

**MEMORANDUM**

**TO:** Cochise County Board of Adjustment, District 2  
**FROM:** Christine McLachlan, AICP, Planner II  
**FOR:** Daniel Coxworth AICP, Development Services Director  
**SUBJECT:** Docket V22-02 (Montano Setback), Application for a Variance  
**DATE:** April 25, 2022, for the May 4, 2022, Meeting

**Docket V22-02(Montano Setback)**

The Applicant requests to encroach five (5) feet into the required ten (10) foot side yard setback with a residential house addition. The subject property is located at 606 W Irvine Ave, Pirtleville Arizona. The parcel number is 408-19-104. The Applicant is Mr. Sergio Montano.

The Board of Adjustment may grant a Variance from the terms of these Zoning Regulations when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such Variance the general intent and purposes of the Zoning Regulations will be preserved.

*Figure 1: Request Location*



Location Map  
 V 22-02 (Montano Setback)





**IV. PECULIAR CONDITIONS AND PARITY**

- A. Peculiar Conditions** - The Pirtleville area is an old part of Cochise County. It encompasses approximately 520 acres and is immediately west of the City of Douglas. This is a densely developed area and there are many non-conforming lots. The presence of non-conforming properties is largely due to the fact that Cochise County adopted Zoning regulations in 1975. Many of the homes in Pirtleville, including this property, were constructed prior to that time. In this case the subject parcel exceeds the minimum lot size for R-9 zoning, which is 9,000 SF. Currently, the house complies with all site development standards. Approximately 100 acres of Pirtleville is considered within the regulated floodplain. Cochise County regulates the 100- year floodplain. Property within the 100-year floodplain has a one (1%) percent chance of flooding annually. A small portion of the northeastern part of this property is within the 100-year floodplain. This is to the rear of the site. Where possible, building in this area should be avoided. Per the variance application, all of the building addition will occur on the western side of the parcel outside the floodplain. Other than the presence of floodplain, there are no other conditions present that are unique to this lot that would restrict development.
- B. Parity** – As previously mentioned there are many non-conforming lots in the immediate area. Examples of homes within the area that do not provide the required minimum setback are common. This includes the neighbor directly to the west, east, and south, all of which do not meet the minimum 10’ setback along all property lines. Consequently, the granting of this variance would not provide an advantage to this property owner over those in the same zoning designation.

Figure 3: Site Analysis



Site Analysis Map  
V 22-02 (Montano Setback)



**V. POTENTIAL IMPACTS**

The applicant proposes building closer to their western property line. As a result, the most impacted property would be the neighbor immediately adjacent to the west. In this case, that property has a 15’ setback on their eastern property line. If this variance is granted, a 20’ separation between homes will still remain. No other setbacks are proposed to change.

**V. PRESERVATION OF THE INTENT AND PURPOSE OF THE ZONING REGULATIONS**

This property is within R-9 Zoning, which is residential zoning, 9,000 SF minimum lot size. The purpose of the zoning district is:

- To provide an area for family living at a variety of low to medium densities (701.01); and
- To provide an area where single-household dwellings, rehabilitated mobile homes, and manufactured homes can co-exist (701.02).

Residential zoning is found throughout Cochise County. The current residential use will continue regardless of the outcome of this variance. The request is consistent with the intent of the zoning.

One unique aspect of this request is its land use designation. According to the Comprehensive Plan, Pirtleville has the “Neighborhood Revitalization” designation. This is the least common land use designation within Cochise County. In fact, it only applies to Pirtleville, which makes up 0.79 square miles of Cochise County (total area 6,219 square miles). According to the Comprehensive Plan, “Some flexibility in site development and building code standards may be appropriate to facilitate investment.” The applicant is making improvements to his property, which is an investment to his property.

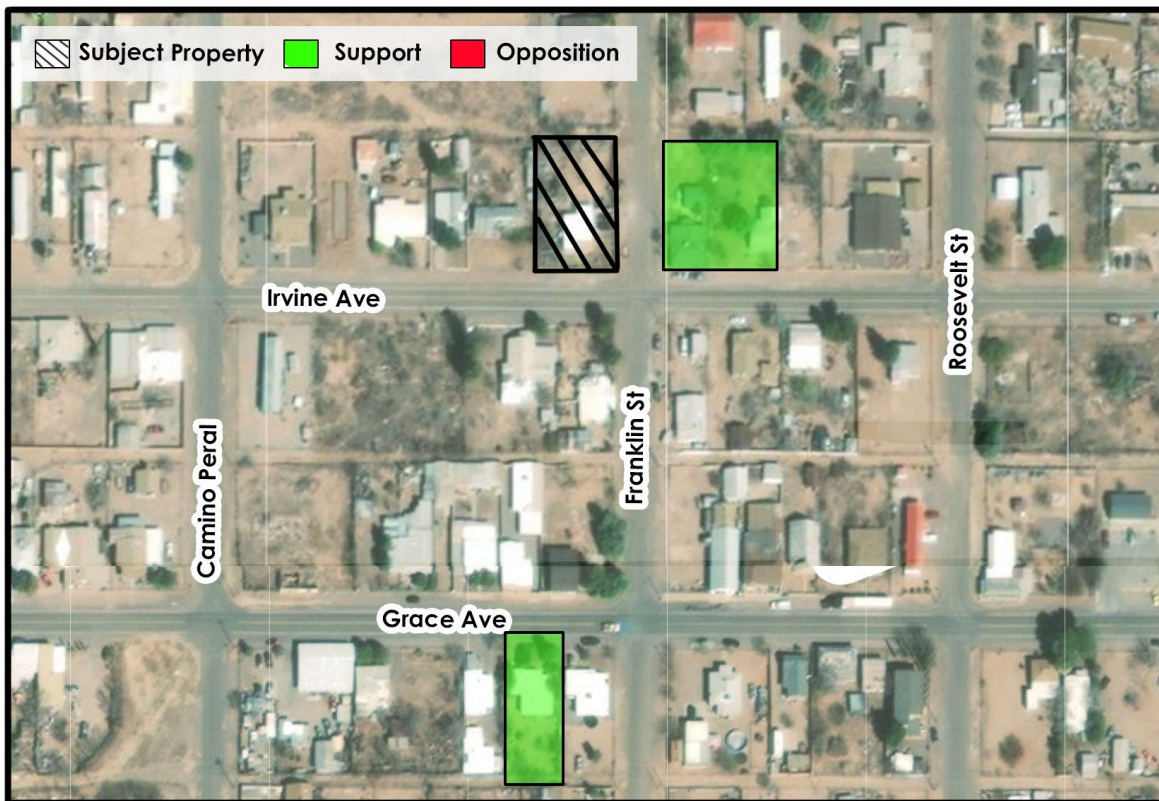




**VI. PUBLIC COMMENT**

Staff mailed notices to neighboring property owners within 300-feet on April 5, 2022. Staff posted the property on April 13, 2022 and published a legal notice on April 13, 2022. To date, staff has received 2 letters in support and 0 letters in opposition of the request.

Figure 4: Public Comment Map



Support/Opposition Map  
V 22-02 (Montano Setback)

N.T.S



## VI. SUMMARY AND CONCLUSION

### **Factors in Favor of Approving the Variances**

1. This variance request is consistent with the intent and purpose of the Zoning Regulations and Comprehensive Plan. The property is within a neighborhood rehabilitation land use designation. As stated in the Comprehensive Plan, flexibility in site development and building code standards may be appropriate to facilitate investment.
2. The proposed request avoids construction within the floodplain, which is present to the rear of the site.
3. Two letters of support were received.
4. There are numerous examples of reduced and zero-lot-line setbacks in the area due to the age of the neighborhood, which largely existed prior to zoning in Cochise County.

### **Factors Against Approving the Variance**

1. There are no physical site conditions present that would prevent shifting the addition to the rear of the house. The applicant could also reduce the size of the addition to accommodate the required setback.

## VII. RECOMMENDATION

Based on the Factors in Favor of Approval as Findings of Fact, Staff recommends **Approval** of the Variance as requested.

*Sample Motion: Mr. Chairman, I move to approve Docket V22-02 (Montano setback), on parcel 410-22-004D, granting the Variance as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact.*