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Agenda Date: 6/30/2021

Agenda Placement: 2C

Zoning Administrator Board Agenda Letter

TO: Zoning Administrator
FROM: Charlene Gallina for David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: CURTIS SAWYER, PLANNER II -
SUBJECT: Black Oak Lane Variance Application #P21-00046-VAR

RECOMMENDATION

MUTHANA IBRAHIM / BLACK OAK RESIDENCE / VARIANCE APPLICATION #P21-00046-VAR

CEQA Status: Consideration and possible adoption of a Categorical Exemption, Section 15303, Class 3; New Construction or Conversion of Small Structures, from the provisions of CEQA. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Request: Approval of a variance application to allow the proposed single-family home to encroach into the required side yard setback. The project is located on a 0.27-acre parcel within the Rural Residential (RR) General Plan designation and Planned Development (PD) Zoning District. 326 Black Oak Lane, Napa, CA 94558. APN:019-392-006

Staff Recommendation: Find the project categorically exempt and approve the variance application, as conditioned.

Staff Contact: Curtis Sawyer, Planner II, (707) 299-1361, or curtis.sawyer@countyofnapa.org

Applicant Contact: Muthana Ibrahim, (925) 287-1174, Muthana@miarchitects.com

EXECUTIVE SUMMARY

Proposed Actions:

That the Zoning Administrator:

1. Find the project Categorical Exempt from CEQA based on Findings 1 through 3 of Attachment A;
2. Approve the Variance Application (P21-00046-VAR) based on Findings 4 through 8 of Attachment A and subject to the conditions of approval in Attachment B.

Discussion:

The project consists of a request to approve a Variance application to allow for new single family home construction to encroach into the west side yard setback by approximately three feet. Pursuant to Chapter 18.104.010 of the Napa County Code, the zoning of this property requires a six-foot side yard setback. Section 18.104.010(C) of the County Code requires that three feet shall be added to each side yard for each story above the first story of any building. The minimum yard on the street side of a corner lot shall be ten feet. Due to the unique site characteristics and topography of the parcel, staff recommends that the required variance findings be made and the application be approved.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

ENVIRONMENTAL IMPACT

Consideration of a Categorical Exemption, Section 15303, Class 3; New Construction or Conversion of Small Structures, from the provisions of CEQA. The project site is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Owner/Applicant: Muthana Ibrahim; (925) 878-9875; Muthana@miarchitect.com

Representative: Muthana Ibrahim; (925) 878-9875; Muthana@miarchitect.com

Zoning: Planned Development (PD)

General Plan Designation: Rural Residential (RR)

Filed: March 17, 2021; **Resubmittal Received:** May 17, 2021; **Deemed Complete:** May 17, 2021

Date New Project Submittal Courtesy Notice Sent: March 29, 2021

Parcel size: 0.27-acres

Code Compliance History: None

Existing Development: The site is currently undeveloped as the existing single-family home was destroyed during the LNU Complex Fires. The only portions of the single family home which remain are the foundation and structural

retaining walls. The applicant's structural engineers have confirmed that the structural integrity of the foundation and existing footings are intact.

Setbacks:

Required Setbacks - The Zoning Ordinance requires the following setback requirements for the PD zoning district:

Front and rear yard: 20 feet

Side yard: six feet plus three additional feet added to each side yard for each story above the first story of any building. Minimum yard on the street side of a corner lot shall be ten feet.

Proposed Setbacks - The design of the proposed single-family home consists of an upper level (street-level) floor and a lower level floor. The applicant has requested the variance in order to reduce the required side yard setback of the street level floor at the rear of the home from nine feet to six feet. Thus, the variance request is to allow for a three-foot exception at the east and west elevation.

Adjacent Properties:

A majority of the single-family homes located on Black Oak Lane were lost during the LNU Complex Fires. The adjacent properties to the East and West were both destroyed and have not been rebuilt. There are a total of nine developed parcels on Black Oak Lane, of which only four remain standing due to the LNU Complex Fires.

Discussion Points:

Setting – The 0.27-acre residential parcel is located on a relatively steep parcel in the Berryessa Highlands with the average slope of the property from the street level to rear yard being 51 percent. As illustrated in Figure-1 of the Findings Justification (Attachment D) provided by the applicant, immediate adjacent parcels to the East and West do not possess the same development limitations as the subject parcel since they are developed on parcels which have flatter ground. The street frontage of the subject property is the higher-grade elevation (the road of Black Oak Lane) whereas the rear of the property is the lower-grade elevation. Developing into the rear yard would require further engineering and would not be as cost effective as utilizing the existing house footings. The property also slopes along the street frontage (east-west direction) approximately 18.5 percent as indicated on the attached site plan (Attachment E). The steep slope of the property creates practical difficulties for development when compared to flat setting properties as well as adjacent neighboring properties.

Building Design - The architectural design of the structure is comparable to the structure which was lost during the LNU Complex Fires. A vast majority of the home is proposed to be constructed like-for-like, resembling the design of the home before it was destroyed. The home would consist of a 1,992-square-foot ground level (street level at Black Oak Lane) and 1,099-square-foot unfinished lower level. An attached 583-square-foot garage would also be constructed.

Access - The site is proposed to be developed with a single-family home and access driveway. This request has been reviewed and deemed compliant by Napa County Fire Department, Public Works Department, and the Engineering Division for compliance with the Napa County Road and Street Standards.

Variance: A Variance application is requested to allow the construction of a proposed single-family home to encroach into required side yard setbacks. The Planned Development Zoning District requires a six-foot side yard setback on the first story (lower level floor) and that three additional feet be added to each side yard above the first story (upper level floor). Therefore, the upper level floor (street level) requires nine-foot side yard setbacks. Approval of the variance application would allow the applicant to meet a six-foot setback instead of a nine-foot setback at the east and west elevations of the upper level floor (street level).

Variances must satisfy the criteria in Government Code Section 65906 and County Code Section 18.128.060. Generally, the findings for a variance must meet each prong of a three-prong test to satisfy the statutory requirements together with additional local findings contained in the County Code. An applicant must demonstrate that: 1) they will suffer practical difficulties and unnecessary hardships in the absence of the variance; 2) these hardships result from special circumstances relating to the property that are not shared by other properties in the area; and 3) the variance is necessary to bring the applicant into parity with other property owners in the same zone and vicinity. In addition, an applicant must show that the proposed variance will not be contrary to public interest, safety, health, and welfare. To approve a variance, the Zoning Administrator must make all five of the required findings listed below. As discussed below, Staff believes the project site can meet all of the required findings, and thus, supports granting the variance.

Required Findings pursuant to Section 18.128.060:

1) That the procedural requirements set forth in this chapter have been met.

Staff Comment: An application and required processing fees have been submitted for a variance accompanied with a statement from the applicant outlining the reasons for the request. Site plans depicting the location of the project and elevation drawings showing the appearance of the proposed residential accessory structure and water tank have also been submitted. Noticing and public hearing requirements have been met. The hearing notice was posted on June 18, 2021, and copies were forwarded to property owners within 1,000 feet of the subject parcel and all other interested parties. The public comment period ran from June 18, 2021 to June 29, 2021.

2) Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Staff Comment: The 0.27-acre parcel has a significant environmental constraint not shared by other properties in the vicinity: steep slope. The average slope of the property from the street level to downhill is approximately 51 percent. Compared to the average slope of adjacent properties, this slope steepness serves as a unique characteristic as a significant portion of the rear yard is not economically feasible for development. Further analysis submitted by the applicant shows that comparable adjacent parcels average a slope of approximately 35 percent which is significantly less than the average slope of the subject parcel. Construction of the proposed single-family home in compliance with the required setbacks would constrain the size of the home or require expansion to occur on a second story (above the street level floor on Black Oak Lane) which would increase the cost of the project and negatively impact lake views of neighboring properties to the south. The granting of this variance would not confer a special privilege as the subject parcel contains a unique combination of constraints.

3) Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

Staff Comment: This finding requires the applicant to demonstrate that grant of the variance is necessary for the preservation and enjoyment of substantial property rights generally enjoyed by other properties in the same zone and vicinity, but would be denied to the applicant's parcel due to special circumstances of the property and unnecessary hardship. This is generally referred to as the "parity" prong. The property is located within the Planned Development (PD) Zoning District. Denial of a variance would deprive the applicant of the ability to reasonably develop the single-family parcel without excessive costs for unique foundation systems (i.e., concrete piers and retaining walls) or second-story development which would negatively impact the lake views of neighboring properties. Approval of the variance would allow the subject property owner to construct a single-family home comparable to the adjacent properties on Black Oak Lane, consistent with the site's zoning and General Plan land use designation. Further, the variance to the side-yard setback would allow the applicant to achieve a degree of parity with other properties in the vicinity within the same zoning district that are not constrained by the pre-existing conditions described above. Strict application of the setbacks would result in both practical and financial

hardships, which would restrict the ability to develop the property. Granting of the variance would bring the parcel into “parity” with other properties in the PD zoning district that have been granted development approval. Furthermore, granting of the variance application would allow the property owner to be one of the first homes reconstructed on Black Oak Lane since the 2020 LNU Complex Fires.

Constricting the development to the nine-foot setback would create a substantial hardship in that the alternative option for development would be a second-story addition which would be more costly to construct and would negatively impact the lake views of the neighboring properties. A comparison table of the costs of constructing the proposed single-family home in the required nine-foot setback versus in the requested six-foot setback was prepared by the project applicant and is included as the Financial Hardship Analysis within the Variance Application (Attachment D). As shown in Attachment D, the costs of constructing the single-family home further into the rear yard without the benefit of the approved variance would cost approximately \$81,255 when compared to the proposed variance for a six-foot setback.

4) Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.

Staff Comment: The health, safety or welfare of the County is not adversely affected. The project is subject to County Codes and regulations including but not limited to the California Building Code, Napa County Fire Department requirements, Environmental Health Division standards for water and wastewater requirements, and Engineering Division requirements all with recommended conditions that would be incorporated into the project to assure protection of public health, safety and welfare.

Public Comments: No public comments have been received prior to publication of this staff report.

SUPPORTING DOCUMENTS

- A . Recommended Findings
- B . Recommended Conditions of Approval and Final Agency Approval Memo
- C . Categorical Exemption Memorandum
- D . Variance Application
- E . Graphics

Zoning Administrator: Approve

Reviewed By: Charlene Gallina