



**STAFF REPORT**  
**2/21/2024**

**TO:** Planning Commission Chair and Commissioners

**FROM:** Adrian Moreno, Associate Planner

**SUBJECT:** Variance 23-04 – Rochin, Setback

**SPECIFICS:** Variance No. 23-04 a request for a for a setback and lot coverage variance for an existing 644 SF patio structure constructed without a permit at 48440 Charlton Peak Street. Applicant: Ramon Rochin.

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**STAFF RECOMMENDATION:**

Staff recommends that the Planning Commission adopt Resolution No. PC 2024-02 denying Variance (VAR) No. 23-04, a request for a setback and lot coverage variance for an existing 644 SF patio structure constructed without a permit at 48440 Charlton Peak Street.

**BACKGROUND:**

The applicant submitted an application for a JADU in June of 2023 where Staff discovered that the patio in the rear yard was not permitted with the City. Due to being an unpermitted structure and the large size of the patio, Staff reached out to the Code Enforcement Division to ensure the property owner submitted a building permit application for the unpermitted patio structure. The applicant submitted a building permit application and Staff sent the applicant a correction letter requiring the applicant to modify the patio to City Standards or remove the patio. The applicant chose to submit a variance application for their request for a setback and lot coverage variance to keep the patio to remain as existing.

**DISCUSSION/ANALYSIS:**

The patio structure is a 14 x 46 structure, with a total 644 SF lot coverage. The subject parcel is 6,969 SF and the existing rear yard setback is 19 feet. The minimum required rear yard is 20 feet per the Coachella Municipal Code (CMC). Per Section 17.60.010(F) of the CMC, lots under 7,200 square feet, an attached patio may encroach into a required rear yard provided a (10) foot setback is provided. The existing patio provides a 4' 7" foot setback from rear property line, 5' 5" feet short of the required 10-foot setback. Accessory structures on a site may not cover more than fifty (50) percent of the required rear yard setback area, per CMC. The patio is at 55% (644 SF) rear yard coverage, which exceeds the 50% (589 SF) required.

Staff has determined that the project does not comply with Findings 1, 2, and 3 of the criteria and requirements required by Section 17.76.020(B) to make the determination to grant a variance. Findings:

Finding 1 – That the strict application of the provisions of this chapter would not result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the chapter the Coachella Municipal Code. The lot is within the S-N Suburban Neighborhood zone and accessory structures are subject to the Development Standards of the Coachella Municipal Code. The required minimum (10) foot setback and maximum 50% rear yard coverage for accessory structures are required for all accessory structures in the S-N Suburban Neighborhood zone. The existing patio structure on the lot never received a permit with the city. The strict application of the code does not result in practical difficulties or unnecessary hardships as the size and shape of the lot is typical for the neighborhood. Similarly, any accessory structure in the S-N Suburban Neighborhood zone is required to receive a permit from the city that meets the minimum setback and maximum rear yard coverage requirements prior to construction. The applicant may modify the unpermitted structure to meet the Coachella Municipal Code requirements and may receive a permit similar to the right any other property in the neighborhood and zone has.

Finding 2 – There are no special circumstances applicable to the subject property such as size, shape, topography, location or surroundings that do not apply generally to other property in the same zone and vicinity. The rear yard on this lot provides a 19 foot setback, near the 20 foot required in the zone, and the size, shape topography, location of the rear yard is typical for the neighborhood. The size of the lot is one foot less than what is required in the Suburban Neighborhood zone, however the lot which provides one foot less than the minimum required does not substantially justify over a 5 foot setback variance for this accessory structure. For the above reasons, there are no special circumstances applicable to the subject property that do not apply generally to other property in the same zone or vicinity, and therefore does not justify the over 5 foot setback variance requested for this accessory structure.

Finding 3 – The variance is not necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity, but which, because of such special circumstances and practical difficulties or unnecessary hardships is denied to the property in question. The applicant maintains the right to modify the unpermitted structure to meet the Coachella Municipal Code requirements and may receive a permit similar to the right any other property in the neighborhood and Suburban Neighborhood (S-N) zone has. As stated in the above findings, there are no special circumstances, practical difficulties, or unnecessary hardships that apply to the subject property. For these reasons, the variance is not necessary for the preservation and enjoyment of a substantial property right.

Staff has determined that the project does comply with Findings 4 and 5 of the criteria and requirements of Section 17.76.020 of the CMC required to make the determination to grant a variance, per the following:

Finding 4 – The granting of the proposed variance would not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located. The existing patio accessory structure would not be detrimental to the public or injurious to the property or improvements in the same zone or vicinity in which the property is located. The patio structure is located in the rear yard of the subject property, only visible along an internal street within the neighborhood, and not visible from the nearest park. The patio structure is subject to the comments received by the Riverside County Fire Department and are subject to the California Building Standards that will ensure the patio would not be permitted without substantially meeting building safety standards.

Finding 5 – The granting of the variance would not adversely affect any element of the General Plan, as the General Plan does not preclude accessory patio structures with a 5-foot setback or less within the Suburban Neighborhood designation.

#### Environmental Setting:

The subject site is at 48440 Charlton Peak Street within the Paloma Estates Subdivision, and the subject property is surrounded by Suburban Neighborhood (S-N) zone uses to the north, south, west, and east.

#### Agency Comments:

Staff received comments from the Fire and Building Department regarding the subject variance application. The Riverside County Fire Department identified that the existing projection is less than the 5 feet required, and will need to be modified or provide plans detailing compliance with fire-resistance rated requirements (Attachment 6). The Building Department did not comment on the approval of the patio as is, and noted that the structure is built of alumawood construction that is non-flammable, therefore of a construction that could occur near the property line. The structural plans provided also meet the minimum structural design requirements for the City (Attachment 7). Staff concludes, per the comments received from the Fire and Building Departments, that granting of the proposed variance to maintain the patio as is, would not be materially detrimental to the public welfare or injurious to the property or improvements in the same zone or vicinity in which the property is located.

#### **ENVIRONMENTAL REVIEW:**

Staff has determined that the proposed project is categorically exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act as “New Construction or Conversion of Small Structures” (CEQA Guidelines, Section 15303). The proposed project consists of the location of a small patio structure.

#### **ALTERNATIVES:**

- 1) Adopt Resolution No. PC2024-02 denying Variance No. 23-04 with the findings as recommended by Staff.

- 2) Not approve Resolution No. PC 2024-02 and request that staff prepare a Planning Commission Resolution for approval of Variance No. 23-04.

### **CONCLUSIONS AND RECOMMENDATIONS**

Based on the analysis contained herein and the findings listed below, staff is recommending that the Planning Commission deny Variance No. 23-04 with the findings listed in Resolution No. PC2024-02.

#### Attachments:

1. Resolution No. PC2024-02
2. Vicinity Map
3. Site Plan
4. Structural Plan
5. Site Photos
6. Riverside County Fire Department Comments
7. City Building Department Comments