

# ATTACHMENT #1

## RESOLUTION NO. \_\_\_\_\_

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, APPROVING VARIANCE NO. 2025-0002, TO ALLOW ENCROACHMENT INTO THE INTERIOR SIDE YARD SETBACK TO CONSTRUCT NEW BUILDING ADDITIONS TO AN EXISTING RESIDENCE LOCATED AT 74589 PALO VERDE DRIVE (APN: 625-461-031), FOR WHICH THE PROJECT HAS BEEN FOUND EXEMPT FROM THE PROVISIONS OF CEQA**

**WHEREAS**, Zayda Braun (the "Applicant") has completed an application with the City of Indian Wells for Variance No. 2025-0002 pursuant to Zoning Code Section 21.06.050 to allow a three (3) foot encroachment into the interior side yard setback of an existing residential site located at 74589 Palo Verde Drive, Indian Wells, California, to construct various small additions which requires granting of a variance from the required 8-foot interior side yard setback identified in Zoning Code Section 21.23.050(a) (the "Project"); and

**WHEREAS**, the notice of a public hearing of the Planning Commission of the City of Indian Wells to consider the Applicant's request was given in accordance with applicable law; and

**WHEREAS**, on October 30, 2025, the Planning Commission held a duly noticed public hearing on the Project in conformance with California Government Code and various Indian Wells Municipal Code sections and adopted Resolution No. PC 2025-08 recommending City Council approve the Project; and

**WHEREAS**, on November 6, 2025, the City Council approved the Project on the consent calendar as required under Indian Wells Municipal Code Section 21.06.050; and

**WHEREAS**, after careful consideration of the staff report, public testimony, and all of the information presented at the hearing, the City Council finds the following:

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.

**FACT:** The existing lot was subdivided with substandard dimensions measuring 92.3' in width at the rear property line and tapering to 64.5' in width towards the property's 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. Due to these irregular lot dimensions, the strict application of the Zoning Code deprives the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification.

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.

**FACT:** The proposed building additions will encroach three (3) feet into the required 8-foot interior side yard setback and occupy approximately 57 total square feet of area within the standard building setback area. The building footprint will not encroach into the front or rear yard setbacks, thereby maintaining appropriate emergency access around

the entire structure. Construction must comply with Title 24 of the California Code of Regulations, which establishes minimum standards for building design and construction to safeguard life, health, property, and public welfare. This includes requirements for fire and life safety, structural safety, and access compliance. Therefore, construction of the proposed building additions will not restrict emergency access into or around the site and is not considered detrimental to public health, safety, or welfare, or 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 same zoning classification.

**FACT:** Similar encroachments into the side yard setback for residential building additions have been previously reviewed and approved by the City for the following:

- Variance No. 2005-05: Reduced interior side yard setback of five (5) feet for garage extension.
- Variance No. 2005-08: Permitted an encroachment of six (6) feet into the 11-foot side yard setback, resulting in a room addition located five (5) feet from the side property line.
- Variance No. 2005-10: Permitted an encroachment of six (6) feet into the 11-foot side yard setback for a room addition.
- Variance No. 2006-01: Permitted an encroachment of three (3) feet into the 8-foot side yard setback for a garage addition.

These prior approvals support the conclusion that Variance No. 2025-0002 is not a special privilege but instead represents a reasonable and consistent response to properties with similar site constraints within the same zoning classification.

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.

**FACT:** The new additions to an existing single-family home are permitted use under IWMC Section 21.23.030. The granting of the Variance would not authorize a use that is not otherwise expressly authorized by the Zoning regulations governing the property.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS RESOLVES AS FOLLOWS:**

**SECTION 1.** The recitals above are true and correct and are hereby adopted as findings as if fully set forth herein.

**SECTION 2.** The City Council **ADOPTS** the Resolution approving Variance No. 2025-0002 concerning the proposed Project, subject to the conditions listed on **Exhibit "A"** and site plan shown in **Exhibit "B"** attached hereto and by this reference incorporated herein.

**SECTION 3.** This action has been assessed under 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 project qualifies as a Class 1 Categorical Exemption pursuant to CEQA Guideline Section

15301(e), Existing Facilities, and none of the exceptions in the CEQA Guidelines Section 15300.2 apply to the project.

**SECTION 4.** This Resolution shall take effect upon adoption.

**SECTION 5.** The City Clerk shall certify to the adoption of this Resolution and shall mail by first class, prepaid, United States mail, a certified copy of this Resolution to the Applicant.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Indian Wells, California, at a regular meeting held on this 6<sup>th</sup> day of November 2025.

---

**BRUCE WHITMAN  
MAYOR**

**CERTIFICATION FOR RESOLUTION NO. 2025-\_\_\_\_**

I, Angelica Avila, City Clerk of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on the 6<sup>th</sup> day of November 2025, by the following vote:

AYES:  
NOES:

**ATTEST:**

**APPROVED AS TO FORM:**

---

**ANGELICA AVILA  
CITY CLERK**

---

**TODD LEISHMAN FOR  
BEST BEST & KRIEGER LLP  
CITY ATTORNEY**

**EXHIBIT "A"**  
**Conditions of Approval for**  
Variance No. 2025-0002

**November 6, 2025**

---

**GENERAL:**

1. The Applicant shall defend, indemnify, and hold harmless the City of Indian Wells and its officials, officers, employees, and agents from and against any claim, action, or proceeding against the City of Indian Wells, its officers, employees, or agents to attack (including any judicial proceedings or an referendum), set aside, void, or annul any approval or condition of approval of the City of Indian Wells concerning this project, including but not limited to, any alleged act or failure to act related to the California Environmental Quality Act ("CEQA"), any approval or condition of approval by the Planning Commission or City Council. The City shall promptly notify the Applicant of any such claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. Applicant shall defend, with counsel mutually chosen by City and Applicant Applicant's own cost, expense and risk, any and all such aforesaid suits, actions or other proceedings of every kind that may be brought or instituted against City, its officials, officers, employees and agents. Applicant shall pay and satisfy any judgment, award or decree that may be rendered against City, its officials, officers, employees or agents in any such suits, actions or other proceedings. Applicant shall also reimburse City for the cost of any settlement paid by City arising out of any such claims, demands, causes of action, costs, expenses, liabilities, loses, damages, injuries, suits, actions, or other proceedings. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Applicant shall reimburse City, its officials, officers, employees and agents for any and all legal expenses and costs, including expert witness fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, officers, employees or agents. In all cases, the City reserves the right, at its own option and cost, to choose its own attorney to represent the City, its officials, officers, employees, and agents in the defense of the matter.
2. In the event that any condition contained herein is determined to be invalid or legally unenforceable, then all remaining conditions shall remain in force.
3. The Project shall be developed in accordance with the approved plans, and failure to comply with any conditions of approval shall be deemed just cause for revocation of project approval by the City Council. However, the Community Development Director or designee shall have the authority to approve minor deviations in the conditions of approval, and all plans including the construction drawings, if deemed necessary by both the Applicant and the City to implement the Project as approved.
4. The Applicant shall pay development impact fees at the established rates and amounts. Such fees may include, but not be limited to, new construction fee, and building permit and plan check fees.

5. This approval of Variance No. 2025-0002 shall be used within one (1) year after final approval, or it shall become null and void unless the time limit is extended by the City Council per City Zoning Code Section 21.06.040(e). The phrase "be used" above for purposes of the proposed Project shall mean the application for and approval of all applicable building permits, and commencement of physical installation of the Project. In addition, this approval of Variance No. 2025-0002 shall become null and void if any such building permit no longer remains in effect due to its lapse, if such occurs following the foregoing one-year permit.
6. Approval of this request shall not waive compliance with all applicable sections of the Indian Wells Municipal Code, all other applicable City ordinances, and applicable specific plans.
7. This variance approves the side yard building setback encroachment as shown, or in substantial conformance to, the attached site plan "Exhibit B."
8. Construction shall occur between the hours of 7:00 am and 5:00 pm, Monday through Friday, 8:00 am and 5:00 pm, Saturday and no construction on Sunday or national holidays per Municipal Code Section 9.06.047. The Community Development Director may grant a temporary waiver from these hours in limited circumstances where a special need is demonstrated.
9. Within fifteen (15) days of final approval by the City Council, the Applicant shall submit in writing, a statement indicating that the Applicant has read and agrees to the conditions imposed herein. Approvals of land use and related applications hereunder shall become void, and any privilege, permit, or other authorization granted shall be deemed to have terminated if compliance with this condition has not been completed within the specified time limits.

## EXHIBIT "B" Site Plan

