



Building and Development Tribunals

Queensland Government

Department of **Local Government and Planning**

APPEAL

Integrated Planning Act 1997

File No. 3-03-057

BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Assessment Manager: Brisbane City Council

Site Address: 14 Girton Street, Alderly Q. 4051

Nature of Appeal

Appeal under Section 4.2.9 of The Integrated Planning Act 1997 against the decision of Brisbane City Council to refuse a siting variation under the *Standard Building Regulations* for a relaxation of the boundary setback for the erection of a verandah/garage on land described as Lot 7 on RP75153 and situated at 14 Girton Street, Alderley.

Date and Place of Hearing: 10.30am. Thursday, 23rd. October, 2003.
Level 25, 41 George St., Brisbane.

Tribunal: Peter John Nelson

Present: Suresh Chandra - Applicant
Luke Gilliland – Brisbane City Council
Greg Schonfelder – Brisbane City Council

Decision

The decision of the Brisbane City Council as contained in its letter of refusal is **SET ASIDE**, and the following decision replaces the decision set aside :-

A reduced set back to the outermost projection to the front boundary of 4.5 meters (as agreed by both parties) is **APPROVED** subject to the following conditions :-

- a. The required tandem garage is taken further under the existing house where ample space is available according to the plans supplied.
- b. Either a hip roof or a dutch gable relaces the proposed gable end of the roof. If a dutch gable is selected then the gable section is to start not closer than 6 meters from the front boundary.
- c. The verandah section of the structure is not to be enclosed (by windows or other means) without

the written permission of Brisbane City Council.

Background

The area is an older developed area of the city. There have been relaxations given by Brisbane City Council in adjacent streets for verandahs, some quite close to the street, but they were low set structures that did not intrude on the streetscape. There have been no relaxations granted in the street of the appellant. A letter of support was given by one of the next door neighbours but a lengthy objection was sent to Brisbane City Council by the other neighbour siting (amongst other reasons) privacy issues

Material Considered

1. Appeal documentation.
2. 12 photographs provided.
3. 4 x A3 plans prepared by a.a.d. design job # 1625 sheets 1,2,3 &4.
4. Verbal submission from Brisbane City Council officers.
5. Verbal submissions from the appellant.
6. Letters sighted from each adjoining owner.
7. Surrounding residences, setbacks and local amenity.

Findings of Fact

I made the following findings of fact:-

1. The design prepared did not address the streetscape in a sympathetic manner.
2. The Council and the Appellant agreed to a compromise of 4.5mtrs.
3. The Council has the discretion to vary the building alignment under Section 48 of the *Standard Building Regulations 1993*.
4. The neighbour's strong objection to the relaxation on privacy grounds.
5. There is ample room under the house to garage two vehicles with minor variation to design.

Reasons for the Decision

1. The agreement on a compromise by both parties. During the course of the hearing both parties agreed on a compromise of 4.5 meters setback provided that the street appeal issue was dealt with in a satisfactory manner.
2. I found that there was some merit in the neighbour's concerns. The Council requires parking for two vehicles in residential areas and the argument put forward by the appellant was that in order to park two cars in tandem it was necessary to build to 3 meters off the front boundary. A brief look at the plans supplied showed that there was no restriction on the garage slab being extended further under the house thus allowing the set back distance to be increased. Both parties agreed that a compromise of 4.5 meters is acceptable. The proposed height of the gable end was another issue, being so close to the front boundary it would tend to impose on the streetscape. I agree with Brisbane City Council that this issue should be avoided. Therefore I have imposed the alternative roof structures be substituted for the proposed gable end.
3. The effect of the proposal on the adjoining neighbour was of concern to Brisbane City Council. The tall wall close to the neighbour's boundary would block breezes and visually be most unattractive and have an effect of 'closing in' an area often used by the neighbour for relaxation purposes.

4. The effect of the proposal on the streetscape. A tall gable end only 3 meters from the boundary would present an overpowering and unattractive façade. This is why an alternative roof style is imposed to better balance not only the streetscape but also the visual appeal of the extension as well.
5. The ability to house 2 vehicles without intruding on the front boundary. As there is ample unobstructed room under the house to continue the tandem style garage further under the existing residence there is no reason why the relaxation should not be allowed to the agreed setback distance of 4.5 meters.

PETER JOHN NELSON
Building and Development
Date: 4th. November, 2003.

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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