

**ITEM V-A: ADMINISTRATIVE PERMIT – 108 BEN EZRA AVENUE – ARGALL PATIO COVER – 2006PL-109 (FILE# AP-000125)**

**REQUEST**

The applicant requests approval of an Administrative Permit for a setback reduction that would allow a side yard setback of two feet, nine inches for a patio cover where a five-foot side yard setback is required.

Applicant / Property Owner – Eugene & Donna Argall

**SUMMARY RECOMMENDATION**

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions:

- A. Adopt the three findings of fact for approval of the Administrative Permit; and
- B. Approve the Administrative Permit.

**SUMMARY OF OUTSTANDING ISSUES**

Following the distribution of the Notice of Intent to Approve, staff was contacted by a nearby resident, and also received a letter from an adjacent resident who expressed concerns with the project and the reduced setback. These concerns are addressed in the evaluation section of this report.

**BACKGROUND**

The subject property is a 4,520 square foot parcel located at 108 Ben Ezra Avenue between Nevada Avenue and Donner Avenue within the Infill Area of the City of Roseville (Attachment 1). Zoning for the subject property is Single-Family Residential (R1) and it is currently developed with a 596 square foot single-story home.

In April 2006, the Building Department's Code Enforcement Division received a complaint from an adjacent neighbor regarding construction of a patio cover at the project site, which was encroaching on the property line. Code Enforcement's investigation revealed that there was no building permit issued for the patio cover, and that the overhang of the eave extended to approximately one foot from the property line. A wall intended to provide weather protection for the entrance to a cellar stairway was also being constructed as part of the patio cover addition (Attachment 2). The wall is at a setback of three feet. The patio cover under construction extends along the west wall of the home and will also serve as a cover to the cellar stairway.

In May 2006, the applicant applied for an "after-the-fact" Building Permit for the construction of the patio cover. Since the posts supporting the cover, the protective wall, and the overhang of the eave are within the required five-foot side yard setback, an Administrative Permit is required (Exhibit A).

In an effort to comply with zoning requirements and address the concerns of the neighbor, the applicant has removed a portion of the eave/overhang, placing the new setback for the eave at two feet, nine inches (Attachment 2). The posts supporting the patio cover are at a setback of three feet, six inches.

The applicant has requested approval of an Administrative Permit to allow the patio cover's eaves and posts, and the wall protecting the cellar stairway, to remain within the five-foot side yard setback. The applicant is requesting this exception in order to increase usability of the existing patio, and for protection from the rain and sun.

## **EVALUATION**

Section 19.78.060.A of the City of Roseville Zoning Ordinance requires that three findings be made in order to approve an Administrative Permit. The three findings are listed below in ***bold italics*** and are followed by an evaluation.

***1. The proposed use or development is consistent with the City of Roseville General Plan.***

The subject property has a General Plan land use designation of Low Density Residential (LDR 4). The Low Density Residential (LDR) land use designation is intended for the development of single-family residences. The proposed patio cover is accessory to the existing single-family home, and patio covers are permitted accessory structures to single-family residences. The General Plan relies on the Development Standards contained in the Zoning Ordinance to regulate the height and placement of patio covers; therefore, the project is consistent with the General Plan.

***2. The proposed use or development conforms with all applicable standards and requirements of the Zoning Ordinance.***

The property at 108 Ben Ezra Avenue is located in the Single Family Residential Zone District (R1). Patio covers are a permitted accessory structure for single-family dwellings in the R1 zone, subject to standards established under the Zoning Ordinance.

Per the Zoning Ordinance, the side yard setback for the subject property is five feet. The Zoning Ordinance (Chapter 19.10.030 D.1.) permits eaves to encroach up to two (2) feet into any required setback. Therefore, the eave on the side yard of the subject property could be at a setback of only three feet and still be in compliance with the Zoning Ordinance. As constructed, the patio cover's eave is at a setback of two feet, nine inches, which encroaches only three inches beyond the required setback. The posts supporting the patio cover are at a setback of three feet, six inches. The existing home is located six feet, eleven inches from the side property line.

The proposed patio cover will encroach into the five-foot setback by two feet, three inches. Exceptions to the Zoning Ordinance requirements for accessory structure setbacks may be approved subject to the approval of an Administrative Permit in accordance with Section 19.22.030 of the Zoning Ordinance. With adoption of the findings and approval of the Administrative Permit granting the setback reduction, the patio cover conforms to the applicable provisions of the Zoning Ordinance.

***3. The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health safety, or welfare of persons residing or working in the area, or be detrimental or injurious to the public or private property or improvements.***

Patio covers are a permitted accessory structure and a common feature in residential settings. The small amount of encroachment, and relatively small size of the patio cover all contribute to the patio cover's compatibility with the area.

As referenced above, the patio cover addition includes a wall on the west side of the house to provide weather protection for the cellar stairway. By necessity, the wall will be attached to an existing concrete foundation at the edge of the cellar stairway. The stairway foundation is not connected to the foundation of the home. As such it could not be utilized for conversion of the cellar stairway space to living space for the home. The foundation and attached wall are at a setback of three feet.

A Notice of Intent to Approve the project administratively was sent on July 31, 2006. A nearby resident, Ms. Carol Sutton, who owns the property at 106 Ben Ezra expressed concern about the structure and the applicant's use of her driveway for access to the subject property. Staff also received a letter from Mr. Ron McCary, who resides at 106 Ben Ezra Avenue, requesting a public hearing for the project (Attachment 3). The letter expressed concerns about the cellar stairway enclosure wall, and the possibility that the space being enclosed could be converted to living space. Concerns were also expressed about the patio cover's close proximity to the property line.

Staff met with both concerned residents and provided additional information about the project, and has also discussed their concerns with the applicant. The applicant has informed staff that the wall enclosing the stairway is solely intended to provide weather protection and security, and that there is no intent to convert the area to living space. The wall has a window to provide light to the stairway, and to make the wall appear as part of the house. A door will be installed at the stairway entrance to provide additional safety and security for access to the cellar area.

Staff visited the site to evaluate the impact of the patio cover on the adjacent neighbor at 106 Ben Ezra Avenue. This visit confirmed that there are no structures at 106 Ben Ezra Avenue that are in close proximity to the property line near the patio cover construction (see Attachment 3). The residence at 106 Ben Ezra Avenue is approximately 18 feet from the property line. The driveway for 106 Ben Ezra Avenue is between the residence and the eastern property line bordering the project site.

While visiting the site, staff observed that, since this is an older neighborhood, there are many lots with structures that are located within the required five-foot setback.

The patio cover's eave encroachment of only three inches beyond the Zoning Ordinance standard, and the three-foot setback for the stairway wall create only negligible impacts on the adjacent property, particularly since there is an 18-foot separation between the neighbor's home and the property line. Additionally, a 6-foot fence is currently under construction at the property line that will provide screening and privacy. It is staff's belief that the impact of the patio cover structure and attached stairway wall will not be detrimental or injurious to the adjacent property.

In addition, as an accessory structure that will provide additional shade from the rain and sun, and provide weather protection for the cellar stairway, the patio cover and stairway wall is beneficial to the property and persons residing in the home.

The Planning & Redevelopment Department forwarded the project plans to applicable City Departments and service providers. Comments and suggestions for conditions of approval from other departments are included as conditions of the project. The Planning & Redevelopment Staff has not identified any other potential health, safety or welfare impacts associated with this project.

### **SUMMARY / CONCLUSION**

Based on the evaluation above, staff recommends that the Planning Commission approve the request for the patio cover and associated cellar stairway wall with a side yard setback of two feet, nine inches.

**ENVIRONMENTAL DETERMINATION:** The project is Categorically Exempt from environmental review pursuant to Section 15303 (e) of the California Environmental Quality Act (CEQA) Guidelines pertaining to accessory structures (patio covers) and Section 305 of the City of Roseville CEQA Implementing Procedures.

**RECOMMENDATION**

The Planning & Redevelopment Department recommends that the Planning Commission take the following actions:

- A. Adopt the three findings of fact as listed in the staff report for the Administrative Permit – 108 Ben Ezra Avenue – Argall Patio Cover – Project # 2006PL-109 (File # AP-000125)
- B. Approve the Administrative Permit as requested by the applicant – 108 Ben Ezra Avenue – Argall Patio Cover – Project # 2006PL-109 (File # AP-000125)

**CONDITIONS OF APPROVAL FOR ADMINISTRATIVE PERMIT #AP-000125**

- 1. The project is approved as shown in Exhibit A, and as conditioned or modified below.
- 2. This Administrative Permit shall be valid for a period of two (2) years from this date and shall expire on **September 28, 2008**. Prior to said expiration date, the applicant shall have obtained a Building Permit and started construction or may apply for an extension of time, provided, however, this approval shall be extended for no more than a total of one (1) year from **September 28, 2008**. (Planning)
- 3. Construction Documents submitted for plan check and permit shall comply with all applicable code requirements including the 2001 California Building Code, 2001 California Mechanical Code, 2001 California Plumbing Code, 2004 California Electrical Code, 2001 California Fire Code and all state and federal mandated requirements in effect at the time of submittal for building permit. (Building)
- 4. Fire resistive construction may apply per CBC Section 503.0 based on location on property. (Building)
- 5. Construction Documents submitted for plan check and permit shall comply with Division III - Patio Covers in the CBC appendix chapter 31. (Building)
- 6. For all ICBO approved patio covers, the standard engineered reports and details are to be highlighted for all project specific information. (Building)
- 7. The design wind speed for the City of Roseville is 75 mph. (Building)
- 8. Provide all information pertaining to the existing residence where the patio cover is adjacent. i.e. show location and size of all doors and windows. Label the rooms. (Building)
- 9. Patio enclosures that contain openings that may be enclosed with insect screening or plastic must meet the requirements of CBC 3116. (Building)

## **ATTACHMENTS**

1. Vicinity Map
2. Photos
3. Aerial Photo
4. Letter from Neighbors

## **EXHIBITS**

- A. Site Plan

**Note to Applicant and/or Developer:** Please contact the Planning & Redevelopment Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.