

**PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT**

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**DATE:** August 28, 2003

**TO:** Orange County Zoning Administrator

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

**SUBJECT:** Public Hearing on Planning Application PA03-0060 for Variance

**PROPOSAL:** The applicant proposes to demolish an existing one-story, 1,740 square feet single-family dwelling and construct a new three-level, 4,249 square feet single-family dwelling. In order to construct the dwelling as proposed, the applicant requests approval of front and rear yard setback variances. These variances include: 1) a front yard variance to permit a setback of 6'-6" when a front setback of 12'-4" is required for this lot; 2) an encroachment of an uncovered deck further than 5 feet into the front setback area; 3) a rear yard variance to permit a setback of 17'-5" when a rear setback of 19'-9" is required for this lot; and, 4) a driveway length variance to permit a driveway 13'-1" in length from the street edge to the garage door when the required driveway length is 18 feet.

**LOCATION:** The project site is located in the south coastal area of the County, in the community of Emerald Bay at 405 Emerald Bay, Laguna Beach. Fifth Supervisorial District

**APPLICANT:** Richard and Debbie Watts, property owners  
Laidlaw Schultz Architects, agent

**STAFF CONTACT:** William V. Melton, Project Manager  
Phone: (714) 834-2541 FAX: (714) 667-8344

**SYNOPSIS:** Current Planning Services Division recommends Zoning Administrator approval of PA003-0060 for Variance subject to the attached Findings and Conditions of Approval.

**BACKGROUND:**

The subject site is trapezoidal in shape, averaging 96 feet in depth, 51 feet along the front property line and 78 feet along the rear property line containing approximately 6,000 square feet in area. The site is developed with a single-level, 1,740 square feet single-family dwelling. The lot is typical of other Emerald Bay lots but the dwelling is smaller (less living area) than other homes in this area of Emerald Bay. The existing dwelling is setback 5 feet from the front property line, 7 feet from the rear property line and 5 feet and 7 feet from the side property lines. Available records indicate the residence was built in 1962 and Variances V4710 and VA88-12Z established the existing setbacks. As indicated in the project proposal, the existing home will be demolished and a new building pad created for the proposed new dwelling.

**SURROUNDING LAND USE:**

The project site and all surrounding properties are zoned R1 “Single-family Residence” District with a CD “Coastal Development” District overlay, and developed with (or approved for) single-family dwellings (see photo below). Emerald Bay also has a certified Local Coastal Program (LCP). The LCP has a requirement that all properties on the ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. In general, property owners are required to obtain approval of a Coastal Development prior to demolishing dwelling or making large additions to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, such as the subject site, are not subject to the CD regulation and are not subject to obtaining a Coastal Development Permit for new construction.

**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. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions that could not be addressed through standard conditions of approval. The Emerald Bay Community Association approved the proposal on June 10, 2003.

**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:**

There are many front and rear yard variances in Emerald Bay. The reason for all the variances is the community's CC&Rs permit setbacks of 5 feet from all properties lines and has height standards more restrictive than the Zoning Code. Additionally, the County's standard driveway lengths are not taken into account in the CC&Rs. The R1 zoning setback requirements do permit 5 feet side yard setbacks, but in nearly all lots in Emerald Bay the front and rear setbacks are greater than 5 feet. In cases where lots have a depth of less than 100 feet (called a shallow building site), Zoning Code Section 7-9-128 permits reduced front and rear setbacks from the standard R1 front setback of 20 feet and a rear setback of 25 feet. Additionally, Zoning Code Section 7-9-128 also permits a front setback based on the average setback of the two adjoining lots.

For the subject property, which is a shallow building site with an average depth of 96 feet, the Zoning Code allows a front and rear setback of 18.75 feet. The front setback requirement for this property has an additional exception allowing the setback to be the average of the two adjoining properties (5 feet and 19.75 feet), which is 12.4 feet. The applicant is requesting a front setback of 6.6 feet (a difference of 5.8 from the required setback) and a rear setback of 17.5 feet (a difference of 2.25 feet from the required setback). Also the plans depict an uncovered deck over the garage that projects to within 5 feet of the front property line. The Zoning Code permits the deck to project to within 7.4 feet of the front property line. These requested front and rear setbacks are similar to previously approved setback variances throughout the community. Staff notes that the setbacks proposed are greater than the existing front and rear setbacks approved by previous variances.

The standard driveway setback, or driveway length, is 18 from back of sidewalk or where there is no sidewalk, from back of curb. Emerald Bay has no sidewalks, so the garage setback is measured from back of curb, or street edge. The applicant is requesting a setback of 13 feet – 1 inch between the new garage door and edge of the street. Traffic Review does not normally like to provide a recommendation of approval for driveway lengths between 8 feet and 17 feet because this distance allows a car to park in front of the garage with a portion of the car in the street area. In Emerald Bay, where parking is enforced, this situation is usually not a problem. Site Plans show that Emerald Bay requires a non-County standard parking space in front of the garage, but it is parallel with the garage door. Staff notes that the garage proposed appears to provide space for up to four cars, however only two spaces conform to the County garage-parking standard.

With regards to the rear setback, Emerald Bay required the applicant to increase the rear yard setback because of issues raised by the neighbor to the rear. The plans submitted reflect the changes made by Emerald Bay. Staff does not foresee issues with the proposed variances. The requested front and rear yard variances are typical of the many other variances approved in Emerald Bay. There appears to be no significant issue related to the requested variances. 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 circumstance for approving the variance requested for this proposal is in finding no.10 of Appendix A. Because the requested variance is typical of previously approved setback variances, staff can support the proposed front, garage and rear setback variance and 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 PA03-0060 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief  
CPSD/Site Planning Section

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**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. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the Planning and Development Services Department