



AGENDA MEMO

CITY COUNCIL MEETING DATE: JANUARY 20, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-36543 - APPLICANT/OWNER: STEVEN KERN

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to conditions.

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 is a request for a Variance to allow an 11-foot rear yard setback, where a 15-foot setback is required for an existing addition to a single family residence at 413 Meadows Valley Drive. The addition located at the rear of the residence was constructed without obtaining permits, resulting in a room addition that encroaches four feet into the required 15-foot rear yard setback of the property. Since the existing addition to the principle dwelling was constructed before consulting Title 19 standards and without building permits, it has been determined that the request is a result of a self-imposed hardship. Staff recommends denial of this Variance request; if denied, the addition will have to be removed.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
03/25/09	A deed was recorded for change of ownership.
09/16/09	A Code Enforcement case (#81925) was processed for construction going on at 413 Meadow Valley. The case was closed by Code Enforcement on 09/17/09.
12/17/09	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #13/ao).
<i>Related Building Permits/Business Licenses</i>	
05/19/75	The existing single-family residence was constructed at 413 Meadow Valley Drive.
<i>Pre-Application Meeting</i>	
10/14/09	A pre-application meeting with the applicant was held where the elements of submitting a Variance were discussed. • The submittal of the application materials and documents. • The meeting dates and deadlines were also discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	
<i>Field Check</i>	
11/12/09	A well maintained residence was observed.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	.16

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

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

DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500	6,500	Y
Min. Lot Width	65 Feet	65 Feet	Y
Min. Setbacks	20 Feet	25 Feet	Y
• Front	5 Feet	7 Feet	Y
• Side	5 Feet	8 Feet	Y
• Side	15 Feet	11 Feet	N
• Rear			
Max. Lot Coverage	N/A	27%	Y
Max. Building Height	2 Stories or 35 Feet, whichever is less	10 Feet	N

ANALYSIS

The applicant has constructed a room addition at the rear of the existing residence that encroaches approximately four feet into the required 15-foot rear yard setback of the property. The structure is 14 feet wide by 28 feet long, 392 square feet in area, and is completely enclosed with interior access provided to the rest of the dwelling. The applicant has indicated that the grooved exterior wood surface of the addition will be removed and replaced with stucco to match the main dwelling.

Research of the building permit activity found that the applicant had not obtained permits via Building and Safety for the addition that was built within the required setback. The structure is therefore not in conformance with Title 19.08. The applicant has created a self-imposed hardship by building within the required setback area and staff is recommending denial of this request for a Variance.

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 building within the required setback without obtaining the required building permits. An addition meeting the required rear yard setback would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There was one speaker in support of this project at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 22

NOTICES MAILED 321 by City Clerk

APPROVALS 20

PROTESTS 0