

PUBLIC HEARINGS

**CITY COUNCIL
JANUARY 25, 2005**

To: Mayor and City Council

From: George J. Rodericks, City Manager

SUBJECT: Consideration of Variance Permit No. 0606; Addition of a detached patio cover encroaching into the required 10 foot rear yard setback by 7.5 feet – Location: 10111 Phelan Drive (Stephen Peake)

BACKGROUND

The applicant is requesting permission to construct a detached patio cover of approximately 324 square feet encroaching into the required 10 foot rear yard setback by 7.5 feet.

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.

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

FINDINGS

The subject property is located at 10111 Phelan Drive and is in the E-4 Small Estate Zoning District. Lot areas within this district are a minimum of 20,000 square feet. The lot is improved with a single-family residential dwelling and surrounding uses are residential and educational.

The applicant is proposing a detached patio cover of approximately 324 square feet in the rear yard. The patio cover is proposed at 12 feet in height. Otherwise compliant with all applicable setback and lot coverage requirements, the structure only requires a Site Plan Review; however, the applicant is proposing a placement for the structure that encroaches into the required rear yard setback of 10 feet by 7.5 feet. A Variance is required for any reduction in a required setback area.

The property is adjacent to Villa Park High School athletic fields and may have a privacy issue with respect to their use of the backyard areas.

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 additions do not meet the objectives of the Villa Park Zoning Code and there are no extraordinary circumstances applicable to the property.

However, if the applicant is also proposing the structure and its placement for the purposes of privacy to mitigate the affects of the adjacent school site, the City Council may consider this as sufficient findings for a Variance.

The roofing material for the structure must be Class A roofing material. Palapa style structures with thatched roofing materials must be treated to conform to Class A specifications with proper approvals from the Fire Authority.

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.

APPROVAL MOTION

Adopt Resolution No. 2004-2797, a Resolution of the City Council of the City of Villa Park approving Variance Permit No. 0606, Addition of a detached patio cover encroaching into the required 10 foot rear yard setback by 7.5 feet, with conditions; Location: 10111 Phelan 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 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 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 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. Structure shall not exceed 12 feet in height and shall not be enclosed.
12. Structure shall be located no closer than ____ feet to the rear property line.