

Attachment 12

THIS PAGE INTENTIONALLY LEFT BLANK.

RESOLUTION NO. 16-1152

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, APPROVING VARIANCE REQUEST CASE NO. VAR-01081-2015 TO PROVIDE 18-FOOT COMBINED SIDE YARDS INSTEAD OF THE MINIMUM 22 FEET AND TO PROVIDE A SIDE YARD SETBACK LESS THAN THE 10-FOOT MINIMUM; AND TO CONSTRUCT RETAINING WALLS IN EXCESS OF THREE AND ONE HALF FEET IN HEIGHT IN THE FRONT YARD AREA AND SIX FEET IN HEIGHT IN OTHER YARD AREAS FOR THE PROPERTY LOCATED AT 28254 LAURA LA PLANTE DRIVE; AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Pouya Payan with respect to the real property located at 28254 Laura La Plante Drive (Assessor's Parcel No. 2061-017-007), requesting approval of a Variance to provide 18-foot combined side yards instead of the minimum 22 feet; to provide a side yard setback of eight feet (8) which is less than the ten (10)-foot minimum; and to construct a six (6) foot front yard retaining wall in excess of the maximum height of three and one half feet (3.5); and to construct nine (9) foot rear retaining wall in excess of the maximum height of six (6) feet in connection with constructing a 2,541 square-foot home and attached 577 square-foot garage (Case No. VAR-01081-2015).

Section II. The project is a request for one single-family residence and is exempt from the California Environmental Quality Act (CEQA), per CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures). The project would not have a significant effect on the environment because it does not exceed the maximum allowable number of structures on one parcel and it is not located in an environmentally sensitive area. No exception to this categorical exemption applies as set forth in Section 15300.2 of the CEQA Guidelines including but not limited to subsection (c) which relates to unusual circumstances.

Section III. The Planning Commission of the City of Agoura Hills considered the application at a public hearing held on April 7, 2016, at 6:30 p.m. in the Council Chambers, City Hall, at 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given and published as required by state law.

Section IV. Evidence, both written and oral, including the staff report and supporting documentation, was duly presented to and considered by the Planning Commission at the aforesaid public hearing.

Section V. Based on the evidence presented at the public hearing, including the staff report and oral and written testimony, the Planning Commission finds, pursuant to Sections 9676.2 and 9243.3.F. of the Agoura Hills Municipal Code, that:

Side Yard Setback:

- A. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property owners in the vicinity and under identical zoning classification. The RS zone requires a 22-foot combined side yard setback from the structure to the side property lines and no less than ten (10) feet on any one side. As proposed, there would be a total side yard setback of 18 feet and the western side yard setback would be eight (8) feet. The lot width varies from 50 feet at the front to 64 feet at the rear. The applicant has proposed the narrow side yard on the west, where the adjacent residences are placed the furthest from the property line and the widest side yard (east) where the adjacent residence is the closest to the property line. In the Indian Hills neighborhood, side yards are non-conforming given the smaller sized lots. Variances for reduced side, front and rear yard setbacks have been approved in order for a residence to be constructed. In particular, this small, non-conforming lot of 6,068 square feet (less than the allowed minimum lot size of 20,000 square feet), is steeply sloped and irregular in shape. Unless a variance is issued for the side yard setback, the property could not be developed in a manner consistent with other, similar sized properties in the Indian Hills neighborhood. The applicant is mindful of the impacts to the neighboring houses and has attempted to limit privacy impacts on neighboring yards by strategically placing the windows on the east and west elevations so there are no direct views to the neighbors side and rear yards.
- B. The granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone. Some neighboring homes in the Indian Hills community on similar sized lots have non-conforming setbacks all around. The proposed narrow side yard was chosen on the west side where off-site structures are located at the furthest point from the property line of this site in order to maximize the effect of having structures close to one another. The size of the proposed home and the amount of hardscape are similar to most residential properties in Indian Hills. Given that other properties in the neighborhood share characteristics of this property, the Variance will not constitute a grant of special privileges.
- C. The strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance. If strictly enforced, the minimum sideyards' setbacks would reduce the width of the structure even further and cause the rooms to be impractical in size and shape. The site's western property line abuts the rear yard of three properties. The alignment of the residences on these lots veer away from the

proposed house in a southwest direction, providing a separation between structures of 32 to 34 feet, diminishing the impacts of the reduced side yard on adjacent yards and residences.

- D. The granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity. The reduced side yard setback will still allow for access all around the house as required by the Los Angeles County Fire Department. The City Geotechnical Consultant and the Building Official have approved the project in concept for the required minimum distance between retaining walls and the main structure to protect life and property. Furthermore, the slopes are required to be landscaped to stabilize the soils and the drainage was analyzed so as to not impact neighboring properties.
- E. The granting of the Variance will be consistent with the character of the surrounding area. Many of the existing homes in the vicinity of the proposed site are located on small and non-conforming lots in terms of size and have non-conforming side yards. The proposed design reflects an effort to preserve the neighbors' privacy by locating the reduced side yard setback on the west side, where existing off-site homes are further away. The proposed residence's square footage is similar to those in the vicinity as well as the building coverage.

Section VI. Based on the evidence presented at the public hearing, including the staff report and oral and written testimony, the Planning Commission finds, pursuant to Section 9676.2 and 9606.2.D of the Agoura Hills Municipal Code, that:

Retaining Walls:

- A. Because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other property owners in the vicinity and under identical zoning classification. As the lot is steeply sloped, the topography requires the use of retaining walls in the front yard for pedestrian and vehicular access that exceed the maximum allowed three and one-half (3.5) feet tall. These walls will be concealed by landscaping, as they are built as part of a landscape planter. The highest wall proposed in the front yard setback (6 feet high) does not exceed the maximum allowable retaining wall height that can be built outside of the front yard setback area. One retaining wall up to nine (9) feet high is proposed along the rear yard to create a building pad and outdoor space around the residence on this steep hillside lot. Although the applicant could potentially install a series of lower walls of no greater than six (6) feet in height in order to avoid such tall retaining walls. This approach would necessitate a much larger horizontal area, which is not available on this small, non-conforming size lot. With no other feasible option to adequately address retention, this Variance would ensure that the property can be developed into a single family home as other property owners in the vicinity have done under the same zoning classification.

- B. The granting of the Variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone. The retaining walls are necessary to provide a building pad and yard areas, given the steep slope on the site. Other properties in the neighborhood have similar limitations with respect to hillside grading and in some circumstances would require a similarly sized retention wall.
- C. The strict interpretation and enforcement of the provisions of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance. The location of the proposed residence provides for the required front yard setback. However, given the steep slope of the site, retaining walls exceeding three and one-half (3.5) feet are necessary in the front yard setback. If the building footprint is located closer to the front property line, walls may not be required in the front yard area. Yet, the minimum front yard setback would not be met in that circumstance. Retaining walls exceeding six (6) feet high are necessary along the side and rear property lines due to the steep slopes and need to accommodate a building pad and limited outdoor spaces on a small lot.
- D. The granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements of the aesthetic value in the vicinity. The walls will comply with the Building Code requirement and will not impact views to the traffic travelling eastbound on Laura La Plante Drive and will not block neighbors' access into their property.
- E. The granting of the Variance will be consistent with the character of the surrounding area. The retaining walls are similar to retaining walls on other properties, which are also greater than six (6) feet high, and will be screened from public view with climbing landscaping.

Section VII. Based on the aforementioned findings, the Planning Commission hereby approves Variance Case No. VAR-01081-2015 subject to the attached conditions in Exhibit A with respect to the property described in Section I hereof.

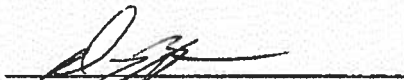
Section VIII. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

PASSED, APPROVED, and ADOPTED this 7th day of April, 2016, by the following vote to wit:

AYES: (4) O'Meara, Zacuto, Anderson, & Asuncion
NOES: (0)
ABSENT: (1) Justice
ABSTAIN: (0)



John O'Meara, Chair



Doug Hooper, Secretary

EXHIBIT A
CONDITIONS OF APPROVAL
(Case No. VAR-01081-2015)

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all conditions of this permit with the Planning Department.
3. Except as modified herein, the approval of this action is limited to and requires complete conformation to the approved labeled exhibits (Site Plan; Elevation Plans; Floor Plans, Roof Plan, and Grading Plan) approved on April 7, 2016.
4. It is hereby declared to be the intent that if any provision of this permit is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
5. It is further declared and made a condition of this action that if any condition herein is violated, the permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
6. Unless the approval is used within two (2) years from the date of City approval, Case No. VAR-01081-2015 will expire. A written request for a one (1) year extension may be considered prior to the expiration date.
7. The Variance Case No. VAR-01081-2015 is valid only in conjunction with Conditional Use Permit Case No. CUP-01080-2015 and the conditions of approval therein.
8. The applicant shall reimburse the City for any court and attorney's fees which the City may be required to pay as a result of any claim or action brought against the City because of the approval of this application. Although the applicant is the real party in interest in an action, the City may, at its sole discretion, participate in the defense of the action, but such participation shall not relieve the applicant of any obligation under this Condition.
9. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, and employees from and against any claim, action or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul any approval or condition of approval. The City shall notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter.

END