

**CITY OF SACRAMENTO  
DEPARTMENT OF PLANNING & DEVELOPMENT  
ZONING ADMINISTRATOR  
1231 I Street, Sacramento, CA 95814**

**ACTION OF THE ZONING ADMINISTRATOR**

On Tuesday November 1, 1994, the Zoning Administrator denied a special permit and variances to allow a second residential unit and to reduce the rear yard and side yard setbacks for the project known as Z94-035. Findings of Fact for the project are listed on page 4.

**Project Information**

- Request:
1. Zoning Administrator Special Permit to allow a 552 square foot second residential unit to remain on 0.17± developed acres in the Standard Single Family (R-1) zone.
  2. Zoning Administrator Variance to reduce the required rear yard setback from 15 to eight feet.
  3. Zoning Administrator Variance to reduce the required side yard setback from five feet to 4.5 feet.

Location: 3041 23rd Avenue

Assessor's Parcel Number: 019-0131-019

Applicant: Johnson Vu  
8529 Sunrise Woods Way  
Sacramento, CA 95828

Property Owner: Alegria G. Gacilan  
3041 23rd Avenue  
Sacramento, CA 95820

General Plan Designation:  
Existing Land Use of Site:  
Existing Zoning of Site:

Low Density Residential (4-15 du/na)  
Single Family Residence  
Standard Single Family (R-1)

**Surrounding Land Use and Zoning:**

North: R-1; Single Family Residence  
South: R-1; Single Family Residence  
East: C-2; Commercial  
West: R-1; Single Family Residence

Setbacks	Required	Proposed
Front:	25'	28'
Side(North):	5'	10.5'
Side(South):	5'	4.5'
Rear:	15'	8'

Property Dimensions:	60 feet x 120 feet	
Property Area:	0.17± acres	
Square Footage of Buildings:	Existing House-	1,312 square feet
	Converted Garage-	552 square feet
	Total-	1,864 square feet
Height of Building:	One Story, 13 feet	
Exterior Building Materials:	Horizontal wood siding and T-1/11 wood siding	
Roof Materials:	Composition Shingles	
Topography:	Flat	
Street Improvements:	Existing	
Utilities:	Existing	

Project Plans & Additional Information: See Exhibits A-F

### Project Information

In February of 1994, a complaint was made to the City Building Division about building additions being constructed on the 3041 23rd Avenue site without proper permits. On February 14, 1994 Roger Heatherly of Building Inspections visited the site. He noted various building code violations including the conversion of a 552 square foot detached garage into living space and that additional living area was constructed between the house and garage which attached the two structures together. The detached garage had been constructed without building permits and a conversion of an existing attached garage was also done without building permits. (The property owner did submit a record from the County Assessor's office that indicated that the detached garage and garage conversion at the front of the house were accomplished in 1976 [IR94-051]). The property owner was cited by the Building Division for the various code violations.

On March 29, 1994 the applicant filed an application on behalf of the property owner for a special permit to allow the converted 552 square foot garage to remain as a second residential unit. As the structure did not meet setback regulations for a second unit, variances to reduce the interior side and rear yard setback requirements were also requested. Planning staff indicated to the applicant that if he also wished the living area that connected the main residence and the garage to remain, Planning Commission entitlements would be required. The applicant revised the application to indicate that this section would be removed. The middle section connecting the garage and the main unit was removed in late summer of 1994.

In the time period since the special permit application has been filed, complaints have been filed with the Police, the Neighborhood Department, and Councilmember Ortiz's office regarding the illegal structures on the site and that the house was being used as a boarding house. Staff contacted the State Department of Social Services to see if the site was a licensed care facility. Staff was informed that this site was not a licensed care facility. Staff also found out that a nearby site under the same ownership was a licensed elderly care facility for six patients. The police have documented

numerous calls for service to both sites. Additionally, the subject site was referred to in one Police call as St. Mary's Board and Care Home. The licensed care facility is called St Mary's Home and is located at 2821 21st Street. Complaints from adjacent neighbors indicate that patients are being relocated between the two sites. The State indicated that they would be initiating an inspection of both sites.

#### Public/Neighborhood Association Comments

The site is located within the Franklin Boulevard Business Association area. The project plans were sent to the Association and no comments were received. Staff has received several calls from adjacent and nearby property owners about the project indicating an objection to allowing the second residential unit to remain due to the existing problems associated with the site.

#### Zoning Administrator Hearing

Representatives from various City departments were present at the public hearing to provide information to the Zoning Administrator on their department's involvement in the investigation of the property. Roger Heatherly, Building Inspector, indicated that there were no building permits for the existing structure and it was not suitable as a dwelling unit. When he visited the site there was kitchen facilities, beds and persons living in the structure (see Exhibits E and F for his report). John Leno, Housing and Dangerous Buildings, indicated that when he visited the property on October 12, 1994 someone was living in the building. It is considered to be a dangerous building. Ed Swasey of the Neighborhood Nuisance Program, indicated that his division had received calls about the activities at the site and were monitoring the property. Lynne Ohlson of the Police Department indicated that in a 120 day period the police had seven disturbance calls to the property. This is considered a high number for a residence. Some of the calls that originated at the property indicated that they were at St. Mary's Care Home.

The property owner, Algeria Gacilan, indicated at the public hearing that she was willing to work with City staff to convert the structure into a garage.

Two neighbors also attended the public hearing and indicated that they were against the second residential unit remaining at the site.

After listening to the testimony of City staff, the owner of the property and nearby residents, the Zoning Administrator closed the public hearing. The Zoning Administrator found that the second residential unit has already had an adverse impact on the surround neighborhood and was an unsafe structure injurious to the public safety and welfare and denied the request for the second residential unit (Findings of Fact are listed below). The Zoning Administrator indicated to the property owner that it may be possible for the existing structure to remain as a garage or detached accessory structure for storage; however, the structure would need to obtain a building permit and meet all building code requirements. If the structure cannot meet building code requirements it will need to

be removed. The property owner needs to work with the Housing/Dangerous Building Section of the Neighborhood Department to determine the final disposition of the accessory structure (contact John Leno, 264-5404).

Environmental Determination

This project will not have a significant effect on the environment and is exempt from environmental review pursuant to State EIR Guidelines {California Environmental Quality Act, Section 15303(a) and Section 15305(a)}.

Findings of Fact

1. Granting the variances constitute a special privilege extended to an individual applicant in that the second unit was built without planning approval or building permits and the structure could have been built to meet the setback requirements.
2. Granting the request will be injurious to public health, safety, or welfare and result in a nuisance in that:
  - a. the existing converted garage is a dangerous building that does not meet building code requirements;
  - b. the existing second residential unit is not compatible with the surrounding area and will significantly alter the characteristics of the area;
  - c. the existing structure will need to be demolished and rebuilt in order to be habitable living space; and
  - d. there have been numerous complaints and documented Police calls for service to the existing site due to the problems related to the illegal structures and their associated uses.
3. The proposed project, as conditioned, is not based upon sound principles of land use in that:
  - a. the existing structure is considered a dangerous building that should not be occupied;
  - b. the existing second unit has already caused a substantial impact on the neighborhood area with the associated alleged illegal uses on the site; and
  - c. the existing structure is not architecturally compatible with existing residence.

Joy D. Patterson

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Joy D. Patterson  
Zoning Administrator

The decision of the Zoning Administrator may be appealed to the Planning Commission. An appeal must be filed within 10 days of the Zoning Administrator's hearing. If an appeal is not filed, the action of the Zoning Administrator is final.

cc: File

Applicant - Johnson Vu  
Property Owner - Alegria Gacilan  
ZA Log Book  
Building Division- Roger Heatherly  
Housing & Dangerous Buildings - John Leno  
Council District 5 - Helen Hewitt



VICINITY MAP

