PUBLIC HEARINGS **CITY COUNCIL**
JUNE 22, 2004

To: Mayor and City Council

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

SUBJECT: Consideration of CUP/Variance Permit No. 0588; Master bedroom addition encroaching into required side yard setback and an increase in the maximum allowable lot coverage from 24% to 27% - Location: 9681 Dodson Way (Robert Brumleu)

BACKGROUND

The applicant is requesting permission to construct a master bedroom addition that encroaches 2 feet into the required 10 foot side yard setback and a second story over the proposed garage that results in an increase in the maximum allowable lot coverage from 24% to 27%.

This Public Hearing was continued from the April 27th and May 25th City Council meetings.

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 the required setback area and for an increase in lot coverage over the maximum allowable.

FINDINGS

The subject property is located at 9681 Dodson Way 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-story residential dwelling. Surrounding uses are residential.

The applicant is proposing a master bedroom addition that encroaches 2 feet into the required side yard setback of 10 feet. 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 does not exceed a 25% reduction in the required setback.

The applicant is also requesting a reduction in the required lot coverage of 24% for 2-story structures. The applicant is proposing an addition above the proposed garage that would be considered a second story. Based on the City's zoning codes, this 2nd story addition would change the maximum allowable lot coverage from 32% to 24%. The applicant is proposing lot coverage at 27%. Although not yet adopted, Ordinance No. 2004-503 introduced by the City Council at the June 15th meeting and on the agenda for adoption this evening would permit the 2nd story addition through the findings of a Conditional Use Permit.

Variance permits, even Administrative Adjustment Variances, 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 encroachment into the side yard does not meet the objectives of the Villa Park Zoning Code and there are no extraordinary circumstances applicable to the property.

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 of a Conditional Use Permit for the 2nd story addition and increase in maximum allowable floor area of 24% to 27%; however, staff cannot recommend approval of the Variance request for the side yard encroachment.

APPROVAL MOTION

Adopt Resolution No. 2004-2771, a Resolution of the City Council of the City of Villa Park approving Variance Permit No. 0588, Master bedroom addition encroaching into the required side yard setback and an increase in the maximum allowable lot coverage ratio; with conditions; Location: 9681 Dodson Way.

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 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.