



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: JUNE 15, 2016

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: JUAN CORTEZ CARACOZA AND
IRENE DOMINGUEZ CORTEZ CARACOZA

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-63871	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-63871 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 [within 90 days from approval](#).
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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**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is for a variance request for an existing Accessory Structure (Class II) [Gazebo] and a six-foot tall solid return wall within the front yard at 1661 Leonard Lane. The accessory structure was partially built without obtaining the proper building permit. The structure is located in front of the primary dwelling and is within eight feet of the front property line. In addition, a solid return wall was constructed in 2012, with a building permit approved at two-feet. The subject property is sufficient in size to allow an accessory structure and the return wall. The wall was constructed beyond the scope of the building permit and exceeds Title 19.06 requirements. The applicant has created a self-imposed hardship by building the structure at the front of the primary structure and building the solid return wall beyond the height limit; therefore, staff recommends denial. If this application is denied, the existing structure must be removed and the existing solid wall must be lowered to the height of two feet, meeting Title 19.06 standards.

ISSUES

- The Accessory Structure (Class II) [Gazebo] was constructed without a building permit and is located within the front yard setback, which is not allowed. Staff does not support the request.
- The existing solid return wall at the southeast corner of the house to the front property line was permitted for only two feet tall. Staff does not support an increased solid fence/wall height.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
08/11/94	The Planning Commission approved an Annexation [A-0018-94 (A)] on a property generally located on the west side of Leonard Lane, approximately 330 feet north of Vegas Drive. Staff recommended approval.
01/25/95	The City Council approved a request for a Rezoning (Z-0156-94) for reclassification of property located on the west side of Leonard Lane, approximately 300 feet north of Vegas Drive, from: N-U (Non-Urban), to; R-D (Single Family Residence Restricted) and R-1 (Single Family Residence. The Planning Commission and staff recommended approval.

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<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
05/10/16	The Planning Commission unanimously voted to recommend APPROVAL of a request for a Variance (VAR-63871) TO ALLOW AN EXISTING 625 SQUARE-FOOT ACCESSORY STRUCTURE (CLASS II) [GAZEBO] IN FRONT OF THE PRIMARY STRUCTURE WHERE SUCH IS NOT ALLOWED, TO ALLOW AN EIGHT-FOOT FRONT YARD SETBACK WHERE 25 FEET IS REQUIRED, AND TO ALLOW AN EXISTING SIX-FOOT SOLID RETURN WALL WHERE TWO FEET IS ALLOWED WITHIN THE FRONT YARD on 0.34 acres at 1661 Leonard Lane (APN 138-24-814-017), R-D (Single Family Residential-Restricted) Zone, Ward 5 (Barlow) [PRJ-63763].

<i>Most Recent Change of Ownership</i>	
07/17/12	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
12/29/00	A building permit (#382177) was issued for a six-foot by 300-foot long decorative block wall for lots 17 and 18 at 5202 Marietta Avenue (address of the residential subdivision). The building permit was finaled on 01/17/01. Lot 17 is 1661 Leonard Lane and is subject property for this variance application.
07/23/12	A building permit (#216035) for a front yard wall at 1661 Leonard Lane. The permit was finaled on 09/13/12
02/11/16	A plan check review (#311073) was submitted through the Building and Safety Department for a Detached Structure/Cabana at 1661 Leonard Lane. The review was denied because it cannot proceed until additional information is provided and pending status is removed.
02/08/16	A code enforcement case (#163228) was initiated due to a large structure erected on front of the residential property without permit. This case has not yet resolved.

<i>Pre-Application Meeting</i>	
03/09/16	A pre-application meeting was held with the applicant to discuss the submittal requirements for the Variance application.

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

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Field Check	
03/31/16	A field check by staff observed a partially constructed Accessory Structure (Class II) and the solid return wall on the subject property.

Details of Application Request	
Site Area	
Net Acres	0.35

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Single Family, Detached	R (Rural Density Residential)	R-D (Single-Family Residential-Restricted)
North	Single Family, Detached	R (Rural Density Residential)	R-D (Single-Family Residential-Restricted)
South	Single Family, Detached	R (Rural Density Residential)	R-E (Residence Estates)
East	Single Family, Detached	RN (Rural Neighborhood Density Residential) – Clark County	R-E (Residence Estates) – Clark County
West	Single Family, Detached	R (Rural Density Residential)	R-1 (Single-Family Residential)

Master Plan Areas	Compliance
No Applicable Master Plan Area	N/A
Special Purpose and Overlay Districts	Compliance
A-O (Airport Overlay) District (105 feet)	Y
Other Plans or Special Requirements	Compliance
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

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DEVELOPMENT STANDARDS

Pursuant to Title 19.06, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	10,000 SF	15,216 SF	Y
Min. Lot Width	80 Feet	85 Feet	Y
Accessory Structure (Class II) Min. Setbacks: • Front	Not Permitted	8 Feet	N
Min. Distance Between Buildings	10 Feet	10 Feet	Y
Front Yard Wall	2 Feet	6	N

<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>
Leonard Lane	Local Street	N/A	60	Y

ANALYSIS

The subject property contains an existing 625 square-foot Accessory Structure (Class II) [Gazebo], which was partially constructed within the front yard setback along Leonard Lane. The placement of the accessory structure is not permitted in the front yard setback according to Title 19.06.065. No building permit was issued, which resulted in non-compliance of the accessory structure placement.

A solid return wall within the front yard setback area was permitted with a height for two feet in 2012. In the plan check review of the building permit; it was determined that the return wall was within the front yard, therefore permitted the two-foot solid wall. Upon its construction the wall was erected beyond the two-foot height limit as permitted by the building permit review and Title 19.06.065.

The applicant is requesting a Variance to allow the existing structure to remain in its current location and to allow the existing solid return wall at its current height of six feet within the front yard setback. There are no unique circumstances with this Variance request and staff recommends denial, if approved it is subject to conditions.

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FINDINGS (VAR-63871)

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 constructing the Accessory Structure (Class II) [Gazebo] within the front yard setback area and building the wall over the maximum height of two feet solid wall within the front yard. Alternative to this Variance is to relocate the existing accessory structure away from the front yard setback somewhere else in the property within the side and rear yard setback area and to lower the existing solid return wall as approved building permit (#216035) 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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NOTICES MAILED 211 (By City Clerk)

APPROVALS 0

PROTESTS 0