



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

DATE: October 18, 2023

TO: Hearing Officer

SUBJECT: Variance #11958

LOCATION: 3890 Shadow Grove Road

APPLICANT: Wissam Takieddine

ZONING DESIGNATION: RS-6 ND (Single-Family Residential, 0-6 units per acre; Neighborhood Overlay District)

GENERAL PLAN DESIGNATION: Low Density Residential

CASE PLANNER: Joseph Weaver

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **disapprove** Variance #11958.

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- PROJECT PROPOSAL:**
- 1) Variance: To allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard to be less than 50 percent open, where the minimum requirement is 50 percent open;
 - 2) Minor Variance: To allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard, where the maximum height is four feet;
 - 3) Minor Variance: To allow a 6'-10" tall fence behind the occupancy frontage, where the maximum height is six feet;
 - 4) Minor Variance: To allow a 5'-8" to 6'-4" tall fence within the corner side yard between the occupancy

frontage and the rear building line, where the maximum height is four feet;

- 5) Minor Variance: To allow a 5'-4" to 5'-10" tall fence within the corner side yard behind the rear building line and within five feet of a street property line, where the maximum height is four feet; and
- 6) Minor Variance: To allow a 3'-5" to 5'-4" tall fence within the driveway zone, where the maximum height is 30 inches.

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)(5); Administrative Code, Title 14, Chapter 3, §15270 (a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

BACKGROUND:

Site characteristics:

The site is a rectangular shaped corner lot located on the southwestern corner of Shadow Grove Road and North Michillinda Avenue. The site is approximately 16,955 square feet in size and is currently developed with a 4,061 square-foot single-family residence and attached garage. Vehicular access is taken at the south end of the site from North Michillinda Avenue. A gradual slope exists across the site and descends approximately eight to ten feet from the front property line to the rear property line. The City boundary lies directly to the east of the site. Properties to the east across North Michillinda Avenue are within the City of Sierra Madre.

Adjacent Uses:

North – Single-Family Residential
South – Single-Family Residential
East – Single-Family Residential (City of Sierra Madre)
West – Single-Family Residential

Adjacent Zoning:

North – RS-6 ND (Single-Family Residential, 0-6 unit per acre, Neighborhood Overlay District)
South – RS-6 ND (Single-Family Residential, 0-6 unit per acre, Neighborhood Overlay District)
East – City of Sierra Madre
West – RS-6 ND (Single-Family Residential, 0-6 unit per acre, Neighborhood Overlay District)

Previous zoning cases on this property: None.

PROJECT DESCRIPTION:

The applicant, Wissam Takieddine, has submitted the following applications to allow for fencing within the front, side, corner side, and rear yards of a single-family residential property: 1) Variance to allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard to be less than 50 percent open where the minimum requirement is 50 percent open; 2) Minor Variance to allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard where the maximum permitted height is four feet; 3) Minor Variance to allow a 6'-10" tall fence behind the occupancy frontage where the maximum permitted height is six feet; 4) Minor Variance to allow a 5'-8" to 6'-4" tall fence within the corner side yard between the occupancy frontage and the rear building line where the maximum permitted height is four feet; 5) Minor Variance to allow a 5'-4" to 5'-10" tall fence within the corner side yard behind the rear building line and within five feet of a street property line where the maximum permitted height is four feet; and 6) Minor Variance to allow a 3'-5" to 5'-4" tall fence within the driveway zone where the maximum permitted height is 30 inches.

This application is in response to Code Case #CTP2022-00124 for fencing constructed without the necessary permits. The as-built fencing does not comply with several Zoning Code standards for fences. The fence design is constructed of white vinyl with various access gates, and two pillars topped with decorative lamps at the front property line. The fencing within the front yard consists of evenly spaced gaps whereas the fencing within the corner side is solid. In order to maintain the unpermitted fencing in its current configuration, the applicant is required to obtain approval of the requested Variance and Minor Variances.

ANALYSIS:

Variance and Minor Variance applications allow the City to review whether adjustments from the Zoning Code can be granted for a project. A Variance or 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. Minor Variances are a form of Variance intended for adjustments that are determined to have lesser (minor) potential impacts. A Variance or Minor Variance shall not be granted that would have the effect of granting a special privilege(s) not shared by other property owners in the vicinity and under identical zoning districts. Variances and Minor Variances may only be approved by the Hearing Officer if all the required findings can be made in the affirmative. Walls and fences in the RS zoning district are subject to requirements in Zoning Code Section 17.40.180 (Walls and Fences).

Variance: To allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard to be less than 50 percent open.

The Zoning Code requires that fences be a minimum of 50 percent open when located between the front property line and the occupancy frontage. The intent of this requirement is to ensure fences are pedestrian friendly and an open view of the house is maintained from the public right-of-way. The subject as-built vinyl fence is located along the west side property line between the front property line and the occupancy frontage. The fence was installed on top of an existing solid block wall which, when analyzed from the bottom of wall to the top of fence, is less than 50 percent

open. Additionally, two pillars topped with decorative lamps were installed near the fence opening at the front property line. The pillars are solid and result in a total front yard transparency of less than 50 percent.

Staff is unable to make the necessary findings to support a Variance to allow a fence with pillars to be less than 50 percent open in the front yard. The subject site is consistent in size, dimension, location, and slope when compared to other sites in the vicinity and same zoning district. Therefore, no exceptional or extraordinary circumstances or conditions are applicable to the subject site. Additionally, disapproving the Variance request would not prohibit the property owner from enjoying the property. An alternative fence design that is 50 percent open, in compliance with the zoning requirements, could be constructed and still provide the applicant with the ability to enjoy the front yard with reasonable privacy. The fence portion can be relocated on existing grade and the solid pillars can be removed or modified so that a transparency of at least 50 percent open is maintained throughout the front yard. Therefore, staff finds that the Variance is not necessary for the preservation and enjoyment of a substantial property right.

Minor Variance: To allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard.

The Zoning Code establishes a maximum fence height of four feet between the front property line and the occupancy frontage. The subject as-built fence is located along the west side property line between the front property line and occupancy frontage. The fence was installed on top of an existing block wall which, when measured from existing grade, ranges in height from 4'-1" up to a maximum of 6'-7" in height. Additionally, two pillars topped with decorative lamps were installed near the fence opening at the front property line. These features measure 5'-11" in height.

Staff is unable to make the necessary findings to support a Minor Variance to allow a fence with pillars to exceed four feet in height in the front yard. The subject site is consistent in size, dimension, location, and slope when compared to other sites in the vicinity and same zoning district. Therefore, no exceptional or extraordinary circumstances or conditions are applicable to the subject site. Additionally, disapproving the Minor Variance request would not prohibit the property owner from enjoying the property. The subject fence can be relocated on existing grade and the pillars can be removed or modified so that they are no taller than four feet in height. These alternatives, in compliance with the zoning requirements, could be constructed and still provide the applicant with the ability to enjoy the front yard with reasonable privacy. Therefore, staff finds that the Minor Variance is not necessary for the preservation and enjoyment of a substantial property right.

Minor Variance: To allow a 6'-10" tall fence behind the occupancy frontage.

The Zoning Code establishes a maximum fence height of six feet in the rear yard when more than five feet from street side property line. The subject as-built vinyl fence is located along the west side property line behind the occupancy frontage and is subject to a maximum height of six feet. The fence was installed on top of an existing block wall which, when measured from existing grade, is a maximum of 6'-10" in height.

Staff is unable to make the necessary findings to support a Minor Variance to allow a fence to exceed six feet in height in the rear yard when more than five feet from a street side property line. The subject site is consistent in size, dimension, location, and slope when compared to other sites in the vicinity and same zoning district. Therefore, no exceptional or extraordinary circumstances or conditions are applicable to the subject site. Additionally, disapproving the Minor Variance

request would not prohibit the property owner from enjoying the property. The subject fence can be reduced in height to six feet and still provide reasonable security and privacy. These alternatives, in compliance with the zoning requirements, could be constructed and still provide the applicant with the ability to enjoy the property with reasonable privacy. Therefore, staff finds that the Minor Variance is not necessary for the preservation and enjoyment of a substantial property right.

Minor Variance: To allow a 5'-8" to 6'-4" tall fence within the corner side yard between the occupancy frontage and the rear building line.

The Zoning Code establishes a maximum fence height of four feet when within the corner side yard between the occupancy frontage and the rear building line. The subject as-built vinyl fence is located along the east corner side property line between the occupancy frontage and rear building line. The fence ranges between 5'-8" and 6'-4" in height as measured from existing grade.

Staff is unable to make the findings necessary to support a Minor Variance to allow a fence over four feet in height within the corner side yard between the occupancy frontage and rear building line. The subject site is consistent in size, dimension, location, and slope when compared to other sites in the vicinity and same zoning district. Therefore, no exceptional or extraordinary circumstances or conditions are applicable to the subject site. Additionally, disapproving the Minor Variance request would not prohibit the property owner from enjoying the property. There are design alternatives, including reducing the height to four feet tall, which would prevent people from entering the property and provide the property owner sufficient privacy in compliance with zoning requirements. Additional height for added privacy can be achieved through landscaping. Therefore, staff finds that the Minor Variance is not necessary for the preservation and enjoyment of a substantial property right.

Minor Variance: To allow a 5'-4" to 5'-10" tall fence within the corner side yard behind the rear building line and within five feet of a street property line.

The Zoning Code establishes a maximum fence height of four feet when within the corner side yard, behind the rear building line, and within five feet of a street property line. The subject as-built vinyl fence is located along the east corner side property behind the rear building line and approximately setback two feet from the street property line atop a landscape planter. The fence measures between 5'-4" and 5'-10" in height as measured from existing grade.

Staff is unable to make the findings necessary to support a Minor Variance to allow a fence over four feet behind the rear building line and within five feet of a street property line. The subject site is consistent in size, dimension, location, and slope when compared to other sites in the vicinity and same zoning district. Therefore, no exceptional or extraordinary circumstances or conditions are applicable to the subject site. Additionally, disapproving the Minor Variance request would not prohibit the property owner from enjoying the property. There are design alternatives, including relocating the fence to be greater than five feet away from the street property line, which would allow the fence to be six feet tall and provide the property owner sufficient rear yard privacy in compliance with zoning requirements. Therefore, staff finds that the Minor Variance is not necessary for the preservation and enjoyment of a substantial property right.

Minor Variance: To allow a 3'-5" to 5'-4" tall fence within the driveway zone.

The Zoning Code establishes a maximum fence height of 30 inches (2'-6") when located within a driveway zone. The driveway zone is defined as a triangular area extending at an angle of 45

degrees from the street property line to a point on the edge of the driveway 10 feet from the street property line. The subject as-built fence is located within the driveway zone along the east corner side property line and measures between 3'-5" and 5'-4" in height.

Staff is unable to make the findings necessary to support a Minor Variance to allow a fence over 30 inches within the driveway zone. The subject site is consistent in size, dimension, location, and slope when compared to other sites in the vicinity and same zoning district. Therefore, no exceptional or extraordinary circumstances or conditions are applicable to the subject site. Additionally, granting the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare. The maximum height requirement within the driveway zone is to ensure that there is sufficient visibility of pedestrians and traffic when vehicles exit a private driveway. As such, the height of the as-built fencing would result in visibility and safety concerns. Therefore, granting 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.

Lastly, as there are no exceptional or extraordinary circumstances or conditions that apply to the subject site, the granting of the requested Variance and Minor Variances would result in the granting of a special privilege because other properties, which are comparable to the subject site, would be subject to the same zoning requirements for walls and fences. Therefore, staff finds that granting the requested Variance and Minor Variances would result in the granting of a special privilege which is not shared by other property owners in the vicinity and under identical zoning districts.

Tree Protection Ordinance

A tree inventory was provided demonstrating four trees (one private tree and three street trees). The one tree located on private property is protected under the City's Tree Protection Ordinance. No protected 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. 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-6 ND 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 and Minor Variances would compromise the character of the existing residential neighborhood and would grant a special privilege.

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)(5); Administrative Code, Title 14, Chapter 3, §15270 (a), Projects Which are Disapproved. This Statutory Exemption states that CEQA does not apply to projects which a public agency rejects or disapproves.

In the event the Hearing Officer decides to approve Variance #11958, the project could qualify for an exemption 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) and there are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. Class 3 exempts the construction or conversion of accessory structures including garages, carports, patios, swimming pools, and fences.

COMMENTS FROM OTHER DEPARTMENTS:

The Department of Transportation and Design and Historic Preservation Section have reviewed the project and had no comments. The Planning Division's recommended conditions of approval would be incorporated as an Attachment B should the project be approved.

CONCLUSION:

Staff finds that the findings necessary for approving the Variance and Minor Variances to allow the as-built fencing cannot be made. There are no exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district. Granting the Variance and Minor Variances are not necessary for the preservation and enjoyment of a substantial property right and would constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district, and that the right. Therefore, staff recommends that the Hearing Officer disapprove the application subject to the findings in Attachment A.

ATTACHMENTS:

Attachment A: Specific Findings for Variance

**ATTACHMENT A
SPECIFIC FINDINGS FOR VARIANCE #11958**

Variance: To allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard to be less than 50 percent open.

1. *There are no 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 site is located within the RS-6 ND (Single-Family Residential, 0-6 units per acre, Neighborhood Overlay District) and is 16,955 square feet in size and 100 feet in width. The project site is consistent in size, dimension, location, and slope of other sites in the vicinity and same zoning district. Other sites within the vicinity primarily consist of large and wide lots, consistent with the subject site. Further, the property being a corner lot is not an extraordinary circumstance or condition as multiple corner lots exist within the vicinity, including lots with frontage on North Michillinda Avenue. Lastly, the subject site consists of a gradual slope and descends approximately eight to ten feet from the front property line at the north to the rear property line at the south. Other sites within the vicinity of the subject site have a similar gradual slope which generally descends from north to south, and topography is not an extraordinary circumstance which applies solely to the subject property. Therefore, there are no exceptional or extraordinary circumstances or conditions that apply to this site, because it is consistent in size, dimension, location, and slope of other sites in the vicinity within the same zoning district.

2. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Fences are required to be a minimum of 50 percent open between the front property line and the occupancy frontage. The as-built 4'-1" to 6'-7" fence and two 5'-11" tall pilasters are less than 50 percent open and do not comply with this requirement. There are alternatives that would afford the property owner enjoyment of the front yard and provide a sense of privacy in compliance with zoning requirements. These alternatives include locating the fence portion on existing grade and the solid pillars can be removed or modified so that a transparency of at least 50 percent open is maintained throughout the front yard. Therefore, granting this application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

Minor Variance: To allow a 4'-1" to 6'-7" tall fence and two, 5'-11" tall pilasters within the front yard.

3. *There are no 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 site is located within the RS-6 ND (Single-Family Residential, 0-6 units per acre, Neighborhood Overlay District) and is 16,955 square feet in size and 100 feet in width. The subject site is consistent in size, dimension, location, and slope of other sites in the vicinity and same zoning district. Other sites within the vicinity primarily consist of large and wide lots, consistent with the subject site. Further, the property being a corner lot is not an extraordinary circumstance or condition as multiple corner lots exist within the vicinity, including lots with frontage on North Michillinda Avenue. Lastly, the subject site consists of a gradual slope and descends approximately eight to ten feet from the front property line at the north to the rear property line at the south. Other sites within the vicinity of the subject site have a similar gradual slope which generally descends from north to south, and topography is not an extraordinary circumstance which applies solely to the subject property. Therefore, there are no exceptional

or extraordinary circumstances or conditions that apply to this site, because it is consistent in size, dimension, location, and slope of other sites in the vicinity within the same zoning district.

4. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Fences are subject to a maximum height of four feet between the front property line and the occupancy frontage. The as-built 4'-1" to 6'-7" fence and two, 5'-11" tall pilasters exceed the maximum height and do not comply with this requirement. There are alternatives that would afford the property owner enjoyment of the front yard and provide a sense of privacy in compliance with zoning requirements. These alternatives include locating the subject fence on existing grade and removal or modification of the pillars so that they are no taller than four feet in height. Therefore, granting this application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

Minor Variance: To allow a 6'-10" tall fence behind the occupancy frontage.

5. *There are no 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 site is located within the RS-6 ND (Single-Family Residential, 0-6 units per acre, Neighborhood Overlay District) and is 16,955 square feet in size and 100 feet in width. The subject site is consistent in size, dimension, location, and slope of other sites in the vicinity and same zoning district. Other sites within the vicinity primarily consist of large and wide lots, consistent with the subject site. Further, the property being a corner lot is not an extraordinary circumstance or condition as multiple corner lots exist within the vicinity, including lots with frontage on North Michillinda Avenue. Lastly, the subject site consists of a gradual slope and descends approximately eight to ten feet from the front property line at the north to the rear property line at the south. Other sites within the vicinity of the subject site have a similar gradual slope which generally descends from north to south, and topography is not an extraordinary circumstance which applies solely to the subject property. Therefore, there are no exceptional or extraordinary circumstances or conditions that apply to this site, because it is consistent in size, dimension, location, and slope of other sites in the vicinity within the same zoning district.
6. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Fences are subject to a maximum height of six feet in the rear yard when more than five feet from a street side property line. The as-built 6'-7" fence exceeds the maximum height and does not comply with this requirement. There are design alternatives, including reducing the height to six feet tall, that would provide the property owner sufficient privacy in compliance with zoning requirements. Therefore, granting this application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

Minor Variance: To allow a 5'-8" to 6'-4" tall fence within the corner side yard between the occupancy frontage and the rear building line.

7. *There are no 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 site is located within the RS-6 ND (Single-Family Residential, 0-6 units per acre, Neighborhood Overlay District) and is 16,955 square feet in size and 100 feet in width. The subject site is consistent in size, dimension, location, and slope of other sites in the vicinity and same zoning

district. Other sites within the vicinity primarily consist of large and wide lots, consistent with the subject site. Further, the property being a corner lot is not an extraordinary circumstance or condition as multiple corner lots exist within the vicinity, including lots with frontage on North Michillinda Avenue. Lastly, the subject site consists of a gradual slope and descends approximately eight to ten feet from the front property line at the north to the rear property line at the south. Other sites within the vicinity of the subject site have a similar gradual slope which generally descends from north to south, and topography is not an extraordinary circumstance which applies solely to the subject property. Therefore, there are no exceptional or extraordinary circumstances or conditions that apply to this site, because it is consistent in size, dimension, location, and slope of other sites in the vicinity within the same zoning district.

8. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Fences are subject to a maximum height of four feet in the corner side yard between the occupancy frontage and rear building line. The as-built 5'-8" to 6'-4" tall fence exceeds the maximum height and does not comply with this requirement. There are design alternatives, including reducing the height to four feet tall, which would prevent people from entering the property and provide the property owner sufficient privacy in compliance with zoning requirements. Additional height for added privacy can be achieved through landscaping. Therefore, granting this application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

Minor Variance: To allow a 5'-4" to 5'-10" tall fence within the corner side yard behind the rear building line and within five feet of a street property line.

9. *There are no 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 site is located within the RS-6 ND (Single-Family Residential, 0-6 units per acre, Neighborhood Overlay District) and is 16,955 square feet in size and 100 feet in width. The subject site is consistent in size, dimension, location, and slope of other sites in the vicinity and same zoning district. Other sites within the vicinity primarily consist of large and wide lots, consistent with the subject site. Further, the property being a corner lot is not an extraordinary circumstance or condition as multiple corner lots exist within the vicinity, including lots with frontage on North Michillinda Avenue. Lastly, the subject site consists of a gradual slope and descends approximately eight to ten feet from the front property line at the north to the rear property line at the south. Other sites within the vicinity of the subject site have a similar gradual slope which generally descends from north to south, and topography is not an extraordinary circumstance which applies solely to the subject property. Therefore, there are no exceptional or extraordinary circumstances or conditions that apply to this site, because it is consistent in size, dimension, location, and slope of other sites in the vicinity within the same zoning district.
10. *Granting the application is not necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.* Fences are subject to a maximum height of four feet when within five feet of a street property line or between the occupancy frontage and the rear building line. The as-built 5'-4" to 5'-10" tall fence is within two feet of the street property line and does not comply with this requirement. There are design alternatives, including relocating the fence to be greater than five feet away from the street property line, which would allow the fence to be six feet tall and provide the property owner sufficient privacy in compliance with zoning requirements. Therefore, granting this application is not necessary for the preservation and enjoyment of a

substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

Minor Variance: To allow a 3'-5" to 5'-4" tall fence within the driveway zone.

11. *There are no 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 site is located within the RS-6 ND (Single-Family Residential, 0-6 units per acre, Neighborhood Overlay District) and is 16,955 square feet in size and 100 feet in width. The subject site is consistent in size, dimension, location, and slope of other sites in the vicinity and same zoning district. Other sites within the vicinity primarily consist of large and wide lots, consistent with the subject site. Further, the property being a corner lot is not an extraordinary circumstance or condition as multiple corner lots exist within the vicinity, including lots with frontage on North Michillinda Avenue. Lastly, the subject site consists of a gradual slope and descends approximately eight to ten feet from the front property line at the north to the rear property line at the south. Other sites within the vicinity of the subject site have a similar gradual slope which generally descends from north to south, and topography is not an extraordinary circumstance which applies solely to the subject property. Therefore, there are no exceptional or extraordinary circumstances or conditions that apply to this site, because it is consistent in size, dimension, location, and slope of other sites in the vicinity within the same zoning district.

12. *Granting the application would be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare.* The maximum height shall be 30 inches within a driveway zone, defined as a triangular area extending at an angle of 45 degrees from the street property line to a point on the edge of the driveway 10 feet from the street property line. The as-built 3'-5" to 5'-4" tall fence is within the driveway zone and does not comply with this requirement. The maximum 30-inch height requirement within the driveway zone is to ensure that there is sufficient visibility of pedestrians and traffic when vehicles exit a driveway. As such, the as-built fencing would result in visibility and safety concerns. Therefore, granting 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.