



APPEAL
Integrated Planning Act 1997

File No. 03-05-026.

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Noosa Shire Council
Site Address: *withheld* – “the subject site”
Applicant: *withheld*

Nature of Appeal

An appeal under Section 4.2.9 of the Integrated Planning Act 1997 against the decision of the Noosa Shire Council to refuse a siting variation for an extension to an existing residence to be constructed on land described as Lot *withheld* and situated at “the subject site”.

Date and Place of Hearing: 9.00am, Wednesday/ 11th May 2005
at “the subject site”.

Tribunal: Debbie Johnson

Present: *withheld* - Applicants
Clay Anderson – Manager Building Services
Noosa Shire Council

Decision

The decision of the Noosa Shire Council to refuse a siting variation, for construction of extensions to an existing residence within the street setback, as contained in its written notice dated 7th April 2005, is set aside.

A siting variation is approved for the proposed extensions to be carried out providing the existing 3.9M setback is varied to a minimum of 3.4M from the street frontage.

The proposed double garage is to be set back a minimum of 3.9M from the front boundary.

Background

A written application, dated 29th March 2005, was made by the applicants to Noosa Building Certifiers for a building approval, being extensions to an existing residence. The application required an approval for a siting variation to the street frontage. The existing building is setback 3.9M from *withheld* Street as a siting variation has previously been approved at the time that the residence was originally constructed in 1989.

Drawings submitted with the extension application to Noosa Certifiers, indicated a reduced setback of 2.67M to *withheld* Street for a proposed portico entry and a 6M length of covered verandah with a double garage under. The application indicated that the proposed garage was to be part of an overall extension of the existing residence. Further the applicants outlined their intention to enhance their outdoor living areas at the rear of the site.

Noosa Shire Council responded to the siting variation application with a refusal dated 7th April 2005. The applicants arranged a meeting with a staff member from Noosa Shire Council on 19th April 2005. They were advised of their rights to appeal the decision against the siting variation, whilst they attended this meeting.

Material Considered

Standard Building Regulation 1993, specifically,

- Part 3 Requirements for Siting, Amenity and Aesthetics, Clause 34.
- Part 12 of the Queensland Development Code

Verbal submissions by Clay Anderson of Noosa Shire City Council on the 11th May 2005.

Verbal submissions by the applicants, on the 11th May 2005.

Written submission by the applicants dated 22nd April 2005.

Photographs of the site and neighbouring allotments taken at the tribunal hearing.

Findings of Fact

The existing residence at “the subject site” is set 3.9M back from the street frontage. Council records confirm this distance was approved at the times the residence was approved for construction. The site is 600sq/m, it is a corner site and the maximum width is 15M.

The proposed setback to the secondary street is in excess of the 6M as required.

At the hearing the applicants indicated that they were willing to increase the distance that they had requested as a setback from *withheld* Street. The applicants indicated that the varied setback was sought in an effort to break up the visual impact of the two storey residence. The existing residence is a rectangular colonial style built parallel to *withheld* Street at approximately 35M in length. The proposed extensions will see this building length increase by approximately 3M.

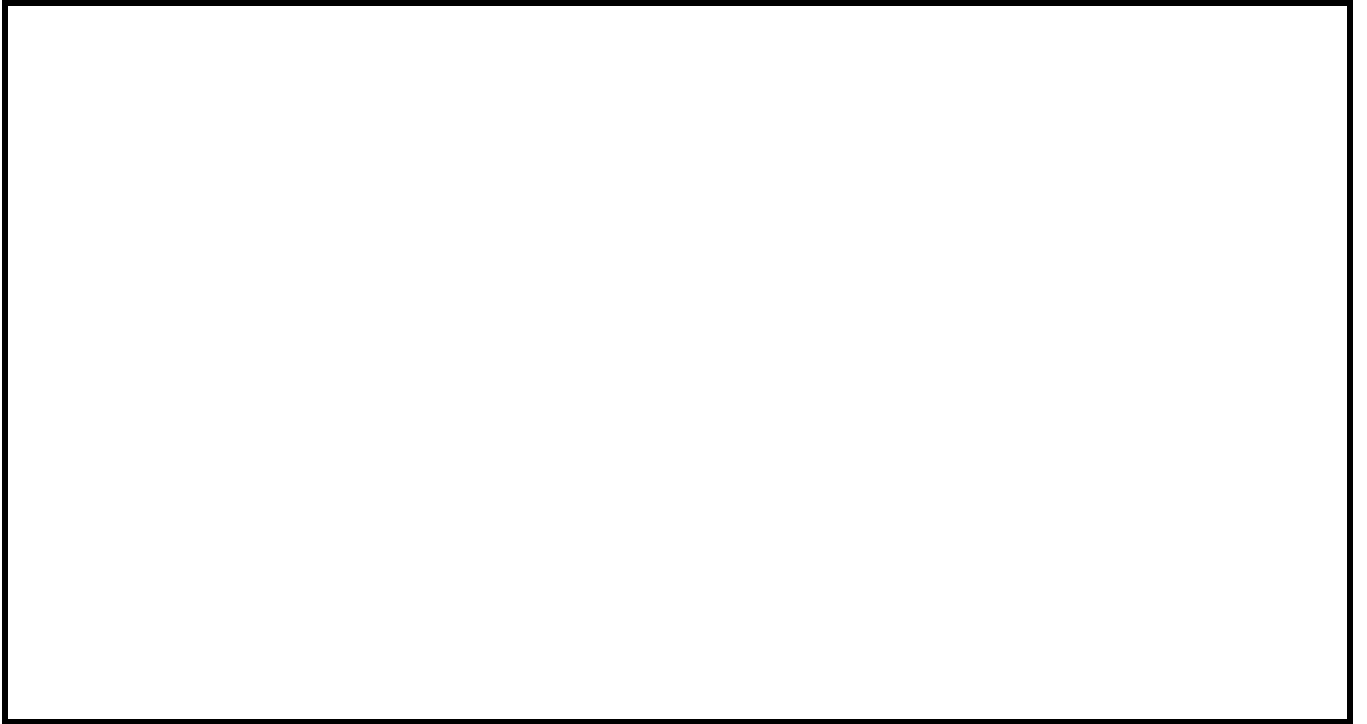
At the hearing, Clay Anderson confirmed that the building length could be increased as the applicant’s architectural plans had proposed, providing the building setback remained no less than 3.9M from *withheld* Street. Following discussions at the hearing Clay Anderson agreed some variation in the building façade would improve the aesthetic appearance of the residence as seen from the street frontage.

Reasons for the Decision

The neighbourhood amenity is of particular concern when a structure is approved within the usual street setback.

In this application, once on site together, both the applicants and council agreed that a siting variation, allowing the building line to step out for 500mm would greatly benefit the building's façade as it addresses the street. It was agreed that the garage should not be built out further than the existing verandah line so that an overhang was created when the verandah was extended.

Debbie Johnson
Building and Development
Tribunal Referee
Date: 23rd May 2005



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.

Enquiries

All correspondence should be addressed to:

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