

RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT  
REPORT

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- DATE:** June 3, 2004
- TO:** Orange County Zoning Administrator
- FROM:** Resources and Development Management Department/Current Planning Services Division
- SUBJECT:** Public Hearing on Planning Application PA04-0027 for a Variance and Use Permit
- PROPOSAL:** Request for approval of a variance to reduce the minimum front and side setbacks to facilitate the construction of a single-story room addition. The variance requested reduces the required 25 foot front structural setback (based on lot “averaging”), to 21 feet, and the required roof eave setback from 18 feet 9 inches to 18 feet 6 inches. The variance would also reduce the required 10 foot side yard structural setback to 6 feet 9 inches, and the roof eave setback from the required 6 feet to 5 feet 9 inches, with both variances being for additional one-story living area.
- In addition, a use permit was applied for to allow a 13’ high detached garage to be placed in the side and rear setbacks where only a 12’ tall structure would be allowed. The plans have been revised since the North Tustin Review Board meeting of May 19, 2004, and the Zoning Administrator will be asked to note that the use permit request is no longer required.
- The subject site is located in the general east Tustin or “Redhill” unincorporated area.
- LOCATION:** 12612 Bubbling Well, within the Third Supervisorial District
- APPLICANT:** Erik and Jessica Bryant, property owners
- STAFF** J. Alfred Swanek, Project Manager  
**CONTACT:** Phone: (714) 796-0140 or (714) 834-2626 FAX: (714) 834-4772
- SYNOPSIS:** The Current Planning Services Division recommends Zoning Administrator approval of Variance Application No. PA04-0027, with findings and conditions attached; and recommends acknowledgement of an effective withdrawal of the use permit request.

**BACKGROUND:**

The subject site was originally developed in 1955. It is presently a 1,555 square foot, single family home with an attached garage (proposed to be converted into living space and replaced by a new detached 2-car garage at the side and rear of the lot), on a 10,450 square foot lot. The home presently complies with all development standards of the applicable E4-Small Estates zoning district, with the exception of the existing side yard setback on the north side. Here it is 6’ 9”, more than the requirement in 1955.

**SURROUNDING LAND USE:**

<b>Direction</b>	<b>Land Use Designation</b>	<b>Existing Land Use</b>
Project Site	E-4 "Small Estates"	Single family dwelling
North	E-4 "Small Estates"	Single family dwelling
South	E-4 "Small Estates"	Single family dwelling
East	E-4 "Small Estates"	Single family dwelling
West	E-4 "Small Estates"	Single family dwelling

**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 300 N. Flower, at the site, and as required by established public hearing posting procedures. In addition, a copy of the planning application and a copy of the proposed site plan were distributed for review and comment to the Foothill Community Association (which did not respond) and to the North Tustin Advisory Committee (NTAC). On May 19, 2004 NTAC recommended "conditional" approval of the project, subject to reducing the height of the proposed detached garage from 13' to 12', and increasing the side and rear setbacks for that structure from 3' to 5'. The applicant agreed to proceed with the project on this basis, and the plans under consideration today have been revised to be consistent with the NTAC approval. As such, the plans no longer require a use permit for a structure over 12' tall to be placed in the side and/or rear setback, and the Zoning Administrator is asked to find that the Use Permit portion of the application has thereby been withdrawn.

**CEQA COMPLIANCE:**

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is Categorically Exempt from its requirements (Class 5, minor alterations in land use such as setback variance).

**DISCUSSION/ANALYSIS:**

The homeowners are seeking approval of a variance to facilitate the construction of a 828 square foot room addition for elements of a master suite, "nook", and expanded bedroom and bath. The proposed additions will be partially located in the required side yard setback of 10 feet. The applicant proposes reducing this side setback to 6 feet 9 inches, and the roof eave setback from the required 6 feet to 5 feet 9 inches. The proposed additions will also be partially located in the required front yard setback of 25 feet (based on lot "averaging"), where a new minimum is proposed of 21 feet, with the required roof eave setback also being reduced from 18 feet 9 inches to 18 feet 6 inches.

Assuming approval of the variance request, the enlarged single family residence and attached garage would cover approximately 24% of the lot. The E4 "Small Estates" District allows Building Site (lot) Coverage to a maximum of 35%.

The requested side yard variance is similar to that granted in 2004 under PA04-0009 for a home only two doors away from the subject property and on the same side of the street, in that case from the required 9 foot 6 inch setback to 5 feet 4 inches, and also for living area. The only concern was potential privacy impacts to the neighbor on that side. In the present case, no windows intended to be looked out are being placed in the area of the side yard setback variance, being elevated several feet above a normal location, as can be seen on the proposed north plan elevation.

In terms of precedent for the front setback, PA02-0054, at very nearby 12811 Bubbling Well, a lot irregular in shape at the rear but perfectly flat at the front, approved a partial 20' front yard setback for both garage and bedroom living area, where 25 feet 9 inches was allowed based on averaging. PA04-0001, at 18232 Leon Way, also in the general Tustin unincorporated area, involved a front yard variance to allow a fully-roofed porch to be placed 21 feet, 3 inches from the property line where 25' was required.

As with the current case, the intent in the past has been to provide a varying depth architectural treatment on a street elevation, while not giving up potential living area that would be involved in pushing the rest of the home back behind the standard front setback. The Zoning Code offers little opportunity to provide architectural "relief" in street side elevations, with only wing walls and true bay windows allowed to project.

Finally, it is noted that there are other tracts in the immediate vicinity that were built in the late 50s with the proposed 21' front setback and lot depths of as much as 105' (this lot is 104' deep), when front and rear setbacks were 20% of the lot depth (up to a 120' lot depth).

#### **RECOMMENDED ACTION:**

Current Planning Services Division staff recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate;
- b. Approve Planning Application PA04-0027 for a side and front setback variance, subject to findings and conditions of approval attached hereto; and
- c. Recognize the use permit request for a detached garage more than 12 feet in height to have been withdrawn with recent plan revisions.

Respectfully submitted,

Chad G. Brown, Chief  
RDMD/Site Planning Section

**EXHIBITS:**

1. Applicant's Letter of Explanation
2. NTAC minutes (as available)
3. Project Plans (Site Plan, Floor Plan and Elevation)
4. Color Photographs (Zoning Administrator's copy only)

**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.