

Jomsky, Mark

From: Madison, Steve
Sent: Friday, June 30, 2017 12:37 PM
To: Jomsky, Mark, Mermell, Steve
Cc: Reyes, David
Subject: Call for Review Variance 11824 615 Linda Vista

Please agendaize for Council consideration a call for review of Variance 11824 (615 Linda Vista).

07/10/2017

Item 12



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

June 26, 2017

Sunil and Janesri De Silva
615 Linda Vista Avenue
Pasadena, CA 91105

**RE: Variance #11824
615 Linda Vista Avenue, Pasadena
Council District #6**

PLN2015-00502

Dear Mr. and Mrs. De Silva:

An Appeal application of **Variance** for property located at **615 Linda Vista** was considered by the **Board of Zoning Appeals** on **June 21, 2017**.

VARIANCE: To allow a front yard fence to be designed and constructed with a solid, opaque design where the Zoning Code requires walls, fences, and gates located within the front yard setback to be designed and constructed to provide at least 50 percent open. A Variance is required to deviate from the design standards for fences subject to the RS Zoning District development standards; and

MINOR VARIANCE: To allow a front yard fence to be built at a height of six feet where the Zoning Code limits walls, fences, and gates to a maximum height of four feet. A Minor Variance is required to deviate from the development standards for fences located within the front yard setback subject to the RS Zoning District development standards.

At the conclusion of the public hearing, a motion was made to adopt staff's recommendation to uphold the Hearing Officer's decision and disapprove the Variance for fence design and approve the Minor Variance for fence height. The motion failed as the vote of the Board of Zoning Appeals resulted in a two-to-two vote by the four members present. No further motions were made. As a result, no action was taken on the application by the Board of Zoning Appeals. Therefore, per Section 17.72.070.B.5 (Failure to Act) of the Zoning Code, the decision of the Hearing Officer to disapprove the Variance for fence design and approve the Minor Variance for fence height is deemed affirmed. See Attachment A for the Hearing Officer's decision letter (dated December 7, 2015)

You are hereby notified that, pursuant to Pasadena Municipal Code Section 17.72.060, the decision made by the Board of Zoning Appeals is final and is not subject to further appeal. However, a member of the City Council may stay the decision and request that it be called up for further review by the City Council. In addition, Section 17.72.040.E allows any CEQA

(California Environmental Quality Act) document or decision that is approved to be appealed to the City Council. A request for a call for review of this decision or an appeal of the CEQA decision to the City Council shall be within ten days. The last day to request for a call for review or to file an appeal of the CEQA determination is **Monday, July 3, 2017**. Without any call-up or appeal, the effective date will be **Tuesday, July 4, 2017**. The regular Appeal fee is \$272.95. The Appeal fee for Non-profit Community-based organizations pre-registered with Neighborhood Connections is \$136.48.

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 §15303, Class 3, New Construction or Conversion of Small Structures. Class 3 consists of the construction of or installation of accessory structures. This class exemption specifically exempts the construction of a limited number of small accessory structures such as fences.

For further information regarding this case please contact **Robert Avila** at **(626)744-6776**.

Sincerely,



Kelvin Parker
Zoning Administrator

Enclosures: Attachment A

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



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

December 7, 2015

Amer A. Sheriff
134 N. Wilson Avenue, Apt #2
Pasadena, CA 91106

**RE: Variance # 11824
615 Linda Vista Avenue
Council District #6**

PLN2015-00502

Dear Mr. Sherriff:

Your application for a **Variance** at **615 Linda Vista Avenue** was considered by the **Hearing Officer** on **December 2, 2015**.

VARIANCE: To allow a front yard fence to be designed and constructed with a solid, opaque design where the Zoning Code requires walls, fences, and gates located within the front yard setback to be designed and constructed to provide at least 50 percent open. A Variance is required to deviate from the design standards for fences subject to the RS Zoning District development standards; and

MINOR VARIANCE: To allow a front yard fence to be built at a height of six feet where the Zoning Code limits walls, fences, and gates to a maximum height of four feet. A Minor Variance is required to deviate from the development standards for fences located within the front yard setback subject to the RS Zoning District development standards.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the findings as shown on Attachment A to this letter. Based upon these findings, it was decided by the Hearing Officer to **disapprove** the Variance and **approve** the Minor Variance with the conditions in Attachment B and in accordance with the submitted plans stamped December 2, 2015.

In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within two years of the effective date of the approval, unless otherwise specified in the conditions of approval. The Hearing Officer can grant a one-year extension of your approval. Such a request and the appropriate fee must be received before the expiration date. The right granted by this approval may be revoked if the entitlement is exercised contrary to the conditions of approval or if it is exercised in violation of the Zoning Code.

You are advised that an application for a building permit is not sufficient to vest the rights granted by this approval. The building permit must be issued and construction diligently pursued to completion prior to the expiration of this approval. It should be noted that the time frame within which judicial review of the decision must be sought is governed by California Code of Civil Procedures, Section 1094.6.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72, any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (December 14, 2015)**. The effective date of this case will be **December 15, 2015**. Prior to such effective date, a member of the City Council or Planning Commission may request that it be called for review to the Board of Zoning Appeals. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$272.95. The Appeal fee for Non-profit Community-based Organizations pre-registered with Neighborhood Connections is \$136.48.

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 §15303, Class 3, New Construction or Conversion of Small Structures. Class 3 consists of the construction of or installation of accessory structures. This class exemption specifically exempts the construction of a limited number of small accessory structures such as fences.

For further information regarding this case please contact **Robert Avila** at **(626)744-6776**.

Sincerely,



Paul Novak
Hearing Officer

Enclosures: Attachment A, Attachment B, Attachment C (Site Plan)

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

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR VARIANCE #11824

1) Variance: To allow a front yard fence to be designed and constructed with a solid design where the Zoning Code requires walls, fences, and gates located within the front yard setback to be designed and constructed to provide at least 50 percent open.

1. *There are no exceptional or extraordinary circumstances or conditions applicable to the development site that does not apply generally to sites in the same zoning district.* The minimum lot size for property located in the RS-2-HD (Residential, Single-Family, Hillside Overlay) zoning district is 20,000 square feet. The subject site's lot size is approximately 49,769 square feet. The minimum lot width for RS-2 zone lot is 100 feet. The subject lot width is 191 feet. The subject property is rectangular in shape and complies with minimum lot size and lot width requirements. There are similar lots which also have a swimming pool located within the front yard setback that also have similar concerns for privacy of the owner when using the swimming pool. There are alternative fence and landscape options available to the owner that would satisfy the desired privacy concerns and still maintain compliance with the RS Zoning District development standards as they relate to fence design. Enhancing the already dense landscaping along the front property line and a fence design that removed every other vertical board would enhance privacy and obscure views into the property. As such, there is no exceptional or extraordinary circumstance that applies to this site.

2. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* There are design and landscape alternatives that would afford the property owner enjoyment of the swimming pool located within the front yard setback and provide a sense of privacy. The property already exhibits dense vegetation along the front property line which could be enhanced with additional plantings. Therefore, granting this application, is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and will not prevent unreasonable property loss or unnecessary hardship.

2) Minor Variance: to allow a front yard fence to be built at a height of five feet where the Zoning Code limits walls, fences, and gates to a maximum height of four feet..

3. *There are exceptional or extraordinary circumstances or conditions applicable to the project site that does not apply generally to sites in the same zoning district.* The mandates of the Building Code constitute an exceptional and extraordinary circumstance by which the owner must comply. The applicant is requesting deviation from the four-foot height limit in order to comply with the safety barrier requirement of the Building Code. The five-foot fence height standard per the Building Code is a safety requirement. The four-foot fence height standard per the Zoning Code is primarily an aesthetic requirement. In this situation, safety requirements of the Building Code supersede the development standards of the Zoning Code. Thus, only five feet is required to secure the swimming pool, not the six feet the applicant is requesting. The staff recommendation is to allow an increase in height of only one foot. The fence height as modified by staff allows the applicant to secure the swimming pool as required with the minimal amount of deviation to the Zoning Code.

4. *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.* Due to the hillside topography of the project site, it was difficult to develop a

swimming pool that met the locational requirements of the Zoning Code on the site. A variance was granted in 1971 to allow a swimming pool to be built within the front yard setback. The Building Code requires a five-foot safety barrier to secure swimming pools. The minor variance for fence height is necessary for the applicant to comply with all the regulations of the City with regard to swimming pools. The proposed fence is necessary to allow the applicant to enjoy the recreational property right of the swimming pool on the site, much like other properties that have swimming pools secured by walls, fences, and gates.

5. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The Minor Variance for fence height is required to comply with the life-safety provisions of the Building Code. The proposed new fence would be setback 25 feet from the curb and 10 feet from the front property line. The fence would be integrated with existing dense landscaping on the property. The approval of the application will not be detrimental to the residences in the vicinity.
6. *Granting the application is consistent with the General Plan and the purposes of Title 17 of the Municipal Code and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The site will continue to be used for single-family residential purposes as intended by the RS-2-HD zoning district. In addition, Policy 21.3 (Neighborhood Character) of the Land Use Element of the General Plan requires preservation of the character and scale of Pasadena's established residential neighborhoods. The Minor Variance for fence height will not compromise the character and quality of the existing residential neighborhood nor will it be a grant of special privilege as the applicant is required to provide safety barrier that meets all the standard will be limited to the minimal size needed to secure the swimming pool; thus, the approval will not constitute a grant of special privilege.
7. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City's development standards has not been considered a factor at any time throughout the review of this application.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR VARIANCE #11824

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

General

1. The site plans and elevations submitted for building permits and/or future development shall substantially conform to the site plans and elevations stamped "Received at Hearing, December 2, 2015," except as modified herein.
2. The approval of this application authorizes a Minor Variance to allow a new fence within the front yard setback to be built to a maximum height of five feet.
3. The applicant shall comply with all applicable development standards of the Zoning Code including Chapter 17.22 (Single-Family Residential), with the exception of the Minor Variances as stated above.
4. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
5. After the effective date of this entitlement, the applicant shall obtain a Zoning Permit for the installation of the new fence along the front property line.
6. The final decision letter and conditions of approval shall be incorporated in the building plans as part of the Zoning Permit check process.
7. The proposed project, Activity Number **PLN2015-00502**, is subject to the Inspection Program by the City. A Final Zoning Inspection is required for the project prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. Contact the Planning Case Manager, Robert Avila, at (626) 744-6776 to schedule an inspection appointment time.

Planning Division

8. The existing stone pilasters supporting the existing gate shall not have light standards or other decorative element that would increase their height.
9. The front yard fence shall be designed and constructed to be at least of 50 percent open.
10. Any new fence on the property not presented within this application shall meet the development standards of the RS Zoning District.
11. Any new fence on the property not presented within this application shall be subject to review and approval of a Zoning Permit for fences, walls, and gates.

ATTACHMENT C MINOR VARIANCE #11824 SITE PLAN

