

PUBLIC HEARINGS

CITY COUNCIL
FEBRUARY 24, 2004

To: Mayor and City Council

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

SUBJECT: Consideration of Variance Permit No. 0574; Wall and pilasters over 42 inches within the required front setback – Location: 18481 Jocotal Avenue (Michael & Denise Branson)

BACKGROUND

The applicant is requesting permission to construct portions of a wall and pilasters over 42 inches in height within the required front setback.

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 23-6.11 of the Villa Park Municipal Code specifies that the maximum height of any fence, wall, or other structure within the first 20 feet of the property shall be limited to 42 inches.

FINDINGS

The subject property is located at 18481 Jocotal Avenue and is in the E-4 zoning district. Lot areas within this district are a minimum of 20,000 square feet. Surrounding uses are residential.

The applicant is proposing to construct a front yard wall and pedestrian gate with pilasters, portions of the wall exceed a height of 42 inches. Based on the drawings submitted by the owner, the pedestrian gate pilasters are at a height of 63 inches connecting to a descending wall from 48 inches down to 40 inches and terminating at a second set of pilasters proposed at 48 inches. The walls and pilasters are located at the edge of the property line immediately adjacent to the City's right-of-way.

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 front setback.

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 and there does not appear to be any significant exceptional or extraordinary circumstances applicable to the property. However, the property is located on a curved section Jocotal Avenue and the grade of the home itself is slightly elevated, designing a wall at the location in conformance with the Zoning Code creates an architectural impact as addressed in the applicant's letter of justification.

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 cannot recommend approval of this application. If approved this evening, the Council may wish to consider the addition of conditions addressing the installation of lights and/or future gates.

10. The addition of lighting shall conform to all height restrictions under the approved Variance.
11. The installation of vehicle gates shall not be permitted within the front yard setback unless installed in conformance with the height restrictions applicable to front yard setbacks and at a distance of 20 feet from the edge of curb.

APPROVAL MOTION

Adopt Resolution No. 2004-2735, a Resolution of the City Council of the City of Villa Park approving Variance Permit No. 0574, for the construction of walls and pilasters over 42 inches within the required front setback, with conditions; Location: 18481 Jocotal Avenue.

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. 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. 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.
6. Temporary toilet facilities are not permitted in the front setback areas.
7. This 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. This 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.
9. 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.