

# STAFF REPORT



# ITEM NO. 12 CITY OF OCEANSIDE

DATE: November 12, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Development Services Department/Planning Division

SUBJECT: **ADOPTION OF A RESOLUTION APPROVING VARIANCE (V-15-07) FOR A REDUCED SIDE YARD SETBACK FOR A RECREATIONAL VEHICLE GARAGE ADDITION TO A SINGLE-FAMILY RESIDENCE LOCATED AT 796 MUIRWOOD DRIVE – SING VARIANCE – APPLICANT/APELLANT: RICK SING**

## **SYNOPSIS**

This item is for adoption of a resolution granting the appeal of Planning Commission Resolution No. 2008-P44 and approving Variance (V-15-07) requesting a reduced side yard setback for a recreational vehicle garage addition to a single-family residence located at 796 Muirwood Drive, to confirm the City Council's action of September 3, 2008.

## **BACKGROUND**

On July 28, 2008, the Planning Commission approved on a 5-to-1 vote, with 1 Commissioner absent, Resolution 2008-P44 to deny without prejudice a Variance. Following the Planning Commission hearing and prior to the end of the appeal period, an appeal was filed by Mr. Rick Sing requesting that the application for entitlement be presented to the City Council.

On September 3, 2008, the City Council considered and granted the appeal, overturning Planning Commission's decision, with a 4-to-1 vote.

## **ANALYSIS**

The City Council determined that the development proposal is consistent with and will not be detrimental to the character of the surrounding neighborhood. More specifically, the Council found that the size, shape, topography, and surroundings of the lot are not typical for the surrounding area. At 12,305 square feet, the subject property is larger than the neighboring properties and is, therefore, distinctive in size and character. In addition, the topography of the property places it ten feet lower in elevation than the neighbor to the south. This is the only neighbor to be impacted by the reduced side

yard setback and the elevation difference between the two properties creates a unique situation. The granting of this variance will not negatively impact this neighboring property. In addition, the granting of the application would not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

**FISCAL IMPACT**

Not applicable.

**CITY ATTORNEY'S ANALYSIS**

The referenced documents have been reviewed by the City Attorney and approved as to form.

**RECOMMENDATION**

This item is for adoption of a resolution granting the appeal of Planning Commission Resolution No. 2008-P44 and approving Variance (V-15-07) requesting a reduced side yard setback for a recreational vehicle garage addition to a single-family residence located at 796 Muirwood Drive, to confirm the City Council's action of September 3, 2008.

PREPARED BY

  
Sally Schiffman  
Planner II

SUBMITTED BY

  
Peter A. Weiss  
City Manager

SS/JH/vnm

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager  
George Buell, Development Services Director  
Jerry Hittleman, City Planner



ATTACHMENT:

- 1. City Council Resolution

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**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
OCEANSIDE GRANTING THE APPEAL OF PLANNING  
COMMISSION RESOLUTION NO. 2008-P44 AND  
APPROVING VARIANCE (V-15-07) FOR A REDUCED SIDE  
YARD SETBACK FOR REAL PROPERTY LOCATED AT 796  
MUIRWOOD DRIVE**

**(Rick Sing – Appellant/Applicant)**

WHEREAS, an application has been submitted for a Variance (V-15-07) to allow for a reduced side yard setback on property located at 796 Muirwood Drive, to which such real property is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference;

WHEREAS, on July 28, 2008, the Planning Commission of the City of Oceanside, after holding a duly advertised public hearing, adopted Resolution No. 2008-P44, denying said Variance (V-15-07);

WHEREAS, on August 5, 2008, an appeal was timely filed by Rick Sing, of the Planning Commission decision with the City Clerk of the City of Oceanside;

WHEREAS, on September 3, 2008, the City Council of the City of Oceanside held a duly noticed public hearing and heard and considered all evidence and testimony by all interested parties concerning the appeal of the denial of the above identified Variance (V-15-07);

WHEREAS, based on such evidence and testimony, this Council finds as follows:

1. The size, shape, topography, location, and surroundings of the lot are not typical for the surrounding area. At 12,305 square feet, the subject property is larger than the neighboring properties and is therefore, distinctive in size and character. In addition, the topography of the property places it ten feet lower in elevation than the neighbor to the south. This is the only neighbor to be impacted by the reduced side yard setback and the elevation difference between the two properties creates a unique situation. The granting of this variance will not negatively impact this neighboring property.

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1           2.       The granting of the application would not be detrimental or injurious to property  
2 or improvements in the vicinity of the development site, or to the public health, safety or  
3 general welfare. Only the neighbor to the south of the project site would be potentially  
4 impacted by the granting of the Variance. This neighbor has provided written support of the  
5 proposed project.

6           3.       That granting the application is consistent with the purposes of the zoning  
7 ordinance and will not constitute a grant of special privilege inconsistent with limitations on  
8 other properties in the vicinity and in the same zoning district. Many other homes in the  
9 surrounding neighborhood have five foot side yard setbacks.

10           NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as  
11 follows:

12           1.       Pursuant to CCP Section 1094.6(f), notice is hereby given that the time within  
13 which judicial review must be sought on this decision is governed by CCP Section 1094.6 as set  
14 forth in Oceanside City Code Section 1.10.

15           2.       The appeal to Planning Commission Resolution No. 2008-P44 is hereby granted  
16 and Variance (V-15-07) is hereby approved subject to the following conditions:

17 Building:

18           1.       Applicable Building Codes and Ordinances shall be based on the date of  
19 submittal for Building Division plan check.

20           2.       The granting of approval under this action shall in no way relieve the  
21 applicant/project from compliance with all State and Local building codes.

22           3.       The building plans for this project are required by State law to be prepared by a  
23 licensed architect or engineer and must be in compliance with this requirement prior to  
24 submittal for building plan review.

25           4.       Compliance with the Federal Clean Water Act (BMP's) must be demonstrated on  
26 the plans.

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1           5.       The developer shall monitor, supervise and control all building construction and  
2 supporting activities so as to prevent these activities from causing a public nuisance, including,  
3 but not limited to, strict adherence to the following:

4           a.       Building construction work hours shall be limited to between 7 a.m. and 6 p.m.  
5 Monday through Friday, and on Saturday from 7 a.m. to 6 p.m. for work that is not inherently  
6 noise-producing. Examples of work not permitted on Saturday are concrete and grout pours,  
7 roof nailing and activities of similar noise-producing nature. No work shall be permitted on  
8 Sundays and Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day,  
9 Thanksgiving Day, Christmas Day) except as allowed for emergency work under the provisions  
10 of the Oceanside City Code Chapter 38 (Noise Ordinance).

11          b.       The construction site shall be kept reasonably free of construction debris as  
12 specified in Section 13.17 of the Oceanside City Code. Storage of debris in approved solid  
13 waste containers shall be considered compliance with this requirement. Small amounts of  
14 construction debris may be stored on site in a neat, safe manner for short periods of time  
15 pending disposal.

16          6.       Construction plans submitted to the Building Division after January 1, 2008 must  
17 comply with the State California Building Codes.

18          7.       A complete set of Structural Calculations & Energy Calculations/documentation  
19 will be required at time of plans submittal to the Building Division for plan check.

20 Planning:

21          8.       This Variance approves only the following: A reduction of the interior south side  
22 yard setback to five feet for a recreational vehicle garage. Any substantial modification in the  
23 design or layout of the recreational vehicle garage shall require a revision to the Variance.

24          9.       This Variance shall expire 24 months from the date of adoption unless  
25 implemented in accordance with the City of Oceanside Zoning Ordinance.

26          10.       Elevations, siding materials, colors, roofing and floor plans of the garage shall be  
27 substantially the same as those approved by the City Council. These shall be shown on plans  
28 submitted to the Building and Planning Divisions.

1           11.     The recreational vehicle garage shall be kept available and useable for the  
2 parking of the motorized vehicles at all times. This shall not be construed to prohibit the  
3 conduct of activities within the subject garage on a temporary basis.

4           12.     A covenant or other recordable document approved by the City Attorney shall be  
5 prepared by the applicant and recorded prior to the issuance of building permits. The covenant  
6 shall provide that the property is subject to this Resolution, and shall generally list the  
7 conditions of approval.

8           13.     Prior to the transfer of ownership and/or operation of the site, the owner shall  
9 provide a written copy of the application, staff report and approving resolution for the project to  
10 the new owner and/or operator. This notification provision shall run the life of the project.

11           14.     Unless expressly waived, all current zoning standards and City ordinances and  
12 policies in effect at the time building permits are issued are required to be met by this project.  
13 The approval of the project constitutes the applicant's agreement with all statements in the  
14 Description and Justification and other materials and information submitted with this  
15 application, unless specifically waived by an adopted condition of approval.

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1           15.     Failure to meet any conditions of approval for this development shall constitute a  
2 violation of the Variance.

3           PASSED by the City Council of the City of Oceanside, California this 3rd day of  
4 September, 2008 by the following vote:

5 AYES:

6 NAYS:

7 ABSENT:

8 ABSTAIN:

9           AND ADOPTED by the City Council of the City of Oceanside, California this 12th  
10 day of November, 2008 by the following vote:

11 AYES:

12 NAYS:

13 ABSENT:

14 ABSTAIN:

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17 ATTEST:

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Mayor of the City of Oceanside

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

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21 \_\_\_\_\_  
22 City Clerk

  
\_\_\_\_\_  
City Attorney

## **EXHIBIT 'A'**

Date: **December 06, 2007**

File No.: **2953015 ( 09)**

**LOT 347 OF MISSION SANTA FE LOTS 6, 7, 8, 9 AND 10, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 11952, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 13, 1987, AS CORRECTED BY CERTIFICATE OF CORRECTION RECORDED MAY 22, 1989 AS DOCUMENT NO. 89-268903 OF OFFICIAL RECORDS.  
A.P.N. 158-505-62-00**