

STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: May 21, 2020

PLANNER: Katie Crockett, Associate Planner

John Maldonado, Planning Intern

SUBJECT: Minor Exception Permit 19-445, Moran Residence, a request

to consider a 15 percent reduction in the required northeast side yard setback, allowing a 4.84-foot setback where 5.7 feet is

required.

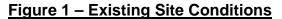
LOCATION: 205 W. Paseo De Cristobal

ZONING/GENERAL The residence is located in the Residential Low Zone and in the

PLAN: Coastal Zone Overlay (RL-CZ)

PROJECT SUMMARY:

• The subject property is an 8,265 square foot lot with an average lot width of 57 feet that fronts on West Paseo Cristobal. A one-story 1,940 square foot single-family residence with a 442 square foot detached garage was originally built on the lot in 1955. The residence is nonconforming with a side yard setback of 4.9 feet on the northeast side of the property where 5.7 feet is required (10 percent of average lot width). Figure 1 below shows the existing site conditions.







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• The proposed project consists of a request to reduce the required northeast side yard setback by 15 percent, from 5.7 feet to 4.84 feet. The grant of this request would result in the existing residence becoming conforming. This would enable the property owner to make modifications and additions to the residence without the encumbrance of a nonconforming structure as set forth in SCMC 17.72.050, which limits the size of additions. The property owner plans to build a second-story addition and a lower-level garage. The proposed plans are included for reference (Attachment 4), but are not under review as a part of this permit. This permit would enable the applicant to apply for building permits for the proposed or similar plans, provided they meet all other zoning and building standards. The addition the applicant is currently planning would not remove 50 percent or more of the structures exterior walls.

- The property is in the Residential Low Zone. The residence is within a row of multiple single-story and two-story single-family homes. Other properties in the neighborhood have similar or even smaller nonconforming or reduced side yard setbacks, such as 107, 122, 128, and 130 West Paseo De Cristobal.
- Zoning Ordinance Section 17.16.090.C.18.a allows the Zoning Administrator to grant Minor Exception Permits to decrease the required side yard setback by not more than 20 percent.
- The Development Management Team (DMT) reviewed the project and recommends approval with the conditions provided in Exhibit A of Attachment 1.
- Several conditions of approval have been added to this project to ensure compatibility with the neighborhood and compliance with the zoning ordinance, as follows:
 - Condition 1.8 limits the grant of this reduced setback to the northeast side, where the nonconformity already exists. The southwest side setback must comply with the standard setback for the zone. Additionally, it notes that the MEP is voided if a future project removes 50 percent or greater of the structure's exterior walls, pursuant to Zoning Ordinance Section 17.72.050.F.
 - Conditions 4.18 and 4.19 require that the parkway landscape and sidewalk tile in front of the residence be replaced as a part of any future additions to this house taking advantage of the reduced setback granted by this permit.
- The property is within the Coastal Zone but this project is excluded from review by the Coastal Commission under Categorical Exclusion Order No. E-82-1.
- Staff believes the required findings can be made to approve the project, as set forth in the Findings of the attached Resolution, because:
 - The project is consistent with the purpose of the RL zone in that the minor adjustment to the side yard setback would not change the use of the property as single-family residential nor the density of the property as all other zoning regulations remain in place.
 - The project is consistent with the purpose of the RL zone and with the surrounding area in that the standard required side setback for the RL zone is itself variable

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based on the width of the lot. Other properties in the immediate vicinity (such as 107, 122, 128, and 130 West Paseo De Cristobal) have similar or even smaller nonconforming or reduced side yard setbacks for which exceptions have been granted by the City.

- The neighboring properties will not be adversely affected as a result of the minor setback adjustment of 0.86 feet. The home is already built to approximately this same setback. Even if a second story were to be constructed, as the applicant has planned, it does not adversely affect the immediately adjacent neighbor any more than if the second story were built to the standard setback.
- Zoning Ordinance Section 17.16.090.C.18.a. permits applicants to request a 20 percent reduction in side yard setback with a Minor Exception Permit. The applicant is requesting a 15 percent reduction in the required side yard setback.
- The minor adjustment to the setback will not be detrimental to the health, safety, or welfare of the general public in that the Building Division reviewed the request and confirmed that any additions or modifications to the house or property consistent with the requested reduced setback, could still meet building and safety codes.

RECOMMENDATIONS

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Zoning Administrator:

- Determine the project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Class 5: Minor Alterations in Land Use Limitations); and
- Adopt Resolution ZA 20-011, approving Minor Exception Permit (MEP) 19-445, Moran Residence, subject to the conditions of approval.

Attachments:

- Resolution ZA 20-011
 Exhibit A Conditions of Approval
- 2. Location Map
- 3. Project Narrative
- 4. Plans

RESOLUTION NO. ZA 20-011

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR EXCEPTION PERMIT 19-445, MORAN RESIDENCE, A REQUEST TO CONSIDER A 15 PERCENT REDUCTION IN THE REQUIRED NORTHEAST SIDE YARD SETBACK, ALLOWING A 4.84-FOOT SETBACK WHERE 5.7 FEET IS REQUIRED AT 205 W. PASEO DE CRISTOBAL.

WHEREAS, on November 25, 2019, an application was submitted by applicant Mark Moran of 401 El Vuelo, San Clemente, CA 92672, and deemed complete on January 30, 2020 for Minor Exception Permit 19-445 and Minor Architectural Permit 19-446, a request to expand a legal nonconforming single-family residence and continue a legal nonconforming side yard setback, located at 205 W Paseo De Cristobal. The subject site is in the Residential Low Density zoning district of the general plan and within the Exclusion Area of the Coastal Zone (RL-CZ) per Exclusion Order No. E-82-1. The site's legal description is Lot 32, Tract 822, Block 14 and Assessor's Parcel Number 692-231-11; and

WHEREAS, on March 10, 2020 and on April 20, 2020, the applicant revised the application materials and request. The resulting request is to withdraw the application for MAP 19-446 and to modify the application for MEP 19-445 to consist of a 15 percent reduction in the required northeast side yard setback, allowing a 4.84-foot setback where 5.7 feet is required.

WHEREAS, the Planning Division completed an initial environmental assessment of the above matter in accordance with California Environmental Quality Act (CEQA) and recommends that the Zoning Administrator determine this project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15305 (Class 5: Minor Alterations in Land Use Limitations) because the project involves a 15 percent reduction in the required side yard setback for the lot and does not change the use of the property or result in increased density.

WHEREAS, on December 5, 2019 and January 16, 2020 the City's Development Management Team reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

WHEREAS, on March 5, 2020, this project was scheduled to be heard at a noticed public hearing by the Zoning Administrator, but was continued at the request of the applicant so they could make project revisions; and

WHEREAS, on April 23, 2020, the Zoning Administrator continued the project to the meeting of May 21, 2020, at the request of staff, due to modifications in the application affecting staff analysis;

WHEREAS, the City Planner advertised and noticed the Zoning Administrator public hearing for this item at least ten days in advance of the May 21, 2020 hearing by both publication in a newspaper of general circulation in the City of San Clemente and by mailing a notice of the time, place, and purpose of such hearing to required recipients including property owners within 300 feet of the subject parcel; and

WHEREAS, on May 21, 2020, the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, the Zoning Administrator of the City of San Clemente hereby resolves as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15305 (Class 5: Minor Alterations in Land Use Limitations). This exemption covers minor alterations in land use limitations, such as minor setback adjustments, lot line adjustments, and minor encroachment permits which do not result in any changes to in land use or density. Here, the proposed project involves a 15 percent reduction in the required side yard setback. The site remains zoned single-family and the minor modification to the setback does not allow for any additional housing density.

Furthermore, none of the exceptions to the use of the Class 5 categorical exemption identified in State CEQA Guidelines Section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time, given the proposed use is consistent with General Plan policies and Zoning regulations, which were studied and addressed in the General Plan EIR. Development of the site is limited by standards for density, setbacks, lot coverage, parking, height, etc. There are no unusual circumstances surrounding the project that result in a reasonably possibility of a significant effect on the environment. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. Thus, the Class 5 exemption applies, and no further environmental review is required.

Section 3. Minor Exception Permit Findings

With respect to Minor Exception Permit (MEP 19-445), the Zoning Administrator finds as follows:

- A. The approval of the Minor Exception Permit will not interfere with the purpose of the zone or the standards of the zone, in that:
 - 1. The purpose of the RL Zone is to promote the development of low-density single-family residential neighborhoods with single-family detached dwellings. The proposed reduction in the side yard setback does not change the use or density of the property.
 - 2. The standard required side setback for the RL zone is itself variable, since it is 10 percent of the average lot width or six feet, whichever is less, meaning that lots narrower than 60 feet all have a different standard minimum side setback depending on their width. In this case, instead of 5.7 feet on both sides, the house was built at 4.9 feet on the northeast side and 9.8 feet on the southwest side.
 - 3. The 0.86-foot (approximately 11 inches) requested reduction in the northeast side yard setback results in a side setback of 4.84 feet (approx. 4'10"). This setback is consistent with many properties in the immediate vicinity of the subject property.
 - 4. Zoning Ordinance Section 17.16.090.C.18.a. expressly grants the Zoning Administrator the ability to reduce required side yard setbacks by not more than 20 percent, implying that this type of minor adjustment would still be consistent with the intent and purpose of the zone.
- B. The neighboring properties will not be adversely affected as a result of the approval of the Minor Exception Permit, in that:
 - 1. The setback adjustment requested (0.86 feet, or approximately 11 inches) is minor. The existing home is already built to approximately this same setback. Modifying the required setback for the home does not affect the immediately adjacent property since any addition built to the proposed setback line is consistent with the existing house. Even if a second story is constructed, as the applicant has planned, it does not adversely affect the immediately adjacent neighbor any more than if the second story had the additional 11-inch setback.
 - 2. The standard side yard setback is variable depending on lot size, meaning a narrower lot in the same zone could have a 4.84' setback without any adjustment.

- Other properties in the immediate vicinity have similar or even smaller nonconforming or reduced side yard setbacks for which exceptions have been granted by the City, such as 107, 122, 128, and 130 West Paseo De Cristobal.
- C. The approval of the minor exception will not be detrimental to the health, safety or welfare of the general public in that:
 - 1. Other properties in the same zone (RL) have the same or smaller side setbacks per code standard since side setbacks in this zone are determined by lot width.
 - 2. The Building Division reviewed the request and confirmed that any additions or modifications to the house or property taking advantage of the requested reduced setback, could still meet building and safety codes. Any planned renovations or additions will be reviewed in detail by the Building Division for compliance with current applicable building codes.

<u>Section 5.</u> Zoning Administrator Approval.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Exception Permit 19-445, Moran Residence, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on May 21, 2020.

Cecilia Gallardo-Daly, Zoning Administrator

Resolution No. ZA 20-011 EXHIBIT A

CONDITIONS OF APPROVAL MINOR EXCEPTION PERMIT 19-445, MORAN RESIDENCE

1.0 GENERAL CONDITIONS OF APPROVAL

1.1 Within 30 days of receipt of the signed conditions of approval, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City, unless an extension is granted by the City Planner.

Planning

1.2 The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense.

Planning

1.3 Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180.

Planning

1.4 The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws.

ΑII

1.6 MEP 19-445 shall be deemed to have expired if within three years of approval the project is not commenced, or the project permitted by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150. **Planning**

1.7 Within five business days of project approval, the applicant shall submit to the Planning Division a check made payable to the Orange County Clerk-Recorder in the amount of \$50 for filing the CEQA Notice.

Planning

1.8 Minor Exception Permit 19-445 reduces the required northeast side setback to 4.84 feet. The southwest side setback is not reduced pursuant to this permit. In accordance with San Clemente Municipal Code Section 17.72.050.F., this Minor Exception Permit shall be voided if a future project removes 50 percent or greater of the structure's exterior walls. Planning

4.0 PRIOR TO ISSUANCE OF BUILDING PERMITS

4.1 The working drawings shall include within the first four pages a list of all conditions of approval included in this resolution.

Planning

4.5 The applicant shall submit, and must obtain approval from the City Planner, a detailed landscape and irrigation plan incorporating drought tolerant plants, for medians, parkways, public trails, fuel modification areas, common areas, and slopes, and other landscaped areas, prepared by a registered landscape architect, and in compliance with all pertinent requirements including, but not limited to guidelines contained in the City's Master Landscape Plan of Scenic Corridors. (SCMC Section 17.68.020)

Planning

4.6 The following standards shall apply for all landscape plans specific to parkways, unless otherwise approved for private residential streets:

Public Works Planning

- A. All parkway trees shall maintain the following distances from improvements:
 - a. 10'0" from water, sewer and storm drain lines.
 - b. 5'0" from hardscape (curbs, sidewalks, street lights, utility boxes, fire hydrants, P.I.V.s, F.D.C., etc.) except for tree wells.
 - c. 15'0" from drive approaches.
 - d. 25'0" from curb return at street intersections.
- B. All landscape irrigation systems shall be designed using the City's reclaimed water standards. In the event reclaimed water is not available at the time the system is put into operation, the system may be connected to the potable water system. When reclaimed water is available, the system shall be converted to reclaimed service. The owner or designee shall install reclaimed water service lines to the meter locations for future connection when reclaimed water is available.
- C. Minimum parkway tree size shall be 15-gallon for canopy trees and ten foot (10') brown trunk height (BTH) for palms.
- D. Trees shall be planted at thirty-foot intervals in commercial or residential parkway areas, or a minimum of one per residential lot frontage.
- E. Residential corner lots shall include a minimum of two trees along the side yard parkway. (SCMC Chapter 17.68)

4.15 A height analysis consistent with San Clemente Municipal Code 17.24.110 shall be included in the construction drawings. No roof element shall exceed 25 feet in height as measured from original grade.

Planning

4.16 Building permits are required for any proposed modification or additions to the building(s) on the subject property. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through the building plan check / permit process. S.C.M.C Title 15 Building Construction - Chapters and codes applicable to this project

Building**

4.17 All waste bins must be substantially hidden from view from any public street.

Public Works **

4.18 Prior to issuance of any building permits for the subject property involving addition of floor area, the applicant shall show on the construction documents, landscaping in the parkway within the public right of way along the property frontage, as approved by the City Engineer. Applicable encroachment permits must be obtained from the Engineering Division prior to any work in the public right of way.

Planning Public Works**

4.19 Prior to issuance of any building permits for the subject property involving addition of floor area, the applicant shall show concrete within the sidewalk to be replaced with tiles to match the "ole Hanson" Replica Tile Sidewalk, as described in Engineering Technical Standard ST-5A. Applicable encroachment permits must be obtained from the Engineering Division prior to any work in the public right of way.

Planning Public Works**

- * Denotes a modified Standard Condition of Approval
- ** Denotes a project-specific Condition of Approval





Location Map

Project: MEP 19-445

Address: 205 West Paseo De Cristobal

Lampert - Dias Architects, Inc.

NARRITIVE: 205 PASEO CRISTOBAL, SAN CLEMENTE, CA 92672

Date: April 20, 2020

PROJECT: Request for 14.1% decrease in existing side yard setback for the remodel and

addition for:

Mark and Frazer Moran 205 West Paseo de Cristobal San Clemente, CA 92672

FROM: Christine M Lampert

Lampert Dias Architects, Inc.

949 285 4405

We are requesting approval of 17.16.090.C.18.a under the Minor Exception Code.

The existing house was built when the prior to the new side yard setbacks which now require the setback to be 10% of the width of the lot which would be 5.7' under current code. The existing house on the north side was built at 4.9' at the narrowest point and at 5.3" at the widest point.

We are requesting that the side yard setback be allowed at approximately 14.1% less than the current code requirement which would allow the addition to the house without the 50% limitation.

The house sits at 9.8 feet from the south west side property line except for a small portion which is located 5.9 feet from the property line plus the old garage at the rear of the property. On the other side of the property, on the north east side, the next door neighbor's house sits at approximately 9' or 10' from their property line, except for their garage at the rear.

The lots on this street are all large and spacious. The Moran's lot is over 8,000 square feet. The few inches that the existing house overlaps the current set back is very minimal.

The proposed new garage at the front of the house plus the new master bedroom addition are all excellent improvements to the house and will be an asset to the neighborhood.

The Moran's are anxious to move to South West San Clemente which has been a long time goal for them. Mark and Frazer Moran have lived in Rancho San Clemente in Harbor Ridge for over 25 years, but now that their two sons are grown, they are ready to remodel their house in South West San Clemente which has been a rental since they bought it. The house sits on a large 8,127 square foot lot. It is a single story house that is currently 1,940 square feet. The house sits above the street on a slope with the existing 442 square foot two car garage in the

Lampert - Dias Architects, Inc.

rear of the property which is very difficult to reach up the long steep and narrow driveway. There is a large pool in the backyard.

They are remodeling the existing 1,940 square feet of the first floor and they are adding a partial second floor master suite of 788 square feet. The new house will be a total of 2,728 square feet.

They are also planning on adding a garage underneath the house in the front with room for two cars plus a small space for a golf cart. This will eliminate the need for the long narrow driveway at the side of the house. This side of the house will have a much larger side yard setback than is required because much of the original driveway width is remaining.

The neighbor to the north has a similar setback where most of their house is approximately 10 feet from the property line. They have a long driveway at the South West side of their lot with a garage in the rear.

There will also be a roof deck for entertaining that is easily accessible from the second floor.

The neighborhood is made up of similar large lots and a mix of larger recently remodeled homes plus homes that are still original and mostly single story and built in the 1960's. The street is wide and spacious and is one of the most spacious in all of South West San Clemente.

