

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
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Agenda Number:

Prepared on: April 7, 2005
Department Name: Planning & Development
Department No.: 053
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TO: Board of Supervisors

FROM: Dianne Meester, Assistant Director
Planning and Development

STAFF CONTACT: Adrienne Domas, Planner (568-2002)
Development Review Division

SUBJECT: Damron Appeal (05APL-00000-00002) of Zoning Administrator's Denial of Height Variance (02VAR-00000-00007) and Garage Addition (02CDH-00000-00015)

Recommendation:

That the Board of Supervisors consider the appeal of Jim Damron of the Zoning Administrator's March 3, 2003 denial of a height variance (02VAR-00000-00007) and garage addition (02CDH-00000-00015), located at 1076 The Fairway Road, APN 009-282-032, First Supervisorial District.

Should your Board choose to deny the appeal and deny the variance and Coastal Development Permit, your action should include the following:

1. Adopt the required findings for denial of the project (02VAR-00000-00007 and 02CDH-00000-00015), as specified in the Zoning Administrator action letter dated March 10, 2003;
2. Deny the appeal, upholding the Zoning Administrator's denial of 02VAR-00000-00007 and 02CDH-00000-00015;
3. Deny the Variance 02VAR-00000-00007 and Coastal Development Permit 02CDH-00000-00015.

Should your Board choose to uphold the appeal and approve the variance and Coastal Development Permit, your action should include the following:

1. Adopt the required findings for approval of the Variance (02VAR-00000-00007) and Coastal Development Permit (02CDH-00000-00015), included as Attachment A.
2. Accept the exemption, included as Attachment B, pursuant to CEQA Section 15303(e).
3. Uphold the appeal, overturning the Zoning Administrator's denial of 02VAR-00000-00007 and 02CDH-00000-00015.
4. Approve the Variance 02VAR-00000-00007 and Coastal Development Permit 02CDH-00000-00015, subject to the conditions of approval included as Attachment C and D.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by law or by routine business necessity.

Project Background:

Project Description

The proposed project consists of a remodel and addition to an existing 8,306 square foot single-family residence. The remodel portion of the project would convert an approximately 700 square foot attached three-car garage into a study and a bedroom. The proposed addition includes a new 1,072 gross square foot attached 4-car garage and 746 gross square feet of bathrooms, a sauna, laundry, storage, hall and an elevator. The proposal also includes enclosing 135 square feet of terrace area for covered access to the elevator. The proposed project would increase the maximum average height of the residence to 28.5 feet, although the highest point of the structure does not increase. Therefore, the application also includes a Variance request to exceed the required height limit of 25 feet by 3.5 feet. Additional site work includes a proposed terrace and pergola above the new garage, a new garage apron and paved driveway utilizing an existing gate and driveway entrance on Butterfly Lane (the parcel has dual frontage/access). The project also includes the planting of nine Catalina ironwood trees in the butterfly conservation easement area and olive trees along the edge of the proposed new driveway, as part of the butterfly habitat enhancement plan approved by the Board of Supervisors on March 16, 2004. The primary access would be provided from Butterfly Lane, and secondary access would be provided from The Fairway Road. The property currently takes its primary access from The Fairway Road. The project would require an estimated 607 cubic yards of cut and 220 cubic yards of fill. The Montecito Water District would provide water service, the Montecito Sanitary District would provide sewer service to the property, and the Montecito Fire District would provide fire protection.

Project History

On March 3, 2003, the Zoning Administrator denied the requested variance (02VAR-00000-00007) and Coastal Development Permit (02CDH-00000-00015), and Derek Westen (on behalf of the property owner, Jim Damron) submitted a timely appeal of the decision on March 13, 2003. The Zoning Administrator was the decision-maker on this project because the Montecito Planning Commission had not yet been established.

Building Height Calculations

Due to the method by which building height is calculated per Article II (Coastal Zoning Ordinance), construction of the attached garage requires the resulting structure (the residence with the attached garage) to obtain a variance from the 25-foot height requirement of the 1-E-1 Zone District in the Coastal Zone. Specifically, building height is measured from finished grade to the mean height of the highest gable of a pitch roof. Because this site slopes steeply from east to west, the proposed garage is at a lower elevation than the remainder of the house, and subsequently its distance to the mean height of the highest gable is greater. Therefore, the average height of the structure increases with the construction of the new garage, although the actual height of the structure at its highest point does not increase (see the site plan included as Attachment H for more information).

The processing of this appeal was not initiated until February 2005 partly because Planning & Development is exploring the application of a revised definition of “building height,” which would change the zoning ordinance’s methodology for calculating building height on sloping parcels¹. If the revised definition is applied to this project, the new garage would *not* require a variance from the height requirements. P&D, along with local architects, has drafted a revised definition of building height and is in a trial period of applying this revised definition to structures on sloping parcels, such as the subject property. The goal of this definition is to encourage structures to follow the contours of the landscape. However, implementation of this revised definition is not anticipated to occur within a reasonable timeframe for the applicant because the subject property is located within the Coastal Zone and the ordinance amendment therefore requires Coastal Commission approval. P&D is proposing to present the ordinance amendment for this revised definition to the Board of Supervisors after the trial period is completed. Based upon past experience, the Coastal Commission certification process could take an additional year or more after Board of Supervisors’ final action.

Appeal Issues Discussion:

At this hearing, your Board’s decision is to determine whether or not the findings for a variance from the height requirements can be made. The ability to make the findings for the variance is the foundation for approving the Coastal Development Permit, because the variance would allow the residence to legally exceed the height limit for the 1-E-1 Zone District of Article II (Coastal Zoning Ordinance). The findings for a variance and a discussion of each is below. Please see

¹ See staff’s March 8, 2005 Board of Supervisors letter for additional discussion on the timeline for processing of this appeal.

the Zoning Administrator's action letter (Attachment E) for the original findings for denial of the variance. Also, please see Attachment A of this staff report for possible findings for approval of the variance and Coastal Development Permit.

Variance Findings

- 1. Because of special circumstances applicable to the property, including but not limited to size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification.**
- 2. The granting of the Variance shall not constitute of grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.**

No other structures in the vicinity exceed the height limit. Additionally, with approval of the variance, the height of the east elevation would measure approximately 41.8 feet from finished grade to the mean height of the highest gable, substantially taller than the elevations of nearby residences. Additionally, the applicant already enjoys an attached garage on the west side of the structure. Therefore, the Zoning Administrator found that the property has the same privileges of properties in the vicinity (and therefore could not make Finding #1), and that granting the variance request would constitute a granting of special privileges for this property owner, in conflict with Finding #2.

However, as stated earlier, the proposed project would not require a variance from the height limit according to the proposed revised height definition. Additionally, the new garage addition would not increase the height of the highest roof of the existing residence. The appellant argues in his February 28, 2003 (Attachment F) letter that properties in the vicinity have safe access to and from their residence; granting the variance would not constitute a grant of special privileges because the property is currently denied the privilege of safe access due to the current condition of The Fairway Road.

- 3. Granting of the Variance will not be in conflict with the intent and purpose of Article II or the adopted Santa Barbara County Coastal Land Use Plan.**

Coastal Land Use Plan Policy 4-4 states: "In areas designated as urban on the land use plan maps, and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community." The Zoning Administrator found the proposed new garage addition to be inconsistent with the scale and character of the existing community because it would exceed the recommended floor area for a structure on a parcel of approximately 0.94 acres. Specifically, the existing residence currently exceeds the recommended Floor Area by approximately 53%, and with the proposed additional square footage of the garage and the living area converted from the existing garage, the residence would exceed the recommended

floor area by 89%. Additionally, upon completion of the proposed garage addition, the residence would appear to be a four-story structure when viewed from Butterfly Lane. There are no other residences on Butterfly Lane with a four-story elevation. Since the variance would facilitate the residence's incompatibility with the existing community, the Zoning Administrator could not make Finding #3.

However, the appellant argues in his February 28, 2003 letter that although the residence would exceed the recommended floor area, it is smaller than several residences in the immediate area. Additionally, as the residence is well screened from Butterfly Lane by a six-foot high wall and extensive landscaping, the proposed new garage would not substantially change the character of the site in relation to other properties on Butterfly Lane. The conversion of the existing garage to living area would also not contribute to the size, bulk, and scale of the residence as viewed from The Fairway Road because it would utilize existing square footage. The Montecito Board of Architectural Review conceptually reviewed the proposed design of the attached garage on March 28, 2005. The draft minutes from this hearing are included as Attachment G. The MBAR did not believe that the new garage added to the bulk and scale of the existing residence, and that the existing and proposed landscaping would "mute the massing" from Butterfly Lane. Final approval of the structure from the MBAR would be required prior to issuance of the Coastal Development Permit. See Attachments J and K for elevations of the existing residence with the proposed new garage.

Mandates and Service Levels:

Pursuant to the Section 35-182.3 of Article II (Coastal Zoning Ordinance), a decision of the Zoning Administrator may be appealed to the Board of Supervisors by the applicant or an aggrieved person.

Fiscal and Facilities Impacts:

As the property that is the subject of this appeal is located within the Appeals Jurisdiction of the Coastal Zone, there is no filing fee. Planning & Development will offset costs of processing the appeal, which is estimated to be approximately \$2,900.00 and is budgeted in Development Review, South Division, on page D-290 of Planning & Development's 2004-2005 fiscal year budget.

Special Instructions:

Clerk of the Board shall complete noticing in the Santa Barbara News-Press and shall complete the mailed noticing of the project at least ten (10) days prior to the hearing (mailing labels attached will be provided with materials docketed for the departmental hearing).

Clerk of the Board shall forward a copy of the Minute Order to P&D, Attn: Cintia Mendoza, Hearing Support.

Concurrence:

n/a.

Attachments:

- A. Findings for approval of 02CDH-00000-00007 & 02CDH-00000-00015
- B. CEQA Exemption
- C. Conditions of Approval for 02VAR-00000-00007
- D. Coastal Development Permit & Conditions of Approval for 02CDH-00000-00015
- E. Zoning Administrator's March 10, 2003 Action Letter
- F. Appellant's February 28, 2003 letter to the Zoning Administrator
- G. Draft MBAR minutes from March 28, 2005 hearing
- H. Site Plan
- I. Landscape Plan with Butterfly Habitat Enhancement Plan
- J. Elevations
- K. Close-up of East Elevation (with proposed new garage)