

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: APRIL 23, 2009****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: ABEYANCE - VAR-33369 - APPLICANT/OWNER: MARCIA D. GEIL**

**** CONDITIONS ******STAFF RECOMMENDATION: DENIAL.** If Approved, 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. Trees planted within the perimeter of the accessory structure are to be 24-inch box trees planted every 20 linear feet on-center to provide adequate buffering to adjacent residential properties.

Public Works

3. If this structure will be plumbed for water and/or sewer, coordinate with the Southern Nevada Health District to determine if the existing septic system permit will accommodate the additional square footage of the proposed structure; if not coordinate with the City of Las Vegas Collection Systems Planning Section of the Department of Public Works regarding connection to the City of Las Vegas sewer system prior to the issuance of any permits.
4. Meet with the Fire Protection Engineering Section of the Department of Fire Services to discuss fire requirements for the proposed use of this facility.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a 4,875 square-foot Accessory Structure (Class II) where 1,325 square feet is the maximum size allowed on an R-E (Residence Estates) zoned property at 5921 Mello Avenue. This represents a 368 percent deviation from the Code standard. The applicant is also requesting a Variance to allow the proposed accessory structure to be 24 feet in height, where 18 feet is the maximum permitted. In addition, the applicant is requesting a Variance to allow the accessory structure to not be aesthetically compatible with the primary residence.

This is a self-imposed hardship created by the applicant by proposing an accessory structure that exceeds the allowable square-footage by 3,550 square feet, as well as the height of the main building by six feet, and is not aesthetically compatible to the primary residence. Due to the excessive size and incompatibility of the proposed Accessory Structure (Class II), staff can not support this application and is recommending denial of this Variance request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
03/26/09	The Planning Commission voted to hold this item in abeyance in an effort to provide the applicant with an opportunity to hold a neighborhood meeting.
<i>Related Building Permits/Business Licenses</i>	
05/25/94	A building permit (#94333364) was issued for a pool at 5921 Mello Avenue. The permit was finalized on 08/18/94.
10/24/94	A building permit (#94353467) was issued for a wall at 5921 Mello Avenue. The permit was finalized on 04/03/95.
<i>Pre-Application Meeting</i>	
01/28/09	A pre-application meeting was held where the submittal requirements for a Variance were discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	
<i>Field Check</i>	
02/19/09	Staff performed a routine field check where a well-maintained single-family residence was observed. Staff was not able to observe the rear yard where the proposed accessory structure is to be constructed.

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<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	1.07

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
North	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
South	Single-Family Residence	R (Rural Density Residential)	R-PD3 (Residential Planned Development 3 Units per Acre)
	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
East	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)
West	Single-Family Residence	R (Rural Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan	X		Y
Centennial Hills Sector Plan	X		Y
Northwest Open Space Plan	X		Y
<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

Per Title 19.08.040(B)(1) for Accessory Structures

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 SF	45,868 SF	Y
Min. Lot Width	100 FT	154 FT	Y
Min. Setbacks			
• Front	N/A	N/A	N/A
• Side	3 FT	10 FT	Y
• Corner	N/A	N/A	N/A
• Rear	3 FT	10 FT	Y

NE

Min. Distance Between Buildings	6 FT	109 FT	Y
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Max. Lot Coverage	50%	16%	Y
Max. Building Height	2 Stories or 35 Feet, or the Height of the Main Building, Whichever is Less	24 FT	N*

**The applicant is requesting a Variance to allow the proposed accessory structure to be 24 feet in height where 18 feet is the maximum height allowed. The main building (residence) is 18 feet in height; the proposed accessory structure would exceed the allowable height of 18 feet by six feet.*

VARIANCE			
Standard	Required/Allowed	Provided	Percent of Deviation
The total floor area of all accessory structures shall not exceed fifty (50) percent of the floor area of the principal dwelling unit constructed on the same lot.	1,325 SF	4,875 SF	368%
Standard	Required/Allowed	Provided	Compliance
An accessory structure must be aesthetically compatible with the principal dwelling unit.	Stucco, Painted Same Color as Primary Residence.	Corrugated Metal	N
Standard	Required/Allowed	Provided	Compliance
A detached accessory structure shall not exceed two stories in height (with a maximum of 35 feet), or the height of the main building, whichever is less.	18 Feet	24 Feet	N

ANALYSIS

The applicant is requesting a Variance to allow an Accessory Structure (Class II) to exceed the allowable square footage, height, and aesthetics standard set forth by Title 19.08:

Size and Coverage [19.08.040(B)(1)(c)]

The proposed accessory structure is 4,875 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 2,650 square feet, allowing for a total of 1,325 square feet in accessory structures. The proposed accessory structure exceeds this standard by 3,550 square feet, a 368 percent

deviation from code standard.

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Height [19.08.040(B)(1)(b)]

Title 19.08 states, A detached accessory structure shall not exceed two stories in height (with a maximum of 35 feet), or the height of the main building, whichever is less. The main building on the subject site is a single-story single-family residence with a maximum height of 18 feet, allowing for an accessory structure to be 18 feet in height. The proposed accessory structure is 24 feet tall, exceeding the allowable height by six feet. This is a 33 percent deviation from code standard.

- **Aesthetics [19.08.040(B)(1)(f)]**

The applicant has proposed a corrugated metal accessory structure. Title 19.08 requires an accessory structure to be aesthetically compatible with the principal dwelling unit. The principal dwelling unit on the subject site is a single-family home with a beige/tan stucco finish. The proposed accessory structure is not aesthetically compatible with the principal dwelling unit on the subject site.

- **Site Plan**

The proposed site plan demonstrates a 2,650 square-foot single-family residence located on an R-E (Residence Estates) zoned, 1.07 acre parcel. The proposed 4,875 square-foot Accessory Structure (Class II) would be used for storage, and is located in the far southwest corner of the subject site adjacent to residentially zoned properties. The applicant has proposed installing seven trees within the 10-foot setback adjacent to the south and west perimeters of the proposed accessory structure providing screening to the adjacent residentially zoned properties. The size of the trees proposed were not indicated on the site plan; a condition has been added requiring these trees to be 24-inch box size, planted every 20 linear feet on-center in order to provide adequate buffering for the neighboring properties. The site also indicates a well house, which serves as protection from the elements to the applicants well. The subject site is enclosed by a six-foot CMU perimeter wall.

- **Elevation**

The elevation indicates a 24-foot tall, manufactured, corrugated metal accessory structure. The south elevation would have no windows or doorways, with the north elevation having one, eight-foot tall doorway. The west elevation demonstrates no windows, and a typical 14-foot tall, 20-foot wide (double) roll-up doorway. The east elevation demonstrates the majority of the accessory structures access with one eight-foot tall doorway, a typical 14-foot tall by 14-foot wide (single) roll-up doorway, and an additional typical 14-foot tall by 20-foot wide (double) roll-up doorway.

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This is a self-imposed hardship created by the applicant by proposing an accessory structure that exceeds the allowable square-footage by 3,550 square feet, as well as the height of the main building by six feet, and is not aesthetically compatible to the primary residence. Due to the excessive size and incompatibility of the proposed Accessory Structure (Class II), staff can not support this application and is recommending 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 19.18.070L 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 an accessory structure that exceeds the allowable square-footage, height requirements, and is incompatible with the aesthetic requirement set forth by Title 19. Alternative design for the proposed accessory structure 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.

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