

ATTACHMENT 5

RESOLUTION NO. PC-2019-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE, TO ALLOW AN ACCESSORY BUILDING (ATTACHED GUEST HOUSE AND GARAGE) TO EXCEED THE MAXIMUM HEIGHT OF 16 FEET WHEN LOCATED WITHIN 30 FEET OF A SIDE OR REAR PROPERTY LINE. THE BUILDING IS APPROXIMATELY 17.6 FEET IN HEIGHT, 5 FEET FROM THE SIDE PROPERTY LINE AND 10 FEET FROM THE REAR PROPERTY LINE AT 8968 GRAPEFRUIT AVENUE (VAR19-00003)

WHEREAS, Heraclio Herrera has filed an application requesting approval of Variance VAR19-00003 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a 0.6 gross acre lot within the Single-family Residence with a minimum lot size of 18,000 square feet (R1-18000) designation located at 8968 Grapefruit Avenue and consists of Assessor's Parcel Number 0411-271-18; and

WHEREAS, the Application, as contemplated, proposes to exceed the 16-foot height requirement, and encroach into the required 30-foot side and rear setbacks. The applicant proposes an accessory building with an average height of 17.6 feet, a 10-foot rear yard setback, and a five-foot side yard setback; and

WHEREAS, the Application applies to a developed single-family residential property. Surrounding properties also contain single-family residences; and

WHEREAS, the site as well as all surrounding properties are within the Single-family Residence with a minimum lot size of 18,000 square feet (R1-18000) designation; and

WHEREAS, the project is exempt from the California Environmental Quality Act (CEQA) per Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on September 12, 2019, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The strict or literal interpretation and enforcement of the specified regulations would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the development code because strict enforcement of the setback requirements, as well as requiring the building to be placed outside of the natural drainage course would limit the property owner in building an accessory building on the property;
- (b) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same land use designation because the property experiences intermittent flooding along a natural drainage course that runs through the property. The accessory building must be placed outside areas that are prone to flooding and necessitate encroachment into the side and rear setbacks;
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same designation because enforcement of the 30-foot setback in addition to not being able to build within the natural drainage course limits the area by which to place an accessory building. This deprives the property owner from building an accessory building that surrounding properties are allowed to have;
- (d) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same designation because the property has specific limitations limited to the property that necessitate encroachment into the side yard and rear yard setbacks; and dictate the location of the accessory building; and
- (e) The granting of the Variance will not be detrimental to the public health, safety, or welfare or be materially injurious to properties or improvements in the vicinity because the accessory building will maintain a 5-foot setback from the north property line and a 10-foot setback from the west property line, which complies with the required Fire and Building Codes.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR19-00003.

Section 4. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 12th day of September 2019.

Cody Leis, Chair, Planning Commission

ATTEST:

Amanda Malone, Secretary, Planning Commission