

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT
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DATE: May 24, 2001

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA01-0028 for Variance

PROPOSAL: The applicant request a rear yard setback variance to allow a proposed 580 square foot addition to an existing single family residence to be located eight (8) feet from the rear property line when a rear yard setback of fifteen (15) feet is required.

LOCATION: In the community of Rossmoor/Los Alamitos at 3011 Tiger Tail Drive, Los Alamitos (Lot 320, Tract No. 2572). Second Supervisorial District.

APPLICANT: Neil and Mary Klein

STAFF CONTACT: William V. Melton, Project Manager
Phone: (714) 834-2541 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division staff is unable to submit to the Zoning Administrator a recommended special circumstances finding for this proposal in accordance with State and County planning laws. Therefore, staff recommends that the request for rear yard setback variance be disapproved.

BACKGROUND:

The applicant is requesting a rear yard setback variance to permit a proposed new addition to the existing single-family dwelling to be setback of 8 feet from the rear property line when the required setback is 15 feet. The existing structure is setback 28 ½ feet from the rear property line. The proposed single story addition includes a master bedroom and service room. The existing 5 feet side yard setback (standard setback) would be maintained. This dwelling was constructed with a side entry garage with the main living area being setback 50 feet from the front property line. However, because the driveway for the side entry garage takes up most of the usable area outside the front setback area, the applicant is unable to use this front area for additions.

The project site is located in the community of Rossmoor, which was developed in the 50s and 60s. The property measures 70.9 feet wide by 109.5 feet deep and is typical of lots in this area of Rossmoor. The lot is developed with a one-story single-family dwelling, as were all the original homes in Rossmoor. During the late 1950s new housing products came on line and tract wide setback variances were granted to builders to provide a greater diversity of product types. This site was developed under the original standard R1 residential zoning and Variance 3772 (a tract wide variance approved in September 1959)

permitting a front setback of 15 feet for homes that were constructed with side entry garages. Homes in this area were constructed with either a front entry garage with a 20 feet front setback or a side entry garage with a 15 feet front setback.

Because the driveways required for the side entry garage homes take up substantial front yard area, homeowners throughout Rossmoor who wanted to expand the living area of their home were granted rear yard variances for these additions. These variance requests were typically approved for a ten-foot encroachment into the rear yard setback leaving a setback of 15 feet to the property line. Because of the numerous variance requests approved and with the support of the Rossmoor HOA, a zone change affecting all residential properties in Rossmoor was approved by the Board of Supervisors (Ordinance No. 3557) on November 20, 1985. This zone change established a rear yard setback of 15 feet, with a condition that all structures located between 25 feet and 15 feet from the rear property line be limited to a height of 17 feet.

As Rossmoor became more desirable as a residential community during the late 1980s, multi-story additions began to appear. The Rossmoor HOA had concerns that with the community's R1 zoning and its 35 feet building height limit, they would be seeing more three story homes. The Rossmoor HOA felt that three-story homes would jeopardize the character and desirability of the community. At the request of the Rossmoor HOA, the Board of Supervisors approved a second community zone change (Ordinance No. 3849) on November 13, 1991. This zone change established a building height limit of 28 feet. The height limit would permit the addition of an additional story to homes, but would effectively curtail the construction of two-story additions to the typical single level residence.

SURROUNDING LAND USE:

The subject site and all surrounding sites are zoned R1/28 (C3849) and development 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 two County Divisions and the Rossmoor Homeowners Association.

As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Community Standards Committee of the Rossmoor HOA submitted comments on this proposal and expressed their opposition to this proposal. Their comment letter is included with this report as Exhibit 2 and a discussion of their comments is presented later in this report.

Staff also received two letters in support of this proposal. One letter was from Hilmar Franz, whose property directly to the rear of the subject property, stating that the variance requested would not impact his property. The other letter was from Betty Ann Emmons, whose property adjacent to the side of the

applicant property, stating that the variance requested would not impact her property. These two letters are included as Exhibit 3.

CEQA COMPLIANCE:

The proposed project is Categorically 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:

The applicant has four possible options available to the applicant to add increased living area to the existing home: 1) construct an addition to the rear of the home requiring approval of a variance; 2) construct an addition to the front of the home requiring a variance; 3) construct a second story addition requiring no variance; and 4) construct an addition to the rear of the home without the need of a variance. The applicant has opted for option number 1, to add the proposed addition to the rear of the structure. In order to construct the proposed addition, a rear yard setback variance is required as indicated in this report.

In order for the applicant to construct an addition at the front of site, the existing two-car garage would have to be converted from a side entry garage to a front entry garage. This procedure is not uncommon, but would still require the approval of a variance because a new front entry garage would have a driveway of less than the minimum of 18 feet and staff would find difficulty in supporting this alternative.

The applicant indicated in his letter of justification that this approach cannot be accomplished because of a fire hydrant in the front of the property that would interfere with the driveway for a front entry garage. In the comment memo from the Rossmoor HOA, it was noted that the fire hydrant location would not interfere with a relocated driveway. A staff visit to the site confirmed that the fire hydrant is located so as not to interfere with a new driveway. However, a tree in the landscape strip and a large tree in the front of the home would have to be removed to allow for additions to the front of the home.

The third alternative, a second story addition, would not require a variance. While not normally a consideration for justification for a variance, the cost for second story additions is usually much greater than the cost for a similar size addition on the ground level. There are several two-story homes on this block. Some of the two-story additions are totally out of character with other homes in the area. As seen on page 2 of the photos in Exhibit 4, this house located at Tiger Tail and Christy Lane is a massive two-story structure that is unlike 95% of the homes in Rossmoor. In staff's opinion, this home is out of character with the homes in Rossmoor. This is the type of home that prompted the zone change limiting height in Rossmoor from 35 feet to 28 feet. Staff does not believe this would be an effective alternative to the front or rear setback situations for an addition.

There have been numerous variances for rear yard setbacks and other variance requests in Rossmoor. The majority of these variances were approved prior to the zone change permitting rear yard setbacks of 15 feet in 1985. As an example, the property two lots away from the subject site (3021 Tiger Tail Drive) was granted a rear yard variance for additions to the home. Recent rear yard variances have also been approved for lots where the rear yard abuts the freeway, the drainage channel or a perimeter road. It

should be noted that the Rossmoor HOA has expressed fewer concerns for rear yard variances for homes in those locations. Requests for rear yard setback on interior lots less than 15 feet is less common. The following chart is a sample of the variety of variances, both front and rear, granted in the vicinity of the subject site over the last four decades.

PREVIOUS VARIANCE APPROVALS IN THE VICINITY OF THE SUBJECT SITE			
Variance Number	Year Approved	Variance Request	Street
V8117	1973	Rear setback variance (setback distance not known)	Tiger Tail Drive
V8441	1974	Rear setback of 17' for addition	Brimhill Drive
V8601	1975	Front setback of 15' for 2 nd story addition on garage	Tiger Tail Drive
V8812	1976	Rear setback of 19' for addition	Tiger Tail Drive
V8874	1976	Rear setback of 22' for addition	Brimhill Drive
VA83-52	1983	Front setback of 15' for 2 nd story addition on garage	Foster Road
VA88-46	1988	Rear yard setback of 8' for addition	Druid Lane
VA89-29	1989	Front setback of 15' for garage conversion	Druid Lane
PA96-0036	1996	Front setback of 18' for additions	Walker Lee Drive
PA00-0126	2001	Front garage entrance of 17' (convert from side entry)	Walker Lee Drive

SUMMARY:

The issue for this variance request is how it relates to the previous Rossmoor zone change that changed the typical rear yard setback from 25 feet to 15 feet. The question is should that 15 feet setback be further altered on a case-by-case basis for additional encroachments into the rear yard. In the chart above showing previous variances in the vicinity, it is shown that variances for rear yard setbacks have been approved in the past. Since the adoption of the zone change in 1985 for 15 feet rear yard setbacks, there have been few variances approved for rear yard setbacks on lots that do not border the exterior of the community. An exception was Variance VA88-46Z approving a rear yard setback of 8 feet. Staff review of what was available in the microfilm record of this proposal indicated that staff had originally recommended that the variance be disapproved. However, the Zoning Administrator approved the variance request. Since the records of this variance appear to be incomplete, staff is unable to determine why the variance request was approved.

Before this or any other variance request can be approved, the following variance findings listed below must be made. If these two findings cannot be made, 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 notes that there is 18 feet of distance between the rear of the house where the addition is proposed and the 15 feet rear setback line. In staff's opinion, it would appear that modifications to the proposed addition as submitted that could be made allowing a reasonable addition to be constructed that would not require a rear setback variance. This modification may not be the most favorable to the applicant's desires. Any changes to the addition as submitted may also require extensive modification to the existing home.

Staff is unable to submit to the Zoning Administrator a recommended special circumstances finding for this proposal as required by finding number 1 above. The lot is typical of other lots in the vicinity, there are no unusual features of the lot, the lot has no unique topographic features and the applicant has other methods available to provide additional living space that would not require a request for a rear yard setback variance.

Because staff is unable to uncover any special circumstances applicable to the subject building site and because there appears to be adequate area at the rear of the home to allow for an addition, staff is not able to make a recommendation for approval. However, should the Zoning Administrator determine that the two required variance findings can be made; and, that approval of the variance request will not establish a precedent for similar variance requests in the vicinity, staff has included findings and conditions of approval. Staff notes that finding number 7 will need to be modified to address the special circumstances applicable to the subject building site that would allow the approval of this rear yard variance request.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Deny PA01-0028 and the request for a rear yard setback variance.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

WVM

Folder: My Documents/Variance/Variance 2001/PA01-0028 Staff

APPENDICES:

- A. Findings (for use if project is approved)
- B. Conditions of Approval (for use if project is approved)

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Comment letter from the Rossmoor Homeowners Association
- 2a. Applicant's response to comments from the Rossmoor Homeowners Association
- 3. Letters in support from adjacent property owners Hilmar Franz and Betty Ann Emmons
- 4. Site photos
- 5. Site plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.