



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: SEPTEMBER 17, 2014

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: SHARON WILLIAMS

THIS ITEM WAS HELD IN ABEYANCE FROM THE SEPTEMBER 17, 2014 CITY COUNCIL MEETING AT THE REQUEST OF STAFF.

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-54353	Staff recommends DENIAL, if approved subject to conditions:	

**** CONDITIONS ****

VAR-54353 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 for all construction that has occurred without permit on the subject site.
3. The existing room addition and its associated habitable spaces shall each provide internal access to principle dwelling.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Staff Report Page One
SEPTEMBER 17, 2014 – City Council Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

The subject site is located within a residential subdivision composed of single-family dwellings. Since 2004, the property has been subject to numerous Code Enforcement actions primarily consisting of reports of the residence operating as a boarding house/apartment house, as well as construction without permit(s). As a result of the most recent Code Enforcement action, opened in March of 2013, City Planning staff has met with representatives associated with the property three times over the course of eight months. The results of which has culminated in this request for a Variance to allow deviations from both the side and rear yard setback requirements for an illegally constructed room addition.

The applicant states within their justification letter that the construction was completed by the previous owner of the property. Aerial photography depicts the non-permitted construction occurred between the time frame of April of 2012 and February 2013. During that time the subject site was going through default and was bought from the bank by the same owner of record since 2006 and has been subsequently quick claimed to his wife. Furthermore, upon site inspection, it was found that additional construction not depicted upon the submitted plans has occurred and that said construction would require a Variance to allow a zero-foot side yard setback. Staff finds that the Variance requests are the result of a self-imposed hardship precipitated by the applicant building the structure(s) without required building permits; therefore staff recommends denial of this application. If denied, the applicant would have to revise the building to conform to Title 19 requirements or remove the structure.

ISSUES

- A Variance is required to allow a zero-foot side yard setback, where five feet is required. Staff does not support this request.
- A Variance is required to allow a four-foot rear yard setback, where 15 feet is required. Staff does not support this request.
- The existing room addition is composed of two separate habitable spaces with no internal access between themselves and the principle dwelling. This fails to meet the definition of a single family detached dwelling. The application has been conditioned to provide such internal access as this requirement cannot be deviated from by means of a Variance application.
- The submitted plans do not accurately depict current site conditions. Additional construction has occurred, as evidenced by supporting photos that depict an attached shed zero-foot side yard setback.
- The subject site's perimeter walls are eight feet in height and are in conformance with Title 19 requirements; therefore no Variance is required for wall heights.

Staff Report Page Two
SEPTEMBER 17, 2014 – City Council Meeting

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
03/24/04	A Code Enforcement Case (#11674) was opened for having multiple tenants in a single family residence at 4420 Mark Avenue. Closed on 04/15/04.
07/22/04	A Code Enforcement Case (#18668) was opened for a boarding house in a single family residence at 4420 Mark Avenue. Closed on 07/23/04.
03/30/05	A Code Enforcement Case (#18668) was opened for a boarding house in a single family residence at 4420 Mark Avenue. Closed on 09/04/06.
09/04/06	A Code Enforcement Case (#) was opened for non-permitted work being done on a single family residence at 4420 Mark Avenue. Closed on 02/09/07.
02/12/07	A Code Enforcement Case (#50414) was opened for numerous building and zoning violations at a single family residence at 4420 Mark Avenue. Closed on 11/14/07.
07/29/08	A Code Enforcement Case (#68274) was opened for a vacant a single family residence at 4420 Mark Avenue. Closed on 07/29/08.
03/24/09	A Code Enforcement Case (#76033) was opened for an apartment building in a single family residence at 4420 Mark Avenue. Closed on 07/14/09.
01/14/10	A Code Enforcement Case (#85568) was opened for non-permitted work being done in a single family residence at 4420 Mark Avenue. Closed on 02/03/10.
11/04/10	A Code Enforcement Case (#95972) was opened for an apartment building in a single family residence at 4420 Mark Avenue. Closed on 11/08/10.
03/07/13	A Code Enforcement Case (#125817) was opened for a non-permitted addition to the rear of the house at a single family residence at 4420 Mark Avenue. Closed on 03/12/13.
03/28/13	A Code Enforcement Case (#126893) was opened for a non-permitted addition to the rear of the house at a single family residence at 4420 Mark Avenue. Case is open.
07/08/14	The Planning Commission unanimously vote to recommend DENIAL of a Variance (VAR-54353) request to allow a zero-foot side yard setback where 5 feet is required and a four-foot rear yard setback where 15 feet is required for an existing room addition with no internal access and to allow an existing 10-foot tall side wall (fence) where eight feet is the maximum allowed at 4420 Mark Avenue.

<i>Most Recent Change of Ownership</i>	
07/30/13*	A quick claim deed was recorded for a change in ownership.

**There is a history of quick claim deeds dating back to 2000 with this property.*

<i>Related Building Permits/Business Licenses</i>	
02/25/65	A building permit (#0368) was issued for a single family residential dwelling at 4420 Mark Avenue.

Staff Report Page Three
SEPTEMBER 17, 2014 – City Council Meeting

<i>Related Building Permits/Business Licenses</i>	
03/30/78	A building permit (#4906-1) was issued for an aluminum patio.
02/17/89	A building permit (#89-014699) was issued for an addition.
02/13/02	A building permit (#02002529) was issued for fire sprinklers for a care facility.
11/12/13	A building permit (#248687) was issued to raise a block wall up two feet, nine inches for a total wall height of eight feet at 4420 Mark Avenue. No inspections have been completed and the permit has not been finalized.

<i>Pre-Application Meeting</i>	
09/24/13	Staff met with the applicant as a result of Code Enforcement action to address building additions to the rear of the property and raising the fence (wall) to eight feet without permits at 4420 Mark Avenue. Applicant informed staff that they would apply for a Variance and permits.
10/23/13	Staff met with the applicants, at the applicants' request, to clarify what needed to be done to bring property up to code. The applicant said they would reduce fence to six feet and apply for a setback variance.
05/12/14	Staff met for the third time with applicants regarding resolving on-going Code Enforcement issues.

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

<i>Field Check</i>	
05/29/14	Staff visited the site and found a single-family dwelling that had clear signs it had been modified to have two primary entrances with two separate mailboxes. Furthermore, it was found that additional construction adding onto the dwelling had occurred and was not represented on the submitted plans.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.14

<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)	R-1 (Single Family Residential)

Staff Report Page Four
SEPTEMBER 17, 2014 – City Council Meeting

<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>
North	Single Family, Detached	L (Low Density)	R-1 (Single Family Residential)
South	Single Family, Detached	L (Low Density)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density)	R-1 (Single Family Residential)
West	Single Family, Detached	L (Low Density)	R-1 (Single Family Residential)

<i>Master Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (70 Feet)	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	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	6,534 SF	Y
Min. Lot Width	60 Feet	65 Feet	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	5 Feet	0 Feet	N
• Corner	15 Feet	N/A	N/A
• Rear	15 Feet	4 Feet	N
Max. Lot Coverage	50 %	32 %	Y
Max. Building Height	35 Feet	35 Feet	Y
Mech. Equipment	Screened	Screened	Y

Staff Report Page Five
SEPTEMBER 17, 2014 – City Council Meeting

<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>
Mark Avenue	Residential Street	Title 13.12.060	50	Y

ANALYSIS

The subject site is located within a residential subdivision composed of single-family dwellings. A single family detached dwelling is defined as “a dwelling unit:

1. That is not attached to any other dwelling by any means;
2. That is located on a separate and individually owned lot;
3. That is surrounded by open space or yards;
4. That is for the exclusive use of a single family maintaining a household;
5. That has no more than one kitchen with full kitchen facilities; and
6. In which all rooms used for human habitation must have interior access to one another.”

The submitted floor plan illustrates two completely separate habitable spaces with no internal access provided to the principle dwelling. The depicted configuration of the existing room addition fails to meet description #6 of the definition, as no internal access is being provided. This requirement cannot be eliminated by means of a Variance application. As such a condition of approval has been added to this application requiring internal access be provided.

The non-permitted construction of the room addition at the rear of the existing dwelling has also resulted in the structure encroaching into the required side and rear yard setback areas. As denoted on the applicant’s plans, the room addition sits two feet from the side property line and four feet from the rear property line where five feet and 15 feet are required, respectively. However, during a site inspection of the property additional construction was noted. It was observed that an enclosed structure was added to the room addition and principle dwelling, as well as it was attached to the perimeter wall, resulting in a zero-foot side yard setback.

Staff finds that the Variance requests are the result of a self-imposed hardship precipitated by the applicant building the structure(s) without required building permits; therefore staff recommends denial of this application. If denied, the applicant would have to revise the building to conform to Title 19 requirements or remove the structure.

FINDINGS (VAR-54353)

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:

Staff Report Page Six
SEPTEMBER 17, 2014 – City Council Meeting

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 adding an addition without building permits or meeting setback requirements. An alternative would be to obtain the proper permits that 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

33

NOTICES MAILED

399 (By City Clerk)

APPROVALS

2

PROTESTS

4