

City of Las Vegas

AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: DECEMBER 21, 2022

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT: SAUL OLGUIN - OWNER: SALOME E. HERNANDEZ

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
22-0311-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 12

NOTICES MAILED 299 (by City Clerk)

PROTESTS 2

APPROVALS 0

**** CONDITIONS ****

22-0311-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a zero-foot separation from the principal dwelling unit where six feet is required, for an existing Accessory Structure (Class II) [Patio Cover].
2. A Variance is hereby approved to allow a two-foot rear yard setback where three feet is required, for an existing Accessory Structure (Class II) [Patio Cover].
3. A Variance is hereby approved to allow a zero-foot side yard setback where three feet is required, for an existing Accessory Structure (Class II) [Patio Cover].
4. A Variance is hereby approved to allow to allow an Accessory Structure (Class II) [Patio Cover] to not be aesthetically compatible with the principal dwelling unit where such is required.
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 Department of Community Development.
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 an existing Patio Cover that has a zero-foot separation from the principal dwelling unit where six feet is required, a two-foot rear yard setback where three feet is required, a zero-foot side yard setback where three feet is required, and to not be aesthetically compatible with the principal dwelling unit where such is required at 2312 Goldhill Way.

ISSUES

- A Variance is requested to allow an Accessory Structures [Class II] [Patio Cover] to not be aesthetically compatible with the primary dwelling where such is required. Staff does not support the request.
- A Variance is requested to allow an Accessory Structures [Class II] [Patio Cover] to be located within a zero-foot separation from the principal dwelling unit where six feet is required. Staff does not support the request.
- A Variance is requested to allow a two-foot rear yard setback where three feet is required for an Accessory Structures [Class II] [Patio Cover]. Staff does not support the request.
- A Variance is requested to allow a zero-foot side yard setback where three feet is required for an Accessory Structures [Class II] [Patio Cover]. Staff does not support the request.
- Code Enforcement Case (#CE21-00540) was opened on 02/11/21 regarding two patio covers in the side yard, corner side yard and rear yard area without building permits and not meeting Title 19 requirements. Code Enforcement observed one of the two patio covers was observed as removed on 10/12/22 and a corrugated metal roof shade cover attached to west side perimeter wall adjacent to sidewalk that runs the entire length of the wall, supported by posts at interior side, located in the 10 foot corner side setback.

ANALYSIS

The subject site is zoned R-CL (Single Family Compact-Lot District) and subject to Title 19 development standards. The applicant requests the subject Variance to allow an existing Accessory Structure (Class II) [Patio Cover] within zero feet of the principal dwelling unit where six feet is required.

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On 10/19/22, the applicant requested that the City Council hold the request on abeyance to meet with City staff for guidance on what would be needed to be in compliance with Title 19 development standards within a 60-day abeyance period of the Variance application. Since the 10/19/22 City Council meeting, the applicant has removed one of the two subject Accessory Structures. The Accessory Structure (Class II) [Patio Cover 2] that was originally located to the west of the property was removed. However, the applicant has not removed the subject Accessory Structure (Class II) (Patio Cover) or brought it into compliance with Title 19, as it still has a two-foot rear yard setback and a zero-foot side yard setback.

The subject Accessory Structure (Class II) [Patio Cover] is a detached, 10-foot tall, 30-foot long Accessory Structure (Class II) [Patio Cover] with a two-foot rear yard setback, zero-foot side yard setback and zero-foot separation to the main dwelling. The applicant is requesting a Variance in order to keep the patio cover as constructed in order to provide shade for items underneath, as well as provide shade to the home.

As stated by Title 19.16, Variances are not to be granted in order to “relieve a hardship which is solely personal, self-created or financial in nature.” The construction of the Accessory Structure (Class II) [Patio Cover] without a building permit and violation of Title 19.06 for Accessory Structures in the R-CL zoning district is a self-created hardship that staff is not able to support. Therefore, staff is recommending denial of the requested Variance. If approved, the applicant will be required to obtain a building permit for the patio cover per Condition of Approval #4.

FINDINGS (22-0311-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 an Accessory Structure (Class II) [Patio Cover] without obtaining a building permit. Adhering to the Accessory Structure (Class II) setbacks and separation requirement 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

Related Relevant City Actions by Planning, Fire, Bldg., etc.	
02/11/21	Code Enforcement processed a Case (#CE21-00540) for two Accessory Structures (Class II) [Patio Cover 1 and 2] in the side yard, corner side yard and rear yard area without building permits at 2312 Goldhill Way. The case is open as of 02/11/21 pending outcome of this Variance request.
08/09/22	The Planning Commission (6-0 vote) recommends DENIAL on a Land Use Entitlement project request TO ALLOW AN EXISTING ZERO-FOOT SEPARATION FROM THE MAIN BUILDING WHERE SIX FEET IS REQUIRED, A ZERO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED AND A TWO-FOOT REAR YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING ACCESSORY STRUCTURE (CLASS II) [PATIO COVER 1]; AN EXISTING ZERO-FOOT SEPARATION FROM THE MAIN BUILDING WHERE SIX FEET IS REQUIRED AND A ZERO-FOOT CORNER SIDE YARD SETBACK WHERE 10 FEET IS REQUIRED FOR AN EXISTING ACCESSORY STRUCTURE (CLASS II) [PATIO COVER 2]; AND BOTH ACCESSORY STRUCTURES TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRINCIPAL DWELLING UNIT WHERE SUCH IS REQUIRED on 0.10 acres at 2312 Goldhill Way (APN 139-29-511-004), R-CL (Single Family Compact-Lot) Zone, Ward 5 (Crear)
09/21/22	The City Council voted unanimously to hold this item IN ABEYANCE to the October 19, 2022 City Council Meeting
10/19/22	The City Council voted unanimously to hold this item IN ABEYANCE to the December 21, 2022 City Council Meeting

Most Recent Change of Ownership	
08/26/14	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses	
04/27/2022	A Building Permit application (R22-06324) was processed for two Accessory Structures (Class II) at 2312 Goldhill Way. The permit is pending this Variance application.

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Pre-Application Meeting	
05/31/22	Staff provided the applicant a submittal checklist for the requested Variance application.

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

Field Check	
06/30/22	Staff performed a routine field check to observe the subject Accessory Structures (Class II) [Patio Cover 1 and 2]. Staff noted the zero-foot corner side yard setback along the west property line, and a zero-foot rear yard setback along the north property line of the subject property.

Details of Application Request	
Site Area	
Net Acres	0.10

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Single Family Dwelling, Detached	ML (Medium - Low - up to 8.49 du/ac)	R-CL (Single Family Compact Lot)
North			
South			
East	Public or Private School, Secondary	PF (Public Facility)	C-V (Civic)
West			

Master and Neighborhood Plan Areas	Compliance
Master Plan 2050 Area: West Las Vegas	Y
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District (150Feet)	Y

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<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 19.06.080 the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	3,000 SF	4,356 SF	Y
Min. Setbacks			
• Side	3 Feet	5 Feet	Y
• Rear	3 Feet	5 Feet	Y
Min. Distance Between Buildings	6 Feet	0 Feet	N

<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>
Goldhill Way	Local Street	Title 13	40	Y