

# STAFF REPORT



# ITEM NO. 7 CITY OF OCEANSIDE

DATE: September 3, 2008

TO: Honorable Mayor and Members of the City Council

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A RESOLUTION DENYING 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/APPELLANT: RICK SING**

## **SYNOPSIS**

The item under consideration is a review of the Planning Commission's decision to deny without prejudice 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.

An appeal of the Planning Commission decision was timely filed by the applicant, Mr. Rick Sing, on August 5, 2008.

Staff is recommending that following the review, the City Council deny the request for appeal and uphold the Planning Commission's decision to deny the project based on the findings contained in the attached City Council resolution. Staff also recommends that the City Council adopt the resolution.

## **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.

**Site Review:** The site is located at 796 Muirwood Drive and is within the Guajome Neighborhood. The zoning designation for the site is RE-B (Residential Estate – B) and the General Plan Land Use Category is EB-R (Estate B Residential). Surrounding land uses include single-family residential properties to the north, east, south and west.

**Project Description:** The project application is comprised of one component: a variance.

Variance (V-15-07): represents a request for the following:

- (a) A five-foot (5') side yard setback in lieu of the minimum 7.5 feet (7'6") required by Section 1050 of the OZO.

The applicant is proposing to construct a 2,309-square-foot addition to an existing single-family home. The addition would include 1,231 square feet of living space including a mud room, a game room with a wet bar, and a second story gym. The remaining 1,078 square feet (23' x 44') would be a new RV garage to house both an RV and a boat. The RV garage portion of the proposed addition, as designed, encroaches 2.5 feet into the required setback area of 7.5 feet. Therefore, the applicant has requested a Variance.

### **ANALYSIS**

In reviewing an application for a Variance, the following findings must be made:

1. That because of special circumstances or conditions applicable to the development site, including size, shape, topography, location or surroundings strict application of the requirements of the Zoning Ordinance deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
2. That granting the application will 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.
3. That granting the application is consistent with the purposes of the Zoning Ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

The Planning Commission and staff were unable to make the findings necessary to support the granting of a Variance resulting in a recommendation of denial.

The appellant disagrees with the Planning Commission's findings for the denial of Variance V-15-07. The issues raised by the appellant and staff's responses to these issues are listed below.

Issue 1: *The resolution deprives the Sings of privileges enjoyed by 44 percent of their neighboring property owners.*

Response: The subject property was developed as part of a 387-lot subdivision called Mission Santa Fe Parcels 6, 7, 8, 9, and 10. The Mission Santa Fe project was submitted in 1986 and designed under the 1986 Zoning Ordinance. Building began in 1988, after the current Zoning Ordinance had been adopted. Under the 1986 Zoning Ordinance, the minimum side yard setback requirement was 5 feet. The current Zoning

Ordinance requires a minimum side yard setback of 7.5 feet.

The developer designed and developed 170 lots within the subdivision (44 percent) with a minimum side yard setback measuring below 7.5 feet. Further staff investigation determined that half of those lots (85) were developed with a minimum side yard setback between 6 and 7.5 feet. The other 85 lots were developed with a minimum side yard setback of 5 feet.

As it currently exists, the subject property has side yard setbacks of 11 feet and 24 feet. The applicant is asking that the side yard setback that is currently 24 feet be permitted to be reduced to 5 feet. The property would maintain the 11-foot setback on the opposite side. For the other lots in the subdivision with setbacks of 7.5 feet or less, the average opposite side setback measurement is 14.9 feet. Only 26 lots out of the original 387 were developed with setbacks of 5 feet on one side and 11 feet or less on the other (the proposed setbacks). Granting this Variance would move the subject lot from the top 21 percent to the bottom 6.7 percent of side yard setback measurements. Table 1 further clarifies the setback measurements throughout the neighborhood.

Table 1

<b>Statistic</b>	<b>Number of Properties Out of Original 387</b>	<b>Percentage</b>
Properties that meet current side yard setback requirements of 7.5 feet	217 out of 387	55 percent
Properties with side yards measuring less than 7.5 feet	170 out of 387	44 percent
<ul style="list-style-type: none"> <li>• At least one side yard setback between 6 and 7.5 feet</li> </ul>	85 out of 387	22 percent
<ul style="list-style-type: none"> <li>• At least one side yard setback of 5 feet</li> </ul>	85 out of 387	22 percent
Side yard setbacks equal to or less than the proposed side yard setbacks of 5 feet and 11 feet	26 out of 387	6.7 percent

More than half the properties in the subdivision are meeting or exceeding the side yard setback measurements required under the current Zoning Ordinance. Only 6.7 percent of the subdivision lots have setbacks equal to or less than the proposed setbacks. Therefore, denying this Variance request does not deprive the subject property of privileges enjoyed by the majority of other lots in the neighborhood.

*Issue 2: The resolution fails to acknowledge the benefits of securing the Sing's recreational vehicles out of visibility of neighbors as a City concern.*

Response: The City of Oceanside requirements for recreational vehicle parking do not include a requirement to enclose the vehicles in a garage. As discussed below, the side yard setback can be addressed by alternative site designs that comply with the Zoning

Ordinance.

*Issue 3: The resolution fails to recognize the relative issues of topography, lot size, elevations, and structural limitations as they relate to the Sing's interests.*

Response: The size, shape, topography, location, and surroundings of the lot are typical for the surrounding area. At 12,305 square feet, the subject property is larger than the required 10,000-square-foot lot size in a Residential Estate District. In addition, the topography of the property is flat and the lot is rectangular in shape, with no unusual physical features. The City of Oceanside requirements for recreational vehicle parking do not include a requirement to enclose the vehicles in a garage. Additionally, the required 7.5-foot side yard setback can be met by alternative site designs that comply with the Zoning Ordinance. These alternatives include covering, but not enclosing, the recreational vehicles, reducing the size of the proposed addition and moving the garage 2.5 feet to the north, and/or providing an enclosed garage for only one recreational vehicle rather than both a boat and an RV.

*Issue 4: The resolution fails to address the support and interests of the neighborhood.*

Response: Planning Commission Resolution 2008-P44 does recognize that 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. Only the neighbor to the south of the project site would be potentially impacted by the granting of the Variance. This neighbor has provided written support of the proposed project. In addition, three neighbors spoke in favor of the project during the public hearing on July 28, 2008, and public testimony was taken into consideration prior to the Planning Commission's final vote.

*Issue 5: The resolution fails to acknowledge and take into account the setback changes from neighborhood development approval to present, and the impact to the Sings and their property interests.*

Response: The side yard setback for the subject property has been 7.5 feet since 1988. No changes have occurred to the setback requirements for the RE-B zoning district in the last 20 years. There have been three building permits issued for construction at this site since the applicant took possession of the home in the early 1990s. At least one of these three building permits required demonstration of compliance with side yard setback regulations. The applicant was aware of the setback requirements prior to submitting for the Variance request. Furthermore, there are opportunities for alternative designs that would be consistent with the requirements of the Zoning Ordinance.

*Issue 6: The resolution failed to grant Variance V-15-07 as outlined in the application.*

Response: The Planning Commission and staff were unable to make the findings necessary to support the granting of a Variance. The Planning Commission upheld staff's recommendation and denied the Variance.

## **FISCAL IMPACT**

Not applicable.

## **COMMISSION OR COMMITTEE REPORT**

The Planning Commission reviewed the project on July 28, 2008. After hearing considerable public testimony from area residents, as well as the applicant, the Commission denied the project without prejudice by a 5-to-1 vote (1 absent). The Commissioners established findings that concluded that there are no physical constraints existing on the property that require the project to be designed as proposed and granting the Variance would be precedent-setting in regards to future RV parking structures in residential neighborhoods.

## **CITY ATTORNEY'S ANALYSIS**

The City Attorney's Office has reviewed the proposed resolution and approved it as to form.

In accordance with Section 4605 of the Zoning Ordinance, the City Council shall consider the same application, plans, and related project materials that were the subject of the original decision denying the project without prejudice by the Planning Commission.

The City Council shall review the record of the decision and hear testimony from staff, the applicant, and any interested parties.

After the public hearing, the City Council shall affirm, modify or reverse the Planning Commission's decision. If a decision is modified or reversed, the City Council shall state the specific reasons for the modification or reversal.

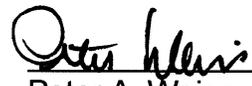
**RECOMMENDATION**

The proposed Variance is not consistent with the requirements of the Oceanside Zoning Ordinance and the land use policies of the General Plan. There are no physical constraints existing on the property that require the project to be designed as proposed. Granting this Variance would be precedent-setting in regards to future RV parking structures in residential neighborhoods. Staff does not believe that the project meets the findings for the Variance. As such, staff recommends that the City Council uphold the Planning Commission's decision and adopt the resolution denying the appeal.

PREPARED BY:

  
Sally Schifman  
Planner II

SUBMITTED BY:

  
Peter A. Weiss  
City Manager

REVIEWED BY:

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



ATTACHMENTS:

1. Site Plans
2. City Council Resolution
3. Planning Commission Resolution No. 2008-P44
4. Planning Commission Staff Report dated August 28, 2008
5. Appeal



**AGYN**  
 ARCHITECTURAL GROUP  
 1785 MARWOOD DRIVE  
 OCEANSIDE, CA 92051  
 TEL: 760-771-9778  
 WWW.AGYN.COM

CONSULTANT

PROPOSED GARAGE / GAME ROOM  
 ADDITION  
 FOR MR. SING

DATE: 05/01/07  
 SCALE: AS NOTED  
 DRAWN BY: KAC

PROJECT # 07-008  
 SHEET AS-1



VICINITY MAP  
 1785 MARWOOD DRIVE OCEANSIDE, CA 92051

DATE: 05/01/07  
 DRAWN BY: KAC

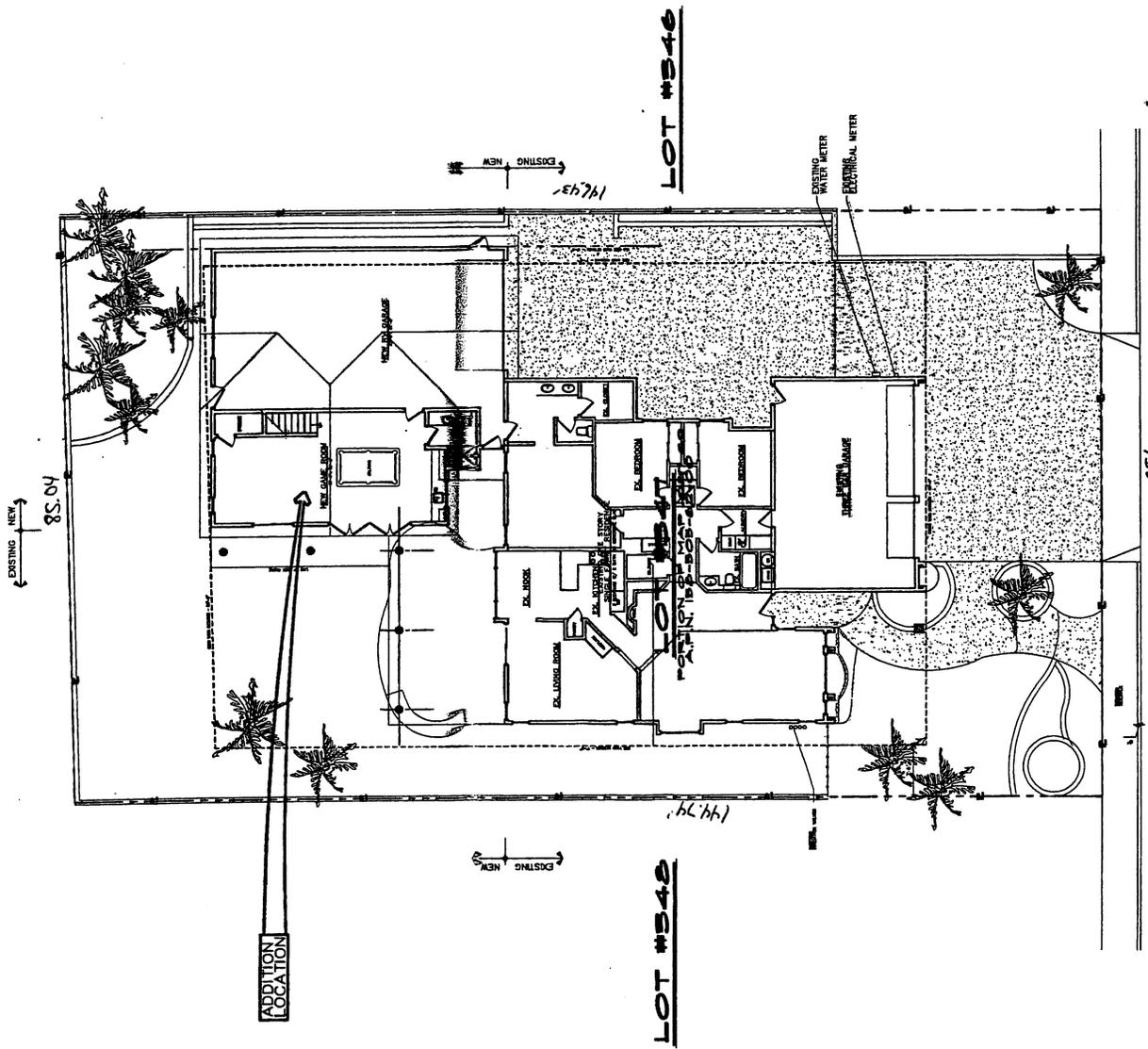
DEVELOPMENT REGULATIONS

Item	Required	Proposed
Block Yield	1.5	1.5
Block Yield	2.5	2.5
Block Yield	20	20
Lot Coverage	35%	34.80%

EXISTING CONDITIONS

EXISTING LOT SIZE:	12,308 SQ. FT.
EXISTING LOT SIZE (AS):	1,078 SQ. FT.
EXISTING RESIDENCE:	1,920 SQ. FT.
EXISTING GARAGE:	955 SQ. FT.
EXISTING TOTAL UNDER ROOF:	2,875 SQ. FT.
ALLOWABLE NEW FOOTPRINT:	1,731 SQ. FT.

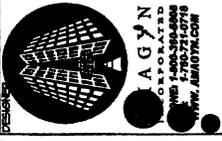
ADDITION FOOT PRINT:	1,721 SQ. FT.
GARAGE ADDITION:	1,078 SQ. FT.
CONDITIONED SPACE ADDITION:	1,231 SQ. FT.
TOTAL ADDITION:	2,309 SQ. FT.
TOTAL UNDER ROOF:	4,040 SQ. FT.



SITE PLAN  
 SCALE: 1/8"=1'-0"







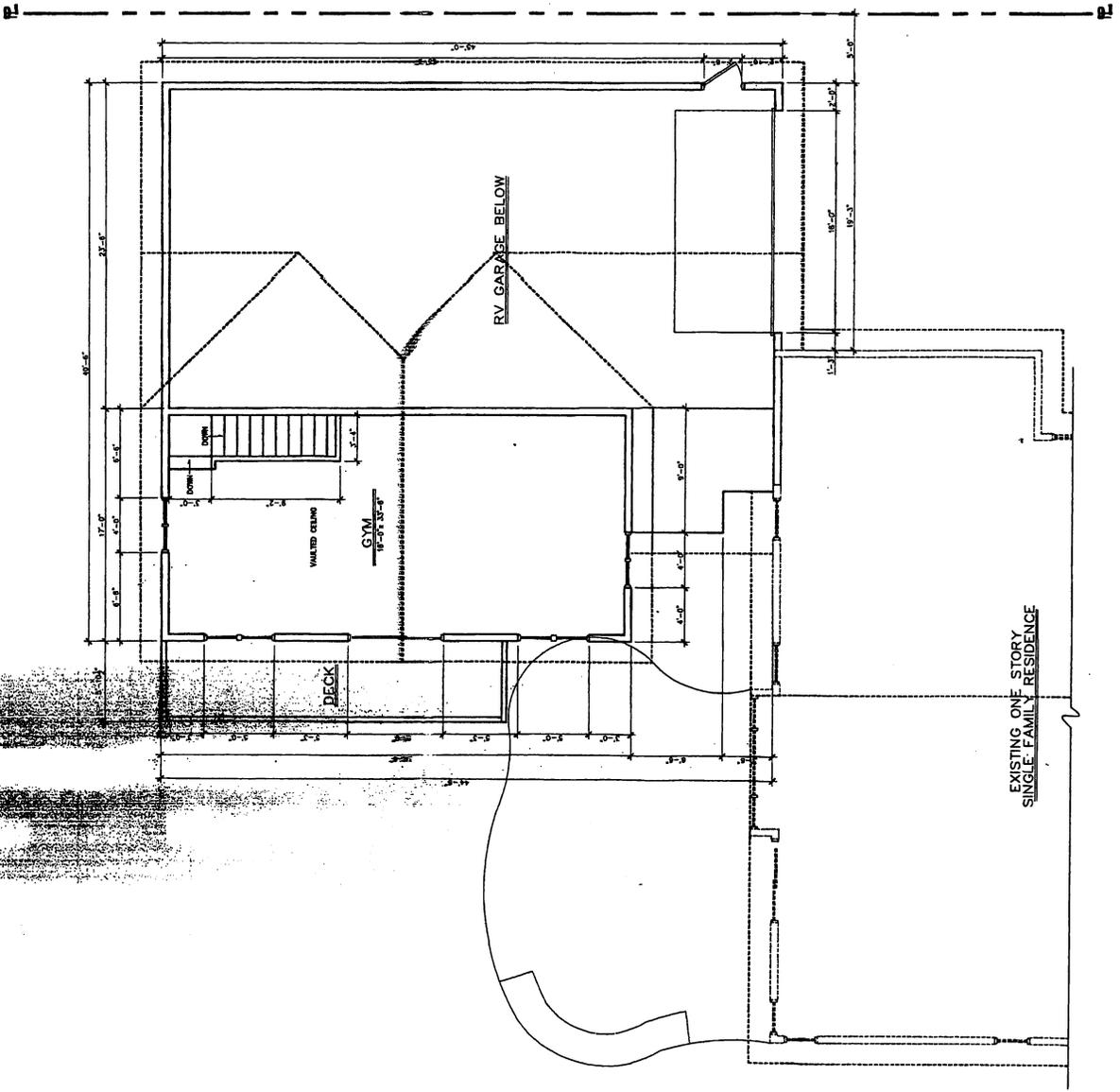
AGYN  
CONSULTANT  
1400 14th Street  
San Francisco, CA 94103  
Tel: 415-774-0900  
Fax: 415-774-0901  
www.agyn.com

PROJECT  
PROPOSED GARAGE / GAME ROOM  
ADDITION  
FOR MR. SING  
LOT # 02  
746 HURWOOD DRIVE OCEANSIDE, CA 92081

DATE: 05/08/07  
SCALE: AS NOTED  
DRAWN BY: KMC  
TITLES: DEMOLITION PLAN  
BUILDING SECTIONS

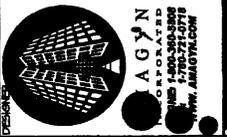
REVISIONS	NO.	DATE	DESCRIPTION

PROJECT # 07-0103  
SHEET A-3



**LOFT FLOOR PLAN PROPOSED**  
SCALE 1/4"=1'-0"





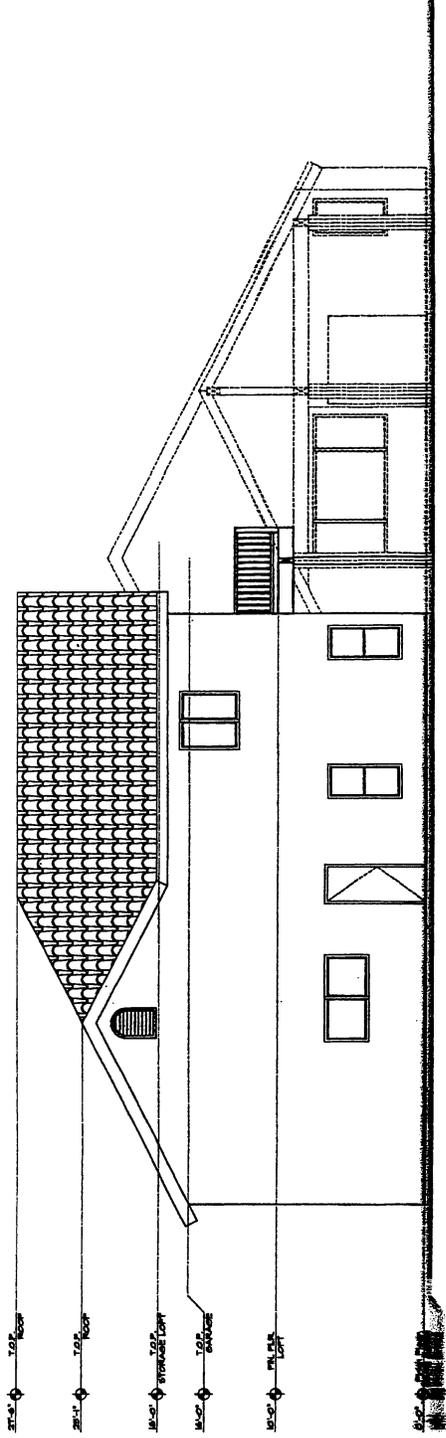
AGY N  
CORPORATED  
1400 S. 1000th Street  
Tulsa, Oklahoma 74119  
www.agyn.com

PROJECT  
PROPOSED GARAGE / GAME ROOM  
ADDITION  
FOR MR. SING  
LOT # 02  
796 WILLOW DRIVE OCEANSIDE, CA 92081

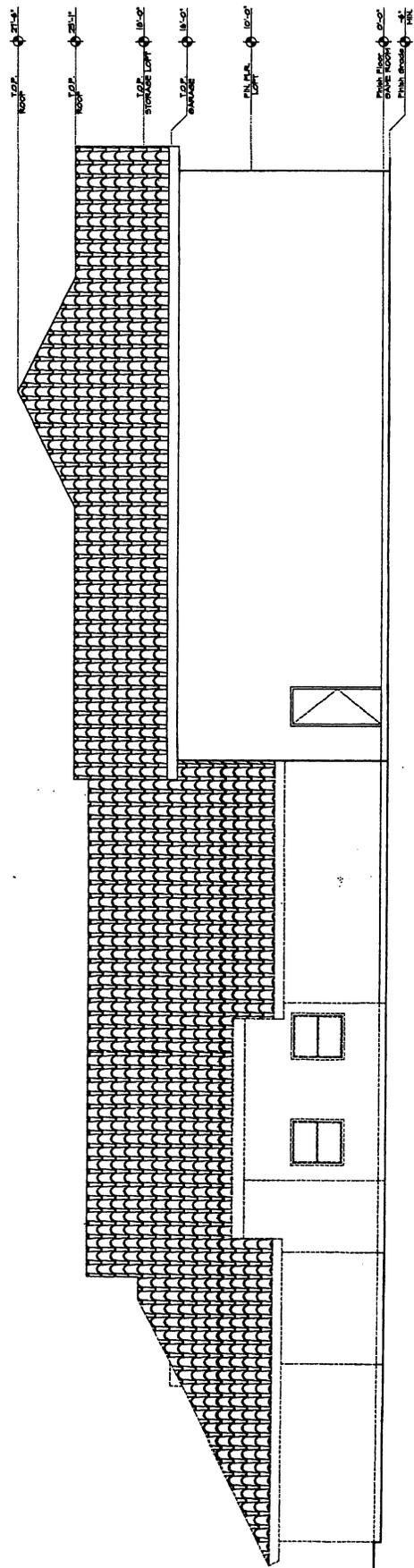
TITLE  
ELEVATIONS  
DATE 05/08/10  
SCALE AS NOTED  
DRAWN BY KAC

REVISIONS  
1-1

PROJECT # 06-00218  
SHEET  
**A-5**  
- OF -



**REAR ELEVATION**  
SCALE 1/4"=1'-0"



**RIGHT ELEVATION**  
SCALE 1/4"=1'-0"

RESOLUTION NO.

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

(Rick Sing – Applicant/Appellant)

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, including but not limited to the report of the Planning Division, the City Council of the City of Oceanside finds that the decision of the Planning Commission did adequately and properly address concerns raised concerns by the appellant;

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

- 1. The appeal of Planning Commission Resolution No. 2008-P44 is denied based upon review of the entire record, including the public testimony provided at the Planning Commission

1 and the City Council public hearings and all records in the file.

2       2.       The size, shape, topography, location, and surroundings of the lot are typical for the  
3 surrounding area. At 12,305 square feet, the subject property is larger than the required 10,000-  
4 square foot lot size in a Residential Estate District. In addition, the topography of the property is  
5 flat and the lot is rectangular in shape, with no unusual physical features. There are opportunities  
6 for alternative designs that would be consistent with the purposes of the zoning ordinance for yard  
7 setback areas. The City of Oceanside requirements for recreational vehicle parking do not include  
8 a requirement to enclose the vehicles in a garage. The side yard setback can be addressed by  
9 alternative site designs that comply with the zoning ordinance, including, but not limited to, not  
10 enclosing the recreational vehicles, reducing the size of the proposed addition and moving the  
11 garage 2.5 feet to the north, and/or providing an enclosed garage for only one recreational vehicle  
12 rather than both a boat and an RV.

13       3.       That granting the application is not consistent with the purposes of the zoning  
14 ordinance and will constitute a grant of special privilege inconsistent with limitations on other  
15 properties in the vicinity and in the same zoning district. The City of Oceanside requirements for  
16 recreational vehicle parking do not include a requirement to enclose the vehicles in a garage. The  
17 side yard setback can be addressed by alternative site designs that comply with the zoning  
18 ordinance. The granting of this Variance would be precedent-setting for future recreational  
19 vehicle parking structures throughout the neighborhood and, potentially, in Residential Estate  
20 Districts throughout the City.

21       NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE as  
22 follows:

- 23       1.       The appeal of Planning Commission Resolution No. 2008-P44 is denied.  
24       2.       Planning Commission Resolution No. 2008-P44 denying Variance (V-15-07) is  
25 hereby upheld.

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

4 PASSED AND ADOPTED by the City Council of the City of Oceanside, California this  
5 \_\_\_\_\_ day of \_\_\_\_\_, 2008 by the following vote:

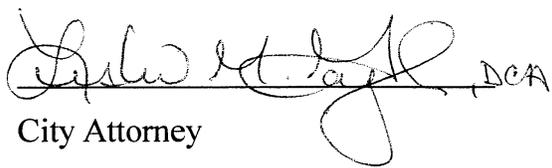
- 6 AYES:
- 7 NAYS:
- 8 ABSENT:
- 9 ABSTAIN:

10  
11 \_\_\_\_\_  
12 Mayor of the City of Oceanside

13  
14 ATTEST:

15 APPROVED AS TO FORM:  
16 OFFICE OF THE CITY ATTORNEY

17  
18 \_\_\_\_\_  
19 City Clerk

20   
21 \_\_\_\_\_ DCA  
22 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**

PLANNING COMMISSION  
RESOLUTION NO. 2008-P44

A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF OCEANSIDE, CALIFORNIA DENYING WITHOUT  
PREJUDICE A VARIANCE ON CERTAIN REAL PROPERTY  
IN THE CITY OF OCEANSIDE

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APPLICATION NO: V-15-07  
APPLICANT: Rick Sing  
LOCATION: 796 Muirwood Drive

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THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Variance under the provisions of Articles 10 and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

a reduced side yard setback for a recreational vehicle garage addition to a single-family residence;

on certain real property described in the property description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 28<sup>th</sup> day of July, 2008 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

WHEREAS, studies and investigations made by this Commission and in its behalf reveal the following facts:

FINDINGS:

For Denying the Variance:

1. The size, shape, topography, location, and surroundings of the lot are typical for the surrounding area. At 12,305 square feet, the subject property is larger than the required 10,000-square foot lot size in a Residential Estate District. In addition, the topography of the property is flat and the lot is rectangular in shape, with no unusual physical features. There are opportunities for alternative designs that would be consistent with the purposes of the zoning ordinance for yard setback areas. The City of Oceanside

1 requirements for recreational vehicle parking do not include a requirement to enclose  
2 the vehicles in a garage. The side yard setback can be addressed by alternative site  
3 designs that comply with the zoning ordinance, including, but not limited to, not  
4 enclosing the recreational vehicles, reducing the size of the proposed addition and  
5 moving the garage 2.5 feet to the north, and/or providing an enclosed garage for only  
6 one recreational vehicle rather than both a boat and an RV.

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

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1 3. That granting the application is not consistent with the purposes of the zoning  
2 ordinance and will constitute a grant of special privilege inconsistent with limitations  
3 on other properties in the vicinity and in the same zoning district. The City of  
4 Oceanside requirements for recreational vehicle parking do not include a requirement to  
5 enclose the vehicles in a garage. The side yard setback can be addressed by alternative  
6 site designs that comply with the zoning ordinance. The granting of this Variance  
7 would be precedent-setting for future recreational vehicle parking structures throughout  
8 the neighborhood and, potentially, in Residential Estate Districts throughout the City.

9 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
10 deny without prejudice Variance (V-15-07).

11 PASSED AND ADOPTED Resolution No. 2008-P44 on July 28, 2008 by the  
12 following vote, to wit:

13 AYES: Troisi, Balma, Martinek, Parker and Rosales

14 NAYS: Neal

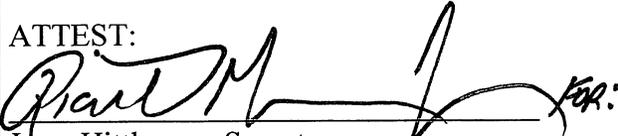
15 ABSENT: Bertheaud

16 ABSTAIN: None

17 

18 Claudia Troisi, Chairperson  
19 Oceanside Planning Commission

20 ATTEST:

21  FOR:  
22 Jerry Hittleman, Secretary

23 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
24 this is a true and correct copy of Resolution No. 2008-P44.

25 Dated: July 28, 2008

## **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**



DATE: July 28, 2008

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A 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 WITHIN THE GUAJOME NEIGHBORHOOD – SING VARIANCE – APPLICANT: RICK SING**

**RECOMMENDATION**

Staff recommends that the Planning Commission, by motion:

- (1) Adopt Planning Commission Resolution No. 2008-P44 denying Variance (V-15-07) with findings attached herein.

**PROJECT DESCRIPTION AND BACKGROUND**

**Site Review:** The site is located at 796 Muirwood Drive and is within the Guajome Neighborhood. The zoning designation for the site is RE-B (Residential Estate – B) and the General Plan Land Use Category is EB-R (Estate B Residential). Surrounding land uses include single-family residential properties to the north, east, south and west.

**Project Description:** The project application is comprised of one component: a variance.

Variance (V-15-07): represents a request for the following:

- (a) A five-foot (5') side yard setback in lieu of the minimum 7.5 feet (7'6") required by Section 1050 of the OZO.

The applicant is proposing to construct a 2,309-square foot addition to an existing single-family home. The addition would include 1,231 square feet of living space including a mud room, a game room with a wet bar, and a second story gym. The remaining 1,078 square feet (23' x 44') would be a new RV garage to house both an RV and a boat. The RV garage portion of the proposed addition, as designed, encroaches 2.5 feet into the required setback area of 7.5 feet. Therefore, the applicant has requested a Variance.

The project is subject to the following Ordinances and City policies:

1. General Plan Land Use Element
2. Oceanside Zoning Ordinance

## **ANALYSIS**

### **KEY PLANNING ISSUES**

#### **1. General Plan Compliance**

The General Plan Land Use Map designation on the subject property is EB-R (Estate B Residential). The proposed project is not consistent with this designation or the goals and objectives of the City's General Plan as follows:

##### **A. Land Use Element**

###### **Goal 1.2: Site Design**

**Objective:** To provide high-quality site design, all proposed land development project shall take advantage of natural or manmade environments to maximize energy conservation, natural air circulation, public safety, visual aesthetics, private and common open space, privacy, and land use compatibility.

**Policy G:** All developments shall design parking areas to maximize efficiency, safety, convenience, and open space.

The applicant is proposing to encroach into the side yard setback by 2.5 feet. This would place a 45-foot long, 16-foot tall stuccoed garage wall five feet from the southerly property line. This wall will have one door within the first five feet of the building, but no windows. This design of the proposed garage would not provide high-quality visual aesthetics.

The addition of proposed development to the subject property would result in a total lot coverage of 34.9 percent. The maximum allowed lot coverage within an RE-B District is 35 percent. Approval of the proposed addition would not promote high-quality design of private open-space; the development would actually minimize the usable open-space on the property.

The City of Oceanside requirements for recreational vehicle parking do not include a requirement to enclose the vehicles in a garage. The required side yard setback of 7.5 feet can be met by alternative site designs, including, but not limited to, not enclosing the recreational vehicles, reducing the size of the proposed addition and moving the garage 2.5 feet to the north, and/or providing an enclosed garage for only one recreational vehicle rather than both a boat and an RV. The property owner can already utilize the existing yard space for on-site storage of his recreational vehicles and adding the proposed structure to the property does nothing to maximize an efficient, safe, convenient parking area.

## 2. Zoning Compliance

This project is located in an RE-B (Residential Estate B) zone. The following table depicts the development regulations for the underlying zone and those proposed by the project:

**Table 1.**

	REGULATION	PROPOSED
LOT SIZE	10,000 square feet	12,305 square feet (existing)
FRONT YARD	25 feet	84 feet
SIDE YARD	7.5 feet	5 feet
REAR YARD	20 feet	20 feet
LOT COVERAGE	35%	34.9%
LOT WIDTH	70 feet	85 feet
BUILDING HEIGHT	Max. 36 feet	Max. 27.5 feet
PARKING	2-car garage	3-car garage (existing) 1,078 sq. ft. garage addition

## Section 1050 (EE)

Vehicles shall not be parked in a required front yard area and shall not project beyond the front building line of the principal structure on a site, provided that such vehicles may be parked on an approved driveway. Boats, trailer, and other non-motorized vehicles parked on driveways are subject to the provisions of the Oceanside Traffic Code 13.25. All vehicles parking in side and rear yard areas must meet the following guidelines:

1. Vehicles must be parked behind a six-foot high, view-obstructing fence.
2. Vehicles must be parked on an acceptable surface of gravel, brick, or other paving surface.
3. Vehicles or portions thereof, which are visible from public or adjacent private property, must be maintained in good appearance and condition at all times, i.e. free of rust, dilapidated tarps or coverings, or deteriorated paint.
4. Vehicles must not block exterior windows or doors of habitable space in a dwelling.
5. Vehicles must not block access to utility boxes or meters.
6. At least one 36-inch clear side yard access aisle to the rear yard must be maintained on the property.

The City of Oceanside requirements for recreational vehicle parking do not include a requirement to enclose the vehicles in a garage. The side yard setback can be addressed by alternative site designs that comply with the zoning ordinance, including, but not limited to, not enclosing the recreational vehicles, reducing the size of the proposed addition and moving the garage 2.5 feet to the north, and/or providing an enclosed garage for only one recreational vehicle rather than both a boat and an RV.

## **DISCUSSION**

*Issue: Land Use Consistency with Findings for Granting Variance.*

*Recommendation: In reviewing the application for a Variance, the Planning Commission must make all of the following findings:*

1. That because of special circumstances or conditions applicable to the development site, including size, shape, topography, location or surroundings strict application of the requirements of the Zoning Ordinance deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.
2. That granting the application will 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.
3. That granting the application is consistent with the purposes of the Zoning Ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

The size, shape, topography, location, and surroundings of the lot are typical for the surrounding area. At 12,305 square feet, the subject property is larger than the required 10,000-square foot lot size in a Residential Estate District. In addition, the topography of the property is flat and the lot is rectangular in shape, with no unusual physical features. There are opportunities for alternative designs to be proposed that would be consistent with the zoning ordinance purposes for yard setback areas. The City of Oceanside requirements for recreational vehicle parking do not include a requirement to enclose the vehicles in a garage. The side yard setback can be addressed by alternative site designs that comply with the zoning ordinance, including, but not limited to, not enclosing the recreational vehicles, reducing the size of the proposed addition and moving the garage 2.5 feet to the north, and/or providing an enclosed garage for only one recreational vehicle rather than both a boat and an RV.

Approval of a reduced side yard setback has been determined by staff to be inconsistent with the purposes of this ordinance and would constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district. The side yard setback can be addressed by alternative site designs that comply with the zoning ordinance. Furthermore, the granting of this Variance would be precedent setting for future recreational vehicle parking structures throughout the neighborhood and, potentially, in Residential Estate Districts throughout the City.

### **ENVIRONMENTAL DETERMINATION**

Due to the recommendation of denial, the project does not need to be reviewed pursuant to the California Environmental Quality Act. However, in the event that staff's recommendation is overturned and the project is approved, a Class 3 categorical exemption pursuant to Article 19 Categorical Exemptions, Section 15303 New Construction or Conversion of Small Structures, of the California Environmental Quality Act would apply.

**PUBLIC NOTIFICATION**

Legal notice was published in the North County Times and notices were sent to property owners and occupants of record within a 300-foot radius of the subject property, individuals and/or organizations requesting notification, the applicant, and other interested parties. A neighborhood petition in support of the project was submitted as part of the project application and is included as an attachment. As of July 18, 2008, no additional communication supporting or opposing the request has been received.

**SUMMARY**

The proposed Variance is not consistent with the requirements of the Oceanside Zoning Ordinance and the land use policies of the General Plan. There are no physical constraints existing on the property that require the project to be designed as proposed. Granting this Variance would be precedent setting in regards to future RV parking structures in residential neighborhoods. Staff does not believe that the project meets the findings for the Variance. Therefore, staff recommends that the Planning Commission:

- Adopt Planning Commission Resolution No. 2008-P44 and deny Variance (V-15-07).

PREPARED BY:

SUBMITTED BY:

  
Sally Schifman  
Planner II

  
Jerry Hittleman  
City Planner

REVIEWED BY:   
Richard Greenbauer, Senior Planner

JH/SS/fil

Attachments:

1. Site/Elevation Plans
2. Planning Commission Resolution No. 2008-P44
3. Neighborhood Petition

Received by: SRK  
a: HD  
Copy to: G. Hilleman, Sally Schiffman  
~~M. Blasing~~  
~~B. Wayne~~

RECEIVED

AUG 5 2008

CITY CLERK OFFICE

ACCEPTANCE OF APPEAL  
(OFFICE USE ONLY)

Appeal of: PLANNING COMMISSION RESOLUTION No 2008- P44

Date of Final Action: JULY 28<sup>th</sup> Date Filed: 8/5/08

Form of Appeal: \$820 Appeal Fee \_\_\_\_\_ Petition X

Person Submitting Appeal: Rick A. Sing

Company/Developer Representative, Company Name: NONE

Name of Person who Prepared the Appeal: Rick A. Sing

RECEIVED  
AUG 06 2008  
Planning Department

Name of Spokesperson for the Appeal: Rick A. Sing

Address: 796 MUIRWOOD DR. OCEANSIDE, CA 92057

Phone Number: (60) 801-6911

E-mail and/or Fax: RASing@COX.NET

Appeals must be filed within 10 days of the date of final action. **Section 4604:** To appeal by petition for a waiver of the appeal fee, the appeal must be accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.

I hereby certify that this appeal is being submitted in accordance with the Zoning Ordinance and meets the criteria specified in Section 4604 for an appeal by petition.

Signature: [Signature]

Date: 8/5/08

Rick A. Sing  
796 Muirwood Drive  
Oceanside, CA 92057

August 5, 2008

Oceanside City Clerk  
300 N. Coast Hwy  
Oceanside, CA 92054

Ref: Appeal of Planning Commission Resolution #2008-P44

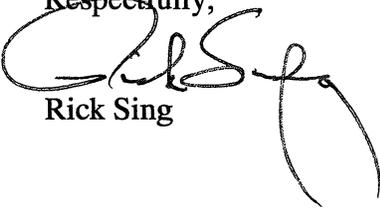
To Whom It May Concern,

This document is submitted to the Oceanside City Clerk's Office as a formal appeal to Planning Commission Resolution #2008-P44, and respectfully requests City Council consideration for approval of the Sing's 5' variance request V-15-07.

This appeal is based upon the following:

- 1.) The resolution deprives the Sing's of privileges enjoyed by 44% of their neighboring property owners.
- 2.) The resolution fails to acknowledge the benefits of securing the Sing's recreational vehicles out of visibility of neighbors as a City concern.
- 3.) The resolution fails to recognize the relative issues of topography, lot size, elevations, and structural limitations as they relate to the Sing's interests.
- 4.) The resolution fails to address and support and interests of the neighborhood.
- 5.) The resolution fails to acknowledge and take into account the setback changes from neighborhood development approval to present, and the impact to the Sing's and their property interests.
- 6.) The resolution failed to grant Variance V-15-07 as outlined in the application.

Respectfully,

  
Rick Sing

**Petition to Oceanside City Council; Call for Review  
Sing Variance (V-15-07)**

**I support the Sing's variance request for a (5) Foot Side Yard Set-back to construct an RV Garage. Given the Planning Commission's denial on July 28, 2008, I support a call for review by the City Council.**

**The Summerhill Estates Development, approved under the General Plan in 1987, permitted a five foot setback that many residents enjoy today. In fact, 44% of all residents in the development have setbacks less than the current requirement of 7.5 feet. I therefore do not consider approval to be a "grant of special privilege", but rather, a matter of fairness and equal opportunity to share the same or similar privileges of their neighbors. This is particularly appropriate as they are the original purchasers of the property dating back to 1991.**

**Additionally, I view their project to be an enhancement to our neighborhood that improves property value and reduces the visual presence of RV's.**

Ted Adams      Ted Adams      777 Muirwood Drive  
Print Name      Signature

Charles Strub      Charles Strub      781 Muirwood Drive  
Print Name      Signature

Maria A. Spivey      Maria A. Spivey      785 Muirwood Drive  
Print Name      Signature

Daniel Vickerman      Daniel Vickerman      788 Muirwood Drive  
Print Name      Signature

BLAINE WERNER      Blaine Werner      789 Muirwood Drive  
Print Name      Signature

705 BRADSHAW      705 Bradshaw      793 Muirwood Drive  
Print Name      Signature

**Petition to Oceanside City Council; Call for Review  
Sing Variance (V-15-07)**

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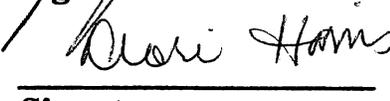
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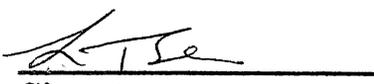
**Additionally, I view their project to be an enhancement to our neighborhood that improves property value and reduces the visual presence of RV's.**

KEITH PETERSON  794 Muirwood Drive  
Print Name Signature

Joseph Mott  797 Muirwood Drive  
Print Name Signature

Craig Newman  798 Muirwood Drive  
Print Name Signature

Alex Harris  804 Muirwood Drive  
Print Name Signature

LENNOX TSE  805 Muirwood Drive  
Print Name Signature

ROBERT P. GAUSS  811 Muirwood Drive  
Print Name Signature



## Petition to Oceanside City Council; Call for Review Sing Variance (V-15-07)

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**Additionally, I view their project to be an enhancement to our neighborhood that improves property value and reduces the visual presence of RV's.**

VARANT (FORECLOSURE)

**Print Name**

**Signature**

**4935 Frazee Road**

**Print Name**

**Signature**

**4938 Frazee Road**

Debi Wychert

**Print Name**

Debi Wychert

**Signature**

**4944 Frazee Road**

WARREN HARDINK

**Print Name**

Warren Hardink

**Signature**

**5003 Summerhill Drive**

Sylvia OBrien

**Print Name**

Sylvia OBrien

**Signature**

**5009 Summerhill Drive**

**Print Name**

**Signature**

**5013 Summerhill Drive**

**Petition to Oceanside City Council; Call for Review  
Sing Variance (V-15-07)**

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<u>Yolanda Mayers</u> <b>Print Name</b>	<u>Yolanda Mayers</u> <b>Signature</b>	<b>5017 Summerhill Drive</b>
<u>TRINA TOMLINSON</u> <b>Print Name</b>	<u>Trina Tomlinson</u> <b>Signature</b>	
<u>KENNETH M. RIES</u> <b>Print Name</b>	<u>Kenneth M. Ries</u> <b>Signature</b>	<b>4951 Chalet Drive</b>
<u>Jeff Nightingale</u> <b>Print Name</b>	<u>J. Nightingale</u> <b>Signature</b>	<b>4954 Chalet Drive</b>
_____ <b>Print Name</b>	_____ <b>Signature</b>	<b>4963 Chalet Drive</b>
_____ <b>Print Name</b>	_____ <b>Signature</b>	<b>4971 Chalet Drive</b>
<u>JOAN HOFFMAN</u> <b>Print Name</b>	<u>Joan Hoffman</u> <b>Signature</b>	<b>4810 Chalk Court</b>

