

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT
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DATE: June 21, 2001

TO: Orange County Zoning Administrator

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

SUBJECT: Public Hearing on Planning Application PA01-0036 for Variance

PROPOSAL: The applicant requests approval of both front and rear yard setback variances in conjunction with proposed new additions to an existing single-family dwelling.

LOCATION: In the community of Emerald Bay, inland of Pacific Coast Highway at 324 Emerald Bay, Laguna Beach. Fifth Supervisorial District.

APPLICANT: Larry Jacobs, property owner
Scott Laidlaw, architect/agent

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

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA01-0036 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The project site is 8,053 square foot in area and developed with a 1,718 square feet one-story, single-family dwelling. The existing dwelling is currently non-conforming to the off-street parking standards because only one covered parking space is provided. The applicant proposes to add 2,087 square feet, including a second story, of new living area to an existing one-story dwelling. The additions, as proposed, require variances to the front and rear setbacks requirements as follows:

- A rear setback variance is requested to allow the proposed additions to be located 12'-10" from the rear property line when a setback of 25' is required.
- A front setback variance is requested to allow:
 - 1) A new two-car garage with roof terrace to be located 9'-7" from the front property line when a setback of 11'-6" is required; and,
 - 2) A garage entrance setback of 13' from the street curb when a setback of 18' is required.

SURROUNDING LAND USE:

The project site and all surrounding properties are zoned R1 (CD) and developed with single-family dwellings. Emerald Bay also has a certified Local Coastal Program. All properties oceanside of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. Properties located inland of Pacific Coast Highway, as is this site, are not subject to the CD regulation.

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 five County Divisions and the Emerald Bay Community Association (EBCA). As of the writing of this staff report, no comments raising issues with the project have been received from other County. The additions have been approved by the EBCA.

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 existing one-story dwelling has only 1,718 square feet of living area. Considering what is currently being constructed in Emerald Bay, this is a small house. Also, the present dwelling has only a one-car garage; and this does not conform to County off-street street parking standards. The applicant proposes to improve the property with the addition of a new two-car garage and 2,087 square feet of new living area. The additions include a new basement level of 111 square feet, an 817 square feet addition to the present first level and a new second level with 1,159 square feet. Staff notes that grading proposed for the project is minimal at 383 cubic yards, which is all export to an approved site.

Along with setback variances, there is also the issue of ocean views. The Zoning Code does not have regulation regarding views however; property owners in the community have great concern for ocean views. To address ocean views, the Emerald Bay CC&Rs contains regulations pertaining to views that address structure height. As an example, the CC&Rs for the subject site has a height restriction that structure be no more than 20 feet above natural grade, with a maximum height of no more than 15 feet above highest point of the lot. In additions to height regulations the CC&Rs permit front and rear setbacks of only 5 feet while the Emerald Bay’s R1 zoning standard for front and rear setbacks standard is much greater. Staff would also point out that before any home can be built, the Emerald Bay Community Association conducts one or more public meetings on each new home proposed. It is staff’s understanding any issues concerning views is resolved at these Community Association meetings.

Front setback variance request

The front setback for this property is determined by averaging the front setbacks of the two adjoining properties (Zoning Code Section 7-9-128.4), which are 12 feet and 10 feet-11 inches. The average of the adjoining setback is 11 feet-6 inches, which is the front setback for this site. The variance requested for the front setback is for the new two-car garage, which is located between the existing residence and the front property line. In order to provide for the required interior garage space, the garage is located 9 feet-7 inches from the front property line, and therefore initiates the request for the front setback variance. In addition to the structure setback, there is also a second requirement that the entrance to the garage be setback a minimum of 18 feet from the edge of the street since there are no sidewalks. The proposed garage has a setback of 13 feet from the edge of the street, and therefore the need for a variance.

A large number of new front yard variance approvals involve a garage entrance setback of between 5 to 6 feet from the street. The applicant's plans were originally submitted to the EBCA with a 6-foot garage setback from the property line. However, the EBCA wanted the new construction with a setback that was more in line with the two homes of either side of the subject site and a setback of 9 feet-7 inches was approved for the garage structure. This EBCA approved setback created a garage entrance setback of 13 feet from the street edge.

In most situations, Current Planning and SGSD/Traffic Review staffs are reluctant to recommend approval of a garage setback of this distance. The reason being, the 13 feet setback distance could provide an appearance of a parking space in front of a garage. If a vehicle were to use this space, the vehicle would most likely project into the street area and pose a possible traffic hazard. However, all streets in Emerald Bay are private and the EBCA maintains strict parking enforcement in the community. EBCA does allow parking in the driveway parallel to the street and there is adequate room for that type of parking. Because Emerald Bay maintains strict parking standards, staff does not feel that the proposed 13 feet driveway length would pose a traffic hazard. A standard condition of approval is also being applicant that the garage be designed to standard County site distance standards.

Rear setback variance request

Rear setback variances are sometimes a sensitive issue in Emerald Bay. In other rear yard setback variance requests, situations arise where second story decks are proposed in the rear setback area. This raises concerns regarding privacy from the adjoining property owner to the rear of a site. This will not be the case in this proposal. There is no deck at the rear of the proposed addition. The second story addition plans show that the only windows facing the rear property line are bathroom windows. Encroachments into the rear yard should have no affect on the property owner to the rear. It should also be noted that the property to the rear is at a higher elevation. The proposed rear yard setback of 12 feet is not unlike many other rear yard setback variance previously approved in Emerald Bay. Staff did not identify any planning issues associated with this variance request. Staff also notes that the that the northwest side property line of the subject site is the rear property line for three other lots where two of these lots have rear setbacks of 5 feet or less.

The building height restrictions imposed in Emerald Bay together with the CC&Rs are the major elements for setback variance requests in Emerald Bay. Since additions to existing homes and construction of new

homes cannot be constructed to the heights permitted by the R1 zone, the new additions are forced to encroach into the setback areas. Staff estimates that over a thousand variances for front and rear setbacks have been approved in Emerald Bay.

Staff is of the opinion that the front and rear yard setback Variances proposed are typical of previously approved proposals throughout Emerald Bay. The proposal appears to be compatible with the properties adjacent to the subject site. The rear setback variance request should not pose a privacy issue with the property owner to the rear. 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 cannot 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. The special circumstances for approving the variance requested for this proposal are in Finding No. 10 of Appendix A. Because the requested variance is typical of previously approved setback variances, staff can support the proposed rear and front setback variance. Staff makes a 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 PA01-0036 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CPSD/Site Planning Section

WVM

Folder: My Documents/Variance/Variance 2001/PA01-0036 Staff

APPENDICES:

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

EXHIBITS:

- 1. Applicant's Letter of Explanation
- 2. Site Photos
- 3. 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.