

City of Las Vegas

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: SEPTEMBER 13, 2007**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ABEYANCE - VAR-23125 - APPLICANT/OWNER: BRIAN HESS**

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

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

***Planning and Development***

1. 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.

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

**PROJECT DESCRIPTION**

This application is a request for a Variance to Title 19.08.040 to allow a proposed Class II Non-Habitable Accessory Structure to exceed the height of the principal dwelling and to allow the total floor area to exceed 50 percent of the floor area of the principal dwelling for property located at 4100 Roxanne Drive.

Since a proposed structure in reduced size and height would conform to Title 19.08.040, Staff recommends denial of this request.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
6/01/05	Code Enforcement Violation - Case #30623: High vegetation, roof in need of repair, inoperable cars stored in backyard. Case resolved 8/11/05.
8/23/07	The Planning Commission voted to hold this item in abeyance to the September 13, 2007 Planning Commission in an effort to provide the applicant an opportunity to meet with the neighbors.
<b><i>Related Building Permits/Business Licenses</i></b>	
5/31/07	Building Permit #90773: Permit for a 1,290 square foot garage denied pending approval of requested Variance.
<b><i>Pre-Application Meeting</i></b>	
6/25/07	A pre-application meeting was held with staff to discuss the requirements for submitting a Variance request to allow a Class II Accessory Structure to exceed the size and height limitations set for in Title 19.08.040.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	
<b><i>Field Check</i></b>	
7/23/07	A field check was to the site was made with the following observations: <ul style="list-style-type: none"> <li>• Existing single-story, single family dwelling.</li> <li>• Negligible change in grade sloping from back of property to front.</li> <li>• Six-foot screen walls located along side and back yard.</li> </ul>

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.46 acres



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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single Family Dwelling	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Single Family Dwelling	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Single Family Dwelling	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Single Family Dwelling	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Single Family Dwelling	DR (Desert Rural Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	NA
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District 140 Feet	X		Y
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>	X		Y
<b>Development Impact Notification Assessment</b>		X	NA
<b>Project of Regional Significance</b>		X	NA

- **A-O Airport Overlay District**

A single family dwelling exists on the subject site, at a height of 13 feet. The proposed detached accessory structure will be constructed at a finished height of 15 feet and is not affected by the 140-foot height restriction.

- **Rural Preservation Overlay District**

Density is not affected by this project and does not require application of the requirements of the Rural Preservation District.

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08.040, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 sq. ft.	20,042 sq. ft.	Y
Min. Lot Width	65 feet	95 feet	Y

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Min. Setbacks for Accessory Structure			
• Side & Rear Property Lines	3 feet	8 feet	Y
• Separation from Primary Structure	6 feet	65 feet	Y
Max. Accessory Structure Size (50% of 1,484 sq. ft. primary structure)	742 sq. ft.	1,290 sq. ft.	N
Max. Accessory Structure Height	1-story/13 feet (primary structure height)	15 feet	N

**ANALYSIS**

The applicant is seeking approval to construct a 1,290 square-foot Class II Detached Accessory structure located in the backyard of the existing 1,484 square foot single family dwelling located at 4100 Roxanne Drive. Although the proposal complies with required setbacks from the side property lines and primary structure, the proposal does not meet the size and height restrictions. The proposed 1,290 square foot Class II Detached Accessory structure is taller than the primary structure and more than half its floor area.

The request for the Variance stems from a personally-created hardship that could be eliminated with alternative designs. Therefore, staff recommends denial.

**FINDINGS**

In accordance with the provisions of Title 19.18.070(B), 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 19.18.070L 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.

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing a Class II Detached Accessory Structure that is oversized in height and floor area in comparison to the existing primary structure. An alternative proposal in reduced height and floor area 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**            3

**ASSEMBLY DISTRICT**            1

**SENATE DISTRICT**            4

**NOTICES MAILED**            179

**APPROVALS**            4

**PROTESTS**            2