



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission

From: Lisa Tylenda, Planner

Date: June 26, 2019

Item: **Variance-VAR(19-02)**
Deviation from ordained "Side and Rear-Yard Setback"
development standards.

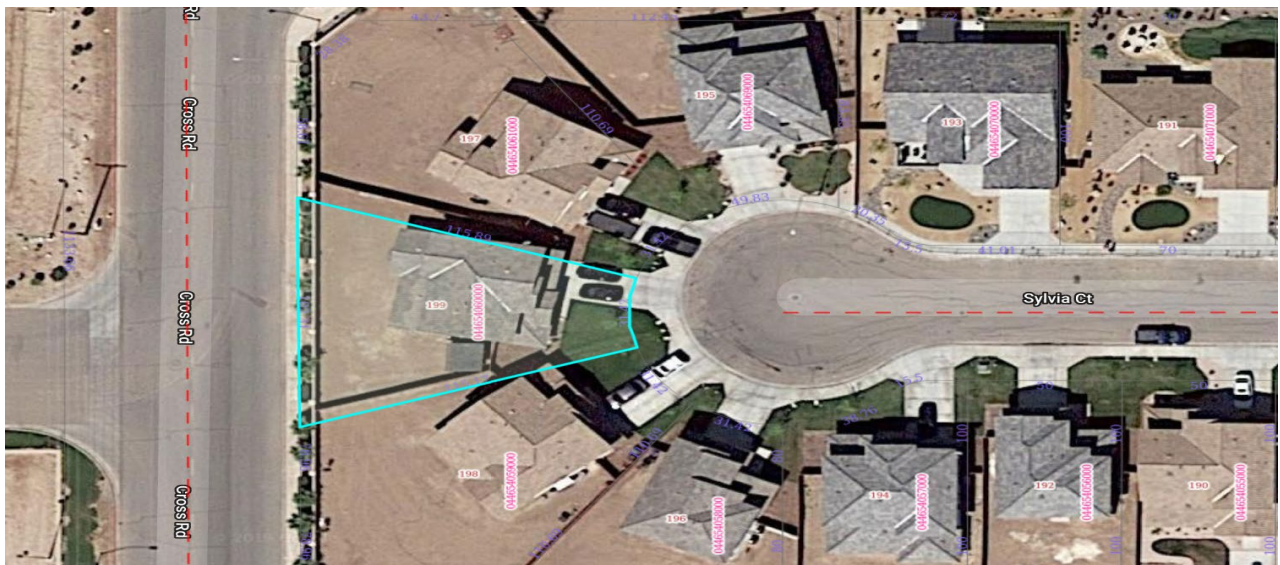
Summary:

Applicant: Ismael Angulo

Project Location: 199 Sylvia Court; Imperial, CA 92251

Zoning: R-1 (Residential Single Family)

Recommendation: Planning Commission to review Variance request.



Background

The applicant is requesting a Variance Permit to allow for deviation from the City of Imperials' "Property Development Standards" Section 24.03.120 of the zoning code regarding "setback requirements" for the side and rear- yards of the property from the ordained 5 feet to 2 feet to allow the use of an existing storage shed which was constructed in the year 2016.

Section 24.19.400 et seq. of the Imperial Zoning Ordinance allows for variances from development standards "only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification."

Required Findings:

For the Planning Commission to approve a variance, all of these findings must be made:

1. **Special circumstances** apply to the property. These can be it's 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.

The applicant has provided justification for the required findings. Please see attached document.

Environmental:

The proposed project is not subject to CEQA since it is categorized as a minor project.

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

Photos of Applicants backyard:



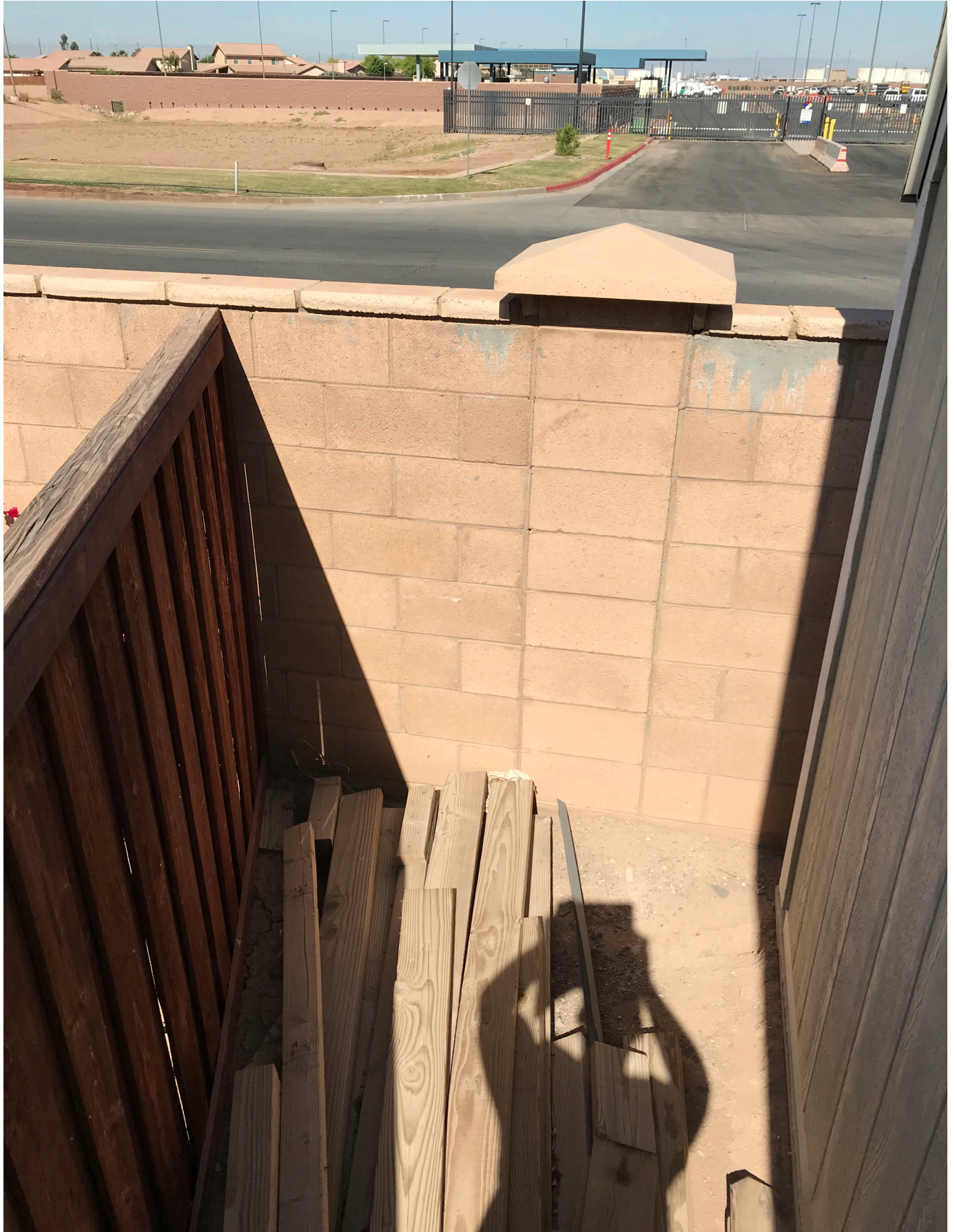












RESOLUTION PC2019-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A VARIANCE PERMIT FOR ISMAEL ANGULO ALLOWING THE DEVIATION OF THE ORDAINED 5 FOOT SIDE AND REAR YARD SETBACKS TO ALLOW 2 FOOT SIDE AND REAR YARD SETBACKS FOR THE CONTINUED USE OF AN EXISTING STORAGE SHED LOCATED AT 199 SYLVIA COURT IN THE CITY OF IMPERIAL, CA 92251

WHEREAS, Ismael Angulo submitted a request for a Variance for a subdivision advertisement sign size and location within the City; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during an adjourned meeting on June 26, 2019 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 the sign is 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-**VAR 19-02** for Ismael Angulo for the deviation of the “side and rear-yard setback” requirements from 5 feet to 2 feet to allow the continued use of an existing wood shed 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 June 26, 2019.

Geoff Holbrook, Planning
Commission Vice-Chairman

ATTEST:

Debra Jackson, Planning Secretary

**RESOLUTION PC 2019-11
CONDITIONS OF APPROVAL**

For

**Variance Permit #VAR 19-02
Ismael Angulo
199 Sylvia Court
Imperial, CA 92251**

1. A building permit from the City of Imperials' Community Development Department must be obtained after variance approval along with any required development and/or construction plans required and payment of processing fees as well.
2. Applicant shall not hold the City of Imperial or any of its employees responsible for any incidents regarding this Variance Permit.
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. The proprietor/owner shall be responsible for the removal of all graffiti from the storage shed within 72 hours of its appearance on the property.
5. The proprietor/owner shall be responsible for maintaining the locations where the storage shed is placed and adjacent areas free of litter at all times.
6. 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.
7. 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.
8. The Applicant shall pay all impact and capacity fees as required by the city.
9. Applicant must obtain an approved Building Permit from the Community Development Department within 6 month of approval of the Variance Permit. If the applicant does not obtain and approved Building Permit from the Community Development Department, the Variance Permit becomes null and void based on the final date of approval of the Variance Permit.
10. 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 Planning/Building 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, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.

11. 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.
12. 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.

24.19.440 FINDINGS

*Conditions on my property causing a hardship are not common to all or most properties in the immediate area and zoning district. Having an irregular lot shape causes a hardship for proper placement of my storage shed. Living in a cul de sac lot automatically provides me with an irregular and not perfect lot shape like most people that does not live in a cul de sac lot. If i were to have a perfect backyard lot shape would make the positioning of my storage shed easier to compile with set back requirement. Current position of store shed does not give me the five feet all around set back required but in one point, like illustrated in property drawing, i have five feet from property line and again blaming the condition on my property for not having all around minimum requirement. Also current location of my storage shed is the only location around my property that allows me to have at least, if not more than, the minimum requirement of ten feet from main structure.

*The granting of the variance is necessary for the preservation and enjoyment of my property right possess by other properties in the same vicinity. Current location of my storage shed ables me to enjoy at the most the irregular shape of my back yard. Moving my storage shed to meet the minimum set back requirement of five feet will not only deprive the enjoyment of my property but also interfere with the minimum requirement of ten feet from main structure. If the five feet requirement all around were to be met it will position my storage shed in the middle of my lot making it impossible to enjoy my back yard due to dead space that will be left behind my storage shed. I have plans in the future to built a covered back porch that will extend my patio space therefore depriving me from a property right enjoyed by most because of the lost space that i was to have if i was to move my storage shed to meet the set back requirement.

*Granting my variance will not create a problem for adjacent properties and will not conflict with public interests. Current next door neighbors does not have an issue with my storage shed location. It has to be noted that there are properties next to me but behind me is Cross Ave and also a brick wall that extends along the back side of my property making impossible to affect it in any and if my storage shed was to caught on fire Cross Ave could be use for fire department needs.