



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission
From: Lisa Tylanda, Planner
Date: October 18, 2018
Subject: Variance Application-VAR(18-03)

Summary:

Applicant:	Edward & Tammy Preciado
Project Location:	614 Las Dunas St.; Imperial, CA 92251 APN: 064-274-021
Zoning:	R-1 (Single Family Residential)-Monterrey Park Subdivision
Land Use:	Residential Designation (R-1: Single Family)
Environmental:	CEQA Exempt
Recommendation:	Review Variance application with attached Conditions of Approval. Planning Commission to Approve or Deny.

Background

Edward and Tammy Preciado have applied for a Variance Permit to allow the deviation from the City ordained "rear-yard setback" requirements for R-1 (Single Family Residential) Zones (development standards attached). The applicant is requesting the granting of a variance permit to allow the construction of a new 335.4 square-foot swimming pool in the applicant's backyard. The project in question is located within the Monterrey Park Subdivision.

The applicant would like the current City ordained rear-yard setback requirement of 5 feet to be reduced to 4 feet, so that a new swimming pool may fit in the back-yard. The applicants total lot size is 6012.2 square-feet. There are homes within the same subdivision that have been allowed to construct pools and allowed to deviate from the required City setbacks. Parcels within 300 feet of the residence were notified by mail in regards to the Variance Application and Public Hearing.

The Development Review Committee found the application did not meet the standards to support the granting of a variance. The applicant was informed of the Development Review Committees findings and was given the option to move the new pool closer to the home in order to meet the ordained setback requirements and the applicant decided to follow through with the Variance Application.



Recommendation

Staff recommends that the Planning Commission conduct a public hearing as required by Section 24.19.425 of the Imperial Zoning Ordinance. Staff recommends that the Planning Commission make the following findings:

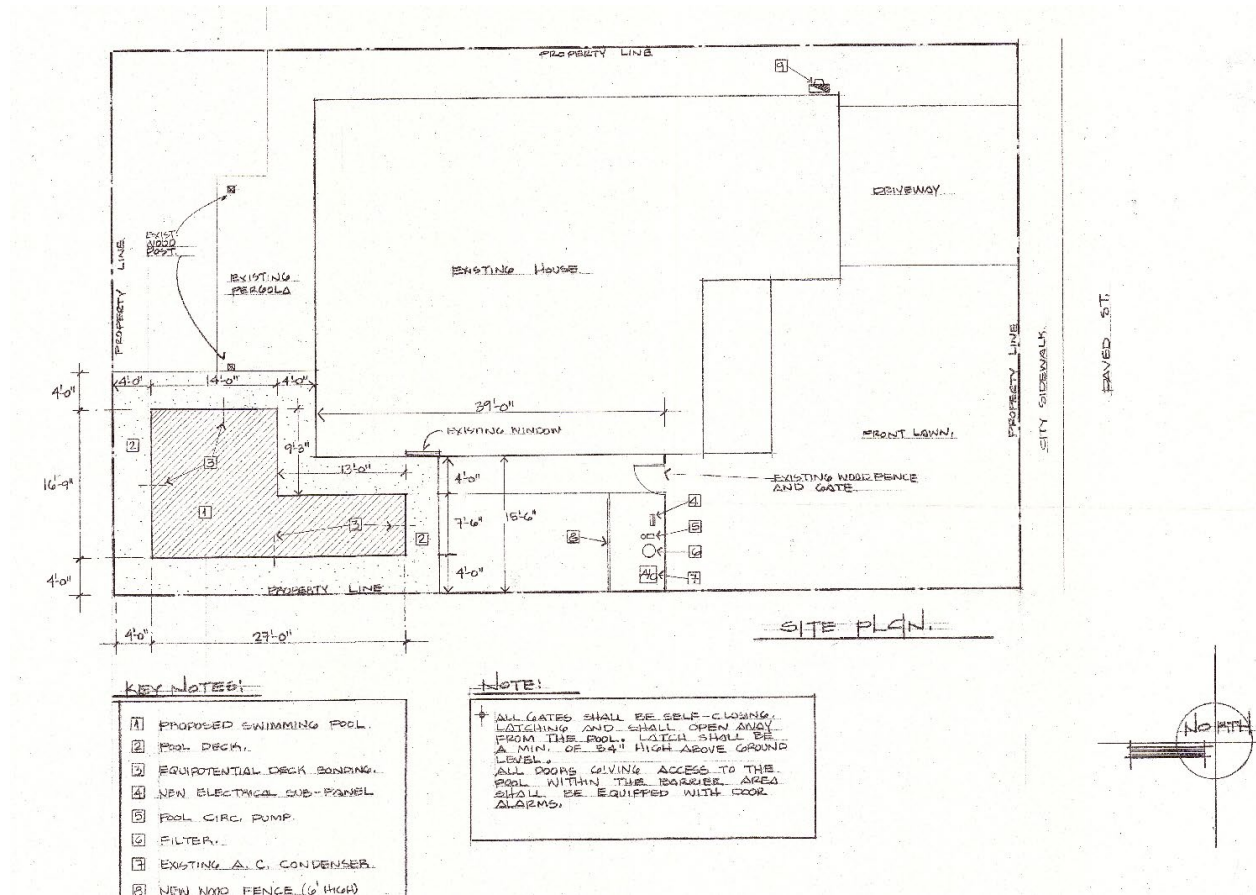
1. Special circumstances apply to the property. These can be its size, shape, topography, location, or surrounding structures. You must explain how these circumstances deprive your property of the privileges enjoyed by other property in the neighborhood which is zoned the same, and;
2. The variance will meet the intent of the zoning on the parcel, and will not be detrimental to public health, safety, and welfare, and not be detrimental to other property in the neighborhood; and,
3. The variance will not be a grant of special privilege in the neighborhood, and will not allow you to build in a way that would not be allowed for someone else.
4. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located.
5. The granting of this Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
6. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.

- That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

The City of Imperial's Development Review Committee has reviewed the proposed variance and the committee concluded that this variance would not affect delivery of City services or create any practical difficulties.

Attachments:

- Swimming Pool Site Plan

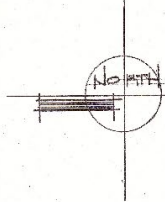


KEY NOTES:

- 1 PROPOSED SWIMMING POOL.
- 2 POOL DECK.
- 3 EQUIPOTENTIAL DECK BONDING.
- 4 NEW ELECTRICAL SUB-PANEL.
- 5 POOL CIRC. PUMP.
- 6 FILTER.
- 7 EXISTING A.C. CONDENSER.
- 8 NEW WOOD FENCE (6' HIGH)

NOTE:

† ALL GATES SHALL BE SELF-CLOSING, LATCHING AND SHALL OPEN AWAY FROM THE POOL. LATCH SHALL BE A MIN. OF 34" HIGH ABOVE GROUND LEVEL.
 ALL DOORS GIVING ACCESS TO THE POOL WITHIN THE BARREL AREA SHALL BE EQUIPPED WITH POOL ALARMS.



RESOLUTION PC2018-14

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL
APPROVING A VARIANCE FOR THE DEVIATION OF THE ORDAINED REAR AND
SIDE YARD SETBACKS FOR THE CONSTRUCTION OF A NEW SWIMMING POOL
AT 614 LAS DUNAS STREET; IMPERIAL, CA 92251**

WHEREAS, Edward and Tammy Preciado submitted a request for a Variance in order to deviate for the required rear and side yard setbacks of 5' to a rear and side yard setback of 4' for the construction of a new swimming pool; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during an adjourned meeting on October 24, 2018 and;

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Variance.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) Installation and alteration of swimming pools are ministerial and therefore exempt from CEQA.
- D) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- E) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Variance #**VAR18-03** for Edward and Tammy Preciado to allow for the deviation of the ordained rear and side yard setbacks from 5 feet to 4 feet based on the following findings:
 - 1. That granting the Variance of its modification will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located.

2. The granting of this Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
3. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.
4. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.
5. The granting of this Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
6. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.
7. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this October 24, 2018.

Planning Commission Chairman

ATTEST:

City Clerk

**EXHIBIT A
RESOLUTION PC2018-14
CONDITIONS OF APPROVAL**

For

**Variance Permit #VAR 18-03
Edward and Tammy Preciado
APN#: 064-274-021
614 Las Dunas Street
Imperial, CA 92251**

1. An encroachment and building permit from the City of Imperials' Community Development Department must be obtained before any construction may take place.
2. Applicant shall not hold the City of Imperial or any of its employees responsible for any incidents regarding this Variance Permit. Applicant is full responsible for advertising signs and flags and any happenings that may transpire while they are in use.
3. The provisions of this Variance Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
4. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
5. The conditional approval of the Variance Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
6. The Applicant shall pay all building fees, impact and capacity or associated permit fees as required by the city.
7. All applicable Conditions of Approval shall be completed prior to replacement of the fence occur.
8. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the Variance, or the Community Development Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the Variance Permit, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
9. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
10. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.

Edward & Tammy Preciado Variance Request:

614 Las Dunas Street, Imperial CA 92251 Monterrey Park Subdivision.

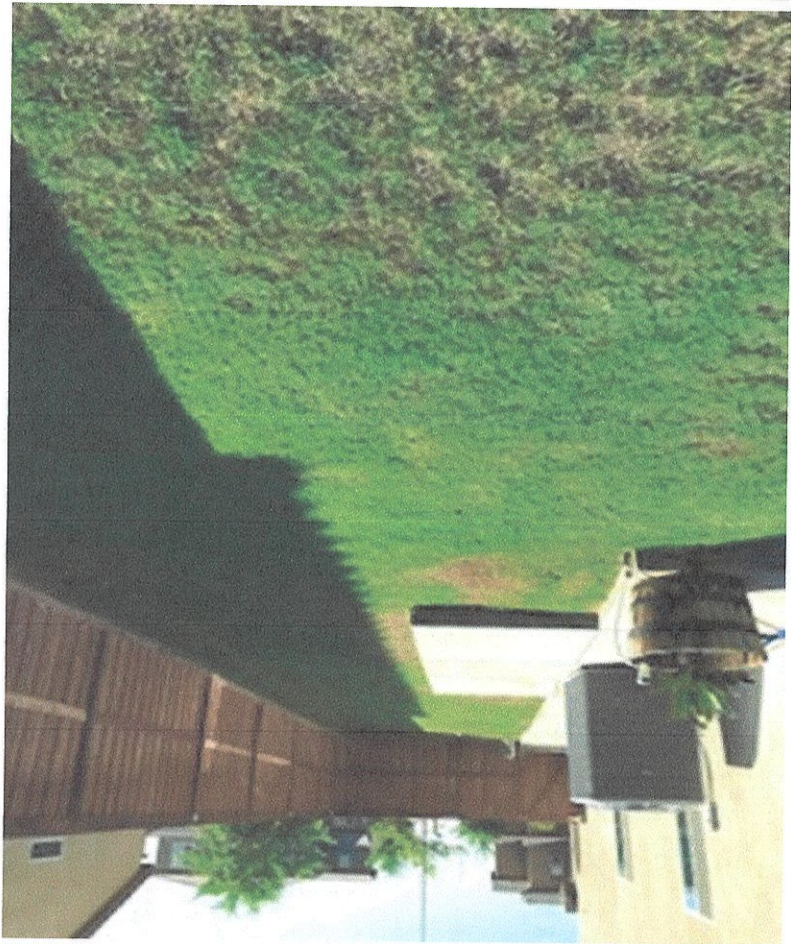
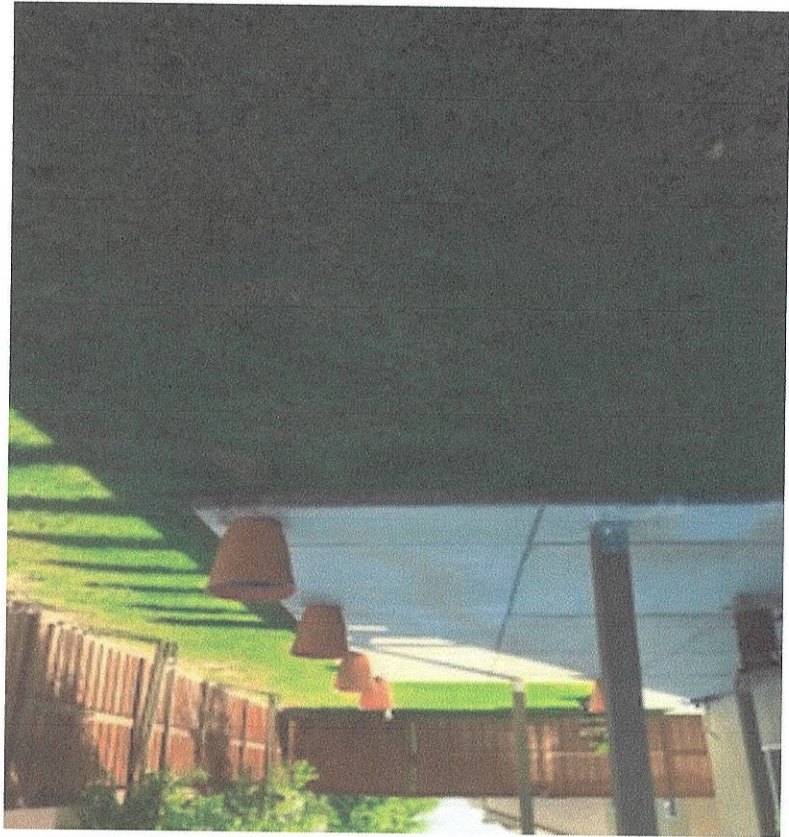
My wife and I are requesting a Variance Permit to build a pool in our back yard. I **am building this Pool for medical reasons. My wife has Rheumatoid Arthritis that is progressing and has been prescribed by her Doctor that a pool would ease the symptoms of her medical problems as it progresses. (See Photo)**

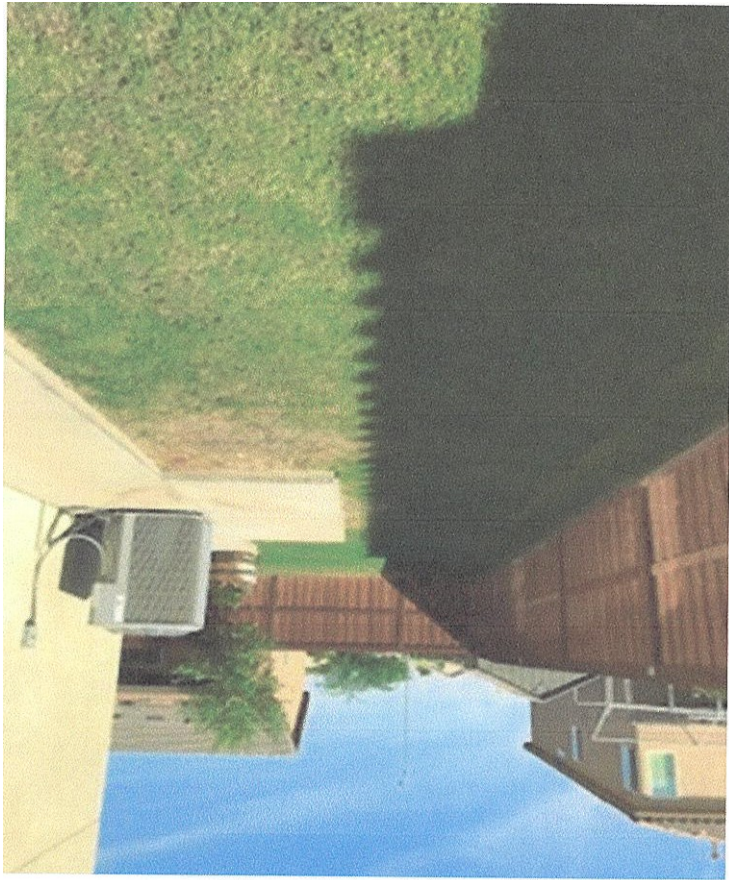
I am requesting a 5 feet to 4 feet variance to build my pool at my residence. I have enclosed some examples of past approved variances request from other City Of Imperial homeowners

- 677 Horizonte Street, Imperial CA in 2014, received a 5 feet to 4 feet variance for a Pool. {Same design of yard and Pool that I would be placing my pool at my residence),(Same Monterrey Park Subdivision).
- 685 Bahia Court, Imperial CA in 2017, received a 5 feet to 4 feet variance for a Patio (Same design of yard)(Same Monterrey Park Subdivision)
- 913 Fieldbrook Court, Imperil CA in 2018, received a 5 feet to 3 feet variance for a Pool. (Mayfield Subdivision

Enclosed the answers to the required questions and photos of my yard as requested

Doctors prescription for Tammy Preciado





Please find below the question that must be answered when going through the Variance Application Process:

A. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located.

No, it is not detrimental to the public Health, Safety or Welfare, or injurious to the Property or improvements in such vicinity or zone. Other than the 5 feet to 4 feet requested variance my Pool will be constructed by licensed contractor to code.

To I was building my pool with safety in mind I met with Fireman Loper from Imperial County Fire. He stated that his main concern was access to the property in case of fire, that I would be required to have one (1) street access to the my yard . Per the plans home I have two (2) street access points , the west side and the east side of my home. After the pool is constructed my home will have four foot sidewalk attached to a pre-existing sidewalk with street accessibility on West side of the residence where the pool will be built, (See Photo). My residence also has a pre -existing 5 foot sidewalk with street accessibility on the East side of the residence. (See Photos)

All improvements will be for personal use and on my property alone and will not violate or infringe on anyone else's property to violate any City of Imperial zoning laws, it will still remain a private residence.



West Side of Preciado Residence



East Side of Preciado Residence

B. The granting of this Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

No, it does not constitute special privileges from the City of Imperial.

On August 22, 2018 the city granted a variance from 5 feet to 3 feet to the owners of 913 Fieldbrook Ct. Imperial CA for a pool also for his wife's medical condition a shoulder. This pool is 3 feet from water's edge the fence line and 4 feet from water's edge to the home. I have Included the Planning Commissions Agenda for August 22, 2018 and Photos of the Pool in construction.



Residence 913 Fieldbrook Ct. Imperial CA



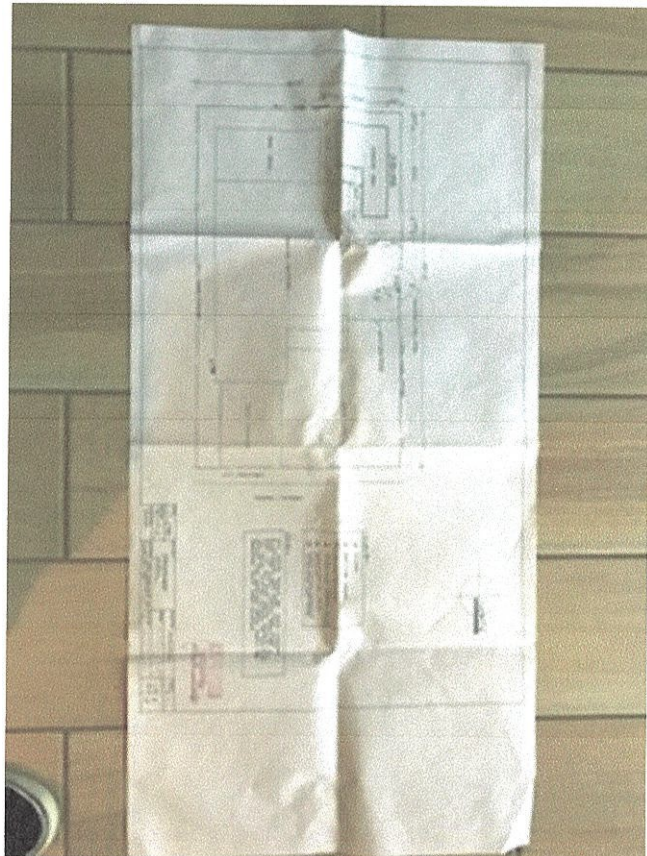
Residence 913 Fieldbrook Ct. Imperial CA

On October 25, 2017 the City of Imperial granted a variance from 5 feet to 3 feet to the owners of 685 Bahia Ct., Imperial, CA for the construction of a Patio. This residence is in my neighborhood of the Monterrey Park subdivision. The residence has the same yard layout and dimensions as my residence. I have Included is Planning Commissions Agenda for October 25, 2017 and Photos of the lot from google maps.



Residence 685 Bahia Street, Imperial CA

On June 3, 2014 the City of Imperial granted a building permit to the owners of 677 Horizonte St., Imperial CA. The Planning commission archive does not cover 2014 but this house was granted a variance from 5 feet to 4 feet. This residence is in my neighborhood of the Monterrey Park subdivision. This residence has the same yard layout and dimensions as my residence and this is the same layout and pool design as I intend to construct and from the same contractor. I have also enclosed copies of the City of Imperials Inspection request and the building permit #14317, City of Imperial approved plans and photos of the lot from google maps, photo of city plans (Actual Plans Enclosed) and photos of the pool.



Residence 677 Horizonte Street, Imperial CA Construction Plans 677 Horizonte Street, Imperial, CA



Pool at the Residence 677 Horizont e St. Imperia I Ca

Inspection Request 677 Horizonte St, Imperial CA

Building Permit 677 Horizonte St. Imperial Ca

C. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.

No, this pool will be for personal use only and will not be for public use and will not violate zoning regulation governing the parcel of property.

D. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

No, the pool will be on personal property and will not be incompatible or infringe on the City of Imperial's General Plan.