

**AGENDA MEMO - COMMUNITY DEVELOPMENT****CITY COUNCIL MEETING DATE: OCTOBER 16, 2024****DEPARTMENT: COMMUNITY DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: VINCENT GUERRERO**

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
23-0504-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 13**NOTICES MAILED** 326**PROTESTS** 0**APPROVALS** 4

**** CONDITIONS ****

23-0504-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a zero-foot side yard setback where five feet is required for an existing patio cover.
2. A Variance is hereby approved to allow a zero-foot distance separation from the main building for an existing residential accessory structure [shed] where six feet is required.
3. A Variance is hereby approved to allow an existing residential accessory structure [carport] to be located within the front yard where such is not allowed.
4. A Variance is hereby approved to allow a one-foot side yard setback where three feet is required for an existing residential accessory structure [carport].
5. A Variance is hereby approved to allow all residential accessory structures to not be aesthetically compatible with the principal dwelling unit where such is required.
6. 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.
7. 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.
8. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
9. 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 several Variances to allow them to keep existing patio covers and accessory structures at 1106 Silver Lake Drive.

ISSUES

- This Variance application is a result of a Code Enforcement Case (#CE23-01935) for unpermitted work.
- A Variance is requested to allow a zero-foot side yard setback where five feet is required for an existing patio cover. Staff does not support this request.
- A Variance is requested to allow a zero-foot distance separation from the main building for an existing residential accessory structure [shed] where six feet is required. Staff does not support this request.
- A Variance is requested to allow an existing residential accessory structure [carport] to be located within the front yard where such is not allowed. Staff does not support this request.
- A Variance is requested to allow a one-foot side yard setback where three feet is required for an existing residential accessory structure [carport]. Staff does not support this request.
- A Variance is requested to allow all residential accessory structures to not be aesthetically compatible with the principal dwelling unit where such is required. Staff does not support this request.

ANALYSIS

The subject site is zoned R-1 (Single Family Residential) and is subject to Title 19.06 development standards. The accessory structures and patio cover do not meet the required distance separation or setback requirements. These accessory structures and patio cover predate the most recent change of ownership.

A Variance is requested to allow a zero-foot side yard setback where five feet is required for an existing patio cover. This would be a 100 percent deviation from the required side yard setback for patio covers.

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A Variance is requested to allow a zero-foot distance separation from the main building for an existing residential accessory structure [shed] where six feet is required. This would be a 100 percent deviation from the required distance separation between a residential accessory structure and the main building.

The carport is considered a residential accessory structure rather than a patio cover because it is not attached into the main building as required for patio covers under Title 19.18. A Variance is requested to allow an existing residential accessory structure [carport] to be located within the front yard where such is not allowed. The metal carport was constructed in front of the primary structure. As set forth in Title 19.06.040(C), no accessory structure is permitted in front of the primary structure unless the structure is a side-loaded garage that is used strictly as an ancillary use and does not encroach into the front setback area. A Variance is requested to allow a one-foot side yard setback where three feet is required for an existing residential accessory structure [carport]. This would be a 66 percent deviation from the required side yard setback for residential accessory structures.

Finally, a Variance is requested to allow all residential accessory structures to not be aesthetically compatible with the principal dwelling unit where such is required. The accessory structures are not aesthetically compatible with the primary dwelling as required in 19.06.040(C) due to the roofing and exterior materials matching the primary dwelling.

In order to recommend approval of, or to approve a Variance application, the Planning Commission or City Council must determine that the Variance is warranted both under State law and Title 19.16.140. No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing the subject structures without a building permit. Staff recommends denial of the application, subject to conditions if approved.

FINDINGS (23-0504-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."

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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 the accessory structures and carport without permit review. Locating the accessory structures and carport within the required setbacks 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>	
04/06/23	A Code Enforcement Case (#CE23-01935) was started for two carports, two patio covers, and an accessory structure that were apparently constructed without any permits at 1106 Silver Lake Drive. The Code Enforcement Case remains open, pending results of this Variance request.
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; A ZERO-FOOT DISTANCE SEPARATION FROM THE MAIN BUILDING FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [SHED] WHERE SIX FEET IS REQUIRED; AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [CARPORT] TO BE LOCATED WITHIN THE FRONT YARD WHERE SUCH IS NOT ALLOWED; A ONE-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING RESIDENTIAL ACCESSORY STRUCTURE [CARPORT]; AND TO ALLOW ALL RESIDENTIAL ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.18 acres at 1106 Silver Lake Drive (APN 139-29-211-073), R-1 (Single-Family Residential) Zone, Ward 5 (Cear).

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<i>Related Building Permits/Business Licenses</i>	
c.1954	The home was constructed.
05/22/23	The City issued a building permit (R23-03491) for an addition onto the back of the house at 1106 Silver Lake Drive, as depicted on the Site Plan, was finalized on 01/26/24.

<i>Pre-Application Meeting</i>
A pre-application meeting was not required, nor was one held.

<i>Neighborhood Meeting</i>
A neighborhood meeting was not required, nor was one held.

Most Recent Change of Ownership	
04/30/09	A deed was recorded for a change in ownership.

Field Check	
07/30/24	During a routine site visit, staff observed the subject property and the existing carports and accessory structures.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.18

<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	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)

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<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Twin Lakes	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (105 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	N/A
Project of Regional Significance	N/A

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 [South Patio Cover]			
• Front	20 Feet	33 Feet	Y
• Side	5 Feet	0 Feet	N*
• Side	5 Feet	52 Feet	Y
• Rear	5 Feet	39 Feet	Y
Min. Setbacks [Shed]			
• Front	20 Feet	20 Feet	Y
• Side	3 Feet	16 Feet	Y
• Side	3 Feet	38 Feet	Y
• Rear	3 Feet	40 Feet	Y
Min. Distance Between Buildings	6 Feet	0 Feet	N**
Min. Setbacks [Carport]			
• Front	20 Feet	8 Feet	N***
• Side	3 Feet	1 Feet	N****
• Side	3 Feet	41 Feet	Y
• Rear	5 Feet	80 Feet	Y
Max. Lot Coverage	50 %	30 %	Y
Max. Building Height	35 Feet	9 Feet	Y
Mech. Equipment	Screened	N/A	Y

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<i>Street Name</i>	<i>Functional Classification of Street(s)</i>	<i>Governing Document</i>	<i>Actual Street Width (Feet)</i>	<i>Compliance with Street Section</i>
Silver Lake Drive	Local Street	Title 13	50	Y