

AGENDA MEMO

CITY COUNCIL MEETING DATE: JULY 11, 2007
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-21647 - APPLICANT/OWNER: JUAN DIEGO ZAMORA-AGUILAR

** CONDITIONS **

Staff recommends DENIAL. The Planning Commission (5-1/bg vote) recommends APPROVAL, subject to:

Planning and Development

1. Conformance to the conditions for Special Use Permit (SUP-21646) if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. This is subject to administrative review in two years.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow the height of an existing Accessory Structure (Class I) to exceed the height of the principal dwelling on 0.31 acres at 175 Ronald Lane. A companion Special Use Permit (SUP-21646) will be considered concurrently with this item. Staff recommends denial of the Variance, as there is no hardship related to the physical characteristics of the site.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/24/94	The Board of Zoning Adjustment approved a request for a Special Use Permit (U-0086-94) to allow a custom bridal gown business at 175 Ronald Lane (Home Occupation).
04/19/06	The City Council approved Ordinance No. 5825, which amended the Zoning Code (Title 19) to update the definitions and criteria applicable to accessory structures.
03/21/07	The City Council approved Ordinance No. 5895, which, among other items, amended the Zoning Code (Title 19) to add the uses Accessory Structure (Class I) and Accessory Structure (Class II) and their corresponding definitions.
06/14/07	The Planning Commission recommended approval of companion item SUP-21646 concurrently with this application. The Planning Commission voted 5-1/bg to recommend APPROVAL (PC Agenda Item #45/ss).
	There is no history of Code Enforcement actions on this site, nor are there any actions pending.
<i>Related Building Permits/Business Licenses</i>	
01/02/91	A building permit (#91093404) was issued for an interior remodel and detached garage addition at 175 Ronald Lane. The project had a final inspection on 06/17/97.
04/19/05	A building permit (OTC-40802) was issued for a chain link fence along the front and sides of the property at 175 Ronald Lane. No interim or final inspections were completed. The permit expired 10/21/05.
01/23/07	A building investigation (OTC-80261) was authorized to check into the conversion of a garage to a studio without permits. The first investigation on 01/24/07 was failed by the building inspector. A follow-up investigation was scheduled for 02/26/07 with no resulting action.

02/23/07	An application for a building permit (SFD-82440) for a garage conversion was processed by the Building and Safety Department.
03/02/07	Planning and Development Department staff denied its review of the garage conversion application (SFD-82440), stating in a correction letter that a Variance and Special Use Permit would be required to allow the height of the garage to exceed that of the main dwelling and to allow the floor area of the garage to exceed 50 percent of the floor area of the main dwelling as shown on the submitted plans. The correction letter was reissued 04/25/07 after revisions to the plans were submitted.
05/07/07	Building and Safety Department staff denied architectural, plumbing, electrical and mechanical reviews for the garage conversion application (SFD-82440), stating that the plans were no longer available. A revision to the plans had been submitted on 04/25/07.
<i>Pre-Application Meeting</i>	
04/18/07	Submittal requirements for Variance and Special Use Permit applications were discussed. A companion Variance is needed from the current height standard for accessory structures.
<i>Neighborhood Meeting</i>	
N/A	A neighborhood meeting was not required for this application, nor was one held.
<i>Field Check</i>	
05/21/07	The site contains a single family dwelling with an accessory structure at the rear (northwest corner of property). The driveway is gated and leads back to the accessory structure. The structure itself looks like a separate single family dwelling, with a pitched roof, rooftop mounted air conditioning units and antennas, and windows. Although the accessory structure is taller than the primary dwelling, it blends in with nearby homes, which are of similar height. There is a four-foot chain link fence along the front and a six-foot chain link fence along the north side. The rest of the perimeter of the lot is enclosed by a plain six-foot CMU block wall.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.31 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	L (Low Density Residential)	N/A	R-1 (Single Family Residential)
North	L (Low Density Residential)	N/A	R-1 (Single Family Residential)
South	L (Low Density Residential)	N/A	R-1 (Single Family Residential)

East	L (Low Density Residential)	N/A	R-1 (Single Family Residential)
West	L (Low Density Residential)	N/A	R-1 (Single Family Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following development standards apply to the subject proposal:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size (accessory structure)	6,500 SF	13,300 SF	Y
Min. Lot Width	65 feet	100 feet	Y
Min. Setbacks (accessory structure) <ul style="list-style-type: none"> • From primary dwelling • Side • Corner • Rear 	6 feet 3 feet 15 feet 3 feet	32.67 feet 4.83 feet N/A 14.33 feet	Y Y N/A Y
Max. Size (accessory structure)	50 % of total FA of principal dwelling	1,107 SF accessory is 60 % of 1,846 SF dwelling	N*
Max. Lot Coverage (accessory structure)	50 % of rear yard; 50 % of entire lot (all structures)	15 % of rear yard 2953 SF total is 22 % of entire lot	Y Y
Max. Building Height (accessory structure)	2 stories/35 feet or height of principal dwelling, whichever is less	Accessory is 14 feet; dwelling is 9 feet	N

* When the accessory structure was constructed in 1991, the Zoning Code required that no single accessory building shall exceed in size the floor area of the dwelling unit constructed on the same lot. That standard has now changed to reflect that an accessory structure shall not exceed 50 percent of the total floor area of the dwelling unit on the same lot.

The existing accessory structure does not meet the maximum size or height requirements. A companion Variance (VAR-21647 has been submitted to address the excessive height.

ANALYSIS

A detached garage was built by permit in the northwest corner of the property in 1991, although it did not have a final inspection until 1997. The Variance and companion Special Use Permit requirements were generated when application was subsequently made for a building permit to legally convert the garage interior to living space. The 1991 edition of the Zoning Code restricted the height of an accessory structure to two stories, regardless of the permitted height of the primary dwelling on the same lot; however, in no case could the height of the accessory structure exceed that of the primary dwelling. The current code restricts height to two stories/35 feet or that of the main dwelling (whichever is less).

The height of the accessory structure, according to the submitted elevations, is 14 feet. The height of the primary dwelling is nine feet. The deviation is 36 percent.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), the Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.

Additionally, Title 19.18.070(L) states:

Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

No evidence of a unique or extraordinary circumstance has been presented. No hardship is created by the property itself, which is over 13,000 square feet; the applicant bought a property that allegedly already contained the converted garage. Reduction of the height or removal of the structure would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 2

ASSEMBLY DISTRICT 12

SENATE DISTRICT 10

NOTICES MAILED 409 by City Clerk

APPROVALS 0

PROTESTS 1