



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

July 17, 2025
Agenda Item No. 2

SUBJECT: Tracy Residence Variance (PA2023-0200)
▪ Variance

SITE LOCATION: 1020 White Sails Way

APPLICANT: Ron Thorpe of C.J. Light Associates

OWNER: Michael Tracy

PLANNER: Jenny Tran, Associate Planner
949-644-3212 or jtran@newportbeachca.gov

PROJECT SUMMARY

The applicant requests a variance to allow portions of an addition and remodel to an existing single-unit dwelling to encroach into the required 50-foot front setback. Specifically, the applicant requests to construct a new attached three-car garage that will encroach 29 feet into the front setback with a roof overhang that encroaches 31 feet into the front setback and a new bedroom addition that will encroach 13 feet into the front setback. The project also includes the removal of several existing unpermitted structures including a detached storage room, walls, fences, stairs, and other accessory structures that were constructed without the benefit of a building permit. No other deviations to the development standards are proposed.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) and Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2025-013 approving the Variance filed as PA2023-0200 (Attachment No. PC 1).

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LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single Unit Residential Detached (RS-D)	Single-Unit Residential (R-1-6000)	Single-unit dwelling
NORTH	RS-D	R-1-6000	Single-unit dwelling
SOUTH	RS-D	R-1-6000	Single-unit dwelling
EAST	RS-D	R-1-6000	Single-unit dwelling
WEST	RS-D	R-1-6000	Single-unit dwelling

INTRODUCTION

Project Setting and Existing Conditions

The subject property is located in the Harbor View Hills neighborhood in Corona del Mar between Crown Drive and Harbor View Drive. The topography of the lots generally slopes down from Crown Drive to Harbor View Drive. The neighborhood is developed with single-unit dwellings on terraced hillside lots that take advantage of the ocean views.

The existing single-family structure on the lot was built in 2003. The existing one-story residence includes 3,336 square feet of living space consisting of three bedrooms and three bathrooms, and a 444-square-foot, two-car garage that is accessed via a steep curving driveway from the street. The rear yard of the property includes an existing pool and steep slope along the rear property line. Figure 1 below shows the driveway approach for the property as of June 6, 2023.



Figure 1: Street view of the existing driveway approach taken on June 6, 2023.

Subdivision and Front Setback Background

The Harbor View Hills community was annexed to the City in 1959. A staggered setback concept was approved with the original tract map (Tract Map No. 2202) recorded on November 10, 1959. As part of this approval, the staggered front setbacks were established with the adoption of Districting Map No. 32 on December 14, 1959, and later adopted in a new format as Setback Map No. S-11A, "Harbor View Hills/Spyglass," on October 26, 2010. Figure 2 below is an excerpt of the current setback map that shows

the wide range of front setbacks applicable in the neighborhood. In researching the original subdivision files, staff has been unable to determine the original intent of the staggered setbacks.

As shown in Figure 2, the subject property has a front setback of 50 feet and properties along White Sails Way have front setbacks that range from 13 feet to 52 feet.

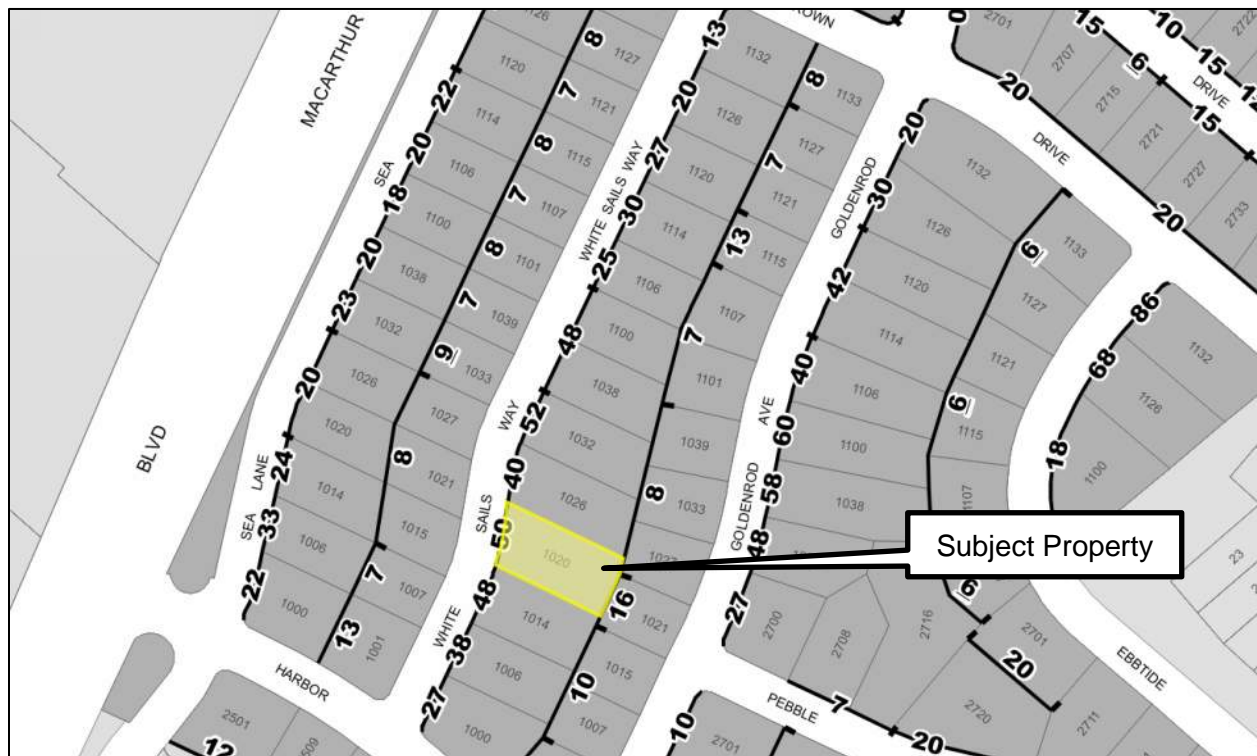


Figure 2: Existing Front Setbacks per Setback Map No. S-11A

The City's Planning and Zoning Code (Title 20) of the Newport Beach Municipal Code (NBMC) includes these series of maps, such as Setback Map No. S-11A, that provide minimum setbacks for various, but not all, blocks throughout the City (hereafter referred to as "setback maps"). The current setback maps are descendants of the original Districting Maps first established by ordinance in 1943. These maps allowed the City to recognize existing and varying conditions that did not match the citywide default front yard setback of 20 feet for single- and two-unit residential properties. Setback maps provide the minimum distance a primary residential structure must be set back from the front property line, or another identified line such as a bulkhead or abandoned right-of-way line.

Project Background

On May 8, 2023, the applicant applied for a code amendment to amend Setback Map No. S-11A to reduce the front setback from 50 feet to 21 feet for the subject property. Approval

of the code amendment would have permanently changed the front setback to 21 feet. However, the Harbor View Hills Community Association did not support the code amendment, and the applicant withdrew the application. The Harbor View Hills Community Association advised the applicant to seek approval of a variance, which would allow encroachments into the setback based on a specific project design rather than permanently amending the actual setback.

Accordingly, on October 18, 2023, a new application was submitted requesting a variance, rather than a Zoning Code Amendment, to allow the construction of a new attached three-car garage that would encroach 29 feet into the front setback and a new bedroom addition that would encroach 13 feet into the front setback.

A Public Hearing with the Planning Commission Hearing was scheduled and noticed for May 9, 2024, to review the variance request. However, on May 8, 2024, the project was removed from the agenda at the request of the applicant.

Code Enforcement Case and Unpermitted Construction

On May 30, 2024, a Code Enforcement Case was opened citing unpermitted construction on the property. Based on an investigation, it was determined that the existing driveway was removed, an attached storage room with a garage door was constructed in the front setback, and stairs, walls, and fences in the front of the property were constructed without the benefit of a building permit. The various unpermitted improvements do not comply with the NBMC including height limits and setbacks for accessory structures. Additionally, a new compliant garage was not constructed to replace the existing garage that is no longer accessible from the street. Figures 3 and 5 show the property prior to the unpermitted work, and Figures 4 and 6 below show the condition of the property after the construction of the unpermitted improvements.



Figure 3: Existing driveway prior to construction taken June 6, 2023



Figure 4: Unpermitted detached storage room with garage door, taken on June 4, 2024.



Figure 5: Stairs and walls in the front yard prior to construction, taken on June 6, 2023



Figure 6: Unpermitted over height gates and fences, taken on November 19, 2024.

Since the discovery of the unpermitted construction on the property, the applicant has been working with the City to revise the plans to address the aforementioned issues. The applicant is required to convert the attached storage room into a code compliant garage and remove any accessory structures within the 50-foot front setback that do not comply with the height limits and setback requirements of the NBMC.

Project Description

The applicant's objective is to convert and expand the existing garage into an additional bedroom and construct a new three-car garage with direct access to the street via a straight-in driveway. To facilitate the project, the applicant is requesting approval of a variance to allow the addition of a new 877-square-foot, three-car garage to encroach 29 feet into the required 50-foot front setback. The proposed three-car garage would provide direct access from the street to the single-family residence. The garage would be relocated to the other side of the property below an existing outdoor patio and be partially below grade thereby creating a daylighting basement. A small hallway with an elevator would also be installed below grade to allow direct access from the garage to the dwelling. Additionally, the existing 444-square-foot attached garage would be converted into a primary bedroom and expanded to encroach 13 feet into the required 50-foot front setback. In total the project would result in a net increase of 1,505 square feet including the garage. No other deviations to the development standards are proposed.

Figure 7 below is a rendering that shows the proposed three-car garage partially below grade and the bedroom conversion area with addition.



Figure 7 - Proposed Project Rendering

In order to achieve this objective, the unpermitted attached storage room must be demolished and rebuilt as a three-car garage with an interior clear dimension of 20-feet by 20-feet with an additional 15-foot depth tandem space for a total depth of 35-feet for the third parking space. Additionally, all the walls, fences, stairs and gates that were

constructed will be required to be removed or lowered to comply with the allowed height pursuant to Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the NBMC when measured from pre-construction grade.

DISCUSSION

Analysis

General Plan and Zoning Code

The property is categorized as RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1-6000 (Single-Unit Residential) Zoning District. Both are intended to provide areas appropriate for the development of single-unit residential dwelling uses. The R-1-6000 Zoning District refers to the minimum lot size of 6,000 square feet and the subject property is approximately 12,759 square feet. Additionally, the property has a maximum lot coverage of 60%.

The proposed project complies with all applicable development standards, except for the requested encroachment into the front setback, as illustrated in Table 1 below.

<i>Table 1 – Zoning Code Development Standards</i>		
Development Standard	Standard	Project
Setbacks (min.)¹		
Front	50 feet	21 feet (garage) 37 feet (habitable space)
Sides	6 feet	6 feet (no change)
Rear	6 feet	6 feet (no change)
Allowable Lot Coverage (max.)	60% 7,655 square feet	42% 5,554 square feet
Height (max.)²	29 feet sloping roof 24 feet flat roof	12 feet
Parking (min.)³	3-car garage	3-car garage
1. The setbacks are measured from the property line to the face of the building's finish. 2. Heights are measured from the existing grade prior to construction. 3. The proposed habitable space is more than 4,000 square feet requiring a 3-car garage.		

Policy LU 5.1.5 (*Character and Quality of Single-Family Residential Dwellings*) of the Land Use Element of the General Plan requires units to be designed to sustain a high level of architectural design quality that characterizes Newport Beach's neighborhoods in consideration of several principles such as, articulation and modulation of building masses and elevations to avoid the appearance of "box-like" buildings, compatibility with neighborhood developments in density, scale, and street facing elevations, and orientation to desirable sunlight and views. The subject property will be designed to be compatible with the neighborhood development in density, scale, and street facing garage. The proposed design includes sufficient articulation and modulation of building masses with a façade that includes large glass windows that matches the existing house.

The bedroom addition will match the existing height and would maintain a setback similar the neighboring properties to prevent obstruction of views. Additionally, Policy LU 5.1.6 (*Character and Quality of Residential Properties*), states that residential front setbacks and other areas visible from the public street shall be attractively landscaped, trash containers closed, and driveway and parking paving minimized. The change in setback will allow structures to be developed closer to the street, reducing the amount of front yard that is covered by the driveway. Additionally, a new screened trash area would be created next to the proposed garage.

Variance Findings

A variance is a request to relieve a project from complying with certain standards when, due to special circumstances applicable to the property, the strict application of development standards denies the property owner privileges enjoyed by other property owners in the vicinity and in the same zoning district. A variance can only be granted to maintain parity between the variance site and nearby properties in the same zoning district to avoid the granting of special privileges to one property.

Pursuant to NBMC Section 20.52.090(F) (Variances – Findings and Decision), the Planning Commission must make the following findings to approve a variance:

- 1. There are special or unique circumstances or conditions applicable to the subject property (e.g., location shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*
- 2. Strict compliance with the Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification;*
- 3. Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*
- 4. Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*
- 5. Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*
- 6. Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan.*

Unique Circumstances and Property Constraints

The primary constraint on the property is the large 50-foot front setback coupled with the substantial slope in the front of the property. Within the first 50 feet of the property, the elevation increases by approximately 10 feet as shown in the original/pre-construction topographic survey in Attachment No. PC 4. As shown in Figure 8 below, most of the

properties on White Sails Way are developed with straight driveway approaches that are relatively flat or have a minimal slope up from the street level to the garage. Additionally, properties on the nearby streets of Sea Lane and Goldenrod Lane provide the same straight driveway approaches from the street level. The subject property, however, was developed with a long driveway that curves from one side of the property to the other in a partial “s” shape to overcome the change in topography from the street level and minimize the steepness of the driveway.



Figure 8: Typical driveway designs in the neighborhood compared to the subject property.

Driveway Approach and Visibility

Figure 9 below shows an aerial view of the property where, after a slight left up the steep driveway, a right turn must be made to enter the garage. This configuration requires additional space to maneuver into and out of the garage and takes away from the building site. This is a limitation that other properties in the neighborhood do not have.

The topography of the property and the current setback requires the garage to be set higher up a relatively steep slope. The current slope of the lot along with standard front yard improvements impede visibility of oncoming traffic, pedestrians, and cyclists. The reduced setback will allow a garage to be constructed closer to the street level with a direct approach to allow enhanced visibility for driveway navigation while minimizing the

size of the driveway. Additionally, vehicles and pedestrians on White Sails Way will also be able to clearly see vehicles exiting from the property.

The garage will be constructed at a lower level than the existing single-unit dwelling (i.e. as a daylighting basement) to allow for a flat driveway ingress and egress from street level. Therefore, the addition results in no increase in height that would otherwise create a notable change in bulk and mass in the front of the property.



Figure 9: Aerial view of the existing driveway approach for 1020 White Sails Way.

Zoning and Special Privilege Considerations

In accordance with Section 20.30.110 (Setback Regulations and Exceptions) of the NBMC, setback standards ensure the provision of open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light and ventilation; separation of incompatible land uses; space for privacy, landscaping, and recreation; protection of natural resources; and safety from fire and geologic hazards. Given that the proposed encroachment is predominantly below grade, the design would still allow for adequate open area, visibility, access to light, privacy, and safety from fire and geologic hazards consistent with the purpose and intent of Section 20.30.110 of the NBMC.

In accordance with Section 20.18.030 (Residential Zoning Districts General Development Standards) of the NBMC, the subject property is within the R-1-6000 Zoning District where

the standard front setback is 20 feet where a specific setback is not identified on a setback map. The proposed encroachment will maintain a 21-foot setback for the garage and a 37-foot setback for the bedroom addition, which is greater than the default requirement of 20 feet applicable in other communities. Therefore, the project will remain consistent with the purpose and intent of setback standards of the NBMC, and approval would not represent the granting of a special privilege.

Neighborhood Compatibility

The neighborhood appears to be designed with staggered front setbacks to provide variety and visual interest within the neighborhood. However, staff's research was unable to find further justification for the wide range of front setbacks established on Districting Map No. 32, including the larger mid-block setbacks for White Sails Way. The existing topography and ocean views may have been a factor. The proposed setback encroachments will maintain a sense of variety in design within the neighborhood and will be consistent with the existing pattern of development that provides staggered front setbacks.

The Modification Committee approved Modification Permit No. MD5098 on June 23, 2000, for the property directly south of the Property at 1014 White Sails Way that allowed an addition to an existing single-unit dwelling. The Modification Permit allowed for the construction of a subterranean garage that encroaches 26 feet, 7 inches into the required 48-foot front setback as shown in Figure 10 below. The Modification Committee found that the topography of the property and elevation of the access street provided an opportunity for the construction of a subterranean garage that provides direct access. Although approval of Modification Permit No. MD5098 does not set a precedent for the approval of other modification permits or variances, it does support a finding of compatibility with adjacent properties since that property also includes encroachments within 50 feet of the front property line. The Modification Permit also provides an indication that the subject property has unique restraints related to the largely sloping topography and large front setback, because it is similar to the subject property. In this sense, the lot at 1014 White Sails Way is the most similar property to the subject site, in that it had a similar sloping condition in the front setback (prior to excavation for the new garage) and has a large setback compared to the majority of the community (i.e. 48-foot front setback).

The Modification Committee has since been dissolved and the NBMC only allows a 10% (i.e., 5-foot) deviation from the required setback through modification permits, thus approval of a variance is now required to achieve a similar design.



Figure 10: Street view of the property at 1014 White Sails Way.

As previously discussed in the *Unique Circumstances and Property Constraints* section and as shown in Figure 8, the neighborhood is primarily developed with straight driveway approaches and the current configuration does not match the design of the neighborhood. Figure 7 on page 8 shows a rendering of the project where the lower-level garage and driveway will match the characteristics of the neighborhood. This will create more compatibility with the neighborhood while also providing more safety in visibility of oncoming traffic. The applicant provided a justification letter that further discusses the design compatibility of the proposed project with the neighborhood (Attachment No. PC 2). Additionally, the project has been reviewed by the Harbor View Hills Community Association and Architectural Design Committee and has received conditional approval (Attachment No. PC 3).

Design Alternatives

An alternative garage design was considered to construct the daylighting basement three-car garage further back consistent with the 50-foot front setback. However, this design would require extensive excavation underneath the finished floor of the existing dwelling requiring significant temporary shoring and permanent retaining walls. Given the below grade nature of the garage, this alternative provides little benefit in terms of reducing visible bulk and mass but would add significant and unnecessary project costs.

An alternative bedroom addition was considered on the second level of the existing dwelling and towards the rear of the dwelling. The second-level addition alternative is not feasible because the property's community association has an Architectural and Landscaping Guideline adopted on November 18, 2019, that restricts two-story development. The guideline indicates that proposed improvements, including residential buildings, garages, fences, wall, and similar structures, must not block the existing views

from other lots. Therefore, this vertical improvement would not be compatible with the neighborhood and would be inconsistent with the Architectural and Landscaping Guidelines. The bedroom addition at the rear is not feasible because while the property has a 6-foot rear setback, approximately 15-feet of the rear property has a steep upward slope with an approximately 10-foot change in elevation. This design would require the removal of planters and retaining walls protecting this slope or demolishing the existing pool, which is close to the existing building. Adding the bedroom to the rear of the property would also result in higher project costs and a longer construction schedule.

Summary

In conclusion, the proposed encroachment into the front yard setback would allow for a safer driveway approach from street level to the garage with a configuration that is more compatible with the neighborhood. The garage will be 21 feet from the front property line which is similar to the property at 1014 White Sails Way and consistent with the standard 20-foot setback applicable to other single-unit zoning districts. The bedroom addition will be 37 feet from the front property line where the adjacent property at 1026 White Sails Way has a 40-foot front setback. The steep 20% slope in the front of the property coupled with the large 50-foot front setback is a unique circumstance that is not applicable to other similar properties within the same Zoning District and granting of the variance would not be considered a special privilege. Lastly, as conditioned, the project would require the removal of all non-compliant improvements that were constructed without the benefit of a building permit. Staff believes all findings for approval can be made as evidenced by the facts in the draft Resolution attached as Attachment No. PC 1.

Alternatives

The following alternatives are available to the Planning Commission should they feel the facts are not in evidence of support for the project application:

1. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. Changes may include, but are not limited to, approving the proposed garage encroachment into the setback and denying the bedroom addition, or reducing the proposed setback encroachments. If any requested changes are substantial, the item should be continued to a future meeting to allow a redesign or additional analysis. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application and provide facts in support of denial to be included in a resolution. The applicant will be required to revise the project plans to comply with all required setbacks, which may include reconstructing the driveway and single-unit dwelling to pre-construction conditions that comply with the NBMC.

Environmental Review

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) and Section 15305 under Class 5 (Minor Alternations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential to have a significant effect on the environment.

Class 1 exempts projects that include additions to existing structures provided the addition will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The existing structure is 3,780 square feet and the project proposes adding 1,245 square feet which is approximately a 33% increase.

Class 5 exempts projects that include minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density. Minor alternations include setback variances not resulting in the creation of any new parcel. The project involves encroachments in the front setback on a property with an average slope less than 20% and will not result in the creation of a new parcel.

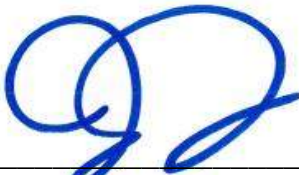
The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Submitted by:



Jenny Tran
Associate Planner
LAW/jt



Jaime Murillo, AICP
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Applicant's Justification and Findings Letter
- PC 3 Harbor View Hills Community Association and Architectural Design Committee
Approval Letters
- PC 4 Project Plans