



AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: OCTOBER 19, 2022

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: ANGEL ZENEN MIRANDA AND
JESSICA C. MIRANDA

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
22-0337-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 20

NOTICES MAILED 296 (by City Clerk)

PROTESTS 1

APPROVALS 1

**** CONDITIONS ****

22-0337-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a one-foot rear and side yard setback where three feet is required for two existing Accessory Structures (Class II) [sheds]; and to allow a total accessory structure coverage of 88 percent of the primary dwelling floor area where 50 percent is the maximum allowed.
2. 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.
3. 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.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. 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 to allow two existing sheds within required side and rear yard setback areas and to allow an overall accessory structure coverage that exceeds 50 percent of the primary dwelling floor area at 6929 Raleigh Avenue.

ISSUES

- A Variance (22-0337-VAR1) is requested to allow a one-foot rear and side yard setback where three feet is required for two existing Accessory Structures (Class II) [sheds]; and to allow a total accessory structure coverage of 88 percent of the primary dwelling floor area where 50 percent is the maximum allowed. Staff does not support the request.
- This Variance request is the result of open Code Enforcement Case (#CE21-02106).

ANALYSIS

The subject 0.26-acre site is zoned R-PD6 (Residential Planned Development - 6 Units per Acre) and subject to the development standards of Rezoning (Z-0035-81) and Title 19. As the R-PD6 zoning district does not provide standards for accessory structures, Title 19 R-CL (Single Family Compact-Lot District) standards are applied as it is the most comparable zoning district. The purpose of the R-CL District has been to provide for single-family units and other customary residential uses on a smaller lot size. The density associated with the R-CL District is consistent with the policies of the Medium-Low Density Residential category of the General Plan.

Per Title 19.06.080, accessory structures are required to be a minimum of three feet from the rear and side yard property lines and the aggregate total of the ground floor areas of all accessory buildings shall not exceed 50 percent of the floor area of the principal dwelling unit. The applicant requests Variance (22-0337-VAR1) to allow a one-foot rear and side yard setback where three feet is required for both existing Accessory Structures (Class II) [sheds]; and to allow a total accessory structure coverage of 88 percent of the primary dwelling floor area where 50 percent is the maximum allowed.

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Per the submitted justification letter, the additional accessory structures are utilized for extra storage space, a garden shed and as a dog house. The casita accessory structure was properly constructed with a building permit in 2017. Per GIS data, construction of the 221 square-foot accessory structure began in 2021 without a building permit. While some accessory structures are not required to get a building permit due to size, they are still required to adhere to Title 19 setback and lot coverage requirements. Staff finds the Variance request to be a self-imposed hardship and thereby recommends denial. If approved, it will be subject to conditions and required to obtain building permits.

FINDINGS (22-0337-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 accessory structures without building permits that fail to meet minimum Title 19 development standards. 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

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
03/27/81	The Board of City Commissioners approved a Petition for Annexation (A-0019-80) approximately 54.7 acres generally located on the southwest corner of Alexander Road and Lorenzi Boulevard.
06/03/81	The City Council approved a request for a Rezoning (Z-0035-81) from N-U (Non-Urban) to R-PD6 (Residential Planned Development – 6 Units per Acre) and C-1 (Limited Commercial) for a proposed Medium-Low Density Residential and Commercial development generally located at the southwest corner of Lorenzi Boulevard and Alexander Road. Condition #8 indicates that accessory buildings will be permitted as allowed in the R-1 (Single Family Residential) zoning district.
04/21/82	The Board of City Commissioners approved a request for a Review of Condition (Z-0035-81) of condition #3 which requires a minimum setback of 20 feet in front, 15 feet in rear and five feet on the sides and a minimum of 10 feet between buildings. To be amended to allow setbacks as provided in the R-CL (Single Family Compact-Lot) to apply to this development generally located on the southwest corner of Lorenzi Boulevard and Alexander Road.
04/10/18	The Planning Commission approved Special Use Permit (SUP-72734) FOR A PROPOSED 599 square-foot accessory structure (class I) [casita] use at 6929 Raleigh Avenue.
05/20/21	Code Enforcement Case (#CE21-02106) was opened regarding building structure in back, with plumbing, in setbacks. no permits. The case remains open.
09/13/22	The Planning Commission (7-0 vote) recommends APPROVAL on a Land Use Entitlement project request TO ALLOW A ONE-FOOT REAR AND SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED FOR TWO EXISTING ACCESSORY STRUCTURES (CLASS II) [SHEDS]; AND TO ALLOW A TOTAL ACCESSORY STRUCTURE COVERAGE OF 88 PERCENT OF THE PRIMARY DWELLING FLOOR AREA WHERE 50 PERCENT IS THE MAXIMUM ALLOWED on 0.26 acres at 6929 Raleigh Avenue, (APN 138-10-511-020) R-PD6 (Residential Planned Development - 6 Units per Acre) Zone, Ward 5 (Crear)

<i>Most Recent Change of Ownership</i>	
06/30/20	A deed was recorded for a change in ownership.

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Related Building Permits/Business Licenses	
03/07/17	A building permit (#337283) was issued for a patio cover at 6929 Raleigh Avenue. The permit was finalized on 04/28/17.
11/25/17	A building permit (#344046) was issued for a detached casita at 6929 Raleigh Avenue. The oven was removed from the plans and the electrical plan did not indicate a 220 volt outlet. The permit was finalized 07/19/18.
10/18/21	A building permit (#R21-16897) was processed for a storage shed. Department of Planning Staff denied the permit due to the need for a Variance.

Pre-Application Meeting	
06/13/22	Staff conducted a pre-application meeting with the applicant where the submittal requirements and deadlines were reviewed for a proposed Variance.

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

Field Check	
08/04/22	Staff conducted a routine field check and found an existing single family dwelling. An accessory structure appeared to be under construction in the back yard from the street.

Details of Application Request	
Site Area	
Net Acres	0.26

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD6 (Residential Planned Development – 6 Units per Acre)
North	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD6 (Residential Planned Development – 6 Units per Acre)

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<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>
South	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD6 (Residential Planned Development – 6 Units per Acre)
East	Single Family, Detached	ML (Medium-Low Density Residential)	R-PD6 (Residential Planned Development – 6 Units per Acre)
West	US 95 Right-of-Way	US 95 Right-of-Way	US 95 Right-of-Way

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
2050 Master Plan: Rancho Area	Y
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
A-O (Airport Overlay) District (175 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 Rezoning (Z-0035-81) and Title 19.06.080, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Side	3 Feet	1 Foot	N*
• Rear	3 Feet	1 Foot	N*
Min. Distance Between Buildings	6 Feet	9 Feet	Y
Max. Lot Coverage	70%	25%	Y
Size and Coverage	50% of the floor area of the principal dwelling unit (716 SF)	88% (1,256 SF)	N*
Max. Building Height	Two Stories, 35 Feet	One Story, 9 Feet	Y

*A Variance is requested to allow a reduced rear and side yard setback area and an overall accessory structure size and coverage that exceeds 50 percent.

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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>
Raleigh Avenue	Local Street	Title 13	49 Feet	Y