



**CITY OF TWENTYNINE PALMS
STAFF REPORT**
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To: Planning Commission
From: Community Development Director
Date: June 6, 2006
RE: PC 06-45 - An application by Rocky L. Moore for a Variance to the RS-4 zone development standards, to allow a 5' side yard setback to allow for the construction of a 575 sq. ft. garage and a conversion of the existing garage into living area, at 6809 Ivanpah Avenue, Zone RS-4, T1N, R8E, Section 33, APN # 0614-072-09.

RECOMMENDATION: Conduct the Public Hearing, make the appropriate findings and approve the Variance, subject to compliance with City standards for new construction.

BACKGROUND: On May 1, 2006, the applicant submitted this application requesting a Variance to the RS-4 zone development standards, to allow a 5' side yard setback, (where a 10' side yard setback is required) for the construction of a new garage and to convert the existing garage to living area.

Pursuant to Section 19.34.040 of the Development Code, the applicant seeks a five feet (50%) reduction to the side yard setback requirement. Under the RS-4 land use standards, a ten-foot side yard is required.

- | Attachments |
|------------------------|
| • Vicinity Map |
| • Application |
| • Site pla |
| • Assessors Parcel Map |
| • Resolution 06-03 |

Surrounding Land Use, General Plan and Zoning Designations

	Land Use	General Plan
Site	RS-4	RS-4
North	RS-4	RS-4
East	RS-4	RS-4
South	RS-4	RS-4
West	RS-4	RS-4

The land use, an existing single-family residence, is consistent with the General Plan and Zoning Ordinance. The project, construction of a new 575 square foot garage and conversion of the existing garage into additional living area, can be constructed in a manner consistent with the Development Code.

A windshield survey was conducted of the neighborhood. The development pattern for this neighborhood, as originally permitted under San Bernardino County, includes five dwelling units with five-foot side yard setbacks for both side yards. The residence in question presently has a 5' side yard setback on the south side yard and a 28' setback on the south side yard. Approval of this application would allow 5' side yard setbacks in both side yards.

CEQA

Pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines, the project, which consists of the construction of a minor addition to an existing structure, is Categoricaly Exempt from further environmental review under state law.

Variance

The State of California Government Code, Article 3, Section 65906 specifies:

- Variances from the terms of the zoning ordinances shall be granted 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.
- Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
- A variance shall not be granted for a parcel of property, which authorizes a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel or property.

In approving a Variance, the Development Code (Section 19.34.050) requires the Planning Commission to make the following findings:

- A. That, because of special circumstances applicable to the property, (size, shape, topography, location or surroundings) or the intended use of the property, the strict application of the Development Code deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning classification; and
- 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 zoning classification; and
- C. That granting the Variance will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements; and
- D. That granting of the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is located; and
- E. That granting the Variance does not allow a use or activity which is prohibited by the zoning regulation governing the parcel; and
- F. That granting the Variance will not be inconsistent with the City of Twentynine Palms General Plan.

The Planning Commission may cite the above facts pertaining to the project's consistency with the General Plan, Zoning, and Redevelopment Plan as Findings in approving this Variance. Staff believes these required Findings can be made and recommends approval of the Variance.

Public Notification

As required by law, owners of property within 300 feet of the subject site have been notified of this proposal. Staff has received no comment regarding the requested Variance.

Approval Authority

Because the Variances requested do not exceed 50% of the required standard, the Planning Commission is the Approval Authority for this project. Therefore, the Planning Commission must determine if the required Findings can be made, and if so, approve the request.

CITY OF TWENTYNINE PALMS
PLANNING COMMISSION
RESOLUTION NO. 06-___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING PC 06-45 – AN APPLICATION BY ROCKY L. MOORE FOR A VARIANCE TO SECTION 19.08.030 OF THE RS-4 ZONE, TO ALLOW A 50% REDUCTION IN THE REQUIRED SIDE YARD SETBACK, FROM TEN FEET TO FIVE FEET, AT 6809 IVANPAH AVENUE, ZONE RS-4, T1N, R8E, SECTION 33, APN # 0614-072-09.

WHEREAS, on May 1, 2006, an application was received from Rocky Moore for approval of a variance to the required side yard setback to allow construction of a new garage; and

WHEREAS, Pursuant to Section 19.34.040 of the Development Code, the applicant seeks a five foot (50%) reduction to the RS-4 zone, ten-foot side yard side yard setback requirement; and

WHEREAS, the land use, an existing single-family residence, is consistent with the General Plan and Zoning Ordinance; and

WHEREAS, the development pattern for the Indian Cove neighborhood, as developed under the County, includes five dwelling units with five-foot side yard setbacks for both side yards; and

WHEREAS, Pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines, the project, a minor addition to an existing structure, is Categorically Exempt from further environmental review under state law; and

WHEREAS, public hearing notice was published in a newspapers of record and notice was mailed to all property owners located within 300 feet of the project site; and

WHEREAS, The State of California Government Code, Article 3, Section 65906 specifies that variances from the terms of the zoning ordinances shall be granted 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; and

WHEREAS, The State of California Government Code, Article 3, Section 65906 further specifies that any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.; and

WHEREAS, The State of California Government Code, Article 3, Section 65906 specifies that a variance shall not be granted for a parcel of property, which authorizes a use or activity, which is not otherwise expressly authorized by the zone regulation governing the parcel or property.

WHEREAS, a public hearing was held by the Planning Commission on June 6, 2006; and

WHEREAS, the Planning Commission finds:

- A. That, because of special circumstances applicable to the property, (size, shape, topography, location or surroundings) or the intended use of the property, the strict application of the Development Code deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning classification; and
- 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 zoning classification; and
- C. That granting the Variance will not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements; and
- D. That granting of the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is located; and
- E. That granting the Variance does not allow a use or activity which is prohibited by the zoning regulation governing the parcel; and
- F. That granting the Variance will not be inconsistent with the City of Twentynine Palms General Plan.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms adopts a Categorical Exemption pursuant to the California Environmental Quality Act (CEQA) and approves the Variance.

APPROVED AND ADOPTED THIS 6th DAY OF June, 2006

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

Irving Stone, Chairman

ATTEST:

Charlene L. Sherwood, City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. _____ duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the _____ day of _____, _____, in Twentynine Palms, California.
Dated this _____ day of _____, _____.