



Building and Development Tribunals

Queensland Government

Department of **Local Government and Planning**

APPEAL

Integrated Planning Act 1997

File No. 03-06-087

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Gold Coast City Council

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

Applicant: *Withheld*

Nature of Appeal

Appeal under Section 4.2.9 of the *Integrated Planning Act 1997* against the decision of the Gold Coast City Council to approve, subject to conditions, an application for Building Works – siting variation - on land described as “*withheld*” and situated at “the subject site”.

Date and Place of Hearing: 10:45am on Monday 9th October 2006
at “the subject site”

Tribunal: Mr Chris Schomburgk

Present: “withheld” – applicant;
Mr Roger Sharpe – Gold Coast City Council; and
Mr Patrick Giess – Gold Coast City Council.

Decision:

The decision of the Gold Coast City Council as contained in its written Decision Notice dated 31st August 2006, to approve, subject to conditions, an application for relaxation of the boundary setback, is **amended** by **deleting the words “minimum 1.0 metres offset” where they appear in red lettering on the approved plan referenced as Plan / Sheet 01 dated 26/8/06.**

Material Considered

The material considered in arriving at this decision comprises:

- The application and supporting plans and documentation;
- The relevant provisions of the Town Planning Scheme for Gold Coast City Council;
- The Queensland Development Code (“QDC”);
- Council’s Decision Notice dated 31st August 2006; and
- The *Integrated Planning Act 1997*.

Findings of Fact

I make the following findings of fact:

- The site is located at “the subject site”.
- The subject application seeks approval for a carport at the front of the allotment, to be built to the front (street) boundary, as well as a gatehouse to also be built up to the front (street) boundary. The carport element was approved as proposed, but the gatehouse was required to be set back a minimum of 1.0m, as noted in red lettering on the approved plan.
- The proposal is part of a substantial renovation of an older style home. It was not disputed at the site inspection that the overall renovations would be an improvement to the visual appearance of the home.
- The gatehouse is proposed to be built around existing brick pillars that have been in existence for some time, albeit apparently without any specific approval. The pillars have recently been rendered in keeping with the overall renovation theme.
- In addition to the carport and gatehouse, the majority of the balance of the site frontage is to be a rendered block wall approximately 2.0m high. At the hearing, the Council officers explained that the reason for the 1.0m setback was to achieve a degree of articulation in the street frontage of this property.
- It was pointed out at the hearing that the actual gates as part of the gatehouse would be set back approximately 2.8m from the front boundary, but that the gatehouse roof would extend over the pedestrian entry, to provide shelter.
- To achieve the Council’s desired setback would probably require the installation of two new pillars set back further into the property, thereby intruding further into the front yard.

Based on my assessment of these facts, it is my decision that **the appeal is allowed**. Council’s **decision** to require a minimum setback for the gatehouse of 1.0m is set aside.

Reasons for the Decision

- The proposed renovations, in total, will, in my opinion, improve the street appeal of this property.
- The Council’s understandable desire for articulation in the property frontage will be achieved in a visual sense by the gates being setback 2.8m as proposed, with the gatehouse roof extending over this setback, creating a 3-dimensional appearance of articulation.
- While the existence of the pillars without approval is not, of itself, justification for the proposal as sought, their location will, in the context of the overall design of the gatehouse, create no visual or other impacts of detriment to the site or the locality.

Chris Schomburgk
Building and Development Tribunal General Referee
Date: 10th October 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.

Enquiries

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals
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