



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: October 21, 2020

TO: Hearing Officer

SUBJECT: Minor Variance #11906

LOCATION: 81 Grace Terrace

APPLICANT: Phil Dube (Representative)
Gabriela Yariv (Owner)

ZONING DESIGNATION: RS-6 HD (Single-Family Residential, 0-6 units per acre;
Hillside Development Overlay District)

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 #11906 with the conditions in Attachment B.

PROJECT PROPOSAL: Minor Variance: To allow a 20'-2" front setback from Brocadero Place, where the Zoning Code requires a minimum front setback of 25 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, §15301, Class 1, (Existing Facilities). There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15301 exempts projects from environmental review that include small additions,

expansions or alterations to existing structures where there is negligible or no expansion of the use.

BACKGROUND:

Site characteristics:

The subject property is a double-frontage lot with the eastern property line fronting on Grace Terrace and the western property line fronting on the “T” – intersection of Grace Terrace and Brocadero Place. The 4,445 square-foot site is substandard in size, irregular in shape and is approximately 71 feet deep, from street to street. The site is improved with a two-story, 1,762 square-foot single-family dwelling in the middle portion of the property and a detached two-car garage with a second story guest room in the southwestern corner of the site. The existing house has a current front setback of 12 feet on the western, Brocadero Place side and 21 feet, six inches on the eastern, Grace Terrace side. The site topography generally slopes downward east to west with the eastern portion more naturally sloped and the western portion improved with landscaped and paved terraces. The site contains six mature trees, one of which is a protected Canary Island Date Palm in the northwest corner of the site. No protected trees will be impacted by the project.

Adjacent Uses:

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

Adjacent Zoning:

North – RS-6 HD (Single-Family Residential , 0-6 units per acre, Hillside Development Overlay District)
South – RS-6 HD (Single-Family Residential , 0-6 units per acre, Hillside Development Overlay District)
East – RS-6 HD (Single-Family Residential , 0-6 units per acre, Hillside Development Overlay District)
West – RS-6 HD (Single-Family Residential , 0-6 units per acre, Hillside Development Overlay District)

Previous zoning cases on this property:

Variance #20999: Variance to permit a pergola to remain on top of the garage. Approved June 22, 1926.

Variance #26814: Variance to permit the construction of a garage along the front and side property lines. Approved June 20, 1933.

PROJECT DESCRIPTION:

The applicant, Phil Dube, on behalf of Gabriela Yariv, has submitted a Minor Variance application to allow the addition of a new, 219 square-foot, two-story deck/balcony structure to an existing

two-story, single-family residence, with a 20'-2" front setback from Brocadero Place, where a front setback of 25 feet is required. The proposal includes the replacement of an existing Juliette-style balcony on the second floor with a new the 13'-3" (wide) by 6'-6" (deep) first floor deck and second floor balcony on a relatively flat pad on the western facade. The walking surface of the first level deck would reach a height of four feet above natural grade. Other than the described project, no structural alteration to the building, expansion in floor area, or tree removal is proposed with this application. The minimum required front yard setback is 25 feet within the Hillside Development Overlay District, and a Minor Variance is required to encroach into the required setback.

ANALYSIS:

Pursuant to Table 6-4 of Zoning Code Section 17.61.080 (Variances), adjustments to front setback requirements are subject to a Minor Variance application. A Minor Variance is a form of Variance intended for adjustments that are determined to have lesser (minor) potential impacts. The Hearing Officer may approve a Minor Variance to adjust the front setback only after making five findings. 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.

Minor Variance: Reduced Front Setback

Main structures within the Hillside Development Overlay (except in the San Rafael hillside neighborhood) are subject to a 25-foot front setback. This setback is measured perpendicular with the front property line, which in this case, as a double-frontage lot, are the lot lines that abut both Grace Terrace (east) and Brocadero Place (west).

The subject property is a substandard sized, irregularly-shaped, double-frontage lot with a distance of approximately 71 feet between the two street frontages. As a result, the required 25-foot front setbacks from both property lines limits the developable area in the center of the lot to approximately 21 feet in depth. The existing residence is considered legal nonconforming as it encroaches into both the required front yard setbacks and the required north side setback. The existing residence is set back 12 feet on the western, Brocadero Place side, and 21'-6" on the eastern, Grace Terrace side, where 25 feet is required; and five feet on the northern side, where nine feet is required.

Typically, lots in the zoning district are larger and deeper and provide sufficient depth for development, and the configuration of the property constitutes an exceptional circumstance that generally does not apply to sites in the same district. Compliance with the front setback would require that the deck/balcony structure be located on the south side of the structure. However, existing improvements such as exterior stairs, an existing patio and a 13-foot side yard, limit the possibility of construction in this area without requiring a Minor Variance. In addition, if the new deck/balcony structure were constructed on the south side of the structure, it would result in the removal an existing ground level outdoor space and would potentially impinge on the privacy of the abutting residence to the south.

Further, the natural, sloping terrain limits the amount of usable outdoor space on the lot. Instead of a traditional graded, flat pad for outdoor space, the site retains most of the natural topography and includes terraces at different levels. The proposed project continues this approach by creating two levels of outdoor space while minimizing the grading of the area below. Granting the deck projection in the front setback would provide the applicant with usable outdoor space, which is substantial property right and necessary for preservation and enjoyment.

Lastly, Staff finds that granting the reduced front setback of 20'-2" 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. The proposed project would comply with all applicable development standards of the Zoning Code for the RS-6 HD zoning district, with the exception of the proposed deviation from the minimum front yard setback requirement. In addition, the proposed structure would meet the Zoning Code and General Plan policies to protect privacy and to not create noise impacts to adjoining properties by placing the elevated outdoor space away from the abutting residence to the south.

Therefore, staff finds that the strict application of the front setback standard would impose unreasonable property loss and unnecessary hardship for the applicant. Granting of the Minor Variance would not be detrimental or injurious to properties or improvements in the neighborhood. As such, staff finds that the deviation from the Code requirement is warranted and recommends approval of the Minor Variance request to permit the construction of a two-story deck/balcony structure with a 20'-2" setback from the west, front property line.

GENERAL PLAN CONSISTENCY:

The subject property is designated Low Density Residential in the Land Use Element of the General Plan. The existing use of the site is a single-family dwelling and the proposed deck/balcony structure would not change the use of the property. The proposal would also maintain consistency with General Plan Land Use Policy 21.9 (Hillside Housing). This policy encourages building scale and massing that is compatible with existing development in single-family residential neighborhoods. In addition, the purpose of the Hillside Development overlay zoning district is to preserve and protect views to and from hillside areas, maintain an environmental equilibrium by preserving and protecting existing natural resources, prohibit features that would create or increase fire, flood, landslide or other safety hazards to public health and safety, and preserve significant natural topographic features.

The proposed two-story deck/balcony would occur on a property surrounded by other residential developments that have two levels. The proposed deck would not add or expand the existing floor area, and would not alter the structure or change the use of the property. In addition, granting the adjustment to the front setback will provide the property with usable outdoor space, consistent with other properties in the area, which does not constitute a special privilege. Lastly, the location preserves the privacy at adjacent properties. Therefore, the proposal is consistent with the General Plan.

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, §15301, Class 1, Existing Facilities). There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. This section specifically applies to small additions, expansions or

alterations to existing structures where there is negligible or no expansion of the use. The construction of an unenclosed deck/balcony attached to an existing residential use constitutes a negligible change and does not result in any new floor area. Therefore, the project is exempt from environmental review.

COMMENTS FROM OTHER DEPARTMENTS:

The Building and Safety Division, Department of Transportation, the Fire Department, and Design and Historic Preservation Section have reviewed the project and had no comments. The Building and Safety Division and the Public Works Department has provided conditions, which are included in Attachment B.

CONCLUSION:

Staff finds that the irregularity of the lot's size and depth, and the existing placement of structures, create exceptional or extraordinary circumstances and conditions, which warrant the approval of the requested Minor Variance for the location of the proposed two-story deck/balcony structure. It is staff's assessment that the findings necessary for approving the Minor Variance application to deviate from the front setback can be made. As designed, the requested structure would not be detrimental to surrounding properties and to other residences in the immediate neighborhood. Staff recommends approval of the Minor Variance, 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 #11906

1. *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 substandard in size, irregular in shape, and has a depth of approximately 71 feet between the Grace Terrace and the Brocadero Place frontages. The required 25-foot front setback measured from both street property lines, and the location of the existing structures, limit the developable area. The configuration and size constitute an exceptional circumstance that generally does not apply to sites in the same district. With the exception of the requested Minor Variance, the proposed addition complies with all other applicable development standards.
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 natural, sloping terrain limits the amount of usable outdoor space on the lot. Instead of a traditional graded, flat pad for outdoor space, the site retains most of the natural topography and includes terraces at different levels. The proposed project continues this approach by creating two levels of outdoor space without having to heavily grade the area below. Granting the deck/balcony projection in the front setback will provide the applicant with usable outdoor space, which is substantial property right and necessary for preservation and enjoyment.
3. *Granting the application would not 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 attached deck will be located above an existing flat pad. Although the deck will be located within the required setback, the proposal will not add any floor area, and will not be set back closer to Brocadero Place than the existing residence. Existing mature trees and landscaping will screen the deck from properties to the west and south. In addition, the project will be required to obtain building permits ensuring that the construction will be safe. Conditions of approval will ensure that the project remains compatible with the surrounding area. Therefore, the proposal will not be detrimental or injurious to property or improvements in the vicinity.
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 property is designated Low Density Residential in the Land Use Element of the General Plan. The existing use of the site is a single-family dwelling and the proposed deck/balcony structure will not change the use of the property. The proposal will also maintain consistency with General Plan Land Use Policy 21.9 (Hillside Housing). This policy encourages building scale and massing that is compatible with existing development in single-family residential neighborhoods. In addition, the purpose of the Hillside Development overlay zoning district is to preserve and protect views to and from hillside areas, maintain an environmental equilibrium by preserving and protecting existing natural resources, prohibit features that would create or increase fire, flood, landslide or other safety hazards to public health and safety, and preserve significant natural topographic features.

The proposed two-story deck/balcony structure will occur on a property surrounded by other residential developments that have two levels. The proposed deck/balcony will not add or expand the existing floor area, and will not alter the structure or change the use of the property.

In addition, granting the adjustment to the front setback will provide the property with usable outdoor space, consistent with other properties in the area, which does not constitute a special privilege. In addition, the location preserves the privacy at adjacent properties. Therefore, the proposal is consistent with the General Plan.

5. *Cost to the applicant of strict compliance with a regulation shall not be the primary reason for granting the Minor Variance.* Cost to the applicant has not been considered a factor at any time throughout the review of this application.

ATTACHMENT B
RECOMMENDED CONDITIONS FOR MINOR VARIANCE #11906

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, October 21, 2020" except as modified herein.
2. This approval allows for the following Minor Variance, as depicted in the plans submitted with this application, stamped "Approved at Hearing, October 21, 2020":
 - a. A two-story deck/balcony structure to encroach no more than four feet ten inches into the required 25-foot front setback.
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, except where an extension of time is approved in compliance with Zoning Code Section 17.64.040.C (Time Limits and Extensions).
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 **PLN2019-00128**, 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 deck/balcony structure shall be at least 20'-2" from the west property line.
8. Vertical landscape screening shall be installed and maintained in front of the proposed deck/balcony structure. Plant species and spacing shall be reviewed and approved by the Zoning Administrator during the plan check process.

Building and Safety Division

9. Governing Codes:
 - a. Comply with the Current Edition of California Building Code, California Electrical Code, California Plumbing Code, California Mechanical Code, California Energy Code, California Green Building Standard Code and the City of Pasadena Municipal Code. The governing edition is based on the date in which the project is submitted to the City of Pasadena for review.

10. Building Code Analysis:

- a. Provide a Building Code Analysis on the title sheet. Include the code(s) information for each building proposed: Descriptive scope of work, occupancy, assessor's parcel number, number of stories, type of construction, fire sprinklers, floor area, height, and allowable floor area.

11. Best Management Practices:

- a. Photocopy to plans and complete the BEST MANAGEMENT PRACTICE page 1(form must be signed). Photocopy any other applicable pages and cross reference the location at the site plan, i.e. the material storage, the concrete waste management, etc. These forms can be found at <https://ww5.cityofpasadena.net/planning/building-and-safety/informational-handouts/>

12. Soils Engineer Report:

- a. A soils engineer report is require for:
 - i. All new constructed single and multi-family residential, commercial, and industrial buildings.
 - ii. An addition to a commercial or industrial building.
 - iii. Second (2nd) story addition to existing one-story building.
 - iv. Hillside construction, i.e. decks, retaining walls, and swimming pools.

13. Required Plans And Permit(S) (No Deferred Submittals):

- a. In addition to architectural plans, provide Structural, Shoring, Plumbing, Mechanical, Electrical plans, and grading plans as required. **No deferred submittal.**
- b. Separate permits are required for the following: Mechanical, Electrical, Plumbing, Fire Sprinkler, Demolition, Block walls, others.

Public Works Department

14. The Department of Public Works record indicates that the house sewer lateral/connection serving the property at 80 Grace Terrace (APN 5719-016-001) traverses across the middle of the subject property at 81 Grace Terrace (APN 5719-017-002) and connected to the sewer mainline at Brocadero Place. Attached herein are sewer aerial map and sewer cards for reference. In accordance with Section 13.24.270 entitled "Connections through adjoining property" of the Pasadena Municipal Code, the house sewer connection for 80 Grace Terrace shall be placed in a recorded public easement.

The applicant shall file and record a 10-foot wide public easement to be dedicated to the City for sewer purposes. The limits and location of the easement shall be determined by (a site survey signed and stamped by a licensed surveyor) the Department of Public Works. The applicant shall be responsible for all the cost required to complete the public easement. The public easement document and processing fee shall be submitted to this office prior to issuance of any permits. The public easement document shall be executed and recorded prior to the issuance of a Certificate of Occupancy.

As an alternative, the applicant may work with the property owner of 80 Grace Terrace to terminate the existing sewer lateral connection and connect their house sewer lateral to the sewer mainline on Grace Terrace. This alternative will eliminate the need for a 10-foot wide public easement on the property at 81 Grace Terrace. The new sewer lateral connection will require a separate Public Works permit. The construction shall be completed prior to the issuance of a Certificate of Occupancy.

15. The applicant shall protect all existing public facilities and maintain the right of way in good clean condition during the construction. If any damage is proven to be caused by the subject development, the applicant is responsible for replacing and/or repairing the facilities to the satisfaction of the City, prior to the issuance of Certificate of Occupancy.
16. Prior to the start of construction or the issuance of any permits, the applicant shall submit a Construction Staging and Traffic Management Plan to the Department of Public Works for review and approval. The template for the Construction Staging and Traffic Management Plan can be obtained from the Department of Public Works webpage at: <https://ww5.cityofpasadena.net/public-works/engineering-and-construction/engineering/forms-and-applications/>. A non-refundable flat fee, based on the current General Fee Schedule, is required for plan review and on-going monitoring during construction. This plan shall show the impact of the various construction stages on the public right-of-way (and the private street) including all street occupations, lane closures, detours, staging areas, and routes of construction vehicles entering and exiting the construction site. An occupancy permit shall be obtained from the department for the occupation of any traffic lane, parking lane, parkway, or any other public right-of-way. All lane closures shall be done in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and California Supplement. If the public right-of-way occupation requires a diagram that is not a part of the MUTCD or California Supplement, a separate traffic control plan must be submitted as part of the Construction Staging and Traffic Management Plan to the department for review and approval. No construction truck idling or staging, material storage, or construction trailer are allowed in the public right-of-way.

In addition, prior to the start of construction or issuance of any permits, the applicant shall conduct a field meeting with an inspector from the Department of Public Works for review and approval of construction staging, parking, delivery and storage of materials, final sign-off procedure, and any of the specifics that will affect the public right-of-way. An appointment can be arranged by calling 626-744-4195.

17. In preparation for the New Year Rose Parade and Rose Bowl Game, the Department of Public Works will suspend all works within the public right-of-way during the holiday season in accordance to PMC 12.24.100 and City Policy.

In general, all public streets, sidewalks and parkways shall be free and clear of excavations and other construction related activities during the period of November through January of the following year. Specific dates will vary on an annual basis. Accordingly, contractors will be required to shut down construction operations which would impede traffic and pedestrian movements during these periods unless otherwise authorized by the City Engineer. Any existing excavations shall be backfilled, compacted and temporarily repaved before the beginning of the moratorium period.

The Holiday Moratorium Map, showing the appropriate shutdown period, and corresponding areas in the City, is available at the Department of Public Works Permit Counter (window #6),

175 N. Garfield Avenue, Pasadena, CA 91109, or at the following link: <https://ww5.cityofpasadena.net/public-works/engineering-and-construction/engineering/forms-and-applications/>.

18. 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.

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

a. 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.

b. Construction and Demolition Waste Ordinance, Chapter 8.62 of the PMC

The applicant shall submit the following plan and form which can be obtained from the Permit Center's webpage at: <https://ww5.cityofpasadena.net/public-works/street-maintenance-waste-management/recycling-resources/construction-and-demolition-debris-recyclers/> and the Recycling Coordinator, (626) 744-7175, for approval prior to the request for a permit:

- i. C & D Recycling & Waste Assessment Plan – Submit plan prior to issuance of the permit. A list of Construction and Demolition Recyclers is included on the waste management application plan form and it can also be obtained from the Recycling Coordinator.
- ii. Summary Report with documentation must be submitted prior to final inspection.

A security performance deposit of three percent of the total valuation of the project or \$30,000, whichever is less, is due prior to permit issuance. For Demolition Only projects, the security deposit is \$1 per square foot or \$30,000, whichever is less. This deposit is fully refundable upon compliance with Chapter 8.62 of the PMC. A non-refundable Administrative Review fee is also due prior to permit issuance and the amount is based upon the type of project.



80 Grace Terr -
House Number

CHECKED Pmc

A TO H.
apt

ENGINEERING AND STREET DEPARTMENT 5-6-31
CITY OF PASADENA

APPLICATION

I hereby apply for a permit to excavate an area of.....
in Street at 80 Grace Terrace
for the purpose of install property line lateral -
to connect on Brocade
and to install house sewer as per Ordinance No. 2847, and amendments thereto.

Legal description: Lot 1 - Tract 6858

Permit No. 260

Signed L. Pasadena Pl. Co.
Per. S. B. Child

Date 3/28/31

Address 717 Grand Oaks Ave.
Pasadena.

owner = Mrs Moore - Sy 98270.

