

## **PUBLIC HEARINGS**

**CITY COUNCIL  
AUGUST 26, 2003**

To: Mayor and City Council

From: George J. Rodericks, City Manager

**SUBJECT: Consideration of Variance and Conditional Use Permit No. 0518; Reduction in side yard setback, detached pool house, 4 or more garage spaces on the property, and dwelling over 25' in height – Location 18341 Valley Drive (Vinh James Le)**

### **BACKGROUND**

The applicant is requesting permission for the following:

- A reduction in the required side yard setback of 19.85 feet to 15 feet resulting in a twenty-four percent (24%) reduction
- Construction of a detached pool house
- Construction of 4 or more garage spaces on the property for a total of 5 garage spaces
- Construction of a single-family residence over 25' in height

### **AUTHORITY**

#### **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.

Article 23-6.7 of the Villa Park Municipal Code specifies that the side setback for properties within the E4 Small Estate Zone be maintained at 10 percent of the average lot width, but not less than 10 feet nor more than 20 feet.

### 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.

Article 23-6.5 of the Villa Park Municipal Code requires a Conditional Use Permit for all accessory structures exceeding seven (7) feet in height. Article 23-6.7 requires a Conditional Use Permit for 4 or more garage spaces and for newly constructed structures or additions with a roof plane over twenty-five (25) feet.

### FINDINGS

The subject property is located at 18341 Valley Drive and is in the E4 Small Estate zoning district. The lot area is approximately 34,075 square feet and surrounding uses are residential.

The applicant is requesting permission to construct a new single-family residence on the property with a roof height of twenty-seven (27) feet. The rear of the structure is built into the slope and used as a retaining wall. Two separate six (6) foot retaining walls are proposed upslope from the new residence. These walls do not require Variance approval, but will require review and approval by the City Engineer and Building

Inspector through submittal of a precise grading plan. The residence is proposed over twenty-five (25) feet in height and as such requires a Conditional Use Permit. Maximum height allowed under the Zoning Code is thirty-two (32) feet.

The applicant is also requesting a total of five (5) garage spaces on the property. A Conditional Use Permit is required for the addition of four (4) or more garage spaces.

The applicant has proposed a 666 square foot detached pool cabana on the property. The plans show a height of 15 feet 4 inches for the structure; however, a condition has been added to restrict the height to 15 feet.

Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, and height requirements. However, the project reduces the required side yard setback and therefore does not meet the Code requirements in this area. This reduction is less than 25 percent and under the City's Zoning Code may be considered as an Adjustment. An Adjustment is a minor modification of the requirements of the Zoning Code where such requests constitute a reasonable use of the property not permissible under a strict literal interpretation of the regulations. Minor adjustments are subject to all the same findings of fact necessary for granting a Variance.

### **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 of this application.

### **APPROVAL MOTION**

Adopt Resolution No. 2003-2703, a Resolution of the City Council of the City of Villa Park approving Variance and Conditional Use Permit No. 0518, for a new single-family residence over 25' in height, 4 or more garages spaces on the property, a detached pool house, and a reduction in the side yard setback of 24%, with conditions; Location: 18341 Valley 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.
3. The detached pool cabana shall be limited to a height of fifteen feet.
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 Variance and Conditional Use 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 Variance and Conditional Use 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. A residential site review from the Orange County Fire Authority is required prior to issuance of building permits.
11. Compliance with all Building and Safety regulations concerning protection of the job site and traffic control during construction shall be strictly adhered to.
12. 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.