

RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT
REPORT

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DATE: February 19, 2004

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA04-0002 for Variance

PROPOSAL: A request for approval of expansion of the garage area included in a prior front yard setback variance, granted 1960 via Variance 4037, allowing this lot to have a 15.5' front yard setback for its side entry garage as designed at that time.

LOCATION: 2982 Yellowtail, Los Alamitos/Rossmoor; 2nd Supervisorial District.

APPLICANT: David and Marlene Brennan, property owners

STAFF CONTACT: Jim Swanek, Project Manager
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SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA04-0002 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND

The applicant requests a Variance to expand an attached side entry garage constructed in 1960 per an earlier variance at 15.5' from the front property line. The proposed addition would increase the depth of the garage, increasing the area of the setback encroachment, and thus resulting in the requirement for this variance. The subject property is 8,212 sq. ft. in size, and is a rectangle 75 feet wide by 109.5 feet deep.

LAND SURROUNDING LAND USE

The subject property is zoned R1/28, "Single Family Residence", intended for medium density single family detached residential neighborhoods, with a varying height limit, being 28 feet for elements of homes kept 25 feet from the rear property line, and 17 feet for those portions of homes less than 25 but more than 15 feet from the rear height limit. The front setback is 20 feet for all building heights up to 28 feet. The garage addition will be one-story and less than 20 feet in height. All surrounding property is also zoned R1/28 and developed with single family homes.

CEQA COMPLIANCE

The project has been determined to be Categorical Exempt from CEQA, Class 1 [CEQA Guidelines Section 15301 (e)] for additions to existing structures provided that the addition will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The determination that the subject request is Categorical Exempt from the requirements of CEQA must be made prior to project approval, with a finding to that effect by the Zoning Administrator. Recommended text is provided below.

PUBLIC NOTICES AND COMMENTS RECEIVED

Public notices were mailed to all owners of record within 300 ft. of the subject property, and were posted in front of the site and at 2 other locations within the County, at least ten days prior to this public hearing, as required by law. Copies of the planning application and sets of plans for the proposed project were distributed to the Rossmoor Homeowners Association and to County divisions for review and comment. The Rossmoor Homeowners Association has not responded. As of the time this report was written, staff had not received any public comments in opposition to the proposed project in response to the Public Notice.

ANALYSIS AND CONCLUSION

Before the requested Variance may be approved, the Zoning Administrator, in accordance with State and County Planning laws, must be able to make the variance findings listed below, in addition to the standard findings required for all discretionary permits (Appendix A).

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 requested variances 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 researched similar past front yard variances on similar perfectly rectangular lots. A virtually identical variance was granted March 22, 2001 under PA01-0008. The proposed variance would not increase the degree of intrusion into the front yard setback, but rather would simply allow the extent to which the setback is already reduced to cover more of the lot along its breadth. The garage is and will remain a functional side entry garage; in fact, its utility is increased.

Staff believes approval of the requested front yard variance would not constitute the granting of special privileges inconsistent with the limitations placed upon other property in the area, because, as described above, other similar front yard variances for similar lots have been granted in the vicinity. Those special circumstances applicable to the subject building site which, when applicable zoning regulations

are strictly applied, may be viewed as depriving the subject building site of privileges enjoyed by other properties in the vicinity and subject to the same zoning regulations, would be that floor plans, once constructed to non-standard setbacks, become almost impossible to modify and still comply with current regulations without complete demolition, something that clearly was not foreseen by the original variance decision makers.

In terms of compliance with the findings required for all discretionary projects, the proposed project is consistent with the land uses and density of development allowed by the County's General Plan, will not be incompatible with surrounding land uses, and would not adversely impact neighboring properties, built in an essentially identical manner.

RECOMMENDATION

The Resources and Development Management Department, Current Planning Services Division, recommends that the Zoning Administrator:

- a. Receive the staff presentation and public testimony as appropriate; and
- b. Approve the requested Variance Application (PA04-0002), subject to the attached findings and conditions.

Respectfully submitted,

Chad Brown, Chief
CPSD/Site Planning Section

LIST OF ATTACHMENTS

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

LIST OF EXHIBITS

- EXHIBIT A. Applicant's Letter of Explanation/Justification
EXHIBIT B. 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 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.

Appendix A

Findings

PA010008

- AA01 1 GENERAL PLAN PA010008
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.
- AA02 2 ZONING PA010008
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.
- AA03 3 COMPATIBILITY PA010008
That the location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental, or incompatible with other permitted uses in the vicinity.
- AA04 4 GENERAL WELFARE PA010008
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.
- AA05 5 PUBLIC FACILITIES PA010008
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).
- ED04 6 CATEGORICALLY EXEMPT PA010008
That the proposed project is Categorically Exempt (Class 5) from the provisions of CEQA.
- VA01 7 VARIANCE 1 PA010008 (Custom)
That 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. These special circumstances are: that the subject property was constructed per an earlier variance to this setback, resulting in the need to seek a new variance to expand the use along the same lines, or demolish the structure and begin anew; expansion of the variance in this area not adversely impacting any party.
- VA02 8 VARIANCE 2 PA010008
That 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.

Appendix B

Conditions of Approval

PA010008

Z01 1 CP CP BASIC/ZONING REG PA010008

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

Z02 2 CP CP BASIC/TIME LIMIT PA010008

This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

Z03 3 CP CP BASIC/PRECISE PLAN PA010008

Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

Z04 4 CP CP BASIC/COMPLIANCE PA010008

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

Z05 5 CP NA BASIC/OBLIGATIONS PA010008

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant will reimburse the County for any court costs and attorneys fees which the county may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

Z06 6 CP NA BASIC/APPEAL EXACTIONS PA010008

Pursuant to Government Code Section 66020, the applicant is informed that the 90-day period in which the applicant may protest the fees, dedications, reservation or other extraction imposed on this project through the conditions of approval has begun.