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PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

HEARING DATE: February 28, 2002

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Planning Application PA 01-0112 for a rear yard variance

LOCATION: 28939 Moody Drive, Modjeska Canyon

APPLICANT: John & Marlene Williams, owner

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

SYNOPSIS: The applicant seeks to construct a second story addition to be used as a "music room". The variance is also to permit a previous addition, which was constructed without permits. Staff recommends approval of PA 01-0012 subject to findings and conditions.

BACKGROUND:

The subject site is zoned A1 "General Agricultural" District and is subject to the Silverado-Modjeska Specific Plan. The site is composed of steep topography with large trees located around the perimeter of the structure. The 1,262 square foot residence was constructed in 1967. In 1974 an alteration and expansion of the family room was completed and in 1988 a sitting room was added to the structure. The applicant is requesting a variance in order to construct a second story addition within the required rear yard setback area. An addition was constructed on the first floor without permits several years ago and is included as a part of this variance request. If approved, the variance will legally permit this previous addition also.

The structure rests on a steep slope and therefore a retaining wall and support structures were utilized to build the home. The rear of the structure has a lower level and is utilized as a storage area. The storage area does not include any habitable space. The lower portion is roughly 5' high.

Located at the bottom of the property is a detached carport. Vehicular access is gained from Foothill Drive although the address is listed as Moody Drive. Variance V-7338 allowed the carport to be located on the rear yard property line. A staircase leads up from the carport to the entrance of the home.

SURROUNDING LAND USE:

The General Plan classifies the project site and surrounding areas as suburban residential. The Silverado-Modjeska Specific Plan designates the project site as “Existing Low to Medium Density Residential Villages”. All properties in the neighborhood are zoned A1 “General Agricultural” District.

PUBLIC NOTICE AND COMMENTS:

A Notice of Hearing was mailed and posted as required by state law. The proposal was sent to the Inter-Canyon League. Staff has received no comments from residents or community organizations regarding this proposal.

CEQA COMPLIANCE:

The project is Categorically Exempt (Class 2 and 3) as defined by the California Environmental Quality Act (CEQA).

DISCUSSION/ANALYSIS:

The applicant desires to add a 393 sq. ft. second story addition onto the southwestern portion of the existing structure. The proposed second story addition will be used as a music room. However, due to existing topography and the current architecture and footprint of the building, the only place to construct the addition is in the rear yard setback area. The structure is located on a shallow lot measuring 79 feet on the left property line and 67 feet on the right property line. The previous addition on the residence that was constructed without building permits is located 6’2” from the rear property line. Based upon Zoning Code Section 7-9-128.2, the required front and rear setback for this property is 11 feet.

This variance will permit the previous addition as well as the music room addition to be located 6’2” from the rear property line. The roof over hang will measure 18” into the side yard setback. The total height of the structure will measure approximately 34’6” and will fit inside the building height envelope as described in Section 7-9-129 of the Zoning Code.

Many homes in the Modjeska community were constructed as small mountain cabins before the 1960’s. Many owners have converted the cabins into homes and constructed additions without permits. Many of these additions put more stress on the septic systems than they were designed for. The larger expansions limited the area where septic systems could be expanded or constructed. The previously un-permitted addition to this home contains a laundry room and bathroom. Therefore, Building Permit Services will require the applicant to provide detailed information on the capacity and location of the septic system. An appropriate condition is included in Appendix B.

CONCLUSION:

This project will have no adverse effects on the surrounding community. No residences will lose views or vistas by the construction of this project due to the fact that the home is currently located below the grade of Moody Drive and the proposed addition will raise the structure about 16’. Special circumstances exist on the property including very steep topography and the fact that the structure is located on a shallow lot. Due to these issues the only place for the applicant to gain habitable space is to expand upward. The proposal requests no special privileges. The appropriate variance findings can be made and are included in Appendix A.

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 01-0112 subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Section Chief
CPSD/Site Planning Section

APPENDICES:

- Appendix A. Recommended Findings
- Appendix B. Recommended Conditions of Approval
- Appendix C. Applicant's Letter of Explanation
- Appendix D. Project Site Photos
- Appendix E. 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.