



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 3/5/2024

ITEM NO: 13

ADDENDUM

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DATE: March 4, 2024  
TO: Mayor and Town Council  
FROM: Laurel Prevetti, Town Manager  
SUBJECT: Consider the Adoption of a Resolution Denying an Appeal of a Planning Commission Decision that Approved the Demolition of an Existing Single-Family Residence and Construction of a New Single-Family Residence with Reduced Setbacks on a Non-Conforming Property Zoned R-1D. **Located at 212 Thurston Street.** APN 410-15-039. This Project is Categorically Exempt Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Section 15303(a): New Construction or Conversion of Small Structures. PROPERTY OWNER/APPLICANT: Meleah Guillardo. PROJECT PLANNER: Maria Chavarin

REMARKS:

Attachment 8 includes a supplemental letter received from the appellant on March 3, 2024.

ATTACHMENTS:

Previously received with the February 29, 2024 Staff Report:

1. December 13, 2024 Planning Commission Staff Report
2. January 10, 2024 Planning Commission Staff Report, with Exhibits 1-12
3. January 10, 2024 Planning Commission Verbatim Minutes
4. January 17, 2024 Planning Commission Action Letter
5. Appeal of the Planning Commission Decision, received January 22, 2024
6. Applicant's Response to Appeal, Received February 20, 2024
7. Draft Resolution to Deny Appeal and Approve Project

Received with this Addendum Report:

8. Supplemental Appeal Letter, Received March 3, 2024

PREPARED BY: Maria Chavarin  
Assistant Planner

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Director

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**From:** [REDACTED]  
**To:** [Mary Badame](#); [Matthew Hudes](#); [Rob Moore](#); [Rob Rennie](#); [Maria Ristow](#)  
**Cc:** [Maria Chavarin](#)  
**Subject:** Appeal of Architecture and Site Application #S-23-099  
**Date:** Sunday, March 3, 2024 10:47:32 PM  
**Attachments:** [Town Council Appeal Letter - 212 Thurston Street, Los Gatos.pdf](#)

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[EXTERNAL SENDER]

Dear Members of the Town Council,

I am reaching out in connection with my appeal of the Planning Commission's approval of the Architecture and Site Application #S-23-099. Upon careful consideration, I believe you will find that it fails to meet the requirements set forth in the town code.

Please find enclosed a detailed letter that highlights crucial points for your review. Upon your review, I believe you will uncover discrepancies that conflict with our legal standards and developmental expectations. These issues encompass, among others, unnecessary variances, inadequate preservation of privacy and daylight, non-compliant setback standards, and a failure to preserve the neighborhood's character.

Concerns shared by the town's consulting architect and Planning Commission members include:

- **Unaddressed Recommendations:** Only two of six recommendations by the town's consulting architect were considered, showing significant oversight.
- **Neighborhood Consistency:** The project, by various metrics, deviates significantly from the neighborhood character, with minor mitigation efforts insufficient to address these inconsistencies.
- **Setback Discrepancies:** The front setback is notably shorter than both the town code and neighborhood norms, at only 7'3".

I found it particularly unusual that despite neighbors' concerns regarding the building's height and the applicant's readiness to reduce each floor by 6 inches, two commissioners deemed such a modification unnecessary. Moreover, Commissioner Mayer commended the decision by the applicant to retain the existing, non-compliant, and dilapidated garage, which adversely impacts and directly drains onto my property. This suggests that the commissioners' personal biases may have influenced their decision-making, bypassing an objective evaluation.

It is with a forward-looking perspective that I bring this appeal, not just as a procedural right. I believe that through collaborative dialogue, we can find a path that respects the interests of all parties involved and avoids the potential for further dispute or litigation, which we all agree is not the desired course of action.

I respectfully request that you take the opportunity to review the recordings of the Planning Commission hearing and examine the pertinent sections of our town code regarding reconstruction and new construction, specifically sections 29.10.245 - 29.10.255, 29.20.150, and 29.20.160 - 29.20.175, should you not have already done so. They offer insight into the grounds for my appeal, and the considerations which must guide the decision-making process.

I am hopeful for your understanding and am open to discussing any concerns raised in my appeal to clarify them further. It's also relevant to note that according to several immediate neighbors I spoke with, the applicant did not engage with the community beyond the required public hearing. I believe this lack of outreach is concerning and relevant.

I respectfully request that the council review this matter closely and considers a reevaluation of the application in light of the concerns raised. Your understanding and commitment to our town's prosperity and harmony are greatly appreciated.

Respectfully,

/s/ Eric Rafia

Eric Rafia

March 3, 2024

Los Gatos Town Council  
110 E. Main Street  
Los Gatos, CA 95030

Subject: Architecture and Site Application # S-23-009 – 212 Thurston Street

Dear Members of the Town Council,

I am writing on behalf of myself and the undersigned neighbors to express our collective opposition to the recent decision by the Planning Commission to approve the architecture and site application for the demolition and replacement of a single-family residence at 212 Thurston Street. The approvals granted by the planning commission for this project granted the applicant a reduced setback while ignoring the concerns of the neighbors related to privacy, mass, solar access, and the non-conforming detached garage.

Our community values development and growth that harmonizes with the existing character and standards of our neighborhood; however, the Planning Commission's recent approval of this project appears to overlook these values and fails to comply with several critical requirements of the Town Code, undermining standards set for development. By appealing to this elected body, we aim to ensure that the development process respects our community's well-being and adheres to our established codes.

We wish to highlight several points that underscore our concerns:

- **Non-Conforming Garage and Reduced Setback:** The decision to grant a reduced setback for the new construction, while ignoring the non-conforming status of the existing garage represents a disregard for the integrity of property boundaries, the Town Code, and sets a concerning precedent for future developments. The attached photographs demonstrate that the garage, if modified to meet a 5-foot setback requirement, would still support a single-stall garage as it currently stands. This adjustment would respect property boundaries and adhere to zoning regulations without compromising functionality. Moreover, the applicant has expressed interest in eliminating the olive tree in the side setback area; while I am not opposed to the removal of the tree, it raises significant concerns. Preserving this landscape setback is vital for maintaining the neighborhood's character and environmental health.
- **Privacy and the Use of Trees as a Screening Solution:** The applicant's proposal to address privacy concerns through the strategic placement of trees and shrubs is an acknowledgement that a privacy issue exists. However, relying on trees and shrubs as a solution raises concerns due to their susceptibility to removal, disease, and seasonal changes, making them an unreliable method for addressing the privacy needs of neighbors in this small lot development. Furthermore, the height of these trees, potentially 14'+ per the applicant, effectively further blocks light and views, presenting another set of concerns for the neighboring properties. Thus, there was an oversight by the Planning Commission in fully recognizing the limitations, impermanence, and unintended consequences of such a solution. We propose a more robust approach to privacy that combines both vegetation and architectural modifications (e.g. a reduced building height, increased second floor setbacks, or possibly an elimination of the second story) to preserve the privacy of neighboring parties.

- **Acknowledgement of Issues Without Adequate Solutions:** The applicant themselves recognized the existing property as being an eyesore and yet, the Planning Commission's decision to approve the project with reduced setbacks and without addressing solar access and privacy concerns, while permitting the garage to maintain its current problematic location (a material element of the visual discord the applicant cited) was a missed opportunity for comprehensive improvement.
- **Community Perspective:** From a broader community standpoint, I believe that the development, in its present form, would elicit considerable concerns for any neighborhood, including those where our respected Planning Commission and Town Council members reside. This perspective is intended to underscore the importance of a universally applied standard of consideration in the decision-making process, ensuring that all developments are aligned with the values and expectations of our town as a whole.

#### **Inconsistencies and Oversights in Planning Decisions:**

- **Equitable Application of Planning Principles:** The project's approval, with its second story and reduced setbacks, is different from recent decisions that paid more attention to neighbors' privacy and daylight concerns. Fair treatment for all projects is crucial to keep trust in our planning process and keep our neighborhood's character.
- **Misleading Justification by the Applicant:** The applicant's justification for their proposed front setback, by selectively comparing it to a side setback on Monterey Avenue and two very old, non-compliant properties—one being the commercial property that is being used for residential use—is misleading. This suggests an incorrect precedent for reduced front setbacks on Thurston Street, contradicted by **Exhibit A**, which shows most properties comply with established standards, indicating the project is out of character with the neighborhood.

These selective comparisons distort our neighborhood's character and undermine the planning process by suggesting false precedents. This raises concerns about the applicant's transparency and their application's reliability. A detailed and transparent review, based on accurate data, is crucial to maintain community trust and ensure planning decisions accurately reflect our neighborhood's character.

Planning decisions must be informed by a comprehensive understanding of current standards and community expectations, avoiding exceptions that could erode the planning process's consistency and fairness.

- **Consideration of Lot Size and Privacy Impact:** The reliance on the lot's size to justify reduced setbacks overlooks significant impacts on neighborly privacy and the cohesive appearance of our neighborhood. Notably, in similar contexts within our area, such as on Olive Street, homeowners have been forced to adapt their plans, including foregoing second stories, to address privacy concerns. This reflects a community ethos of respecting neighbors' privacy and preserving neighborhood harmony. It is also important to note that the lot size and its development constraints were well understood and have not changed since the applicant's recent purchase. In essence, the applicant was fully aware of the existing conditions upon purchase, and seeking modifications to the established setback requirements or pursuing a project that disregards neighbors' privacy expectations is unreasonable and is not a hardship, given this knowledge.

Given these considerations, we urge the Los Gatos Town Council to reverse the Planning Commission's decision to approve the applicant's Architecture and Site Application. We request that

the applicant engage in a genuine dialogue with the community to address and mitigate the outlined concerns comprehensively.

Attached, please find signatures from the surrounding neighbors, united in our concern over the current development. These concerns, previously expressed but not adequately addressed by the applicant or the Planning Commission, underscore our commitment to development that respects the character, privacy, and integrity of our neighborhood. We advocate for constructive development that is also pursued with due respect for the principles and laws that have preserved the beauty and cohesion of Los Gatos over the years.

Additionally, we have included photographs that visually substantiate our concerns. These images serve as compelling evidence of the direct impacts on privacy, neighborhood character, and overall community well-being. They unequivocally reinforce the need for a thoughtful reconsideration of the proposed development plan.

We appreciate your consideration of the appeal. The aim is to achieve a resolution that not only addresses the immediate concerns while providing an equitable resolution to the matter. To this end, we suggest the Town Council compel the applicant to produce a revised development plan which follows these specific considerations:

- **Adherence to Laws:** Ensure the development complies with the Town Code that has been established to protect the character and integrity of Los Gatos.
- **Privacy Protections:** Implement design modifications that mitigate invasions of privacy for neighbors and preserve their access to daylight.
- **Engagement:** Engage with the neighbors to gather feedback and incorporate their suggestions, and those of the town's consulting architect, into their development plan.

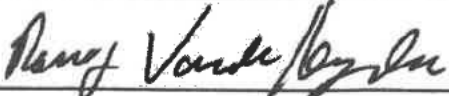

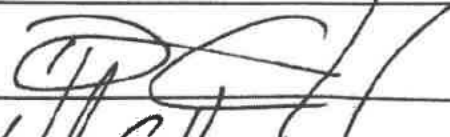
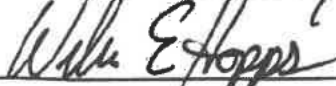





By addressing these specific areas, we believe that the development can proceed in a code-compliant manner that is respectful and beneficial to the neighbors. We look forward to the possibility of a collaborative dialogue that will lead to a plan that reflects the best interests of all stakeholders involved.

Respectfully,

*Eric Rafia*

Eric Rafia


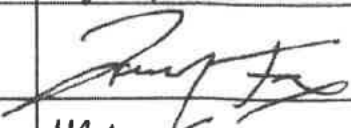

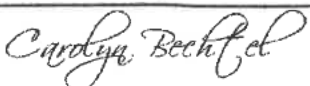
Signatures of Neighbors:

Name/Address	Signature
RANDY VANDERHEYDEN [REDACTED]	
ANNETTE McPHAIL [REDACTED]	
DIARRIEV CARROLL [REDACTED] SARDENAS	
William HOPPS [REDACTED]	
MARTA IBESIAS-YAMAMI [REDACTED]	
CHRISTOPHER MARSELLI [REDACTED]	
NADINE HOPPS [REDACTED]	
Bonnie Hurwitz [REDACTED] Los Gatos	
Marcus Lam [REDACTED] Los Gatos	



Appeal of Architecture and Site Application # S-23-009 - 212 Thurston Street

Signatures of Neighbors:

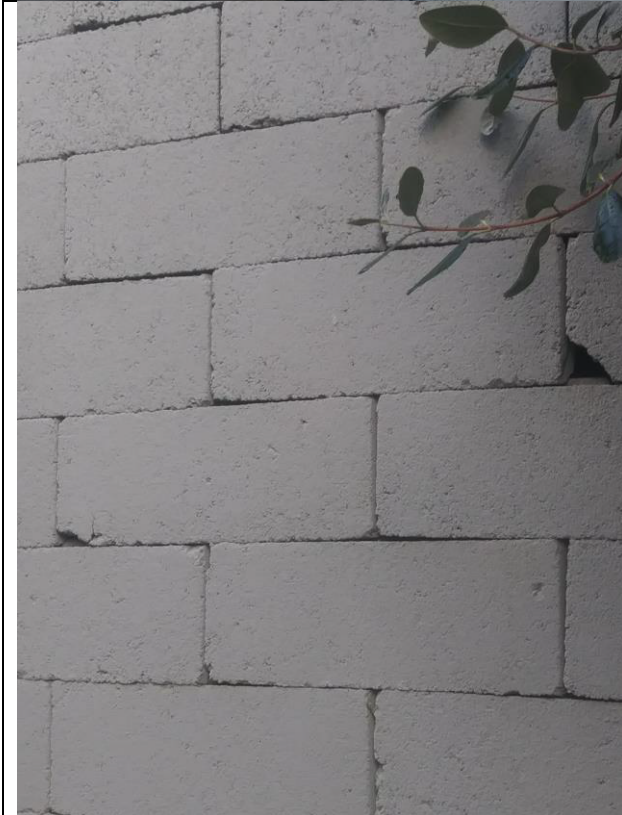
Name/Address	Signature
Wei Tan [Redacted] Los Gatos	
Larry & Audrey Fox [Redacted] Los Gatos	
Vladimir Troy [Redacted] Los Gatos	
Carolyn Bechtel [Redacted] Los Gatos	

**EXHIBIT A**

**Setbacks on Thurston Street Which Were Not Cited by Applicant:**

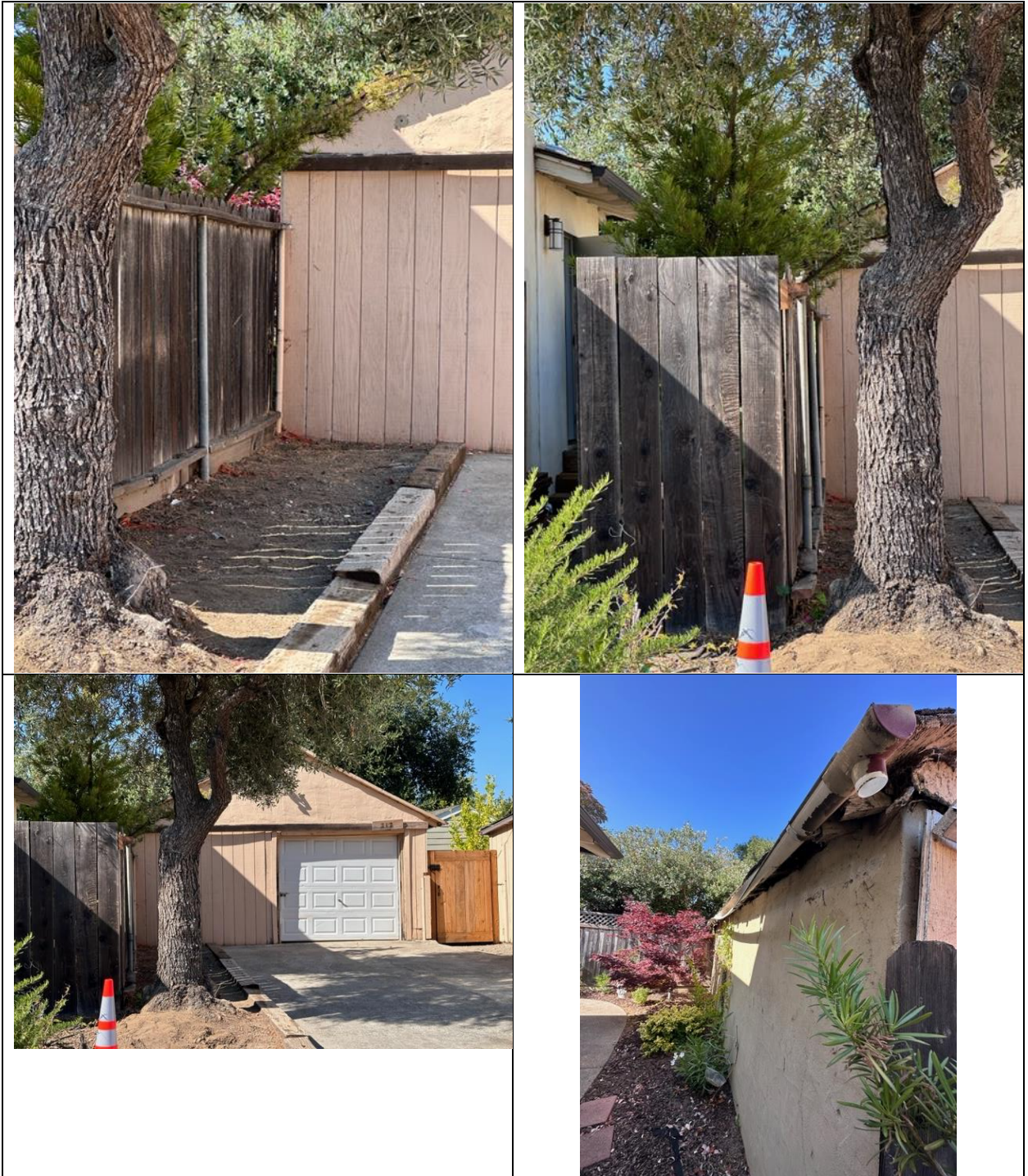


**Photos of applicant's existing garage from the perspective of 105 Olive Street:**





**Photos of the applicant's existing garage from the perspective of 214 Thurston Street:**





**Photos of story poles from 103 Olive Street**



**Photo from 101 Olive Street**

