

**INVER GROVE HEIGHTS
PLANNING COMMISSION AGENDA**

**TUESDAY, NOVEMBER 19, 2013 – 7:00 p.m.
City Council Chambers - 8150 Barbara Avenue**

- 1. CALL TO ORDER**
- 2. APPROVAL OF PLANNING COMMISSION MINUTES FOR NOVEMBER 6, 2013.**
- 3. APPLICANT REQUESTS AND PUBLIC HEARINGS**

3.01 DJ'S HANDYMAN SERVICE, LLC - CASE NO. 13-53V

Consider the request for a Variance to allow a covered landing for a handicap ramp to be located 18 feet from the front property line whereas 30 feet is the required setback. This request is for the property located at 4604 Barbara Ave.

Planning Commission Action _____

- 4. OTHER BUSINESS**
- 5. ADJOURN**

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PLANNING COMMISSION MINUTES - CITY OF INVER GROVE HEIGHTS

Wednesday, November 6, 2013 – 7:00 p.m.
City Hall Chambers - 8150 Barbara Avenue

Chair Hark called the Planning Commission meeting to order at 7:00 p.m.

Commissioners Present: Paul Hark
Pat Simon
Tony Scales
Bill Klein
Victoria Elsmore
Dennis Wippermann
Armando Lissarrague

Commissioners Absent: Harold Gooch (excused)
Annette Maggi (excused)

Others Present: Heather Botten, Associate Planner

APPROVAL OF MINUTES

The minutes from the October 15, 2013 Planning Commission meeting were approved as submitted.

MARY T'KACH – CASE NO. 13-50V

Reading of Notice

Commissioner Simon read the public hearing notice to consider the request for a variance to allow a seven foot high fence along the property line whereas 42 inches is the maximum height allowed within the front yard setback, for the property located at 1987 – 80th Street. 4 notices were mailed.

Presentation of Request

Heather Botten, Associate Planner, explained the request as detailed in the report. She advised that the property is located along 80th Street, across from the Community Center, and is zoned R-1B, Single-Family Residential. The applicant is requesting a 66 foot segment of fence to be located along the front property line, about 12 feet from the sidewalk and 27 feet from the curb. The second segment would be 18 feet of fence located along a secondary drive area about 20 feet from the sidewalk. The Zoning Code requires that any fence in the front yard be 42 inches or shorter. If you are outside of that front setback area you are allowed to have up to a seven foot high fence anywhere else on your property. The purpose of the applicant's request is to mitigate the lights from the Community Center traffic and to reduce some of the noise pollution from 80th Street. The applicant is proposing a fence with an offset pattern with landscaping to soften the visual impact along 80th Street. The reasoning for the setback requirement appears to be mainly for traffic and emergency vehicle visibility along the street and driveways, as well as aesthetics. The proposed fence would be out of any site lines along 80th Street and would not impact the visibility leaving the residence. Staff recommends denial of the request for the reasons stated in the report. Staff has not heard from any of the surrounding property owners.

Commissioner Simon asked if there had been many variance requests for solid fences over 42 inches in the front yard for properties located along busy roads.

Ms. Botten replied that staff could not recall any front yard fence height variances being approved.

Opening of Public Hearing

Mary T'Kach, 7848 Babcock Trail, advised she was available to answer any questions.

Chair Hark asked if the applicant understood the report.

Ms. T'Kach replied in the affirmative. She stated that a precedent had already been set a number of years ago when a variance for an eight foot fence in the front yard was approved for a property in the 1600 block of 80th Street; that house has since been torn down. Ms. T'Kach stated the practical difficulty was the loss of 32 feet of front yard due to the widening of 80th Street, the increased traffic on 80th Street due to urbanization, and the bright security and parking lot lights at the Community Center. She advised that she planted large trees a few years ago in hopes of remedying the situation, but found it to be inadequate. She is proposing to construct a fence with a staggered design and landscaping which would enhance the property.

Chair Hark asked how long ago 80th Street was widened.

Ms. T'Kach replied she was unsure, but it was more than 10 years ago.

Chair Hark asked if constructing the fence 30 feet from the property line, so as to comply with the zoning code, would be a viable option.

Ms. T'Kach stated she would like to construct the fence 23 feet from the curb.

Commissioner Elsmore asked what the reasoning was for the secondary portion of fence, stating it would be quite a distance from the house.

Ms. T'Kach replied that two bedrooms were on that end of the house and the proposed secondary fence would act as a barrier from the lights and noise from westbound traffic on 80th Street.

Chair Hark closed the public hearing.

Planning Commission Discussion

Commissioner Klein stated the lights from the Community Center were very bright and therefore he would like to see the applicant get the fence. He added that if a fence was installed perhaps they could increase the lighting at the VMCC to make it easier to see in the parking lot.

Chair Hark stated although he would like to see the applicant have a fence, he could not find a practical difficulty and was concerned about the precedent that would be set.

Commissioner Scales stated if the City would like to allow solid fences taller than 42 inches within the front yard he would suggest changing the ordinance rather than granting a variance.

Commissioner Lissarrague agreed with Commissioner Scales and was also concerned about the precedent this would set.

Commissioner Klein noted there was an existing solid fence taller than 42 inches between two houses on Cahill Avenue next to the walking path to South Valley Park.

Ms. Botten stated if the fence was in a side yard it might be allowed.

Commissioner Simon believed the issue in that case was that people were looking into the bedroom windows since the houses were very close to the path.

Planning Commission Recommendation

Motion by Commissioner Simon, second by Commissioner Elsmore, to deny the request for a variance to allow a seven foot high fence along the property line whereas 42 inches is the maximum height allowed within the front yard setback, for the property located at 1987 – 80th Street, based on the lack of practical difficulty.

Motion carried (6/1 - Klein). This item goes to the City Council on November 12, 2013.

The meeting was adjourned by unanimous vote at 7:20 p.m.

Respectfully submitted,

Kim Fox
Recording Secretary

DRAFT

**PLANNING REPORT
CITY OF INVER GROVE HEIGHTS**

REPORT DATE: November 14, 2013 **CASE NO.:** 13-53V
HEARING DATE: November 19, 2013
APPLICANT: DJ's Handyman Service, LLC
PROPERTY OWNER: Lee and Teresa Dock
REQUEST: A variance from the front yard setback requirements
LOCATION: 4604 Barbara Avenue
COMP PLAN: LDR, Low Density Residential
ZONING: R-1C, Single-family Residential
REVIEWING DIVISIONS: Planning **PREPARED BY:** Heather Botten 
Associate Planner

BACKGROUND

The applicant has submitted a request for a variance from the front yard setback requirements to construct a two foot expansion to the platform area of a handicap ramp and add a roof addition over the platform to provide shade and cover from the elements. The roof addition would be a detached structure about three feet from the house. The existing ramp was constructed in 2003; there are no other ramps to access this home.

The structure setback for front yards is 30 feet. The applicant's home was built in 1962, prior to the adoption of the first zoning ordinance. The house is setback 28' from the front lot line. The applicant's home, along with others in the neighborhood, do not meet the minimum 30 foot front yard setback for structures. The applicant is requesting a 13 foot variance to allow the covered platform to be located 17 feet from the front property line whereas 30 feet is the required setback for covered areas. The platform would be located about 32 feet from the curb.

SPECIFIC REQUEST

The following specific application is being requested:

- A.) A **Variance** to allow a covered platform to be located 17 feet from the front property line whereas 30 feet is the required setback.

SURROUNDING USES: The subject site is surrounded by single-family homes, all zoned R-1C, Single Family Residential and guided LDR, Low Density Residential.

EVALUATION OF REQUEST:

City Code Title 10, Chapter 3. **Variances**, states that the City Council may grant variances when they are in harmony with the general purposes and intent of the zoning ordinance and consistent with the comprehensive plan and establishes that there are practical difficulties in complying with the official control. In order to grant the requested variances, City Code identifies criteria which are to be considered practical difficulties. The applicant's request is reviewed below against those criteria.

1. *The variance request is in harmony with the general purpose and intent of the city code and consistent with the comprehensive plan.*

The city code requires a 30 foot front yard setback for covered structures. Allowing an encroachment greater than this could set a precedent for other front yard additions. The request is in harmony with the intent of the comprehensive plan as the lot is being utilized as a residential lot.

2. *The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.*

Setback standards are not precluding the homeowner from reasonable use of the property. The roof addition extends beyond what was envisioned for front setbacks. Structures that extend beyond the home create encroachments into the front yard setback which is established to maintain a straight visual sight line along the streetscape and to keep structures back from the street. Additionally, an addition with a roof over it could be constructed in the rear yard complying with setback requirements.

3. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

The zoning code has a special provision allowing uncovered decks and ramps to encroach within the front yard setback. Covered structures are required to meet the bulk standard setback of 30 feet. Adding a covered platform in the front yard may be considered a convenience to the applicant, not a practical difficulty.

4. *The variance will not alter the essential character of the locality.*

One of the functions of setback requirements is to maintain consistency of structure placement and aesthetic qualities from street and neighboring views. The proposed covered platform would be one of the only front yard encroachments along Barbara Avenue. Because the ramp would have a roof over it, it would have a similar effect as if an enclosed addition was being proposed. Staff has felt front yard encroachments can have a greater impact on the character of the neighborhood compared to side or rear encroachments.

5. *Economic considerations alone do not constitute an undue hardship.*

Economic considerations do not appear to be a basis for this request.

ALTERNATIVES

The Planning Commission has the following alternatives available for the requested action:

A. Approval If the Planning Commission finds the setback variance to be acceptable, the Commission should recommend approval of the request with at least the following condition:

1. The site shall be developed in substantial conformance with the site plan on file with the Planning Department.

B. Denial If the Planning Commission does not favor the proposed request, it should be recommended for denial, which could be based on the following rationale:

1. Denying the variance request does not preclude the applicant from reasonable use of the property.
2. Approval of the variance could set a precedent for other front yard setback variances.
3. Staff does not believe there are practical difficulties in complying with the official control as the proposed landing is larger than what is required for a handicap ramp and there is sufficient room to add a covered platform in the rear yard while meeting setbacks.
4. Approval of the 17 foot setback in the front yard could alter the character of the neighborhood.

RECOMMENDATION

Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

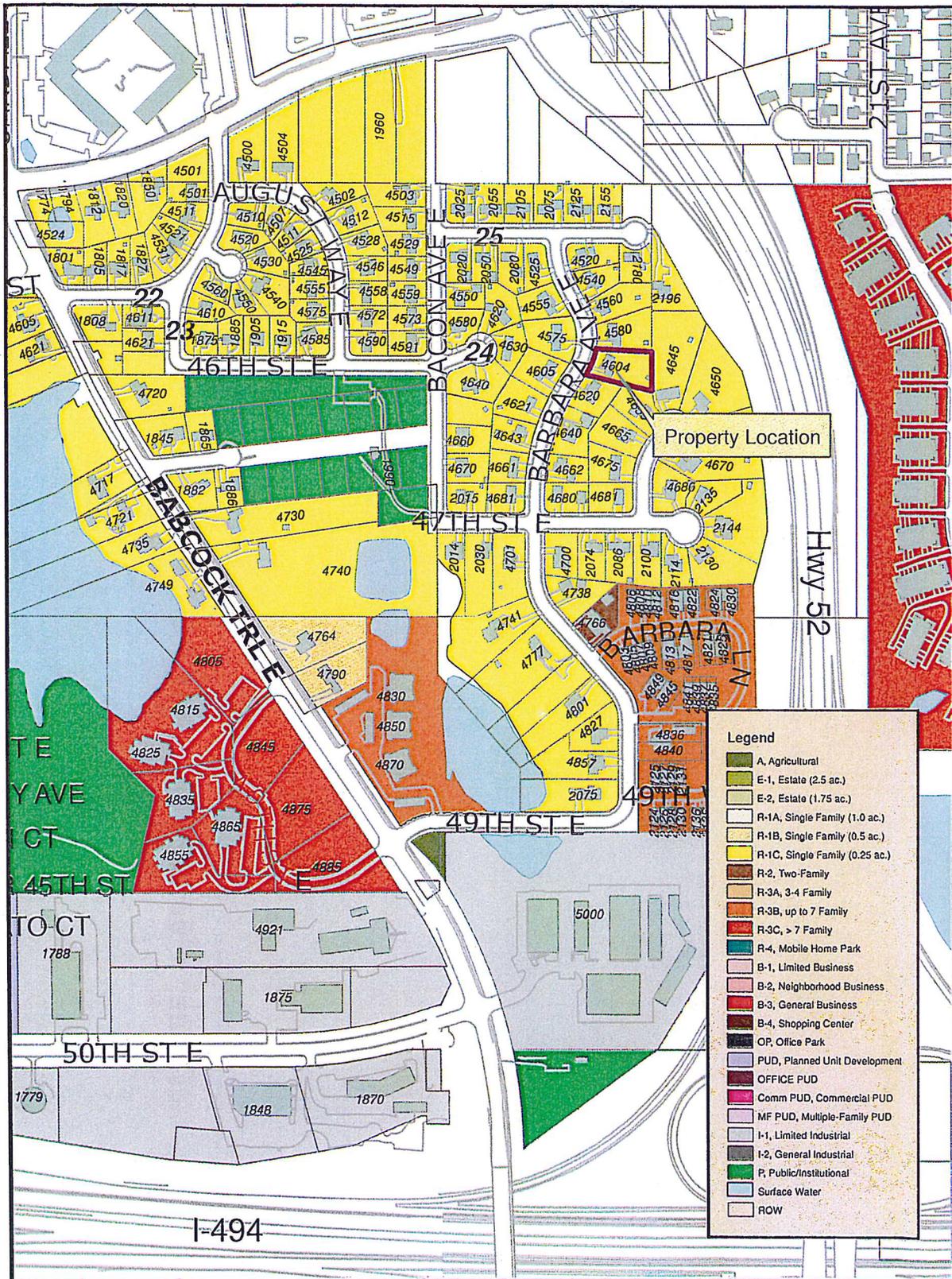
Staff believes the applicant did not identify practical difficulties to comply with the ordinance. For the reasons listed in Alternative B staff is recommending denial of the proposed request.

Earlier this year a request went through the public process for a handicap ramp to be located 12 feet from the property line; this request was approved by City Council. Staff has found the current application to differ because of the proposed roof which requires greater setbacks than an open deck.

Attachments: Exhibit A - Location/Zoning Map
Exhibit B - Narrative
Exhibit C - Site Plan
Exhibit D- Photo



4604 Barbara Avenue



Teresa R. Dock

4604 Barbara Ave East

Inver Grove Heights, MN 55077

Regarding: Variance request

Date: 10/29/2013

To Whom It May Concern:

I am requesting a variance regarding our existing ramp for my handicapped son. Jake is a C-3 quadriplegic, paralyzed from the neck down and on a ventilator. The existing ramp was first put in 10 years ago in December, 2003 at the time of his injury. We need to replace it due to weather and wear. We would like to make some modifications to the ramp at this time.

The current ramp has a platform turn stall in the middle to allow him to go down the ramp and then turn and continue down the second half of the ramp to exit. Jake is not in a normal wheelchair, he is in an electric wheelchair which is much larger than a traditional wheelchair. He also has to go to the hospital on occasion and the paramedics use this turn stall to take him out on a stretcher. We are asking that the platform be changed from 8X8 to a 10x10 for ease of turning.

We are also asking to have a roof added over the platform so that in the summer months Jake can sit out on the platform in a shaded area. Jake cannot be out in the sun, due to medications. He burns within a few minutes. By having a roof he is able to be on the platform with his nurse and get some fresh air. This improvement would definitely let him have a better quality of life.

We are asking to have this approved and the variance granted.

Thank you for your consideration!

Teresa Dock

Dock Deck/Ramp Remodel
 4604 Barbara Avenue East
 Inver Grove Heights
 DJ's Handyman Service LLC
 Dick Johnson
 13836 Currant Circle
 Rosemount MN
 651-423-7168

