

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT
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DATE: October , 2000

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA00-0066 for Variance

PROPOSAL: Side yard setback variance to permit a one-story, 290 square feet addition to an existing two-story, 2,354 square feet single family dwelling to be constructed 5 feet from the side property line when a side yard setback of 8.3 feet is required.

LOCATION: East of the 55 Freeway, south of Fairhaven Ave. at 13092 Flint Drive, Santa Ana. Third Supervisorial District.

APPLICANT: Trevor and Rami Gaumer, property owners

STAFF Jim Swaneck, Project Manager

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SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA00-0066 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is 10,000 square feet in area measuring approximately 83 feet x 121 feet. The site is level and developed with a single family dwelling with attached two-car garage. The house is located 37 feet from the front property line, 13 feet from the south side property line, 15 feet from the north side property line (5 feet is proposed as this variance request) and over 40 feet from the rear property line.

The proposed 290 square foot addition to the house consists of a bedroom and bath. The new addition will be an extension of the existing building footprint toward the side yard.

SURROUNDING LAND USE:

The subject site and properties to the north, west and south are zoned E4 "Small Estates"-80 (80 feet minimum lot width). To the east are properties zoned E4 "Small Estates"-100 (100 feet minimum lot width). The subject site and all surrounding properties are developed with single family dwellings.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to four County Divisions. As of the writing of this staff report, no comments raising issues with the project have been received from the other County divisions.

CEQA COMPLIANCE:

The proposed project is Categorical Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

When the existing home was constructed in 1962 as part of Tract 3873, the site was zoned R1 "Single family Residence" which had a side yard setback requirement of 5 feet. The side yard setbacks of some homes in Tracts 3873 and 3574 (designed together) are presently 5 feet, although not the subject residence. After a majority of the homes in this area were constructed, the zoning in the area was changed from the R1 District to the current E4 "Small Estates" The standard R1 setbacks are: front 20 feet, rear 25 feet and sides 5 feet. The standard E4 setbacks are: front 30 feet, rear 25 feet and side 10% of the average lot width.

As consequence of the rezoning, numerous homes in the vicinity are legal non-conforming because of the setback and lot width requirements associated with the E4-80 zone. The applicant's property is 83 feet wide, which means a side yard setback of 8.3 feet (10 percent of the lot width) is required for any new construction.

The most directly comparable planning approval was in 1965 on 13081 Laurinda Way, in the same tract and one block over. There a variance was granted via "Adjustment 65" to reduce the required side yard building setback by 2'. More recently, on February 3, 2000, in the next development to the west, the still-older Tract 1867, a variance was granted via PA 99-0165. This also reduced a side yard setback to 5'. On a visitation to the site and the neighborhood, staff noted a wide variety of small differences in setbacks, several of which seem more likely consistent with the original R1 side setbacks and not the E4 side setback.

The proposed 3' modification to the required setback is minor. The proposed addition is only one story and the living area of the adjoining neighboring residential dwelling is a substantial distance from the proposed addition, approximately 20'. The neighborhood surrounding the project site is well maintained and the proposal would not detract from that appearance. Staff cannot identify any planning issues that would prevent the Zoning Administrator from approving the proposed variance.

However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator can not make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings and approve the variance request. The special circumstances for approving the request for a side yard setback variance are in Finding 6 of Appendix A. Staff supports the applicant's side yard variance request and makes its recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA00-0066 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

C. M. Shoemaker, Chief
CPSD/Site Planning Section

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Site Plans and site photo

Appendix A Findings PA000066

- AA01 1 GENERAL PLAN PA000066
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.
- AA02 2 ZONING PA000066
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.
- AA03 3 COMPATIBILITY PA000066
That the location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.
- AA04 4 GENERAL WELFARE PA000066
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.
- AA05 5 PUBLIC FACILITIES PA000066
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).
- ED04 6 CATEGORICALLY EXEMPT PA000066
That the proposed project is Categorically Exempt (Class 5) from the provisions of CEQA.
- VA01 7 VARIANCE 1 PA000066 (Custom)
That there are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations. These special circumstances are: numerous homes existing in the vicinity were made legal non-conforming when the neighborhood was rezoned from the R1 District to the E4-80 District; and 2) the setback requested is comparable to side yard setbacks in the near vicinity.
- VA02 8 VARIANCE 2 PA000066
That approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Appendix B

Conditions of Approval

PA000066

Z01 1 CP CP BASIC/ZONING REG PA000066

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

Z02 2 CP CP BASIC/TIME LIMIT PA000066

This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

Z03 3 CP CP BASIC/PRECISE PLAN PA000066

Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

Z04 4 CP CP BASIC/COMPLIANCE PA000066

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

Z05 5 CP NA BASIC/OBLIGATIONS PA000066

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant will reimburse the County for any court costs and attorneys fees which the county may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

Z06 6 CP NA BASIC/APPEAL EXACTIONS PA000066

Pursuant to Government Code Section 66020, the applicant is informed that the 90-day period in which the applicant may protest the fees, dedications, reservation or other extraction imposed on this project through the conditions of approval has begun.