

# INDIAN WELLS CITY COUNCIL

## November 6, 2025



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**To:** City Council  
**From:** Community Development Department  
**Prepared by:** Jon Berg, Community Development Director  
**Subject:** **Resolution Approving a Variance for Encroachment into the Side Yard Setback to Construct New Building Additions to an Existing Residence Located at 74589 Palo Verde Drive (APN: 625-461-031)**

### RECOMMENDED ACTIONS:

Council **ADOPTS** Resolution to approve Variance No. 2025-0002, to allow a 3-foot encroachment into the side yard setback to construct new additions to an existing residence located at 74589 Palo Verde Drive (APN: 625-461-031); and

**FINDS** the project to be exempt from the provisions of the California Environmental Quality Act ("CEQA") Guidelines § 15301(e), Existing Facilities, and none of the exceptions in the CEQA Guidelines Section 15300.2 apply to the project.

### BACKGROUND:

The Applicant, Zayda Braun (Architect), on behalf of the Browar family, property owners, has submitted a request for a variance to allow the construction of relatively small building additions that would encroach into the required 8-foot interior side yard setback of an existing residence within the Vintage Country Club, located at 74589 Palo Verde Drive (Attachment 2). The Applicant has requested a variance due to the property's irregular shape and lot dimensions, which results in the need to encroach 3-feet into the side yard setback to accommodate approximately 57 square feet of their proposed 423 square foot addition to their single-family home (Attachment 3).

On October 30, 2025, at a duly noticed public hearing, the Planning Commission unanimously adopted Resolution PC 2025-08 (Attachment 8), recommending that the City Council approve Variance 2025-02. Per the Indian Wells Municipal Code ("IWMC") Section 21.06.050, upon the Planning Commission's formal recommendation, the City Council shall consider Variance requests within residential zones via the Consent Calendar. If no Council member or member of the public requests that the item be removed from the Consent Calendar, the City Council may approve the item by consent. If a Council member or member of the public requests that an item be pulled for

discussion, a duly noticed public hearing must be scheduled for the next regular City Council meeting.

## **ANALYSIS:**

The request is made pursuant to IWMC Section 21.06.050(d), Variances, which requires specific findings to approve any deviation from codified zoning standards. The requirements stated within the IWMC Section 21.06.050(d) are as follows:

- 1. The strict application of this Zoning Code deprives the property of privileges enjoyed by other properties in the vicinity and under identical zoning classification because of unusual circumstances applicable to the property, including size, shape, topography, location, or surroundings.*

Finding: The project site is located within the Vintage Club Residential Development, on a lot zoned Residential Very Low Density ("RVLD") that requires 8-foot interior side yard setbacks within a 12,000 sqft minimum lot size (100' min x 100' min baseline lot dimensions). The subject lot was created in 1983 through Tract Map 14968-7 (Attachment 4), prior to the current RVLD zoning standards established by City Council Ordinance 387. Considering the existing residential home was constructed prior to adoption of the current RVLD standards, portions of the home are currently encroaching the 8-foot side yard setback, rendering the structure "legal non-conforming" as to setback under IWMC Chapter 21.90 (Attachment 5). Pursuant to IWMC Section 21.90.030(c), any additions or alterations to existing legal non-conforming buildings must comply with the current regulations; therefore, the home can be maintained as it currently exists but cannot expand further into the setback based exclusively on its non-conforming status. Consequently, the proposed additions require a variance to facilitate approximately 57 square feet of the proposed 423 square foot addition.

The existing lot was subdivided with substandard lot dimensions measuring 92.3' in width at the rear property line and tapering to 64.5' in width towards the front property line. In addition, the lot is irregularly shaped, with jogging east and west side lot lines, an angled 92.3-foot property rear lot line to the south, and a curvilinear front property line to the north (Attachment 3). The applicant's stated intent is to create a functional, safe, and architecturally consistent space that respects the home's original design (Attachment 6). Adding to the side of the home, in full compliance with the 8-foot side yard setback, would result in awkward jogs and inefficient, unusable interior spaces in the existing house. Such changes would also deviate from the existing architectural style, which currently features clean rectilinear lines and 90-degree angles.

Given the parcel-specific constraints presented and the existing conditions that deprive the property of the privileges enjoyed by other properties under the RVLD

zoning classification, allowing the requested encroachment is a reasonable solution to accommodate the modest additions while maintaining architectural consistency.

2. *The granting of the Variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

Finding: The RVLD development standards have allowed residential development to remain compliant with the standard 20-foot front, 8-foot interior side, and 10-foot rear yard setbacks throughout the Vintage Club. The established setbacks reduce building intensity and maintain public safety personnel's access around the structure.

The proposed building additions will encroach 3 feet into the interior side yard setback and occupy approximately 57 total square feet area within the standard setback area. The new additions will comply with the 12-foot max height regulation at the modified 5-foot setback and will maintain the minimum 36-inch width requirement for emergency access. The building footprint will not encroach into the front or rear yard setbacks, thereby maintaining appropriate emergency access around the entire structure. Considering that the structure will maintain a minimum 5' side yard setback and the absence of any front or rear yard setback encroachment, the proposed additions will not be detrimental to public health, safety, or welfare, nor will they be materially injurious to properties or improvements within the immediate vicinity.

3. *The granting of the Variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the same zoning classification.*

Finding: The variance request is attributed to the property's documented irregular shape and substandard lot dimensions and would facilitate only a small, clearly defined encroachment necessary to achieve a functional plan within the RVLD zone. Historically, the City of Indian Wells has granted variances for similar side yard encroachments due to unique property constraints that meet the required findings.

Other examples of variances that have been granted with similar conditions are listed below:

- Variance No. 2005-05: Reduced interior side yard setback of 5 feet for garage extension.
- Variance No. 2005-08: Permitted an encroachment of 6 feet into the 11-foot side yard setback, resulting in a room addition to be located 5 feet from the side property line.
- Variance No. 2005-10: Permitted an encroachment of 6 feet into the 11-foot side yard setback for a room addition

- Variance No. 2006-01: Permitted an encroachment of 3 feet into the 8-foot side yard setback for a garage addition.

In sum, historical examples of other residential properties granted formal variance approvals based on similar lot constraints support the determination that this variance request is not a special privilege but a reasonable and consistent response to similar site constraints within the same zoning district.

4. *The granting of the Variance does not authorize a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.*

Finding: Approval of this variance does not authorize any use or activity that is not permitted in the RVLG zone. The property will remain a single-family residence with accessory features, and the proposed additions to the existing home will not change the property's use.

Additionally, the Applicant has provided a letter of written approval from the Vintage Club HOA's Architectural and Landscape Committee demonstrating local support for the 3-foot encroachment into the side yard setback (Attachment 7). Any future improvements would require separate review by the Architectural and Landscape Committee of the Vintage Club and the City's Building and Planning Departments.

## **FISCAL IMPACT:**

No fiscal impact.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as the Lead Agency, has determined that the construction of the proposed building additions at this location qualifies as being categorically exempt from CEQA pursuant to Section 15301(e), Existing Facilities, and that none of the exceptions in the CEQA Guidelines Section 15300.2 apply to the project.

## **ATTACHMENTS:**

1. Resolution
2. Aerial Site Maps
3. Site Plan and Elevations – Proposed
4. Tract Map No. 14968-7 (Sheet 8 of 9)
5. Site Plan – Legal Nonconforming Conditions
6. Applicant Justification Letter
7. Vintage Club-HOA Approval Letter
8. Resolution No. PC 2025-08