



CITY OF SUNNYVALE REPORT ADMINISTRATIVE HEARING

May 26, 2010

File Number: 2010-7261

Permit Type: Variance

Location: 575 Bobolink Circle (near Bobwhite Ave.) (APN: 309-02-001)

Applicant/Owner:

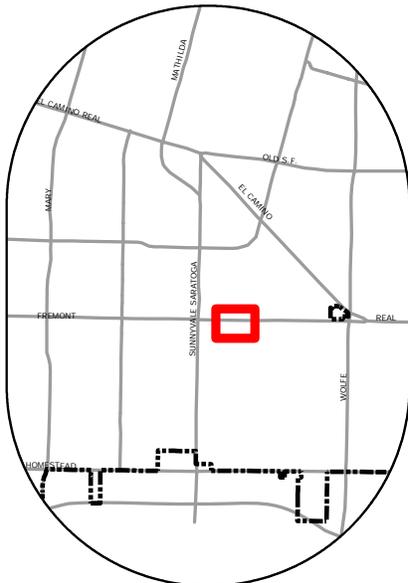
Staff Contact: Ryan Kuchenig, Associate Planner, (408) 730-7431

Project Description: A 6-foot tall fence located within the the front yard.

Reason for Permit: A Variance is required for fences that exceed three feet in height within the corner vision triangle.

Issues: Vision Triangle, Neighborhood Compatibility

Recommendation: Approved the Variance with modifications to utilize the existing fence or construct a new 6-foot fence at the location of the existing fence.



500

Feet

PROJECT DESCRIPTION

Existing Conditions:	Single family Home	General Plan:	Residential Low Density
Zoning District:	R-0	Fence Setback:	0'
Existing Fence Height:	3'	Proposed Fence Height:	6'

No	Previous Planning Projects related to Subject Application
No	Neighborhood Preservation Complaints
Yes	Deviations from Standard Zoning Requirements Application is a request for a Variance to allow a 6-foot tall fence within the corner vision triangle.

Use Description: The applicant intends to build a 6-foot fence within the corner vision triangle of the property (E. Fremont Avenue & Bobwhite Avenue). As stated by the applicant, the intent of the fence is to enclose the back yard from a busy street (E. Fremont Avenue), which in turn would lessen noise and create a safer environment for their children. The applicant further states that the current low-level fence has attracted vandalism and litter from pedestrians passing along Fremont Avenue.

Site Layout: The subject property is located on a lot with three street frontages (Fremont Avenue, Bobwhite Avenue, & Bobolink Circle). The layout of the property is such that the front of the home and address is taken from Bobolink Circle, with the rear yard of the property exposed along Fremont Avenue. A 6-foot fence is positioned along or near the property line adjacent to Bobwhite Avenue and connects to the existing 3-foot fence at the corner. Site plans and elevations are included in Attachment B.

Fence Design: The existing 3-foot fence at the corner of the lot appears to have been built at or around the time of the original home and is constructed of brick and stone. The proposed fence would be constructed of wood with a board on board design and would be located directly adjacent to the existing fence. Although designed to be constructed directly adjacent to the existing fence, staff was concerned that a gap between the fences could invite further littering. Therefore, if approved, staff has recommended that the fence be redesigned to attach to the existing 3-foot fence (not to exceed six feet), or constructed as a new 6-foot fence at the same location of the existing fence. A final design would be subject to review and approval by Planning Division staff prior to construction (Condition of Approval #3a & b). Since the fence is not greater than 6 feet in height, no building permit is required.

Driveway Vision Triangle / Safety: SMC 19.34.060 requires that 40-foot corner vision triangles be maintained clear of obstructions over 3' high. The intent of this requirement is to promote safety and reduce the potential for accidents and injury by providing drivers a better view of pedestrian, bicycle, and vehicular traffic while backing out from the driveway.

In consultation with Traffic Engineering Division staff, the following unique factors were evaluated in conjunction with this proposal:

- Subject property contains three street frontages
- Lighted intersection with crosswalks on each street adjacent to subject property
- No parking is permitted along Bobwhite Avenue and E. Fremont Ave in proximity to this property

City staff concurred that enough factors existed for the proposed site to address safety concerns which normally arise when fences or other building projections lie within a vision triangle.

Landscaping: A combination of shrubs and trees are located near the fence location; however, there are no modifications planned to the existing landscaping. No protected trees are proposed to be removed.

Typical Fence Heights in the Neighborhood: The neighborhood contains several fences of six feet at similar locations on the property. Directly across the street at 579 Arran Court, an approximately 6-foot tall fence is located within the corner vision triangle (adjacent to Fremont Avenue). Similar to the subject property, this property also contains three street frontages. In addition, other nearby properties with fences located within the corner vision triangle include:

- 717 Ashborne Drive
- 721 Ashbourne Drive
- 738 Verdi Drive

Public Contact: 7 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No written comments were received.

Environmental Determination: A Categorical Exemption Class 3 (accessory structures) relieves this project from CEQA provisions.

FINDINGS

In order to approve the Variance the following findings must be made:

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district, **and**

The subject site is somewhat unique as a corner lot with three street frontages. Unlike most properties, the subject lot is not able to have a private enclosed rear yard. Other lots with three street frontages within the neighborhood already contain fences of a similar height within the corner vision triangle adjacent to Fremont Avenue. The Variance would allow the subject lot to enjoy the same privileges that other neighborhood properties currently enjoy.

2. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district, **and**

The 6-foot fence will not be detrimental to the public welfare as several safety conditions exist within proximity to the site including a lighted intersection, pedestrian crosswalks and parking restrictions at this block of the two affected streets. The design of the fence, as conditioned to be modified, is residential in character and will blend in with other neighborhood fences. Existing landscaping also helps soften the appearance of the fence from the street.

3. Upon granting of the variance, the intent and purpose of the ordinance will still be served and the recipient of the variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Approval of the fence will enable the property owner to enjoy a similar privilege as an adjacent neighbor as well as other neighborhood properties which have a similar layout condition.

Staff was able to make the Variance Findings noted above.

ALTERNATIVES

1. Approve the Variance with recommended Conditions in Attachment A.
2. Approve the Variance with modifications.
3. Deny the Variance.

RECOMMENDATION

Alternative 1. Approve the Variance with recommended Conditions in Attachment A.

Reviewed by:
Shaunn Mendrin
Senior Planner

Prepared By: Ryan Kuchenig, Associate Planner

Attachments:

- A. Conditions of Approval and Standard Requirements
- B. Site and Architectural Plans
- C. Variance Justifications as Provided by the Applicant
- D. Site Photos

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS**

**Planning Application 2010-7261
Variance
6-foot fence within the corner vision triangle**

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

- 1. CONFORMANCE WITH APPROVED PLANNING APPLICATION** – All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]
- 2. PERMIT EXPIRATION (Ordinance 2895-09):** The Variance shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094).

Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of the permit approval. If the approval is not exercised within this time frame, the permit is null and void. [SDR] (PLANNING)

3. REQUIRED REVISIONS TO PROJECT PLANS - The plans shall be revised to address comments from the Administrative Hearing Officer including the following [COA] [PLANNING]:

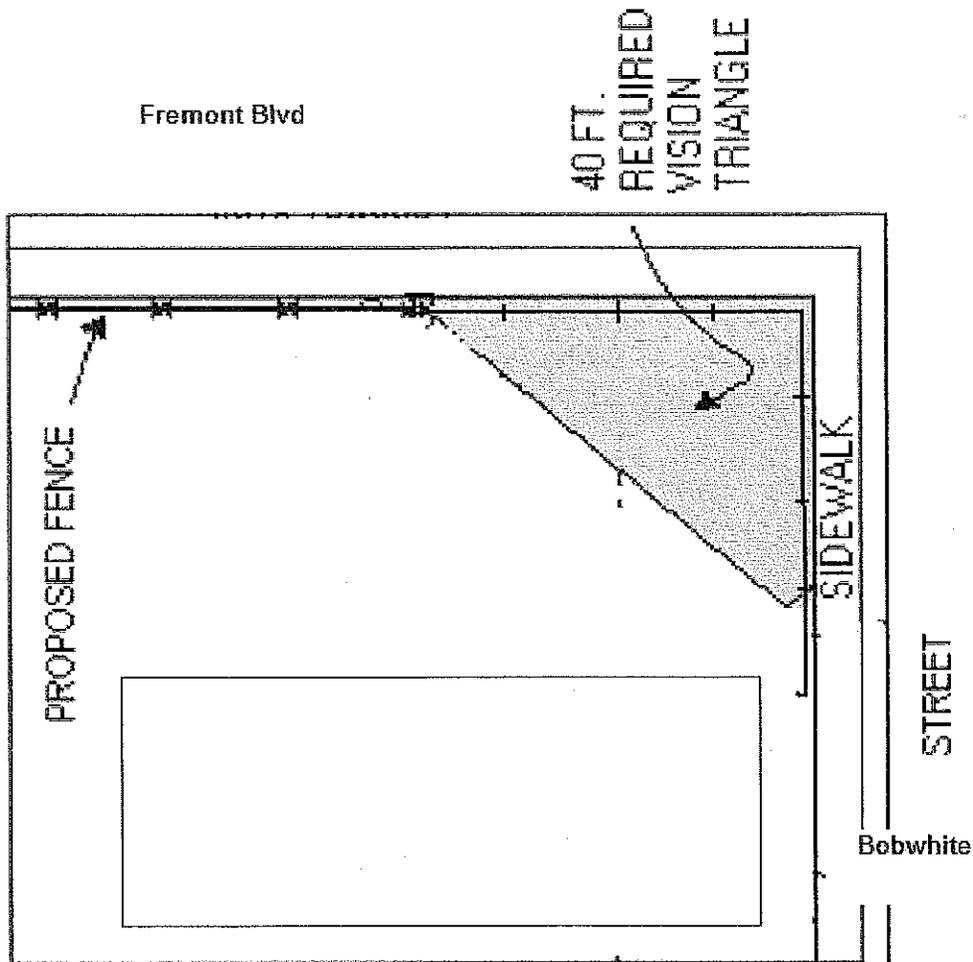
- a) The fence shall be either built to be attached to the existing fence to a height of no more than 6 feet (as measured from the top of the public curb), or a 6-foot fence (as measured from top of the public curb) shall replace the existing 3-foot fence at the same location.
- b) The final design of the fence shall be subject to review and approval by Planning Division staff prior to construction.

Project Plans

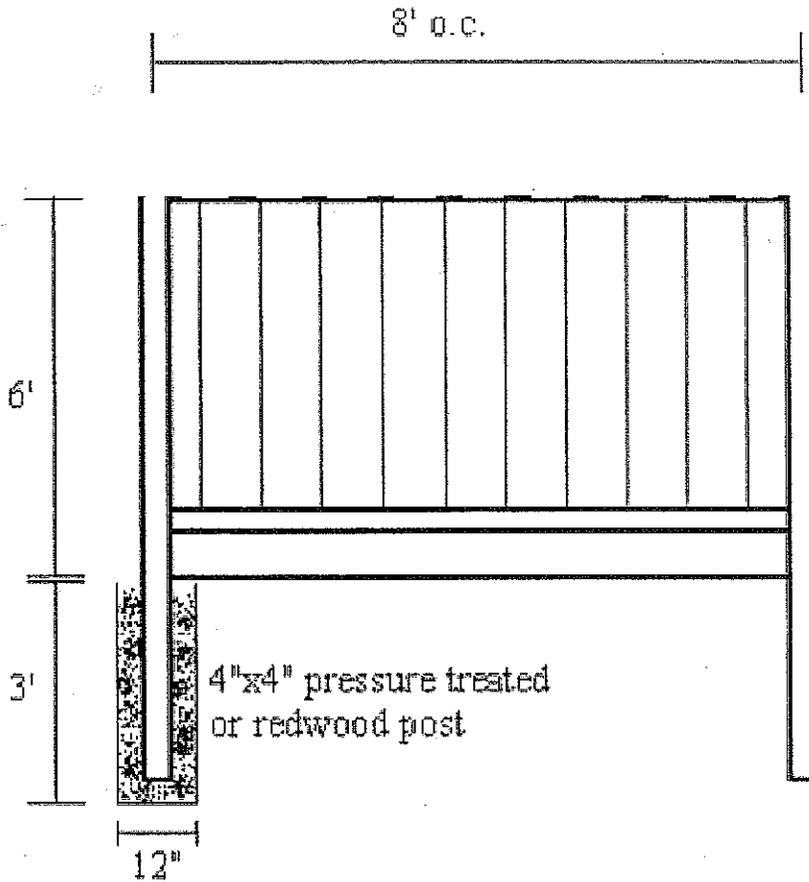
Property Address

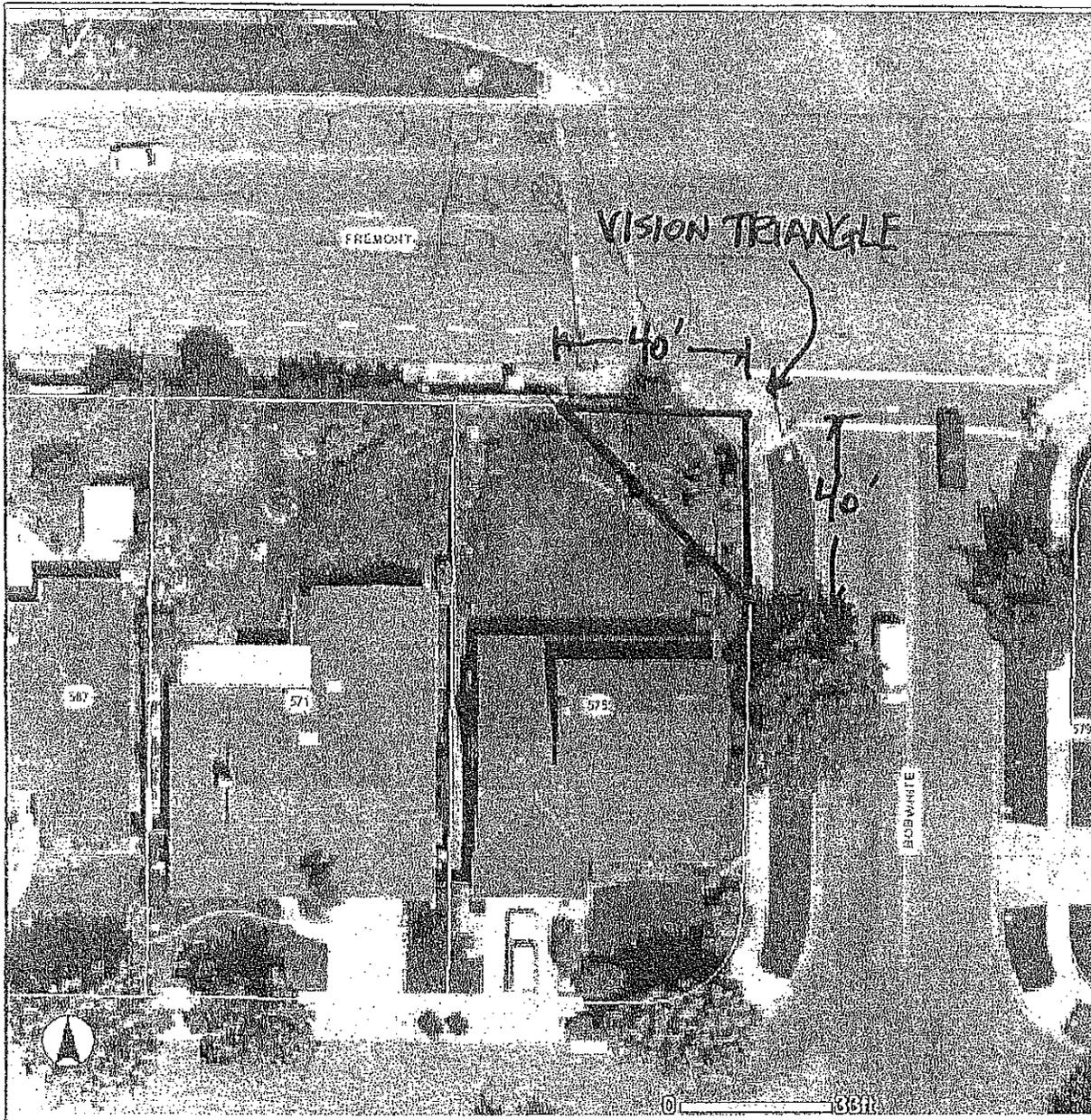
575 Bobolink Circle, Sunnvale CA 94087

Variance request to construct 6 Ft fence on corner on lot normally requiring corner vision triangle. Wooden fence construction would be constructed immediately behind existing brick and stone fence.



Fence Elevation







VARIANCE JUSTIFICATIONS

All three of the following findings must be made in order to approve a Variance application.

The Sunnyvale Municipal code states that all three of the following justifications must be met before granting the Variance. Please provide us information on how your project meets **all** of the following criteria.

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

A Corner Vision Triangle requirement and inability to raise and enclose the back yard with a fence over 3 ft. on corner lots has deprived our family on numerous levels.

The property location as a corner lot bordered on 3 sides by 3 busy streets (Fremont Blvd, Bobwhite Ave, and Bobolink Circle) leaves it exposed on 3 sides as compared to neighboring properties that have exposure and/or access on only one side of the property (typically the front yard). The result has been the inability to escape traffic noise, creation of an attractive nuisance by pedestrians walking along Fremont Blvd who regularly deposit trash over the low fence, and occasional acts of vandalism due to easy access to the backyard. The lack of safe environment for children to play in an unsupervised environment has been an ongoing concern.

AND

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements, or uses within the immediate vicinity and within the same zoning district.

The expansion of Fremont Blvd, and introduction of the 4 way traffic signal has abated the necessity of a vision triangle which affords minimal additional line of site advantages to pedestrians and traffic based on the setback of the property line from traffic, and the properties landscaping between the fence line and sidewalk along Bobwhite.

AND

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

The variance would be consistent with similar corner lot properties located along Fremont Blvd., with 6 foot backyard fences.

579 Arran Court (directly across from Subject Property at corner of Fremont and Bobwhite)
 717 Ashbourne Drive (corner of Fremont Blvd and Fieldfair Drive)
 721 Ashbourne Drive (corner of Fremont Blvd and Fieldfair Drive)
 738 Verdi Drive (corner of Fremont Blvd and Rousseau Drive)

If you need assistance in answering any of these justifications, contact the Planning Division staff at the One-Stop Permit Center.



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ATTACHMENT D
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