

**AGENDA MEMO****CITY COUNCIL MEETING DATE: MARCH 3, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: VAR-36952 - APPLICANT/OWNER: TIM PANGBORN**

NOTE: THE APPLICANT HAS REQUESTED THIS ITEM BE WITHDRAWN; HOWEVER, IT CANNOT BE WITHDRAWN WITHOUT ACTION BY THE COUNCIL AT THE MEETING.

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (5-1/rt vote) recommends DENIAL, if approved, subject to conditions:

Planning and Development

1. The Accessory Structures (Class II) shall be placed on a permanent foundation, and all necessary building permits shall be obtained within 30 days of final approval.
2. 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.

VAR-36952 - Staff Report Page One
March 3, 2010 - City Council Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow four existing Accessory Structures (Class II) to exceed 50 percent of the floor area of a single-family residence located at 2105 South Tenaya Way. The accessory structures have a total floor area of 2,023 square feet where 1,804 square feet is the maximum allowed for all accessory structures in the rear yard. The structures, which are metal, are also not aesthetically compatible with the principal structure, which is stucco, as required by Title 19.08.

The existing accessory structures exceed Title 19 requirements, and will have a negative visual impact on surrounding residential properties. Therefore, staff recommends denial of the request. If approved, structures must be placed on permanent foundations, and building permits must be obtained within 30 days of final approval. Denial of the request would require that the applicant remove the accessory structures to comply with the requirements of Title 19.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc and Property Sales</i>	
11/23/98	The City Council approved a General Plan Amendment (GPA-0027-98) request to Amend a portion of the Southwest Sector of the General Plan on properties bounded by Holmby Avenue Drainage Alignment, Via Olivero Avenue, Rainbow Boulevard, and Durango Drive, from: R (Rural Density Residential) to: DR (Desert Rural Density Residential).
02/19/86	The City Council approved a request for Annexation (A-0009-85) for the area generally located south of West Charleston Boulevard between Fort Apache and Torrey Pines Drive.
09/22/09	Code Enforcement issued a citation notice (#82216) for a large billboard sign on a trailer and a truck parked behind 2105 Tenaya Way. The case is still pending.
01/28/10	The Planning Commission voted 5-1 to recommend DENIAL (PC Agenda Item #25/ao).
<i>Related Building Permits/Business Licenses</i>	
04/22/91	A building permit (#91103679) was issued for a mobile home at 2105 South Tenaya Way. The permit expired on 04/03/93.
02/04/00	A building permit (#00002095) was issued for a room addition at 2105 South Tenaya Way. The project was completed on 11/17/00.
01/26/07	A deed was recorded for a change of ownership.
06/18/07	A building permit (#83127) was issued for a Single-Family Dwelling remodel at 2105 South Tenaya Way. The permit was finalized 02/26/09.

VAR-36952 - Staff Report Page Two
March 3, 2010 - City Council Meeting

11/12/09	A building permit (#151032) was submitted for three storage units at 2105 South Tenaya Way. The permit is still pending review and has not been issued.
Pre-Application Meeting	
12/01/09	A pre-application meeting with the applicant was held where the elements of submitting a Variance were discussed. The topics included: • Per Title 19.08.040, accessory structures must not exceed 50% of the floor area of the main dwelling, and the aggregate floor area of all structures must not cover more than 50% of the rear yard. • Accessory structures must be located a minimum of three feet from the side/rear property lines and six feet from the main dwelling, and must be aesthetically compatible with the main dwelling. • All structures must be on a permanent foundation, and must be permitted (building permits could not be issued until any required Variances are approved).
Neighborhood Meeting	
A neighborhood meeting is not required, nor was one held.	

Field Check	
12/22/09	Staff conducted a site visit and observed the following: • A well-maintained residence with accessory structure at the rear of the property.

Details of Application Request	
Site Area	
Gross Acres	.72

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	DR (Desert Rural) Density Residential	R-E (Residence Estates)
North	Single-Family Residence	DR (Desert Rural) Density Residential	R-E (Residence Estates)
South	Single-Family Residence	DR (Desert Rural) Density Residential	R-E (Residence Estates)
East	Undeveloped	DR (Desert Rural) Density Residential	R-E (Residence Estates)
West	Single-Family Residence	DR (Desert Rural) Density Residential	R-E (Residence Estates)

VAR-36952 - Staff Report Page Three
March 3, 2010 - City Council Meeting

<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		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

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks (Accessory Structures) • Side • Rear • From Main Dwelling	3 Feet 3 Feet 6 Feet	16 Feet 3 Feet 15 Feet	Y
Size	1,804 Square Feet Coverage	2,023 Square Feet	N
Max. Accessory Height (the storage containers)	N/A	8 Feet	Y
Max. Accessory Height (detached garage)	22 Feet	22 Feet	Y
Max. Rear Yard Lot Coverage	50%	87%	N

ANALYSIS

The total of all existing Accessory Structures is 2,023 square feet. The applicant has three existing storage containers and a detached garage in the rear yard with a total area of 2,023 square feet. Title 19.08 states, "The total floor area of all accessory structures shall not exceed fifty percent of the floor area of the principal dwelling unit constructed on the same lot." The principal dwelling on the subject site is 3,607 square feet, allowing for a total of 1,804 square feet for all accessory structures. Thus, the existing accessory structures exceed this standard by 219 square feet, a 12 percent deviation from the Title 19 requirement. The applicant has created a self imposed hardship by placing accessory structures that exceed the allowable square-footage by 219 square feet. In addition, the structures are made of metal, and are not aesthetically compatible with the principal structure, which is stucco, as required by Title 19.08. If approved, a condition has been added to require that the accessory structures be placed on a permanent foundation and building permits be obtained for the structures within 30 days of final approval.

VAR-36952 - Staff Report Page Four
March 3, 2010 - City Council Meeting

The Accessory Structures (Class II) are used for storage, and are located in the western portion of the subject site adjacent to other R-E (Residence Estates) zoned properties. Research of the 1,000-foot radius notification area revealed no other Variances which were approved for an accessory structure that exceeded 50 percent of the floor area of the main dwelling.

In addition to the applicant's accessory structures not meeting Title 19 requirements they are not aesthetically compatible with the principal dwelling, as required by Title 19. There is no deficiency in the property that necessitates constructing an accessory structure that will exceed Title 19.08 requirements; therefore, staff cannot support this application and recommends denial of this Variance request.

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 proposing accessory structures that do not comply with the requirements of Title 19. Alternative design 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.

VAR-36952 - Staff Report Page Five
March 3, 2010 - City Council Meeting

PLANNING COMMISSION ACTION

There were two speakers in opposition at the Planning Commission meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

NOTICES MAILED 129 (By City Clerk)

APPROVALS 0

PROTESTS 7