

## **PUBLIC HEARINGS**

**CITY COUNCIL  
MARCH 22, 2005**

To: Mayor and City Council

From: George J. Rodericks, City Manager

**SUBJECT: Consideration of Variance Permit No. 0612 for the construction of a block wall and chain link fencing over 42 inches within the required front yard setback – Location: 9782 & 9802 Santiago Boulevard (Bruce Gleason & Eldon Hostetler)**

### **BACKGROUND**

The applicant is requesting permission to construct a block wall and chain link fencing over 42 inches within the required front yard 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 a 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 increase in the maximum allowable height of fencing in the required front setback area. In the case of a Variance, a single application may include requests for similar Variance on two (2) or more adjacent sites with similar characteristics.

## **FINDINGS**

The subject properties are located at 9782 Santiago Boulevard and 9802 Santiago Boulevard and are in the E-4 Small Estate Zoning District. Lot areas within this district have a minimum lot size of 20,000 square feet. The lots are improved with single-family residential dwellings and surrounding uses are residential.

The applicants are requesting permission to build six (6) foot high block walls along the frontage of both properties. The block walls would contain pedestrian and vehicular gate access. In addition, the applicants are requesting permission to build a six (6) foot high vinyl fence between the two properties. Portions of the vinyl fencing would also be within the required front yard setback. Walls and fencing within the required thirty (30) foot front yard setback are allowed to a maximum of 42 inches in height. A Variance Permit is required to exceed the maximum allowable height.

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 properties front to Santiago Boulevard. Santiago Boulevard is considered a primary arterial and therefore the traffic along Santiago Boulevard is heavier and generates more noise than a regular residential street upon which most homes will front. There are five homes that front along Santiago Boulevard in the area of the Variance request.

The block wall on 9782 Santiago Boulevard will consist of three sections with two functional wood gates (pedestrian and auto). The block wall will be finished with stucco and columns every 10 feet consisting of decorative stacked stone. The block wall at 9802 Santiago Boulevard will be constructed with decorative river stone columns and will replace the existing wooden stucco wall that was approved under Variance Permit #0349 in 1994.

Based on a review of the project application, the proposed walls and fences do not meet the requirements of Zoning Code with respect to height within the front yard setback and a Variance is required. The locations of the properties with frontage to a primary arterial provide 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. 2005-2807, a Resolution of the City Council of the City of Villa Park approving Variance Permit No. 0612, for the construction of block walls and chain link fencing over 42 inches within the required front yard setback, with conditions; Location: 9782 and 9802 Santiago Boulevard.

### **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. All walls shall be constructed outside of the City right-of-way, unless an Encroachment Agreement is obtained from the City in advance of the construction authorizing work within the right-of-way.
12. All driveway approaches and vehicular gates shall be reviewed by the City Engineer for access requirements and shall maintain a minimum acceptable distance from the right-of-way to allow safe vehicular entry and exit.
13. A right-of-way permit shall be obtained for all work conducted within the City right-of-way.
14. The fencing and walls approved under this Variance Permit shall not exceed six (6) feet in height.