

**AGENDA MEMO - PLANNING**

CITY COUNCIL MEETING DATE: MAY 18, 2011

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: MARGARITA OJEDA

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-40797	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-40797 CONDITIONS

Planning

- 1.This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions of LVMC Title 19.18. An Extension of Time may be filed for consideration by the City of Las Vegas.
- 2.Prior to occupancy, all necessary building permits shall be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety.
- 3.These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
- 4.All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Conditions Page Two
May 18, 2011 - City Council Meeting

Public Works

5. Connect to public sewer in Bradley Road and abandon the existing Individual Sewage Disposal System (ISDS) according to Southern Nevada Health Department (SNHD) regulations unless documentation is provided from the SNHD allowing the existing ISDS to remain.
6. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing final grade elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainageways as recommended.

Staff Report Page One
May 18, 2011 - City Council Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow a maximum 1,048 square feet of combined floor area where 1,011 square feet is the maximum allowed, to allow the proposed Accessory Structure (Class II) with a six-foot side yard setback, where 15 feet is required in the R-E (Residence Estates) zoning district, and a proposed 484 square-foot Accessory Structure (Class II) on an existing single family residential lot at 5313 Patricia Avenue. The subject property contains a 2,022 square-foot Single Family Dwelling and two existing Accessory Structures (Class II). Staff recommends denial, as the use does not comply with Title 19 requirements for an Accessory Structure (Class II) use. The proposed Class II accessory structure will be six feet from the side property line on a corner lot. The combined floor area of the existing and proposed accessory structures is greater than 50 percent of the primary dwelling. If this application is denied, the proposed Accessory Structure (Class II) will not be permitted to be located on the property.

ISSUES

- A building permit (#176731) was issued 02/24/11 for a 567 square-foot addition to the residence. Once constructed and all final inspections are completed, the Variance for the building area will no longer apply, as the total area allowed for accessory structures will be 1,295 square feet. The building setback variance will still be required.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
10/28/76	The Board of Zoning Adjustment approved a request for a Variance (V-0077-76) to allow a 30-foot front yard setback where 50 feet is required on 69 proposed lots on property generally located on the south side of Craig Road between Jones Boulevard, and Thom Boulevard.
04/12/11	The Planning Commission voted (7-0) to recommend APPROVAL (PC Agenda Item 24/rg).

<i>Most Recent Change of Ownership</i>	
04/24/09	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
01/17/77	A building permit (#227) was issued for a Single Family Dwelling at 5313 Patricia Avenue. The residence was completed on 03/21/78.

Staff Report Page Two
May 18, 2011 - City Council Meeting

02/17/11	A plan check review (#40800) was approved for Single Family Dwelling room addition, a storage shed and free standing patio cover at 5313 Patricia Avenue.
02/24/11	A building permit (#176731) was issued for a Single Family Dwelling room addition at 5313 Patricia Avenue. The building permit has not been finalized.
	A building permit (#180154) was issued for an Accessory Structure (Class II) and free standing patio cover at 5313 Patricia Avenue. The building permit has not been finalized.

<i>Pre-Application Meeting</i>	
01/06/11	A pre-application meeting was held with the applicant where the submittal requirements for a Variance were discussed.

<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held	

<i>Field Check</i>	
03/04/11	A site visit by staff noted a well maintained Single Family Dwelling.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.45

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.04</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)

Staff Report Page Three
May 18, 2011 - City Council Meeting

<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area		X	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (105 feet)	X		X
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Las Vegas Redevelopment Plan Area			N/A
Development Impact Notification Assessment			N/A
Project of Regional Significance			N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	19,741 SF	N*
Min. Lot Width	100 Feet	100 Feet	Y
Min. Setbacks (Accessory Structure) • Front • Side • Corner • Rear	Not Allowed 3 Feet 15 Feet 3 Feet	N/A Feet 71 Feet 6 Feet 91 Feet	N/A Y N Y
Min. Distance Between Buildings	6 Feet	14 Feet	Y
Max. Lot Coverage	N/A	N/A	N/A
Max. Building Height	Lesser of two stories, (with a maximum of 35 feet), or height of the main building, whichever is less.	12.5 Feet	Y

*The subject site is legally non-conforming for the lot size.

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Patricia Avenue	Local	N/A	51	N/A
Bradley Road	Collector	N/A	80	N/A

Staff Report Page Four
May 18, 2011 - City Council Meeting

ANALYSIS

The subject property is located within the Airport Overlay District with a 105-foot height restriction and Rural Preservation Overlay District. The proposed development conforms to the requirements of these districts.

An Accessory Structure (Class II) use is defined by Title 19.20.020 as “an accessory structure which is located on the same lot as a principal structure, is detached therefrom, is incidental or subordinate thereto, and does not qualify as an Accessory Structure (Class I).” The applicant is proposing a 484 square-foot detached Class II accessory structure that will be utilized as an automobile garage and will be accessed via a driveway from Patricia Avenue. The property contains an existing 2,022 square-foot Single Family Dwelling. The rear yard of the property contains a 420 square-foot freestanding accessory structure and 144 square-foot storage shed.

The request for a Variance is required, as the combined floor area of the two existing Class II accessory structures, and the proposed Class II accessory structure, exceeds 50 percent of the floor area of the principal dwelling. Pursuant to Title 19.08.040, the total area of all accessory structures shall not exceed 50 percent of the principal dwelling, which is 2,022 square feet. The maximum area allowed for all accessory structures is 1,011 square feet.

A building permit (#176731) was issued 02/24/11 for a 567 square-foot addition to the residence. Once constructed and all final inspections are completed, the Variance for the building area will no longer apply, as the total area allowed for accessory structures will be 1,295 square feet. The building setback variance will still be required.

In addition, the proposed class II accessory structure side yard setback is six feet from the property line along Bradley Road. Pursuant to Title 19.08.040, accessory structures in the rear yard of corner lots may not be located closer to the side property line than that required for the primary dwelling. In the R-E (Residence Estates) zoning district, the side yard setback is 15 feet. No characteristics of the property prevent the Accessory Structure (Class II) from being designed to meet Title 19 standards; therefore, staff recommends denial of the request for a Variance. If this request is approved, it is subject to conditions.

FINDINGS (VAR-40797)

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.”

Staff Report Page Five
May 18, 2011 - City Council Meeting

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 an Accessory Structure (Class II) that exceeds the building floor area allowed by Title 19.08 and is proposed to be located six feet from the property line on a corner lot. Reduction and relocation of the proposed Class II accessory structure 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

10

NOTICES MAILED

210 (By City Clerk)

APPROVALS

4

PROTESTS

3