



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: December 5, 2018

TO: Hearing Officer

SUBJECT: Variance #11883

LOCATION: 645 Rockwood Road

APPLICANT: Kathleen Ferguson

ZONING DESIGNATION: RS-2-HD (Single-Family Residential, 0-2 units per acre, Hillside Overlay District)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Carlos Chacon

STAFF RECOMMENDATION: Adopt the Environmental Determination and Specific Findings in Attachment A to **approve** Variance #11883.

PROJECT PROPOSAL: Variance: To allow construction of accessory structures (swimming pool and spa) within the front yard, where an accessory structure is required to be located behind the rear wall plane of the primary structure;

Minor Variance: To allow the construction of a glass fence with a height of 11'4" inches from existing grade, within the front yard where the maximum allowed height is four feet; and

Minor Variance: To allow the replacement of an existing six-foot chain link fence with a new five-foot wrought iron fence, within the front yard, where the maximum allowed height is four feet.

ENVIRONMENTAL DETERMINATION: This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303(e), Class 3, New Construction or Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore

there are no unusual circumstances. This class exemption exempts from environmental review specifically accessory structures including garages, carports, patios, swimming pools, and fences.

BACKGROUND:

Site characteristics: The site is a 30,158 square-foot rectangular lot and is developed with a 3,102 square-foot single-family residence with an attached 480 square-foot two-car garage at the rear of the property.

Adjacent Uses: North – Single-Family Residential
South – Single-Family Residential
East – Arroyo Seco
West – Single-Family Residential

Adjacent Zoning: North – RS-2-HD (Single-Family Residential, 0-2 units per acre, Hillside Overlay District)
South – RS-2 HD (Single-Family Residential, 0-2 units per acre, Hillside Overlay District)
East – OS (Open Space)
West – RS-2 HD (Single-Family Residential, 0-2 units per acre, Hillside Overlay District)

Previous zoning cases on this property: None

PROJECT DESCRIPTION:

The applicant, Kathleen Ferguson on behalf of the owner, Michael Fitzpatrick, has submitted three applications to allow the construction of a 16-foot by 45-foot swimming pool, a glass fence serving as a safety railing on top of a proposed retaining wall, and a new five-foot wrought iron fence for a pool barrier, within the front yard: A Variance application to allow construction of the swimming pool and spa within the front yard, where an accessory structure is required to be located behind the rear wall plane of the primary structure; a Minor Variance to allow the construction of a glass fence serving as a safety railing with an overall height of 11'4" inches from existing grade, within the front yard where the maximum allowed height is four feet; and a Minor Variance application to allow replacement of an existing six-foot chain link fence with a new five-foot wrought iron fence within the front yard, where the maximum height is four feet. The subject site is a rectangular hillside lot developed with a single-family residence in the RS-2-HD (Single-Family Residential, 0-2 dwelling units per acre, Hillside Overlay) zoning district.

ANALYSIS:

The subject site is a rectangular shaped lot characterized by a sloped topography that ascends from the front property line to the rear property line; the difference in elevation between the front property line and the rear property line is 20 feet. The lot is currently developed with a 3,102 square-foot one-story single-family residence set back 88 feet from the front property line and sited on a relatively flat building pad located towards the rear of the site, with a rear setback of approximately eight to ten feet from the rear property line. The difference in elevation between the front property line and the flat building pad of the property is approximately fifteen feet. Beyond the rear of the residence, the elevation inclines an additional five feet towards the rear property

line. A majority of the area behind the residence is occupied by the ascending slope and three large trees, two of which are Coast Live Oak trees. The flat portion of the lot has limited visibility from the front property line and the right-of-way.

The applicant considered constructing the swimming pool in an area near the rear of the residence to avoid siting the swimming pool in the front yard. However, due to the location of the residence, a Variance would still be required to construct the swimming pool in an area near the rear of the residence, as the swimming pool would still not be located behind the rear wall plane of the residence.

As previously discussed, a majority of the area behind the residence is occupied by an ascending slope, three large trees, and an attached garage that is in close proximity to the rear property line. As noted on the Tree Report by Rebecca Latta, Certified Arborist WE4264A, it was confirmed that there are two large Coast Live Oaks and one large Victorian box tree in the rear yard area that would be in close proximity to the swimming pool, if the swimming pool were to be located near the rear of the residence. The tree report determined that a protected Oak tree, with a trunk diameter of 30 inches, would not be impacted by the construction of a swimming pool due to its distance away from the pool area and in close proximity to the rear property line. However, the tree report identified that a larger Oak tree, with a trunk diameter of 36 inches, would be in close proximity to the pool. The canopy spread of this Oak tree is 50 feet wide and the tree was determined to be in good health. However, the Oak tree does not qualify for protection due to its location. The protected Victorian box tree has a trunk diameter of 30 inches and it is 50 feet high and its spread is 40 feet wide. The arborist determined that both trees would likely not recover from the impacts associated with the construction of the swimming pool and that their health could begin a steady and permanent decline. The applicant has expressed a desire to maintain these trees in good health and would not want to remove them for the siting of the swimming pool.

Due to the topography at the rear of the site, the existing mature trees behind the residence, and the existing structure sited toward the rear of the site, on the flat building pad, there is limited space available, outside of the front yard area, to construct any accessory structures, including a swimming pool and related fencing. However, there is space to construct a pool in front of the existing home. The pool would be sited approximately 46 feet from the front property line, 72 feet from the south side property line, and 35 feet from the north side property line. The proposed five-foot high wrought-iron fence, to be utilized as a pool enclosure, would be placed across the width of the site, set back approximately 25 feet from the front property line. The proposed 42-inch high glass fence would serve as a safety railing and be located on top of the proposed retaining wall. The retaining wall would provide additional flat surface area for construction of the swimming pool and would have a height of up to 7'10". The overall height of the glass fence, as measured from existing grade, would be 11'4".

Arroyo Seco Slope Bank

The subject property is within the boundaries of the *Arroyo Seco Slope Bank Map*. Pursuant to Section 17.29.050.D of the Zoning Code, no structure shall extend over or below the top edge of the Arroyo Seco slope bank on a lot identified on the *Arroyo Seco Slope Bank Map*. The "top edge" of the Arroyo is the highest existing grade elevation at the point where the natural gradient inclines downward at a slope greater than 50 percent in the mapped area. On a site with multiple slope banks, the "top edge" shall be considered the point farthest from the floor of the Arroyo Seco. Section 17.29.050.D further stipulates that development of any structure within 20 feet of the top edge shall require a Hillside Development Permit; however, construction over or below the top edge of the Arroyo Seco slope bank is still prohibited.

The intent of the Zoning Code is to prevent any new construction from being perched on the edge of the steep banks or on the sides of the Arroyo Seco; thereby protecting the open space and natural appearance of the Arroyo.

A topographical map, submitted by the applicant, was provided for the project site. Based on the information provided, there are no areas sloped greater than 50 percent on the site and, therefore, the site is not subject to the placement requirements of Section 17.29.050.D as there is no "top edge".

Variance: To allow construction of a swimming pool within the front yard, where an accessory structure is required to be located behind the rear wall plane of the primary structure.

A Variance application allows the City to review whether a deviation from the Zoning Code can be granted for a project. It may only be granted when, because of special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary and non-self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards. A Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

Section 17.29.060.C of the Zoning Code regulates the size and location of accessory structures in the HD and HD-SR Overlay districts. In addition to the size requirements, individual accessory structures (except for detached garages), must be located behind the rear wall plane(s) of the primary structure. The applicant is proposing to construct a swimming pool between the front of the residence and the front property line, within the front yard area. The applicant must obtain the approval of a Variance in order to deviate from the accessory structure placement requirement.

As noted above, the project site has extraordinary circumstances and conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep ascending slopes at the front with a flat building pad near the rear of the site, and the remaining areas of the lot at the rear on a slope. The residence has a rear yard setback of approximately 8 to 10 feet due to the location of the attached garage and rear property line configuration. As a result, there is no available space to site a pool behind the rear wall plane of the residence as required. These site conditions leave only the areas in front of the residence for siting of a swimming pool.

The swimming pool is proposed to be situated in front of the residence, with a majority of the pool located on the flat building pad. As the pool expands east, towards the front yard, and it meets the front yard's ascending slope, a proposed retaining wall will allow the owner to partially level the grade and provide ample decking for circulation at the side and rear of the swimming pool. The retaining wall would extend along the eastern length of the pool facing Rockwood Road, with a minimum retaining wall height of three feet to a maximum height of 7'10". The proposed retaining wall would be screened by the existing landscape located along the ascending slope facing Rockwood Road.

Applying the strict development standards of the Zoning Code, and attempting to relocate the pool to the rear 8 to 10 feet behind the rear wall plane of the residence, would prohibit the owners from constructing a usable swimming pool. Due to the existing ascending slope at the front of the property, the limited rear yard, and location of the existing house and garage, the only area on

the site that is reasonable to build a pool is at the front of the residence on a portion of the existing flat building pad.

Staff finds that granting the requested Variance, to deviate from the location requirements for a swimming pool, would not be detrimental or injurious to property or improvements in the vicinity of the development site, and to the public health, safety, and general welfare. It is not anticipated that the activities associated with the swimming pool would create adverse impacts to adjoining properties. As such, staff recommends approval of the Variance request.

Minor Variance: To allow the construction of a glass fence with an overall height of 11'4" inches from existing grade, within the front yard, where the maximum allowed height is four feet.

The applicant is proposing to construct a new swimming pool within the front yard of the site. Due to the steep ascending slopes at the front, the applicant is proposing to construct a retaining wall with a height between three feet and 7'10" to provide structural support for the front portion of the pool. The retaining wall will allow the pool to be located at a distance from the residence creating sufficient decking between the pool and the residence. The Building & Safety Division requires any walkable surface created by the retaining wall that exceeds a height of 30 inches above finished grade, to provide a 42-inch high safety railing. In order to comply with the fall protection requirements for the retaining wall, the applicant is proposing to install a 42-inch high glass fence to serve as a safety railing on top of the retaining wall.

Section 17.40.180 of the Zoning Code states that a wall or fence within the RS or RM-12 zoning district located within front yard (between the front property line and the occupancy frontage) shall have a maximum height of four feet. Pursuant to 17.40.180.A, walls or fences are to be measured from existing grade to the top of the fence. The proposed 42-inch glass fence, serving as a safety railing, would be placed on top of the proposed retaining wall and have a height of up to 11'4" as measured from existing grade. As such, a Minor Variance is needed to deviate from the maximum height requirement for fences within the front yard.

A Minor Variance application allows the City to review whether a deviation from the Zoning Code can be granted for a project. It may only be granted when, because of special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary and non-self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards. A Minor Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

The swimming pool is proposed to be situated in the front yard, with a majority of the pool located on the flat portion of the site. As the pool expands east, towards the front yard, and it meets the front ascending slope, the retaining wall is proposed to partially level the grade around the front of the swimming pool. The retaining wall would extend along the eastern length of the pool facing Rockwood Road, with a minimum retaining wall height of three feet to a maximum height of seven feet. The proposed retaining wall would serve as a structural support for the pool's front edge. The proposed 42-inch high glass fence would be installed at the top of the retaining wall through a fixed bracket anchored to the face of the wall. Although partially exposed, the proposed retaining wall would be screened by the existing landscape located along the ascending slope facing Rockwood Road.

As noted above, the project site has extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep ascending slopes at the front, with a flat building pad towards the rear of the site and an 8- to 10-foot rear yard setback. The residence and garage are sited towards the rear of the site and are located adjacent to mature trees. These site conditions leave only a small area in front of the residence, on a portion of the flat building pad, for siting of a swimming pool, which would necessitate the retaining wall and a 42-inch high glass fence to be built on top of the retaining wall within the front yard at an overall height of 11'4", in order to meet safety code standards related to fall protection.

The granting of a Minor Variance would not constitute a grant of special privilege as there are other properties in the vicinity and in the same zone district with swimming pools within the front yards and associated retaining walls and railings that exceed four feet in height, located within the front yard due to similar topographical conditions. The proposed swimming pool, retaining wall, and glass fence are necessary for the preservation and enjoyment of a substantial property right. The ability to have a swimming pool for recreational purposes, with the glass fence used as a safety railing are a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy.

Minor Variance: To allow replacement of an existing six-foot chain link fence with a new five-foot wrought iron fence, within the front yard, where the maximum allowed height is four feet.

The applicant is proposing to construct a new swimming pool within the front yard of the site. Section AV100.3 of the California Building Code requires a five-foot high security enclosure (fence or wall) around a new swimming pool. In order to comply with the swimming pool security enclosure requirement, the applicant is proposing to construct a five-foot high wrought-iron fence that is 50% open, within the front yard area, expanding the width of the lot, set back 25'-0" from the front property line.

Section 17.40.180 of the Zoning Code states that a wall or fence within the RS or RM-12 zoning district located within front yard (between the front property line and the occupancy frontage) shall have a maximum height of four feet and be at least 50 percent open. As such, a Minor Variance is needed to deviate from the maximum height requirement for fences within the front yard.

A Minor Variance application allows the City to review whether a deviation from the Zoning Code can be granted for a project. It may only be granted when, because of special circumstances applicable to the subject property, the strict application of the Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary and non-self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards. A Minor Variance shall not be granted if the granting of the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.

As noted above, the project site has extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep ascending slopes at the front, with a flat building pad at the rear of the site. Furthermore, there are several mature trees at the rear of the property that make it difficult to build a pool without detrimentally affecting the existing trees at the rear of the site. The residence and garage are sited towards the rear of the site and are located adjacent to these mature trees. These site conditions leave only a small area in front of the residence, on a portion of the flat building pad, for siting of a swimming pool, which would require the fence to be built

within the front yard at a height of five feet in order to meet safety code standards related to pool enclosures.

The granting of a Variance and Minor Variance would not constitute a grant of special privilege as there are other properties in the vicinity and in the same zone district with swimming pools within the front yards and associated fence enclosures that exceed four feet in height, located within the front yard due to similar topographical conditions. The proposed swimming pool and fence are necessary for the preservation and enjoyment of a substantial property right.

The ability to have a swimming pool for recreational purposes, with the appropriate pool barriers are a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy.

Tree Protection Ordinance

The proposed retaining wall, swimming pool, and deck extend through the front yard and would be sited adjacent to several protected trees on the site. Based on the Tree Inventory provided by the applicant, the property has a total of 34 trees on site, fourteen of which are considered protected trees per the City's Tree Protection Ordinance. The analysis conducted is to ensure all trees proposed to remain are protected during construction and will remain in good health after the project is completed. On the Tree Report, the size of all the trunks of multi-trunk trees were provided. In order to convert the diameter of multiple trunks into a single trunk, the diameter of each trunk is measured at a height of 4½ feet above natural grade (DBH), and the combined areas of the trunks will be used to determine the tree's size per Section 8.52.020 of Pasadena Municipal Code.

The applicant provided staff with a tree protection plan for the 14 protected trees identified. The trees identified in the Tree Protection Plan that were within the scope of the pool construction were reviewed by the City's consulting arborist, who conducted an independent review of the scope of work for the site and provided recommendations for the potential impacts.

The City's Arborist noted that nine trees (#1, #2, #3, #4, #15, #16, #17, #30, and #34) in the front yard could potentially be impacted due to the grading activities associated with the construction of the swimming pool and retaining wall. However, with the appropriate tree protection measures in place, the health of the trees can be maintained. In order to minimize the impacts to these trees, the applicant will be required to submit a revised tree protection plan for review and approval prior to the issuance of a grading or building permit. Said plan will include, but not be limited to, measures for grading adjacent to the potentially impacted trees to be done by hand and any roots to be cut cleanly with hand tools.

Of the 20 non-protected trees, one Holly Tree (#16) with a DBH of 18 inches is marked for removal. Since the site is located in the Hillside Overlay district, Chapter 17.44 of the Zoning Code is applicable to the site, in addition to the Tree Protection Ordinance. This section of the Zoning Code requires a 24-inch box or larger replacement tree for the removal of each tree in excess of eight inches in diameter for projects within the Hillside Overlay District. One of the eight trees (#16) proposed to be removed, falls under this size criterion. If the project were to be approved, a Condition of Approval would be added requiring that the replacement trees be selected from the list of native or specimen trees. Furthermore, Conditions of Approval would also be added requiring the applicant to fulfill the recommendations and protection measures in the Tree Report, as well as submit a final landscape and irrigation plan, in compliance with Chapter 17.44 (Landscaping) of the Zoning Code, identifying all remaining and proposed vegetation and trees along with plans for building permit.

GENERAL PLAN CONSISTENCY:

The subject site is designated as Low Density Residential in the General Plan Land Use Element. The swimming pool and the five-foot high open wrought-iron fence will be minimally visible from the street and would be consistent with adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of residential street that unify and enhance the character of the neighborhood. The construction of the swimming pool and fence would not alter the existing character of the neighborhood. The use of the site will remain a single-family residence; therefore, the character of the single-family neighborhood will be maintained. The property will continue to be used for single-family purposes, in compliance with the Low Density Residential General Plan land use designation.

ENVIRONMENTAL REVIEW:

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, §15303(e), Class 3, New Construction or Conversion of Small Structures). There are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances. This class exemption exempts from environmental review specifically accessory structures including garages, carports, patios, swimming pools, and fences.

REVIEW BY OTHER DEPARTMENTS:

The proposed project was reviewed by the Department of Public Works, Department of Transportation, Fire Department, Building and Safety Division, and Design and Historic Preservation Section. These departments had no comments at this time and would review the project during the building permit plan check process to ensure compliance with applicable code requirements.

CONCLUSION:

Staff finds that the steep topography of the property location of existing improvements, and the limited rear yard setback, creates an exceptional or extraordinary circumstance and condition applicable to the subject site which warrants the approval of the requested Variance to allow the construction of a swimming pool within the front yard, Minor Variance to allow the construction of a glass fence with a height of 11'4" inches from existing grade, and Minor Variance to allow a five-foot open wrought iron fence between the front property line and the occupancy frontage for pool barrier purposes. Staff recommends approval of the Variance and both Minor Variances, subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

ATTACHMENTS:

Attachment A: Variance and Minor Variance Findings
Attachment B: Recommended Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR VARIANCE #11883

Variance: To allow construction of a swimming pool within the front yard, where an accessory structure is required to be located behind the rear wall plane of the primary structure.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The subject site has extraordinary circumstances and conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep ascending slopes at the front, with a flat building pad near the rear of the site, with remaining areas of the lot at the rear on a slope. The residence and garage are sited towards the rear of the site, on the flat building pad, and there is limited spaces to locate a pool behind the rear wall plane of the residence as required of all accessory structures in a Hillside Overlay zone. These site conditions leave only a small area in front of the residence, on a portion of the flat building pad, for siting of a swimming pool.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* The proposed pool is necessary for the preservation and enjoyment of a substantial property right. Applying the strict development standards of the Zoning Code, and attempting to relocate the pool to the rear setback, 8 to 10 feet behind the rear wall plane of the residence, would prohibit the owners from locating a swimming pool. Due to the existing ascending slope at the front of the property, the limited space at the rear of the property due to the location of the existing house and garage, the only area on the site that is reasonable to build a swimming pool is at the front of the residence on a portion of the existing flat building pad.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* It is not anticipated that the activities associated with a swimming pool would create adverse impacts to adjoining properties. The pool will be required to meet all safety and building codes which will be reviewed through the plan check process. Conditions of approval will ensure that the project remains compatible with the surrounding area in that it would maintain the required setbacks and will comply with all other applicable development standards.
4. *Granting the application is consistent with the General Plan and the purposes of Title 17 of the Municipal Code and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The subject site is designated as Low Density Residential in the General Plan Land Use Element. The swimming pool and the five-foot high open wrought-iron fence will be minimally visible from the street and would be consistent with adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of residential street that unify and enhance the character of the neighborhood. The construction of the swimming pool and fence would not alter the existing character of the neighborhood. The use of the site will remain a single-family residence; therefore, the character of the single-family neighborhood will be maintained. The property will continue to be used for single-family purposes, in compliance with the Low Density Residential General Plan land use designation.
5. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City's development standards has not been considered as a factor throughout the review of this application.

Minor Variance: To allow the construction of a glass fence with a height of 11'4" inches from existing grade, within the front yard, where the maximum allowed height is four feet.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The subject site has extraordinary circumstances and conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep ascending slopes at the front, with a flat building pad near the rear of the site, with remaining areas of the lot at the rear on a slope. The residence and garage are sited towards the rear of the site, on the flat building pad, and there is limited spaces to locate a pool behind the rear wall plane of the residence as required of all accessory structures in a Hillside Overlay zone. These site conditions leave only a small area in front of the residence, on a portion of the flat building pad, for siting of a swimming pool, which would necessitate the retaining wall and a 42 inch high glass fence to be built on top of the retaining wall within the front yard at an overall height of 11'4", in order to meet safety code standards related to fall protection.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Granting the requested application would allow the installation of a 42-inch tall fence on top of the proposed retaining wall with an overall height of 11'4" from existing grade, and would facilitate the siting of a swimming pool and related retaining wall in the front yard; a swimming pool is necessary for the preservation and enjoyment of a substantial property right. Applying the strict development standards of the Zoning Code, and not allowing the fence to serve as a swimming pool fall protection on the top of the retaining wall, would require relocating the swimming pool to the rear of the site. Relocating the pool to the rear of the site would be detrimental to the existing trees and would require additional grading on the sloped areas of the site to accommodate a swimming pool.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The project will be required to obtain building and zoning permits ensuring that the construction will comply with the approved fence height. Granting the applicant's request to allow a 42-inch tall glass fence on top of the proposed retaining wall with an overall height of 11'4" within the front yard, would not be detrimental or injurious to property or improvements in the vicinity of the project site, given that the purpose of constructing the glass fence is to provide fall protection compliant with the building code for the occupants of the site. Conditions of approval will ensure that the project remains compatible with the surrounding area.
4. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The subject site is designated as Low Density Residential in the General Plan Land Use Element. The swimming pool and the 42-inch high glass fence on top of the proposed retaining wall with an overall height of 11 feet 4 inches, will be minimally visible from the street and would be consistent with adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of residential street that unify and enhance the character of the neighborhood. The construction of the swimming pool and glass fence would not alter the existing character of the neighborhood. The use of the site will remain a single-family residence; therefore, the character of the single-

family neighborhood will be maintained. The property will continue to be used for single-family purposes, in compliance with the Low Density Residential General Plan land use designation.

5. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City's development standards has not been considered a factor throughout the review of this application.

Minor Variance: To allow replacement of an existing six-foot chain link fence with a new five-foot wrought iron fence, within the front yard, where the maximum allowed height is four feet.

1. *There are exceptional or extraordinary circumstances or conditions applicable to the development site that do not apply generally to sites in the same zoning district.* The subject site has extraordinary circumstances and conditions applicable to the subject site that do not apply generally to sites in the same zoning district. The subject property is characterized by steep ascending slopes at the front, with a flat building pad near the rear of the site, with remaining areas of the lot at the rear on a slope. The residence and garage are sited towards the rear of the site, on the flat building pad, and there is limited spaces to locate a pool behind the rear wall plane of the residence as required of all accessory structures in a Hillside Overlay zone. These site conditions leave only a small area in front of the residence, on a portion of the flat building pad, for siting of a swimming pool, which would require the fence to be built within the front yard at a height of five feet in order to meet safety code standards related to pool enclosures.
2. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Granting the requested application would allow the installation of a five-foot tall fence that would facilitate the siting of a swimming pool in the front yard; a swimming pool is necessary for the preservation and enjoyment of a substantial property right. Applying the strict development standards of the Zoning Code, and attempting to relocate the pool to the rear setback, 8 to 10 feet behind the rear wall plane of the residence, would prohibit the owners from locating a swimming pool. Due to the existing ascending slope at the front of the property, the limited space at the rear of the property due to the location of the existing house and garage, the only area on the site that is reasonable to build a swimming pool is at the front of the residence on a portion of the existing flat building pad. Consequently, this would require the fence to be built within the front yard at a height of five feet in order to meet safety code standards related to pool enclosures.
3. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the project site, or to the public health, safety, or general welfare.* The project will be required to obtain building and zoning permits ensuring that the construction will comply with the approved fence height. Granting the applicant's request to allow a five-foot tall fence within the front yard would not be detrimental or injurious to property or improvements in the vicinity of the project site, given that the purpose of constructing the fence is to provide a pool enclosure compliant with the building code for the occupants of the site and the adjacent properties. Conditions of approval will ensure that the project remains compatible with the surrounding area.
4. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.* The subject site is designated as Low Density Residential in the General Plan Land Use Element. The swimming

pool and the five-foot high open wrought-iron fence will be minimally visible from the street and would be consistent with adopted General Plan policies, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of residential street that unify and enhance the character of the neighborhood. The construction of the swimming pool and fence would not alter the existing character of the neighborhood. The use of the site will remain a single-family residence; therefore, the character of the single-family neighborhood will be maintained. The property will continue to be used for single-family purposes, in compliance with the Low Density Residential General Plan land use designation.

5. *Cost to the applicant of strict compliance with a regulation is not the primary reason for the granting of the Variance.* The cost to the applicant of complying with the City's development standards has not been considered a factor throughout the review of this application.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR VARIANCE #11883

The applicant or the successor in interest shall comply with the following conditions:

General

1. The site plan, floor plan, elevations, and building sections submitted for building permits shall substantially conform to plans stamped "Approved at Hearing, December 5, 2018," except as modified herein.
2. The right granted under this application must be enacted within 24 months from the effective date of approval. It shall expire and become void, unless an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions – Extensions of Time).
3. The approval of this application authorizes the construction of a swimming pool (including spa), a 42-inch high glass fence to serve as a safety railing on top of the proposed 7'10" high retaining wall, with an overall height of 11'4", and a five-foot high wrought iron fence within the front yard as depicted in the approved plans.
4. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
5. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
6. The proposed project, Activity Number **PLN2018-00058** is subject to the Inspection Program by the City. A Final Zoning Inspection is required for your project prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. Contact Carlos Chacon, Current Planning Section, at (626) 744-7123 to schedule an inspection appointment time.

Planning Division

7. The applicant shall comply with all requirements of Zoning Code Chapters 17.22 (Residential Zoning Districts) and 17.29 (Hillside Overlay District), that relate to residential development in Single-Family Residential zoning districts.
8. The applicant or successor in interest shall comply with all requirements of Municipal Code Chapter 9.36 (Noise Restrictions). Specifically, all construction activities shall adhere to Municipal Code Section 9.36.070 (Construction Projects) and Section 9.36.080 (Construction Equipment).
9. No demolition or grading permit shall be issued until the building permit for the residential project is ready to be issued.
10. The project shall comply with the Municipal Code Chapter 8.52 (City Trees and Tree Protection Ordinance). A tree protection and retention plan shall be submitted to the Zoning Administrator for approval prior to the issuance of any building or grading permits. Any proposal to remove a protected tree requires approval of a Tree Removal Application prior to the issuance of building permits.

11. Any above-ground mechanical equipment shall be located at least five feet from all property lines and shall comply with the screening requirements of Section 17.40.150 (Screening) of the Zoning Code. Mechanical equipment shall be placed on a rooftop only if the equipment is not visible from off the site.
12. At no time shall construction activities, including, but not limited to, construction materials, vehicles and equipment, obstruct access to vehicular driveways of adjacent properties.