



**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: AUGUST 23, 2007**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-22924 - APPLICANT/OWNER: JAMES VILLELLA**

---

**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Rezoning (Z-0072-88).
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**VAR-22924 - Staff Report Page One**  
**August 23, 2007 - Planning Commission Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This request is for a Variance to allow a 43-foot rear yard setback where 50 feet is the minimum setback required for a proposed 480 square foot addition on 0.47 acres at 7413 Oak Grove Avenue. Due to the self-imposed hardship created by the proposed addition to the home being built outside of the established building envelope, thus, encroaching into the rear yard setback, denial of this request is recommended.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
1985	A-0009-85
09/07/1988	The City Council approved a Rezoning (Z-0072-88) on 43.1 acres located west of Tenaya Way between Del Rey Avenue and Oakey Boulevard, FROM: R-E(Residence Estates), TO: R-PD2(Residential Planned Development 2 Units Per Acre).
11/23/1998	The City Council approved a request to Amend a portion of the Southwest sector of the General Plan (GPA-27-98 )on properties bounded by Holmby channel, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, from: R (Rural Density Residential) to: DR (Desert Rural Density Residential).
<b><i>Related Building Permits/Business Licenses</i></b>	
11/15/95	A Final Inspection for an SFD was approved / Permit 95375978
12/06/95	A Building Permit issued for an SFD & Sewer / Permit 95372563
07/19/96	A Building Permit was issued for a Pool & Spa / Permit 96014506
05/15/97	A Building Permit was issued for Engineering of a Block Wall and Ret Wall 120 @ 5 & 120 @ 2 / Permit 97008705
<b><i>Pre-Application Meeting</i></b>	
06/25/2007	Discussed requirements for variance submittal for reduced rear yard setback.
<b><i>Neighborhood Meeting</i></b>	
	A neighborhood meeting is not required, nor was one held.
<b><i>Field Check</i></b>	
07/19/2007	A 4,658 sf home on a large lot surrounded by residences on ½ acre lots in an older gated community.
<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.47

**VAR-22924 - Staff Report Page Two**  
**August 23, 2007 - Planning Commission Meeting**

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Residential	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units to the Acre)
North	Residential	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units to the Acre)
South	Residential	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units to the Acre)
East	Residential	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units to the Acre)
West	Residential	DR (Desert Rural)	R-PD2 (Residential Planned Development 2 Units to the Acre)

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

**DEVELOPMENT STANDARDS**

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	20,381.62 SF	Y
Min. Lot Width	100 SF	105.0 Feet	Y
Min. Setbacks			
• Front	50 Feet	50 Feet	Y
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	N/A	N/A
• Rear	50 Feet	43 Feet*	N
Max. Building Height	2 Stories / 35 Feet	1 Story	Y

\* Subject of this Variance

<i>Variance Requests</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Percent Deviation</i>
Rear Yard Setback	50 Feet Minimum	43 Feet	14%

LHM

**VAR-22924 - Staff Report Page Three**  
**August 23, 2007 - Planning Commission Meeting**

## **ANALYSIS**

The applicant is requesting a Variance to allow a rear setback of 43 feet where a minimum setback of 50 feet is required. Single family dwellings are located on either side and behind the subject site. Thus, the rear yard of the subject site abuts another residence. The applicants proposed addition of 480 square feet to the existing 4,658 square foot single family dwelling encroaches seven feet into the required 50-foot rear yard setback. The setbacks for the R-PD2 (Residential Planned Development 2 Units per Acre) zoning were established at the time of the rezoning (Z-0072-88) of the property creating this subdivision. The proposal is an attempt to overbuild the site by constructing an addition to a house that fails to fit within the building envelope. Since this expansion to the main dwelling is a self-imposed hardship, staff is recommending denial.

## **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, in that the applicant has created a self-imposed hardship by overbuilding on the site. An alternative is to reduce the size of the proposed addition to fit within the building envelope or build along the 50-foot setback line which 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.

**VAR-22924 - Staff Report Page Four**  
**August 23, 2007 - Planning Commission Meeting**

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 7

**ASSEMBLY DISTRICT** 2

**SENATE DISTRICT** 8

**NOTICES MAILED** 162

**APPROVALS** 2

**PROTESTS** 1