



CITY OF GLENDALE, CALIFORNIA

Community Development
Planning

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glendaleca.gov

April 14, 2022

Emmik and Jora Babahkani
2303 Pennerton Drive
Glendale, CA 91206

&

Mitchell & Laura Rubinstein
2300 Gardner Place
Glendale, CA 91206

RE: 2303 PENNERTON DRIVE
VARIANCE CASE NO. PVAR2117884

(ALSO SEE: 2300 GARDNER PLACE
VARIANCE CASE NO. PVAR 2117885)

Dear Mr. and Mrs. Babahkani and Rubinstein:

On March 16, 2022, the Planning Hearing Officer conducted and closed a public hearing, pursuant to the provisions of the Glendale Municipal Code, Title 30, Section 30.43, Variances, to replace/reinforce two retaining walls (approximately 88 feet long by 9 feet high and 37 feet long by 6 feet high) along the interior property line between the two subject properties (zoned "R1R-II") and adjacent to four oak trees. The subject properties are located at **2303 Pennerton Drive**, in "R1R - (Restricted Residential) Zone", Floor Area Ratio District II, and described as Portion of Section 23, T1NR13W, of Watts Subdivision of a Part of the Rancho San Rafael, (APN: 5666-008-043), and 2300 Gardner Place, in R1R - (Restricted Residential) Zone, Floor Area Ratio District II, and described as Lot 29 and Portion of Lot 26 and Lot 28 of Tract 10036, and Gardner Place Street Vacation and Westfield Avenue Street Vacation (APN: 5666-008-025).

APPLICANT PROPOSES

- (1) Construction of two retaining walls (approximately 88 feet long by 9 feet high and 37 feet long by 6 feet high) along the interior property line between the two subject properties.

CODE REQUIRES

- (1) Retaining walls are limited to three feet in height when located within five feet of the interior property line and five feet in height between five and 10 feet from the interior property line (GMC 30.30.010(B)(2)(a)(iii)).

ENVIRONMENTAL DETERMINATION:

This project is categorically exempt from environmental review as a Class 3 "New Construction or Conversion of Small Structures" per Section 15303(e) of the State CEQA Guidelines because the project involves construction of an accessory structure (wall).

REQUIRED/MANDATED FINDINGS

Findings to APPROVE the variance requests to replace/reinforce two retaining walls (approximately 88 feet long by 9 feet high and 37 feet long by 6 feet high) along the interior property line between the two subject properties.

- A. The strict application of the provisions of any such ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purposes and intent of the ordinance.**

The strict application of the provisions of any such ordinance would result in practical difficulties or unnecessary hardship inconsistent with the general purposes and intent of the ordinance, because it would result in requiring both the nine-foot east-west (E/W) wall and six-foot north-south (N/S) wall to be three feet, which could not be achieved without causing significant negative impacts to the surrounding environment.

The existing retaining walls had been constructed around the time the original building was constructed (late 1930s) and are now structurally failing, thereby requiring replacement/reinforcement. At present, a large 20" diameter oak tree is located near the junction of the two walls, and there are also three smaller oak trees located at the south-west corner of the E/W Wall. If the subject retaining walls were to be replaced with code compliant three-foot walls, it would require significant grading to gradually step down the topography in order to use successive, shorter retaining walls. Such grading would harm the oak trees and alter the surrounding topography inconsistent with the hillside standards in GMC 30.11.040, which require preserving prominent natural features, native vegetation and open space, and minimizing alteration of terrain. Such grading extended toward 2300 Gardner Place would also result in removal of the residence's existing backyard area - a practical difficulty and unnecessary hardship.

- B. There are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood.**

There are exceptional circumstances or conditions applicable to the properties involved or to the intended use or development of the property that do not apply

generally to other property in the same zone or neighborhood. The over-height retaining walls have been supporting the terraced yard and structures of 2300 Gardner Place for decades, and now require repair and/or replacement.

Requirement of code compliant shorter retaining walls would require significant grading and landform alterations that will detrimentally impact the adjacent oak trees with root damage from new grading. These conditions are not new, and such tall walls and significantly terraced rear yard conditions with oak trees are not typically seen within the surrounding area, especially in newer hillside developments. Therefore, the presence of four oak trees protected by the City's Indigenous Tree Ordinance (GMC 12.44) that are located along the E/W Wall, and the significant terracing of the backyard at 2300 Gardner Place that relies structurally on both walls, result in exceptional circumstances that do not apply generally to other properties in the same zone or neighborhood.

C. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located.

Granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in this R1R-zoned, hillside neighborhood in which the properties are located. The applicants propose to reconstruct/reinforce two retaining walls that have existed on site for many years without causing any known nuisances or disturbances to surrounding properties. The two walls are minimally visible from the public street or adjacent properties – which the E/W retaining wall is only partially visible when standing at the end of the Arch Way cul-de-sac and the N/S retaining wall is almost entirely obscured from view by the E/W wall. There no other properties that will be impacted by the reconstruction/reinforcement of the two retaining walls aside from the two subject properties part of this variance request.

D. The granting of the variance will not be contrary to the objectives of the ordinance.

The granting of the variance will not be contrary to the objective of the ordinance. The intent of the Fences and Wall ordinance (GMC 30.30.010) is to minimize grading and retaining wall heights adjacent to interior properties lines to preserve the natural grade as much as possible and to prevent large, unattractive walls that are incompatible with surrounding properties. Given the existing retaining walls have existed for the past few decades, are minimally visible, and the east-west retaining wall retains the leveled back yard at 2300 Gardner Place, the requirement for shorter successive retaining walls in compliance with the code would result in significant grading to alter the topography to gradually step down. The walls are minimally visible from the adjacent public rights-of-way, and have existed on the site for many years without any known issues in terms of

neighborhood compatibility. Therefore, approval of this request is consistent with the general purpose and intent of the ordinance.

CONDITIONS OF APPROVAL

APPROVAL of the Variance shall be subject to the following conditions:

1. That the development shall be in substantial accord with the plans submitted with the application and presented at the hearing except for any modifications as may be required to meet specific Code standards or other conditions stipulated herein to the satisfaction of the Planning Hearing Officer.
2. That all necessary licenses (i.e. building, fire, engineering, etc.) shall be obtained from the Building and Safety section and Public Works Department and all construction shall be in compliance with the Glendale Building Code UBC (Universal Building Code) and all other applicable regulations.
3. That separate permits shall be obtained for all work within the public right-of-way. The applicant shall bear all fees for the necessary permits and construction inspection for work within the public right-of-way.
4. That Design Review Board approval or exemption shall be obtained prior to the issuance of a building permit.
5. That the four oak trees be preserved and tree protection measures be implemented in accordance with the applicant's December 2021 Indigenous Tree Report.
6. That any expansion or modification of the project which is different than what is represented as part of this Variance approval shall require a new application as determined by the Planning Hearing Officer.

APPEAL PERIOD

Under the provisions of the Glendale Municipal Code, Title 30, Chapter 30.62, any person affected by the above decision has the right to appeal said decision to the Planning Commission, if it is believed that the decision is in error or that procedural errors have occurred, or if there is substantial new evidence which could not have been reasonably presented. It is strongly advised that appeals be filed early during the appeal period and in person so that imperfections/incompleteness may be corrected before the appeal period expires. Appeals must be filed prior to expiration of the 15-day period, on or before **APRIL 29, 2022**. Information regarding appeals, appeal forms and fees may be obtained by calling the Community Development Department (CDD) staff at 818-548-2140, or the case planner at 818-937-8186.

APPEAL FORM is also available on-line:
<https://www.glendaleca.gov/home/showdocument?id=11926>

Due to the current COVID-19 social distancing and work from home orders issued by federal, state and local governmental agencies, in order for any appeal to be considered timely, **the appeal must be postmarked by the APRIL 29, 2022 deadline (mailed to Community Development Department – Planning Division, Attention Cassandra Pruet, 633 East Broadway, Room 103, Glendale, CA 91206) OR emailed to the case planner (Cassandra Pruet at cpruet@glendaleca.gov) prior to the close of said business day.** The prescribed fee must be included along with the appeal application and may be submitted either in the form of a check or credit card payment. For credit card payment, please contact the case planner to make arrangements with the cashier. Note: The standard 2.5% fee for **credit card payment** applies.

GMC CHAPTER 30.41 PROVIDES FOR

TERMINATION

Every right or privilege authorized by a Variance shall terminate two (2) years after the granting of such, unless the exercise of such right or privilege has commenced in good faith prior to such time, except as otherwise provided for.

CESSATION

A Variance may be terminated by the review authority upon any interruption or cessation of the use permitted by the Variance for one year or more in the continuous exercise in good faith of such right and privilege.

EXTENSION

Permits granted by such right or privilege may be requested one time and extended for up to a maximum of one (1) additional year upon receipt of a written request from the applicant and demonstration that a reasonable effort to act on such right and privilege has commenced within the two (2) years of the approval date. In granting such extension the applicable review authority shall make a written finding that neighborhood conditions have not substantially changed since the granting of the Variance.

TRANSFERABILITY

This authorization runs with the land or the use for which it was intended for and approved. In the event the property is to be sold, leased, rented or occupied by any person or corporation other than yourself, it is incumbent that you advise them regarding the conditions and/or limitations of this grant.

VIOLATIONS OF THESE CONDITIONS

Violations of conditions required by this determination may constitute a misdemeanor or infraction under section 1.20.010 of the Glendale Municipal Code (GMC) and/or a violation of other local, State or Federal laws or regulations. Unless a specific penalty is provided, any person convicted of a misdemeanor shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment for a term not to exceed six (6) months, or by both fine and imprisonment. Infractions are punishable by a fine not

exceeding the sum of five hundred dollars (\$500.00) for each violation. Violations of conditions required by this determination may be grounds for a revocation.

REVOCACTION

Section 30.64.020 – Revocation – The Community Development Department shall have continuing jurisdiction over Variances. To consider the revocation, the Director of Community Development shall hold a public hearing after giving notice by the same procedure as for consideration of a Variance at least ten (10) days' notice by mail to the applicant or permittee.

NOTICE – subsequent contacts with this office

The Applicant is further advised that all subsequent contacts with this office regarding this determination must be with the Case Planner first and then, the Hearing Officer who acted on this case. This would include clarification, verification of condition compliance and plans or building permit applications, etc., and shall be accomplished **By Appointment Only**, in order to assure that you receive service with a minimum amount of waiting. You should advise any consultant representing you of this requirement as well.

You may contact the case planner, Cassandra Pruett, during normal business hours at (818) 937-8186 or via e-mail at cpruett@glendaleca.gov.

Sincerely,
Director of Community Development



Dennis Joe
Senior Planner

DJ:CP:sm

CC: City Clerk (K.Cruz); Police Dept. (J.Newton/Z.Avila); City Attorney's Dept. (G. van Muyden/Y.Neukian); Fire Prevention Engineering Section-(S.Demirjian/F.McLean); Traffic & Transportation Section (P.Casanova/Mark Bueno-Traffic Engineer Assoc.); General Manager for Glendale Water and Power (M.Young); Glendale Water & Power--Water Section (G. Tom/S.Boghosian/R.Takidin/ C.Babakhanlou/D.Scorza); Glendale Water & Power--Electric Section (B. B.Ortiz/E.Olsen/ M.Navareete/M.Kouassi); Parks, Recreation and Community Services Dept. (T. Aleksanian); Neighborhood Services Division (R.Sada/J.Jouharian/); Integrated Waste Management Admin. (D. Hartwell); Maintenance Services Section Admin. (D. Hardgrove); Street and Field Services Admin.; Engineering and Environmental Management (C.Chew/R. Villaluna); P.Bernier; J.Velasco and F.Fowler; S.Rizzo; R.Rose; and case planner– Cassandra Pruett.