



## AGENDA MEMO

CITY COUNCIL MEETING DATE: SEPTEMBER 17, 2008  
DEPARTMENT: PLANNING AND DEVELOPMENT  
ITEM DESCRIPTION: VAR-28851 - APPLICANT/OWNER: MIAMI SHORES  
DEVELOPMENT, LLC

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### \*\* CONDITIONS \*\*

Staff recommends DENIAL. The Planning Commission (4-0 vote) recommends APPROVAL, 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.
2. The structure shall be required to obtain all necessary permits up to and including final inspection.

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

**PROJECT DESCRIPTION**

This application is a request for a Variance to Title 19.08.040 to allow a proposed 3,862 square-foot Accessory Structure, Class II (garage addition) to exceed 50 percent of the floor area of the primary structure. The 2,645 square-foot primary structure (not including a 480 square-foot attached garage) located at 5038 E. Monroe Avenue on 0.84 acres, allows for a maximum of 1,322.5 square feet for all accessory structures on the same lot. The property currently has a 52 square-foot shed, a 2,400 square-foot Accessory Structure, Class II (garage), and two 162 square-foot storage containers. The storage containers are not permitted nor allowed per Title 19.04.010.

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

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
08/14/08	The Planning Commission voted 4-0 to recommend APPROVAL (PC Agenda Item #42/ds).
<b><i>Related Building Permits/Business Licenses</i></b>	
06/19/00	A building permit (#11697) was issued for a detached shed. The permit was finalized on 7/28/00.
12/17/01	A building permit (#1021858) was issued for interior remodel/workshop. The permit was finalized on 5/1/02.
03/27/03	A building permit (#3006136) was issued for two storage sheds. The project was not finalized.
03/08/08	A building permit (#110611) was issued for a garage addition to an existing garage. The project is awaiting the results of this Variance.
07/01/08	A building permit (#117362) was issued for interior model of the main dwelling. The project is still in progress.
<b><i>Pre-Application Meeting</i></b>	
05/15/08	A pre-application meeting with the applicant was conducted to discuss Title 19 and submittal requirements for a Variance.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	
<b><i>Field Check</i></b>	
07/10/08	A field check of the proposed site was conducted. The garage attached to the main dwelling was under construction to be converted to habitable space. There was a small shed located to the east of the proposed addition against the wall, and two metal storage containers behind the existing garage in the rear yard. Additionally, an opening in the brick wall on the east property line from the adjoining parcel accessed the rear yard of the proposed location.

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	0.85

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)
North	Vacant Land	R (Rural Density Residential)	R-E (Residence Estates)
South	Vacant Land	R (Rural Density Residential)	R-E (Residence Estates)
	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)
East	Vacant Land	R (Rural Density Residential)	R-E (Residence Estates)
West	Single-Family Dwelling	R (Rural Density Residential)	R-E (Residence Estates)

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

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

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	20,000 sq. ft.	36,853 sq. ft.	Y
Max. Lot Coverage	N/A	N/A	Y
Min. Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	N/A	N/A	N/A
	5 feet	10 feet, 7 inches	Y
	5 feet	50 feet, 2 inches	Y
Distance from Primary Structure	6 feet	32 feet, 2 inches	Y
Max. Building Height (Accessory Structure)	14 feet, 8 inches	13 feet, 10 inches	Y*
Max. Accessory Structure Size (50% of 2,647 sq. ft. primary structure)	1,332.5 sq. ft.	3,914 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 3,914 square feet includes the existing 2,400 square-foot Accessory Structure, Class II (garage), the proposed 1,462 square-foot addition to the garage, and the 52 square-foot shed. It does not include the size of the two (2) storage containers, since they are not allowed in an R-E (Residence Estates) zoning district.

\*\*\*Per Title 19.08.040(c), the total 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.

## **ANALYSIS**

The applicant is seeking approval to construct a 1,462 square-foot addition to an existing 2,400 square-foot Accessory Structure, Class II (garage) in the backyard at 5038 E. Monroe Avenue on 0.84 acres. In addition to the existing garage in the rear yard, the applicant has a 52-foot shed, and two (2) storage containers (the shed is permitted; the storage containers are not permitted nor allowed in an R-E (Residence Estates) zoning district per Title 19.04.010). The applicant also has a garage attached to the main dwelling that is currently under construction to be converted to habitable living space. Additionally, the east perimeter block wall has an opening allowing access to the rear yard of the subject property from the adjoining parcel.

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 the size restrictions as listed in Title 19.08.040. The proposed 1,462 square-foot addition to the existing 2,400 square-foot structure (total size is 3,862 square feet) combined with the shed (52 square feet) exceeds the 2,645 square-foot primary structures gross floor area as shown on the site plan, where Title 19.08.040 would permit a total of only 1,322.5 square feet for all accessory structures combined. Even if the garage (480 square feet in size) that is attached to the principal dwelling is added to the total gross floor area, the maximum size of all accessory structures combined could not exceed 1,562.5 square feet per Title 19.08.040 requirements.

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:

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 an Accessory Structure, Class II (garage) that is oversized in floor area in comparison to the existing primary structure. No alternative proposal to reduce the requested addition would allow conformance to Title 19 requirements, since the existing garage already exceeds the 50 percent gross floor area of the principal dwelling. 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.

#### **PLANNING COMMISSION ACTION**

The conditions were amended as shown at the Planning Commission meeting.

#### **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

**ASSEMBLY DISTRICT**      14

**SENATE DISTRICT**            2

**NOTICES MAILED**            133 by City Clerk

**APPROVALS**                    10

**PROTESTS**                      5