

PUBLIC HEARINGS

CITY COUNCIL
FEBRUARY 22, 2005

To: Mayor and City Council

From: George J. Rodericks, City Manager

SUBJECT: Consideration of Conditional Use and Variance Permit No. 0611; Addition of 4 or more garage spaces; addition of a 2nd floor exceeding 25 feet in height; increase in the maximum allowable lot coverage to 25.25%; and increase in the maximum allowable floor area to 35.4%; Variance for encroachment of 12 inches up to 3 feet 9 inches into the required side yard setback of 12 feet 7 inches – Location: 18982 Wildwood Circle (Bert Tarayao)

BACKGROUND

The applicant is requesting permission to renovate an existing single-story structure through the addition of 4 or more garage spaces; addition of a 2nd floor exceeding 25 feet in height; increase in the maximum allowable lot coverage to 25.25%; and increase in the maximum allowable floor area to 35.4%; Variance for encroachment of 12 inches up to 3 feet 9 inches into the required side yard setback of 12 feet 7 inches

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 additions that exceed 25 feet in height (up to the maximum allowable 32 feet in height); the addition of

4 or more garage spaces; and for increases in the maximum allowable lot coverage and floor area ratios.

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 a required setback area.

FINDINGS

The subject property is located at 18982 Wildwood Circle and is in the E-4 Small Estate Zoning District. Lot areas within this district have a minimum lot size of 20,000 square feet. The lot is improved with a single-story single-family residential dwelling and surrounding uses are residential.

The applicant is requesting permission to renovate an existing single-story residence into a two-story residence with a maximum ridgeline of 29 feet 6 inches. A Conditional Use Permit is required for all 2nd floor additions that exceed a ridgeline height of 25 feet up to the maximum allowable height of 32 feet. Based on a review of the project application, the proposed addition meets the requirements and objectives of the Villa Park Zoning Code with respect to height requirements.

With the remodel, the applicant is also proposing the addition of 2 garage spaces to an already existing 2 garage spaces bringing the total garage spaces to 4. A Conditional Use Permit is required for the addition of any garage spaces that bring the total spaces to 4 or more. Based on a review of the project application, the proposed addition meets the requirements and objectives of the Villa Park Zoning Code with respect to garage space requirements.

The Villa Park Municipal Code provides that increases in the maximum allowable lot coverage and floor area ratios be evaluated through the Conditional Use Permit process.

The applicant is requesting permission to increase the maximum allowable lot coverage ratio of 24% to 25.25% (1.25%). Previously, exceptions to the maximum allowable lot coverage could only be obtained by findings under the Variance process. Ordinance No. 2004-503 was adopted by the City Council to relax the findings for increases in the maximum allowable lot coverage to address construction projects that added a second floor to existing single-story structures that were penalized by the abrupt reduction in the maximum allowable lot coverage ratio from 32% to 24%. As presently constructed, the property has a lot coverage ratio of 23% - in compliance with the maximum allowable for single-story structures of 32%. When adding a second floor to the structure, the applicant's lot coverage ratio drops to 24%. The maximum amount of additional lot coverage allowed is 202 square feet. The applicant has proposed limited additional first floor construction as part of the project (527.25 square feet – 327 livable and 200 garage). However, even with this small addition, because the ratio has now decreased from 32% maximum to 24% due to the 2nd floor addition, the project exceeds the maximum allowable lot coverage by 1.25% or 253 square feet. Based on a review of the project application, the proposed addition meets the requirements and objectives of the Villa Park Zoning Code with respect to increases in the lot coverage requirements.

The applicant is also requesting permission to increase the maximum allowable floor area ratio of 32% to 35.4%. The floor area ratio consists of the square footage of all floors of all structures. Exceptions to the maximum allowable floor area can be approved under the Conditional Use Permit process. The applicant proposes loft areas over the 2nd floor at approximately 401 square feet. Loft areas are calculated as an actual floor when computing the floor area ratio. The applicant exceeds the maximum allowable floor area by 687 square feet. The additional 1st floor construction (527.25 square feet) and loft areas (401 square feet) continue to penalize development of the project despite the minimal visual exterior impact. Based on a review of the project application, the proposed addition meets the requirements and objectives of the Villa Park Zoning Code with respect to increases in the floor area requirements.

Through a Variance, the applicant is requesting permission to reduce the required side yard setback of 12 feet 7 inches for the addition of an exercise/pool area onto the master suite. The exercise/pool area encroaches into the setback from 12 inches at one corner to a maximum of 3 feet 9 inches at the rear corner.

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. The property is uniquely shaped and is located at the end of a cul-de-sac. The unique shape presents difficulty in development of the property and presents findings for a Variance.

Based on a review of the project application, while the proposed addition meets the requirements of height, lot coverage, and floor area (with approved Conditional Use Permits), the structure does not meet the objectives of the Villa Park Zoning Code with respect to setback requirements and Variance findings are required. The unique shape of the property and limited developable area provides sufficient findings to approve the project application.

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 can recommend approval.

APPROVAL MOTION

Adopt Resolution No. 2005-2805, a Resolution of the City Council of the City of Villa Park approving Conditional Use and Variance Permit No. 0611, Addition of 4 or more garage spaces; addition of a 2nd floor exceeding 25 feet in height; increase in the maximum allowable lot coverage to 25.25%; and increase in the maximum allowable floor area to 35.4%; Variance for encroachment of 12 inches up to 3 feet 9 inches into the required side yard setback of 12 feet 7 inches; Location 18982 Wildwood Circle.

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 may only take place between the hours of 7 a.m. and 8 p.m., Monday through Friday and 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 address screening of the second floor and side yard encroachment from adjacent properties.* 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. Ridgeline shall not exceed 29 feet 6 inches.
14. Maximum lot coverage shall not exceed 25.25%.
15. Maximum floor area shall not exceed 35.4%.