



AGENDA MEMO

PLANNING COMMISSION MEETING DATE: SEPTEMBER 25, 2008

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: ABEYANCE - VAR-28974 - APPLICANT/OWNER: JOHN MOSS

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to Title 19.08.040 to allow an existing 23-foot high, 2,080 square-foot Accessory Structure, Class II (Batting Cage) to exceed 50 percent of the floor area of the primary structure, and to exceed the 18-foot height of the main dwelling on 1.049 acres at 5100 Grand Teton Drive. The property has a 2,898 square-foot primary structure (not including a 672 square-foot attached garage), which allows for a maximum of 1,785 square feet for all accessory structures on the same lot. Additionally, Title 19.08.040 restricts the height of an accessory structure to the height of the primary dwelling unit, which is 18 feet tall.

This request for a Variance is a self-imposed hardship due to the applicants design choice; therefore, staff recommends denial.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
04/14/08	A Code Enforcement case (#64447) was opened for a batting cage approximately 22 feet high x 50 feet long x 22 feet high erected in the rear yard at 5100 Grand Teton Drive. Additionally, it was noted that the batting cage appeared less than three feet from the wall fronting Thom Street. The case is still open.
08/28/08	The Planning Commission held in Abeyance a request for a Variance (VAR-28974) to allow an existing 23-foot high, 2,080 square-foot Accessory Structure, Class II (Batting Cage) where an 18-foot high, 1,785 square-foot Accessory Structure is allowed, in order to allow the applicant time to meet with the surrounding neighbors.
<i>Related Building Permits/Business Licenses</i>	
08/06/97	A building permit (#97016213) was issued for a single-family dwelling with one fireplace. The project was completed on 12/12/97.
05/31/02	A building permit (#20090803) was issued for a block wall 207 feet by 6 feet.
<i>Pre-Application Meeting</i>	
06/13/08	A pre-application conference was held with the property owner to discuss Title 19 submittal requirements for a Variance for the Accessory Structure, Class II (Batting Cage)
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

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Field Check	
08/08/08	A field check revealed the Accessory Structure, Class II (Batting Cage) in the rear yard of the property closest to the east property line. The batting cage is black in color and can be seen from the front of the property.

Details of Application Request	
Site Area	
Gross Acres	1.05

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)
North	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)
South	Vacant Land	PF (Public Facilities)	C-V (Civic)
	School	PF (Public Facilities)	C-V (Civic)
East	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)
West	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)

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

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.040 (Accessory Structures), the following Development Standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	20,000 sq. ft	45,708.66 sq. ft	Y
Max. Lot Coverage (Rear Yard)	50%	7.58%	Y
Max. Total Lot Coverage	N/A	N/A	N/A
Min. Setbacks			
• Front	N/A	N/A	N/A
• Side	3 feet	13.95 feet	Y
• Rear	3 feet	34.75 feet	Y

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Min. Distance from Primary Structure	6 feet	68 feet	Y
Max. Building Height (Accessory Structure)	18 feet	23 feet	N*
Max. Accessory Structure Size (50% of 2,898 sq. ft primary structure)	1,785 sq. ft	2,080 sq. ft	N**

* Per Title 19.08.040(b), the height of a detached accessory structure cannot exceed two stories in height (with a maximum of 35 feet), or the height of the main dwelling, whichever is less. The principal dwelling is 18 feet tall and the proposed accessory structure is 23 feet in height, which does meet Title 19 requirements.

** Per Title 19.08.040(c), the floor area of all accessory structures shall not exceed 50 percent of the floor area of the principal dwelling unit constructed on the same lot. The principal dwelling unit is 2,898 square feet (does not include 672 square feet for the attached garage), with the proposed accessory structure 2,080 square feet in size. The maximum allowable square-footage of the accessory structure cannot exceed 1,785 square feet, which is 50 percent of the principal dwelling unit; therefore, the proposed accessory structure does not meet Title 19 requirements.

ANALYSIS

The applicant is seeking approval to allow an existing 2,080 square-foot, 23-foot high Accessory Structure, Class II (Batting Cage) in the backyard of an existing 2,898 square-foot single-family dwelling (with an attached 672 square-foot garage) at 5100 Grand Teton Drive. Per Title 19.08.040(c), the main aggregate total of the ground floor area of all accessory buildings shall not cover more than 50 percent of the rear yard. The total rear yard is approximately 27,431.26 square feet. The accessory structure is 2,080 square feet, which would cover approximately 7.58 percent of the rear yard, thereby meeting Title 19.08 requirements. Although the proposal complies with the required setbacks from the side and rear property lines and from the main dwelling, the proposal does not meet Title 19.08.040 pertaining to size and height. The proposed 2,080 square-foot batting cage exceeds 50 percent of the 1,785 square-foot primary dwelling unit, and exceeds the height restriction of 18 feet, which is the height of the main dwelling unit.

The request for the Variance stems from a self-imposed hardship; 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:

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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.

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by designing and installing an Accessory Structure, Class II (Batting Cage) in the rear yard that exceeds 50 percent of the square-footage, and the height of the main dwelling. An alternative design to a smaller 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

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SENATE DISTRICT 9

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