



**AGENDA MEMO - COMMUNITY DEVELOPMENT**

**CITY COUNCIL MEETING DATE: MAY 15, 2024**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**ITEM DESCRIPTION: APPLICANT: JUANA VIZCARRA - OWNER: JUANA VIZCARRA AND GUADALUPE VIZCARRA**

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

<b>CASE NUMBER</b>	<b>RECOMMENDATION</b>	<b>REQUIRED FOR APPROVAL</b>
<b>24-0006-VAR1</b>	Staff recommends DENIAL, if approved subject to conditions:	

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

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 10

**NOTICES MAILED** 247 (by City Clerk)

**PROTESTS** 0

**APPROVALS** 3 - 24-0006-VAR1

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

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**24-0006-VAR1 CONDITIONS**

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**Planning**

1. A Variance is hereby approved to allow a three-foot side yard setback where five feet is required for an existing Residential Accessory Structure [Detached Patio Cover].
2. A Variance is hereby approved to allow a four-foot side yard setback where five feet is required for an existing Residential Accessory Structure [Shed].
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 \*\***

**PROJECT DESCRIPTION**

This is a Variance request for two existing Residential Accessory Structures that do not meet side yard setback requirements at 5309 West Gowan Road.

**ISSUES**

- A Code Enforcement Case (#CE23-07356) is open citing unpermitted residential accessory structures that do not meet Title 19 requirements.
- A Variance (24-0006-VAR1) is requested to allow a three-foot side yard setback where five feet is required for an existing Residential Accessory Structure [Detached Patio Cover]. Staff does not support this request.
- A Variance (24-0006-VAR1) is requested to allow a four-foot side yard setback where five feet is required for an existing Residential Accessory Structure [Shed]. Staff does not support this request.

**ANALYSIS**

The subject site is zoned R-E (Residence Estates) and is subject to Title 19 development standards. The purpose of the R-E (Residence Estates) zoning district is to provide low density residential units located on large lots and conveying a rural environment. A Code Enforcement Case (#CE23-07356) was opened on 10/17/23 for the subject property and an on-site inspection conducted on 01/03/24 resulted in violations of unpermitted structures in the rear yard that do not meet setback requirements. This case remains unresolved, pending the results of this Variance request.

Per Title 19.06.060, Residential Accessory Structures shall have a five-foot side yard setback. The applicant is requesting to maintain an existing 47-foot by 20-foot detached patio cover with a three-foot side yard setback and an existing shed with a four-foot side yard setback, prompting this Variance request. Aerial imagery of the subject property shows that the structures appeared approximately in spring 2011, according to Clark County OpenWeb. According to the submitted justification letter, the detached patio cover is used for family gatherings. The submitted building elevations indicate that the detached patio cover has a maximum height of 12 feet and does not exceed the height of the principal dwelling. According to the submitted site plan, there is an additional accessory structure located in the northwest area of the rear yard that will be removed, as it does not meet separation requirements set forth in Title 19.06.060. This structure is not a part of this Variance request.

**Staff Report Page Two**  
**May 15, 2024 - City Council Meeting**

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.

**FINDINGS (24-0006-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 requesting to maintain the existing residential accessory structures that do not meet side yard setback requirements. Relocating or removing the structures 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.

**Staff Report Page Three**  
**May 15, 2024 - City Council Meeting**

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.</i></b>	
10/17/23	A Code Enforcement Case (#CE23-07356) was processed for two unpermitted structures that do not meet setback and distance separation requirements at 5309 West Gowan Road. This case remains open.
3/12/24	The Planning Commission voted (7-0) to recommend APPROVAL on a Land Use Entitlement project request TO ALLOW A THREE-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [DETACHED PATIO COVER] AND A FOUR-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHED] on 0.46 acres at 5309 West Gowan Road (APN 138-12-710-003), R-E (Residence Estates) Zone, Ward 5 (Crear).
4/17/24	The City Council voted (6-1) to HOLD IN ABEYANCE For possible action on a Land Use Entitlement project request TO ALLOW A THREE-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [DETACHED PATIO COVER] AND A FOUR-FOOT SIDE YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHED] on 0.46 acres at 5309 West Gowan Road (APN 138-12-710-003), R-E (Residence Estates) Zone, Ward 5 (Crear). The Planning Commission (7-0 vote) recommends APPROVAL. Staff recommends DENIAL.

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

<b><i>Related Building Permits/Business Licenses</i></b>	
04/06/07	A Building Permit (R-85632) was issued for a wall/fence at 5309 West Gowan Road. The permit was finalized on 07/01/07.
05/25/23	A Building Permit application (R23-08113) was processed for proposed home additions at 5309 West Gowan Road. The permit is in review, pending the results of this request.

<b><i>Pre-Application Meeting</i></b>	
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**  
**May 15, 2024 - City Council Meeting**

**Neighborhood Meeting**

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

**Field Check**

01/30/24	Staff conducted a routine field check and observed an existing single family dwelling with residential accessory structures in the rear yard area.
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**Details of Application Request**

**Site Area**

Net Acres	0.46
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<b>Surrounding Property</b>	<b>Existing Land Use Per Title 19.12</b>	<b>Planned or Special Land Use Designation</b>	<b>Existing Zoning District</b>
Subject Property	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
North	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
South	Residential, Mobile Home Park	O (Office)	O (Office)
East	Residential, Single Family, Detached	DR (Desert Rural Density Residential)	R-E (Residence Estates)
West	Utility Substation	PF (Public Facility)	C-V (Civic)

**Master and Neighborhood Plan Areas**

Las Vegas 2050 Master Plan Area: Rancho

**Compliance**

Y

**Special Area and Overlay Districts**

**Compliance**

A-O (Airport Overlay) District - 70 Feet

Y

RP-O (Rural Preservation Overlay) District

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 19.06.060, the following standards apply:*

<b>Standard</b>	<b>Required/Allowed</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	18,000 SF	20,037 SF	Y
Min. Lot Width	100 Feet	100 Feet	Y
Min. Setbacks - Accessory Structures [Detached Patio Cover]			
• Side	5 Feet	3 Feet	N*
• Rear	5 Feet	16 Feet	Y
Min. Setbacks - Accessory Structures [Shed]			
• Side	5 Feet	4 Feet	N*

*\*A Variance (24-0006-VAR1) is requested to allow a three-foot side yard setback for an existing Accessory Structure [Detached Patio Cover] and a four-foot side yard setback for an existing Accessory Structure [Shed] where five feet is required.*