



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: February 1, 2023

TO: Hearing Officer

SUBJECT: Variance #11961

LOCATION: 1780 Devon Road

APPLICANT: Elaine Roark

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

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Ivan Galeazzi

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** Variance #11961.

- PROJECT PROPOSAL:**
1. Variance: To allow a solid front yard wall, where the Zoning Code requires walls, fences, and gates located within the front yard area to be at least 50 percent open. A Variance is required to deviate from the design standards for fences and walls; and
 2. Minor Variance: To allow a 4'-6" high wall located in the front yard, where the maximum height permitted by the Zoning Code is four feet. A Minor Variance is required to deviate from the height standards for fences.

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, Class 3, New Construction or Conversion of Small Structures) and there are no features that distinguish

this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15303 specifically exempts the construction of accessory structures including fences and walls.

BACKGROUND:

Site characteristics:

The site is a pie-shaped, double-frontage lot bounded by Devon Road on the north and Linda Vista Avenue on the south. The property steeply slopes down at the northern portion of the lot from Devon Road to a level graded pad area in the middle portion of the lot, where the existing residence, attached carport, a front lawn area, and an existing pool are located. The southern portion of the lot substantially slopes downwards from the building pad toward Linda Vista Avenue. The elevation of the building pad is approximately 16 feet lower than the elevation at Devon Road.

Adjacent Uses:

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

Adjacent Zoning:

North – RS-2-HD (Single-family Residential, 0-2 units per acre, Hillside Overlay District)
South – RS-4-HD (Single-family Residential, 0-4 units per acre, Hillside Overlay District)
East – RS-2-HD (Single-family Residential, 0-2 units per acre, Hillside Overlay District)
West – RS-2-HD (Single-family Residential, 0-2 units per acre, Hillside Overlay District)

Previous zoning cases on this property:

53-E4027: Request for permission to erect a single-family dwelling and garage on a portion of a recorded lot the portion in question has a width and area in excess of those required for property located in zone R-1, Class I. It is further requested that this exception be granted without the 180-day time limit. Approved with conditions on September 10, 1953.

57-V5184: Permission to erect a single-family dwelling and garage on the property. The proposed dwelling would come to within 18 feet of the front property line on Devon Rd. It is also proposed to construct a swimming pool which would come to within approx. 90 feet of Linda Vista Avenue. Zone R-1, 12,000. Approved with conditions on March 14, 1957.

PROJECT DESCRIPTION:

The applicant, Elaine Roark, on behalf of the owner, submitted a Variance and a Minor Variance application to allow the construction of a 4'-6" high solid wall within the front yard area fronting Devon Road. As described above, the property has a steep downslope from Devon Road to a graded building pad on the subject property. The proposed wall would be located adjacent to an existing retaining wall and at the toe of this existing steep slope. The wall will be approximately 63 linear feet at the 4'-6' height with a 38' long 2'-2" high garden wall.

The following entitlement applications are required to allow a 4'-6" high solid wall within the front yard: 1) a Variance to allow the construction of a solid wall where the Zoning Code requires walls, fences, and gates located within the front yard setback to be at least 50 percent open; and 2) a Minor Variance to allow the construction of a solid wall measuring 4'-6" high between the front property line and the building frontage, where a maximum height limit of four feet is allowed. As part of the submitted application materials, the applicant stated that their geotechnical engineer recommended, for safety reasons, the construction of the solid 4'-6" high wall at the toe of the slope. This wall is necessary to catch debris that are eroding from the slope and will provide a barrier between the eroding slope and the existing improvements. The solid wall and height of wall is recommended by the applicant's engineer to ensure that the wall can accumulate debris. The property is located within the RS-2-HD (Single-Family Residential, 0-2 dwelling units per acre, Hillside Overlay) zoning district.

ANALYSIS:

Variance and Minor Variance applications allow the City to review whether deviations from the Zoning Code can be granted for a project. A Variance or a Minor Variance may only be granted when, because of special circumstances applicable to the subject property, including dimension, location, shape, size, or surroundings; geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity, the strict application of this 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 or 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.

Variance: To allow a solid front yard wall

Section 17.40.180 of the Zoning Code states that a wall or fence within the RS or RM-12 zoning district located between the front property line and the occupancy frontage shall at least 50 percent open.

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 a steep descending slope from Devon Road to a building pad near the middle of the site, where the existing residence and carport are located. The property currently has an existing retaining wall constructed into the northern slope sited near the northern property line. The retaining wall is approximately 16 feet from curb line. The proposed wall which is approximately two feet away from the existing retaining wall and toe of slope would be an emergency preventative measure in the event the wall and slope fail due to erosion or seismic activity.

Staff finds that granting the requested Variance, to deviate from the design requirements for a wall located within the front yard, 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. As described above, the steep descending slope is located along Devon Road, and the proposed wall would be located at the bottom of the slope, as such, the wall would not be visible from the public right of way. As such, staff recommends approval of the Variance request.

Minor Variance: To allow a four-feet six-inch high solid wall

Section 17.40.180 of the Zoning Code states that a wall or fence within the RS or RM-12 zoning district located between the front property line and the occupancy frontage shall have a maximum height of four feet. A Minor Variance is required to deviate from the maximum height requirement for fences within the front yard.

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 descending slope from Devon Road to an existing building pad at the center of the site. According to the applicant's geotechnical engineer, a 4'-6" high wall is necessary to catch debris that are eroding from the slope and will provide a barrier between the eroding slope and the existing improvements. The height of wall has been specifically recommended by the applicant's engineer to ensure that the wall can accumulate debris.

Granting the requested Minor Variance to deviate from the maximum height 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. As described above, the steep descending slope is located along Devon Road, and the proposed wall would be located at the bottom of the slope, as such, not be visible from the public right-of-way. As such, staff recommends approval of the Minor Variance request.

Tree Protection Ordinance

A survey and tree inventory submitted as part of the application indicates there are no trees within the vicinity of the project that would be potentially impacted by the construction of the proposed wall. In addition, no trees are proposed to be removed as a part of the project.

GENERAL PLAN CONSISTENCY:

The subject site is designated as Low Density Residential in the General Plan Land Use Element within the Hillside Overlay District. The use of the site would remain a single-family residence and the character of the single-family residential neighborhood would be maintained. The site will continue to be used for single-family residential purposes as intended by the RS-2-HD zoning district. Policy 21.3 (Neighborhood Character) of the Land Use Element of the General Plan requires preservation of the character and scale of Pasadena's established residential neighborhoods. The Variance for a solid wall to deviate from the design standards and the Minor Variance to allow a 4'-6" high wall that exceeds the maximum allowed height will not compromise the character of the existing residential neighborhood because the wall will not be visible from the public right-of-way.

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, Class 3, New Construction or Conversion of Small Structures) and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Section 15303 specifically exempts the construction of accessory structures including fences and walls.

COMMENTS FROM OTHER DEPARTMENTS:

The proposed project was reviewed by the Department of Public Works, Building and Safety Division, and the Design and Historic Preservation Section. Comments from Building and Safety Division have been incorporated as conditions of approval in Attachment B.

CONCLUSION:

Staff finds that the steep topography of the property 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 solid wall and Minor Variance to allow a 4'-6" high wall between the front property line and the occupancy frontage. Staff recommends approval of the Variance and the 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 #11961

Variance: To allow a front yard wall to be solid

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 property is a double frontage lot with Devon Road fronting the northern property line and Linda Vista Avenue fronting the southern property line. The property has a steep downward slope from Devon Road to the existing building pad at the northern portion of the lot. The proposed wall will be located adjacent to an existing retaining wall and at the bottom of the existing slope to serve as a safety measure in the event the existing retaining wall or slope were to fail or erode.
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.* According to the applicant's geotechnical engineer, the solid wall is necessary to catch debris that are eroding from the slope and will provide a barrier between the eroding slope and the existing improvements
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 the construction of a solid wall adjacent to the slope and existing retaining wall would create adverse impacts to adjoining properties. The wall will be situated approximately 16 feet below street level, and not visible from Devon Road. The wall will be reviewed through the Building and Safety plan check process. Conditions of approval will ensure that the project remains compatible with the surrounding area outside of the Variance request 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 solid wall will not be 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 solid wall will 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 a 4'-6" high wall within the front yard

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.* 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 a double frontage lot with Devon Road fronting the northern property line and Linda Vista Avenue fronting the southern property line. The property is steeply sloped at the northern portion of the lot. The 4'-6" high wall will be constructed adjacent to an existing retaining wall and at the base of a steep slope to serve as a safety measure in the event the existing retaining wall or slope were to fail or erode. The 4'-6" height is specifically recommended by the applicant's geotechnical engineer to ensure that the wall can accumulate debris.

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 proposed wall is necessary for the preservation and enjoyment of a substantial property right. Due to the existing descending slope from Devon Road to the existing building pad, the proposed 4'-6" high wall is necessary to catch debris that are eroding from the slope and will provide a barrier between the eroding slope and the existing improvements. The height of wall has been specifically recommended by the applicant's engineer to ensure that the wall can accumulate debris.
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.* It is not anticipated that the construction of a 4'-6" high wall adjacent to the slope and existing retaining wall would create adverse impacts to adjoining properties. The wall will be situated approximately 16 feet below street level, not visible from Devon Road. The wall will be reviewed through the Building and Safety plan check process.
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. The proposed 4'-6" high wall would not be visible from the street since there is a 16-foot grade difference from the street to the grade below. In addition, the wall 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 solid wall that exceeds the maximum height of four feet will not alter the existing character of the neighborhood because it will not be visible from the public right-of-way. 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.
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 of complying with the City's development standards has not been considered as a factor throughout the review of this application.

ATTACHMENT B
CONDITIONS OF APPROVAL FOR VARIANCE #11961

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, February 1, 2023," 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 4'-6" high solid wall 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 **ZENT2022-00140** 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 Ivan Galeazzi, Current Planning Section, at (626) 744-7124 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. At no time shall construction activities, including, but not limited to, construction materials, vehicles, and equipment, obstruct access to vehicular driveways of adjacent properties.

Building and Safety

10. The project shall 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.

11. At submittal of Building Plan Check, provide a Building Code Analysis on the title sheet. Include (as applicable) the code(s) information for each structure 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.
12. Best Management Practices: 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://www.cityofpasadena.net/planning/building-and-safety/bs-applications-forms/#informational-handouts>.
13. Soils Report Required: A soils engineer report is require for:
 - a. All new constructed single and multi-family residential, commercial, and industrial buildings.
 - b. An addition to a commercial or industrial building.
 - c. Second (2nd) story addition to existing one-story building.
 - d. Hillside construction, i.e. decks, retaining walls, and swimming pools
14. Grading, Slopes Setbacks & Retaining Walls:
 - a. Setbacks (PMC 14.05.190)
 - i. The tops and toes of cut and fill slopes shall be set back from property boundaries as far as necessary and as specified in Section 14.05.180(A) for safety of the adjacent properties and to prevent damage resulting from water runoff or erosion of the soils. The tops and the toes of cut and fill slopes shall be set back from structures as far as is necessary for adequacy of foundation support and to prevent damage as a result of water runoff or erosion of the slopes. Unless otherwise approved by the building official based on recommendations in the approved soil endangering or engineering geology report and shown on the approved grading plan, setbacks shall be no less than shown on Appendix A.
 - b. Retaining walls (PMC 14.05.250)
 - i. The cumulative height of retaining walls (existing, new, replacement or combination) built because of cuts or fills pursuant to this chapter shall not exceed 8 feet in height as viewed in the vertical plane. The height of freeboard shall be included in measuring the height of retaining walls.
 - ii. Retaining walls shall be constructed with a minimum of freeboard not to exceed a maximum of 6 inches and designed to prevent drainage from continuing down the slope. Drainage devices should be placed at the top or the bottom of the retaining wall.
 - iii. The maximum height of retaining walls for pools, hot tubs, and similar accessory structures built because of cuts or fills pursuant to this chapter shall not exceed 8 feet in height as viewed in the vertical plane. The height of freeboard shall be included in measuring the height of retaining walls.
15. Required Plans and Permit(s): In addition to architectural plans, provide Structural, Shoring, Plumbing, Mechanical, Electrical plans, PV systems and grading plans as required. No deferred submittal.

Separate permits are required for the following: Mechanical, Electrical, Plumbing, Fire Sprinkler, Demolition, Block walls, others.