

RDMD/Planning and Development Services

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DATE: September 9, 2004

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA04-0059 for Variance

PROPOSAL: The applicant requests approval of a Variance to the side yard setback requirements in association with proposed major modifications and additions to an existing single-family dwelling located in the E4 "Small Estates" District. From the west side property line, the applicant requests a setback of 8 feet when the required side setback for new construction is 10 feet. From the east side property line, the applicant requests a minimum setback of 6'-10" for a portion of the structure (that includes a second story addition) when the required side setback for new construction is 10.3 feet.

LOCATION: The property is located at 5762 Mountain View Avenue in an unincorporated county island in the City of Yorba Linda, east of Kellogg Drive and adjacent to the Yorba Linda Golf Course. Third Supervisorial District.

APPLICANT: Greg Giardina, property owner
Parviz Nikniai, QMS Design Group, agent

STAFF CONTACT: William V. Melton, Project Manager
Phone: (714) 834-2541 FAX: (714) 834-3522

SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA04-0059 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject property is developed with a single-family dwelling on property zoned 100-E4-(15000) District, which is "Small Estates" with a minimum lot width of 100 feet and a minimum lot area of 15,000 square feet. The E4 District has a side yard setback requirement of 10 percent of the average lot width. The property is approximately 13,800 square feet in area with an average width of 103 feet and an average depth of 133 feet. The subject lot and tract were recorded prior to the current E4 District. The home was constructed after the current zoning was in place. The site is located on the north side of Mountain View Avenue, which is a public cul-de-sac street. Access to the Yorba Linda Golf Course is from the end of Mountain View Avenue.

Records indicate the current dwelling was constructed in the 1959 and is one-story in height. The structure is setback 30 feet from the front property line (42 feet from the edge of pavement), 32 feet from

the rear property line, 5.3 feet from the west side property line (which encroaches into an 8 foot wide drainage easement) and 9.7 feet from the east property line.

The applicant proposes to make major modifications and additions to the existing dwelling. On the west side of the dwelling the applicant is making a modification to the dwelling that would move the dwelling from 5’-3” to 8 feet from the side property line (outside the drainage easement area) and add new living area that would also be setback 8 feet from the property line. On the east side of the property the applicant proposes a new garage area (20 feet wide by 52 feet long) with a setback that ranges from 6’-10” at the rear to 12’-4” at the front. Above the garage, the applicant proposes a second story addition (20 feet wide by 43’-6’ long) that includes a playroom area with an outside deck in the front and a studio/home office with an outside deck to the rear.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	100-E4-(15000)	Single-family dwelling
North	OS “Open Space”	Yorba Linda Golf Course
South	100-E4-(15000)	Single-family dwelling
East	100-E4-(15000)	Single-family dwelling
West	100-E4-(15000)	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 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 8 County Divisions and the City of Yorba Linda. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The City of Yorba Linda indicated that they had no comments on the proposal.

Staff received written and telephone communications from Alice Saunders, a resident on Mountain View Avenue for 33 years. Mrs. Saunders objects to the approval of the proposed variance on grounds that the additions should conform to the established setbacks for the neighborhood and the proposal would seem to insult the architectural choice of many neighbors. Mrs. Saunders written comments are included as Exhibit 2 of this report.

CEQA COMPLIANCE:

The proposed project is Categorically 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:

Staff reviewed available county records to determine if other variances have been approved in the vicinity of the subject site. Staff identified 12 previous variance approvals; 10 on Mountain View Avenue and 2 on adjacent Stradella Avenue. These variances included front, rear and side setbacks and were approved between the years of 1959 and 1990. None of these previously approved variances involved a second story addition. Staff identified two homes on Mountain View Avenue with a second story. These homes are located closer to Kellogg Drive to the west. The E4 District height standard permits two-story homes up to 35 feet in height.

On the west side of the property, the home's current setback is 5'-3", which is also within an 8 foot wide drainage easement. The applicant proposes to remove that portion of the dwelling in the easement and construct new additions that are setback 8 feet from the property line. This is a one-story addition and is similar to other side yard setback variances approved in the vicinity.

The proposed variance on the east property line includes the addition of a second story is the side setback. The home is currently setback 9'-8" from the side property line. The new addition proposed has a proposed side yard setback that ranges from 6'-10" at the rear to 12'-4" at the front. Approximately 1/2 (30 feet of the total length of the addition of 59 feet) of the new addition is within the side yard setback. The current structure is parallel with the side property line and the new additions are more perpendicular to the front property line. Because the side property line is at an angle to the front property line, the rear portion of the new addition encroaches into the side property line. As calculated from the site plans, the point at which the new addition begins to encroach into the side property line is 52 feet from the front property line and

64 feet from the street edge. This distance should help mitigate potential visual impacts of the proposal from the street.

Staff was unable to locate any information on how the existing dwelling was constructed without a variance approval. When the dwelling was constructed in 1959, the property was zoned 100-E4-(15000) with a side yard setback requirement of 10.3 feet. As discussed, neither of the existing side yard setbacks conforms to the setback to the E4 standard. Also it appears that the Tract, of which the project is part of, was recorded with numerous lots less than 15,000 square feet standard lot area requirement.

Regarding the variance for the second story addition, there is only a small portion of the proposed addition in the side setback area, which starts at a point 64 feet from the street edge. That portion is triangular shaped measuring 3.4 feet (at the rear) by 30 feet (the first floor addition measure approximately 37 feet). This calculates to 51 square feet, or 5.8 percent, of the total second floor addition of 892 square feet, which measures 20'-6" by 43'-6". This means that 94.2 percent of the proposed second story addition conforms to the side setback requirement.

One issue with the proposed addition is the flat roof proposed that does not appear to be compatible with the existing neighborhood architecture. The applicant informed staff that the reason for the flat roof concept was confusion on the maximum height permitted. The applicant's architect was under the assumption that the maximum height permitted was only 20 feet and the second story addition was designed around that assumption. The architect informed staff that had he known the maximum height permitted was 35 feet, he would have designed and submitted plans with a second story roofline in keeping with the existing structure's roofline. To address this issue, staff is recommending Condition of Approval No. 12 requiring the applicant to submit revised site plans replace the submitted flat roof design with a roof design that would be similar to the roof line of the existing dwelling.

Staff is of the opinion that the Zoning Administrator would be able to approve a variance for the proposed additions, including the second story addition, as revised on the site plan. 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 circumstances for approving the variance requested for this proposal are in Finding No.7 of Appendix A.

CONCLUSION:

Staff supports the variance request for the ground level modification and additions to the existing single-family dwelling. Since the variance requested into the side yard setback on the second story addition accounts for only 5.8 percent of the total square footage of the second story addition and because the entire addition conforms to the height standards of the E4 District, staff recommends project approval as follows:

RECOMMENDED ACTION:

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA04-0059 for Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

William V. Melton, Project Manager
CAPS/Site Planning Section

WVM

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APPENDICES:

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

EXHIBITS:

1. Applicant's Letter of Explanation
2. Letter dated August 27, 2004 from Mr. and Mrs. LaMar Saunders
3. Site Photos
4. 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 RDMD/Planning and Development Services.