

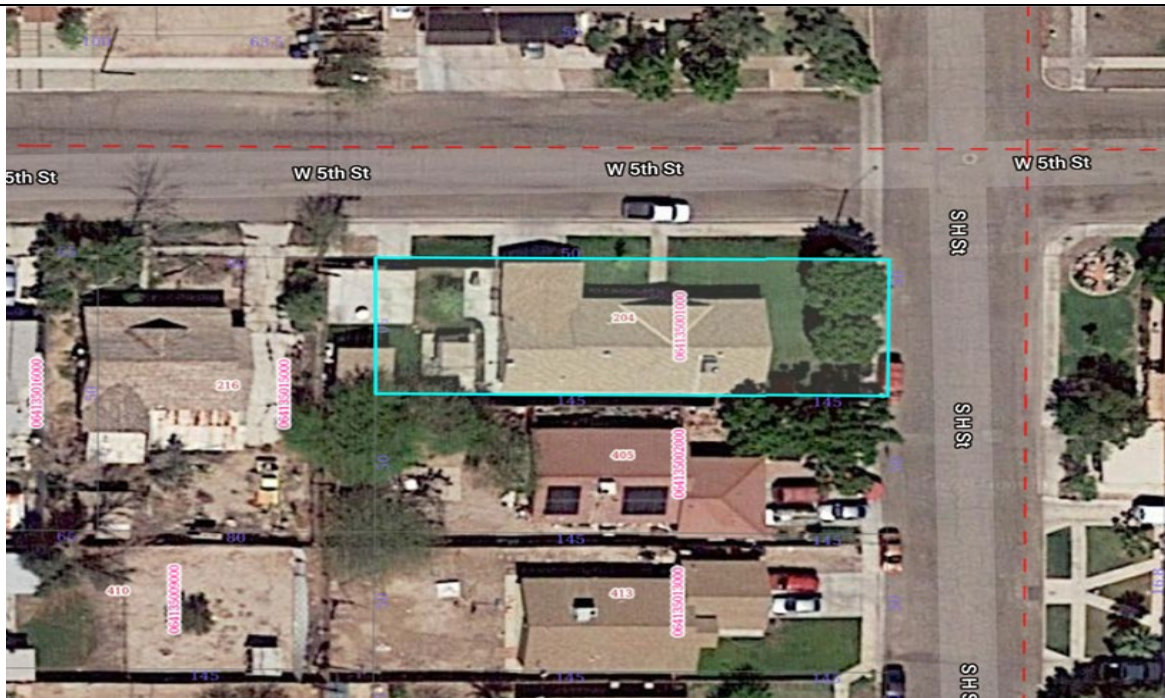


Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission
From: Lisa Tylanda, Planner
Date: October 9, 2019
Item: Variance-VAR (19-04)
Deviation from ordained "Side-Yard Setback" development standards.

Applicant: Phyllis Price
Project Location: 204 W 5th Street; 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 street side of the property from the ordained 10 feet to 5 feet to allow the expansion of the property for the use of a master bedroom and new storage room.

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.
4. The granting of the Variance or its modifications will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; and
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.
6. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

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

Environmental:

The project is Categorical Exempt from the California Environmental Quality Act via the following categorical exemptions: 15301(e.) and 15303(a.).

Recommendation:

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

RESOLUTION PC2019-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A VARIANCE PERMIT (VAR 19-04) FOR PHYLLIS PRICE ALLOWING THE DEVIATION OF THE ORDAINED 10 FOOT STREET SIDE YARD SETBACK REQUIREMENTS TO ALLOW A 5 FOOT SIDE YARD SETBACKS FOR THE EXPANSION OF THE RESIDENCE TO ALLOW THE USE OF A NEW MASTER BEDROOM AND STORAGE ROOM AT 204 W 5TH STREET; IMPERIAL, CA 92251. APN: 064-135-001

WHEREAS, Phyllis Price submitted a request for a Variance for the deviation of the ordained development standards regarding street side-yard setback requirements; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during an adjourned meeting on October 9, 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 property and deviation from the setback requirements are ministerial and therefore exempt from the California Environmental Quality Act via the following categorical exemptions: 15301(e.) and 15303(a.).
- 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 19-04** for Phyllis Price for the deviation of the “street side -yard setback” requirements from 10 feet to 5 feet to allow the expansion of the residence and the use of a new master bedroom and storage room 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 October 9, 2019.

Planning Commission Chairman

ATTEST:

Planning Secretary

**RESOLUTION PC 2019-16
CONDITIONS OF APPROVAL**

For

**Variance Permit #VAR 19-04
Phyllis Price
204 W 5th Street
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 property within 72 hours of its appearance on the property.
5. The proprietor/owner shall be responsible for maintaining the locations where the expansion is located 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.

Variance Fee: \$1,673.00

City of Imperial
Community Development
Department

420 South Imperial Avenue
Imperial, CA 92251

Phone (760)355-1152 | Fax (760)355-4718



Planning Permit
Application Form

Permit Numbers _____

Applicant/Owner Information

Applicant: PHYLLIS PRICE
Contact Person: PAUL HAMBY
Mailing Address: _____
Phone: _____
Fax: _____

Owner Name(s): PHYLLIS PRICE
Mailing Address: PO Box 24
IMPERIAL, CA 92251
Phone: _____
Fax: _____

Permit Information

Administrative Review

- Lot Line Adjustment
- Parcel Map Waiver
- Downtown Architectural Permit
- Off-Site Improvements
- Other SET BACK VARIANCE

Commission/Council Review

- Zoning & Code Text Amendment
- Zone Change / Pre-Zone
- General Plan Amendment
- Planned Unit Development
- Specific Plan / Specific Plan Amendment
- Variance
- Conditional Use Permit
- Land Use Classification
- Tentative Map
- Annexation
- Other ADU

Project Information

Project Location (address): 204 W 5th ST
IMPERIAL
Existing Zoning: _____
Proposed Zoning: _____

Assessor's Parcel Number(s): _____
Parcel/Lot Size: 145 x 50
Building Sq Ft: ADU 721 ADDITION 240 STORAGE 165

Detailed Project Description (attach additional sheets if necessary):

BUILD AN ADDITION TO EXISTING HOUSE (15x16) - 2410 SQ FT
BUILD AN ADDITION (STORAGE ROOM) TO EXISTING HOUSE (15x11) - 165 SQ FT
BUILD AN ADU (GRANNY FLAT) 721 SQ FT

Indemnification Agreement

Applicant and Owner agree, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of Imperial ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:

- a. Any approvals issued in connection with any of the above described application(s) by City; and/or
- b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended ("CEQA") by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council. Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

Executed at 8-21-19/Imperial California on 8-21-2019

Applicant

Property Owner

(If different from Applicant)

By: Signature: [Redacted]
Printed Name Phyllis Price
Title: Owner

By: Signature: _____
Printed Name _____
Title: _____

Signatures

The undersigned hereby declare and certify that they are all the owners of the property described in this application and that the information stated above and on forms, plans and other materials submitted herewith in support of the application is true and correct to the best of our knowledge.

Applicant

Property Owner

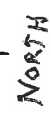
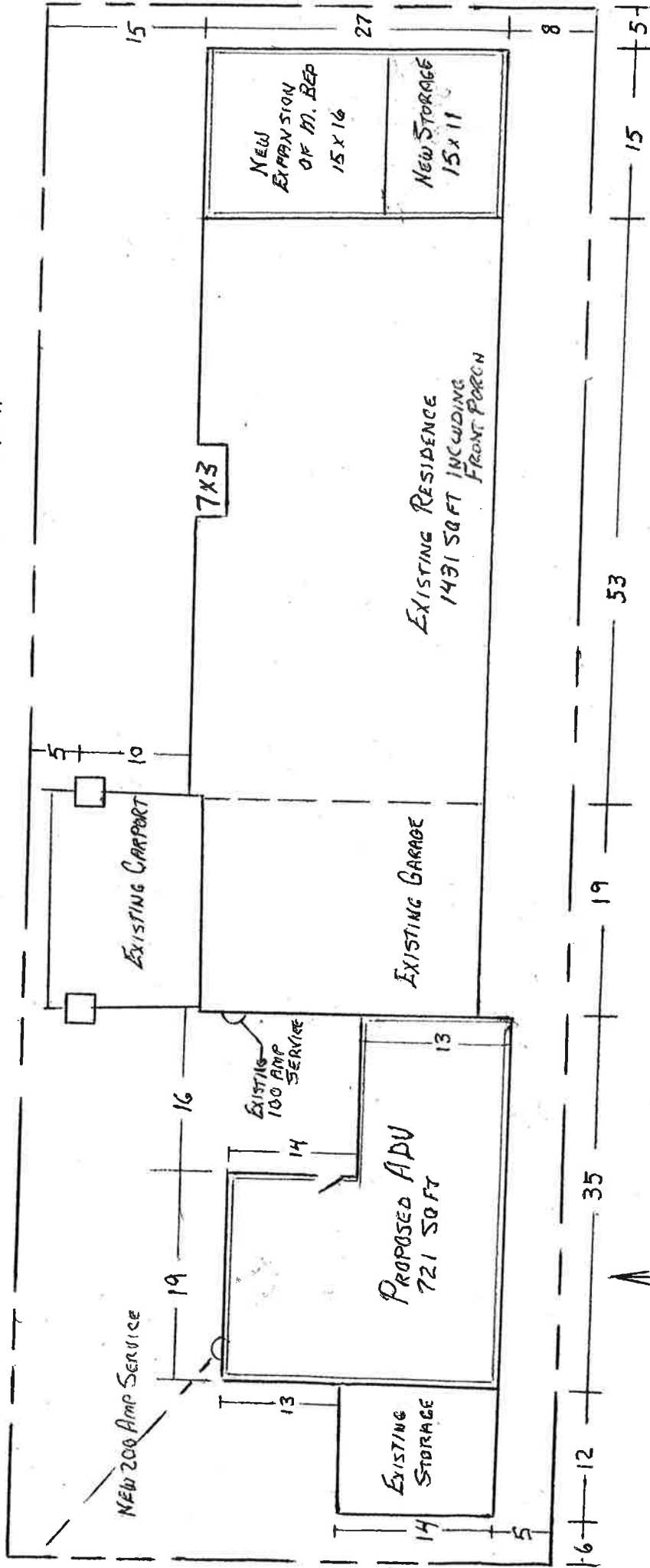
(If different from Applicant)

By: Signature: [Redacted]
Printed Name Phyllis Price
Title: Owner

By: Signature: _____
Printed Name _____
Title: _____

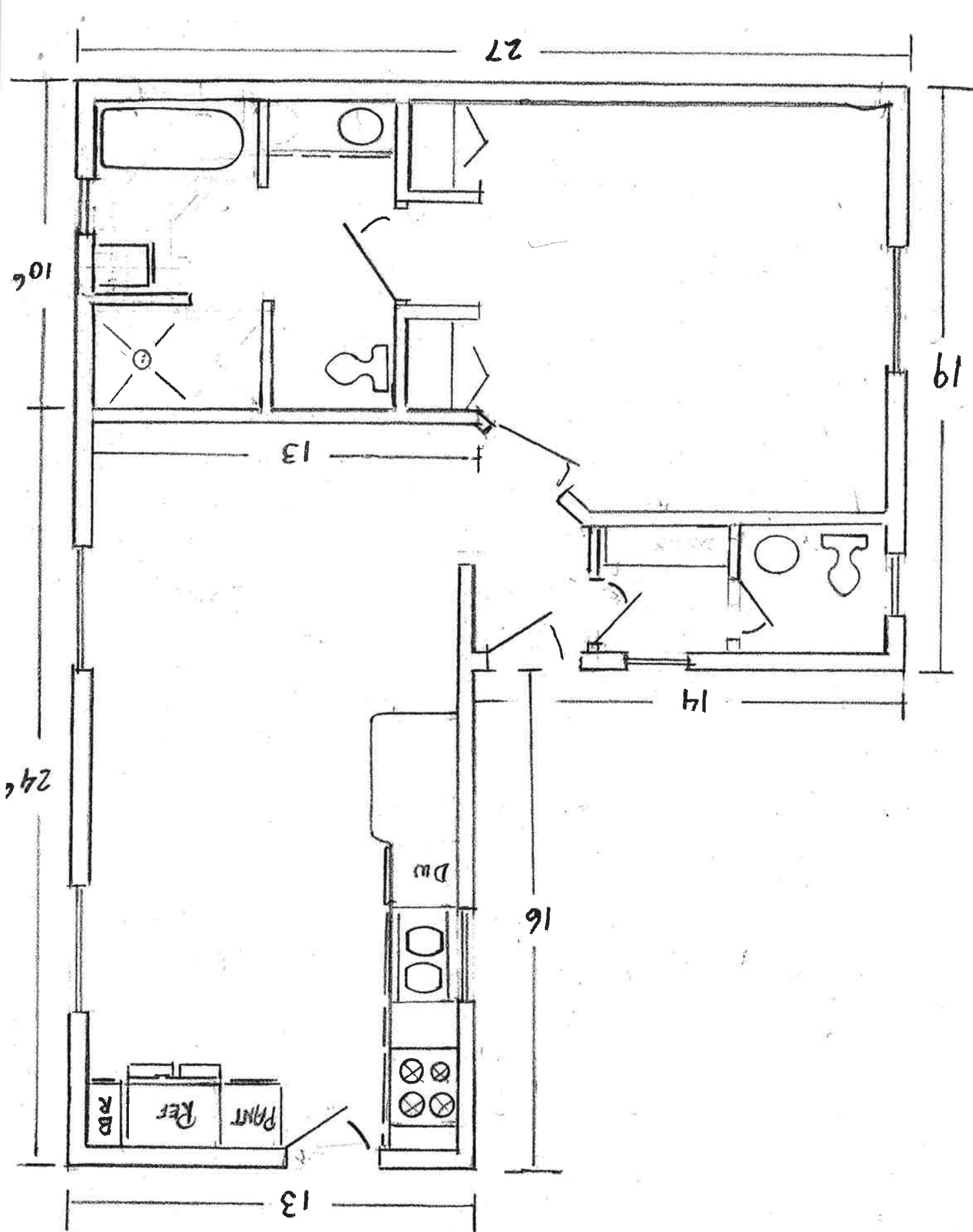
PROPOSED EXPANSION,
STORAGE AREA, & ADU

BOB & PHYLLIS PRICE
204 W 5TH ST
IMPERIAL, CA.
204 W 5TH ST
IMPERIAL, CA.



SCALE 3/4" = 10'

LOT SIZE 145x50



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;

The following properties within the City of Imperial are located on corner lots and have structures that extend similar to the request we have made. All properties are located within neighborhoods similar to ours located at 204 5th Street and have been previously approved by city officials.

- 307 5th Street
- 204 6th Street
- Northwest Corner of 12th & G Streets
- Southeast Corner of 12th & F Streets
- 298 Canon Drive
- 502 H Street
- 521 E Street
- 421 4th Street

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,

The house is located on a corner lot with no neighbors to the east where the proposed addition will be built. The addition to the house will not impede sidewalks or walkways, it will not create any obstruction for motorists approaching the intersection and will not be detrimental to other property owners or safety personnel needing access to any neighboring structures or homes.

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.

Approval of our request for variance is not a grant of special privilege. There are several homes within the City of Imperial with structures built on properties similar to our request that have been previously approved by city officials. A list of these properties are as follows:

- 307 5th Street
- 204 6th Street
- Northwest Corner of 12th & G Streets
- Southeast Corner of 12th & F Streets
- 298 Canon Drive
- 502 H Street
- 521 E Street
- 421 4th Street