

AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 15, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-21621 - APPLICANT/OWNER: LARRY BUCHANAN

** CONDITIONS **

The Planning Commission (5-0 vote) and staff recommend DENIAL.

Planning and Development

1. 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.
2. The garage expansion exterior shall be modified to match and/or complement the color and material of the existing house, garage, and carport to conform with Title 19.08 Accessory Structure requirements.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is an appeal filed by the applicant from the denial by the Planning Commission of a request for a Variance to allow zero foot side and rear yard setbacks for an existing garage (Class II Accessory Structure) where three foot setbacks are the minimum required; and to allow a zero foot rear yard setback for an existing carport (Class II Accessory Structure) where a three foot setback is the minimum required; and to allow the total floor area of all accessory structures to be 192 Percent of the floor area of the principal dwelling unit on the lot where 50 percent is the maximum allowed for all existing accessory structures (Class II) on 0.47 acres at 715 Clarkway Drive.

The project inadequately addresses the residential development standards of Title 19.08 for non-habitable accessory structures as the total square footage of all accessory structures on the project parcel substantially exceeds the square footage restriction for Class II accessory structures. Staff recommendation is denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
11/10/03	Code Enforcement - Operating car painting business from residence - Case No. 6400 - Case closed.
5/24/04	Planning and Development - Customer service request for inspection of spray painting activities - Case closed.
2/18/05	Code Enforcement Investigation of operation of a 140 foot by 30 foot auto repair business (Case No. 25868) - Case closed.
3/22/05	Code Enforcement Illegal construction of garage (Case No. 46354) - Case closed.
12/21/05	The City Council approved a General Plan Amendment (GPA-9219) request to change the Future Land Use designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area within Council Ward 1.
9/28/06	Planning and Development Planning review denied Building Permit Plan Check (No. M-589-06) for a garage that is unresolved.
1/10/07	Planning and Development - Planning review denied a Building Permit Plan Check (No. M-589-06) for a garage that is unresolved.
3/02/07	Planning and Development Planning staff made the determination that a permit for construction of an illegal structure is required and subsequent Pre-Application conference held on 03/19/07.

4/08/07	Code Enforcement - Neighbor complaint of auto repair activities and people living in trailer (Case No. 51552) - Case closed.
5/17/07	Planning staff met with Code Enforcement staff to review site operations and history of violations.
06/14/07	The Planning Commission voted 5-0 to recommend DENIAL (PC Agenda Item #55/ja).
<i>Related Building Permits/Business Licenses</i>	
5/30/97	A Building Permit (No. 97611170) to construct two 200 square-foot sheds was issued. The permit expired on 06/13/98
11/12/97	A Building Permit (No. 97022721) to construct a 640 square-foot shed was issued. The permit expired on 06/13/98.
06/25/01	A Building Permit (No. 1011378) to construct a 20x20 shed was issued. The project was completed on 09/18/01.
06/10/02	A Building Permit (No. 2010370) to re-roof a hen house/barn was issued. The permit expired on 12/07/02.
09/19/06	An application was made for a Building Permit for a new garage. No permit has been issued.
Active	Business License Case (X86-93619-0-999999) was opened by Business Licensing to review a neighborhood complaint regarding auto repair business activities at the project site.
<i>Pre-Application Meeting</i>	
03/19/07	A Pre-Application meeting was held where Planning staff advised the applicant of the Variance request, the site plan, existing structures, and application review requirements.
<i>Neighborhood Meeting</i>	
A Neighborhood Meeting is not required for this type of application nor was one held.	
<i>Field Check</i>	
5/10/07	A site visit was conducted to the project site and the property is developed with three structures (a single family residence, garage, and carport) with on-site driveway access along the north property line. The property to the south is gated undeveloped substandard parcel which provides access to an existing well. The two existing accessory structures (garage and carport) are situated directly upon the south property line and west property lines with no setback where 3 feet is the minimum required for each. The exterior of the garage expansion is constructed with natural wood siding and is not aesthetically compatible with the existing home and preexisting garage.
<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.47 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Residential	Mixed-Use	R-E (Residence-Estates)
North	Residential	Mixed-Use	R-E (Residence-Estates)
South	Undeveloped	Mixed-Use	R-E (Residence-Estates)
East	Residential	Mixed-Use	R-E (Residence-Estates)
West	Construction Business Yard	Mixed-Use	R-E (Residence-Estates)

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

EXISTING DEVELOPMENT

<i>Structure</i>	<i>Square Footage</i>	<i>Height</i>
Existing Garage	1,534 sf	10 feet
Garage Expansion	700 sf	12 feet
Carport	420 sf	10 feet
Total square footage of all Accessory Structures	2,654 sf	NA
Existing House	1,380 sf	14 feet

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following Residential Development Standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	20,000 square feet	20,516 square feet	Y
Min. Lot Width	100 feet	112 feet	Y
<u>Min. Setbacks (Primary Structure)</u>			
• Front	50 feet	94 feet	Y
• Side	10 feet	46 and 35 feet	Y
• Corner		-	-
• Rear	35 feet	35 feet	Y
Min. Distance Between Buildings	10 feet	15, 20 feet	Y
Max. Lot Coverage	NA	NA	NA
<u>Max. Lot Coverage Class II Accessory Structure</u>	50 percent of the rear yard	35 percent	Y
<u>Max. Building Height Accessory Structure</u>	No greater than the primary dwelling (14 feet)	12 feet (Garage) 10 feet (Carport)	Y Y
<u>Min. Setbacks (Class II Accessory Structures)</u>			
GARAGE:			
• Side	3 feet	0 feet	N
• Rear	3 feet	0 feet	N
CARPOR:			
• Side	3 feet	9 feet	Y
• Rear	3 feet	0 feet	N
Maximum Square Footage Class II Accessory Structure (All existing structure on the site)	50 percent of the square footage of the main dwelling	192 percent of total floor area of primary dwelling	N

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Parking Ratio	Required		Provided		Compliance
			Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Single Family Residential Detached	1 dwelling unit	2 spaces per dwelling unit	2 spaces	NA	2 spaces	NA	Y

Vehicle Parking, Storage or Repair in Residential Zoning District	2,231 square feet Class II Accessory Structure	No additional parking required beyond that which is required for the principal residential use on the site	0	0	0	Y	Y
SubTotal			2		2		
TOTAL			2		2		Y

ANALYSIS

General Plan and Zoning

The project site is designated in the General Plan as MXU (Mixed-Use) with an underlying zone of R-E (Residence Estates) consistent with Downtown Land Use Plan Area of the General Plan Land Use Element. The site is surrounded by undeveloped land to the south, residential to the east and north, and a construction yard to the west.

Permitting and Enforcement

Three existing structures on the subject parcel are legally recorded (10/29/98) with the Clark County Assessors Office (excluding the garage expansion). They include a 1,380 square foot one-story single family residence, and a 1,534 square foot garage. No City of Las Vegas Planning approvals are recorded permitting any of the structures on the project parcel. Several Building permits were issued for the project site including expired approvals for structures and improvements that are not noted on the project plans. The existing one-story single family residence was constructed in 1931.

The project site is associated with several code enforcement cases including a construction investigation for an illegal garage, painting activities, illegal auto repair, and illegal use of mobile home. The project applicant and City Code Enforcement staff have coordinated to address issues pertaining to motor vehicle restoration activities as well as the illegally constructed garage expansion. Code enforcement staff and the applicant have confirmed that

motor vehicle restoration activities involving classic automobiles presently occur on the subject parcel. The applicant has been cooperative in disclosing ownership documentation regarding all vehicles stored on site. Pursuant to Title 19.08, the underlying R-E zone district conditionally permits the operation of vehicle parking, storage or repair as an accessory use if the automobiles are owned by the residential lot owner.

Site Plan

The project site plan depicts three structures on the subject property; a one-story single family residence, a garage, and carport. The illegal garage expansion resulted in a 700 square foot addition to preexisting illegal 1,534 square foot garage both of which lie directly at the southern property line. The 420 square foot carport exists on the western property line is included in the Variance request for relief of the three foot rear yard setback requirement. In accordance with Title 19.08 - Class II (non-habitable) Accessory Structures require a minimum three foot setback from the side and rear property lines.

Planning staff conducted a site visit to verify site parking and determined that an approximately 150-foot long, 15-foot wide driveway exists along the north property line leading to the existing carport, rear yard and garage area.

Plan Elevations

The existing garage expansion is not constructed to be aesthetically compatible with the primary dwelling and the preexisting garage. A site visit revealed the garage expansion has an exterior finish utilizing natural wood siding that contrasts with the exterior treatment of the preexisting home and garage both of which are painted. Title 19.08 requires accessory structures to be designed for aesthetic compatibility with all structures on site.

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 19.18.070(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 expanding an existing legal nonconforming structure without review and approval by the Planning and Development Department. A project alternative that reduces the square footage of the garage expansion and provides a three-foot setback from the south property line, and conforms with the square footage restrictions for Class II Accessory Structures would bring the project into conformance with 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 17

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 169 by City Clerk

APPROVALS 0

PROTESTS 5