



# Staff Report

Agenda Item No. D-2

**To:** City of Imperial Planning Commission  
**From:** Lisa Tylanda, Planner  
**Date:** August 22, 2018  
**Subject:** Variance Application-VAR(18-02)

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## Summary:

<b>Applicant:</b>	Alex King
<b>Project Location:</b>	913 Fieldbrook Ct.; Imperial, CA 92251 APN: 044-714-011
<b>Zoning:</b>	R-1 (Single Family Residential)-Mayfield Subdivision
<b>Land Use:</b>	Residential Designation
<b>Environmental:</b>	CEQA Exempt
<b>Recommendation:</b>	Review Variance application with attached Conditions of Approval. Planning Commission to Approve or Deny.

## Background

Alex King has 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 167.9 square-foot swimming pool in the applicant’s backyard. The project in question is located within the Mayfield Subdivision.

The applicant would like the current City ordained rear-yard setback requirement of 5 feet to be reduced to 3 feet, so that a new swimming pool may fit in the back-yard. The applicants total lot size is 6026.55 square-feet and the total “living area” square-footage is: 2,712. The positioning and size of the single story home is the causation of the need for a variance. There is currently a home down the street from the applicant, that was allowed to construct a pool 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.

## **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:

- 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.

*The size of the lot in the planned unit development along with the angular orientation of the rear property line precludes the construction of an enjoyable, attractive and regularly sized pool.*

- 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.

*As stated above, the size of the lot in the planned unit development along with angular orientation of the rear property line precludes the construction of an attractive, usable swimming pool, and hinders the applicant from using their property to its full potential.*

- 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.

*This Variance is not a special privilege and the proposed swimming pool is otherwise consistent with other provisions of the Imperial Zoning Ordinance.*

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

*This proposed swimming pool does not conflict with the goals, policies and objectives of the 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. Staff recommends that this variance be approved.

### **Attachments:**

- Location Map
- Assessor Parcel Map
- Swimming Pool Site Plan
- Conditions of Approval for Mayfield Planned Unit Development Subdivision
- Building Permit & Plans approved for 1108 Fieldbrook Ct.; Imperial, CA 92251

**RESOLUTION PC2018-13**

**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 913 FIELDBROOK CT.; IMPERIAL, CA 92251**

**WHEREAS**, Alex King 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 3’ 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 August 22, 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 #**VAR18-02** for Alex King to allow for the deviation of the ordained rear and side yard setbacks from 5 feet to 3 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.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this August 22, 2018.

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Planning Commission Chairman

ATTEST:

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Planning Secretary

**EXHIBIT A  
RESOLUTION PC2018-13  
CONDITIONS OF APPROVAL**

**For**

**Variance Permit #VAR 18-02  
Alex King  
APN#: 044-714-011  
913 Fieldbrook Court;  
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.

