



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**PLANNING COMMISSION MEETING DATE: MAY 14, 2024**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: ERMI MENA RODRIGUEZ - OWNER: EUSEBIO MENA-ZULUETA AND ERMI J. MENA-RODRIGUEZ**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>24-0044-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

**\*\* NOTIFICATION \*\***

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**                      22

**NOTICES MAILED**                      294

**PROTESTS**                      0

**APPROVALS**                      0

**\*\* CONDITIONS \*\***

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**24-0044-VAR1 CONDITIONS**

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**Planning**

1. A Variance (24-0044-VAR1) is hereby approved, to allow a two-foot rear yard setback where 15 feet is required and a three-foot side yard setback where five feet is required for an existing addition to a primary dwelling.
2. A Variance (24-0044-VAR1) is hereby approved, to allow an existing Patio Cover to extend into the required front yard setback area where such is not allowed.
3. 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.
4. 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 Building and Safety Division.
5. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**Staff Report Page One**  
**May 14, 2024 - Planning Commission Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a Variance request to allow an existing addition to a primary dwelling and patio cover that do not comply with Title 19 development standards at 6905 Pony Circle.

**ISSUES**

- A Variance (24-0044-VAR1) is requested to allow a two-foot rear yard setback where 15 feet is required and a three-foot side yard setback where five feet is required for an existing addition to a primary dwelling. Staff does not support this request.
- A Variance (24-0044-VAR1) is requested to allow an existing Patio Cover to extend into the required front yard setback area where such is not allowed. Staff does not support this request.
- A Code Enforcement Case (CE#23-08088) is open citing a structure on the east side of the dwelling and within required setbacks. The case remains open pending the results of this Variance request.

**ANALYSIS**

The subject property is zoned R-1 (Single Family Residential) and is subject to Title 19 development standards. The subject site is currently developed as a single-family residence with unpermitted additions and a patio cover. Surrounding the subject site are other R-1 (Single Family Residential) zoned properties with existing single-family dwellings. This Variance (24-0044-VAR1) is the result of an open Code Enforcement case (CE#23-08088) citing unpermitted additions within the required setbacks. The applicant requests to maintain a two-foot rear yard setback where 15 feet is required and a three-foot side yard setback where five feet is required for additions to the primary dwelling. Additionally, patio covers are not allowed to encroach upon the established 20-foot front yard setback. The applicant proposes to maintain an 18-foot front yard setback.

Per the submitted justification letter, the applicant constructed these additions and patio cover without knowledge of appropriate building permit and Title 19 requirements. No justification has been provided relating to the physical characteristics of the property to warrant the requested Variance. Therefore, staff finds the hardship to be self-imposed and preferential in nature. Therefore, staff recommends denial of this Variance (24-0044-VAR1). If approved, it will be subject to conditions.

**Staff Report Page Two**  
**May 14, 2024 - Planning Commission Meeting**

**FINDINGS (24-0044-VAR1)**

In accordance with the provisions of Title 19.16.140(B), the 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 building additions and a patio cover without permits and within required setbacks. 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**

<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
11/24/23	A Code Enforcement case (CE#23-08088) is open citing a structure on the east side of the dwelling and within required setbacks at 6905 Pony Circle. The case remains open pending the results of this Variance request.

<b><i>Most Recent Change of Ownership</i></b>	
03/05/20	A deed was recorded for a change in ownership.

**Staff Report Page Three**  
**May 14, 2024 - Planning Commission Meeting**

<b><i>Related Building Permits/Business Licenses</i></b>
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There are no related Building Permits or Business Licenses.
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<b><i>Pre-Application Meeting</i></b>
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01/22/24	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Variance.
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<b><i>Neighborhood Meeting</i></b>
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A neighborhood meeting was not required, nor was one held.
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<b><i>Field Check</i></b>
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04/02/24	Staff conducted a routine field check of the subject property and observed an existing single-family dwelling. Nothing of concern was noted.
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<b><i>Details of Application Request</i></b>
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<b><i>Site Area</i></b>
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Net Acres	0.13
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<b><i>Surrounding Property</i></b>	<b><i>Existing Land Use Per Title 19.12</i></b>	<b><i>Planned or Special Land Use Designation</i></b>	<b><i>Existing Zoning District</i></b>
Subject Property	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Residential, Single Family Detached	L (Low Density Residential)	R-1 (Single Family Residential)

**Staff Report Page Four**  
**May 14, 2024 - Planning Commission Meeting**

<b><i>Master and Neighborhood Plan Areas</i></b>	<b><i>Compliance</i></b>
Las Vegas 2050 Master Plan Area: Charleston	Y
<b><i>Special Area and Overlay Districts</i></b>	<b><i>Compliance</i></b>
No Applicable Special Area or Overlay Districts	N/A
<b><i>Other Plans or Special Requirements</i></b>	<b><i>Compliance</i></b>
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 Primary Dwelling Additions:***

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Lot Size	6,500 SF	5,662 SF	Y**
Min. Lot Width	60 Feet	80 Feet	Y
Min. Setbacks			
• Side	5 Feet	14 Feet	Y
• Rear	15 Feet	2 Feet	N*
Max. Lot Coverage	50%	36%	Y
Max. Building Height	35 Feet or the height of the principal dwelling unit, whichever is less.	8 Feet	Y

***Pursuant to Title 19.06, the following standards apply for Patio Covers***

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Setbacks			
• Side	5 Feet	3 Feet	N*
• Front	20 Feet	18 Feet	N*
Max. Lot Coverage	50%	36%	Y
Max. Building Height	35 Feet or the height of the principal dwelling unit, whichever is less.	8 Feet	Y

\*A Variance (24-0044-VAR1) is requested to allow a two-foot rear yard setback where 15 feet is required for an existing addition to a primary dwelling; a three-foot side yard setback where five feet is required for an existing addition to a primary dwelling; and to allow an existing patio cover to extend into the required front yard setback area where such is not allowed

\*\*Non-conforming with respect to lot size.