



Z O N I N G A D J U S T M E N T B O A R D M E M O R A N D U M

April 25, 2024

1817-B Carleton Street

Variance #ZP2023-0168 to a construct a 494 square foot third story addition over 28 feet in average height (32 feet) that will exceed the allowable lot coverage by approximately 5 percent, encroach into the third-story setback, reduce the building separation, and add an eleventh and twelfth thirteenth and fourteenth bedroom to the lot.

Revised Project Description

In the staff report and finding and conditions the total bedroom count for the lot was miscounted as an addition of a thirteenth and fourteenth bedroom to the lot. The project description for the Findings for Denial have been revised to read as "add an eleventh and twelfth bedroom to the lot." Please find the revised Findings for Denial attached.

Applicant Statement

The Applicant Statement has been included for the Zoning Adjustments Boards review.

Attachments:

1. Revised Findings for Denial
2. Applicant Statement – Dated January 29, 2024

Staff Planner: Waqar Shah, wshah@berkeleyca.gov, (510) 981-7469

ATTACHMENT (1)

FINDINGS FOR DENIAL

APRIL 25, 2024

1817-B Carleton Street

Variance #ZP2023-0168 to a construct a 494 square foot third-story addition over 28 feet in average height (32 feet) that will exceed the allowable lot coverage by approximately 5 percent, encroach into the third-story setback, reduce the building separation, and add an eleventh and twelfth thirteenth and fourteenth bedroom to the lot.

ZONING PERMITS REQUIRED

- Variance from Berkeley Municipal Code (BMC) Section 23.202.080(D), pursuant to 23.406.050(A), to allow for deviation from the maximum lot coverage;
- Variance from BMC Section 23.202.080(D)(2), pursuant to 23.406.050(A), for a reduced side setback at the third story;
- Use Permit, pursuant to BMC Section 23.202.030(B), to add bedrooms beyond a fifth bedroom;
- Administrative Use Permit, pursuant to BMC Section 23.304.040(A), to reduce to the minimum building separation standards at the third story;
- Administrative Use Permit, pursuant to BMC 23.202.080(D), for a residential addition over 14-feet in average building height; and
- Administrative Use Permit, pursuant to BMC 23.202.080(D), for a residential addition over 28-feet in average building height.

I. CEQA FINDINGS

The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to CEQA Guidelines Section 15301 ("Existing Facilities").

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

II. VARIANCE FINDINGS FOR DENIAL

As required by BMC Section 23.406.050(F) the Zoning Adjustments Board (ZAB) must make all required Variance Findings to approve a Variance. These cannot all be made and ZAB finds that:

- A. There are no exceptional circumstances applying to the property which do not apply generally in the same district.

Evidence: The lot is relatively flat, exceeds the minimum lot area (8,403 square feet, where 5,000 square feet is required), is a rectangular shape 65 feet in width at the street frontage and 129 feet deep, and is therefore of a typical size and shape for lots within the R-2 District. The property was developed in 2015 in accordance with the R-2 district development standards for two-story buildings, which have not substantively changed. Having a fully built-out residential development site that meets current standards is not an exceptional circumstance that wouldn't apply to other lots in the same district.

- B. The Variance is not necessary to preserve a substantial property right.

Evidence. The lot is fully developed with residential uses in conformance with the current zoning standards for the district, including a density of three dwelling units where three units is the maximum, and lot coverage and side setbacks for two-story buildings. The lot has already been developed in a manner that maximizes the development envelope for two-story buildings. The application of the development standards, which applied at the time the lot was developed and still applies now, does not prevent the residential use of the lot. Expanding beyond the zoning allowances is not a property right.

- C. Even if the Variance will not adversely affect the health or safety of persons residing or working near the property, the finding is irrelevant since all the required findings cannot be made.

- D. Even if the Variance will not be materially detrimental to the public welfare or injurious to nearby property or improvements, the finding is irrelevant since all the required findings cannot be made.

- E. The Variance will not promote the municipal health, welfare, and safety and benefit the city as a whole.

Evidence. The lot is fully developed to comply with the legally established requirements for two-story residential development. Creating nonconformities by exceeding the development standards for three-story residential development does not promote municipal health, welfare, and safety, or benefit the city as a whole because it would grant special privileges that are not available to similarly developed lots in the R-2 or other zoning districts.

- F. There are no other Variance findings required by Zoning Ordinance that apply to the project.

III. NON-DETRIMENT FINDINGS

As required by Section 23.406.040(E) of the BMC, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City.

- A. The proposed project cannot proceed without the approval of the Variance; therefore, these findings are not relevant.

John Newton
Design & Development
5666 Telegraph Avenue, Suite A
Oakland, CA 94609
(510) 847-4108 phone
jmnewton67@sbcglobal.net email

1-29-24

Variance to exceed 35% Lot Coverage for Third Story Addition at 1817B Carleton Street

Overview: We designed these three two-story houses at 1817 Carleton Street several years ago. Lemeneh Tefera and Jamie Crook own 1817 B and are raising their three children in this house. Over the last 6 years, they have established a strong community in their neighborhood. They have been active volunteers in Berkeley (including an appointment to a Berkeley City Council commission), foster parents to two children who they eventually adopted, and both work for the public interest as State civil servants and want to grow in this community. Because of their increasing family size, they need more rooms for their children and also office space as they both work from home.

The existing house is not large enough to meet all their needs for bedrooms and home offices so we submitted plans for a small 494 SF third story addition to an existing 1,935 SF house. There are three children and two adults living in this four bedroom house so there is currently no room for home offices (both adults are professionals who work from home.) So adding these two rooms usable as home offices is critical to their ability to stay in this house.

The existing site has a 39.7% lot coverage and given the setbacks between the houses and site the only option is to build a third story. We've designed an attractive 494 SF third story addition and received support from the other owners on the parcel as well as the adjacent neighbors. It's important to note too that we're not increasing the existing lot coverage. The variance is necessary due to the zoning code limiting the allowed lot coverage to 35% when a third story structure is proposed. We feel that this is a reasonable request and seek to present this to the Zoning Adjustment Board per the standard variance procedure.

Here is our response to the required Variance Findings:

F. Findings for Approval.

1. To approve a Variance, the ZAB shall make all of the following findings:

(a) There are exceptional circumstances applying to the property which do not apply generally in the same district.

The exceptional circumstance is that the existing development has a lot coverage of 39.7%. The existing house at 1817B Carleton is located 20' from the front property line; 4' from the

right side property line and is just 9'-4" from 1817A to the left and 13'-8" from 1817C to the rear. Any expansion of the house to the left and rear would create a nonconforming lot coverage (exceeding 40%) and would negatively impact access; privacy and open space to all the houses on the property. We can't expand forward or to the right given the required front and side setbacks. So the needed added space must be done as a third story (which doesn't increase the lot coverage.) Most properties in the same district have room to expand as a second story but we don't have that ability. As noted above, there are five people living in the existing house so there is a need to expand the house to allow two home offices for the adults and the only way this can be achieved is to build a third story.

(b) The Variance is necessary to preserve a substantial property right.

The ability to provide adequate living space and usable open space for the owners is a substantial need and property right.

(c) The Variance will not adversely affect the health or safety of persons residing or working near the property.

The proposed third story addition is relatively small and will not adversely affect the health or safety of people living in the nearby houses and apartments. 1817B Carleton is set significantly forward of the adjacent apartment building to the East at 1819 Carleton so inherently has less impact since most of the addition is adjacent just to the parking area. Furthermore, the third story addition windows will look over the roofs of the adjacent house and apartment building so presents a minimal impact to adjacent privacy. The adjacent buildings do not have existing views past 1817B as it is, so the third story addition presents no change to that aspect.

(d) The Variance will not be materially detrimental to the public welfare or injurious to nearby property or improvements.

The nearby houses and apartments will retain adequate solar access and our proposed addition will not otherwise be materially detrimental to existing privacy or views. Furthermore we've received support from the properties adjacent to the subject property.

(e) The Variance will promote the municipal health, welfare, and safety and benefit the city as a whole.

The variance to allow the third story allows this family to continue to raise their adopted children in Berkeley. It's also a benefit to the City of Berkeley to have State employees own a home and be able to thrive in both their work and home life.

(f) Any other Variance findings required by Zoning Ordinance can be made.

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 1817B Carleton Street, Variance #ZP2023-0168

From: Andrew Valko <andrew.valko@gmail.com>
Sent: Friday, April 19, 2024 7:13 AM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Subject: 1817B Carleton Street, Variance #ZP2023-0168

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Good morning!

Several immediate neighbors of 1817 B Carlton Street have been notified of the public hearing next week to review plans for a third floor expansion that exceeds allowable lot of coverage by 5%, encroaches on a third-story setback and reduces building separation. The neighbors, including the majority of the 1817 site condo HOA, are also eager to better understand the impact that this project will have on direct sunlight received by neighboring units and downstream impact on our property value!

Can you help me understand how these hearings typically go? We realize that formally objecting to the project will likely create as much animosity between neighbors as allowing it to continue. Is objecting in pursuant of additional information and collaborative agreement a viable path? Or is approval for this application effectively done already?

Thank you for helping us navigate this!

Andrew