

From the desk of:

JOYCE STREATOR
Councilwoman
District 1
(626) 744-4444



5/23/06

Jane —

Please agendaize this
issue (see attached re:
Variance #11536) for
a possible call up.

Thanks!

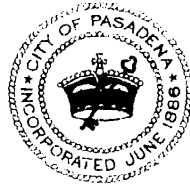
Joyce Streater

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PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION

May 22, 2006

Walter Dennis
1149 Wotkyns Drive
Pasadena, CA 91103

**RE: Minor Variance #11536
1149 Wotkyns Drive
Council District #1**

Dear Mr. Dennis:

Your application for a **Minor Variance** at **1149 Wotkyns Drive** was considered by the **Board of Zoning Appeals** on **May 17, 2006**.

MINOR VARIANCE: To allow a six-foot high wall in the front yard setback of the property. The fence is in line with the existing detached garage and located ten feet behind the front property line. A Minor Variance is required for fencing exceeding four feet in height in the front setback.

Based upon the findings, the Board of Zoning Appeals decided to **overturn** the decision of the Hearing Officer and **disapprove** the Minor Variance with submitted plans stamped **May 17, 2006**.

You are hereby notified that the decision of the Board of Zoning Appeals is not subject to further appeal. This decision becomes effective on the eleventh day from the date of the decision. The effective date for this case is **May 31, 2006**. However, prior to the effective date, a member of the City Council may stay the decision and request that it be called for review to the City Council.

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9));

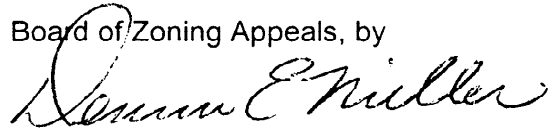
Appeal of Minor Variance #11536
Page 2

Administrative Code, Title 14, Chapter 3, Class 1 §15301, Existing Facilities). This class exemption specifically exempts accessory structures including fences.

For further information regarding this case please contact **David Sinclair** at **(626) 744-6766**.

Sincerely,

Board of Zoning Appeals, by

A handwritten signature in cursive script that reads "Denver E. Miller".

DENVER E. MILLER
Zoning Administrator

DEM:ac

Enclosures: Attachment A

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Hearing Officer, Code Enforcement-Ellen Clark, Case File, Decision Letter File, Planning Commission (9).

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR VARIANCE #11536

Minor Variance – Construct a Six-Foot Tall Wall in the Front Yard

1. *Granting the application will be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare in that while the six-foot wall matches the front setback of the existing detached garage and will be compatible with the character of the existing residence, it does not fit the existing development in the immediate area. There are some walls in the general vicinity that were built over four feet, and are therefore 'grandfathered.'* This does not give weight to the argument that the six-foot wall will be in character with the neighborhood. Many of the lots in the area do not have six foot high walls in the front yard. The granting of this variance would be detrimental to the neighborhood because it would result in a loss of neighborhood character and reduce the pedestrian character of the area.

2. Granting the application is not in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code and would constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district in that the granting of this variance would be inconsistent with the goals and policies of the General Plan in particular the goals to create a pedestrian friendly character. A six-foot high wall is not pedestrian-friendly and results in a gated community character. Even with the openings in the wall, the wall constitutes a large mass set against the street. Granting this variance will constitute a grant of special privilege because a building permit was issued in error and that just because the City granted a permit does not necessarily warrant the granting of a variance. Many residential streets in the City are designated as mobility corridors and have heavy traffic and front yard fence variances have not been granted to residences on mobility corridors. This lot is not located on a mobility corridor and does not have the high traffic volume of such streets. Granting a variance to the fence height would be a grant of special privilege.

**BOARD OF ZONING APPEALS
STAFF REPORT
May 17, 2006**

SUBJECT: Minor Variance #11536

LOCATION: 1149 Wotkyns Drive

ZONING DESIGNATION: RS-4-HD (Single-Family Residential, Hillside Overlay district)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: David Sinclair

APPLICANT Walter Dennis

ZONING HEARING OFFICER AND ZONING ADMINISTRATOR'S RECOMMENDATION: Acknowledge the Environmental Determination and the Specific Findings in Attachment A to **approve** the application with the conditions of approval as recommended in Attachments B and C.

ENVIRONMENTAL DETERMINATION: This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 1 §15301, Existing Facilities). This class exemption specifically exempts accessory structures including fences and walls.

STAFF ADDENDUM:

On March 1, 2006 the Hearing Officer adopted the Zoning Administrator's recommended findings and approved Minor Variance #11536 to allow a six-foot tall block wall to be located in the front yard of a single-family residence where the Zoning Code permits a maximum height of four feet. This decision was called for review by the Planning Commission who voted to stay the decision of the Hearing Officer and direct the Board of Zoning Appeals to hear the application.

The Zoning Code permits a maximum height of four feet for walls and fences that are located in front of the 'occupancy frontage' of the house. 'Occupancy frontage' is the point of the residence that is closest to the front property line. It is at that point that a wall or fence may be up to six-feet tall; in front of that point four feet is the maximum permitted height.

Staff recommended approval of the Minor Variance for the following reasons:

1. The property has an unusually small usable rear yard of 15 feet due to the rear of the property sloping down into the Arroyo Seco and the location of the house at the rear of the property;

2. Unlike the properties in the immediate area, the detached garage is located at the front of the property, approximately ten feet from the front property; and
3. The wall is in line with the front of the detached garage. If the garage were attached to the house, a six-foot tall wall or fence would be allowed by right.

Several neighbors at the Hearing Officer public hearing expressed concerns about the effect the six-foot tall wall would have. In order to address these concerns, staff has met with the applicant and considered alternative designs. The alternative design that staff is now recommending would permit the existing pilasters and gates to remain (limited to six-feet tall), while the top two feet of the remainder of the wall is replaced with wrought-iron, painted to match the current color of the gates. This will allow for some privacy as requested by the applicants, while allowing for some transparency of the wall and 'connecting' the house to the street. The other conditions approved by the Hearing Officer, such as requiring a landscape plan, are in Attachment B to this report.

With the alteration described above staff continues to recommend approval of the Minor Variance application with the conditions in Attachments B and C.

HEARING OFFICER ADDENDUM:

On March 1, 2006 a public hearing was held regarding Minor Variance No. 11536. After visiting the site, receiving written and oral testimony, the Hearing Officer approved the request based upon the following:

1. The wall was constructed with approval from the City even though such approval was mistakenly granted.
2. The wall is broken by an open iron gate and window openings reducing the overall impact.
3. Adjacent walls, fences and hedges in the immediate vicinity of the property exceed the four foot height limit and granting the application would not set a precedent in the area.
4. While the fence is not particularly attractive, the approved condition requiring substantial landscaping should minimize the impact that the wall would otherwise create in its current condition and appearance. Trees, shrubs and evergreen vines would be appropriate to screen the wall.

For these reasons the application was approved.

Attachments:

Attachment A – ZA and ZHO Recommended Findings of Fact

Attachment B – ZA and ZHO Recommended Conditions of Approval

Attachment C – Department of Public Works Recommended Conditions of Approval

**ATTACHMENT A
ZONING HEARING OFFICER AND ZONING ADMINISTRATOR
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #4589**

Minor Variance – Construct a Six-Foot Tall Wall in the Front Yard

1. *There are exceptional or extraordinary circumstances or conditions applicable to the project site that do not apply generally to sites in the same zoning district.* The subject property is developed with a shallow (15 feet) usable rear yard, adjacent to the steeply sloping Arroyo Seco. Further, the existing garage is detached and in the front of the house. There are no other garages in the immediate area that are detached and in front of the house. These conditions are unique to the project site given the placement of the residence and garage. There are no other properties in the vicinity with the unique arrangement of buildings.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* The location of the house near the rear property line and the steep slope at the immediate rear of the property result in a small rear yard. By constructing a six-foot wall in the front of the house the owner can create a usable private yard.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.* The six-foot wall matches the front setback of the existing detached garage and will be compatible with the character of the existing residence and will not be detrimental or injurious to the surrounding neighborhood. Visibility and sight lines for motorists and pedestrians will not be impacted.
4. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The General Plan encourages residential development that is compatible and harmonious with single-family residential neighborhoods. In this case, the six-foot wall will match the existing setback of the existing garage. The property will continue to be use for single-family purpose which is in compliance with the Low Density Residential General Plan designation and RS-6 zoning designation for the site. The residential character of the neighborhood will not be impacted.
5. *Cost to the applicant of strict compliance with the corner yard requirement is not the primary reason for the granting of the variance* in that cost to the applicant has not been considered a factor at any time throughout the review of this application.

ATTACHMENT B
RECOMMENDED CONDITIONS FOR MINOR VARIANCE #11524

The applicant or successor in interest shall meet the following conditions:

1. The site plan and elevations submitted for building permits shall substantially conform to the plans submitted with this application and dated "Received at Hearing May 17, 2006," except as modified herein.
2. The applicant shall comply with all applicable development standards of the Zoning Code including Chapter 17.22 (Single-Family Residential), except as modified herein.
3. This Variance allows the construction of a six-foot in height wall to be constructed to match the existing front setback of the existing detached garage, approximately ten feet from the front property line. The pilasters and gates may be as high as six feet tall, while the remainder of the wall may include up to four feet of solid block wall, with the remainder of the six feet height consisting of wrought-iron painted to match the existing gates. No portion of the wall or gates may exceed a height of six feet.
4. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
5. The proposed project, Activity Number **PLN2006-00033**, is subject to a **Final Zoning inspection**. The Final Zoning Inspection will occur at the completion of the project. Required fees for inspections shall be paid on or after the effective date of this permit. Contact the Code Compliance Staff at (626) 744-4633 to verify the fee. All fees are to be paid to the cashier at the Permit Center located at 175 N. Garfield Avenue. The cashier will ask for the activity number provided above. Failure to pay the required monitoring fees prior to initiating your approved land use entitlement may result in revocation proceedings of this entitlement.
6. The applicant shall submit to the Zoning Administrator, for review and approval, a landscape and irrigation design plan by a landscape architect. The landscape plan shall include several 15 gallon tree and smaller shrubs. Creeping vines may also be included. The landscape and irrigation plan shall meet the requirements of 17.44.050 (Landscape Documentation Package) and 17.44.060 (Landscape Location Requirements) The landscaped areas shall be maintained in accordance with Chapter 14.50 and Section 17.44.080 (Maintenance of Landscaping) of the Zoning Code.

ATTACHMENTC

**MEMORANDUM - CITY OF PASADENA
DEPARTMENT OF PUBLIC WORKS**

DATE: February 2, 2006

TO: Denver Miller, Zoning Administrator
Planning and Development Department

FROM: City Engineer
Department of Public Works

RE: Minor Variance No. 11536
1149 Wotkyns Drive

The Department of Public Works has reviewed the application for Minor Variance No. 11536 at 1149 Wotkyns Drive. The minor variance is to allow the construction of a six-foot fence in the front yard of a single-family house where four feet is the maximum allowable height. The approval of the minor variance should be based upon satisfying all of the following conditions:

1. The applicant shall repair any existing or newly damaged sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy. Existing street trees shall be protected using the City's Tree Protection Standards available from the Parks and Natural Resources Division (744-4514).
2. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

DANIEL A. RIX
City Engineer
DAR:jo

City of Pasadena

OFFICE OF THE MAYOR
2006 MAY 22 AM 11:00

May, 22, 2006

Dear Mayor Bogaard and Council Members,

We recently completed a new/remodel residence at 1149 Wotkyns Drive, which we bought in October 2003. We commenced the building process in November 2003, and, after some legal delays, completed the project with final inspection occurring in October 2005.

We built a home that fits into and enhances the neighborhood, and have received many compliments on its design.

We are writing you this letter per information obtained from City Zoning to request a City Council hearing on a fence matter. We have an existing fence that was approved by the City and constructed as part of the building project that was started in November of 2003. A front fence was completed in July 2005.

We moved into the home in December 2005, and received a letter from the City that stated they issued the front fence permit in error, and a minor variance would be needed.

We were surprised to receive the notice, because we built a six foot high fence in line with a garage/hobby room per City instructions. Its design was an integral part of the house, with hardscape and softscape design as described in professional building plans. Costs for hardscape, softscape, fences and associated electrical and irrigation were about \$45,000

Furthermore, this fence design was approved at least four times by at least 3 individuals over a 19-month period. The first permit was issued in November of 2003. The second was in November of 2004 via the building drawings submitted by our Designer in December 2003 (Legal Delay). The third was approved about March/April 2005 when an "as-built" set of plans was approved by the City. The fourth was approved about May 2005 because the original permit needed renewal (Due a 9-month legal delay).

Five months after wall completion, someone (not the City) complained about the height, and we went through the variance hearing process. The Hearing Officer agreed with the City recommendation of 6 ft as permitted, and the fence height stood. But the process continued. We attended a Planning Commission meeting, and then a Board of Zoning Appeals meeting where the Hearing Officer's ruling was overturned by a 3-2 vote. One of the Commission members indicated that, to his recollection, this was the first time that a revocation action was executed for a project that had prior City permit approval and was already completed.

Only about 5 people out of about 100 neighbors voiced opinions about the fence, and that was after their active recruiting failed to get more people to complain or attend the meetings. We are new to the area and did not consider imposing on anyone to come to the hearings because we do not really know anyone, and we thought that we conformed to the specified Minor Variance Laws (Special conditions and rights denial) and that the City agreed with us.

We did what the City asked and conformed to all their rules. We do not believe that the City can force removal of what they approved to be built. We believe that granting of a minor variance, if needed, is appropriate. We believe that the fence should stand "as is". We are open to some minor modification/landscaping, but disagree with the City's view that they made a mistake, but that we have to pay for correcting it.

We feel mistreated and need to talk with one of the council members for resolution, and request that this issue be placed on the Council agenda for discussion. We hope that our 5-month long stress can be resolved now and not proceed to any further course of action.

Respectfully,

Walt and Polly Dennis

(626) 744-1357

CC: V. Gordo, S. Haderlein, C. Holden, P. Little, S. Madison, J. Streater, S. Taylor

1149 Wotkyns Dr