter I feel the findings and needs are met but in the hearing it was felt that they were not. What is the standard? I have a friend who is also a Sunnyvale resident who bought his house already having the garage converted. He also received a complaint regarding this. He was told after the neighborhood preservation office inspected his home that he only needed to attain a permit for the conversion and was able to keep it without adding additional covered spaces. This took place within the last 3 years. He did not have to go thru the variance process. Why are two Sunnyvale residences being treated differently with two different outcomes for the same infraction?

Thank You,

*Jay Krusemark
317 Hiddenlake Dr. Sunnyvale, CA 94089*