



AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: DECEMBER 11, 2018

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: TOMAS RAMIRO XECHE-AJCAC, ET AL

** STAFF RECOMMENDATION(S) **

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
VAR-74681	Staff recommends DENIAL, if approved subject to conditions:	

** NOTIFICATION **

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 21

NOTICES MAILED 363

PROTESTS 0

APPROVALS 2

**** CONDITIONS ****

VAR-74681 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. The existing full kitchen facilities shall be removed.
3. All necessary building permits shall be obtained 90 days after final approval and final inspections shall be completed in compliance with Title 19 and all codes as required by the Department of Building and Safety within 180 days of final approval.
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.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow an existing Accessory Structure (Class II) [Casita] to maintain a rear setback of nine-inches, and a side setback of one-foot, two-inches.

ISSUES

- There is an open Code Enforcement case (#190675) for the non-permitted construction of secondary living quarters in the rear yard of 713 Digger Street that contains a full kitchen, bathroom, and bedroom.
- A full kitchen is not permitted in an Accessory Structure Class II and is not part of this application. The floor plan date stamped 10/23/18 does not indicate a full kitchen as part of the overall floor plan. A Condition of Approval has been added to ensure the removal of the full kitchen facilities if approved.

ANALYSIS

On June 21, 2018 the Department of Planning, Code Enforcement Division received a complaint for the possibility of an existing rear yard shed at 713 Digger Street being converted into a rental unit with someone inhabiting it. An inspection of the structure in question performed by a Code Enforcement Officer on June 26, 2018 revealed the existing structure had been converted to secondary living quarters that included a full kitchen, bathroom and a bedroom. The officer informed the property owner of the code violations and issued the property owner a notice of violation by certified mail.

The Clark County Assessor lists the property as a 1,308 square-foot Single Family Residential unit with three bedrooms and one full bathroom. The Assessor includes the 176 square-foot carport as part of the primary residential structure, and a “zero” for casita square footage.

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The structure in question was originally constructed in compliance with building permit (#2109) which permitted the construction of a 231 square-foot (11-feet by 21-feet) workshop in the rear yard with a zero-foot rear yard setback. Legal, nonconforming structures are allowed to expand up to 50 percent of the original size with a building permit. The applicant expanded the existing structure by more than 50 percent of the original square-footage (155 percent) to 509 square feet; therefore, a Variance for both the rear and side yard setbacks are now required to allow the structure to remain as constructed. If this application is denied, the applicant will be required to revert the structure back to its original size of 231 square feet, including the original footprint of 11-feet by 21-feet. If approved, the applicant will be required to remove the full kitchen facilities as a full kitchen is not permitted within an Accessory Structure (Class II).

FINDINGS (VAR-74681)

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 expanding an existing legal, nonconforming structure by 155 percent without proper building permits. Submitting an application for a building permit to expand the existing structure would have allowed 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.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
06/21/18	Code Enforcement processed a complaint (#190675) for the possibility of someone inhabiting a shed located in the rear yard of 713 Digger Street. A Code Enforcement Officer inspected the site on 06/25/18 and confirmed the construction of a possible dwelling unit in the rear yard that appeared to be over 200 square feet, and contained a door and windows. The officer returned to the site on 06/26/18 and was granted entry by the owner to the structure, which was found to be a second living space that contains a full kitchen, bathroom and bedroom. The officer was unable to locate any permits for the structure and the owner was advised of code requirements for an accessory structure in the R-1 zoning district. The case remains open.

<i>Most Recent Change of Ownership</i>	
07/23/18	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
1955	The existing single family dwelling at 713 Digger Street was constructed.
11/13/85	A building permit (#2109) was issued for an 11-foot by 21-foot (231 square feet) work shop with a zero-foot rear yard setback at 713 Digger Street. The permit received its final inspection on 03/21/86.
10/13/87	A building permit (#2979) was issued for a room addition to an existing single family dwelling at 713 Digger Street. The permit received its final inspection on 10-13-87.
08/09/18	A building permit application (R18-10528) was submitted to the Department of Building & Safety for a 509 square-foot detached casita constructed without permits. The building permit application is in the review phase and requires a Variance for the existing zero-feet building setbacks.

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Pre-Application Meeting	
09/18/18	Staff conducted a pre-application meeting where the submittal requirements for a Variance were discussed. The applicant was also advised of the subject structure requiring all necessary building permits to be obtained and final inspections performed if Variance is granted.

Neighborhood Meeting
A Neighborhood meeting was not required, nor was one held.

Field Check	
11/01/18	Staff performed a routine field check and was unable to view the subject accessory structure from the street.

Details of Application Request	
Site Area	
Net Acres	0.14

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family, Detached	L (Low Density Residential)0.14	R-1 (Single Family Residential)

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Master and Neighborhood Plan Areas	Compliance
No Applicable Master Plan Area	N/A
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District – 175 Feet	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	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, the following standards apply for Accessory Structures:

Standard	Required/Allowed	Provided	Compliance
Min. Setbacks			
• Side	3 Feet	1 Foot, 2 Inches	N
• Rear	3 Feet	9 Inches	N
Min. Distance Between Buildings	6 Feet	14 Feet	Y
Max. Lot Coverage (Not to Exceed 50% of Rear Yard)	50 %	29 %	Y
Max. Size (Not to Exceed 50% of Principal Dwelling Unit)	654 SF	509 SF	Y
Max. Building Height	10 Feet	10 Feet	Y

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
Digger Street	Local Street	Title 13	50	Y