



AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 17, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-28973 - APPLICANT/OWNER: JUAN ANDERSON

**** CONDITIONS ****

The Planning Commission (7-0 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.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow two (2) existing Accessory Structures (Class II), totaling 856 square feet, where a maximum of 728 square feet is permitted on 0.49 acres at 1000 Mohawk Street. The applicant was previously granted a permit for the 416 square-foot structure in the rear yard, but failed to request a permit for the second 440 square-foot structure. The applicant depicts plumbing and electrical within the second accessory structure.

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

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/28/08	The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #24/ds).
<i>Related Building Permits/Business Licenses</i>	
08/27/03	A building permit (#3018540) was issued for a wall with the dimensions of 263 feet by 5.25 feet. The project was not finalized.
12/09/03	A building permit (#3026054) was issued for a block wall with ornamental iron. The project was not finalized.
03/12/07	A building permit (#83535) was issued for a 12-foot by 16-foot (192 square feet) storage shed. An additional building permit (#83927) was issued for a second storage shed (192 square feet) combined under a single roof with the initial structure. The project was finalized on 11/21/07.
<i>Pre-Application Meeting</i>	
07/01/08	A pre-application meeting was held with the property owner to discuss Title 19 submittal requirements for a Variance for the existing shed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	
<i>Field Check</i>	
08/08/08	A field check of the property revealed two existing Accessory Structures, Class II in the rear yard of the property. Both structures were aesthetically compatible to the principal dwelling.

Details of Application Request	
Site Area	
Gross Acres	0.49

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-family dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single-family dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single-family dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single-family dwelling	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single-family dwelling	L (Low Density Residential)	R-1 (Single Family Residential)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (175 feet)	X		Y *
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

* The existing shed will not impact the Airport Overlay, as it is only eight feet in height.

DEVELOPMENT STANDARDS

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

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 sq. ft	21,214.53 sq. ft	Y
Max. Lot Coverage (Rear Yard)	50%	12.95%	Y
Max. Total Lot Coverage	50%	12.18 %	Y
Min. Setbacks			
• Front	N/A	N/A	N/A
• Side	3 feet	6 feet	Y
• Rear	3 feet	6 feet	Y
Distance Between Buildings and Primary Structure	6 feet	6 ft: structures 36 ft: main home	Y

Max. Building Height (Accessory Structure)	14 feet	8 feet	Y
Max. Accessory Structure Size (50% of 1,456 sq. ft. primary structure)	728 sq. ft	856 sq. ft	N*

**** 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. The principal dwelling unit is 1,456 square feet, with the two existing accessory structures totaling 856 square feet in size. The maximum allowable square-footage of all accessory structures combined cannot exceed 728 square feet, which is 50 percent of the principal dwelling unit. Therefore, the Accessory Structure (Class II) does not meet Title 19 requirements of not exceeding 50 percent of the floor area of the principal dwelling unit.

ANALYSIS

The applicant is seeking approval for two (2) existing Accessory Structures (Class II), totaling 856 square feet, located in the backyard of the existing 1,456 square-foot single-family dwelling at 1000 Mohawk Street. Although the proposal complies with required setbacks from the side and rear property lines and primary structure, the proposal does not meet the size restriction as listed in Title 19.08.040. The first 416 square-foot accessory structure previously permitted met the Title 19.08.040 size restriction, but when the applicant constructed an additional 440 square-foot accessory structure (without a permit), the total square-footage of both structures combined exceeded 50 percent of the floor area of the principal dwelling unit.

The request for the Variance stems from a self-imposed hardship that could be eliminated with an alternative design. 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 proposing two (2) Accessory Structures, Class II in the rear yard, whose combined square-footage exceeds 50 percent of the square-footage of the main dwelling. An alternative design to smaller structures 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 12

ASSEMBLY DISTRICT 3

SENATE DISTRICT 11

NOTICES MAILED 290 by City Clerk

APPROVALS 1

PROTESTS 5