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Councilwoman Olivia Diaz (Ward 3)
Councilman Cedric Crear (Ward 5)
Councilwoman Michele Fiore (Ward 6)



Commissioner Louis De Salvio, Chair
Commissioner Trinity Haven Schlottman, Vice Chair
Commissioner Sam Cherry
Commissioner Donna Toussaint
Commissioner Anthony Williams
Commissioner Jeff Rogan

Planning Commission Agenda

Council Chambers - 495 South Main Street - Phone 229-6011
City of Las Vegas Internet Address: www.lasvegasnevada.gov

July 13, 2021
6:00 PM

29. 21-0193-VAR1 - VARIANCE - PUBLIC HEARING - APPLICANT/OWNER: ANCELMO G. DIAZ - For possible action on a Land Use Entitlement project request TO ALLOW A ONE-FOOT REAR YARD AND TWO-FOOT SIDE YARD SETBACK WHERE THREE FEET IS REQUIRED FOR AN EXISTING ACCESSORY STRUCTURE (CLASS II) [PATIO COVER] AND A THREE-FOOT CORNER SIDE YARD SETBACK FOR AN EXISTING SINGLE-STORY PORCH ELEMENT (PATIO COVER) WHERE 10 FEET IS REQUIRED on 0.13 acres at 10234 Audobon Peak Avenue (APN 126-13-616-134), PD (Planned Development) Zone [ML (Medium Low Density Residential) Cliff's Edge (Providence) Special Land Use Designation] Zone, Ward 6 (Fiore). Staff recommends DENIAL.

Minutes:

CHAIR DE SALVIO declared the Public Hearing open.

NICOLE EDDOWES, Senior Planner, reported that no substantial evidence had been presented to warrant the requested variance. Staff found that the applicant created a self-imposed hardship by developing the site without proper building permits nor complying with the associated Cliff's Edge Master Development Plan and Design Guidelines development standards. Staff therefore recommended denial of the request, and she noted additional letters of support had been received since publication.

ANCELMO DIAZ, applicant, stated during the pandemic he had a company build the patio cover to provide shade for his wife and children to do homework outside. He thought as a legitimate company, the proper permits would have been obtained. That company did not want to help him with that process, so he had to obtain the permits on his own with the help of staff. Part of that process includes requesting a Variance because he used all of his savings to build the structure, and does not have the money to have it rebuilt within the proper setback.

MARILYN SHANKU, neighbor, stated her rear yard abuts the applicant's rear yard, and she is adamantly opposed to this request. She indicated she called the City and discovered the pool, patio cover and entertainment center were all built without permits. A permit to build the pool was pulled years ago to show intent, but she said it was never followed through on. She believes her 10 eight-foot bushes along the rear wall were killed because the applicant did not like the leaves in his yard, and she had a receipt from Moon Nursery for \$9,000 for replacement of those bushes with four-foot ones. She indicated she went to New York as a registered nurse to help with COVID-19, and when she returned the applicant's gardener had cut the bushes down and they died again, so she had to remove them herself. She submitted photos to staff for the record, which are included in the backup.

DAVID BRAY appeared as corporate counsel representing the Hearthstone Brookstone Homeowners Association (HOA), which is the common interest community where this property is located. He stated the Association is requesting denial of the Variance as the HOA has received complaints from other homeowners regarding the installation and construction of the patio cover, and the HOA has not been kept informed. There was a conditional approval of this improvement, but those conditions have yet to be met. As such, the Association is requesting the Variance be denied.

GARY KAEMPFER stated he is on the Board of the HOA, but was present as a homeowner and not as a Board member. After receiving the postcard in the mail, he went online and read all of the backup documentation associated with this Variance request, but he saw no mention in any of the documents of approval from the HOA. He wished for the Commission to ask the applicant if such was obtained.

RUBY DIAZ, daughter of the applicant, stated she completed all of the paperwork for the applicant and submitted it to the HOA, and received approval, acknowledging there were certain conditions that needed to be met when it was built. They informed Premier Patio Covers of these conditions and expected them to comply with those conditions and obtain all of the necessary permits because that is their profession, and not the applicant's. MR. DIAZ stated he had the approval letter from the HOA on his phone and reiterated he did not know the company did not obtain the necessary permits. He stated MS. SHANKU is the only neighbor who is opposed and support from the other surrounding neighbors had been submitted. MS. DIAZ added the patio cover does not obstruct anything.

CHAIR DE SALVIO asked MR. BRAY about the conditions on the HOA approval letter that were not met. MR. BRAY explained one condition was the submittal of plans and specifications, but the HOA has not received any specifications or drawings, even though the application indicated they were attached. Additionally, there was a condition that approval be obtained from the Master Association with regard to the setbacks, and he did not believe that was done either.

DEPUTY CITY ATTORNEY JIM LEWIS reminded the Commission that staff looks at City codes to determine whether or not a request complies with all conditions of approval, and whether or not an applicant has complied with HOA rules does not preclude the Commission from taking action it deems appropriate, as those obligations are outside the Commission's purview.

CHAIR DE SALVIO stated he typically does not take issue with structures if they are not an eyesore unless the neighbors and HOA have a problem with it because it must be harmonious and compatible. He did not think not knowing a permit was required was an adequate explanation. MR. DIAZ stated he turned the company into the Nevada State Contractors Board and had asked Providence about the setback. He obtained estimates to move the patio cover, which he said would place it in a worse position for the neighbor. Although not an eyesore, CHAIR DE SALVIO could not support the request because it was built without permits, and there was too much opposition from the neighbor and the HOA.

CHAIR DE SALVIO declared the Public Hearing closed.

Motion made by Louis De Salvio to Deny

Passed For: 7; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

For-Jeff Rogan, Anthony Williams, Sam Cherry, Louis De Salvio, Trinity Haven Schlottman, Donna Toussaint, Donald Walsh;