

City of Las Vegas

AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: AUGUST 13, 2024

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT: JOSE MEDINA - OWNER: JOSE J. MEDINA-FERNANDEZ AND MARIA CABADA

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0247-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 13

NOTICES MAILED 412

PROTESTS N/A

APPROVALS N/A

**** CONDITIONS ****

24-0247-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved, to allow a zero-foot separation from the main building where six feet is required for an existing Residential Accessory Structure [Casita].
2. A Variance is hereby approved to allow a two-foot side and rear yard setback where three feet is required for an existing Residential Accessory Structure [Casita].
3. A Variance is hereby approved, to allow a three-foot rear yard setback where five feet is required for an existing Patio Cover.
4. A Variance is hereby approved, to allow a two-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Shed].
5. 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.
6. 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.
7. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
8. 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 existing, unpermitted Residential Accessory Structures and a Patio Cover that don't meet Title 19 setback requirements at 5821 Divers Cove Way.

ISSUES

- A Variance is requested, to allow a zero-foot separation from the main building where six feet is required for an existing Residential Accessory Structure [Casita]. Staff does not support this request.
- A Variance is requested, to allow a two-foot side and rear yard setback where three feet is required for a Residential Accessory Structure [Casita]. Staff does not support this request.
- A Variance is requested, to allow a two-foot side yard setback where three feet is required for an existing Residential Accessory Structure [Shed]. Staff does not support this request.
- A Variance is requested, to allow a three-foot rear yard setback where five feet is required for an existing Patio Cover. Staff does not support this request.
- This Variance is the result of an open Code Enforcement case (#CE21-05705), which cited multiple unpermitted structures and a patio cover in the rear and side yard areas.

ANALYSIS

The subject site 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 other single-family residences that are zoned R-1 (Single Family Residential) surrounding the subject site.

The applicant has constructed a Patio Cover that has a three-foot rear yard setback where five feet is required. The applicant has also constructed both a Residential Accessory Structure [Casita] and Residential Accessory Structure [Shed] that maintain a two-foot side and rear yard setback for the Residential Accessory Structure [Casita] and a two-foot side yard setback where three feet is required for the existing Residential Accessory Structure [Shed]. Additionally Residential Accessory Structures shall be placed at least six feet away from the primary dwelling. The applicant proposes to maintain their existing Residential Accessory Structure [Casita] at zero feet. The submitted justification letter indicates that these structures were constructed to provide respite from the heat and to provide additional living and storage space.

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No evidence of a unique or extraordinary circumstance has been presented in relation to the physical characteristics of the property. As such, the hardship is self-imposed and outside the realm for the granting of Variances. Therefore, staff recommend denial of the requested Variance. If approved, it will be subject to conditions.

FINDINGS (24-0247-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 multiple Residential Accessory Structures and a Patio Cover without permits and within the 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.

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BACKGROUND INFORMATION

Related Relevant City Actions by Planning, Fire, Building, Code Enforcement, etc.	
02/27/24	A Code Enforcement case (#CE23-05705) was opened for unpermitted structures and patio cover in the rear and side yard. The Code Enforcement case remains open, pending the results of this Variance request.
07/09/24	The Planning Commission voted (7-0) to HOLD IN ABEYANCE on a Land Use Entitlement project request TO ALLOW A ZERO-FOOT SEPARATION FROM THE MAIN BUILDING WHERE SIX FEET IS REQUIRED, AND A TWO-FOOT SIDE AND REAR YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [CASITA]; A THREE-FOOT REAR YARD SETBACK WHERE FIVE FEET IS REQUIRED FOR AN EXISTING PATIO COVER; AND TO ALLOW A TWO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHED] on 0.14 acres at 5821 Divers Cove Way.

Most Recent Change of Ownership	
04/30/14	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
03/24/24	A building permit (R24-04295) was submitted for a rear home addition. The building permit is currently in review, pending the results of this Variance request.

Pre-Application Meeting	
05/01/24	A pre-application meeting was held with the applicant to discuss the submittal requirements for a Variance.

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

Field Check	
05/23/24	A routine field check was conducted by staff and observed an existing single-family residence. Nothing of concern as noted.

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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	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)

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: Rancho	Y
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District (70 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

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DEVELOPMENT STANDARDS

Pursuant to Title 19.06, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	9SF	Y
Min. Lot Width	60 Feet	70 Feet	Y
Min. Setbacks – Residential Accessory Structure [Casita]	3 Feet	2 Feet	N*
• Side	3 Feet	2 Feet	N*
• Rear			
Min. Setbacks – Residential Accessory Structure [Casita]	3 Feet	2 Feet	N*
• Side			
Min. Setbacks – Patio Cover	5 Feet	3 Feet	N*
• Rear			
Min. Distance Between Buildings Residential Accessory Structure [Casita]	6 Feet	0 Feet	N*
Min. Distance Between Buildings Residential Accessory Structure [Shed]	6 Feet	18	Y
Max. Lot Coverage	N/A	21%	N/A
Max. Building Height	38 Feet	18 Feet	Y

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