



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: DECEMBER 12, 2023

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: JAVIER CEBALLOS

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
23-0459-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 15

NOTICES MAILED 285

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

23-0459-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a zero-foot rear yard setback where 15 feet is required and a three foot side yard setback where five feet is required for an existing residential accessory structure [Shed 1].
2. A Variance is hereby approved to allow a zero-foot side yard setback where five feet is required and a two-foot separation from the main dwelling unit where six feet is required for an existing residential accessory structure [Shed 2 and 3].
3. A Variance is hereby approved to allow a three-foot solid wall base for an existing front yard wall/fence where two feet is the maximum allowed.
4. 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.
5. 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.
6. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

Public Works

8. Construct a new driveway for the secondary gated entry. The driveway shall meet Public Right-of-Way Accessibility Guidelines (PROWAG) in accordance with code requirements of Title 13.56.040 to the satisfaction of the City Engineer concurrent with development of this site.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow for three existing residential accessory structures [Shed 1, Shed 2 and Shed 3] to remain in their current location on 0.25 acres at 4212 Keithann Circle. Carport 1 denotes the structure to the far west of the primary structure, while Carport 2 and 3 designates the structure positioned to the south of the principal building.

ISSUES

- A Variance is requested to allow a zero-foot rear yard setback where 15 feet is required and a three foot side yard setback where five feet is required for an existing residential accessory structure [Shed 1]; a zero-foot side yard setback where five feet is required, a two-foot separation from the main dwelling unit where six feet is required for an existing residential accessory structure [Shed 2 and Shed 3]; and to a three-foot solid wall base for an existing front yard wall/fence where two feet is the maximum allowed. Staff does not support this request.
- A Code Enforcement case (#CE23-04996) initiated regarding the unauthorized construction of a shed and attachments without the requisite permit at 4212 Keithann Circle. The non-compliance issues identified include the absence of setbacks to the side walls, proximity to a power pole, utility cable passing through the structure, and inadequate clearance to an overhead power line. It is important to note that this case remains open, pending resolution based on the outcome of the current Variance application.

ANALYSIS

The subject site is zoned R-1 (Single Family Residential) and is subject to Title 19 development standards. The three existing residential accessory structures [Shed 1, 2 and 3] were built without obtaining building permits and fail to comply with Title 19 development standards. Shed 1 maintains a zero-foot rear yard setback where 15 feet is required and a three foot side yard setback where five feet is required. Shed 2 and 3 maintain a zero-foot side yard setback where five feet is required. At the same time, Shed 2 and 3 fail to meet the Title 19.06.070 accessory structure separation requirements, as the Shed 2 and 3 are located two-feet away from the main building where six feet is required. Due to the three existing residential accessory structures [Shed 1, 2 and 3] not meeting Title 19 Development Standards, the applicant has requested a Variance to keep the three existing residential accessory structures [Shed 1, 2 and 3] as constructed.

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Per Title 19.06.070, a five-foot tall front yard wall/fence with a two-foot solid wall base is the maximum height allowed. The existing front yard fence exceeds this requirement, as it is five feet in height with a three-foot tall solid wall base. According to the submitted justification letter date stamped on 10/04/2023, the applicant is requesting permission to retain the current front yard fence, asserting that its preservation serves the objective of enhancing visibility of the front yard vista.

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 staff recommends denial of this request. If approved, the sheds and fence are subject to conditions.

FINDINGS (23-0459-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.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by building three existing residential accessory structures [shed 1, 2 and 3] and fence without obtaining building permits, which fail to meet the Title 19 development standards. If the applicant would have applied for building permits, they would have been informed of what is required, and conformance to the Title 19 requirements could have been met. Modifying the existing structures to conform to Title development standards 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, Bldg., etc.</i>	
07/18/23	A Code Enforcement case (#CE23-04996) was processed on 07/18/23 for new construction of shed and attachments. No setback to the side walls, power pole, utility cable passing through the structure and no clearance to overhead power line at 4212 Keithann Circle. The case remains open.

<i>Most Recent Change of Ownership</i>	
11/03/20	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
There are no relevant Building Permits/Business Licenses.	

<i>Pre-Application Meeting</i>	
08/29/23	Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed for a proposed Variance request.

<i>Field Check</i>	
11/02/23	Staff conducted a routine field check and found an existing single-family Dwelling with existing sheds.

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Details of Application Request	
Site Area	
Net Acres	0.25

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
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	Office, Medical or Dental	TOD-1 (Transit Oriented Development - High)	C-1 (Limited Commercial)
East	Residential, Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Electric Utility Substation	PF (Public Facility)	C-V (Civic)

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: East Las Vegas	Y
Special Area and Overlay Districts	Compliance
There are no relevant Special Area and Overlay Districts	N/A
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

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DEVELOPMENT STANDARDS

Pursuant to 19.06, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks <ul style="list-style-type: none"> • Rear • Side 	15 Feet 5 Feet	0 Feet 0 Feet	N* N*
Min. Distance Between Buildings	6 Feet	2 Feet	N*
Max. Front Yard Wall/Fence Height	Five feet with a two-foot solid fence base	Five feet with a three foot solid fence base	N*

*The applicant is requesting a Variance to allow a zero-foot rear yard setback where 15 feet is required and a three foot side yard setback where five feet is required for an existing residential accessory structure [Shed 1]; a zero-foot side yard setback where five feet is required, a two-foot separation from the main dwelling unit where six feet for an existing residential accessory structure [Shed 2 and 3] is required and a three-foot solid wall base for an existing front yard wall/fence where two feet is the maximum allowed.