



City of Pittsburg Planning Commission Agenda

02/13/2024

**City Hall Council Chamber
65 Civic Avenue, Pittsburg, CA 94565**

**Regular Meeting
7:00 P.M.**

Planning Commission Members

**Ivelina Popova, Chair
Arlene Kobata, Vice-Chair
Sarah Foster, Commissioner
Vacant, Commissioner
Vacant, Commissioner
Donna Smith, Commissioner
Elissa Robinson, Commissioner**

Any member of the public who wishes to address the Commission should complete a Speaker's Card, available on the public counter below the dais. Please note on the card the agenda item number, or, for items not listed on this agenda, a brief description of the issue on which you would like to address the Commission. Give the completed form to the Minutes Clerk or a staff member, who will give the card to the Commission Chair. The Chair will invite the speaker(s) to the podium at the appropriate time during the meeting. Each individual will be given three minutes to address the Commission, unless additional time is allowed as provided for spokespersons. Prior to speaking, each speaker is requested to state his or her name and business and city of residence in a clear and audible tone of voice. For items listed under the "Public Hearings" or "Commission Consideration" portions of this agenda, the public hearing or public comment period will follow a brief presentation on the item by Planning Department staff and/or the project applicant.

A decision by the Planning Commission is not final until the appeal period expires 10 calendar days after the date the decision occurred. The applicant, City Council member(s), City Manager, or any affected person may appeal the denial, approval, recommendation, or any condition of approval of an item within the 10-day appeal period. A completed appeal form and the applicable filing fee must be filed with the City Planner, 65 Civic Avenue, Pittsburg. The appeal form must include the name and address of the appellant and state the reasons for the appeal. The appeal will be set for City Council consideration and appropriate public notification given.

The Commission requests that you refrain from disruptive conduct during the meeting and that you observe the order and decorum of the Council Chamber. Please turn off or set to vibrate all cellular phones, and refrain from making personal, impertinent or slanderous remarks. Boisterous or disruptive behavior while the Commission is in session, and the display of signs in a manner that violates the rights of others or prevents others from watching or fully participating in the Planning Commission meeting is considered counterproductive and will not be tolerated, and the Commission Chair can order any person who engages in such conduct to leave the Council Chamber.

This agenda was posted in City Hall on Friday, February 9, 2024

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

DELETIONS, WITHDRAWALS OR CONTINUANCES

COMMENTS FROM THE AUDIENCE

CONSENT

1. **Minutes**
Minutes of January 23, 2024

PUBLIC HEARINGS

2. **Appeal of the Zoning Administrator Determination to Approve a Variance to reduce the required rear and side-yard setback from four-feet (4') to one-foot, eight-inches (1'8") to permit the construction of an Accessory Dwelling Unit at 298 Rose Ann Avenue, AP-23-0058 (VA)**
Variance Application to allow a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District.

Environmental: This item is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, "Minor alterations to existing facilities" of the State CEQA Guidelines, section 15301. Pursuant to the provisions of the CEQA Guidelines, a Notice of Exemption (NOE) was prepared for the proposed project. Following the Zoning Administrator's determination, the NOE was filed with the Contra Costa County and posted to the State Office of Planning and Research website on October 5, 2023.

STAFF COMMUNICATIONS

COMMITTEE REPORTS

ADJOURNMENT OF PLANNING COMMISSION MEETING

NOTICE TO PUBLIC

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the city of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Commission meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the city to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

GENERAL INFORMATION

Copies of the open session agenda packets that are distributed to the Planning Commission are on file in the office of the Planning Department, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning no fewer than 72 hours in advance of the meeting, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except city holidays). Additionally, if any reports or documents that are public records are distributed to the Planning Commission fewer than 72 hours before the meeting, those reports and documents will also be available for public inspection in the city's Planning Department and at the Commission meeting. The Pittsburg Library is also provided a full agenda packet for your convenience. As a courtesy, the agenda is also located on the city's website at www.ci.pittsburg.ca.us.

**MINUTES
OF A REGULAR MEETING
OF THE
PITTSBURG PLANNING COMMISSION**

January 23, 2024

A regular meeting of the Pittsburg Planning Commission was called to order by Chair Popova at 7:00 p.m. on Tuesday, January 23, 2024 at the City of Pittsburg Marina Center, 340 Marina Boulevard, Pittsburg, California.

ROLL CALL

Present: Chair Popova, Vice-Chair Kobata, Commissioners Foster, Robinson, Smith

Staff: City Attorney Donna Mooney, Director of Community and Economic Development Jordan Davis, Assistant Director of Community and Economic Development John Funderburg, Associate Planner Alison Hodgkin, Associate Planner Kelsey Gunter, Administrative Analyst I Candace Hatch

PLEDGE OF ALLEGIANCE

Vice-Chair Kobata led the Pledge of Allegiance.

DELETIONS / WITHDRAWALS / CONTINUANCES

There were no deletions, withdrawals or continuances.

COMMENTS FROM THE AUDIENCE

There were no comments from the audience.

CONSENT

1. Minutes of December 12, 2023

On motion by Commissioner Robinson, seconded by Commissioner Foster to approve the consent item and carried by the following vote:

AYES: Foster, Kobata, Popova, Robinson, Smith
NAYES: None
ABSTAIN: None
ABSENT: None

COMMISSION CONSIDERATIONS

2. Modification of Design Review for Pittsburg Solar Recreational Vehicle/Boat Storage Leasing Office, AP-23-0125 (DR)

A presentation was made to the Planning Commission by Associate Planner Alison Hodgkin for recommendations to approve a request to modify the Design Review approval originally granted by the Planning Commission on June 14, 2022, in Resolution No. 10190 (AP-21-1588 (UP, DR) allowing a 1,243 square foot (sq. ft.) leasing office for Pittsburg Solar Recreational Vehicle (RV) and Boat Storage located at 3468 Pittsburg-Antioch Highway in the CS (Service Commercial) District. Assessors' Parcel No. 074-100-018.

Applicant Chris Koenig spoke on behalf of the project.

Chair Popova opened the public consideration.

Public comment was received by the following:

Bruce Ohlson, Pittsburg resident.

There being no one to speak further on this item, Chair Popova closed the public consideration.

On motion by Commissioner Foster, for consideration to approve a request to modify the Design Review approval originally granted by the Planning Commission on June 14, 2022, in Resolution No. 10190 (AP-21-1588 (UP, DR) allowing a 1,243 square foot (sq. ft.) leasing office for Pittsburg Solar Recreational Vehicle (RV) and Boat Storage located at 3468 Pittsburg-Antioch Highway, AP-23-0125 (DR), seconded by Vice-Chair Kobata

AYES: Foster, Kobata, Popova, Robinson, Smith

NAYES: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARING

3. Consideration of a Resolution Denying a Use Permit for the Pittsburg Renaissance Day Care Facility, AP-23-0092 (UP)

A public hearing for a Use Permit to establish a "Day Care, General" use within an existing multi-tenant building located at 158 East Third Street. The tenant space is located within the Pedetrian Commercial (CP) Zoning District of Old Town Pittsburg. Assessors' Parcel No. 085-108-011.

Applicant Hong Rosie Pham-Myers spoke on behalf of the project.

Chair Popova opened the public hearing.

Public comment was received by the following:

Isabelle Mussard, Pittsburg business owner

Bruce Ohlson, Pittsburg resident

There being no one to speak further on this item, Chair Popova closed the public hearing.

Chair Popova, reopened the public hearing to receive comments.

Public comment was received by the following:

Isabelle Mussard, Pittsburg business owner.

There being no one to speak further on this item, Chair Popova closed the public hearing.

On motion by Commissioner Foster, to approve a resolution to denying a Use Permit for the Pittsburg Renaissance Day Care Facility, AP-23-0092 (UP) , seconded by Chair Popova

AYES: Foster, Kobata, Popova, Robinson

NAYES: Smith

ABSTAIN: None

ABSENT: None

ZONING ADMINSTRATOR REPROTS

4. The Zoning Administrator submitted two notices of intent to conduct a Zoning Administrator public hearing and one notice of intent to exercise delegated design review for the following:
 1. 1398 Sanctuary Street – Fence Height Exception, AP-24-0002 (FHE) – requesting approval for a permit for a Fence Height Exception to construct a six-foot-tall, tube steel fence with self-closing gate between the public sidewalk and walkway space adjunct to West Lealand Road within the Vista Del Mar (Serene) Subdivision in the PD-170 (Planned Development, Ordinance No. 19-1470) Zoning District. Assessor’s Parcel No. 093-560-067.
 2. 790 W. Leland – Protected Tree Removal, AP-23-0159 (TRP) – requesting approval of a permit to remove nine protected trees, as defined by the Pittsburg Municipal Code (PMC) section 18.84.830.F.
 3. McDonalds 460 Atlantic Avenue – Administrative Design Review, AP-23-1063 (ADR) – requesting approval to modify the driveway through queuing lanes at the existing McDonalds drive through.

STAFF COMMUNICATIONS

Secretary Funderburg provided information and discussed the tentative schedule for upcoming meetings.

Planning Commission Academy that will be held in March.

Two (2) items tentatively scheduled for February 13, 2024, meeting:

1. VR, ADU – Appeal of the Zoning Administrators approval of a variance application to allow a three-foot, seven-inch (3'-7") side- and three-foot (3'.0") rear yard setback, where four feet (4'0") minimum are required, to legalize an existing unpermitted attached 539 square-foot accessory dwelling unit (AD).
2. CP (Pedestrian Commercial) Zone Text Amendments- City initiated updates to the permitted uses in this zone.

One (1) item tentatively scheduled for February 27, 2024, meeting:

1. 2023 General Plan Annual Progress Report – report and update.

There were no further staff communications.

COMMITTEE REPORTS

Commissioner Foster updated the Planning Commission on the recent Trans-Plan meeting.

ADJOURNMENT

The meeting was adjourned at 9:15 p.m. to February 13, 2024.

Respectfully Submitted,

John Funderburg, Secretary

**CITY OF PITTSBURG
PLANNING COMMISSION
STAFF REPORT
FEBRUARY 13, 2024**

ITEM: Appeal of the Zoning Administrator Determination to Approve a Variance to reduce the required rear and side-yard setback from four-feet (4') to one-foot, eight-inches (1'8") to permit the construction of an Accessory Dwelling Unit at 298 Rose Ann Avenue, AP-23-0058 (VA)

ORIGINATED BY: Patricia Aliotti, 292 Rose Ann Avenue, Pittsburg, CA 94565

SUBJECT:

Variance Application to allow a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District.

RECOMMENDATION:

Move to adopt a Resolution denying the Appeal and upholding the Zoning Administrators determination for approval of Variance Application No. 23-0058 subject to conditions.

BACKGROUND:

On December 6, 2022, the Building Division issued a Stop Work order for construction of an ADU without obtaining a Building Permit at 298 Rose Ann Avenue. A Notice to Comply was provided to the applicant on February 10, 2023, and they were instructed to speak with the Planning Division regarding the development regulations for the construction of the ADU. The property owner spoke with the Planning Division and stated, the proposed ADU is to be located on the western property line and southern property line. The property owner further stated they would like a setback of twenty-two inches (22"). After speaking with planning staff and due to constraints of construction and permitting cost, the applicant revised the proposed plan to include a 731 square-foot ADU and increased the setbacks from twenty-two inches (22") to four feet (4') from the western property line and one-foot, eight-inches (1'8") on the southern and eastern property lines.

Because of the proposed setbacks from the property lines, the property owner filed a Variance application on June 7, 2023, to legalize the ADU and a reduction in the required setback for the RS-5 zone. Pursuant to PMC 18.28.020.B. the authority to grant a Variance is reserved for the Zoning Administrator. The Notice of Intent to Conduct a Zoning Administrator public hearing for this item was provided to the Planning Commission on September 26, 2023. The Planning Commission at this hearing reviewed the request and had no concerns regarding the proposed request.

Zoning Administrator Hearing

On September 27, 2023, the Zoning Administrator held the hearing to review the Variance request. Prior to the Zoning Administrator hearing staff received a letter in opposition to the project from the neighboring property owner (Appellant- Patricia Aliotti.) A copy of the letter has been included within the Attachments for reference.

At this hearing staff also received a written request from the project applicant (Rossanna Coronado) constructing the ADU seeking a continuance of the hearing. The Zoning Administrator reviewed the request and continued the public hearing to October 4, 2023.

On October 4, 2023, the Zoning Administrator held a duly noticed public meeting on the proposed project and opened the public hearing to testimony. The property owner of 298 Rose Ann Avenue and applicant of Planning Application No. AP-23-0058 spoke in support of the project by stating she would like to construct the proposed ADU to support her immediate family. The proposed ADU would house her 87-year-old father and ill sister and children. The adjacent neighbor (Patricia Aliotti) spoke in opposition to the project and stated she disapproved of the setbacks. Additionally, she raised concerns regarding the runoff and drainage for the ADU as her property flooded last year and believed it to be from the project site located at 298 Rose Ann Avenue.

After considering all public testimony and review of the staff report, the Zoning Administrator adopted Resolution No. 408 approving the Variance setbacks to allow a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU). for, 298 Rose Ann Avenue.

On October 13, 2023, Patricia Aliotti, filed an appeal to the Planning Commission of the Zoning Administrator's determination. The appellant's primary reasons for the appeal include: 1) legality of the construction of the proposed ADU, 2) proposed setbacks and 3) a concern that the proposed ADU is unfair to them as a neighboring property owner.

Pursuant to PMC Section 18.18.050 Designation of hearing body on appeal. The Planning Commission shall hear an appeal from the decision of the planning staff and the Zoning Administrator.

Project Appeal Statements

The appeal consists of several statements or questions intended to express concerns regarding the construction and distance to property lines of the proposed ADU. Responses to these statements are below.

Comment No. 1: *Started an ADU at the end of 2022 with no permits or notification to the City of Pittsburg.*

Response: While the property owner did not have the privilege of beginning the construction of the ADU with permits; once the Building Inspector visited the property to inform the property owner of the permit requirement, the property owner did not continue with construction. The property owner complied with the requirements of the Notice to Comply and spoke to the Planning Division in order to discuss development regulations and appropriate steps moving forward.

Comment No. 2: *There is a foundation built with a distance of one-foot and eight-inches. The law requires four feet. The City of Pittsburg wants to legalize an unpermitted building that is now there and halfway built.*

Response: State of California Government Code Section 65852.2 includes language that allows the City or jurisdiction to establish a setback for proposed ADU's of no more than four feet from the side and rear property lines. Government Code Section 65852.2 also further requires a jurisdiction to ministerially approve an application for a building permit within a residential zone to create an ADU that complies with the side and rear setbacks sufficient for fire and safety. The 2022 Building Code requires any structures or building within the five-foot setback of the property line construct a 1-hour fire resistant wall. Conditions of approval have been placed within the Resolution to address full compliance with these regulations.

Comment No. 3: *Continuing construction and legalizing what is now there being constructed unpermitted.*

Response: The property owner of 298 Rose Ann Avenue did not continue construction after a Stop Work Order was issued on behalf of the Building Division. Construction has not resumed since the Stop Work Order was issued on December 6, 2022. A Variance is an application that legally establishes deviations from typical development regulations such as setbacks. Should the Planning Commission uphold the Zoning Administrator's determination to approve the requested setbacks, the property owner will comply with all the recommended conditions of approval and secure all necessary permits.

Comment No. 4: *I have consulted with a construction company who has told me the incorrect distance can be demolished and corrected very easily to the required legal four-foot distance from the property line to the ADU. The distance should be corrected, to follow the legal process that should have been followed last year.*

Response: The property owner has reduced the size of the proposed ADU due to cost constraints, however, limiting the ADU to meet a 4' setback would result in a reduction of 159 square-feet. This would significantly modify the size of the proposed ADU, and not provide adequate living space. A Variance allows for relief of the current four-foot development regulations, if required findings can be made.

The attached Memorandum from staff dated September 27, 2023; further explains and elaborates all findings can be made in the affirmative for this Variance request.

Comment No. 5: *The approval is not right and also not fair to me. They are being granted something I feel is not right or fair to me.*

Response: Pursuant to PMC section 18.16.050, the Zoning Administrator may grant a Variance from the required rear and side-yard setback if all the findings can be made in the affirmative. The Zoning Administrator was able to make all the findings below in the affirmative.

- a. Because of special circumstances concerning the subject property including size, shape, topography, location or surroundings, the strict application of zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same land use district; and

This finding can be made because the framing and foundation of the ADU is constructed and constrained to only occupy the rear one third of the lot as it is. Thereby, a reduced side and rear setback would be needed to ensure the ADU could be constructed at 731 square-feet. Compliance with the applicable setback regulation at that location would necessitate demolition of approximately 159 square feet of the modest 731 square-foot ADU, resulting in only a 572 square-foot ADU.

- b. The Variance will not constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district; and

This finding can be made neighboring parcels within the same zoning district are able to construct ADU's. Granting a variance will not be materially detrimental to other properties or set a significant land use precedent.

- c. The Variance substantially complies with the intent and purpose of the land use district to which the property is classified.

This finding can be made because ADUs are permitted uses in the RS-5 zone and essential in addressing the ongoing affordable housing crisis in California. In this regard, reducing the rear and side yard setback Variance to allow for the ADU substantially complies with the intent and purpose of the RS-5 land use district.

GENERAL PLAN/CODE COMPLIANCE:

The subject site is in the RS-5 (Single-Family Residential, 5,000 Square Foot Minimum) District. Pittsburg Municipal Code (PMC) section 18.50.315 allows for the establishment of ADU's in residentially zoned districts, subject to prescribed size, height, and setback standards. The proposed detached ADU meets the height and size requirements but is seeking relief to meet the four-foot minimum rear and side-yard setback requirement.

The applicant therefore is requesting a side and rear yard setback Variance to reduce the required four-foot (4'0") setback to one-foot, eight-inches (1'8").

Environmental: This item is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, "Minor alterations to existing facilities" of the State CEQA Guidelines, section 15301. Pursuant to the provisions of the CEQA Guidelines, a Notice of Exemption (NOE) was prepared for the proposed project. Following the Zoning Administrator's determination, the NOE was filed with the Contra Costa County and posted to the State Office of Planning and Research website on October 5, 2023.

Public Notice: On or prior to February 2, 2024, notice of the February 13, 2024 public hearing was posted at City Hall, near the subject site, and on the 'Public Notices' section of the City's website; the notice was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburg Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on www.nextdoor.com (Nextdoor) and was sent directly to all subscribed residents in the "Woodland Hills" neighborhood.

ANAYLSIS:

An appeal before the Planning Commission is De Novo, meaning the Planning Commission shall hear the appeal as a new matter. The Planning Commission, as reviewing body, may reverse or affirm in whole or in part, or may modify the determination of the Zoning Administration (PMC Section 18.18.060).

In order to uphold the Zoning Administrator's determination for the Variance application, the Planning Commission must determine the proposed ADU complies with the required findings contained in PMC Section 18.16.050, including the strict application of zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same land use district; the Variance will not constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district; and the Variance substantially complies with the intent and purpose of the land use district to which the property is classified.

Staff does not believe that the appellant's reasons for appeal provide sufficient basis for the Planning Commission to deny approval of the Variance application. The appeal request and opposition letter do not provide a sufficient basis for denial of the Variance application.

The proposed project would be consistent with the City's Zoning Ordinance and is allowing the opportunity afforded to other property owners within the RS-5 (Single-Family Residential 5,000 Square Foot Minimum) Zone to construct ADU's. Also, the proposed ADU is in compliance with recent California Legislation that declares allowing ADU's in zones that allow single-family uses provides additional rental housing and is an essential component in addressing California's housing needs.

Furthermore, the State of California encourages the development of ADU's to address the Housing Crisis Act as declared in 2019 to encourage housing production. In 2020, Government Code Section 65852.2 was amended to provide relief to property owners to allow the construction of ADU's. Additionally, current legislation also promotes the construction of ADU's outright by requiring all ADU's that comply with minimum requirements are processed as ministerial applications and shall not be processed as a discretionary application, nor require discretionary review or hearing, only requiring a building permit.

As described above, the construction of an ADU is consistent with California State Law, the General Plan, and zoning designation of the property.

Additionally, the Engineering Division has reviewed and addressed the concerns regarding runoff and drainage. The City Building Official has completed a review of the proposed project and requires additional conditions regarding life and safety. The conditions of approval have been modified to ensure the proposed ADU complies with all requirements set forth within the 2022 California Building Code. As identified in the attached Resolution, conditions require the project applicant to comply with all conditions on behalf of the Building and Engineering Divisions.

The property owner has agreed to the conditions of installing a gutter to address runoff, installing proper drainage for the ADU, and complying with all requirements of the 2022 California Building Code.

Staff believes that the Planning Commission can support the project as it was presented to the Zoning Administrator. Staff has proposed a Resolution denying the appeal and upholding the adoption by the Planning Commission, as the recommended Conditions of Approval can be implemented to help address runoff, drainage, or life-and-safety concerns.

ACTION REQUIRED:

Move to adopt a Resolution denying the Appeal Application and upholding the Zoning Administrators determination for Variance Application No. 23-0058 subject to conditions.

ATTACHMENTS:

1. Resolution Upholding Zoning Administrators Determination
2. Existing Site Photos
3. 298 Rose Ann Avenue Plans
4. Zoning Administrator Memorandum dated September 27, 2023
5. Zoning Administrator Resolution No. 408
6. Zoning Administrator Minutes October 4, 2023
7. Comment Letter dated September 26, 2023
8. Appeal Application

Report Prepared By: Ariana Ruiz, Assistant Planner

BEFORE THE ZONING ADMINISTRATOR OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Denying an Appeal and)
Upholding Zoning Administration)
Approving a Variance to Allow a One-)
Foot-Eight-Inch (1'-8") Side-Yard Setback,)
where Four Feet (4'-0") Minimum is)
Required, to Legalize an Existing)
Unpermitted 731 Square-Foot Accessory)
Dwelling Unit (ADU) Detached to an)
Existing Single-Family Dwelling Located at)
298 Rose Ann Avenue in the RS-5)
(Single-Family Residential, 5,000 Square)
Feet Minimum) District. Assessor's Parcel)
Number: 086-062-012.)

Resolution No. XXXXX

The Zoning Administrator DOES RESOLVE as follows:

Section 1. Background

- A. On June 7, 2023, Rossanna Coronado filed Planning Application No. 23-0058, requesting Zoning Administrator approval of a variance to allow a one-foot a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District. Assessor's Parcel Number: 086-062-012.
- B. The proposed project is governed by the policies and development standards in the Pittsburgh General Plan and Pittsburgh Municipal Code (PMC) Title 18 (Zoning).
- C. Pursuant to PMC section 18.10.050 and 18.28.020, the Zoning Administrator shall, after notice pursuant to PMC sections 18.14.020(E) and (F) and notice to the Planning Commission, hear and decide each application for a variance, unless the zoning administrator determines that, because of the probable controversial nature of the proposal or because of its significance to the City, the Planning Commission should hear and decide the application.
- D. On September 26, 2023, a Notice of Intent to conduct a Zoning Administrator public hearing pursuant to Pittsburgh Municipal Code (PMC) section 18.10.050 regarding a request for approval of a variance was provided to the Planning Commission
- E. The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, "Minor alterations to existing facilities" of the state CEQA Guidelines, sections 15301.

- F. On or prior to September 15, 2023, notice of the September 27, 2023 public hearing was posted at City Hall, near the subject site, and on the 'Public Notices' section of the city's website; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburgh Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on www.nextdoor.com (Nextdoor) and was sent directly to all subscribed residents in the surrounding neighborhoods.
- G. On September 27, 2023, the Zoning Administrator, upon written request of the applicant continued the public hearing to October 4, 2023.
- H. On October 4, 2023, the Zoning Administrator held a public hearing to consider Planning Application No. 23-0058, at which time oral and/or written testimony was considered and the Zoning Administrator made the determination to approve AP-23-0058 requesting Zoning Administrator approval of a variance to allow a one-foot a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District. Assessor's Parcel Number: 086-062-012.
- I. On October 13, 2023, Patricia Aliotti, pursuant to PMC 18.18.060, filed an appeal to the Planning Commission of the Zoning Administrator's determination. The appellant's primary reasons for the appeal include; 1) legality of the construction of the proposed ADU, 2) proposed setbacks and 3) a concern that the proposed ADU is unfair to them as a neighboring property owner.
- J. On or prior to February 2, 2024, notice of the February 13, 2024 public hearing was posted at City Hall, near the subject site, and on the 'Public Notices' section of the city's website; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburgh Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on www.nextdoor.com (Nextdoor) and was sent directly to all subscribed residents in the surrounding neighborhoods.
- K. On February 13, 2024, the Planning Commission held a public hearing to consider Planning Application No. 23-0146, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on the Staff Report entitled, "Consideration of an Appeal of the Zoning Administrator Determination to Approve a Variance to reduce the required rear and side-yard setback from four-feet (4') to one-foot, eight-inches (1'8") to permit the construction of an Accessory Dwelling Unit at 298 Rose Ann Avenue, AP-23-0058 (VA)," dated October 13, 2023, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available

for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Planning Commission finds that:

1. All recitals above are true and correct and are incorporated herein by reference.
2. There are unique topographical, size, and shape characteristics of the parcels, which create a special circumstance to support a variance for the encroachment of the single-family dwelling units and accessory dwelling units. This finding can be made because the framing and foundation of the ADU is constructed and constrained to only occupy the rear one third of the lot as it is. Thereby, a reduced side and rear setback would be needed to ensure the ADU could be constructed at 731 square-feet. Compliance with the applicable setback regulation at that location would necessitate demolition of approximately 159 square feet of the modest 731 square-foot ADU, resulting in only a 572 square-foot ADU.
3. The variance will not constitute a grant of special privilege which is not generally available to other properties in the vicinity and in the same land use district, because neighboring parcels within the same zoning district are able to construct ADU's. Granting a variance will not be materially detrimental to other properties or set a significant land use precedent.
4. The variance substantially complies with the intent and purpose of the land use district to which the property is classified, because ADUs are permitted uses in the RS-5 zone and essential in addressing the ongoing affordable housing crisis in California. In this regard, reducing the side yard setback Variance to allow for the ADU substantially complies with the intent and purpose of the RS-5 land use district.

Section 3. Decision

Based on the findings set forth above, the Planning Commission hereby denies Planning Application AP-23-0146 and upholds the Zoning Administrator's determination to approve Planning Application No. 23-0058, subject to the following conditions:

1. Conformity with Project Plans. The project shall be developed in substantial conformity with the approved plans, date stamped June 12, 2023, and attached to this resolution as Attachment 2, except as hereinafter may be modified. The Zoning Administrator, in their sole discretion, may allow for minor modifications.
2. Project Plans. Engineering and building plans shall be amended to show existing public utility easements, public access easements, and utility connections. Existing connections that are not directly connected to the City service lines shall be identified and permits shall be submitted to the Engineering Division to make those connections directly to City service lines. All utility connections to City service lines shall be completed prior to final inspection of the building/engineering permit to install the ADU.

Engineering Division Conditions:

3. Location of Mechanical Equipment. AC units shall not be placed in any side yard less than 5 feet unless the location is approved by the City Engineer.
4. Easements. No trees or structures shall be located above the sewer main, water lines, or any other easements located on the property.
5. Runoff. The applicant shall not allow the roof runoff to flow onto adjacent properties. The applicant must install a gutter on the structure and keep the rain runoff on the project site.
6. Downspouts. The ADU shall install downspouts to convey rainwater to the nearest drainage system to prevent water flow to adjacent properties.
7. Connection. Applicant must provide sewer and water connection to existing lateral sewer and water line on the property or connect to the main line on the drawing upon submittal.

Building Division Conditions:

Due to this project being less than 5' from the property line, this project requires a 1-hour fire wall separation tested in accordance with ASTM E119, UL 263 or section 703.3 of the California Building Code with exposure from both sides of the wall. No openings or penetrations allowed on the wall on unprotected non-sprinklered residential buildings. This project also requires 1-hour fire- resistance rated on the projections underside, or heavy timber, or fire rated treated wood. Therefor this project the patio cover must be removed and the ADU cannot have window on any wall less than 5' from property line***

8. On the cover sheet, please indicate the building Design Codes applicable to this project. The City of Pittsburg has adopted and enforces the following building Design Codes: 2022 California Administrative Code (CAC), 2022 California Building (CBC), 2022 California Historical Building Code (CHBC), 2022 California Existing Building Code (CEBC), 2022 California Green Building Standards Code (CGBSC), 2022 California Mechanical Code (CMC), 2022 California Plumbing Code (CPC), 2022 California Electrical Code (CEC), 2022 California Energy Code (CEC Part 6), 2022 California Fire Code and the Pittsburg Municipal Code (RMC). Reference CRC Sec. R106.
9. On the cover sheet, please verify the Drawing Index includes all plan sheets. And design criteria. Reference CRC section R106
10. The preparation of plans and documents shall be prepared by a registered design professional where required per statutes of the City of Pittsburg where the project is being built. The licensed architect or engineer shall affix a stamp to the plans as evidence of the person's responsibility for the documents. Licensed Mechanical, Plumbing and Electrical Contractors may design the systems that they are to install. On plans not required to have a design professional and are designed by a plans designer shall sign every sheet.

11. The Site Plan shall show the size and location of the new construction and existing structures on the site and distances from lot lines and other structures, and include where the residence ties into sewer, power, and water from the street.
12. All supporting documents are included but are not limited to, truss plans and calculations with a letter of approval for the trusses by the EOR. Energy calculations and all other pertinent information for this project.

Standard Conditions:

13. Other Agency Requirements. The applicant shall comply with all requirements of the City Development Services Department, the Contra Costa County Fire Protection District, Delta Diablo Sanitation District and all other applicable local, state and federal agencies. It is the responsibility of the applicant to contact each local, state, or federal agency for requirements that may pertain to this project.
14. Location of Refuse Collection. Refuse bins for collection shall be placed in a location approved by Mt. Diablo Resource Recovery to ensure the company can access the bins.
15. Standard Conditions of Development. The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project, as applicable. Where there is a conflict between Planning Commission Resolution No. 8931 and the conditions identified herein, the specific conditions of this resolution shall apply.
16. Indemnification. Applicant agrees to indemnify, defend, and hold harmless the City of Pittsburg, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. Applicant may select its own legal counsel to represent applicant's interests at applicant's sole cost and expense. Applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.
17. Expiration of Approval. This approval will expire on February 13, 2025, unless a building permit has been issued and the improvements noted herein are diligently pursued to completion, or unless a written request for extension is filed with the Planning Division prior to the expiration date and is subsequently approved by the Zoning Administrator. The approval shall be valid for no more than six months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the applicable building permit.

Section 4. Effective Date

This resolution shall take effect immediately upon adoption of this resolution.

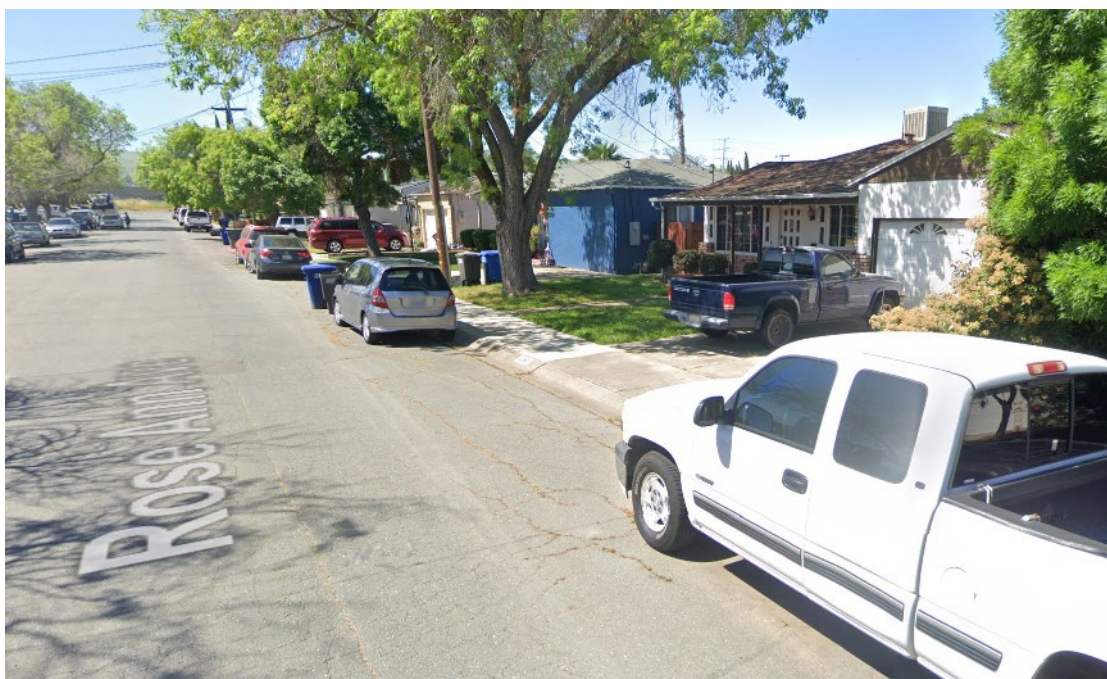
The foregoing resolution was passed and adopted on the 13th day of February 2024, by the Zoning Administrator of the City of Pittsburg, California.

JOHN FUNDERBURG, M.S.
ZONING ADMINSTRATOR

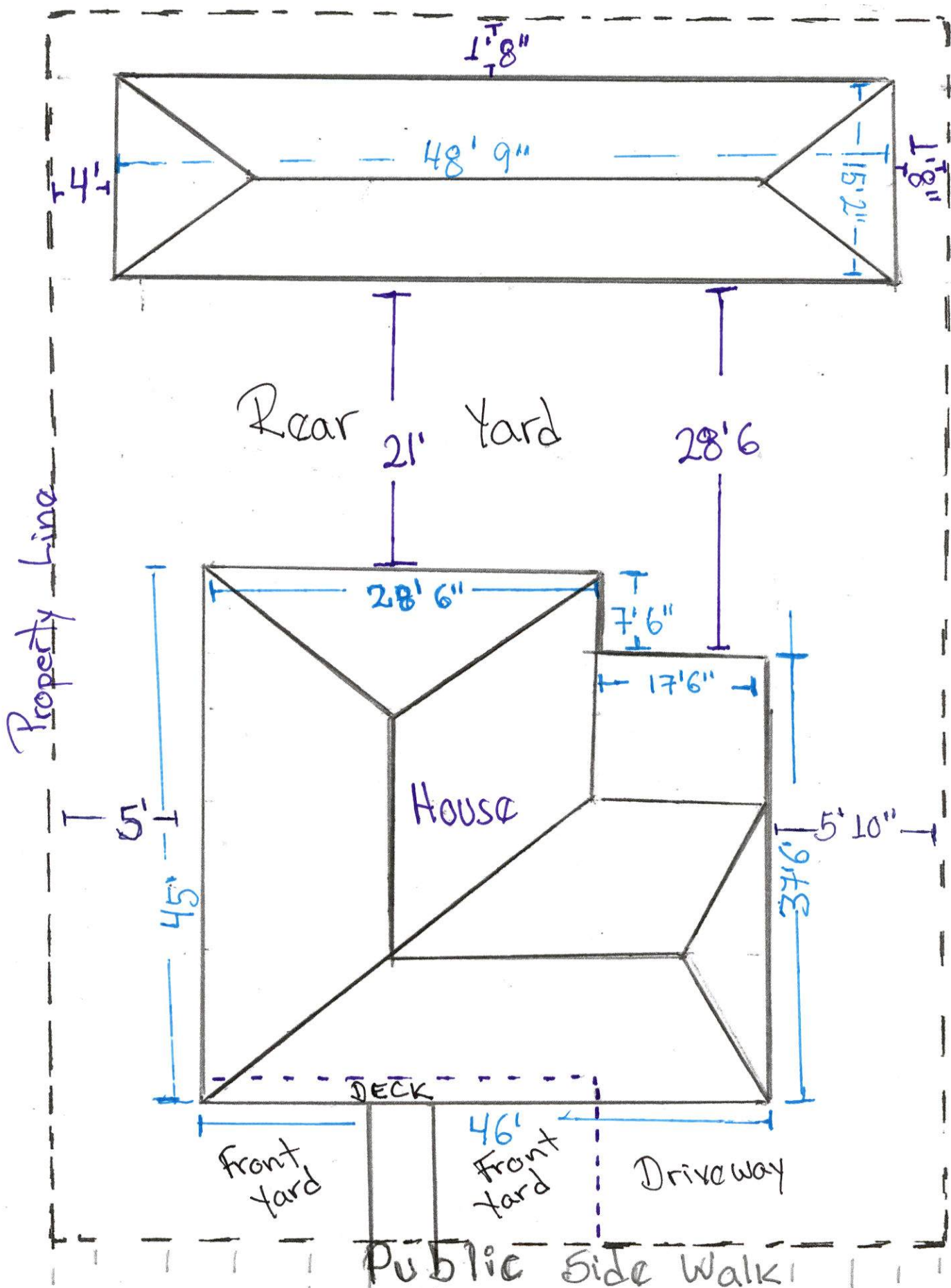
Attachment 3 – Site Photos



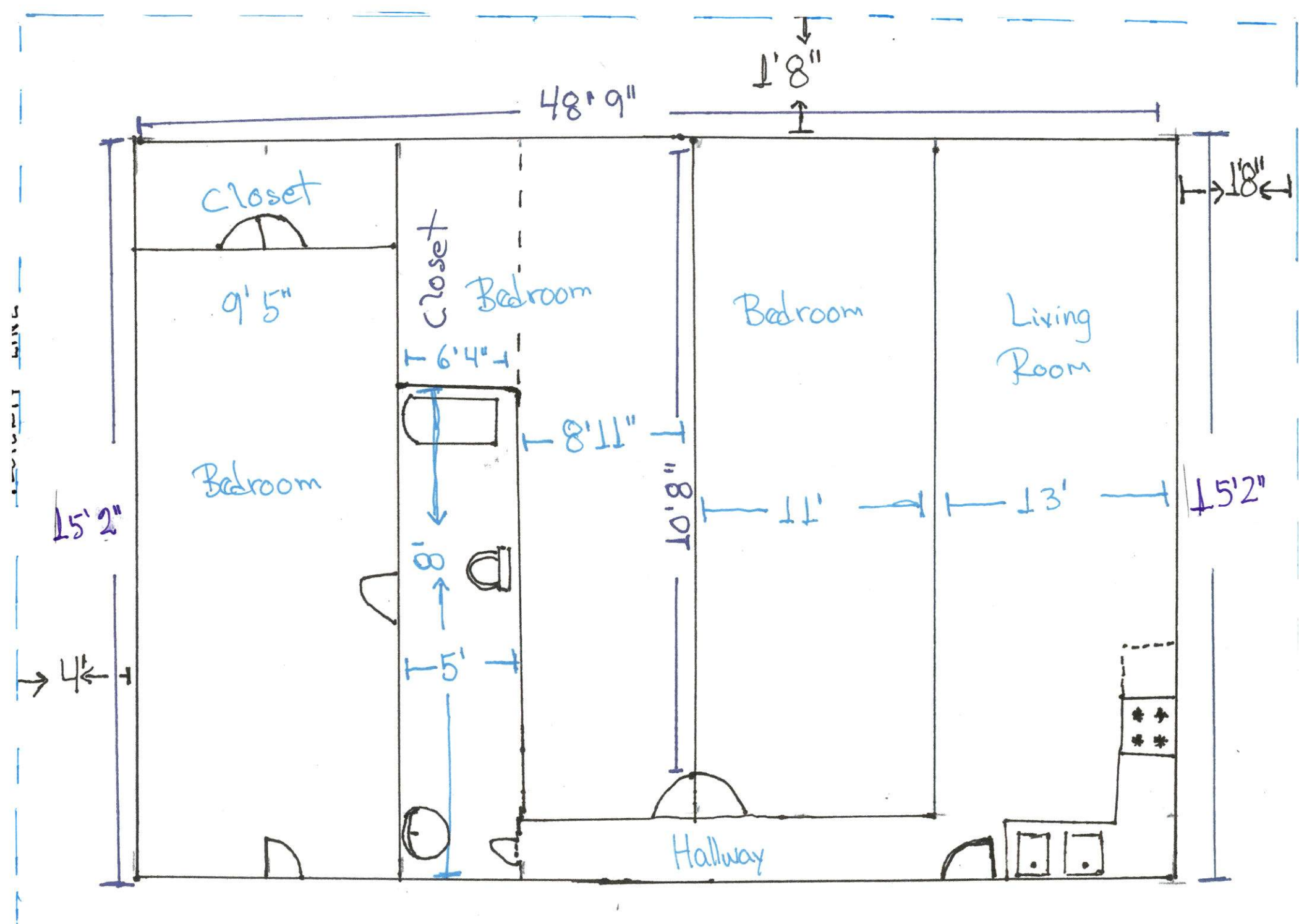
Subject Site – 298 Rose Ann Avenue



Site and adjacent neighbors



298 Rose Ann Ave Pittsburgh





Memorandum

MEMO: September 27, 2023
TO: Zoning Administrator
FROM: Ariana Ruiz, Assistant Planner
RE: **Consideration of a Variance to reduce the required rear and side-yard setback from four-feet (4') to one-foot, eight-inches (1' 8") to permit construction of an Accessory Dwelling Unit at 298 Rose Ann Avenue, AP-23-0058 (VA)**

ORIGINATED BY: Rossanna Coronado, 298 Rose Ann Avenue, Pittsburg, CA 94565

SUBJECT: This is a public hearing on the Zoning Administrator's consideration of a Variance Application to allow a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District. Assessor's Parcel Number: 086-062-012.

RECOMMENDATION: Staff recommends that the Zoning Administrator adopt a Resolution approving Planning Application No. AP-23-0058.

BACKGROUND:

On December 06, 2022, the Building Division issued a Stop Work order for construction without obtaining a Building Permit. A Notice to Comply was provided to the applicant on February 10, 2023, and was instructed to speak with the Planning Division to obtain permission for the location of the structure. The applicant spoke with the Planning Division on February 17, 2023, regarding the proposed structure.

The applicant informed the Planning Division of the construction of a detached ADU of 822 square foot containing three bedrooms, a bathroom, kitchen, and living room area. The ADU was proposed with a setback of zero feet from the western property line and southern property line at the main bedroom of the ADU. A setback of twenty-two inches (22") for the remainder of the ADU follows the southern property line with a twenty-two-inch (22") setback from the eastern property line.

Due to constraints of construction and permitting cost, the Applicant has revised the proposed plans to include a 731 square-foot ADU and increased setbacks to four feet (4') from the western property line and one-foot, eight-inches (1'8") from southern and eastern

property lines.

The applicant is requesting a Variance to allow for the encroachment into the required setback as the ADU is already partially constructed. Final compliance with the applicable side yard setback regulation would necessitate demolition of approximately 159 square feet of the 731 square-foot ADU, resulting in only a 572 square-foot ADU reducing the size of each proposed room.

The Variance application was filed on June 7, 2023. The Notice of Intent to Conduct a Zoning Administrator Public Hearing for this item was provided to the Planning Commission on September 26, 2023.

PROJECT DESCRIPTION:

Existing Conditions: The subject site is a 5,000 square-foot parcel located east of Rose Ann Avenue. The site was originally developed in 1955 and it contains a single-family dwelling.

Proposed Project: The applicant is requesting Zoning Administrator approval of a setback variance to legalize an existing, unpermitted detached ADU. The unpermitted addition encroaches into the required four-foot side-yard setback.

CODE COMPLIANCE:

The subject site is in the RS-5 (Single-Family Residential, 5,000 Square Foot Minimum) District. Pittsburg Municipal Code (PMC) section 18.50.315 allows for the establishment of ADUs in residentially zoned districts, subject to prescribed size, height, and setback standards. The unpermitted detached ADU meets the height and size requirements but fails to meet the four-foot minimum setback requirement. The applicant therefore is requesting a side and rear yard setback Variance to reduce the required four-foot setback to one foot and eight inches.

Required Findings: Pursuant to PMC section 18.16.050, the Zoning Administrator may grant a Variance from the required rear and side-yard setback if they can make the three required findings that:

- a. Because of special circumstances concerning the subject property including size, shape, topography, location or surroundings, the strict application of zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same land use district;
- b. The Variance will not constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district; and

- c. The Variance substantially complies with the intent and purpose of the land use district to which the property is classified.

Environmental: This item is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, "Minor alterations to existing facilities" of the State CEQA Guidelines, section 15301.

Public Noticing: On or prior to September 15, 2023, notice of the September 27, 2023 public hearing was posted at City Hall, near the subject site, and on the 'Public Notices' section of the City's website; the notice was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburg Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on www.nextdoor.com (Nextdoor) and was sent directly to all subscribed residents in the "Woodland Hills" neighborhood.

STAFF ANALYSIS:

Staff believes that the Zoning Administrator can make all the required findings to approve the Variance request for the 731 square-foot ADU addition as explained below:

- a. Because of special circumstances concerning the subject property including size, shape, topography, location or surroundings, the strict application of zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity and in the same land use district;

This finding can be made because the framing and foundation of the ADU is constructed and constrained to only occupy the rear one third of the lot as it is. Thereby, a reduced side and rear setback would be needed to ensure the ADU could be constructed at 731 square-feet. Compliance with the applicable setback regulation at that location would necessitate demolition of approximately 159 square feet of the modest 731 square-foot ADU, resulting in only a 572 square-foot ADU.

- b. The Variance will not constitute a grant of special privilege which is not generally available to other property in the vicinity and in the same land use district; and

This finding can be made neighboring parcels within the same zoning district are able to construct ADU's. Granting a variance will not be materially detrimental to other properties or set a significant land use precedent.

- c. The Variance substantially complies with the intent and purpose of the land use district to which the property is classified.

This finding can be made because ADUs are permitted uses in the RS-5 zone and essential in addressing the ongoing affordable housing crisis in California. In this regard, reducing the rear and side yard setback Variance to allow for the ADU substantially complies with the intent and purpose of the RS-5 land use district.

REQUIRED ACTION:

Move to adopt Resolution 408, approving Variance Application No. AP-23-0058.

ATTACHMENTS:

1. Proposed Resolution
2. Project Plans
3. Site Photos
4. Property Development Regulations
5. Public Hearing Notice/Vicinity Map

BEFORE THE ZONING ADMINISTRATOR OF THE CITY OF PITTSBURG

In the Matter of:

Resolution Approving Variance to Allow a	)	
One-Foot-Eight-Inch (1'-8") Side-Yard	)	
Setback, where Four Feet (4'-0") Minimum	)	
is Required, to Legalize an Existing	)	
Unpermitted 731 Square-Foot Accessory	)	
Dwelling Unit (ADU) Detached to an	)	Resolution No.408
Existing Single-Family Dwelling Located at	)	
298 Rose Ann Avenue in the RS-6	)	
(Single-Family Residential, 5,000 Square	)	
Feet Minimum) District. Assessor's Parcel	)	
Number: 086-062-012.	)	

The Zoning Administrator DOES RESOLVE as follows:

Section 1. Background

- A. On June 7, 2023, Rossanna Coronado filed Planning Application No. 23-0058, requesting Zoning Administrator approval of a variance to allow a one-foot a one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District. Assessor's Parcel Number: 086-062-012.
- B. The proposed project is governed by the policies and development standards in the Pittsburg General Plan and Pittsburg Municipal Code (PMC) Title 18 (Zoning).
- C. Pursuant to PMC section 18.10.050 and 18.28.020, the Zoning Administrator shall, after notice pursuant to PMC sections 18.14.020(E) and (F) and notice to the Planning Commission, hear and decide each application for a variance, unless the zoning administrator determines that, because of the probable controversial nature of the proposal or because of its significance to the City, the Planning Commission should hear and decide the application.
- D. On September 26, 2023, a Notice of Intent to conduct a Zoning Administrator public hearing pursuant to Pittsburg Municipal Code (PMC) section 18.10.050 regarding a request for approval of a variance was provided to the Planning Commission
- E. The proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1, "Minor alterations to existing facilities" of the state CEQA Guidelines, sections 15301.
- F. On or prior to September 15, 2023, notice of the September 27, 2023 public hearing

was posted at City Hall, near the subject site, and on the 'Public Notices' section of the city's website; and was mailed via first class or electronic mail to the applicant, to the property owner, to owners of property located within 300 feet of the project site, and to individuals who had previously filed written request for such notice, in accordance with Pittsburg Municipal Code (PMC) section 18.14.010 and Government Code section 65091. The notice was also posted on www.nextdoor.com (Nextdoor) and was sent directly to all subscribed residents in the surrounding neighborhoods.

- G. On September 27, 2023, the project applicant, Rossana Coronado, submitted a written request seeking a continuance of the hearing. The Zoning Administrator reviewed the request and continued the public hearing to October 4, 2023.
- H. On October 4, 2023, the Zoning Administrator held a public hearing to consider Planning Application No. 23-0058, at which time oral and/or written testimony was considered.

Section 2. Findings

- A. Based on the Zoning Administrator Staff Report entitled, "Consideration of a Variance to reduce the required rear and side-yard setback from four-feet (4') feet to one-foot, eight-inches (1'8") to permit construction of an Accessory Dwelling Unit at 298 Rose Ann Avenue, AP-23-0058 (VA)," dated June 7, 2023, and based on all the information contained in the Planning Division files on the project, incorporated herein by reference and available for review in the Planning Division located at 65 Civic Avenue in Pittsburg, and based on all written and oral testimony presented at the meeting, the Zoning Administrator finds that:
 - 1. All recitals above are true and correct and are incorporated herein by reference.
 - 2. There are unique topographical, size, and shape characteristics of the parcels, which create a special circumstance to support a variance for the encroachment of the single-family dwelling units and accessory dwelling units. This finding can be made because the framing and foundation of the ADU is constructed and constrained to only occupy the rear one third of the lot as it is. Thereby, a reduced side and rear setback would be needed to ensure the ADU could be constructed at 731 square-feet. Compliance with the applicable setback regulation at that location would necessitate demolition of approximately 159 square feet of the modest 731 square-foot ADU, resulting in only a 572 square-foot ADU.
 - 3. The variance will not constitute a grant of special privilege which is not generally available to other properties in the vicinity and in the same land use district, because neighboring parcels within the same zoning district are able to construct ADU's. Granting a variance will not be materially detrimental to other properties or set a significant land use precedent.
 - 4. The variance substantially complies with the intent and purpose of the land use district to which the property is classified, because ADUs are permitted uses in the RS-5 zone and essential in addressing the ongoing affordable housing crisis in California. In this regard, reducing the side yard setback Variance to allow for

the ADU substantially complies with the intent and purpose of the RS-5 land use district.

Section 3. Decision

Based on the findings set forth above, the Zoning Administrator hereby approves Planning Application No. 23-0058, subject to the following conditions:

1. **Conformity with Project Plans.** The project shall be developed in substantial conformity with the approved plans, date stamped June 12, 2023, and attached to this resolution as Attachment 2, except as hereinafter may be modified. The Zoning Administrator, in their sole discretion, may allow for minor modifications.
2. **Location of Mechanical Equipment.** AC units shall not be placed in any side yard less than 5 feet unless the location is approved by the City Engineer.
3. **Easements.** No trees or structures shall be located above the sewer main, water lines, or any other easements located on the property.
4. **Runoff.** The applicant shall not allow the roof runoff to flow onto adjacent properties. The applicant must install a gutter on the structure and keep the rain runoff on the project site.
5. **Project Plans.** Engineering and building plans shall be amended to show existing public utility easements, public access easements, and utility connections. Existing connections that are not directly connected to the City service lines shall be identified and permits shall be submitted to the Engineering Division to make those connections directly to City service lines. All utility connections to City service lines shall be completed prior to final inspection of the building/engineering permit to install the accessory dwelling unit.
6. **Location of Refuse Collection.** Refuse bins for collection shall be placed in a location approved by Mt. Diablo Resource Recovery to ensure the company can access the bins.

Standard Conditions:

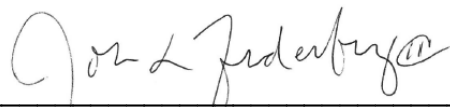
7. **Other Agency Requirements.** The applicant shall comply with all requirements of the City Development Services Department, the Contra Costa County Fire Protection District, Delta Diablo Sanitation District and all other applicable local, state and federal agencies. It is the responsibility of the applicant to contact each local, state, or federal agency for requirements that may pertain to this project.
8. **Standard Conditions of Development.** The Standard Conditions of Development as adopted by the Pittsburg Planning Commission by Resolution No. 8931 shall apply as conditions of approval for this project, as applicable. Where there is a conflict between Planning Commission Resolution No. 8931 and the conditions identified herein, the specific conditions of this resolution shall apply.

9. Indemnification. Applicant agrees to indemnify, defend, and hold harmless the City of Pittsburg, its officials, officers, employees, agents and consultants from any and all administrative, legal or equitable actions or other proceedings instituted by any person challenging the validity of this project approval, subsequent project approval, or other action arising out of, or in connection with, this project approval. The parties shall cooperate in defending such action or proceeding. The parties shall use reasonable efforts to select mutually agreeable defense counsel but, if the parties cannot reach agreement, City may select its own legal counsel at applicant's sole cost and expense. Applicant may select its own legal counsel to represent applicant's interests at applicant's sole cost and expense. Applicant shall pay for City's costs of defense, whether directly or by timely reimbursement to City on a monthly basis. Such costs shall include, but not be limited to, all court costs and attorneys' fees expended by City in defense of any such action or other proceeding, plus staff and City Attorney time spent responding to and defending the claim, action or proceeding.
10. Expiration of Approval. This approval will expire on October 4, 2024, unless a building permit has been issued and the improvements noted herein are diligently pursued to completion, or unless a written request for extension is filed with the Planning Division prior to the expiration date and is subsequently approved by the Zoning Administrator. The approval shall be valid for no more than six months from the date of building or grading permit issuance, unless work is commenced and diligently pursued prior to the expiration of the applicable building permit.

Section 4. Effective Date

This resolution shall take effect immediately upon adoption of this resolution.

The foregoing resolution was passed and adopted on the 4th day of October 2023, by the Zoning Administrator of the City of Pittsburg, California.



JOHN FUNDERBURG, M.S.
ZONING ADMINISTRATOR

PITTSBURG ZONING ADMINISTRATOR MEETING MINUTES

October 4, 2023

A regular meeting of the Pittsburg Zoning Administrator was called to order by Assistant Director of Community and Economic Development, John Funderburg serving as the Zoning Administrator at 2:30 P.M. on Wednesday, October 4, 2023, in the First Floor Conference Room 4B, City Hall, 65 Civic Avenue, Pittsburg, California.

CALL TO ORDER

Staff Present: Assistant Director of Community and Economic Development, Zoning Administrator, John Funderburg, M.S., AICP
Assistant Planner, Ariana Ruiz
Secretary, Kelsey Gunter

POSTING OF AGENDA:

The agenda was posted at City Hall on Friday, September 15, 2023.

DELETIONS, WITHDRAWALS OR CONTINUANCES

There were no deletions, withdrawals or continuances of any item on the agenda.

COMMENTS FROM THE AUDIENCE

There were no comments from the audience on items not on the agenda.

PUBLIC HEARINGS

Item 1: 298 Rose Ann Avenue Setback Variance, AP-23-0058 (VA).

A public hearing on the Zoning Administrator's consideration of a Variance application to allow one-foot, eight-inch (1'-8") side- and rear-yard setbacks, where four feet (4'-0") minimum is required, to legalize an existing unpermitted detached 731 square-foot Accessory Dwelling Unit (ADU) located at 298 Rose Ann Avenue in the RS-5 (Single-Family Residential, 5,000 Square Feet Minimum) District. Assessor's Parcel No. 086-062-012.

Assistant Planner, Ariana Ruiz, presented the staff report and recommended approval of the application, subject to conditions as recommended in the proposed resolution.

Zoning Administrator John Funderburg opened the public hearing.

The applicant of the proposed accessory dwelling unit, Rossanna Coronado, spoke in favor of the item.

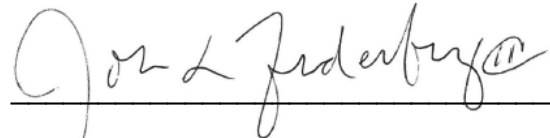
Patricia Aliotti, property owner of 292 Rose Ann Avenue, spoke in opposition of the item.

There being no one to speak further on the item, Mr. Funderburg closed the public hearing.

Mr. Funderburg stated support of approval of the Variance application and adopted the proposed Zoning Administrator Resolution, as conditioned.

ADJOURNMENT

Zoning Administrator John Funderburg adjourned the meeting at 2:58 P.M.



John Funderburg, Zoning Administrator

Comments or objections concerning project at
298 Rose Ann Ave. - Setback Variance, AP-23-0058
(VA)

September 26, 2023:

First of all that comes to mind is this is NOT what I signed up for when my husband and I bought our home in 1976 at 292 Rose Ann Ave, which is next door on the northern side of 298. Last year toward the last few months of 2022, the occupants at 298 started construction of a building which I thought might become storage space, since their garage in their home was already constructed to living space along with their patio area, which is now two living area's that are also now occupied. I believe those two area's were built with NO building permits, to which maybe they thought they can continue to build & construct with NO permits, as they have done with their recent backyard project.

I received a notice of a public hearing on this backyard project on Monday September 18, 2023 informing me and other neighbors of the hearing to be held on September 28, 2023 at 2:30 p.m. I called and spoke with Arianna Ruiz to let her know I would like to see the file on this project. I talked with her on Thursday Sept. 21, 2023, to which she said would not be ready till the end of business that day. I picked up the complete file on Monday September 25 and have read the complete file.

①

I am completely shocked and disheartened by what I have read concerning this project. It seems the construction that was started by the owner at 298 with No Permits or authorization whatsoever, is illegal, and the City of Pittsburg is considering this variance to make everything legal and O.k.. It is NOT, I OBJECT. Instead of granting the occupants/owner at 298 this variance, it seems to me they should be PENALIZED! for something they had no right to start.

After my husband and I have raised our three grown sons here, and now come and go with visits here with ~~my~~^{our} three grandchildren, I now enjoy the Peace and Quiet of my home. I am now extremely worried and concerned what the future holds for me ahead with this Variance project, I now live alone with three chronic health issues of which one is of serious and unpredictable nature. I am now entering what is so called my "Golden Years". Please don't misunderstand me. I love people and children very much. It's just reading and looking at the planned project is extremely worrisome to me because of not knowing how many more people are going to occupy the totality of the whole residential parcel/property. Also the amount of vehicles, trash, garbage, noise, animals/Dogs, to which they already have four or more aggressive/noisy dogs, that I can tolerate now barely and have been for quite a few years.

As of today on September 26, 2023,

②

There are at least Eight-8 occupants now and five-5 vehicles!

As I was speaking with Arianna today at her office, I totally understand the housing crisis and feel bad for that situation, but the City of Pittsburg needs to try to understand my situation also. My south side of my home which has one bedroom, gets no privacy because of the converted Garage/Patio. The 1 ft. 8 inch Variance is very much limiting my back yard / 1 bedroom privacy. If only it would have the 4 ft. space between property line and dwelling and also 1 one, maybe 2 two bedrooms, I don't think that would be too too bad. The planned diagram is frightening! If the planned Variance project is approved, I don't want to land up calling code enforcement every day because of the likely possibilities of problems of all the things that can go BAD! What if your parent was put in my situation??? Please think about that for a minute.

All of the above is my main concern. I'm going to end with some other notations, of are also concerning to me,

- ① Proper Drainage: My backyard flooded last winter of 2022-2023 because of the unfinished dwelling. I have Photo's, Parcel 298 RoseAnn Ave. has no yard, dirt, Lawn for any kind of Drainage so the rainwater flowed & flooded my backyard. 298 has Cement Paver covering the whole backyard, I had to put sandbags around the Southside and Westside backyard foundation

③

of my home because of drainage flowing into my backyard and side-south wall of my home.

- ② Noise: Mainly Backyard where proposed dwelling is to be built. Like today for example, I love having all my windows open for the fresh air, and it is quiet, because there are no people or family's around now living in any backyards. Practically on the property line. Deprive me of the privilege of enjoyment and Privacy of backyard at this time in my life. Especially when ^{children and} grandchildren visit.
- ③ Lighting: Nice and dark + Quiet at night, now.

④ People Traffic: The Single Mom and her son that occupy the garage/Patio room are somewhat Quiet and not too disturbing. They enter through the backyard gate on the south side of my home next to my living room. We get along well. Now who knows how many occupants are going to be moving into the planned variance project? Is there a law as to how many people can live on one Residential property? (Parcel).

⑤ Parking-Vehicles: Critical Problem Now!
Last comment.

I really did not care to bring up my health issues, but I felt it needed to be relayed. I spoke with Arianna about this and she told me it could not be kept private and confidential because this letter is to be public information, which I understand.

④

I felt it needed to be relayed and said for my well being of the situation. If there is any way or any chance of my health issue that can possibly be kept private & Confidential, I would very much appreciate anything that can be done about that. Please.

Talking on the phone with Arianna Ruiz and also meeting with her was wonderful. She was very patient, kind, and professional with me.

Patricia A. Aliotti

9:30 P.m.

September 26, 2023

* 47 peaceful, happy, safe 292 Rose Ann Ave.
Quiet, No problem years at Pittsburg, Cal. f.
94565

925-726-7257

P.S. My Parents live at 356 Rose Ann Ave.
7 houses up from me. I married and left
home in 1975 and moved In at where I
am now at 292 Rose Ann Ave. I've lived on
Rose Ann Ave. all my life, minus 1 one year!
I've always loved living in Pittsburg!
P.H.S. - Golden Jubilee Class of '75. → (5)

If the Variance setback is approved at the public hearing on Sept. 28, 2023, I will be consulting with an attorney immediately, to which I've already consulted with.

I feel this illegal variance project is not right, totally unfair, and wrong. Most concerning is the part of the owner of 298 Rose Ann Ave, to start construction of this dwelling with NO permits, or authorization of any kind. Now the City of Pittsburg is going to approve the wrong they have done. With NO PENALTIES (owner)

As a lifelong resident of Pittsburg, born and raised, and also LAW abiding citizen, I strongly feel and object to the approval of the Variance application at 298 Rose Ann Ave
AP-23-0058 (VA)

AP-23-0146 - Appeal of AP-23-0058

Menu Help

File Date: 10/13/2023

Application Type: Planning Project

Application Status: Incomplete

Description of Work: Appeal of Zoning Administrator Determination of Granting Variance for 298 Rose Ann Avenue Project. Grounds for Appeal: First I am opposing that 298 Rose Ann Avenue starting a A.D.U. at the end of 2022 with NO permits or notification to the City of Pittsburgh. There is now a foundation built with a distance of 1 ft. 8 in. The law requires 4 ft. The City of Pittsburgh wants to legalize a unpermitted building that in now there and half way built. I oppose the 1 ft. 8 in. distance. I oppose the continuing construction of and legalizing what is now there being constructed unpermitted. I have consulted with a construction company who has told me the incorrect distance can be demolished and correct very easily to the required legal 4 ft. distance from the property line to the A.D.U. Just because the foundation is now there and was constructed with no permitted, the distance can and should be corrected, to follow the legal process that should have been followed last year. I feel this this approval is not right and also not fair to me. They are being granted something I feel is not right or fair to me. I oppose the side and rear yard setbacks and legalizing an existing unpermitted detached 731 square ft. A.D.U., among many MANY other issue concerning this project at 298 Rose Ann Avenue.

Assigned To: Ariana Ruiz

Address: 292 Rose Ann Ave. PITTSBURG, CA 94565

Owner Name: ALIOTTI PATRICIA ANN

Owner Address: . PITTSBURG CA

Application Name: Appeal of AP-23-0058

Parcel No: 086062011

Contact Info:	Name	Organization Name	Contact Type	Status
	Patricia Aliotti		Applicant	Active
	Patricia Aliotti		Applicant	Active
	Patricia Aliotti		Property Owner	Active

Licensed Professionals Info:	Primary	License Number	License Type	Name	Business Name	Business License #
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Total Fee Assessed: \$761.00

Total Fee Invoiced: \$761.00

Balance: \$0.00

Workflow Status:	Task	Assigned To	Status	Status Date	Action By
	Application Intake	Ariana Ruiz	Incomplete	11/09/2023	Ariana Ruiz
	Building Review				
	Engineering Review				
	Transporation Review				
	Planning Review				
	External Agencies Review				
	Public Works Review				
	Review Consolidation				
	Staff Report				
	Plans Distribution				
	Public Meeting				
	Decision Notification				
	Appeal Period				
	Case Complete				

Scheduled/Pending Inspections:	Inspection Type	Scheduled Date	Inspector	Status	Comments
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Resulted Inspections:	Inspection Type	Inspection Date	Inspector	Status	Comments
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Documents:	File Name	Document Group	Category	Description	Type	Document Status	Document Status Date
	Doc0190.pdf	PLANNING	Project Plans		application/pdf	Uploaded	10/13/2023
	Show all						

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There is now a foundation built with a distance of 1 ft. 8 in. The law requires 4 ft. The City of Pittsburg wants to legalize a unpermitted building that is now there and half way built. I oppose the 1 ft. 8 in. distance. I oppose the continuing construction and legalizing what is now there being constructed unpermitted.

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