



## MEETING OF JULY 5, 2006

### AGENDA ITEM NO. 6A

Application I.D.: 2006-0034

Application Type: Variance

Location: 1700 Robin Whipple

Applicant/Owner: Brad Olsen

APN: 044-322-330

Zoning: R-1C (Single Family Residential)

General Plan Designation: R1 – Low Density Residential

Environmental Determination: Categorically Exempt, Section 15301, Class 1(e)

### PROJECT DESCRIPTION

The applicant requests a Variance to expand an existing one-car garage by constructing a 217 square-foot addition onto an existing 2,146 square-foot single-family residence for a total of 2,363 square feet that is below the zoning district permitted 3,078 square feet for the site. The addition would encroach approximately 4.5 feet into the required 25-foot front yard setback.

### RECOMMENDATION

Staff recommends that the Planning Commission **deny** the Variance application, subject to the findings contained in the attached draft resolution<sup>1</sup>.

### PRIOR ACTIONS

The lot was established in 1946 as lot 36, block 6 of the Belmont Park subdivision. The existing single family residence was constructed in 1946. A review of planning files indicates there have been no other planning actions on the property.

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<sup>1</sup> Please note: This recommendation is made in advance of public testimony or Commission discussion of the project. At the public hearing, these two factors, in conjunction with the staff analysis, will be considered by the Commission in rendering a decision on the project.

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**300/500-foot radius map**

## SITE CONDITIONS

The subject property is located on the north side of Robin Whipple Way, east of Avon Street. The neighborhood is comprised of one and two story single-family homes with a mixture of stucco and wood exterior finishes. The 5,775 square-foot lot is rectangular shaped and is relatively flat. The site contains the existing single-family, one-story residence and is fully landscaped with a lawn and variety of shrubs, flowering bushes and small trees. There are no protected trees on the site. Hardscape elements for the site include a paved walkway to the front entrance, paved walkways in both side yards, and a concrete patio at the north east corner of the rear yard. The existing home is setback 25 feet from the front property line, five feet from the west (side) property line, eight feet from the easterly (side) property line, and 22 feet from the rear property line.

The home contains 2 bedrooms and a master suite (3 bedrooms total), one additional bathroom, a kitchen, and living and dining rooms. The house currently has an attached one-car garage that measures approximately 11 feet wide by 21 feet deep (228 sq. ft.).

### Front Yard Setbacks:

1740 Robin Whipple Way	26 ft.
1730 Robin Whipple Way	26 ft.
1720 Robin Whipple Way	24 ft.
1710 Robin Whipple Way	25 ft.
1700 Robin Whipple Way	25 ft.
1670 Robin Whipple Way	25 ft.
1660 Robin Whipple Way	24 ft.
1650 Robin Whipple Way	24 ft.

**Average Front Yard Setback: 24.85 ft. (As per Section 9.7.4<sup>2</sup>)**

## PROJECT ANALYSIS

<sup>2</sup> 9.7.4 FRONT SETBACK – EXCEPTIONS: In any R District the minimum required depth of front yard shall be subject to the following modifications:

(a) Where lots comprising 50 percent or more of all frontage on the same side of the street and within the same block are developed with buildings having front yards within a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage on that side of such street within the same block; but in no case shall such front yard be reduced to less than 15 feet nor shall a front yard of more than 30 feet be required; provided, however, that in establishing the front setback for a lot or parcel whereof the applicable frontage within the same block extends for a distance in excess of 400 feet on either side of such lot or parcel, only those properties in said block within 400 feet of such lot shall be included in the averaging of such front yards to establish the minimum front yard depth for said lot.

The applicant is proposing to expand the legal non-conforming one-car garage to accommodate two cars. The proposed two-car garage would have an interior dimension of 20 foot width by 20 foot depth, thereby complying with the Zoning Ordinance requirements for single family residential properties. The applicant proposes to convert a 7-foot by 11-foot (77 sq. ft.) portion of the existing garage to an enclosed utility/laundry room. A 16-foot by 9.5-foot (151 sq. ft.) portion of the existing living room will be converted to garage space. The net loss of interior living space for the home is 74 square feet. In order to meet the 20-foot depth requirement for garages, the applicant is proposing to construct a 98 square-foot addition at the front of the home. This 98 square-foot addition would encroach approximately four feet, eight inches (4'8") into the required 25-foot front yard setback (See project plans for full details of the proposed improvements).

To replace the living space that is being converted to garage space, the applicant is also proposing to construct a 118 square-foot addition on the west side of the home that meets the existing 5-foot side yard setback and is permitted per BZO Section 9.6.3(a). A new roof configuration for the residence is proposed with new skylight openings.

The total amount of floor area being added for the project is 217 square feet which does not require formal Single Family Design Review findings be made by the Planning Commission. The encroachment into the required front yard does require that the Commission make the five Variance findings which are analyzed later in this staff report.

The existing 14-foot wide driveway will be expanded to approximately 22 feet wide to accommodate two uncovered parking spaces and to serve the expanded garage. A portion of the existing front yard lawn will be removed as a result of the widened driveway, however, new landscaping planters are proposed on the east side of the driveway (currently paving) and a portion of concrete paving at the front of the home will also be removed and replaced with a new landscaping planter. One new Maple tree is proposed, as well as a variety of shrubs.

#### Exterior Colors and Materials

The applicant has provided a materials sample board for the Planning Commission to review. The residence is sheathed in stucco and painted light beige, with a darker shade of beige proposed for the building trim and fascia. White vinyl window frames are proposed along with a new composition shingle roof. The proposed material palette is compatible with the surrounding single family residential neighborhood.

#### Landscaping and Groundwork

As noted above, the applicant is proposing to widen the existing driveway which will result in removal of a portion of the existing front yard lawn. To mitigate this greenscape loss, the applicant is proposing a new landscaped planter on the east side of the driveway that will be planted with various shrubs and a new maple tree, and a new planter is proposed at the front of the house that will replace the existing paved walkway.

**PROJECT DATA**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>	<b>Required or Max. Allowed</b>
<b>Lot Size</b>	5,775 sq. ft.	No Change	-
<b>Slope</b>	Less than 1%	No Change	-
<b>Floor Area</b>	2,146 sq. ft.	2,363 sq. ft.	3,078 sq. ft. (Based on allowable FAR)
<b>FAR</b>	.372	0.409	0.533
<b>Parking</b>	One-car garage Two uncovered	Two-car garage Two uncovered	Two-car garage Two uncovered
<b>Setbacks:</b>			
<b>Front</b>	25 ft.	20 ft. 4 inches	25 ft*
<b>Side (east)</b>	8 ft.	No change	6 ft.
<b>Side (west)</b>	5 ft.	No change	5 ft.**
<b>Rear</b>	22 ft.	No change	9 ft.
<b>Height</b>	19 ft.	No change	28 ft.

\* Average front yard setback required Per BZO Section 9.7.4.

\*\* Continuation of a legal non-conforming setback permitted per BZO Section 9.6.3.

**GENERAL PLAN CONFORMANCE**

The proposed garage expansion and minor building addition would not alter the existing R1 – Residential Low Density General Plan designation.

**ZONING CONFORMANCE**

Section 9.7.4 of the Zoning Ordinance establishes exceptions to residential front yard setbacks. Subsection (a) provides that the average front yard setback of all homes on the same side of the street and within a same street block establishes the minimum front yard setback required for that entire street frontage. While Section 4.2.4 of the BZO (Front Yard requirements for Single Family Residential properties) requires a minimum 15-foot front yard setback, Section 9.7.4 of the BZO supersedes Section 4.2.4 and requires that an average front yard setback be used to establish the minimum required front yard setback which in this case is 25 feet. The applicant proposes a variance to this development standard.

**NEIGHBORHOOD OUTREACH**

The applicant performed neighborhood outreach as detailed in the Neighborhood Outreach Strategy and letters attached to this report (see Attachment III). The property owners contacted neighbors on Robin Whipple Way by going door-to-door and reviewing the plans with them. Six of these neighbors submitted letters of support for the requested front yard setback that have been included in the attachment. Additionally, the applicant mailed a letter on June 20, 2006 to all property owners within 300 feet of the subject property informing them of the proposed garage expansion and related front yard setback variance. As of the writing of this report, staff has received no responses to the Public Notice of Hearing. The neighborhood outreach requirement has been satisfied.

## ENVIRONMENTAL CLEARANCE (CEQA)

The proposed 217 square-foot addition and related front yard setback variance is categorically exempt from the provisions of the California Environmental Quality Act by provision of Section 15301, Class 1(e):

*“Existing Facilities: Additions to existing structures provided that the addition will not result in an increase of more than:*

*(1) 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less;”*

The proposed building addition and Variance meet the above requirements for CEQA exemption.

## VARIANCE ANALYSIS

**Nature and Purpose:** A variance is a permit to construct a structure not otherwise permitted under the zoning regulations. Variances can only be granted to authorize a use or activity which is otherwise expressly authorized by the zoning regulations applicable to the parcel. Government Code Section 65906. Variances authorize deviations from regulations applicable to such physical standards as lot sizes, floor area ratios for buildings, setbacks, and off-street parking requirements. As a result of granting a variance, basic zoning provisions are not being changed but the property owner is allowed to use his property in a manner basically consistent with the established regulations with minor deviations which place him in parity with other property owners in the same zone.

Variances are, in effect, constitutional safety valves to permit administrative adjustments when a general regulation would be confiscatory or produce unique hardship. As indicated by the court in Hamilton v. Board of Supervisors (1969) 269 Cal.App.2d 64, 66, 75 Cal.Rptr. 106 as follows:

*“They [variances] exist because it is recognized that, within a zone, there will be individual lots or tracts that, because of peculiar shape, unusual topography, or some similar peculiarity, cannot be put to productive use if all the detailed requirements for that zone are to be strictly applied. Hence administrative and quasi-judicial procedures are established, whereby the owner of such a piece of land may be allowed relatively minor variations from the strict letter of the law. Typical of such variations are those relating to setback lines, proportion of building size to lot area, and similar deviations. The concept is that the basic zoning provision is not being changed but that the owner of the individualized lot is allowed to use it, in a manner basically consistent with the established zone, but with such minor variations as will put him on a par with other property owners in the same zone whose lots conform in size, shape, topography, etc., to the overall pattern envisaged by the zoning ordinance. The procedures are created to bring the applicant to a substantial parity with other owners in the zone in devoting his property to the basic function of that zone; they are not created to give the applicant a better position than that enjoyed by his neighbors in the zone.”*

**Statutory Standards.** State law provides statutory standards for the granting of variances. Variances can be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity, under an identical zoning classification. Any variance granted must be subject to conditions to assure that the adjustment authorized does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone where the property is located. A variance cannot be granted to authorize a use or activity which is not otherwise expressly authorized by the zoning regulations applicable to the parcel. Government Code Section 65906.

### **Belmont's Ordinances Regarding Variances**

Belmont Zoning Ordinance Section 14 provides:

#### **SECTION 14 – VARIANCES**

*14.1 PURPOSE – The hearing body may grant variances to any and all site development standards to prevent or lessen practical difficulties and unnecessary physical hardships inconsistent with the objectives of the Zoning Ordinance which may result, under specific circumstances, from the strict or literal interpretations of the regulations prescribed therein. The hearing body shall review all requests to variances to site development standards in excess of 10 percent of said standard(s).*

*The Director of Community Development may administratively grant Exceptions to commercial and manufacturing site development standards up to and including 10 percent relief of said standard(s) as prescribed by Section 14.9 herein.*

*14.5 ACTION BY THE COMMISSION – The Commission shall receive, investigate, hear and take action upon every application for a Variance which is submitted in full accordance with the procedures set forth in Section 14.2 herein.*

#### **Section 14.5.1 Variance Findings**

a) *The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.*

Section 4.2.4 of the Zoning Ordinance establishes front yard setback requirements for residentially zoned properties. Lots that are zoned R-1A, R-1B, and R-1C are required to maintain a minimum 15-foot front yard setback, except as provided in Section 9.7.4. As discussed in the Zoning Conformance section of this report, section 9.7.4 of the Zoning Ordinance establishes exceptions to standard residential front yard setbacks. The average front yard setback of homes on the same side of a street and within the same block establishes the minimum required front yard setback, which in this case is 25 feet.

The Zoning Ordinance requires that new single family residences, and modified single family residences (with one-car garages) that meet the thresholds outlined in Section 8.1.4<sup>3</sup>, provide two-car garages with minimum interior dimensions of 20 feet wide by 20 feet deep. In this instance the applicant is not required by the code to provide a legal two-car garage, but rather proposes to expand their one-car garage in order to meet their parking needs.

As discussed earlier, the existing single family home is setback 25-feet from the front property line, which is the required minimum. Any building addition at the front of the home would require a front yard setback variance. Strict enforcement of the Zoning Code would require that the applicant convert existing interior living area in order to accommodate an expansion of the legal non-conforming one-car garage. The existing floor plan (sheet SK-2) indicates that in order to accommodate the expanded garage entirely within the existing exterior walls of the home, the applicant would be required to reconfigure and/or relocate the stand alone bathroom and the hallway corridor connecting the kitchen and family room to the remainder of the house. This issue does not generally represent a practical difficulty or physical hardship for the property. Given that the applicant is also proposing to remodel other portions of the home in order to expand living areas for the dwelling, staff believes that accommodating the expanded garage within the existing building footprint is not unreasonable, nor does it serve as the basis to necessitate Variance approval. Staff believes this finding is unable to be made in the affirmative.

*b. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

The subject parcel is similar in both size and shape with other parcels on the northerly side of Robin Whipple Way. All of the properties in the vicinity are relatively flat and a majority of the homes were constructed with one-car garages that have legal non-conforming status. The homes within this block and on the northerly side of Robin Whipple maintain front yard setbacks that range from 24 to 26 feet. Given this information, staff is not able to make the finding that there

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<sup>3</sup> BZO Section 8.1.4 – At the time of erection or enlargement of any building containing one or more dwelling units, or of the addition of one or more dwelling units to or within an existing building, unless otherwise prohibited in this Ordinance, there shall be provided and maintained not less than four vehicle spaces - two (2) automobile garage spaces and two (2) spaces which need not be covered - for each new or added dwelling unit in any one or two family structures, and not less than one (1) automobile garage space plus one (1) additional on-site parking space for each new or added unit in any multi-family structure. Furthermore, there shall be provided and maintained not less than four vehicle spaces - two (2) automobile garage spaces and two (2) spaces which need not be covered - for each dwelling unit in any one or two family structure when any of the following occurs:

- 600 or more square feet of gross floor area is added to the dwelling
- Any floor area modification that results in a dwelling becoming 3,000 square feet or larger
- Any floor area modification that results in an increase in the number of bedrooms from three or fewer to four or more
- More than one bedroom is being added to such dwelling unit

Notwithstanding this section, all secondary dwelling units shall comply with the parking standards set forth in Sections 8.4.1(f) and 24.3(i) of the Belmont Zoning Code.

are exceptional circumstances or conditions applicable to this property that do not apply to other properties in the same zoning district.

The variance justifications provided by the applicant state that neighboring homes on Robin Whipple Way have existing floor plans that would facilitate a garage expansion without encroaching onto setback areas. The applicant also notes that provision of a two-car garage on the subject property would help to reduce street parking problems that exist in the neighborhood. These justifications do not generally constitute exceptional or extraordinary circumstances required for review as part of this finding. Staff believes this finding is unable to be made in the affirmative.

- c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

All of the nearby single family homes in the immediate neighborhood have enclosed garages varying from one to two-car in size. Although many homes in Belmont were constructed prior to the current zoning standards and have one-car garages, the current zoning district objective for all single-family residences in the district is two garage spaces per dwelling with an interior dimension of 20' by 20'. A strict or literal interpretation of the front yard setback would deprive the owners of the privilege that some property owners have in the immediate vicinity and same zoning district of enjoying a home that has two enclosed garage parking spaces. Thus, this finding can be made in the affirmative.

- d. The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*

Permitting the applicant to construct a two-car garage within the existing 25-foot front yard setback area would not constitute a special privilege as it would only bring the project into compliance with current parking regulations. The proposed approximately 20-foot setback would not be perceivably out of character in comparison to other dwellings along the same block. The proposed addition would expand covered parking opportunities for the site in which no excess parking (beyond the 20' X 20' area) would result from the variance. Thus, this finding can be made in the affirmative.

- e. The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

The granting of the variance would improve the driveway and provide an expanded garage. The variance would enable the applicant to construct a legal conforming two-car garage and reduce dependence on street parking which is a benefit to surrounding property owners. The proposed garage and addition will not obstruct views from the street or neighboring properties and will be required to meet all Uniform Building Code and other City health and safety standards as part of the building permitting process. Thus, the siting and construction of the proposed garage/addition will not be detrimental to the public health, safety or welfare or materially

injurious to properties or improvements in the vicinity. This finding can be made in the affirmative.

### **CONCLUSION AND RECOMMENDATION**

Based on the analysis, staff is unable to make each of the required findings and therefore recommends that the Planning Commission DENY the requested front yard setback Variance.

### **ACTION ALTERNATIVES**

1. Approve the Variance and identify specific facts to support an approval. A resolution would be returned to the Commission for final action.
2. Continue the application for additional information or analysis.

### **ATTACHMENTS**

- I. 500 foot radius map of project site
- II. Resolution denying the requested Variance
- III. Neighborhood Outreach Materials (Commission Only).
- IV. Project plans & materials board (Commission only).

Respectfully submitted,

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Jennifer A. Walker  
Associate Planner

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Carlos de Melo  
Community Development Director

cc: Brad Olson – Property Owner

### ***PLEASE NOTE:***

Attachments III and IV are not included as part of this report. Please contact the Community Development Department at (650) 595-7417 for more information on these attachments.

RESOLUTION NO. 2006-\_\_\_

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT  
DENYING A FRONT YARD SETBACK VARIANCE  
FOR 1700 ROBIN WHIPPLE WAY (APPL. NO. 2006-0034)

WHEREAS, Brad Olson, property owner, requests Variance approval to expand an existing one-car garage by constructing a 217 square-foot addition onto an existing 2,146 square-foot single-family residence for a total of 2,363 square feet that is below the zoning district permitted 3,078 square feet for the site, and to allow the addition to encroach approximately 4.5 feet into the required 25-foot front yard setback; and,

WHEREAS, a public hearing was duly noticed, held, and closed on July 5, 2006; and,

WHEREAS, the Planning Commission of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15301, Class 1 (e) (1); and,

WHEREAS, the Planning Commission hereby adopts the staff report dated July 5, 2006 and the facts contained therein as its own findings of facts; and,

WHEREAS, the Planning Commission did hear and use their independent judgment and considered all said reports, recommendations and testimony hereinabove set forth; and

WHEREAS, The Planning Commission finds the required variance findings of Section 14.5.1 (a & b) of the Zoning Ordinance cannot be made in the affirmative as follows:

*a) The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.*

Section 4.2.4 of the Zoning Ordinance establishes front yard setback requirements for residentially zoned properties. Lots that are zoned R-1A, R-1B, and R-1C are required to maintain a minimum 15-foot front yard setback, except as provided in Section 9.7.4. As discussed in the Zoning Conformance section of this report, section 9.7.4 of the Zoning Ordinance establishes exceptions to standard residential front yard setbacks. The average front yard setback of homes on the same side of a street and within the same block establishes the minimum required front yard setback, which in this case is 25 feet.

The Zoning Ordinance requires that new single family residences, and modified single family residences (with one-car garages) that meet the thresholds outlined in Section 8.1.4, provide two-car garages with minimum interior dimensions of 20 feet wide by 20 feet deep. In this instance the applicant is not required by the code to provide a legal two-car garage, but rather proposes to expand their one-car garage in order to meet their parking needs.

As discussed earlier, the existing single family home is setback 25-feet from the front property line, which is the required minimum. Any building addition at the front of the home would require a front yard setback variance. Strict enforcement of the Zoning Code would require that the applicant convert existing interior living area in order to accommodate an expansion of the legal non-conforming one-car garage. The existing floor plan (sheet SK-2) indicates that in order to accommodate the expanded garage entirely within the existing exterior walls of the home, the applicant would be required to reconfigure and/or relocate the stand alone bathroom and the hallway corridor connecting the kitchen and family room to the remainder of the house. This issue does not represent a practical difficulty or physical hardship for the property. Given that the applicant is also proposing to remodel other portions of the home in order to expand living areas for the dwelling, staff does not believe that accommodating the expanded garage

within the existing building footprint is unreasonable, nor does it serve as the basis to necessitate variance approval. This finding is unable to be affirmed.

*b. There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

The subject parcel is similar in both size and shape with other parcels on the northerly side of Robin Whipple Way. All of the properties in the vicinity are relatively flat and a majority of the homes were constructed with one-car garages that have legal non-conforming status. The homes within this block and on the northerly side of Robin Whipple maintain front yard setbacks that range from 24 to 26 feet. Given this information, staff is not able to make the finding that there are exceptional circumstances or conditions applicable to this property that do not apply to other properties in the same zoning district.

The variance justifications provided by the applicant state that neighboring homes on Robin Whipple Way have existing floor plans that would facilitate a garage expansion without encroaching onto setback areas. The applicant also notes that provision of a two-car garage on the subject property would help to reduce street parking problems that exist in the neighborhood. These justifications do not generally constitute exceptional or extraordinary circumstances required for review as part of this finding. This finding is unable to be affirmed.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission denies the Variance to expand an existing one-car garage approximately 4.5 feet into the required 25-foot front yard setback area at 1700 Robin Whipple Way, based on the aforementioned findings.

\* \* \* \* \*

Passed and adopted at a regular meeting of the Planning Commission of the City of Belmont held on July 5, 2006 by the following vote:

AYES,  
COMMISSIONERS: \_\_\_\_\_  
NOES,  
COMMISSIONERS: \_\_\_\_\_  
ABSENT,  
COMMISSIONERS: \_\_\_\_\_  
ABSTAIN,  
COMMISSIONERS: \_\_\_\_\_  
RECUSED,  
COMMISSIONERS: \_\_\_\_\_

\_\_\_\_\_  
Carlos deMelo  
Planning Commission Secretary