



AGENDA MEMO - COMMUNITY DEVELOPMENT

CITY COUNCIL MEETING DATE: APRIL 19, 2023

DEPARTMENT: COMMUNITY DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: FREDERICK GOMPF, JR

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
23-0680-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 17

NOTICES MAILED 374 (By City Clerk)

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

22-0680-VAR1 CONDITIONS

Planning

1. A Variance (22-0680-VAR1) is hereby approved to allow a zero-foot side yard setback where three feet is required, a zero-foot separation from the primary dwelling where six feet is required, and an existing Accessory Structure (Class II) [Shed] to not be aesthetically compatible with the primary dwelling where such is required.
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 Building and Safety Division.
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 for an existing Accessory Structure (Class II) [Shed] that does not meet side yard setback, building separation, and aesthetic compatibility requirements at 4433 Sunrise Avenue.

ISSUES

- A Variance (22-0680-VAR1) is requested to allow a zero-foot side yard setback where three feet is required; a zero-foot separation from the primary dwelling where six feet is required; and an existing Accessory Structure (Class II) [Shed] to not be aesthetically compatible with the primary dwelling where such is required. Staff does not support this request.
- A Code Enforcement Case (#CE22-05822) is open citing a metal shed on the west side of the property and within the required setbacks and a TV and shopping cart located on the property at 4433 Sunrise Avenue.

ANALYSIS

The subject 160 square-foot Accessory Structure (Class II) [Shed] is located on an R-1 (Single Family Residential) zoned parcel and is located in the side yard of the subject property. While the subject Accessory Structure (Class II) [Shed] does not require a building permit as it is less than 200 square feet and does not provide either plumbing or electrical service, it is subject to Title 19 development standards. On December 09, 2019, the City of Las Vegas Code Enforcement Division opened Case (#CE19-04497) citing inoperable vehicles, trash, and a non-permitted structure within setbacks. A pandemic letter was sent and the case was ultimately resolved on August 31st, 2022. A new Code Enforcement Case (#CE22-05822) was then opened on November 1, 2022 citing a metal shed on the west side of the property. The submitted justification letter, date stamped 01/17/23 states that the placement of the shed allows the applicant to make use of the vacant space that would otherwise take up most of the applicant's rear yard area.

The submitted Building Elevations, date stamped 01/17/23, depict an existing Accessory Structure (Class II) [Shed] that is not aesthetically compatible with the principal dwelling as the subject Accessory Structure (Class II) [Shed] is constructed of imitation wood and corrugated metal. The primary dwelling is constructed of block wall. Per Title 19, accessory structures must be aesthetically compatible with the principal dwelling unit.

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No evidence of a unique or extraordinary circumstance related to the physical characteristics of the property has been presented to warrant the requested Variance. As such, the hardship is self-imposed and therefore, staff recommends denial of this request. If approved, it will be subject to conditions.

FINDINGS (22-0680-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 an Accessory Structure (Class II) [Shed] without permits that fails to comply with Title 19 development standards. Constructing an Accessory Structure (Class II) [Shed] that complies with side yard setback, building separation, and aesthetic compatibility requirements 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, Building, Code Enforcement, etc.</i>	
12/13/62	The Board of City Commissioners approved a Reclassification of Property (Z-0117-62) generally located on the north side of East Charleston between Nellis Boulevard and Lamb, from R-R to R-1. The Planning Commission recommended approval.
12/09/19	A Code Enforcement Case (#CE19-04497) was opened citing car parts, tires, tools, cords, indoor furniture, wood pallets, containers and other items in the front and side yards. The Code Enforcement Case also cited a structure on the west side of the dwelling and within setbacks and vagrants on the property. The Code Enforcement Case was resolved on 08/31/22.
11/01/22	A Code Enforcement Case (CE22-05822) was open citing an makeshift shed on the side of the house without permits. The Code Enforcement case is still open pending results of Variance (22-0680-VAR1)
03/14/23	The Planning Commission voted (7-0) to recommend APPROVAL of a request TO ALLOW A ZERO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED, A ZERO-FOOT SEPARATION FROM THE PRIMARY DWELLING WHERE SIX FEET IS REQUIRED, AND AN EXISTING ACCESSORY STRUCTURE (CLASS II) [SHED] TO NOT BE AESTHETICALLY COMPATIBLE WITH THE PRIMARY DWELLING WHERE SUCH IS REQUIRED on 0.15 acres at 4433 Sunrise Avenue (APN 140-32-310-192), R-1 (Single Family Residential) Zone, Ward 3 (Diaz).

<i>Most Recent Change of Ownership</i>	
01/07/15	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
There are no related Building Permits or Business Licenses.	

<i>Pre-Application Meeting</i>	
11/29/22	A pre-application meeting was held 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.	

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Field Check	
02/01/23	Staff conducted a routine field check of the subject property. No issues were noted.

Details of Application Request	
Site Area	
Gross Acres	0.15

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

Master and Neighborhood Plan Areas	Compliance
Las Vegas 2050 Master Plan Area: East Las Vegas	Y
Special Area and Overlay Districts	Compliance
No Applicable Special Area or Overlay Districts	N/A
Other Plans or Special Requirements	Compliance
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, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	6,534 SF	Y
Min. Lot Width	60 Feet	66 Feet	Y
Min. Setbacks			
• Side	5 Feet	0 Feet	N*
• Rear	5 Feet	35 Feet	Y
Min. Distance Between Buildings	6 Feet	0 Feet	N*
Max. Lot Coverage	50%	28%	Y
Max. Building Height	35 Feet	8 Feet	Y

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