

## **PUBLIC HEARINGS**

**CITY COUNCIL  
August 27, 2002**

To: Mayor and City Councilmember  
From: George J. Rodericks, City Manager  
Originated by: Kathy Adrian, City Clerk

**SUBJECT:** Consideration of Conditional Use and Variance Application No. 0502 –  
Location: 18974 Mesa Drive; Applicants: Bob and Julie Wheatley

### **BACKGROUND**

The applicants are requesting a conditional use permit for construction of a freestanding patio cover and a variance to allow the patio cover to encroach into the westerly side yard setback by 6 feet.

The applicants are also requesting a variance to permit fencing over 6 feet in height in the rear yard.

### **AUTHORITY**

**Conditional Use Permits.** Because of their unusual characteristics, conditional uses require special consideration so that they may be located properly with respect to the objectives of the zoning regulations and with respect to their effects on surrounding properties. In order to achieve these purposes, the City Council is empowered to grant and to deny applications for use permits for such conditional uses in such zones as are prescribed in the zone regulations and to impose reasonable conditions upon the granting of conditional use permits.

The Villa Park Municipal Code requires a Conditional Use Permit for any accessory building or structure that is usual and customary or incidental to a principal use permitted in residential zones.

The public hearing process allows for a review of the exterior elevations of a proposed addition in order to assess its impact on adjacent properties.

**Variations.** The Zoning Code authorizes the City Council to approve, conditionally approve, or disapprove variance applications. Variations from the terms and regulations of the Zoning Code are to be granted when, because of special circumstances applicable to the property, a strict application of the terms and regulations of the Zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

### **FINDINGS**

The subject property is located at 18974 Mesa Drive and is in the 100-E4-20,000 Small Estate zoning district. The lot area is 21,347 square feet and is improved with a 2-story, single-family residence. Surrounding uses are residential.

Staff has visited the site for purposes of viewing the property as it relates to this request.

A Conditional Use Permit is required for all detached structures. The applicants are requesting a Conditional Use Permit to allow the construction of a 256 square foot patio cover to be built to a height of 9 feet, 2 inches.

A variance is required for all structures encroaching into a required setback. The proposed patio structure encroaches 6 feet into the required 10-foot side yard setback. In addition, the applicants are requesting a variance from the 10-foot distance between structures. The patio structure is proposed at 8 feet to the post of an existing patio cover that is attached to the main dwelling unit.

In addition, a variance is required for fences exceeding the maximum allowable height. The applicants are proposing a 3 to 4-foot wrought-iron extension to the existing 4 to 6-foot retaining walls at the rear of the property for safety reasons.

The slope and topography of the property creates limited yard area for the applicant.

**CEQA Compliance:** This project is exempt from requirements of CEQA by Sections 15303 Class 3: New Construction or Conversion of Small Structures.

### **FISCAL IMPACT**

None.

### **STAFF RECOMMENDATIONS:**

Staff recommends approval of the fencing variance. However, staff cannot recommend approval of the proposed patio cover as it is presently submitted. If the accessory structure were to be relocated outside of the required setbacks and appropriately screened from view, staff recommendation would be approval of the Conditional Use Permit.

### **APPROVAL MOTION**

Adopt Resolution No. 2002-2635, A Resolution of the City Council of the City of Villa Park approving Conditional Use and Variance Permit No. 0502, for a detached structure encroaching into the side yard setback and wrought-iron fencing exceeding 6' in height, with conditions; 18974 Mesa Drive – Applicants: Bob and Julie Wheatley.

### **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 constructed 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. There may be additional details and approvals required by the City Building Official or City Engineer.

3. 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.
4. 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.
5. 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.
6. No temporary toilet facilities are permitted in front setback areas.
7. The 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.
8. The 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.