

REPORT TO THE PLANNING COMMISSION



DATE: September 10, 2019

TITLE: Consideration of a Variance No. 02-19 to reduce the interior side setback from 10 feet to 5 feet for the property located at 66015 Acoma Avenue.

Prepared by: Judy Deertrack, Assistant Planner

Reviewed by: Rebecca Deming, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) Staff Recommends the Planning Commission approve Variance No 02-19 subject to the Conditions of Approval and based on the findings stipulated.

BACKGROUND

The Applicant, Chris Ifeanyi, proposes to construct a single-family residence on the southeast corner of Acoma Avenue and West Drive, on a 0.15-acre lot (6,820 square feet), including a total building area of 2,593 feet, or approximately 38% lot coverage within the medium-density residential zone (R-M).

Applicant proposes to construct 1,202 square feet of living area with a two-car garage and attached Accessory Dwelling Unit containing 673 square feet of living area and an attached single-car garage. Applicant filed a Variance application (VAR 02-19) to reduce the interior side setback from 10 feet to 5 feet, in accordance with Desert Hot Springs Municipal Code Sections 17.40, and has submitted photographs and aerials of the area to illustrate that most structures in the area have the same reduced interior setback of five (5) feet. Applicant asserts that this allows the project to conform to the built standards of the neighborhood, and allows space for an accessory dwelling unit, which conforms to the City's low-income housing needs.



DISCUSSION

Exhibits of the surrounding area show a variety of structures within close proximity to this lot that have the same reduced interior side setbacks, and the area, by buildout practice, generally conforms to the standard of a five (5) foot setback.

The maximum building coverage allowed on medium-density residential (R-M) lots is 40%, and applicant is asking for approximately 38% coverage. The living space for the primary unit is 1,202 square feet, just over the minimum allowed square footage for a primary residence, and applicant has no practical way to reduce the size of the primary residence. Applicant has used the remaining space on the lot to allow for an attached accessory dwelling unit (ADU) at approximately 673 feet, with an attached one-garage area at 295 feet. Parking is required for the ADU.

The Desert Hot Springs Municipal Code Section 17.08.170 D. (4) Accessory Dwelling Units, in conjunction with California State law, requires that the total area of the floor space of an attached accessory dwelling unit not exceed 50 percent of the existing living area. The applicant exceeds this standard by approximately 70 square feet.

The applicant has agreed to a condition of approval that his floor plans be revised so that the ADU shall not exceed the standard. Even with the reduction of the ADU, applicant will still need relief on the interior side setback to accommodate the ADU because of the relatively small lot size of 6,820 feet and the dual residences.

Staff recommends the variance of five (5) feet be granted. The Planning Department, upon review, finds no intrusion to any neighborhood standard, nor does staff find the reduced setback creates a problem for the adjacent property owner(s). Allowing the mixture of a residence with adjoining accessory dwelling unit complements the City's and the State of California's policies and goals for affordable housing.

The site is zoned Medium Density Residential (R-L). Immediately surrounding properties are developed as follows:

	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	C (General Commercial)	Scattered single-family residential and small business at Pierson Blvd
West	R-L (Low Density Residential)	Scattered single-family residential
South	R-M (Med. Density Residential)	Scattered single-family residential
East	R-M (Med. Density Residential)	Scattered single and multiple family residential

VARIANCE ANALYSIS

General Plan and Zoning Consistency: The project proposes to allow a single-family residence with accessory dwelling unit within the Medium Density Residential (R-M) zone. This use is consistent with the General Plan and ordinances of Desert Hot Springs.

Building Setbacks: The minimum setbacks in the City's Medium-Density Residential Zone is a front setback of twenty (20) feet, a rear setback of ten (10) feet, a street-side setback of fifteen (15) feet, and an interior side setback of ten (10) feet. The project does not meet minimum setback standards for the interior side but meets all others. Staff recommends the variance to allow a reduction of the interior side setback from ten (10) feet to five (5) feet because of the countervailing importance of state and local affordable housing needs, and the negligible impact upon the surrounding properties.

VARIANCE FINDINGS

The Planning Commission may approve and/or modify an application in whole or in part, with or without conditions, only if the following findings are made:

A. That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use district classification;

The limitations of the existing lot including but not limited to the lot size (6,820 square feet, 0.15 acres), creates an issue with the interior side setbacks, since the applicant chose to use the lot to add affordable housing, a priority goal of the City of Desert Hot Springs, and the State of California. Staff also finds that the setback reduction conforms to buildout in the area. Staff recommends this finding.

B. That granting the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and land use district and denied to the property for which the variance is sought:

The limitations of the existing lot including but not limited to the lot size (6,820 square feet, 0.15 acres), creates an issue with the interior side setback considering applicant chose to add affordable housing through the addition of an accessory dwelling unit on a substandard lot. Staff recommends this finding.

C. 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 land use district in which the property is located;

The limitations of the existing lot including but not limited to the lot size (6,820 square feet, 0.15 acres), creates an issue with the interior side setbacks considering that applicant has chosen to advance local and state affordable housing opportunities, and has designed the property in a manner that does not intrude into the privacy or pre-existing conditions (setbacks) that exist in the surrounding area. Staff recommends this finding.

D. That granting the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which such property is located;

Other land owners in the immediate vicinity have applied for and been granted relief from the setback requirements, or have properties that are legally non-conforming. Applicant has not been granted a privilege that results in property conditions that differ from the surrounding owners. Staff recommends this finding.

E. That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel;

The granting of this variance does not allow for a use or activity which would otherwise not be allowed. Applicant has applied to build a single-family residential with attached accessory dwelling unit, and separate ADU garage. Staff recommends this finding.

F. That granting the variance will not be inconsistent with the General Plan;

The design of the proposed single-family residence has been reduced in size (give the lot size of 6,820 feet), so that an accessory dwelling unit and attached garage can be added to the lot. This achieves the Desert Hot Springs housing policies for affordable housing, and is consistent with the General Plan.

The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. Staff recommends this finding.

In reviewing this application, plans, documents and other supporting information, staff has determined that the Planning Commission can make these findings.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the Medium Density Residential Zone (R-M). Staff recommends that the Planning Commission certify the CEQA exemption and approve Variance No. 02-19, subject to the attached Conditions of Approval (Exhibit 1).

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act ('CEQA'), this request is found to be Categorically Exempt under Class 5, Minor alterations to land use limitations (Section 15305 of the CEQA Guidelines). No further environmental review is required.

EXHIBIT(S)

1. Draft Conditions of Approval
2. Site Plan
3. Aerial Photo
4. Good Cause Letter