

# PLANNING AND REDEVELOPMENT DEPARTMENT STAFF REPORT PLANNING COMMISSION MEETING February 9, 2006

Prepared by: Derek Ogden, Associate Planner

<u>ITEM IV-C:</u> VARIANCE – 102 CENTER STREET (CUNNINGHAM SETBACK VARIANCE) - FILE#: V-000018

#### **REQUEST**

The applicant requests approval of a Variance to construct an addition to the existing residence that will vary from the front and side yard setback requirements. The front yard setback would be eighteen feet two inches (18'2") where twenty feet (20') is required. The side yard setback would be two feet six inches (2'6") from the side property line where five feet (5') is required. Also requested is a Variance to allow a reduction in the number of off-street parking spaces from two to one.

Applicant/Property Owner - Sam Cunningham

### SUMMARY RECOMMENDATION

The Planning Department recommends that the Planning Commission:

- A. Adopt the three (3) findings of fact for the Variance; and
- B. Approve the Variance subject to the six (6) conditions of approval.

#### **SUMMARY OF OUTSTANDING ISSUES**

The applicant is in agreement with the recommended conditions of approval. There are no outstanding issues.

## **BACKGROUND**

The project site is located at 102 Center Street. This site is located just south of the intersection of Atlantic and Center Streets and is within in the Infill area of the City (Attachment1). The parcel is zoned General Commercial (GC) and has a General Plan land use designation of Community Commercial (CC). The 2,950 square foot (59' x 50') interior lot has been developed with a single-family residence. The proposed project is as follows:

- Existing 621 square feet dwelling with a 330 square foot single car garage
- Proposed conversion of garage to living space creating a dwelling totaling 1,052 square feet with one parking space in the side yard

The applicant has proposed to remodel the existing residence. This will include converting the 330 s.f. garage into living space and remodeling the existing 101 s.f. addition in the front of the home.

Originally, this work was begun without the required permits. Code enforcement staff received a complaint that the applicant was constructing the remodel without building permits. Since this complaint the applicant has secured an after the fact building investigation permit, and applied for the Variance.

The structure is considered a legal non-conforming residential use within a commercial zone. This use may continue until such time as the building is removed, condemned, or converted to a commercial use.

For purposes of establishing Development Standards for this property, Single Family (R1) standards are applied to the property. The proposed addition will have an eighteen-foot two-inch (18'2") front yard setback and a two feet six-inch (2'6") side yard setback (Exhibit A). The R1 zone district requires a twenty (20') front yard setback and five-foot (5') side yard setback for an interior lot as measured from the property lines. The existing structure does not meet the residential setback requirements and is therefore a nonconforming structure. This request includes a Variance to reduce front and side yard setback requirement for the addition. This request reduces the setback by more than 35% of the development standard for this zone district. A Variance that exceeds 35% of the development standard requires approval by the Planning Commission.

Applicable Development Standards		Proposed Setbacks
Minimum Front Yard Setback	20 ft. for interior lots	18'6"
Minimum Side Yard Setback	5 ft. for interior lots	2'6" and 13'3"
Minimum Rear Yard Setback	20% of lot depth; 10' minimum; need not exceed 20'	4'
Maximum Site Coverage	45% for 1-story	36%
Parking	2 spaces outside the front yard setback	1 space

#### **EVALUATION**

In accordance with the Section 19.78.060.G of the Zoning Ordinance, three (3) findings must be made in order to approve a Variance. The required findings for a Variance are listed below in *italicized bold text* and are followed by an evaluation.

1. There are special circumstances applicable to the property, including size, shape, topography, location or surroundings, such that the strict application of the provisions of this Zoning Ordinance deprives the property of privileges enjoyed by other property in the vicinity and under identical land use district classification.

The subject property is located within a subdivision where most homes appear to have been built during the 1950's and 1960's. Lot dimensions for this subdivision were typically 50 feet in width by 150 feet in length. The subject property is a small parcel by current Single-Family Residential (R1) Zoning Ordinance General Development Standards. The lot is approximately fifty (50) feet wide by fifty-nine (59) feet deep (Exhibit A). Current standards require an interior R1 lot to be a minimum of sixty (60) feet wide and six thousand (6,000) s.f. in size.

As mentioned in the background section, the addition was made to an existing non-conforming residence. The location of the existing single story home is 2'6" from the side property line. The addition will maintain the 2'6" setback. The home adjacent to this property is setback 20 feet from the property line. Thus there is a 22'6" separation between the two homes. Under current City Zoning Standards, two interior R1 lots are required to provide a 5-foot setback from the property line. This required setback would provide a 10-foot separation between the two homes.

Residences located directly across Center Street have the same side yard setback as the subject property. Therefore, the granting of this Variance will allow the property owner to enjoy the same privilege that is currently enjoyed at this location and by adjacent property owners.

In addition to the request for a Variance to the side yard setback the applicant has also requested a Variance for the front yard setback of the home. The Zoning Ordinance requires R1 interior lots to provide a twenty-foot (20') front yard setback. Given the shallow depth and small size of the parcel, staff believes that there is a special circumstance for granting the Variance for the reduced front yard setback. Further, staff visited the Enwood neighborhood and observed many homes within the subdivision that provide less than a 20' front yard setback. Therefore staff believes this variance will not provide a special privilege to this property.

Lastly, The applicant has requested a Variance to reduce the number of off-street parking spaces. Presently they have one off-street parking space within the garage. The Variance will allow the applicant to maintain a single uncovered space on the side of the home (Exhibit C). During a site visit staff observed several single car garages on other properties within the neighborhood. Therefore, the request to allow a deviation from the parking requirement for the property will not grant a special privilege for the property.

2. The granting of the Variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located.

The Building Department has a process to inspect single-family dwelling additions and remodels completed without a permit. The Building Department has inspected the residence and requests that the applicant secure a building permit to ensure compliance with local health and safety items and also to ensure compliance with the Uniform Building Code (UBC). This requirement is included as condition #4.

The proposed setback for the subject property is consistent with the intent of the Zoning Ordinance. The setback is also consistent with the setback for adjacent properties and conforms to the U.B.C. In addition the applicant has agreed to enhance the exterior of the home with a stucco finish (Condition #3). This will also ensure the home is not a detriment to the surrounding properties.

Although the site plan does not show a fence within the front yard, one is located here and shown on the aireal photograph attached to this report (Exhibit C). This fence could potentially be a hazard to motorists traveling on Center Street or exiting the driveway of 102 Center Street. Staff has added one additional condition to require the applicant to remove or lower the fence in the front yard to three feet in height.

3. The granting of the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel and will not constitute a grant of special privilege inconsistent with the limitations upon other property in the vicinity and under identical zoning classification.

The use of this property as a single-family residence in a commercial zone is considered a legal non-conforming use. The proposed addition will not change the use of this structure. Additionally, the proposed setbacks are consistent with the existing dwelling and adjacent structures. Further, other residential uses in the neighborhood provide a single off-street parking space or no off-street parking, consistent with this request. As a result, approval of this Variance does not constitute a grant of special privileges.

### **CONCLUSION**

The Zoning Ordinance requires that three findings be made in order to approve the Variance. Based on the analysis contained in this staff report and with the project conditions, the required findings can be made for the proposed Variance.

#### **ENVIRONMENTAL DETERMINATION**

The proposed project is exempt from CEQA per Section 15305 of the CEQA Guidelines (Minor Alterations in Land Use Limitations).

#### **RECOMMENDATION**

The Planning Department recommends that the Planning Commission take the following actions:

- A. Adopt the three (3) findings of fact as listed in the staff report for the VARIANCE 102 CENTER STREET (CUNNINGHAM SETBACK VARIANCE) -- FILE #: V-000018; and,
- B. Approve the VARIANCE 102 CENTER STREET (CUNNINGHAM SETBACK VARIANCE) -- FILE #: V-000018, subject to the six (6) conditions below.

# CONDITIONS OF APPROVAL FOR VARIANCE (V-000018):

- 1. This permit shall be valid for a period of one (1) year from this date and shall expire on February 9, 2007. Prior to said expiration date, the applicant shall have obtained a Building Permit and started construction or may apply for an extension of time, provided, however, this approval shall be extended for no more than a total of one (1) year from February 9, 2007. (Planning)
- 2. This Variance approval shall allow a 2'6" setback as measured from the side property line and 18'2" from the front property line for the proposed addition. The Variance will also allow a one-space reduction in the number of required off-street parking spaces. (Planning)
- 3. The applicant shall utilize enhanced materials on the exterior elevations of the home to the satisfaction of the Planning Department. These materials may include stucco, brick, or other approved materials. (Planning)
- 4. The applicant shall apply for a Building Permit within 1 month of the approval of this application. (Planning)
- 5. The fence within the front yard setback shall be removed or lowered in height to 3' from finished grade.
- 6. Building permit plans shall comply with all applicable code requirements (Uniform Building Code UBC, Uniform Mechanical Code UMC, Uniform Plumbing Code UPC, Uniform Fire Codes UFC and National Electrical Code NEC), California Title 24 and the American with Disabilities Act ADA requirements, and all State and Federally mandated requirements in effect at the time of submittal for building permits (contact the Building Department for applicable Code editions). (Building)

#### **ATTACHMENTS**

1. Vicinity Map

- 2. Letter from the applicant
- 3. Photo
- 4. Photo

## **EXHIBITS**

- A. Site Plan
- B. Elevations
- C. Parking Exhibit

Note to Applicant and/or Developer: Please contact the Planning Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.

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