

PUBLIC HEARINGS

**CITY COUNCIL
June 24, 2003**

To: Mayor and City Councilmember
From: George J. Rodericks, City Manager
Originated by: Kathy Adrian, City Clerk

SUBJECT: Consideration of Variance Application No. 0540 for Construction of Walls over 6 Feet in Height – Location: 18812 Smoketree Circle; Applicant: Frank Apeldoorn.

BACKGROUND

The applicant is requesting a variance to construct a retaining wall and adjacent block wall, with a combined height over 6 feet, on their property at 18812 Smoketree Circle.

Current zoning restricts perimeter side and rear fencing/walls to 6 ft. in height.

AUTHORITY

The Zoning Code authorizes the City Council to approve, conditionally approve, or disapprove variance applications. Variances from the terms and regulations of the Zoning Code are to be granted when, because of special circumstances applicable to the property, a strict application of the terms and regulations of the Zoning Code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classifications.

FINDINGS

The subject property consists of approximately 21,000 square feet and is located in the 100-E4-20,000 zoning district. Surrounding uses are residential.

Staff has visited the site for purposes of viewing the property as it relates to this request.

The applicant is proposing a modification to existing walls along the east side of the property to increase the amount of usable space along the side and rear of the property. A series of low retaining walls and adjacent walls are proposed. Staff reviewed this application for its consistency with Ordinance No. 2003-494.

The applicant has provided cross sections of the property to illustrate the wall locations. Cross section C is located at the front of the property near the garage and consists of a retaining wall of four (4) feet and a wall further up the slope retaining with a high side height of five (5) feet. Because the walls are greater than three (3) feet apart and are less than six (6) feet in height from the high side, cross section C does not require Variance approval.

Cross section B is located at the middle of the lot and consists of one retaining wall at four (4) feet and another upslope wall of five (5) feet. Cross section B does not require Variance approval.

Cross section A consists of a retaining wall at four (4) feet immediately adjacent (one foot) from another larger retaining wall eight (8) feet seven (7) inches. Because the walls are proposed within three (3) feet from each other, they are treated as one wall with respect to their height. As a result,

the total height of the wall is twelve (12) feet seven (7) inches from the low side and five (5) feet from the high side. The wall is also proposed at the ultimate right-of-way – five (5) feet from the curb. Under the guidelines of the new fence and wall ordinance, such a wall is limited in height to six (6) feet. Therefore, cross section A requires Variance approval.

Based on a review of the property, the sloped side yard creates a unique situation that requires the development of retaining walls to facilitate use of the side yard area.

CEQA Compliance: This project is exempt from requirements of CEQA by Sections 15303 Class 3: New Construction or Conversion of Small Structures.

FISCAL IMPACT

None.

STAFF RECOMMENDATION

Staff recommends approval of this application.

APPROVAL MOTION

Adopt Resolution No. 2003-2682, A Resolution of the City Council of the City of Villa Park approving Variance Permit No. 0540 for Construction of Walls over 6 Feet in Height, with conditions; – Location: 18812 Smoketree Circle; Applicant: Frank Apeldoorn.

RECOMMENDED ACTION

It is recommended that the City Council open the 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. 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. 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. The 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. The 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. Walls shall be landscaped to screen their impact from Smoketree Lane within three (3) months of their completion.
10. Prior to issuance of the building permit, the applicant shall meet with the City Engineer and Building Inspector to determine the right-of-way construction line. If it is determined that the walls are proposed within the right-of-way, the applicant shall either relocate the wall or apply for an encroachment permit.