



CITY OF SUNNYVALE ADMINISTRATIVE HEARING

MINUTES
Wednesday, January 28, 2009

2008-1236 – Appleseed Montessori [Applicant] **Dal Development Co LLC.** [Owner]: Application for a Variance from Sunnyvale Municipal Code section 19.34.060 to allow an approximately 6.5' tall fence (masonry and wrought iron) within the corner vision triangle. The property is located at **1302 Warner Avenue** (at W Fremont Ave) in an R-1 (Low Density Residential) Zoning District. (APN: 323-03-052) EH

In attendance: Diane Hsu, Applicant; Herb Bowen, Architect; Ronen Sigura, Neighbor; Andrew Miner, Administrative Hearing Officer; Erin Haley, Project Planner; Luis Uribe, Staff Office Assistant.

Mr. Andrew Miner, Administrative Hearing Officer, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Mr. Miner announced the subject application.

Erin Haley, Project Planner, stated that this project came to Staff's attention as the result of a complaint to the Neighborhood Preservation Division. It was discovered that an error was made on the building permit that allowed the fence to be built within an approximately 224 s.f. area of the corner vision triangle. After considering all options, it was determined that even though the subject fence was approved as part of a previous Use Permit and Building Permit, a Variance was necessary to reconsider the encroachment into the required 40' corner vision triangle. Thus the applicant is requesting a Variance from SMC section 19.48.202.

The base of the fence is a 32" tall masonry wall with wrought iron extending another 1'4" and spaced apart masonry pillars which extend the fence to a total height of approximately 7' as measured from the top of curb. The fence is designed to shield the childcare's play area from traffic hazards on Fremont Ave. and Warner Ave. The existing fence encroaches up to 7'3" into the corner vision triangle, which means that the encroachment area is approximately 224 s.f., which is 28% of the total vision triangle area.

Mr. Miner opened the public hearing.

Diane Hsu, Applicant, received and reviewed a copy of the staff report. Ms. Hsu stated that when the fence was built they made sure that everything was done up to City code and she provided the hearing officer with a report from Public Safety showing that there has never been an issue with fences current location. Mr. Miner asked the applicant why they are opposed to moving the fence. The applicant stated that if they were to push the fence back they would lose part of the playground as well as some business since their square footage would not allow them to keep the number of children they currently have.

Herb Bowen, Architect, stated that the applicant would lose three children if the fence was to be scaled back and that it was never their intention to skirt the issue of the vision triangle. Mr. Miner asked if the trees were originally planted by the applicant and Mr. Bowen stated that they are City trees.

Ronen Sigura, Neighbor, stated that he is in support of the project.

Mr. Miner closed the public hearing.

Mr. Miner was able to make the findings, specifically that the unique set-up of the stop sign limit line is far enough forward so the fence does not block visibility down Fremont Avenue or the sidewalk.

Mr. Miner approved the application subject to the findings and conditions of approval located in the staff report with an added condition that the applicant maintains landscaping.

Mr. Miner stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 2:21p.m.

Minutes approved by:

Andrew Miner

Principal Planner