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## PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

**HEARING DATE:** December 13, 2001

**TO:** Orange County Zoning Administrator

**FROM:** Current Planning Services Division

**SUBJECT:** Public Hearing on Planning Application PA 01-0081

**PROPOSAL:** Variance for rear yard setback. Proposed bathroom-addition to be located 13'6" from rear property line instead of the required 25' for E4 "Small Estates" District Regulations.

**LOCATION:** The site is located in the North Tustin Area at 12532 Bubbling Well Rd., Santa Ana, within the Third Supervisorial District.

**APPLICANT:** Dennis Van Horik

**STAFF CONTACT:** James Thue, Project Manager  
Phone: (714) 834-2179 FAX: (714) 834-4652

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA 01-0081 subject to findings and conditions.

### BACKGROUND:

The subject site was developed in 1955 as a one-story, single-family residence with an attached garage in the North Tustin area. Originally the site was zoned R1 "Single-Family Residence" District, which allowed a 5' side yard setback, a 20' front setback, and a 25' rear yard setback. The site was rezoned and is now zoned E4 "Small Estates". The "Small Estates" District is established in part to maintain deep setbacks in-order to promote open space areas. The E4 "Small Estates" District requires a 30' front yard setback and a 25' rear yard setback. The residence currently sits 24' from the front property line. The project site is outside of the North Tustin Specific Plan area.

The existing residence is considered legal nonconforming in regards to the front and rear yard setback requirements for the E4 "Small Estates" District. In 1971 a 272 square foot bedroom addition was built on the back of the property, which moved the home from 40' to within 23'4" from the rear property line and encroached into the 25' rear yard setback area. The request for the variance was granted on July 29, 1971 by Area Adjustment A 1036. The current variance is to add a 10' X 12' bathroom on the backside of the bedroom addition. This variance requests a rear yard setback of 13'6".

**SURROUNDING LAND USE:**

The project site and all surrounding properties are zoned E4 “Small Estates” and are developed with existing single-family residences.

**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 the Clerk of the Board Office, as required by established public hearing posting procedures. The proposal was distributed to several Community Review Boards for review and comment.

The North Tustin Advisory Committee (NTAC) reviewed the plans and unanimously approved the proposal. Vice Chair John Secor suggested the applicant look into a hip roof. The applicant plans on using the current gable architecture on the existing home. NTAC minutes are included within Appendix C.

**CEQA COMPLIANCE:**

The project is Categorical Exempt from the provisions of CEQA.

**DISCUSSION/ANALYSIS:**

The lot size of the property is 12,000 square feet. The residence contains four bedrooms, two bathrooms, a living room, dining room, family room, and laundry room. In 1979 the garage was converted into a family room and a new detached two-car garage was built in 1987. The garage includes a workshop and is located 8 feet from the rear property line and 5 feet from the right property line. A swimming pool is located in the backyard. The applicant cites the lack of usable space anywhere else on the property to facilitate the bathroom addition. Therefore, the applicant believes that the only place to build a new bathroom is on the back of an existing bedroom. The proposed bathroom addition extends the existing wall on the north portion of the building, maintaining the existing side-yard. The addition will extend the home an additional 10’ into the rear yard setback area.

Including the proposed addition, the building site coverage is approximately 20%. However, the floorplan of the existing home and other exterior site improvements limit the ability of the applicant to complete the addition without the need for approval of a variance. Due to the single story nature of the neighborhood and the existing site improvements, the proposed location of the bathroom addition is acceptable to staff. Staff notes that the addition maintains the existing side setback and maintains the existing architecture and roofline. Given the limited height as a single story structure, the addition does not pose any privacy issues to surrounding properties.

Due to the zone change from R1 “Single-Family Residence” District to E4 “Small Estates” District many properties became legal nonconforming lots. Neighbors in the area have received variances for additions into the required setback areas. All, but one, of the homes in the area are one-story and any additions on homes have extended outward and not upward. This has helped to keep the quality and conformity of the neighborhood intact.

The following is a list of residences within the local neighborhood that have received rear yard setback variances:

Variance	Location	Setback Distance
V6706	Singingwood Rd	From 20' to 8'
V7073	Singingwood Rd	From 25' to 13'
V6552	Bubbling Wells Rd	From 20' to 5.6'
V2181	Singingwood Rd	From 18 to 16'
V2470	Singingwood Rd	From 21' to 15'
V5501	Bubbling Wells Rd	From 21.2 to 21'
V2185	Singingwood Rd	From 25' to 11.5'

**CONCLUSION OR SUMMARY:**

Zoning Code Section 7-9-150.3(e)(2), Variances, states that in order for an approval of a variance to be granted, the following findings must be made:

- A. Special Circumstances. 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.
- B. No Special Privileges. 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 believes that due to the existing development on the project site, including the design of the existing residence, that the proposed bathroom addition is appropriate for the site. The zone change from R1 “Single-Family Residence” District to E4 “Small Estates” District limited the use of land in the front and rear yard of the residence. The existing pool, spa, and other improvements in the rear yard preclude the bathroom addition from being located anywhere else on the property. Therefore, staff suggests that special circumstances exist at the building site that warrants approval of the variance request.

As noted earlier within this report, adjustment Permit Number A 1036 was filed in July of 1971 for a bedroom addition on the subject property. This permitted the residence to extend into the 25’ rear yard setback. The current variance requests a new addition that will encroach an additional 10’ into the rear yard setback. More than half-a-dozen variances regarding rear-yard setbacks already exist in the neighborhood. The proposed variance for a small addition in the rear of the home follows the trend of the neighborhood and would not create a special privilege.

**RECOMMENDED ACTION:**

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Planning Application PA 01-0081 for a rear yard setback variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad Brown, Chief  
Site Planning & Consistency Section

**ATTACHMENTS:**

- Appendix A. Recommended Findings
- Appendix B. Recommended Conditions of Approval
- Appendix C. North Tustin Advisory Committee (NTAC) Minutes

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. Project 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.