



Building and Development Tribunals

Queensland Government

Department of Local Government and Planning

APPEAL

Integrated Planning Act 1997

File No. Insert No. 3-05-089

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Pine Rivers Shire Council

Site Address: *withheld* – “the subject site”

Applicant: *withheld*

Nature of Appeal

Appeal under section 21 of the *Standard Building Regulation 1993* against the decision of the Pine Rivers Shire Council to refuse an application for a variation to the siting provisions for a carport within 6.0m of the side road boundary.

Date and Place of Hearing: 8.30am on Tuesday, 21 February 2006.
On site at “the subject site”

Tribunal: Gregory Schonfelder

Present: Ian Weaving – Applicant
Rob Stevenson – Pine Rivers Shire Council
Russell Ward - Pine Rivers Shire Council

Decision

I determine that the decision of the Pine Rivers Shire Council to refuse an application for siting relaxation (Application Number 2005-601/RELAX) for a Class 10a Carport at “the subject site” is **set aside** and approval is granted to site the building at 0m setback to *withheld* Crescent as shown on submitted drawings (A-2071-S05-1A to 3A) **subject to the following conditions:**

1. The existing tilt garage door is replaced with a roller or panel lift type and this is to be conditioned on the development approval for building work.
2. The location of the lot boundary shall be permanently indicated.
3. The carport shall remain open and no door is to be placed on the road boundary although a fence and gate subject to Schedule 5 of the *Standard Building Regulations 1993* can be constructed.

Background

The applicant explained the basis for his original application to Council for a boundary relaxation for a carport and the basis for their appeal in that:

- The proposed carport is to assist his disabled daughter alight from a motor vehicle under cover.
- The neighbouring property has an existing carport that is sighted on the same boundary line.
- The carport was designed not to impinge on the aesthetics of the streetscape.
- The structure is light weight low and unobtrusive in the proposed location.

The Council's representatives responded to their refusal in that:

- The proposed carport being 0m from the side road boundary setback because of the prominent location of the building, a lesser setback than 6.0m, (Section 86 (3)) may have a detrimental effect on the built environment by adversely imposing on the streetscape.
- The length of the proposed carport does not meet the clear minimum length of a parking space being 5.5m (Section 41(2) Table 1).
- The length of the parking space was the main contributing factor to refuse the application.

Material Considered

1. Document: Copy of Decision Notice, regarding boundary setback relaxation application (2005-601/RELAX).
From: Pine Rivers Shire Council
To: Certification Professionals
Dated: 29 November 2005
Detail: Refusal of siting variation application on the basis of not meeting requirements of section 41 & 86 of the Town Planning Scheme for the Shire.
2. Document: Copy of Form 10 – Appeal Notice & Plans A2071 (S05-1A to 3A)
From: *applicants*
To: Registrar, Building and Development Tribunals
Dated: 20 December 2005
Detail: Giving basis for original application and appeal against Councils' decision.
3. Document: Extract of Pine Rivers Shire Planning Scheme, Sections 41 & 86.
4. *The Standard Building Regulation 1993.*
5. *The Integrated Planning Act 1997.*

Findings of Fact

1. The carport is proposed to be situated with a 0m setback from the side road boundary and is approximately 4.9m wide by 5.0m in length. Currently this space is a concrete driveway which services the existing garage on the ground level of the two storied dwelling. A second similar garage to the south has been converted to habitable purposes but the driveway remains. The proposed building can only be considered as a single carport because of the width restriction of the existing dwelling. At the boundary the proposed height of the building is 2.1m and a 2.0m high fence and gate could be constructed along this boundary of the allotment.
2. Although the Pine Rivers Shire Planning Scheme requires a car parking space to have a length of 5.5m the Queensland Development Code, Part 12 a8 allows a single covered space to be 5.0m long.
3. The surrounding streetscapes have predominately single detached dwellings with large blocks and established landscaping. There are some covered car parking spaces close to the roadway but as pointed out by the Council not all may have approval and some may have preceded the Planning Scheme.

Reasons for the Decision

The carport, because of the lightness of construction, materials used, design and colour does not unduly impact on the streetscape or adjoining properties.

Appropriate landscaping could subdue the effect of the siting of the building from the streetscape.

The setback from the northern boundary (5.4m) will allow screening by landscaping to the adjoining property.

By changing the garage door to a type which will not encroach into the car parking space in front of the garage will allow this covered space to conform to the dimensions of the Queensland Development Code, Part 12.

The indication on the concrete driveway by a saw cut or other method the lot boundary can ensure that parked vehicles can be fully contained within the lot.

Gregory Schonfelder
Building and Development
Tribunal Referee
Date: 16 March 2006

Appeal Rights

Section 4.1.37. of the Integrated Planning Act 1997 provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

Enquires

All correspondence should be addressed to:

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