Zoning Administrator
Agenda Item

January 26, 2011

TO: **Rick Otto**
Zoning Administrator

THRU: **Leslie Aranda Roseberry**
Planning Manager

FROM: **Chad Ortlieb**
Senior Planner

SUBJECT

PUBLIC HEARING: Variance No. 2207-10 – Second dwelling unit at the Larson Residence located at 1598 North Clinton Street.

SUMMARY

The applicant proposes to provide a required parking space in a front yard setback in association with a new accessory second housing unit. The request previously received Zoning Administrator approval on January 23, 2008, but expired due to inactivity.

RECOMMENDED ACTION

Approve Variance No. 2183-07

AUTHORIZATION/GUIDELINES

Orange Municipal Code (OMC) Section 17.10.040 (D) authorizes the Zoning Administrator to review and take action on the requested variance for a required parking space to occur within the front yard setback in association with a proposed accessory second housing unit.

PUBLIC NOTICE

On January 13, 2011, the City sent a Public Hearing Notice to a total of 41 property owners/tenants within a 300-foot radius of the project site. No persons specifically requested a notice. The project site was also posted with the notification on that same date.

ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15303 (Class 3, New Construction) because the project involves the construction of a new 596 square foot accessory housing unit. There is no public review required.

PROJECT BACKGROUND

Applicants/Property Owners:	Ron & Alicia Larson
Property Location:	1598 North Clinton Street
Existing General Plan Land Use Element designation:	LDR (Low Density Residential)
Existing Zoning Classification:	R-1-7 (Single-Family Residential)
Old Towne:	No
Redevelopment Project Area:	No
Specific Plan/PC:	No
Site Size:	10, 517 square feet
Existing conditions:	3,014 square foot single-family residence with an attached garage
Surrounding land uses and Zoning:	The subject property is located within a neighborhood that is also surrounded by other single-family residences.
Previous Applications/Entitlements:	DRC No. 4284-07: At the December 5, 2007 meeting, the DRC recommended approval of the proposed accessory secondary housing unit to the Zoning Administrator (Attachments 4 and 5 - Staff Report and Meeting Minutes). VAR No. 2183-07: The Zoning Administrator approved a variance for a required parking space to occur within the front yard setback in association with a proposed accessory second housing unit (Attachment 6 and 7- Staff Report and Meeting Minutes). The approval expired due to inactivity by the applicant. See attached letter of explanation (Attachment 8).

PROJECT DESCRIPTION

The property is currently developed with a 2,055 square foot single-family residence, with a 959 square foot attached, two-car garage with additional storage area (Exhibit A – Project Plans).

The applicants are proposing to construct a new 596 square foot accessory second housing unit. The proposed accessory dwelling unit possesses one bedroom with walk in closet, a kitchen, bathroom, and living room. The exterior of the building will be composed of stucco and fascia that will match the existing primary residence (Attachment 2 – Site Photos). The gable, composition shingle roof with a 4:12 pitch will possess screened louvered vents.

The Orange Municipal Code (OMC) requires accessory second housing units to provide an unenclosed parking space (in excess of the Code's parking requirement for the existing principal residence). The applicants are proposing to use a portion of the existing driveway to accommodate this parking space, as the shape of the subject parcel is such that the additional parking space could not be provided elsewhere on the property (Exhibit A). The OMC does not permit a required parking space to be located within the front yard setback. A Variance is being requested to permit the required, unenclosed parking space in the front yard setback.

Development Standards

	Required	**Proposed**	**Code Section**
Building Height	32' or Two-story	12' /One-story	17.14.070
Distance between structures	6'	20'	17.14.120
Fence height	N/A	N/A	N/A
Floor Area Ratio (FAR)	0.5	.34	17.14.070
Lot size (residential)	7,000 square feet	10,517 square feet existing	17.14.070
Lot frontage	As tract approved for cul-de-sacs	Approximately 30 feet existing	17.14.070
Lot depth	100 feet	144.5 feet existing	17.14.070
Open space, useable (residential)	950 sq. ft.	1,941 sq. ft.+	17.14.070
Parking (residential)	One unenclosed parking space in excess of parking for primary residence	One space in front yard setback	(Variance Requested)
Setback, Front	20'	More than 20'	17.14.050 17.14.070
Setback, Rear	10'	10'	17.14.050 17.14.070
Setback, Side (RS)	5'	5'	17.14.050 17.14.070
Setback, Side (LS)	5'	6'- 4"	17.14.050 17.14.070

APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

Variance: The applicant is requesting a Variance from Orange Municipal Code Section 17.14.050A.6. to allow an unenclosed parking space for the proposed accessory second housing unit to be located within the property's front yard setback.

Required Findings:

1. Because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
2. The variance granted shall be subject to such conditions which will assure that the authorized adjustment shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is located.

ANALYSIS/STATEMENT OF THE ISSUES

Issue 1: Parking Variance

Sheet A-2 of the project plans show the proposed parking space located about nine feet back from the front property line to the left side of the driveway that accesses the garage. Normally a 20 foot setback from the front property line would be required however, the City's front yard landscape requirement and existing dwelling location combined with the scalene obtuse triangular shape of the subject property preclude the applicant from accommodating the required parking space anywhere else on the property that would not impede routine garage access. Furthermore, the proposed parking space would occur within an area that is already paved.

Issue 2: Accessory Second Housing Unit

The Design Review Committee (DRC) reviewed and recommended Zoning Administrator approval of the subject proposal at a December 5, 2007 meeting. The DRC's approval came with recommended conditions of approval (Attachment 5) for architectural changes. Most changes were made on the subject plans but the below two were not.

- An extended eave shall be provided over the entry.
- The accessory second housing unit shall have square cut eaves (as opposed to plum cut eaves) to match the primary house, and shall so be noted on the final plans.

No Design Review Committee consideration is required with this renewed application since, in accord with state law, the City no longer requires second dwelling units to go to the Design Review Committee with exceptions for second dwellings that do not comply with established infill or design guidelines or occur in a designated historic district. Therefore, staff is unable to provide conditions pertaining to the design of the subject dwelling, including the above unfulfilled DRC

conditions. However staff finds that the proposed accessory second housing unit continues to be consistent with residential development standards. Furthermore, the infill project has already been deemed to be consistent with the aesthetics and design of the neighborhood and staff does not see any new code or surrounding neighborhood changes that would merit an alternate determination.

Issue 3: Zoning Administrator Authority

Section 17.10.040D. of the Orange Municipal Code only specifically contains provisions to allow the Zoning Administrator to review and approve Variances for waivers of "building setback and yard requirements", "garage location and access requirements" and "parking lot dimensional standards." Since this request is for a waiver of a parking space setback, an interpretation has been required and set by precedent under the prior expired Zoning Administrator Variance approval of this same request that parking space setback waivers are also included under the Zoning Administrator's authority given the replica request.

Staff Recommendation

Staff recommends approval of the project subject to the conditions listed below. The Zoning Administrator may determine that additional conditions are appropriate to support the required findings.

Staff's specific recommended conditions of approval are:

1. All construction shall conform in substance and be maintained in general conformance with plans and exhibits submitted with the staff report and as approved by the Zoning Administrator.
2. Building permits shall be obtained for all construction work, as required by the City of Orange Community Development Department's Building Division. Failure to obtain the required building permits will be cause for revocation of this permit.
3. The applicant shall comply with all Federal, State and local laws, including all City regulations. Violation of any of those laws in connection with the use will be cause for revocation of this permit.
4. If construction of the project as represented on the approved plans does not occur within two years from the date of approval, the Variance shall expire unless a time extension is granted.
5. These conditions shall be reprinted on the first page of the construction documents when submitting to the Building Department for the plan check process.

The following code provisions are applicable to this project, and are included for information only. This is not a complete list of requirements, and other code provisions may apply to the project.

- Prior to issuance of building permits, the applicant shall pay all applicable development fees, including but not limited to: City sewer connection, Orange County Sanitation District Connection Fee, Transportation System Improvement Program, Fire Facility, Police Facility, Park Acquisition, Sanitation District, and School District, as required.

- Construction permits shall be obtained for all construction work, as required by the City of Orange, Community Development Department's Building Division and Public Works Grading Division. Failure to obtain the required permits will be cause for revocation of this Design Review Committee permit.
- Applicant/developer shall be aware that all work within the public right-of-way requires the issuance of an Encroachment Permit. Such work includes, but is not limited to, work on the sidewalk, driveway construction, and utility laterals.

ATTACHMENTS/EXHIBITS

Attachments to Report:

1. Vicinity Map
2. Site Photos
3. Aerial Photo
4. December 5, 2007, staff report for DRC No. 4284-07
5. December 5, 2007, DRC meeting minutes
6. January 23, 2008, Zoning Administrator staff report
7. January 23, 2008, Zoning Administrator meeting minutes
8. Applicant Letter of Explaination

Exhibits

A. Project Plans

cc: File

Ron & Alicia Larson
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Orange, CA 92867