

**AGENDA MEMO - PLANNING****PLANNING COMMISSION MEETING DATE: AUGUST 9, 2011****DEPARTMENT: PLANNING****ITEM DESCRIPTION: APPLICANT/OWNER: SHIRLEY RITZ TRUST**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-42175	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-42175 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 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. 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.

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Public Works

5. Submit an Encroachment Agreement for the portions of the existing wall in the Ash Avenue public right-of-way prior to this issuance of a permit for this wall. The applicant must carry an insurance policy for the term of the encroachment agreement and add the City of Las Vegas as an additionally insured entity on this insurance policy. If requested by the City, the applicant shall remove property encroaching in the public right-of-way at the applicant's expense pursuant to the terms of the City's encroachment agreement. The installation and maintenance of all private improvements in the public right-of-way shall be the responsibility of the adjacent property owner(s) and shall be transferred with the sale of the property for the entire term of the Encroachment Agreement.
6. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage paths for this site prior to submittal of construction plans, the issuance of any building or grading permits, or the submittal of a map for this site, whichever may occur first. Provide and improve all drainage ways as recommended.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The property at 2222 Ash Avenue contains an existing Single Family, Detached dwelling. There are additions to the property that were built without permits and the Variance request is to allow these structures to remain on the property. Because the additions to the property were placed without permits, which are not in compliance with Title 19.06 requirements, the applicant has created a self-imposed hardship; therefore, staff recommends denial. If this application is denied, the existing room addition at the rear of the dwelling, the existing Accessory Structure (Class II) and the existing wall shall be removed from the property.

ISSUES

- A Variance is required to allow a four-foot rear yard setback for the primary dwelling where 15 feet is required.
- A Variance is required to allow an existing Accessory Structure (Class II) was built within the front yard area where such is not allowed.
- A Variance is required to allow an existing 3.5-foot high solid wall with a 3.5-foot wrought iron top within the front yard setback, where five feet is the maximum height.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
There are no relevant cases found for this property.	

<i>Most Recent Change of Ownership</i>	
02/26/98	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
c.1948	The existing Single Family, Detached was constructed.
08/27/51	A building permit (#11940) was issued for a 459 square-foot room addition to an existing single family dwelling at 2222 Ash Street (now Avenue). No final inspection could be located.

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03/31/11	A Code Enforcement case (#99839) was processed for a four-foot block wall and four-foot tall wrought iron fence around the perimeter on the south, east and north property lines, and a detached accessory structure and room addition to the existing house without permits at 2222 Ash Avenue. The case was closed on 04/19/11.
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<i>Pre-Application Meeting</i>	
05/11/11	A pre-application meeting was held with the applicant, where the submittal requirements for a Variance were discussed. Topics included: • The existing perimeter wall, addition to the rear of the house and Accessory Structure (Class II) were built without permits. • The front yard wall/fence is greater than five feet per Title 19 standards. Variance is required for a wall/fence to allow greater than five feet in height. • The front yard wall/fence is located within the Ash Avenue right-of-way. Prior to a building permit, an encroachment permit from Department of Public Works will be required if approved. • Rear setback is 15 feet and the room addition located at the rear of the property is four feet from the rear property line. A Variance is required to allow a four-foot rear setback. • An existing Accessory Structure (Class II) was constructed within the north side of the existing house. An approval of a Variance is required to allow the existing Accessory Structure (Class II) to be within the front yard of the property, where no accessory structure is permitted in front of the primary structure.

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

<i>Field Check</i>	
06/30/11	A site check by staff noted that the subject site is a well maintained single family dwelling.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.20

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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family, Detached	M (Medium Density Residential)	R-1 (Single Family Residential)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Multi-Family Residential	M (Medium Density Residential)	R-3 (Medium Density Residential)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

<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		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Las Vegas Redevelopment Plan Area		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.06.070, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	8,748 SF	Y
Min. Lot Width	65 Feet	63 Feet	N*
Principal Dwelling unit			
Min. Setbacks			
• Front	20 Feet	94 Feet	Y
• Side	5 Feet	5 Feet	Y
• Corner	15 Feet	26.5 Feet	Y
• Rear	15 Feet	4 Feet	N
Min. Distance Between Buildings	6 Feet	23 Feet	Y
Max. Lot Coverage	50 %	11 %	Y

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Accessory Structure			
Min. Setbacks			
• Front	Not Permitted	52 Feet	N
• Side	3 Feet	12 Feet	Y
• Corner	15 Feet	40 Feet	Y
• Rear	3 Feet	74 Feet	Y
Max. Building Height	35 Feet	15 Feet	Y
Accessory Structure Size	15 Feet	10 Feet	Y
Front Yard Wall/Fence	5 Feet	7 Feet	N

*The subject site is legally nonconforming for the lot width.

<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Ash Avenue	N/A	N/A	60	N/A
23 rd Street	N/A	N/A	50	N/A

ANALYSIS

The property contains an existing dwelling with a room addition located on the south side of the dwelling and an existing Accessory Structure (Class II) in the front yard.

The existing dwelling was constructed in 1948, and a building permit (#11940) was issued for a room addition at the north side of the existing dwelling in 1951. The site plan submitted depicts the existing dwelling with a front yard setback of 94 feet from the front property line to the north along Ash Avenue. A laundry room is located on the south side of the existing dwelling, which was added without a building permit. In the R-1 (Single Family Residential) zoning district per Title 19.06.070, the rear setback requirement is 15 feet.

The applicant is requesting that an existing Accessory Structure (Class II) that was constructed without building permits be allowed to remain within the front yard area where such is not permitted pursuant to Title 19.06.040(C)(2). The site plan depicts the existing Accessory Structure (Class II), in front of the main dwelling and meeting the side yard setback, as well as the separation distance between the main dwelling and existing Accessory Structure (Class II). The height of the existing Accessory Structure (Class II) is 10 feet and the height of the main dwelling is 15 feet. Photographs submitted with this application indicate that the existing Accessory Structure (Class II) is aesthetically compatible with the main dwelling.

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Pursuant to Title 19.06.070, in the R-1 (Single Family Residential) Zoning District, the front yard wall and fence shall consist of a maximum solid wall base height of two feet and the maximum wall height shall be five feet. The applicant is requesting to allow a seven-foot tall wall, with a 3.5-foot solid base, and a 3.5-foot wrought iron top. The portion of the front yard wall along Ash Avenue is located within the public right-of-way. The Department of Public Works has added a condition requiring the applicant to obtain an encroachment agreement prior to securing a building permit.

All of the above additions to the property were placed without permits, which are not in compliance with Title 19.06 requirements, and the applicant has created a self-imposed hardship; therefore, staff recommends denial.

FINDINGS (VAR-42175)

In accordance with the provisions of Title 19.16.140(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 19.16.140(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 building a laundry room addition to the existing dwelling within the required building setback, building an Accessory Structure (Class II) within the front yard area, and building front yard wall and fence above the specified height requirement of five feet. The alternative is to relocate the laundry addition elsewhere in the existing building, to relocate the existing Accessory Structure (Class II) within the side yard and to reconstruct the existing wall with a height of five feet with a solid base no greater than two feet in height., which 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.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 42

NOTICES MAILED 276

APPROVALS 0

PROTESTS 0