

MEMORANDUM

TO: Cochise County Board of Adjustment
FROM: Christine McLachlan, AICP, Planning Division Manager
FOR: Daniel Coxworth AICP, Development Services Director
SUBJECT: Docket VAR 23-04 (Coleman Setback), Application for a Variance
DATE: June 5, 2023, for the June 28, 2023, Meeting

Docket VAR 23-04 (Coleman Setback)

The applicant, Ms. Mayra Moreno, requests a reduction in the required setback for an accessory structure in a residential zoning district. In residential zoning, all accessory structures must be no less than twenty (20) feet from all property boundaries. The applicant requests a variance to lawfully retain a 308 SF shed, which has been constructed in the setback. The subject property is located at 2415 South Coleman Street Bisbee, AZ, APN 102-39-158A. The granting of a variance is subject to approval from the Cochise County Board of Adjustment. If the Board approves the Docket, the Applicant must then obtain a building permit and a floodplain use permit to retain the structure in its current location.

Figure 1: Request Location



Location
 VAR 23-04 Coleman Setback



I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Site Size: 0.5 Acres (21,780 SF)
Zoning: R-18 (Rural, one dwelling per 18,000 SF)
Growth Area: Category B
Plan Designation: Neighborhood Conservation
Area Plan: None
Existing Uses: Residential
Proposed Uses: Residential with a 308 SF shed (no utilities)

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-18	Residential
South	RU-18	Residential
East	RU-18	Residential
West	RU-18	Coleman St ROW and residential

II. SITE HISTORY

2007 – 2,128 SF Manufactured home permitted on site
 2017 – Current owner/applicant purchases property
 2022 – canceled permit for residential accessory structure

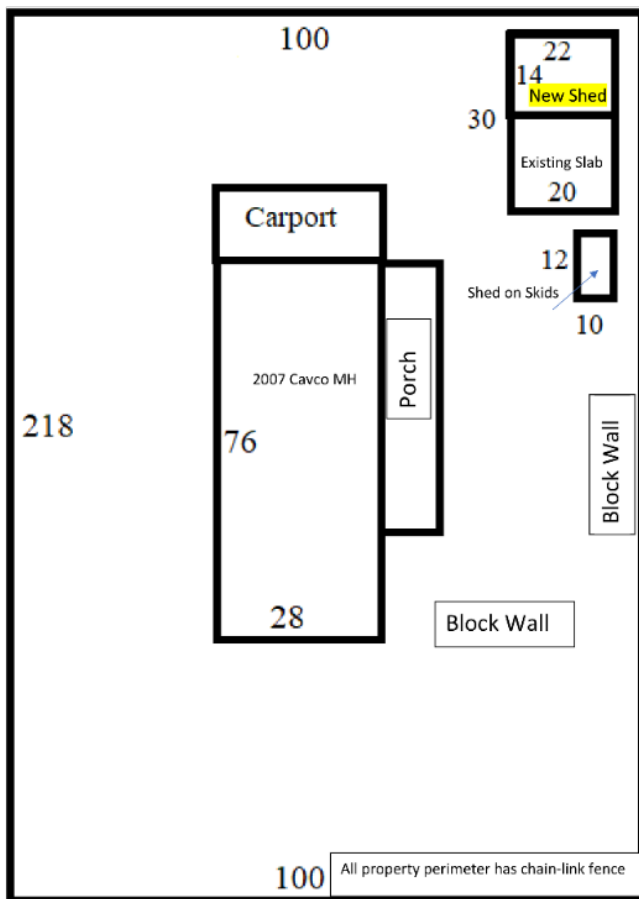
III. REQUEST DESCRIPTION

The applicant, Ms. Mayra Moreno, requests a reduction in the required setback for an accessory structure in a residential zoning district. In residential zoning, all accessory structures must be no less than twenty (20) feet from all property boundaries. The applicant requests a variance to lawfully retain a 308 SF shed, which has been constructed in the setback. The subject property is located at 2415 South Coleman Street Bisbee, AZ, APN 102-39-158A. The shed was recently constructed by the applicant, without building permits, on existing concrete pad, less than 5’ from the southeastern corner property boundaries. The applicant wishes to obtain a setback variance to apply for building and floodplain use permits.



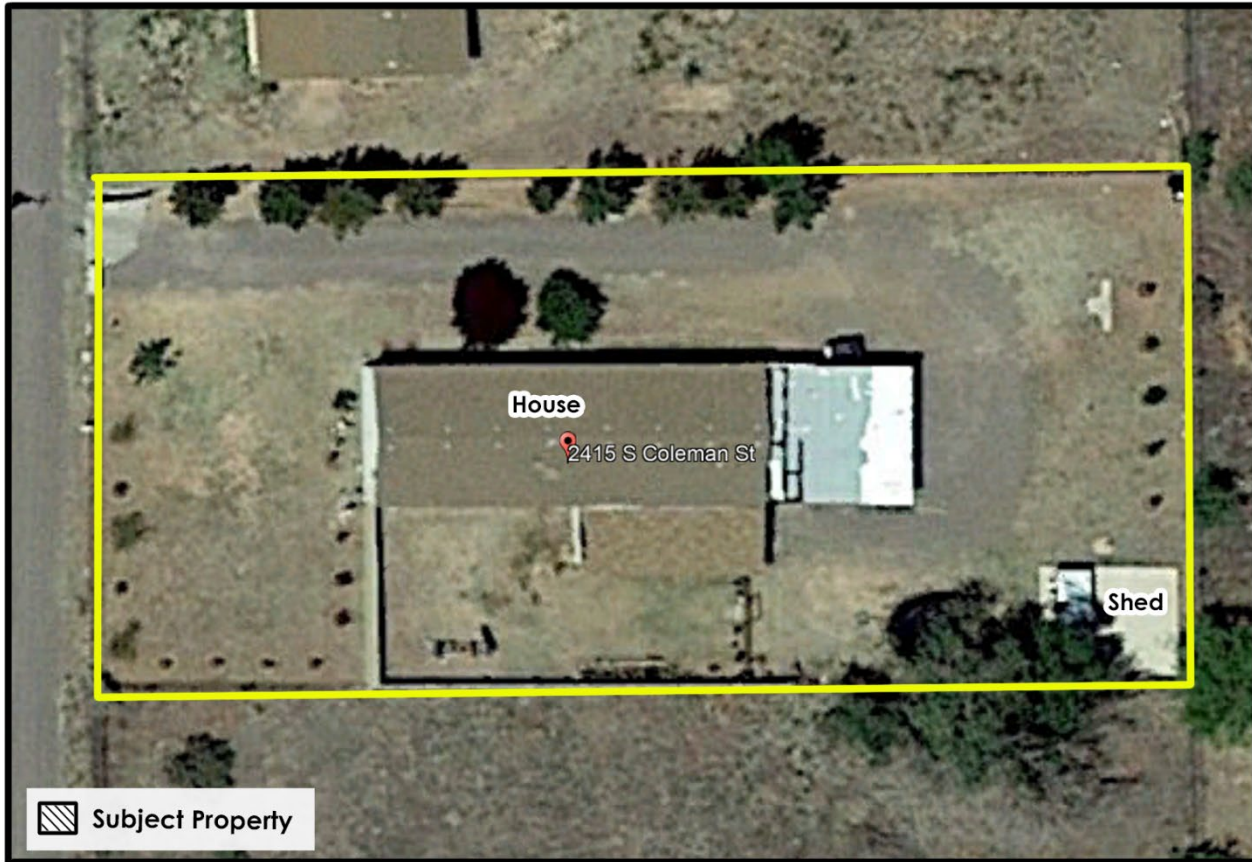


Figure 2: Site Plan



Parcel: 102-39-158A
2415 S Coleman Street Bisbee AZ

Figure 3: Site Aerial



Aerial
VAR 23-04 Coleman Setback



IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH VARIANCE FACTORS

Section 2102.02 of the Zoning Regulations provides a list of eight factors with which to evaluate Variance applications. Staff uses these factors to help determine the suitability of a given variance request, whether to recommend approval for a variance, as well as to determine what conditions and/or modifications may be needed. With the information provided, eight (8) factors apply to this request. The project, as submitted, fully complies with five (5) of the factors.

1. There is an unnecessary hardship created by zoning regulations – Does not comply

Section 704.03 of the Zoning Regulations established setbacks for principal and accessory structures/uses in residential zoning. The minimum required setback for all principal or accessory structures in R-18 zoning is 20 feet. R-18 zoned property must be a minimum of 18,000 SF and this is not a nonconforming lot. The lot could accommodate both the home and the accessory structure while observing all required setbacks.

2. There are peculiar site conditions present– Does not comply

There are no physical conditions unique to the site. The lot meets the minimum size requirements for its zoning. It is not irregularly shaped, and there are no significant changes in grade. There are no flood hazard zones on site.

3. This is not a self-created hardship – Does not comply

This factor considers whether “The unnecessary hardship does not arise from a condition created by an action of the owner of the property.” Although unknowingly, the property owner technically initiated the request.

4. This is the minimum to afford relief – Complies

R-18 zoning requires a 20-foot setback. The challenge is that the structure is existing. If it were not existing, it could be moved entirely outside the setback, but now that it is, observance of any additional setback would mean the complete demolition of the structure.

5. This is a permitted use in Zoning Regulations – Complies

The application is for an accessory use. More specifically, a 308 SF storage shed. The use is permitted within the R-18 (Residential, one dwelling per 18,000 SF) zoning district. There are many examples of accessory structures throughout the neighborhood.

6. There is no adverse impact to surrounding property owners – Complies

This property is within a medium/high density neighborhood. Overall, the property is in excellent condition. The accessory structure is to the rear of the home. There is a clump of vegetation directly to the south on the adjacent property owner’s yard that also helps obscure the structure. A view of the structure from the front yard is visually obstructed by a block wall. The roof of the accessory structure slopes down towards the neighbor’s property. When the case planner visited the site, the adjacent property owner to the south stated he did not object to the new structure and would use the roof of the structure to harvest rainwater for his garden.

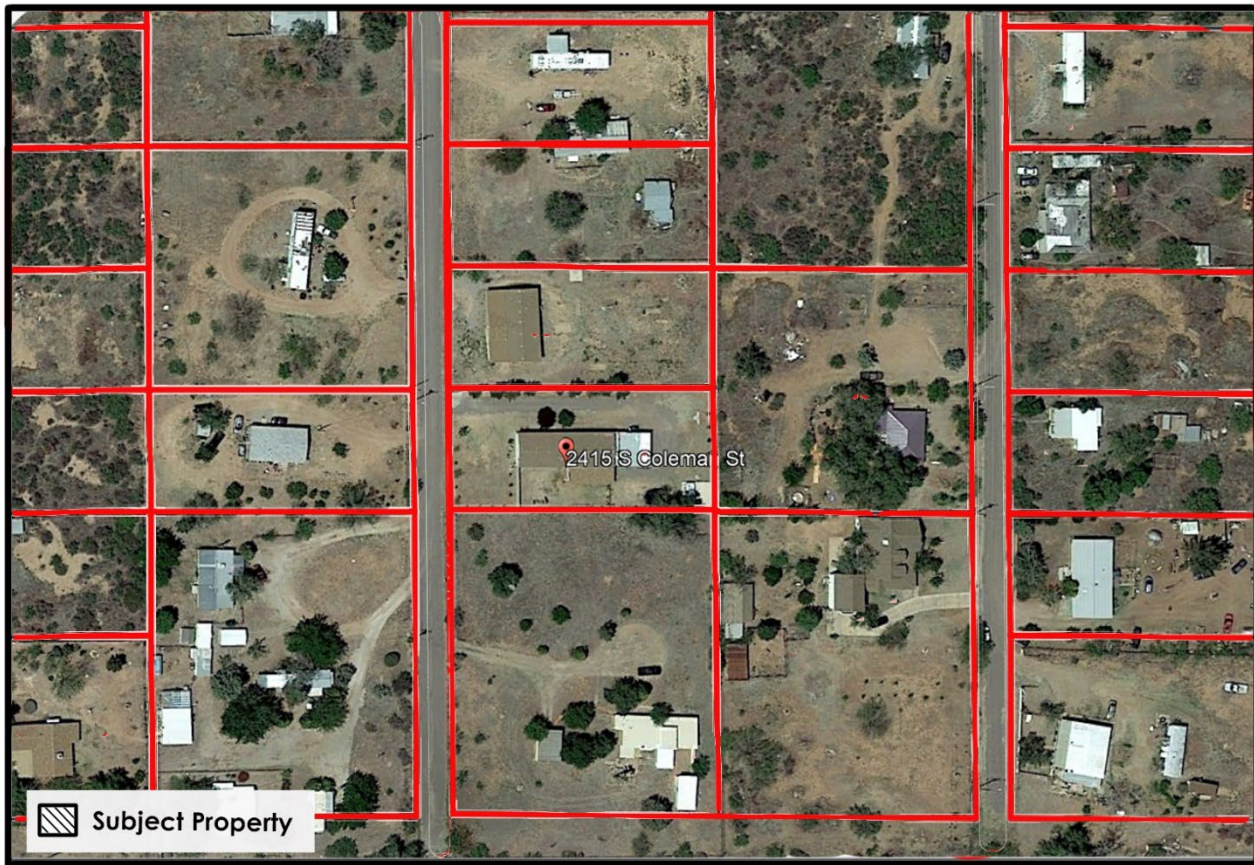
7. General harmony with the intent and purposes of the Zoning Regulations – Complies

As stated in Article 2 of the Zoning Regulations, a setback is defined as follows, “the horizontal distance between the property line or road travel way and the foundation, wall, or main frame of any building or structure, and between the property line and the outer perimeter of any outdoor area significantly involved in the use or activity of the site, including non-residential sales, rental, display, or storage areas. No structure/use permitted herein shall limit the rights of the owner of any underlying easements which burden a particular site from utilizing their easement.” Residential zoning are established to “provide an area for families living at a variety of low to medium densities.” This request, to encroach into the minimum setbacks. The general harmony of the Zoning District is preserved. In fact, there are several other examples of structures within the setbacks and even straddling the property lines (see Figure 4).

8. No violation of state or federal law – Complies

The request is for a 15’ reduction in the required setback to the property line for a 308’ SF storage shed with no utilities. There are no state or federal laws that would apply. The County’s Zoning Regulations are local laws. The variance process is a legal means to deviate from development standards.

Figure 4: Neighborhood Aerial



Neighborhood Aerial
VAR 23-04 Coleman Setback



V. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 300-feet on May 23, 2023. Staff posted the property on June 6, 2023 and published a legal notice on June 6, 2023. To date, staff has received one letter in opposition.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

This variance request is consistent five of the eight criteria used by staff to help determine the suitability of a given variance request.

1. This variance request is consistent five of the eight criteria used by staff to help determine the suitability of a given variance request. (Minimum degree of relief, permitted use, no adverse impacts to surroundings, general zoning regs harmony, no violation of state or federal law)
2. There are similar examples of setback encroachments throughout the neighborhood. There are even examples of homes split by property lines.
3. Although this area is designated as “Neighborhood Conservation” by the Comprehensive Plan, it seems to

meet the description of more appropriately “Neighborhood Rehabilitation,” which is an area that shows potential need for revitalization. The subject property is in excellent condition relative to its surroundings and the new owner has made improvements that should increase their property value and possibly that of proximal property.

Factors Against Approving the Variance

1. This variance request is not consistent with three of the eight criteria used by staff to help determine the suitability of a given variance request. (Not unnecessary hardship by zoning/factor 1, There are no peculiar site conditions present/factor 2, This is a self-created hardship/factor 3)

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 VAR 23-04 (Coleman Setback), at 2415 South Coleman Street Bisbee, AZ, APN 102-39-158A, granting the Variance as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact.