



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: September 13, 2018

TO: Hearing Officer

SUBJECT: Minor Variance #11887

LOCATION: 2058 E Orange Grove Boulevard

APPLICANT: Susan Al-Sabih (Owner)
Rick Button (Representative)

ZONING DESIGNATION: RS-6 (Single-Family Residential, 0-6 units per acre)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Jennifer Driver

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** Minor Variance #11887 with the conditions in Attachment B.

PROJECT PROPOSAL:

1. Minor Variance: To allow an accessory structure (pool) to encroach five feet, six inches into the required 10-foot corner side setback;
2. Minor Variance: To allow for a six-foot tall, solid wall in the corner side yard, between the street side property line and the side building line, where the maximum height permitted is four feet; and
3. Minor Variance: To allow for a six-foot tall, solid wall within five feet of the street side property line in the corner side setback, behind the rear building line, where the maximum height permitted 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 walls.

BACKGROUND:

Site characteristics:

The site is an irregular, “pie shaped”, flat lot measuring approximately 7,395 square feet, and currently developed with a 1,532 square-foot, one-story, single-family residence and detached garage. The site is located within an eligible Historic District (East Orange Grove-Lambert Historic District) and is also eligible for listing as an individual residence with the National Register of Historic Resources as an example of 1920s Period Revival Architecture in Pasadena.

Adjacent Uses:

North – Single Family Residential
South – Single-Family Residential
East – Single-Family Residential
West – Single-Family Residential

Adjacent Zoning:

North – RS-6 (Single-Family Residential , 0-6 units per acre)
South – RS-6 (Single-Family Residential , 0-6 units per acre)
East – RS-6 (Single-Family Residential , 0-6 units per acre)
West – RS-6 (Single-Family Residential , 0-6 units per acre)

Previous zoning cases on this property: None

PROJECT DESCRIPTION:

The applicant, Rick Button, on behalf of Susan Al-Sabih, has submitted a Minor Variance application to allow for the construction of a swimming pool and a solid, six-foot tall, pool enclosure wall within the corner side yard and setback of a property developed with a single-family dwelling. Because of the site’s odd shape and because of the placement of the existing residence and garage, the only suitable area of the property to construct a pool is the area to the west of the existing residence, within the corner side yard and partially within the required corner side setback, which requires approval of three Minor Variances. As a result, a Minor Variance is needed to allow for the pool to encroach five feet into the required 10’0” corner side setback, to allow for a six-foot tall, pool enclosure wall within the corner side yard, between the residence and the corner side property line and, to allow for a six-foot tall wall within five feet of the corner side property line, behind the primary structure’s building line. Notwithstanding though, portions of the

proposed pool and required pool enclosure are code compliant and are permitted without need for a Minor Variance approval.

The site is a flat, pie-shaped, corner lot with a front yard on Orange Grove Boulevard and a corner side yard along Oak Avenue. The transition between Orange Grove Boulevard and Oak Avenue is gentle, at approximately 102 degrees, versus the standard 90 degree angle of other corner lots, and thus creates a more subtle transition between the front and corner side yards than typical of corner lots. The existing 1,532 square-foot home sits towards the east property line, creating deep front and corner side yards, and as a result, the majority of the open space is in the western portion of the site, in the corner side yard, where the pool and wall are proposed. The residence is placed toward the southeast corner of the lot with the following setbacks: a 4'0" setback to the interior side property line (east); a 35'0" setback to the rear property line (south); a 32'0" front setback (north); and an approximate 35'0" corner side setback (west). The backyard is occupied by the existing detached garage, approximately 2'0" from the rear property line and is accessed from an existing 11'0" wide driveway. In the rear yard, there are two small pockets of open space which have a limited area to locate a pool, given the dimensions of each and the requirements in the Zoning code, which require a pool to be at least five feet from a property line (PMC Section 17.50.250.F.3). Further, there are trees (one protected specimen tree and one protected tree species insufficient in size to qualify for protection) within the pocket open space areas in the rear yard that would be encroached upon or removed as a result of locating the pool in those locations. Conversely, there are no trees in the proposed location in the area west of the residence, and the proposed project will not have an impact on any protected trees. The neighborhood is characterized as having open front or corner side yards with few walls or fences in a front or corner side yard. However, when a wall or fence is present in a street facing yard, typically there is a landscape buffer with shrubs between it and the respective property line.

In conclusion, **Table 1** summarizes the proposed project, clarifies the applicable code requirements, and which aspects require a Minor Variance.

Table 1	Code Requirement	Minor Variance Request
Minor Variance #1: Pool encroachment in Corner Side Setback	10-foot setback	Portion of pool within 10 feet of the corner side property line
Minor Variance #2: 6-foot tall wall in between residence and corner side property line (corner side yard)	4-foot tall solid wall, even up to the corner side property line	Exceed maximum permitted height by 2 feet.
Minor Variance #3: 6-foot tall wall within 5 feet of the corner side property line, behind the rear building line	1) 4-foot tall solid wall within five feet from corner side property line 2) A 6-foot tall wall is permitted, if at least five feet from corner side property line	Exceed maximum permitted height by 2 feet, within five feet of the corner side property line.

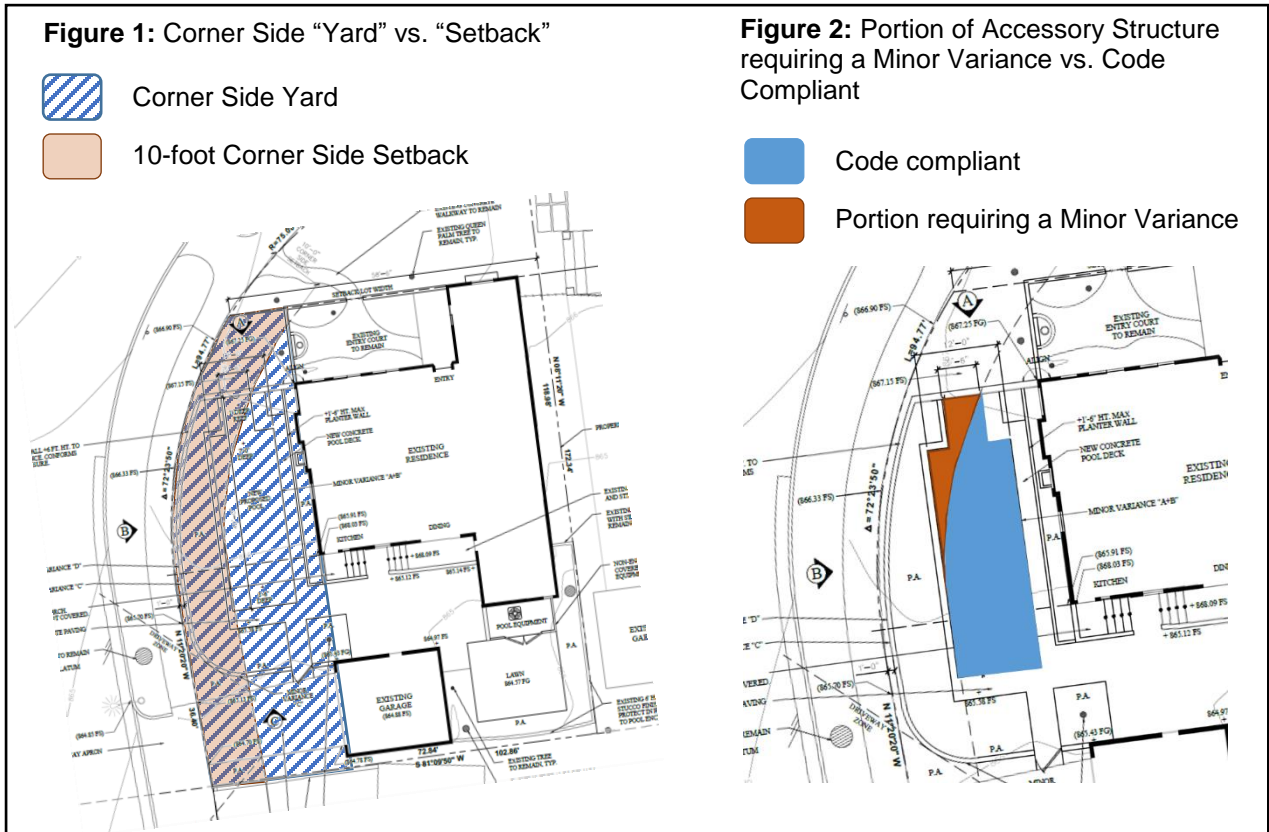
ANALYSIS:

For the purposes of this report, “corner side setback” is to refer to “the [minimum required] distance by which a [primary or accessory] structure or other development feature must be separated from a [corner side property] lot line”. Further, the term “corner side yard” is to refer to “an open space on the same site as a structure, unoccupied and unobstructed by structures from the ground upward” and is inclusive of the required minimum corner side setback (See **Figure 1**, below).

Minor Variance Number 1: To construct the swimming pool (Accessory Structure) that encroaches approximately five feet, six inches into the required 10-foot corner side setback.

The minimum required corner side setback for a property within the RS-6 zoning district is 10 percent of the lot width, with a minimum of 10 feet and a maximum requirement of 25 feet. In this case, the lot width is 58’6”; thus, the minimum required corner side setback of ten feet applies. Pursuant to Zoning Code Section 17.50.250.D.1 (Accessory Structure - Location), accessory structures, including pools, shall not encroach upon a required front or corner yard. In addition, pools shall maintain a five-foot setback from a property line (Section 17.50.250.F.3).

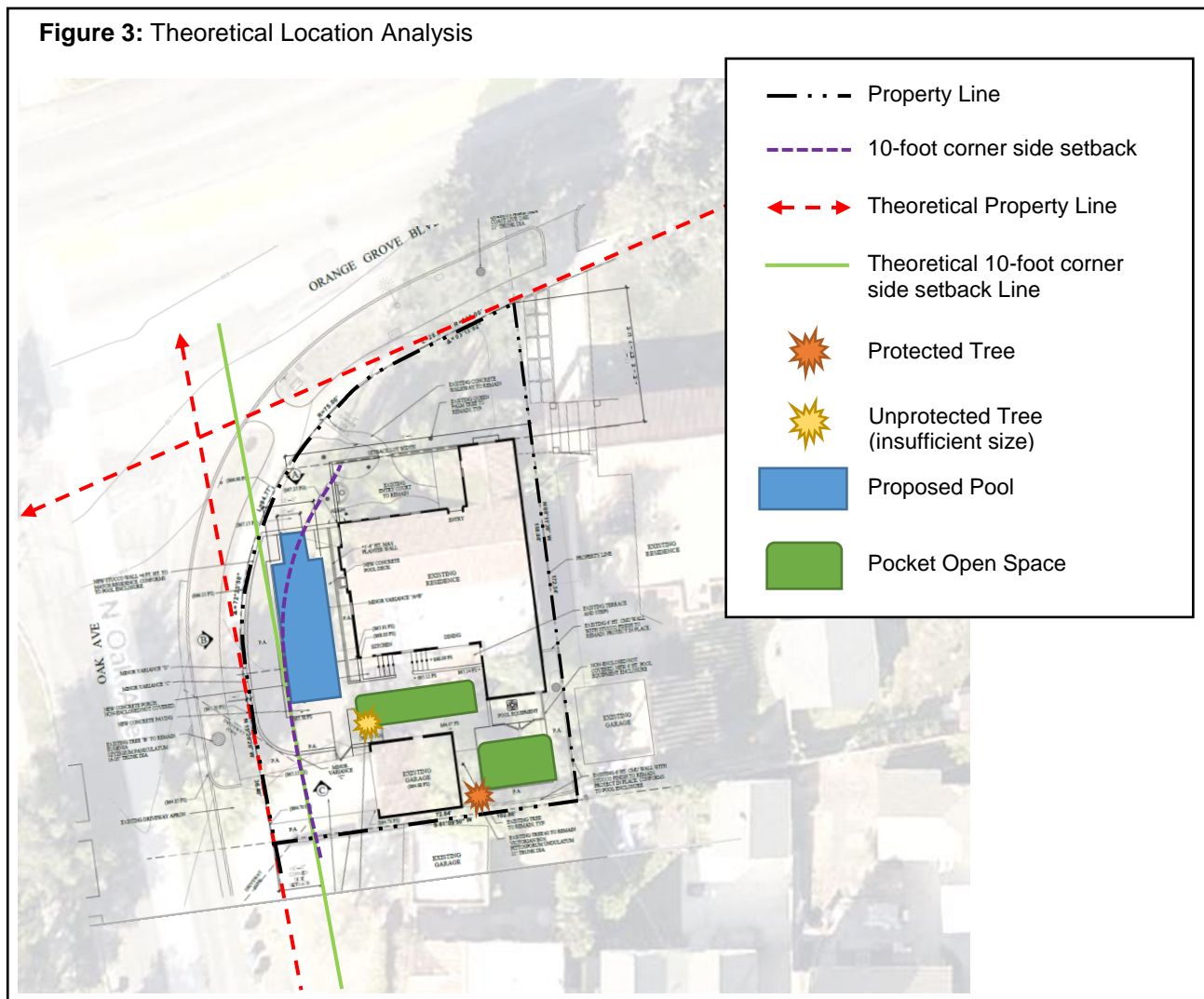
The applicant proposes to build a 12-foot by 40-foot swimming pool on the western side of the existing residence approximately five to ten feet from the corner side property line. The pool would be located in such a way that the vast majority of the pool’s location would comply with Zoning Code, by locating outside of the 10-foot required setback, but a small portion does encroach into the required setback, and requires approval of a Minor Variance (see **Figure 2**, below). The proposed location is an area that is relatively flat, covered with grass and utilized as open space. As proposed, the pool will not disturb any vegetation, more specifically trees.



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 that 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.

Staff finds that there are exceptional or 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 as an irregular “pie-shaped” lot that has a subtle, elongated ‘corner’ at the intersection of Oak Avenue and Orange Grove Boulevard, thus resulting in a truncated area between the corner side property setback and the existing residence (“corner side yard”). This unique corner design thus reduces the useable area in the corner side yard, the largest open space on the property, and an area where a code compliant swimming pool is permitted without a Minor Variance approval. Further, the existing residence and its garage are sited towards the east (interior side) and south (rear) areas of the site leaving only the areas between the residence and the front and corner side property lines for construction opportunities for a swimming pool.

Figure 3: Theoretical Location Analysis



However, theoretically, if the two streets did not curve into each other as they do, and instead carried on in straight lines (as shown in red in **Figure 3**, previous page), like other corner lots in the surrounding neighborhood, the approximate intersection angle would create a much larger usable side yard where a code compliant pool is permitted. In fact, in the approximation, it appears that the proposed pool in its current location could actually fall wholly outside the required 10-foot setback (marked in green), and would not require a Minor Variance. That being said, since the streets do curve into each other, this portion is lost and the property owner is left with less area in which to build. As this site is a unique instance, in that the angles of the street create limited functionality of the corner side yard, the location of the swimming pool within the corner side setback is a reasonable request that meets the intent of the Zoning Code.

In relating the required findings to the proposed application, there are special circumstances unique to the subject site. A hardship exists due to lot shape, site configuration, and the fact that most of the usable open space is in the corner side yard. Applying the strict development standards of the Zoning Code, and relocating the pool outside of the corner side setback in the side yard, would create a very narrow pool (narrower than the already proposed 12-foot wide pool). Further, if the pool were to be located within either of the two pocket open spaces to the rear of the residence, a protected tree would be impacted and a very small, odd-shaped, limited functionality, pool would result, once the required five-foot setback from a property line (PMC Section 17.50.250.F.3) is taken into consideration. At the proposed location, the pool will be located on a relatively flat pad that would not present a danger to the both the property owners and the people within the general vicinity. As such, staff feels that a deviation from this Code requirement is warranted and recommends approval of the Minor Variance request to permit the construction of an accessory structure that encroaches five feet into the 10-foot corner side setback due to the uniqueness of the property.

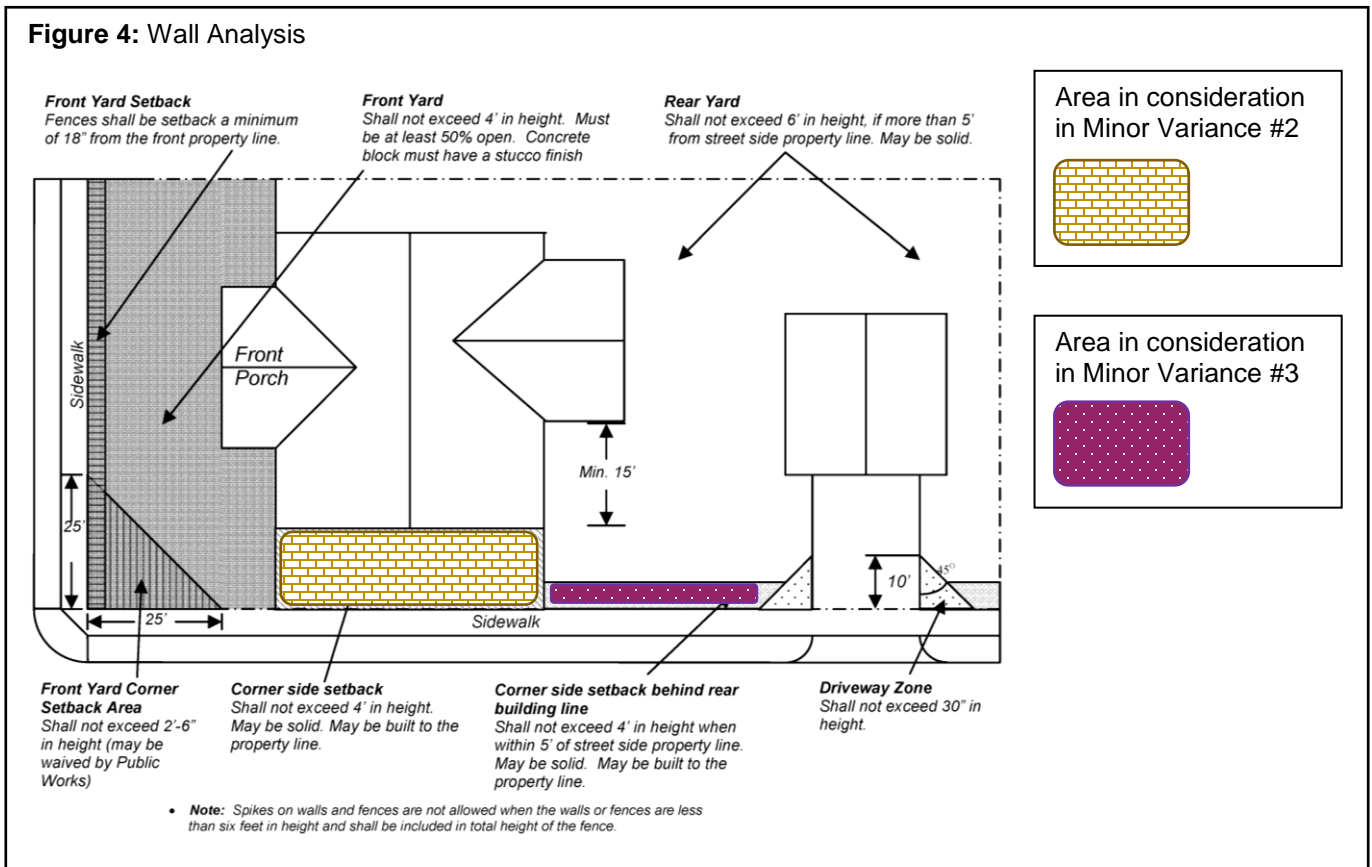
Staff finds that granting the reduced corner side setback of only five feet, to meet the Zoning Code's (general) minimum five-foot separation from a property line, would not be detrimental or injurious to property or improvements in the vicinity of the development site, and to the public health, safety, and general welfare. By locating the pool in the side yard, and partially within the corner side setback, the activities associated with a swimming pool are located away from abutting residences and would not be creating noise impacts to adjoining properties.

Minor Variance Number's 2 and 3:

- (2) To allow the construction of a six-foot tall wall, to be utilized as a pool enclosure in the corner side yard area, between the building face and the corner side property line, where the maximum allowed height is four feet.
- (3) To allow the construction of a six-foot high wall to be utilized as a pool enclosure within five feet of the corner side property line, behind the building line, in the corner side setback, where the maximum allowed height is four feet.

Section AV100.3 of the California Building Code requires a five-foot high security enclosure (fence or wall) around a new swimming pool. Sections 17.40.180.B.2.d(1) and (2) of the City's Zoning Code allow (1) walls located behind the rear building line, within five feet of the corner side property line, in the corner side setback to be a maximum of four feet in height, and built up to the corner side property line and (2) permits walls between the side of the residence and the corner side property line, to be a maximum height of four feet (See **Figure 4**, next page). In order to comply with the swimming pool security enclosure requirement, the applicant is proposing to construct a six-foot high, solid, masonry wall within the corner side yard, fully enclosing the side

yard area, where the swimming pool is proposed to be located. In order to exceed the maximum Zoning Code height of four feet to construct the required, minimum five-foot safety enclosure for the pool, two Minor Variances must be approved for the height of the wall.



The project site has extraordinary circumstances or conditions applicable that do not apply generally to sites in the same zoning district. The site is an elongated, "pie shape", with a truncated useable side yard between the corner side setback and the existing residence. Further, the existing residence and detached garage are sited to the east (interior side) and south (rear) portions of the property. These site conditions leave only an area to the west of the residence for the siting of a pool, which would result in the pool partially being located within the required 10-foot corner side setback. As a result, in order to meet California Building safety standards, a pool enclosure would have to also be built within the corner side setback at a minimum height of five feet.

The ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy. A wall, which is required for the proposed pool, is necessary for the preservation and enjoyment of this substantial property right. Staff reviewed the proposed wall and finds that the proposed six-foot tall wall is in excess of both what is required for a pool enclosure and of wall heights in the Zoning Code. As a result, staff recommends that the wall be reduced to no more than 5'0" high in order to meet minimum safety regulations and be more in line with what the Zoning Code permits.

Notwithstanding the above commentary necessitating the need for a five-foot tall pool enclosure, as the property is eligible for the National Register of Historic Properties within the also eligible

East Orange Grove/Lambert Historic District, new construction should consider its compatibility, aesthetically, with the house's 1920s Revival Vernacular architecture. The General Plan's Land Use Element Policy 8.5 (Scale and Character of New Construction in a Designated Landmark and Historic Districts) states:

8.5 Scale and Character of New Construction in a Designated Landmark and Historic Districts. Promote an architecturally sensitive approach to new construction in Landmark and Historic districts. Demonstrate the proposed project's contextual relationship with land uses and patterns, spatial organization, visual relationships, cultural and historic values, and relationships in height, massing, modulation, and materials.

In order to address this point, the applicant voluntarily proposes a wall that will be constructed in the same architectural style as other existing walls on-site and with the house itself. As a result, the wall will be constructed of masonry, with white stucco, and subtle vertical articulation at its top. Further, the design of the wall takes into consideration the neighborhood character and context in keeping with the existing architectural style, supporting Policies 21.3 and 21.5 (Neighborhood Character and Housing Character and Design, respectively), which address the goal of cohesiveness of new construction within the neighborhood and with the house itself.

Lastly, as the wall will be a new feature for the corner property, in order to soften the appearance of a five-foot wall in a location where only four feet is permitted, it is recommended to include a two-foot landscaped buffer with shrubbery between the wall and the corner side property line. As a result, it is not anticipated that granting the Minor Variances to permit the installation of the five-foot tall wall in the corner side yard, both between the residence and the corner side property line, and within five feet of the corner side property line, behind the building line, where a four foot wall in the proposed location is permitted by right, would be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

GENERAL PLAN CONSISTENCY:

The subject site is designated as Low Density Residential in the General Plan Land Use Element. With the construction of the proposed pool and wall, the use of the site would remain a single-family residence; therefore, the character of the single-family neighborhood would be maintained. In addition, the project is consistent with the adopted General Plan Land Use Element Policies 21.3 and 21.5 (Neighborhood Character and Housing Character and Design, respectively) by designing the proposed wall in a manner that is sensitive to the contextual relationship of the existing architecture of the residence and the unique character of the surrounding properties.

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.

COMMENTS FROM OTHER DEPARTMENTS:

The Building and Safety Division, Transportation Department, and the Fire Department have reviewed the project and had no comments. According to the Design and Historic Preservation Section, the subject property is contributing to an eligible National Register Historic District (East Orange Grove – Lambert Historic District). In a district eligible for designation but not designated, minor projects, such as the proposed new wall or pool, do not require an application for a Certificate of Appropriateness as they are not altering the historical resource, the residence. The Public Works Department has provided conditions, which are included in Attachment B.

CONCLUSION:

Staff finds that the unique shape of the lot, the existing placement of structures, and the truncated usable side yard area, create exceptional or extraordinary circumstances and conditions applicable to the development on the subject site, which warrants the approval of the requested Minor Variances for the location of the pool and the height of the pool enclosure wall. As conditioned, the pool will maintain the required five-foot separation from the corner side property line and the proposed six-foot tall solid wall, acting as a pool enclosure, would be reduced to the required minimum height of five feet, and shall be permitted to be both in between the residence and the property line and within five feet of the corner side property line, behind the rear building line for pool barrier purposes. It is staff's assessment that the findings necessary for approving the Minor Variance applications to deviate from the limitation on accessory structures in a corner side setback and from the four-foot height limit for walls and fences can be made. As designed, the requested pool location and wall height would not be harmful or detrimental to surrounding properties and to other residences in the immediate neighborhood. Staff recommends approval of the Minor Variances, subject to the findings in Attachment A and recommended conditions of approval in Attachment B.

ATTACHMENTS:

Attachment A: Minor Variance Findings

Attachment B: Recommended Conditions of Approval

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR VARIANCE #11887

Minor Variance Number 1: To construct the swimming pool (Accessory Structure) that encroaches approximately five feet into the required 10-foot corner side setback.

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.*

There are exceptional or 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 as an irregular “pie-shaped” lot that has a subtle, elongated ‘corner’ as Oak Avenue and Orange Grove Boulevard curve into each other, thus resulting in a truncated area between the corner side property setback and the existing residence (“corner side yard”). This unique corner design thus reduces the useable area in the corner side yard, the largest open space on the property, and an area where a swimming pool is permitted “by-right”, and the property owner is thus left with less area in which to build than other lots within the same zoning district. As this site is a unique instance, in that the angles of the street create limited functionality of the corner side yard, the location of the swimming pool within the corner side setback is a reasonable request that meets the intent of the Zoning Code.

Further, the existing residence and its garage are sited towards the east and south area of the site; leaving only the areas between the residence and the front and corner side property lines for construction opportunities. While there are two areas in the rear of the lot, divided by the existing garage, it is not ideal to locate a pool within the two “pocket” open spaces as there is a protected tree that either would be removed or encroached upon if located there. In addition, the rear portions are small in area and are further diminished in size by a required five-foot setback for pools from interior property lines. As a result, the only viable area on the site for the proposed narrow pool is to the west of the residence in the corner side yard, with a small portion encroaching about five feet into the required 10-foot corner side setback.

In relating the required findings to the proposed application, there are special circumstances unique to the subject site. A hardship exists due to lot shape, site configuration, and the fact that most of the usable open space is in the corner side yard. Applying the strict development standards of the Zoning Code, and relocating the pool outside of the corner side setback would create a very narrow pool (narrower than the already proposed 12-foot wide pool) if kept in the area to the west of the residence. At the proposed location, the pool will be located on a flat pad that would not present a danger to the both the property owners and the people within the general vicinity. As such, staff feels that a deviation from this Code requirement is warranted and recommends approval of the Minor Variance request to permit the construction of an accessory structure within a corner side setback due to the uniqueness of the property.

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 ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy already or are permitted by right to in the future. The proposed location is the most viable as strict application of the Zoning Code would severely limit the recreational purpose of the pool. For instance, by relocating the pool to the rear of the residence, will result in swimming pool placed

in area with a protected tree and would be in close proximity to abutting residence's backyards, creating the possibility of a noise nuisance. And, by relocating the pool outside of the 10-foot corner side setback, in the area to the west of the residence, would create a very narrow pool (narrower than the already proposed 12-foot wide pool). At the proposed location however, the pool will be located on a flat pad that would not present a danger to both the property owners and the people within the general vicinity. Further, the proposed pool, will not be visible from the street because of the required pool enclosure. In addition, the required five-foot pool enclosure will provide some privacy from passing traffic on Oak Avenue or Orange Grove Boulevard, while complying with building code requirements for health and safety.

As such, staff feels that a deviation from this Code requirement is warranted and recommends approval of the Minor Variance request to permit the construction of an accessory structure to encroach five feet into a corner side setback due to the uniqueness of the property.

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 proposed location of the pool will be concealed from view from the surrounding neighborhood by a white, masonry wall that is in keeping with the design of other existing walls on-site and the house itself. Therefore, the granting of the Minor Variance for the encroachment into the corner side setback would not be detrimental or injurious to property or improvements in the vicinity of the subject site. The pool will also be required to meet all safety and building codes which will be reviewed through the plan check process. As proposed, this project takes into consideration the limitations of the property and proposes placement of an accessory structure in a location that will not affect neighboring properties or affect the general public.

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 use of the site would remain a single-family residence and the character of the single-family neighborhood would be maintained. The proposed pool is in line with the General Plan, including Policy 21.3 (Residential Neighborhoods – Neighborhood Character), which encourages development to maintain elements of the residential street that unify and enhance the character of the neighborhood, as several other property owners already enjoy this substantial property right in the surrounding neighborhood. Further, the proposed pool would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district as pools are a permitted use throughout the RS-6 zoning district.

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 to comply with the City's development standards has not been considered a factor throughout the review of this application.

Minor Variance Number 2: To allow the construction of a five-foot tall wall, to be utilized as a pool enclosure in the corner side yard area, between the building face and the corner side property line, where the maximum allowed height is four feet.

6. *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.*

On corner lots, walls are permitted a height of no more than four feet within the area between the corner side property line and the residence (including outside the required ten-foot corner side setback); however, pool enclosures are required to be at least five feet tall by California Building Code. As the only viable location for a pool on the subject site, given the unique elongated “pie shape” of the lot and the existing building configuration, is in the area to the west of the residence, in the unrestricted side yard and partially within the restricted ten-foot corner side setback, the associated required security enclosure will also fall within the limits of the corner side setback. As a result, in order to maintain access to a substantial property right available to others in the same zoning district (a swimming pool), a security enclosure, greater than four feet, is required within this setback. As conditioned herein though, the wall will be reduced in height from six feet to five feet, the minimum height required for a pool enclosure. Further, in order to reduce the visual impact on the surrounding neighborhood, the five-foot tall wall will be set back at least two-feet from the property line to include a border of shrubbery.

7. *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 ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood already enjoy. The subject wall for the proposed pool, being that it is a Building Code requirement, is necessary for the preservation and enjoyment of this substantial property right. In addition, by permitting the applicant to exceed the allowable four-foot height limit for a wall in the corner side yard will provide additional privacy from passing traffic on Oak Avenue and Orange Grove Boulevard, while complying with building code requirements for health and safety. Further, as conditioned herein, the proposed five-foot high wall will be screened from view by shrubbery between it and the property line.

8. *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.*

By permitting the applicant to exceed the allowable four-foot height limit for a wall in the corner side yard will provide additional privacy and security from passing pedestrian and vehicular traffic on Oak Avenue and Orange Grove Boulevard. While the wall will be visible from the street, the proposed five-foot high wall will be constructed in the same 1920's Revival Vernacular style as other existing walls on-site and the house itself, in order to create a uniform aesthetic. In addition, shrubbery will be planted in front of the wall in order to soften the appearance of the new wall. The wall will also be required to meet all safety and building codes which will be reviewed through the plan check process. Therefore, the granting of the Minor Variance for the wall would not be detrimental or injurious to property or improvements in the vicinity of the subject site.

9. *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 and is located within the eligible East Orange Grove/Lambert Historic District. The use of the site would remain a single-family residence and the character of the single-family neighborhood would be maintained. While the wall will be visible from the street, its' design would be consistent with the 1920's Revival Vernacular style of the existing house and others within the eligible East Orange Grove/Lambert Historic District. In addition, it would be consistent with Land Use Policies 21.3 and 21.5 (Residential Neighborhoods – Neighborhood Character and – Housing Character and Design, respectively), which encourage development to maintain elements of a residential street that unify and enhance the character of the neighborhood. As four-foot tall walls, within view of the public street in the corner side setback are permitted throughout the surrounding neighborhood, and because the design of the proposed wall will be in keeping with the architectural vernacular of the neighborhood, the proposed wall would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.

10. *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 to comply with the City's development standards has not been considered a factor throughout the review of this application.

Minor Variance Number 3: To allow the construction of a five-foot high wall to be utilized as a pool enclosure within five feet of the corner side property line, behind the building line, in the corner side setback, where the maximum allowed height is four feet.

11. *There are exceptional or extraordinary circumstances or conditions applicable to the project site that do not apply generally to sites in the same zoning district.*

On a corner lot, walls are permitted a height of no more than four feet within five feet of the corner side property line, behind the rear building line; however, pool enclosures are required to be at least five feet tall by California Building Code. As the only viable location for a pool on the subject site, given the unique elongated "pie shape" of the lot and the existing building configuration, is in the area to the west of the residence, in the side yard and partially within the required 10-foot corner side setback, the associated required security enclosure will also fall within the limits of the corner side setback behind the rear building line. As a result, in order to maintain access to a substantial property right available to others in the same zoning district (a swimming pool), a security enclosure, greater than four feet, is required within this setback. As conditioned herein though, the wall will be reduced in height from six feet to five feet, the minimum height required for a pool enclosure. Further, in order to reduce the visual impact on the surrounding neighborhood, the wall will be set back at least two-feet to include a border of shrubbery.

12. *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 ability to have a swimming pool for recreational purposes is a substantial property right of the property owner that many other owners in the surrounding neighborhood enjoy already. The wall, for the enclosure of the proposed pool, is a necessary requirement for the

preservation and enjoyment of this substantial property right. While a four-foot wall is permitted in the proposed location by the Zoning Code, the California Building Code requires at least five feet. By permitting the applicant to exceed the allowable four-foot height limit for a wall in the corner side yard, there will be additional privacy and security from passing pedestrian and vehicular traffic on Oak Avenue and Orange Grove Boulevard, while complying with building code requirements for health and safety. Further, as conditioned herein, the proposed five-foot high wall will be screened from view by shrubbery between it and the property line.

13. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.*

By permitting the applicant to exceed the allowable four-foot height limit in the Zoning Code, additional privacy and security from passing pedestrian and vehicular traffic on Oak Avenue and Orange Grove Boulevard will be provided. Further, visibility and sight lines for motorists and pedestrians will not be impacted by the proposed height and location. While the five-foot wall will be visible from the street, the wall will be constructed in the same 1920's Revival Vernacular style as other existing walls on-site and the house itself in order to create a uniform aesthetic. In addition, shrubbery will be planted in front of the wall in order to soften the appearance of the new wall. The wall will also be required to meet all safety and building codes which will be reviewed through the plan check process. Therefore, the granting of the Minor Variance for the wall within five feet of the property line behind the rear building line would not be detrimental or injurious to property or improvements in the vicinity of the subject site.

14. *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 and is located within the eligible East Orange Grove/Lambert Historic District, but is not individually designated as a historic element. The use of the site would remain a single-family residence and the character of the single-family neighborhood would be maintained. While the wall will be visible from the street, its design would be consistent with the 1920's Revival Vernacular style of the existing house and others within the eligible East Orange Grove/Lambert Historic District. In addition, it would be consistent with Land Use Policies 21.3 and 21.5 (Residential Neighborhoods – Neighborhood Character and – Housing Character and Design), which encourage development to maintain elements of a residential street that unify and enhance the character of the neighborhood. As five-foot tall walls within view of the public street are allowed outside of five feet from the corner side property line throughout the surrounding neighborhood, and the design of the proposed wall will be in keeping with the architectural vernacular of the neighborhood, the proposed wall would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district.

15. *Cost to the applicant of strict compliance with the corner yard requirement is not the primary reason for the granting of the variance.*

The cost to the applicant to comply with the City's development standards has not been considered a factor throughout the review of this application.

ATTACHMENT B
RECOMMENDED CONDITIONS FOR MINOR VARIANCE #11887

The applicant or successor in interest shall meet the following conditions:

General

1. The site plan and elevations submitted for building permits shall substantially conform to plans submitted with this application stamped "Approved at Hearing, September 13, 2018" except as modified herein.
2. This approval allows for the following Minor Variances, as depicted in the plans submitted with this application, stamped "Approved at Hearing, September 13, 2018":
 - a. A swimming pool and 'reef' to encroach no more than five feet into the required 10-foot corner side setback;
 - b. A five-foot high, solid, wall to be constructed between the corner side property line and the residence, behind the building's front occupancy line; and,
 - c. A five-foot high, solid wall to be constructed within five feet of the corner side property line behind the rear building line.
3. 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 Section 17.64.040 C of the Zoning Code.
4. The applicant or successor in interest shall meet the applicable code requirements of all 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 **PLN2018-00236**, 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 Jennifer Driver, Current Planning Section, at (626) 744-6756 to schedule an inspection appointment time.

Planning

7. The subject pool and reef shall be at least five feet from any property line.
8. There shall be at least a two-foot landscape buffer between the corner side property line and the approved wall. Landscaping, such as shrubs or bushes, shall be installed in front of the proposed solid wall to shield it from view from the public right-of-way. Plant species and spacing shall be reviewed and approved by the Zoning Administrator during the plan check process.
9. The subject wall shall not exceed five feet in height, at any point, as measured from the lowest point of grade on either side.

10. The subject wall shall be constructed of masonry and painted white to match the existing paint color of existing walls and the house.

Building and Safety Division

11. The pool barrier enclosure shall comply with the governing edition of residential code and Pasadena Municipal Code.

Public Works Department

12. In order to accommodate an Americans with Disabilities Act (ADA) compliant curb ramp at the south east corner of Orange Grove Boulevard Oak Avenue, the applicant shall reconstruct a standard curb ramp at the said corner per Standard Plan No. S-414 or Caltrans A88A. The curb ramp construction shall be completed prior to the issuance of Certificate of Occupancy. A separate permit from the Department of Public Works is required for all construction in the public right-of-way. Please contact 626-744-4195 for the general process.
13. The applicant may submit to the City for review any proposed designs that will comply with the ADA requirements. The applicant is responsible for the design, preparation of plans and specifications, and construction of the new curb ramp. Plans for the curb return improvements shall be prepared by a civil engineer, registered in the State of California. Upon submittal of improvement plans to the Departments of Public Works for review, the applicant will be required to place a deposit with the Department of Public Works to cover the cost of plan checking. The amount of deposit will be based on the current City's General Fee Schedule. Note that the building plans approved by the City's Planning (Building) Department do not constitute approvals for work in the public right-of-way. Separate plans shall be submitted to the Department of Public Works – Engineering Division – at 175 North Garfield Avenue Window 6. The applicant shall submit the curb return improvement plans and the plan check deposit at least two (2) months prior to the issuance of any building or demolition permits.
14. All costs associated with these conditions shall be the applicant's responsibility.

Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

In addition to the above conditions, the requirements of the following ordinances will apply to the proposed project:

- Sidewalk Ordinance - Chapter 12.04 of the Pasadena Municipal Code (PMC)
In accordance with Section 12.04.035, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged curb, gutter and sidewalk along the subject frontage prior to the issuance of a Certificate of Occupancy in accordance with Section 12.04.031, entitled "Inspection required for Permit Clearance" of the PMC.
- City Trees and Tree Protection Ordinance - Chapter 8.52 of the PMC
The ordinance provides for the protection of specific types of trees on private property as well as all trees on public property. No street trees in the public right-of-way shall be removed without the support of the Urban Forestry Advisory Committee. No trees shall be damaged by the proposed construction, if a City tree is damaged, the applicant may

be liable for the assessed value of the tree. Refer to <https://ww5.cityofpasadena.net/public-works/parks-and-natural-resources/urban-forestry/> for guidelines and requirements for tree protection.