

**AGENDA MEMO - COMMUNITY DEVELOPMENT****CITY COUNCIL MEETING DATE: OCTOBER 16, 2024****DEPARTMENT: COMMUNITY DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: ALFONSO E. SALINAS**

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0009-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED****7****NOTICES MAILED** 492**PROTESTS** 1**APPROVALS** 0

**** CONDITIONS ****

24-0009-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a one-foot separation from the primary dwelling where six feet is required for an existing Residential Accessory Structure [Detached Patio Cover].
2. The Residential Accessory Structure [Detached Patio Cover] shall be made aesthetically compatible with the primary dwelling unit.
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
October 16, 2024 - City Council Meeting

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a Variance request for an existing Residential Accessory Structure [Detached Patio Cover] that does not meet building separation requirements at 2817 Sing Song Way.

ISSUES

- A Code Enforcement Case (#CE23-08289) is open citing the subject unpermitted residential accessory structure that does not meet Title 19 requirements.
- A Variance is requested to allow a one-foot separation from the primary dwelling unit where six feet is required for an existing Residential Accessory Structure [Detached Patio Cover]. Staff does not support this request.

ANALYSIS

The subject site is zoned R-CL (Single Family Compact-Lot) and is subject to Title 19 development standards. The purpose of the R-CL (Single Family Compact-Lot) zoning district is to provide for single family units and other customary residential uses on a smaller lot size. A Code Enforcement (#CE23-08289) was opened on 11/29/23 for the subject property and an onsite inspection conducted on 12/04/23 resulted in violations of an unpermitted structure in the rear yard. This case remains unresolved, pending the results of this Variance request.

Per Title 19.06.080, Residential Accessory Structures shall have a six-foot separation from the primary dwelling. The applicant is requesting to maintain an existing detached patio cover with a one-foot separation from the primary dwelling, prompting this Variance request. Aerial imagery of the subject property shows that the structure appeared after summer 2021, according to Clark County OpenWeb. The submitted elevations and justification letter indicate that the detached patio cover is approximately 14 feet tall and does not exceed the height of the primary dwelling. The applicant intends to make the Residential Accessory Structure [Detached Patio Cover] aesthetically compatible with the primary house.

No evidence of a unique or extraordinary circumstance related to the physical characteristics of the property has been presented to warrant the requested Variance. As such, the hardship is self-imposed and therefore, staff recommends denial of this Variance request. If approved, the Variance will be subject to conditions.

Staff Report Page Two
October 16, 2024 - City Council Meeting

FINDINGS (24-0009-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 Residential Accessory Structure [Detached Patio Cover] without permits that does not meet distance separation requirements. Reducing the size or removing the structure 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.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
11/29/23	A Code Enforcement case (#CE23-08289) was processed for an unpermitted accessory structure in the rear yard area that does not comply with Title 19 requirements at 2817 Sing Song Way. The case remains unresolved pending the result of this Variance request.

Staff Report Page Three
October 16, 2024 - City Council Meeting

<i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i>	
05/14/24	The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW A ONE-FOOT SEPARATION FROM THE MAIN BUILDING WHERE SIX FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [DETACHED PATIO COVER]
6/18/24	The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW A ONE-FOOT SEPARATION FROM THE MAIN BUILDING WHERE SIX FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [DETACHED PATIO COVER]
07/09/24	The Planning Commission voted (7-0) to HOLD IN ABEYANCE the following Land Use Entitlement project request TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING PATIO COVER AND TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING ADDITION TO A SINGLE-FAMILY DWELLING on 0.28 acres at 1601 Bryn Mawr Avenue.
09/10/24	The Planning Commission voted (7-0) to recommend DENIAL on the following Land Use Entitlement project request TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING PATIO COVER AND TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING ADDITION TO A SINGLE-FAMILY DWELLING on 0.28 acres at 1601 Bryn Mawr Avenue.

<i>Most Recent Change of Ownership</i>	
06/30/11	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
03/09/21	A business license (G69-01035) was issued for cleaning services at 2817 Sing Song Way. The license is listed as delinquent.

<i>Pre-Application Meeting</i>	
01/04/24	A pre-application meeting was held with the applicant and the submittal requirements for a Variance were discussed.

Staff Report Page Four
October 16, 2024 - City Council Meeting

Neighborhood Meeting

A neighborhood meeting was not required, nor was one held.

Field Check

04/02/24	Staff conducted a routine field check and observed an existing single family dwelling. The accessory structure was not visible from the street.
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Details of Application Request

Site Area

Net Acres	0.09
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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	Residential, Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
North	Residential, Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
South	Residential, Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
East	Residential, Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)
West	Residential, Single Family, Detached	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: West Las Vegas	Y
<i>Special Area 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
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

Staff Report Page Five
October 16, 2024 - City Council Meeting

DEVELOPMENT STANDARDS

Pursuant to 19.06, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	3,000 SF	3,920 SF	Y
Min. Setbacks – Accessory Structure [Detached Patio Cover]			
• Side (West)	3 Feet	20 Feet	Y
• Side (East)	3 Feet	6 Feet	Y
• Rear	3 Feet	6 Feet	Y
Min. Distance Between Buildings	6 Feet	1 Foot	N*
Max. Lot Coverage	70 %	37 %	Y
Max. Building Height	35 Feet	14 Feet	Y

*A Variance (24-0009-VAR1) is requested to allow a one-foot separation from the primary dwelling where six feet is required for a Residential Accessory Structure [Detached Patio Cover].