

PUBLIC HEARINGS

CITY COUNCIL
APRIL 27, 2004

To: Mayor and City Council

From: George J. Rodericks, City Manager **GR**

SUBJECT: Consideration of Conditional Use and Variance Permit No. 0586; Detached Workshop and Feed, Tack, and Horse Stall encroaching into the required rear yard setback – Location: 19366 Mesa Drive (Sandy and Dann Froehlich)

BACKGROUND

The applicant is requesting permission to construct a detached workshop structure to be used as a feed and tack storage area, as well as, a horse stall. The structure is proposed to encroach 5 feet into the required rear yard setback of 10 feet.

AUTHORITY

Conditional Use Permits

In order to give the City's current zoning regulations the flexibility necessary to achieve the objectives of the Zoning Code, the City Council has the authority to permit conditional uses subject to the approval of a Conditional Use Permit. Because of their unusual characteristics, Conditional Use Permits require special review and consideration so that they may be located properly with respect to the objectives of the City's zoning regulations and with respect to their effects on surrounding properties. To achieve these objectives, the City Council is empowered to grant and to deny applications for conditional use permits and to impose reasonable conditions upon the granting of such permits. The City Council shall make the following findings before granting a Conditional Use Permit:

- 1) The project is in accord with the objectives of the Villa Park Zoning Code and the purpose of the Zone in which it is located.
- 2) The project is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- 3) The project complies with all applicable provisions of the Zoning Code.

The Villa Park Municipal Code requires a Conditional Use Permit for all accessory structures exceeding seven (7) feet in height.

Variance Permits

The Zoning Code authorizes the City Council to approve Variances from the terms of the zoning chapter when, because of special circumstances applicable to the property,

including size, shape, topography, location, or surroundings, the strict application of the zoning chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone. The City Council shall make the following findings before granting a Variance Permit:

1. That strict or literal interpretation and enforcement of the regulation would result in an practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Code; or
2. That there are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use of the property that do not apply generally to other properties in the same zone; or
3. That strict or literal interpretation and enforcement of the regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone; and
4. That the granting of the variance will not constitute the granting of a special privilege; and
5. That 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.

A Variance is required for any reduction in the required setback area.

FINDINGS

The subject property is located at 19366 Mesa Drive and is in the E-4 Small Estate zoning district. Lot areas within this district are a minimum of 20,000 square feet. Surrounding uses are residential.

Detached structures over 7 feet in height require a Conditional Use Permit and are limited to a height of 15 feet. The proposed structure is 13 feet in height and complies with height requirements of the Code for detached structures.

No person shall keep, stable or stake any equine within 50 feet of any dwelling or building (other than that of the owner) used principally for human habitation. From the information provided by the applicant, the structure is 44 feet from the owner's residence. However, the distance to the physical structure is less than 50 feet from the neighboring residence. The storage area, workshop and tool shed, and hay and feed area are within the required 50 feet. The horse stall is depicted at or exceeding the 50 foot distance. If approved, the approval should be conditioned on the minimum distance requirement.

The Villa Park Code also allows for an Administrative Adjustment for Variance requests that do not exceed a 25% reduction in the required setback. The requested application exceeds a 25% reduction in the required rear setback by encroaching into the rear yard setback of 10 feet by 5 feet.

Variance permits require that the City Council find that the strict or literal interpretation of the Code would result in a practical difficulty or unnecessary physical hardship that is inconsistent with the objectives of the Zoning Code. The Council must also find that there are exceptional or extraordinary circumstances applicable to the property that do not apply generally to other properties in the same zone. Based on a review of the project application, the proposed project does not meet the objectives of the Villa Park Zoning Code.

However, the lot does have limited developable rear yard area as it is a flag lot and is sloped toward Cannon. Placement of the structure at any other location other than the rear yard would be impermissible under the Code. The proposed reduction in setback is on the rear yard setback – that portion adjacent to Cannon.

CEQA COMPLIANCE

This project is exempt from requirements of the California Environmental Quality Act by Section 15303 – New Construction or Conversion of Small Structures – Class 3. Class 3 includes the construction of new structures; the installation of new equipment and facilities in small structures; and the construction of a single-family residence or a second dwelling unit in a residential zone.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval.

APPROVAL MOTION

Adopt Resolution No. 2004-2747, a Resolution of the City Council of the City of Villa Park approving Conditional Use and Variance Permit No. 0586, for the addition of a detached workshop and feed, tack and horse stall encroaching into the required rear yard setback, with conditions; Location: 19366 Mesa Drive.

RECOMMENDED ACTION

It is recommended that the City Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

CONDITIONS OF APPROVAL

1. The structure(s) shall be in accordance with approved plans on file with the City Clerk. Any significant deviation from the approved plans will require subsequent approval by the City Council through a separate Public Hearing. All work will be suspended on the project until such approvals are obtained.
2. Building permits and approvals must be obtained prior to commencement of construction. If the approval is after-the-fact, building permits and approvals are still required. Pursuant to section 9-2.20 of the Villa Park Municipal Code, every permit issued by the City's Building Official shall expire by limitation and become null and void if the building or work authorized by such permit is not completed through final inspection within the allowed time from the date of issuance of such permit, which time shall be as follows: up to 5,000 square feet, 12 months; 5,000 to 10,000 square feet, 18 months; over 10,000 square feet, 24 months. Failure to complete the project within such time shall be grounds for revocation of the discretionary approval. Such revocation will place the property owner in violation of the City's Zoning Ordinance and subject the property owner to possible civil or criminal legal action by the City.
3. Noise associated with construction, repair, remodeling, or grading shall not take place between the hours of 7 a.m. and 8 p.m., Monday through Friday, 8 a.m. to 8 p.m. on Saturday. Noise associated with the preceding shall not take place at any time on Sunday or a Federal holiday.
4. Separate review and approval by the City Engineer is required for all grading, driveway approaches, street improvements, sewer connections, and work within the right-of-way or City easement prior to issuance of any building permit for the project. Additional conditions may apply.
5. If deemed necessary by the City Engineer, a street dedication and improvement bond shall be required for all work exceeding three hundred (300) square feet of floor area prior to issuance of any building permit.
6. If deemed necessary by the Building Inspector or City Engineer, a cash bond in the amount of \$575 shall be posted to protect the City from any damages to any public improvements impacted directly or indirectly by the proposed improvements.
7. Temporary toilet facilities are not permitted in the front setback areas.
8. This Conditional Use and Variance Permit shall lapse and become void one year following the date of approval unless prior to the expiration of one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site.
9. This Conditional Use and Variance Permit may be renewed for an additional period of one year, provided that prior to the expiration of one year from the date when it or the renewal of same became effective, an application for renewal is filed.
10. Construction activities must comply with all applicable NPDES Best Management Practices (BMP's), as determined by the City Building Inspector and City

Engineer, to include, but not limited to: Erosion Control Measures, Perimeter Protection, Sediment Capturing, Waste Management, and Materials Management.

11. A landscape plan shall be submitted and approved by the City's Community Development Committee prior to completion of plan check through the City's Building Department. Landscaping shall be implemented pursuant to the approved plan within six months of issuance of any applicable Certificate of Occupancy. Failure to implement the plan shall be grounds for revocation of the discretionary approval. Such revocation will place the property owner in violation of the City's Zoning Ordinance and subject the property owner to possible civil or criminal legal action by the City.
12. A residential site review from the Orange County Fire Authority is required prior to issuance of building permits.
13. No equine, bovine, swine, sheep, or goat shall be kept, stabled, or staked within 50 feet of any dwelling or building (other than that of the owner) used principally for human habitation.
14. The structure shall not be converted to a second dwelling unit with prior approval by the City.