PLANNING COMMISSION MINUTES OF APRIL 10, 2006

2006-0087 – Appeal of a decision of the Administrative Hearing Officer for an application for a Variance on a 6,211 square-foot site from Sunnyvale Municipal Code section 19.34.040 to allow a six-foot setback where nine feet is required. The property is located at **734 Ashbourne Dr** (near E Fremont Ave) in an R-0 (Low-Density Residential) Zoning District. (APN: 309-06-016) SL

Gerri Caruso, Principal Planner, presented the staff report. Ms. Caruso said that staff is unable to make the findings to approve the requested variance and is recommending the Planning Commission uphold the decision of the Administrative Hearing Officer and deny the variance.

Chair Hungerford opened the public hearing.

Lorraine Guerrera Maciejowski, appellant, said the proposed plans are for an addition that would have a setback of 17 feet from the face of the curb instead of 20 feet. Ms. Maciejowski said she spoke with Teresa Zarrin, Associate Planner in the Planning Division and that she indicated that the home is zoned R-0 (Residential Low Density) requiring only an 8 foot setback. Ms. Maciejowski asked staff for clarification on what the setback requirement is. She commented that some of the corner lots in the neighborhood do not meet the setback requirements and this request for a variance would actually match some of the other corner lots. She said the proposed new addition would be built on the side and rear of the home and would be almost hidden due to a fence and landscaping. Ms. Maciejowski shared three pictures of other corner lots in the neighborhood that do not meet the setback requirements as the variances were "grandfathered in." She said the addition would not have a negative impact on the streetscape and would not affect the visual open space in the area. She also provided letters from two neighbors expressing support for the project. She shared a picture of a nearby house that is similar to the fence and landscaping that they plan to provide. She said that Andrew Miner, the Administrative Hearing officer, said at the Administrative Hearing that the design of the plan blended in and complimented the home. She said this addition is to accommodate the need to make extra room for a person in the home who has limited mobility.

Mieczyslaw Maciejowski, appellant, mentioned a few things regarding the topography of the property. He said their site is a corner lot and that there are a couple of storm drains that make the corner spot lower. He said their home is about five feet above the low spot and a few years ago they had FEMA survey the property so they could request an exemption from the flood insurance as their house is higher than the flood level. He said because of this elevation there may be an issue in getting the sewer line hooked up. Mr. Maciejowski said if this

variance is not approved it may be difficult and expensive to redesign the project and sewer line hook up and that the project may no longer be economically feasible.

Comm. Babcock referred to Ms. Maciejowski statement regarding a fence that would screen the building and asked staff what the setback would be for a fence. Ms. Ryan said a six foot tall fence may be placed on the property line, a seven foot tall fence could be placed on the property line with proper noticing to the neighbors that this has been proposed and any fence taller than seven feet would require a Use Permit that would go to Administrative Hearing. Comm. Babcock asked where the fence would be in relation to the addition. Ms. Ryan said she does not think a specific application for a fence has been submitted. Ms. Caruso said the setback of 6 feet would be measured from the property line the fence could be on property line so the fence could feasibly be six feet from the addition if approved.

Comm. Sulser commented to staff about the grade differential on the site and that the differential is part of the appellant's justification for requesting the variance. He asked staff how common it is for there to be grade differentials for sites in Sunnyvale. Ms. Ryan said Sunnyvale is primarily flat, but that it is not unusual for the houses to be graded up from the streets and sidewalks, especially on corner lots.

Comm. Klein asked staff if the grade differential makes this site special in any way. Ms. Caruso said the difference in elevation does not effect the variance or the ability to do the addition.

Chair Hungerford referred to Ms. Maciejowski request for clarification on the setback requirement and asked staff to respond. Ms. Ryan said without being present during the conversation she could only guess that possibly the Planner was not clear that the setback in question was referring to the street side of the property. Ms. Ryan confirmed that the required setback in question is a 9 foot minimum. Ms. Ryan explained how the setbacks are defined for corner lot properties.

Ms. Maciejowski said she felt that Ms. Zarrin was quite clear the zoning was R-0 and 8 feet. The appellant provided a photo for the Commissioners to view and said the fence is 11 feet 3 inches from the face of the curb. She also said she feels like the site has a unique grade and that it would be a financial hardship to redesign the sewer line and home in a different location. She said that the fence and landscaping would be similar to the neighbor's fence and landscaping. She thanked the Planning Commission for their consideration.

Chair Hungerford closed the public hearing.

Ms. Ryan commented that staff was not aware of any of the concerns that the appellant addressed regarding a sewer connection. She said if the Planning Commission thinks this needs to be considered, the item could be continued to allow time for staff to review the concern.

Comm. Babcock moved that this item be continued for two weeks to allow staff time to check into the sewer difficulties mentioned by the applicant. Comm. Klein seconded.

Comm. Babcock said that a variance is very difficult to approve. She said based on the information she has seen tonight that she cannot make the findings, but rather than deny the appeal she would like to see what staff finds out regarding the possible hardship in order to get a sewer connection for the property.

Chair Hungerford said that he will be supporting the motion and that he agrees with Comm. Babcock. He said he does not see the information to approve the variance, but the issue about the sewer connection warrants exploring.

Final Action:

Comm. Babcock made a motion on 2006-0087 to continue the item to April 24, 2006 to allow staff time to assess the sewer situation related to this property. Comm. Klein seconded.

Motion carried unanimously, 5-0, Comm. Simons absent.

This item is continued to the April 24, 2006 Planning Commission meeting.