

P.C. RESOLUTION NO. 2020-702

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALABASAS DENYING WITHOUT PREJUDICE SITE PLAN REVIEW FILE NO. 2019-002 AND VARIANCE FILE NO. 2019-002 TO DEMOLISH AN EXISTING LEGAL NONCONFORMING 1,772 SQUARE-FOOT TWO-STORY SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW 3,660 SQUARE-FOOT TWO-STORY SINGLE-FAMILY RESIDENCE WITH AN ATTACHED 424 SQUARE-FOOT TWO-CAR GARAGE AND 61 SQUARE-FOOT STORAGE AREA. THE PROJECT INVOLVES A REQUEST FOR FOUR VARIANCES TO EXCEED THE MAXIMUM PERMITTED SITE COVERAGE, ENCROACH INTO BOTH REQUIRED SIDE YARD SETBACKS, AND ENCROACH INTO THE REQUIRED REAR YARD SETBACK. THE SUBJECT SITE IS LOCATED AT 4602 PARK MIRASOL (APN: 2068-007-019) WITHIN THE RESIDENTIAL, SINGLE-FAMILY (RS) ZONING DISTRICT.

Section 1. The Planning Commission has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Agenda reports prepared by the Community Development Department.
2. Staff presentations at public hearings held on August 20, 2020 and September 10, 2020, before the Planning Commission.
3. The City of Calabasas Land Use and Development Code, General Plan, and all other applicable regulations and codes.
4. Public comments, both written and oral, received and/or submitted at or prior to the public hearings, supporting and/or opposing the applicant's request.
5. Testimony and/or comments from the applicant and its representatives submitted to the City in both written and oral form at or prior to the public hearing.
6. All related documents received and/or submitted at or prior to the public hearing.

Section 2. Based on the foregoing evidence, the Planning Commission finds that:

1. The applicant submitted an application for File Nos. SPR 2019-002 and VAR 2019-002 on August 20, 2019.
2. The project was reviewed by the Development Review Committee on September 3, 2019.
3. On September 11, 2019 staff determined that the application was incomplete and the applicant was duly notified of this incomplete status.
4. On September 27, 2019, The Architectural Review Panel reviewed the project, and offer comments relating to design. Subsequently, on November 22, 2019, the Architectural Review Panel reviewed revised project plans, and recommended approval of the project to the Planning Commission.
5. A Final revision of the project plans was submitted on August 7, 2020, and the application was deemed complete on August 7, 2020. The applicant was duly notified of the complete status.
6. A noticed public hearing was held on August 20, 2020.
7. Notice of the August 20, 2020, Planning Commission public hearing was posted at the Calabasas Tennis and Swim Center, Gelson's Market, and at Calabasas City Hall.
8. Notice of the August 20, 2020, Planning Commission public hearing was mailed to property owners within 500 feet of the property as shown on the latest equalized assessment roll.
9. Notice of the Planning Commission public hearing was mailed or delivered 10 days prior to the hearing.
10. On August 20, 2020 the Planning Commission heard testimony, and continued the item to a Planning Commission public hearing held on September 10, 2020.
11. On September 10, 2020 the Planning Commission heard additional testimony, and continued the item to a Planning Commission public hearing held on October 8, 2020.
12. The project site is currently zoned Residential, Single-Family (RS).
13. The land use designation for the project site under the City's adopted General Plan is Residential-Single Family (R-SF).

14. Properties surrounding the subject property are zoned Residential, Single-Family (RS) and have corresponding General Plan land use designation of RS.
15. Notice of Planning Commission public hearing included the notice requirements set forth in Government Code Section 65009 (b)(2).

Section 3. In view of all of the evidence and based on the following findings, the Planning Commission concludes as follows in regards to the project development application:

FINDINGS

Section 17.62.080(E) of the Calabasas Municipal Code (CMC) allows the Planning Commission to approve a **Variance** provided that all of the required findings can be made. The Planning Commission has determined that the following variance findings cannot be made for one of the four requested variances – the variance to reduce and encroach into the required rear yard setback:

1. *That there are special circumstances applicable to the property which do not generally apply to other properties in the same zoning district (i.e., size, shape, topography, location or surroundings), such that the strict application of this chapter denies the property owner privileges enjoyed by other property owners in the vicinity and in identical zoning districts;*

The existing home was built as part of a tract townhome development with the County of Los Angeles, where the houses are located on small lots and attached by common walls. Subsequently to the incorporation of the City of Calabasas, the homes located along Park Mirasol were re-zoned Residential, Single-Family (RS), which is intended for detached, single-family homes, including large lot estates, typical suburban tract residential development, and small detached residential single-family homes. Due to the change in zoning designation, all of the homes on Park Mirasol became legal, nonconforming because they do not comply with the required development standards for the RS zoning district. The most common development standard inconsistencies for homes in this neighborhood are site coverage and setbacks.

In the vicinity of the subject property, twenty-six lots are developed with townhome-style single-family homes (including the subject property). The unifying physical development characteristics for the twenty-six homes on Park Mirasol are small lots with zero side yard setbacks, common walls, and townhouse-style homes. Typical lot characteristics are lot widths of approximately 30 feet (with the exception of a few outliers), and lot lengths

ranging from 97 feet to 128 feet. Home sizes for the twenty-six identified properties range from 1,746 sq. ft. to 4,034 sq. ft.

The subject property measures approximately 128' in length, which is one of the longest properties in the vicinity. Therefore, the subject property has an advantage over most other properties to develop a residence similarly sized relative to the other residences in the vicinity and still meet both the required 20 foot front and rear yard setbacks. As proposed, the project meets the front yard setback. A variance would be appropriate for the two side-yard setbacks, consistent with the neighborhood's development pattern and history. However, the applicant is requesting a variance for an encroachment into the required rear yard setback to accommodate the proposed 3,660 (excluding the garage) square foot residence. As designed, the proposed residence encroaches into the rear yard setback on the northeast corner of the proposed single-family residence by approximately 5', (25% into the required setback) and meets the required 20 foot rear yard setback on the northwest corner of the residence because the property line is at a slant. The proposed encroachment would be necessary to accommodate approximately 22 square feet on the first floor where the living and dining room are located.

In this case, strict application of the required rear yard setback standard does not deny the property owner privileges enjoyed by other property owners in the vicinity and in identical zoning districts because the proposed encroachment into the rear yard setback is not necessary for a single-family residence of a similar size, height, bulk, mass, and nature as those in the zoning district to be built on the property. The project is proposing a 3,660 (excluding the garage) square foot single-family residence, which is on the high end of the range of home sizes in the vicinity, and forty-five percent larger than the average home size of 2,532 square feet (without garages) in the vicinity. Since the portion of the proposed single-family residence that encroaches into the required rear yard setback is approximately 22 square feet, a project that meets the rear yard setback requirement can be accommodated on the site and would result in a home of approximately 3,638 square feet (excluding the garage), which is still on the higher end of the range for the size of the homes on Park Mirasol that are in the vicinity of the project. To this end, a variance request for encroachment into the required rear yard setback is not justified, and is not necessary allow the property owner to enjoy privileges enjoyed by other property owners in the vicinity. Therefore, the project does not meet this finding for the proposed variance to encroach into the required rear yard setback.

2. *That granting the variance is necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought;*

The project involves demolition of an existing non-conforming home, and the construction of a new 3,660 square foot home (excluding the garage) for which the applicant is requesting four variances, including a variance for the reduction of the rear yard setback requirement. The existing home was built as part of a tract townhome development with the County of Los Angeles, where the houses are located on small lots and attached by common walls. After incorporation of the City, the homes located along Park Mirasol were re-zoned Residential, Single-Family (RS), which is intended for detached, single-family homes on generally larger lots, and therefore all became legal, nonconforming because they do not comply with the required development standards for the RS zoning district. Mostly, the homes no longer met setback and site coverage requirements.

In the vicinity of the subject property, twenty-six lots are developed with townhome-style single-family homes (including the subject property) that share a common wall on one or both sides, and to various degrees, do not meet setback requirements. Typical lot characteristics for this area are lot widths of approximately 30 feet (with the exception of a few outliers), and lot lengths ranging from 97 feet to 128 feet. Home sizes for the twenty-six identified properties range from 1,746 sq. ft. to 4,034 sq. ft.

The subject property measures approximately 128' in length, which is one of the longer properties in the vicinity. Therefore, the subject property has an advantage over most other properties to develop a reasonably-sized residence and still meet both the required 20 foot front and rear yard setbacks. As proposed, the project meets the front yard setback. A variance would be appropriate for the two side-yard setbacks, consistent with the neighborhood's development pattern and history. However, the applicant is requesting a variance to encroach into the required rear yard setback to accommodate a 22 square foot portion of a 3,660 square-foot single-family residence, 424 square foot garage and 61 square-foot storage area. As designed, the proposed residence encroaches into the rear yard setback on the northeast corner of the proposed single-family residence by approximately 5', (25% of the required rear yard setback) and meets the required 20 foot rear yard setback on the northwest corner of the residence because the property line is at a slant. The proposed encroachment is necessary only to accommodate 22 square feet on the first floor where the living and dining room are located. Granting of the variance is not necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the vicinity. In this case, denying the proposed rear yard setback variance means the project can be built in compliance with the rear and front yard setback requirements and still result in a substantial single-family residence, at a size, height, bulk, mass, and scale larger than most the surrounding homes. Denial of the rear yard setback variance results in a reduction of 22 square feet from the proposed residence, allowing for a home size of approximately 3,638 square feet, which is still in the high end of the

range of home sizes, and well above the average home size of 2,532 square feet in the vicinity. For these reasons, this finding cannot be made for the proposed rear yard setback variance as granting the rear yard setback is not necessary to preserve substantial property rights which would be denied if the variance were denied. The property owner can still accommodate a significant single-family residence, thereby enjoying the same property rights as others in the vicinity, without the proposed variance.

Section 4. In view of the all the evidence and based on the foregoing findings and conclusions, the Planning Commission hereby denies File No. SRP 2019-002 and VAR 2019-002, without prejudice, because the Planning Commission cannot make all required findings for the proposed variance allowing encroachment into the required rear-yard setback.

PLANNING COMMISSION RESOLUTION NO. 2020-702 PASSED,
APPROVED AND ADOPTED this 8th day of October, 2020.

Dennis Washburn,
Chairperson

ATTEST:

Maureen Tamuri, AIA, AICP
Community Development Director

APPROVED AS TO FORM:

Matt Summers
Assistant City Attorney

Planning Commission Resolution No. 2020-702, was adopted by the Planning Commission at a regular meeting held October 8, 2020, and that it was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED

“The Secretary of the Planning Commission shall certify the adoption of this Resolution, and transmit copies of this Resolution to the applicant along with proof of mailing in the form required by law and enter a copy of this Resolution in the book of Resolutions of the Planning Commission. Section 1094.6 of the Civil Code of Procedure governs the time in which judicial review of this decision may be sought.”