

RESOURCES & DEVELOPMENT MANAGEMENT DEPARTMENT
REPORT

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DATE: August 4, 2005

TO: Orange County Zoning Administrator

FROM: Land Use Planning Division

SUBJECT: Public Hearing on Planning Application PA05-0037 for Variance

PROPOSAL: A request for approval of a Variance for a 5 foot rear yard setback, in lieu of the required 15 ft. rear yard setback, in conjunction with attaching an existing detached garage at that 5' distance on a corner lot to the existing home. The existing 2-car garage with its existing non-standard 15'10" driveway length would be modified to rehang the door at the required 18' distance.

LOCATION: 12201 Silver Fox Road - Los Alamitos/Rossmoor; 2nd Supervisorial District.

APPLICANT: Bruce Cholakian, property owner

STAFF CONTACT: J. Alfred Swanek, Project Manager
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SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA05-0037 for Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND

The applicant requests a Variance to construct a single story addition of 1,244 sq. ft. of livable area floor space to an existing single story, single-family home of 1,633 sq. ft. of living area, originally built in 1957. The addition entails connecting the existing home to a currently detached 2-car garage, located 5' from the rear property line on this corner lot. The proposed addition would thus create a new rear yard setback of 5' for the combined garage/home, in lieu of the required 15 ft. rear yard setback, though the habitable portion of the house would respect the 15 foot setback.

The subject property is 8,250 sq. ft. in size, and is a near-rectangle averaging 75 feet wide and 110 feet deep. It is a corner lot. The existing non-standard 2-car garage with its existing 15'10" driveway length was placed at that point by Variance 2839 in 1957.

Rossmoor Development Standards Background:

In response to numerous variance requests approved generally after 1960 to address room additions to then-existing homes, and with the support of the Rossmoor HOA, a zone change affecting all residential properties in Rossmoor was approved by the Board of Supervisors (Ordinance No. 3557) on November

20, 1985. This zone change established a rear yard setback of 15 feet, with a condition that all structures located between 25 feet and 15 feet from the rear property line be limited to a height of 17 feet.

During the late 1980s, multi-story residential additions began to appear within this community of predominately single-story houses. The Rossmoor HOA had concerns that, with the community's R1 zoning and its 35 feet building height limit, the character of the community would change dramatically with three-story houses, surmounted by virtually flat roofs. At the request of the Rossmoor HOA, the Board of Supervisors approved a second community zone change (Ordinance No. 3849) on November 13, 1991. This zone change established a building height limit of 28 feet. The 28 feet height limit would permit the addition of an additional story to the existing single story homes, but would effectively curtail the construction of three-story additions.

SITE ZONING AND SURROUNDING LAND USE

The subject property is zoned R1/28 "Conditional", 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 property line. All surrounding property is also zoned R1/28 and developed with single family homes.

Direction	Land Use Designation	Existing Land Use
Project Site	R1/28-Cond. "Single Family Residential"	Single family dwelling
North	R1/28-Cond. "Single Family Residential"	Single family dwelling
South	R1/28-Cond. "Single Family Residential"	Single family dwelling
East	R1/28-Cond. "Single Family Residential"	Single family dwelling
West	R1/28-Cond. "Single Family Residential"	Single family dwelling

CEQA COMPLIANCE

The project has been determined to be Categorically Exempt from CEQA, Class 5 [CEQA Guidelines Section 15301 (e)] for minor alterations in land use limitations such as a setback variance. The determination that the subject request is Categorically 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 with Findings included as Appendix A.

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 public 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 Homeowners Association provided correspondence dated 07/13/05 (see Exhibit D) recommending approval, providing that the garage door was indeed re-hung at 18' from back of sidewalk.

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

Staff researched past corner lot variances approved in the general vicinity of the subject property, and identified many variances for rear yards, all involving connecting single family homes to pre-existing detached garages. This proposal is typical of those previous approvals. The last approvals of a similar rear yard variance proposal were PA040109, PA030112, and PA03-0052.

Since the garage would be attached to the dwelling, a setback of 15 feet is required. While the total new structure (garage, addition and existing dwelling) will be 5 feet from the rear property line, the actual new addition to the dwelling is 25 feet from the property line and otherwise in compliance with the rear yard setback.

As this variance procedure has been approved in the past both in the immediate neighborhood and throughout Rossmoor and because the proposal would not have an effect on the property to the rear or any property in the vicinity of the site, staff supports the applicant's rear yard variance request.

Staff believes approval of the requested variance would not constitute the granting of a special privilege inconsistent with the limitations placed upon other property in the area, because, as described above, other similar variances for corner lots have been granted either recently in the vicinity or in the past in the larger Rossmoor community. Staff also believes 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, in that the property is not a pure rectangle but has a rounded corner cutoff, reducing the owner's flexibility in terms of site layout.

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, being a non-rectangular lot shape and corner lot configuration 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.

As for the garage door being re-hung at a distance 18' from the side property line, Zoning Code Section 7-9-145.2(i) states that "whenever the occupancy or use of any premises which is (are) not in compliance with off-street parking requirements is changed to a different use OR the existing use is altered, enlarged, expanded or intensified, parking to meet the requirements of this (off-street parking regulations) section shall be provided...This provision shall not apply to the additions of rooms (to) a single-family dwelling which do not increase the total floor area more than fifty (50) percent."

Since the proposal is to increase the existing floor area by more than 50%, there is a requirement to replace the existing non-conforming garage door at the standard 18' distance.

In terms of compliance with the findings required for all discretionary projects, the proposed project is otherwise consistent with the land uses and density of development allowed by the County's General Plan, and will not be incompatible with surrounding land uses.

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 (PA05-0037), subject to the attached findings and conditions.

Respectfully submitted,

Charles Shoemaker, Chief
LPD/Site Planning Section

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.

ATTACHMENTS

APPENDIX A. Recommended Findings

APPENDIX B. Recommended Conditions of Approval

EXHIBITS

- EXHIBIT A. Applicant's Letter of Explanation/Justification
EXHIBIT B. Site Photos
EXHIBIT C. Project Plans
EXHIBIT D: Correspondence from Rossmoor Homeowners' Association