

**AGENDA MEMO - COMMUNITY DEVELOPMENT****PLANNING COMMISSION MEETING DATE: APRIL 11, 2023****DEPARTMENT: COMMUNITY DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: RACHEL GIL**

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
23-0068-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ******NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 28**NOTICES MAILED** 277**PROTESTS** 0**APPROVALS** 0

**** CONDITIONS ****

23-0068-VAR1 CONDITIONS

Planning

1. 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.
2. 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.
3. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
4. 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 a zero-foot side yard setback where three feet is required and a four-foot separation from the main building where six feet is required for an existing Accessory Structure (Class II) [shade structure].

ISSUES

- The existing Patio Structure [shade structure] does not have an active building permit submitted.
- This Variance request is not a part of a code enforcement case. If approved, a Condition of Approval has been added requiring all necessary building permits be obtained and final inspections shall be completed in compliance with Title 19 and all codes as required by the Building and Safety Division.

ANALYSIS

The applicant has requested this Variance for a detached shade structure in their rear yard that is a seating area that additionally serves to shelter pool equipment at the back of the structure.

The detached Accessory Structure Class II [shade structure] was constructed adjacent to the neighbor's property line without a building permit. There is an approximately 10-foot existing block wall along the property line that is taller than the shade structure where the two meet.

The subject property is a regular, rectangular lot that exceeds the minimum lot dimensions for the R-1 (Single Family Residential) zone and provides adequate space for the shade structure to be located elsewhere on the lot in compliance with Title 19 requirements. Due to the self-imposed hardship, staff recommends denial of the requested Variance.

FINDINGS (23-0068-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 encroaching into the side yard setback and positioning the shade structure too close to the main dwelling. Relocating the proposed structure outside of yard setback areas 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.

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BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Code Enforcement, etc.</i>	
09/07/94	The City Council approved a Rezoning (Z-0076-94) from R-E (Residence Estates) to a combination of R-D (Single Family Residence - Restricted) and R-1 (Single Family Residence) for a 31.56 acre area that includes the subject property, with a resolution of intent to develop a proposed 125 Single Family Detached dwellings.

<i>Related Building Permits/Business Licenses</i>	
07/27/98	A building permit (#98014548) for a single family dwelling was processed at 7909 Powderham Avenue.
10/09/20	A building permit (#R20-10815) for a pool and two fire features was processed at 7909 Powderham Avenue. This permit was finalized on 05/24/21.

<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	Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)
North	Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)
South	Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)
West	Single Family, Detached	R (Rural Density Residential)	R-1 (Single Family Residential)

<i>Master and Neighborhood Plan Areas</i>	<i>Compliance</i>
2050 Las Vegas Master Plan Area: Angel Park	N/A
<i>Special Area and Overlay Districts</i>	<i>Compliance</i>
No Applicable Special Area or Overlay Districts	N/A
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
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 19.06.070, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	12,200 SF	Y
Min. Lot Width	60 Feet	113 Feet	Y
Min. Accessory Structure Setbacks			
• Distance from Main Building	6 Feet	4 Feet	N*
• Side	3 Feet	0 Feet	N*
• Rear	3 Feet	3 Feet	Y
Building Height	35 Feet	10 Feet	Y

*A Variance is requested to provide relief from the required side yard setback, and the required distance between the accessory structure and the main building.