

(R-88-1702)

RESOLUTION NUMBER R-270326

ADOPTED ON FEBRUARY 9, 1988

WHEREAS, the Zoning Administrator considered the request of Nina and Victor Charles Roy, Case No. C-19658, for a variance to maintain 71 linear feet of 6'0" high stuccoed block wall with two 8'0" high columns observing a 5'6" front yard at the closest point where 15'0" is required; 72 linear feet of 6'0" stuccoed block wall with four 8'0" high columns observing a 7'0" street side yard at the closest point where 10'0" is required - Lot 284, Villa Granada, Unit No. 4, Map 8577, located on the southeast corner of Viacha Drive and Viacha Way, R1-5000 zone; and

WHEREAS, the Zoning Administrator considered the plans and materials submitted, the staff report, and inspected the subject property; and

WHEREAS, the Zoning Administrator found that the subject property lacked unusual circumstances. The property was a rectangular lot with approximately 7,450 sq. ft. of area which exceeded the minimum lot size of 5,000 sq. ft. Surrounding development and topography was similar in nature to that of the property. The need for a higher fence was not demonstrated in this case since the property sat somewhat above street grade, making it difficult to see into the property from street grade and from the sidewalk. The property on the northeast corner of the intersection was depressed from street grade and a fence built along that property met the fence regulations; and

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WHEREAS, observance of the fence regulations would not prevent reasonable use of the property nor would it deprive the owners of adequate useable area. The applicants could build a 6'0" high solid fence observing the required yards or erect a 6'0" high fence consisting of 3'0" solid fence with 3'0" 50% open fence on top and be in compliance with design requirements with the required yards; and

WHEREAS, approximately 17'0" of the existing fence, including the main entrance gate on Viacha Way to the corner, west of the gate, observed the required setbacks; and

WHEREAS, given strict application of the ordinance would not deny the applicants of reasonable use of the subject property, the Zoning Administrator found that the minimum variance was no variance and denied the request; and

WHEREAS, on October 7, 1987, the Board of Zoning Appeals considered the appeal of Nina and Victor Charles Roy, Case No. C-19658, from the above-noted decision of the Zoning Administrator; and

WHEREAS, in arriving at its decision the Board considered the staff report, decision of the Zoning Administrator, the plans and materials submitted prior to and at the public hearing, inspected the subject property and heard public testimony presented at the hearing; and

WHEREAS, the Board found that the request could not be approved as submitted. The applicants submitted that they were unable to contact the contractor who built the wall and that his

license was either suspended or lapsed since 1985. Acknowledging that it was unfortunate that the applicants could not contact the contractor, the Board was unable to find that there were unusual circumstances to approve the entire request. The lot was similar in size and shape to the surrounding lots in the neighborhood. The wall was massive and stood out in the neighborhood. However, the portion of the wall within the street yard, along Viacha Way, was viewed as de minimis and could be maintained; and

WHEREAS, the Board believed that the variance as approved was the minimum necessary to allow reasonable use of the subject property and thereby partially granted the appeal of Nina and Victor Charles Roy with conditions; and

WHEREAS, on February 9, 1988, the Council of The City of San Diego, considered the appeal of Nina and Victor Charles Roy, Case No. C-19658, from the decision of the Board of Zoning Appeals, noted above; and

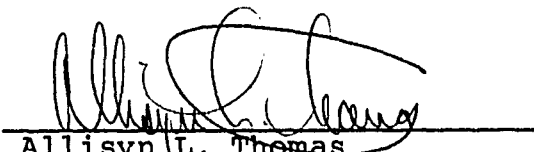
WHEREAS, in arriving at its decision, the Council reviewed the appellants' testimony, the decisions of the Zoning Administrator and the Board of Appeals, heard public testimony on the matter, and read letters by neighbors and the local planning group submitted in connection with the appeal; and

WHEREAS, the Council supported the findings of the Zoning Administrator; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the appeal of Nina and Victor Charles Roy is hereby denied.

BE IT FURTHER RESOLVED, that the decision of the Council of
The City of San Diego shall be final.

APPROVED: JOHN W. WITT, City Attorney

BY 
Allisyn L. Thomas
Deputy City Attorney

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Or.Dept:Clerk
R-88-1702
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Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Ellen Board* Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R 270326 Adopted FEB 9 1988