



AGENDA MEMO - COMMUNITY DEVELOPMENT

PLANNING COMMISSION MEETING DATE: DECEMBER 10, 2024

DEPARTMENT: COMMUNITY DEVELOPMENT

**ITEM DESCRIPTION: APPLICANT: CYNTHIA MOTA - OWNER: CYNTHIA F. MOTA
REVOCABLE FAMILY TRUST**

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
24-0536-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 25

NOTICES MAILED 345

PROTESTS 0

APPROVALS 0

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**** CONDITIONS ****

24-0536-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a four-foot side yard setback where five feet is required for the primary dwelling.
2. A Variance is hereby approved to allow a seven-foot tall front yard wall/fence with a three-foot solid base where five feet with a two-foot solid base is the maximum allowed.
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.

Public Works

7. Submit a License Agreement for landscaping and private improvements (existing wall) in the 13th Street public right(s)-of-way prior to the issuance of permits for these improvements. If requested by the City, the applicant shall remove property within the public right-of-way at the applicant's expense pursuant to the terms of the City's License Agreement. The installation and maintenance of all private improvements in the public right-of-way shall be the responsibility of the applicant and any successors in interest to the property and assigns pursuant to the terms of the License Agreement. Coordinate all requirements for the License Agreement with the Land Development Section of the Department of Community Development (229-5460).

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**** STAFF REPORT ****

PROJECT DESCRIPTION

The applicant is requesting a Variance to allow an existing addition to a single-family dwelling that does not comply with minimum side yard setbacks and to allow an existing front yard wall/fence that exceeds maximum height development standards at 1610 South 13th Street.

ISSUES

- The subject site has a legal non-conforming four-foot, eight-inch side yard setback on the north perimeter, where five feet is required. The applicant has requested a Variance to allow a four-foot, seven-inch side yard setback on the north perimeter for an existing addition to the dwelling where four-foot, eight-inches is required. Staff does not support this request.
- The applicant has requested a Variance to allow an existing six-foot, eight-inch front yard wall/fence where five-feet with a two-foot solid base is the maximum allowed. Staff does not support this request.
- On July 31, 2023 the Department of Community Development - Code Enforcement Division processed a case (#CE23-02135) for building an unpermitted addition to the home at 1610 South 13th Street. The case has not been resolved.
- This project is part of the Department of Neighborhood Services, SHIFT program.

ANALYSIS

The subject site is located in an R-1 (Single Family Residential) zoning district. Per Title 19.06.070 this residential development has a minimum five-foot side yard building setback for the primary dwelling. On July 31, 2023 the Department of Community Development - Code Enforcement Division processed a case (#CE23-02135) for building an unpermitted addition to the home at 1610 South 13th Street.

The submitted justification letter dated stamped October 17, 2024 indicates, "I am applying for a Variance for a newly constructed room addition to the primary structure of my home. This new addition will be used as a bathroom connected to a bedroom remodeled from an existing storage room. The bedroom will be connected by a door to the living room of the primary dwelling and the new addition is connected to the bedroom. The addition is aesthetically congruent with the existing main structure and utilizes the same design and building materials."

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Staff notes the submitted building elevations and site plan indicate the subject site has a legal non-conforming four-foot, eight-inch side yard setback on the north perimeter, where five feet is typically required. The submitted justification letter states, "The building elevations of the addition are consistent with the primary structure on the side and front, with the same distance from the front property line and the street. The distance from the side property line is a few inches less than the required five feet, but the extension is contiguous with the main dwelling which is also less than five feet from the side property line."

The applicant submitted a building permit (#R23-12175) for the proposed addition, which was denied by the Department of Community Development - Planning Division pending approval of a Variance application. The applicant has requested a Variance (24-0536-VAR1) to allow an existing room addition that does not comply with title 19.06 development standards for setbacks. Specifically, to allow a four-foot, seven-inch side yard setback on the north perimeter for the existing addition to the dwelling where four-foot, eight-inches is required.

In addition, the maximum front yard wall height in the R-1 (Single Family Residential) zone is five feet, consisting of a two-foot solid base and three feet that is open to provide visibility. The applicant is also requesting a Variance (24-0536-VAR1) to allow an existing front yard wall/fence that exceeds maximum height standards, which was also constructed without obtaining building permits. The submitted wall elevations depict a front yard wall/fence that ranges from five feet, 11-inches to six feet, eight-inches tall that is located adjacent to the front (eastern) perimeter of the site.

Staff finds, no unique or extraordinary evidence has been presented to warrant the requested Variance. As such, the hardship is self-imposed and therefore, staff recommends denial of this request.

FINDINGS (24-0536-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, that would warrant the construction of the existing home addition within the side yard setback area and existing front yard wall/fence that exceeds the maximum height allowed. Alternative design of the proposed structure and obtaining proper building permits would have allowed 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>	
04/18/23	A Code Enforcement case (#CE23-02135) was processed for building an unpermitted addition to the home at 1610 South 13 th Street. The case has not been resolved.

<i>Most Recent Change of Ownership</i>	
01/23/20	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
07/31/23	A building permit (#R23-12175) was processed for extension of a storage area (11'x9' extension of storage area, wood framing, insulation, small 1'x4' window, 36" door, ceiling and entry door light) at 1610 South 13 th Street. The permit has not been issued.
08/20/23	A building permit (#R23-13448) was processed for storage area extension (11'x9' extension of storage area, wood framing, insulation, small 1'x4' window, 36" door, ceiling and entry door light) at 1610 South 13 th Street. The permit has not been issued.

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<i>Pre-Application Meeting</i>	
10/10/24	A pre-application meeting was conducted with the applicant to discuss the submittal requirements for a Variance.

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

<i>Field Check</i>	
10/31/24	A field check was conducted on the subject property and revealed a single-family residence free of trash and debris.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.14

<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	Office, Other than Listed	TOC-1 (Transit Oriented Corridor - High)	P-R (Professional Office and Parking)

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<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
Las Vegas 2050 Master Plan Area: Downtown South	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District - (200 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

DEVELOPMENT STANDARDS*Pursuant to Title 19.06.070, the following standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	6,098 SF	Y*
Min. Lot Width	60 Feet	60 Feet	Y
Min. Setbacks			
• Front	20 Feet	25 Feet	Y
• Side (north)	4 Feet, 8 Inches	4 Feet, 7 Inches	N**
• Side (south)	5 Feet	8 Feet	Y
• Rear	15 Feet	35 Feet	Y
Max. Lot Coverage	50 %	31 %	Y
Max. Building Height	35 Feet or 2 stories	9 Feet or 1 story	Y
Max. Front Yard Fence Height			
• Front	5 Feet	6 Feet, 8 Inches	N**

* The subject site 0.14 acres site has a legal non-conforming lot size. Also, the subject site has a legal non-conforming four-foot, eight-inch side yard setback on the north perimeter, where five feet is required.

** The applicant has requested a Variance (24-0536-VAR1) to allow an existing room addition that does not comply with Title 19.06 development standards for setbacks; and an existing front yard wall/fence that exceeds maximum height standards.

<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>
13 th Street	Local Street	Title 13	25	Y