



Staff Report

Agenda Item No. D-2

To: City of Imperial Planning Commission
From: Yvonne Cordero, Planner
Date: March 8, 2024
Item: Variance 23-04 and Conditional Use Permit 23-07 – Deviation from the Residential Property Development Standards

Applicant:	Mark Gaddis
Project Location:	121 N. F Street
Zoning:	R-1 Single-Family Residential
Environmental:	Categorically Exempt from CEQA – 15301 Existing Facilities
Recommendation:	Staff does not recommend Planning Commission approval of Variance 23-04 and Conditional Use Permit 23-07.

Background

Mark Gaddis submitted a Planning Application for the legalization of an existing metal and fabric accessory structure constructed at his residence located at 121 N. F Street. The accessory structure has an overall height of thirteen feet and six inches and was constructed with ten-inch setbacks from the property line. The City of Imperial's

Residential Property Development Standards for Accessory Structures require a setback measurement of three feet and a maximum height of twelve feet for accessory structures.

Mr. Gaddis was given a courtesy notice by our Code Enforcement Division to obtain a building permit for the legalization of his accessory structure. During the building permit review process, staff advised Mr. Gaddis of the structure's height and setback violations and he opted to apply for a variance to deviate from the required setback and height requirements.

The City of Imperial's Development Review Committee reviewed Variance 23-04 and Conditional Use Permit 23-07 and recommend the accessory structure be either removed or modified to comply with the City's Residential Property Development Standards. Upon review of the project, the Development Review Committee requested the Imperial Irrigation District's review of the structure, due to the proximity of IID's power poles and power lines located at the Northwest corner of Mr. Gaddis' property shown in the picture below. IID conducted a site inspection and verified the structure was constructed within IID's Right of Way/Easement and provided their Distribution Line Clearance Specifications detailing the area distances that are to be clear of buildings/structures for 15KV power poles/lines (Attachment B) and Regulation No. 23-Clearance Requirements for Power Line Corridors (Attachment C).

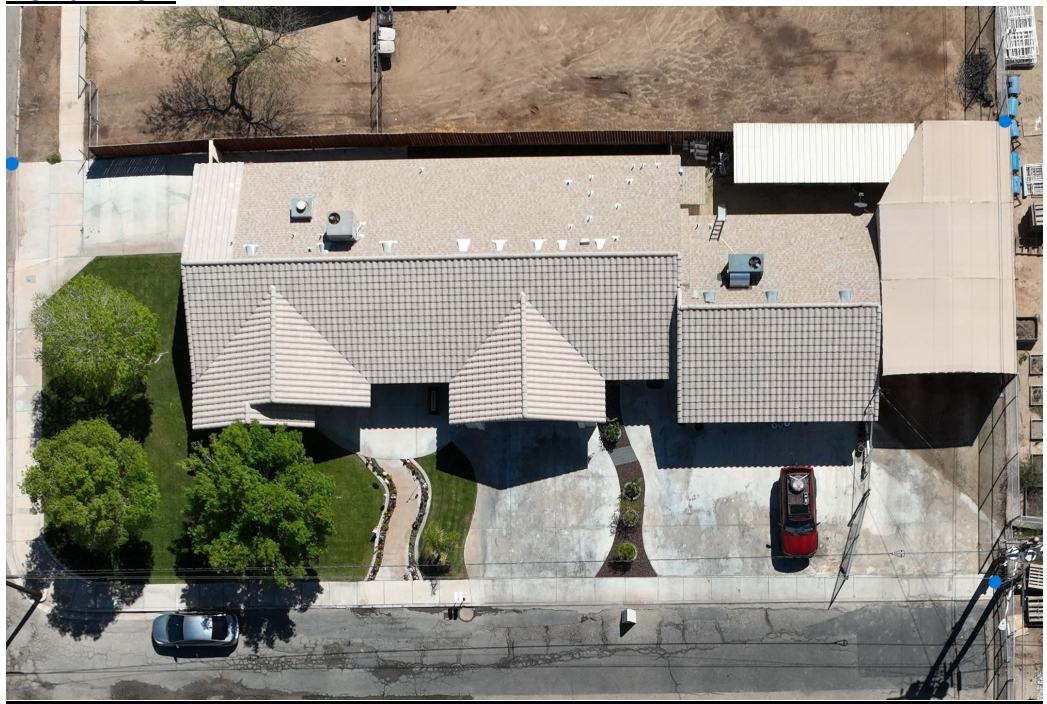


Community Development staff met Mr. Gaddis at his property on February 9, 2024 to verify the structure's measurements. Staff's measurements confirmed that the accessory structure is in violation of IID's Distribution Line Clearances and the City's Property Development Standards. Mr. Gaddis informed staff he submitted an IID Encroachment Permit (Attachment D) for permission to encroach within the IID's Right of Way/Easement, but the IID Encroachment Permit was later denied.

Project Location



Aerial View



Required Findings:

In order to approve Variance 23-03, the Planning Commission is required to review six findings per Section 24.19.400 of the City of Imperial's Zoning Ordinance. The findings are listed below, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

1. **There are special circumstances, such as size topography, location or surroundings applicable to the property or the intended use of the property, and because of this, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning classification.**

There are no special circumstances that apply to this property regarding its size, shape or topography that deprive the property of the privileges enjoyed by other properties within the Residential Zone. The subject parcel's size is approximately 9,074 square feet, larger than the minimum lot size of 6,500 square feet in a Residential Zone. The project site's location is adjacent to the Imperial Unified School District's parcel to the West. An Imperial Irrigation District easement with installed power poles is located between the Applicant's and the Imperial Unified School District's property.

2. **The granting of the variance or its modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property for which the variance is sought.**

Although Mr. Gaddis' property right to construct an accessory structure is recognized, the granting of the variance, in its original or modified form, is not necessary to preserve the property owner's right possessed by other residential properties in the vicinity. Permitted accessory structures in Residential Zones comply with the Residential Zone's Property Development Standards by going through the City of Imperial's Community Development's building permit review process or by the approval of a variance.

3. **That granting the variance or 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.**

The constructed accessory structure does not meet the Residential Zone's Property Development Standards due to the structure exceeding height limitations and deviating from the side yard setback requirements. The fabric and metal accessory structure was constructed on an IID easement that obstructs IID's access, if IID should need to access it. The accessory structure was also constructed within the IID's five-foot clearance required for power poles and distribution lines. The accessory structure presents to be a detriment by impeding the IID's easement access and a fire hazard threatening the safety and welfare of the residential homes and Imperial Unified School District in the vicinity.

4. The variance will not constitute a privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

The variance will be granting a special privilege within the neighborhood and zone as other residential accessory structures that are reviewed by the City of Imperial's Community Development Department prior to being constructed are only approved when the building plans and inspections comply with the Property Development Standards set forth in Section 24.03.120 of the Residential Zone Ordinance.

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

Granting the approval of Variance 23-04 will allow a use unauthorized by the Residential Zone governing the parcel located at 121 N. F Street by deviating from the Residential Property Development Standards set forth in Section 24.03.120.

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

Granting Variance 23-04 will be incompatible with The City of Imperial's General Plan's Safety Element, Objective 8 that states the City is responsible for minimizing exposure of urban fires and to protect the public to the maximum extent possible. Additionally, the Hazard Management Element's goals and objectives are to contain mitigation measures to protect the public health, safety and welfare.

Environmental:

This project qualifies for a Categorical Exemption according to the California Environmental Quality Act (CEQA), Section 15301, "Existing Facilities", and is determined to be exempt from further environmental review requirements contained in CEQA.

Staff Recommendation:

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, staff recommends that the Planning Commission **denies approval of** Variance 23-04 to allow the deviation of the required side yard setbacks defined in the City of Imperial's Property Development Standards and obstruction to an IID easement and Conditional Use Permit 23-07 to allow the existing accessory structure with a height that exceeds the City of Imperial's Property Development Standards and violates IID's Distribution Lines Clearance.

Attachments

- Attachment A – Applicant’s Accessory Structure’s Building Plans
- Attachment B – IID Distribution Line Clearance Guidelines
- Attachment C – IID Regulation No. 23
- Attachment D – IID Encroachment Permit Application
- Attachment E - DRAFT Resolution PC2024-01 to Deny Approval

ATTACHMENT E
DRAFT RESOLUTION NO. PC2024-01

A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL, DENYING APPROVAL OF VARIANCE 23-04 AND CONDITIONAL USE PERMIT 23-07 FOR MARK GADDIS TO ALLOW THE DEVIATION OF THE RESIDENTIAL ZONE'S PROPERTY DEVELOPMENT STANDARDS FOR MAXIMUM HEIGHT AND SIDE YARD SETBACK REQUIREMENTS FOR AN ACCESSORY STRUCTURE LOCATED AT 121 NORTH F STREET (APN 064-042-001)

WHEREAS, Mark Gaddis submitted a variance request for the deviation of the Residential Zone's Property Development standards for an accessory structure exceeding the maximum height limitations and side yard setback requirements; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during a meeting on March 27, 2024; 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 Variance 23-04 Conditional Use Permit 23-07.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial grants 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 the property and deviation from the Residential Zone's Property Development Standards are ministerial and therefore categorically exempt from the California Environmental Quality Act per Section 15301.
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorical Exempt under Section 15301 of the California Environmental Quality Act; and
- E) That based on the evidence presented at the public hearing, the Planning Commission hereby **DENIES APPROVAL of Variance 23-04 and Conditional Use Permit** for Mark Gaddis to allow for the deviation of the Residential Zone's Property Development Standards for maximum height and side yard setback requirements, based on the following findings:

- 1. There are special circumstances, such as size topography, location or surroundings applicable to the property or the intended use of the property, and because of this, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning classification.**

There are no special circumstances that apply to this property regarding its size, shape or topography that deprive the property of the privileges enjoyed by other properties within the Residential Zone. The subject parcel's size is approximately 9,074 square feet, larger than the minimum lot size of 6,500 square feet in a Residential Zone. The project site's location is adjacent to the Imperial Unified School District's parcel to the West. An Imperial Irrigation District easement with installed power poles is located between the Applicant's and the Imperial Unified School District's property.

- 2. The granting of the variance or its modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property for which the variance is sought.**

Although Mr. Gaddis' property right to construct an accessory structure is recognized, the granting of the variance, in its original or modified form, is not necessary to preserve the property owner's right possessed by other residential properties in the vicinity. Permitted accessory structures in Residential Zones comply with the Residential Zone's Property Development Standards by going through the City of Imperial's Community Development's building permit review process or by the approval of a variance.

- 3. That granting the variance or 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.**

The constructed accessory structure does not meet the Residential Zone's Property Development Standards due to the structure exceeding height limitations and deviating from the side yard setback requirements. The fabric and metal accessory structure was constructed on an IID easement that obstructs IID's access, if IID should need to access it. The accessory structure was also constructed within the IID's five-foot clearance required for power poles and distribution lines. The accessory structure presents to be a detriment by impeding the IID's easement access and a fire hazard threatening the safety and welfare of the residential homes and Imperial Unified School District in the vicinity.

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

Granting the approval of Variance 23-04 will allow a use unauthorized by the Residential Zone governing the parcel located at 121 N. F Street by deviating from the Residential Property Development Standards set forth in Section 24.03.120.

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

Granting Variance 23-04 will be incompatible with The City of Imperial's General Plan's Safety Element, Objective 8 that states the City is responsible for minimizing exposure of urban fires and to protect the public to the maximum extent possible. Additionally, the Hazard Management Element's goals and objectives are to contain mitigation measures to protect the public health, safety and welfare.

F) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 27th day of March, 2023.

Planning Commission Chairperson

ATTEST:

City Clerk