



AGENDA MEMO

CITY COUNCIL MEETING DATE: APRIL 1, 2009
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: VAR-32998 - APPLICANT/OWNER: OSCAR SIGUENZA

**** CONDITIONS ****

The Planning Commission (7-0 vote) and staff recommend DENIAL.

Planning and Development

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. If approved, all necessary permits and inspections from the Department of Building and Safety are required.
3. 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 request for a Variance to allow a 9-foot rear yard setback where 30 feet is required for the conversion of an existing carport into habitable space on 0.33 acres at 4460 Marlena Circle. Staff is recommending denial of this request as the applicant has created a self imposed hardship by converting an existing carport into habitable space within a required setback area, resulting in a site that is overbuilt and not compatible with the adjacent residential properties.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
c. 1963	Home constructed.
04/11/06	A Code Enforcement complaint (#40070) was processed for conversion of a single-family residence to a multi-family property. The case was resolved on 05/11/06.
11/16/07	A Code Enforcement complaint (#59926) was processed for conversion of a single-family residence to a multi-family property. The case was resolved on 01/04/08.
02/06/08	A Code Enforcement complaint (#62125) was issued for conversion of a single-family residence to a multi-family property. The case was resolved on 02/07/08.
03/24/08	A Code Enforcement complaint (#63395) for a non-permitted addition to the subject single-family residence was issued. The case remains open pending the subject review.
02/26/09	The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #40/leh).
<i>Related Building Permits/Business Licenses</i>	
10/16/78	A building permit (#10254) was issued for a room addition on the northwestern portion of the home at 4460 Marlena Circle. No final on record.
04/13/79	A building permit (#13025) was issued for a patio cover and carport on the eastern side of the home at 4460 Marlena Circle. Finaled on 01/20/81
<i>Pre-Application Meeting</i>	
08/21/08	The requirements for a Variance application were discussed with the applicant.
<i>Neighborhood Meeting</i>	
A meeting was not held, nor was one required.	
<i>Field Check</i>	
01/30/09	Staff conducted a site visit and found the subject property to be an occupied single-family residence. Staff also observed the subject carport has been enclosed and converted to a room addition to the home.

Details of Application Request	
Site Area	
Gross Acres	.33 acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	L (Low Density Residential)	R-D (Single Family Residential-Restricted)
North	Single-Family Residence	L (Low Density Residential)	R-D (Single Family Residential-Restricted)
South	Single-Family Residence	L (Low Density Residential)	R-D (Single Family Residential-Restricted)
East	Single-Family Residence	L (Low Density Residential)	R-D (Single Family Residential-Restricted)
West	Single Family Residence	ML (Medium Low Density Residential)	R-CL (Single Family Compact-Lot)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts	X		Y
A-O (Airport Overlay) District (70 Feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

** The subject property is located within the North Las Vegas Airport Overlay Map within the 70-foot height limitation contour. None of the buildings on the subject property extend beyond this limitation.*

DEVELOPMENT STANDARDS

Per Title 19.08, the following standards apply.

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	11,000	14,375	Y
Min. Lot Width	90 feet	146 feet	Y
Min. Setbacks			
• Front	25 feet	21.5 feet	Y*
• Side	10 feet	19.6 feet	Y
• Corner	15 feet	N/A	N/A
• Rear	30 feet	9 feet	N

Max. Building Height	2 stories or 35 feet, whichever is less	Single story, 20 feet	Y
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** The existing residence was originally constructed in 1963 and is legally non-conforming for the front yard setback only. The proposed expansion is within the rear of the property.*

ANALYSIS

This is a request for a Variance to allow a 9-foot rear yard setback where 30 feet is required for the conversion of an existing carport into habitable space on 0.33 acres at 4460 Marlena Circle. A building permit (#13025) was issued and a carport was constructed on the subject site in 1979. Subsequently, the carport was converted into habitable space, but the required building permits were not obtained. When a carport is converted into habitable space, it becomes subject to the same development standards as the principal structure on the site, and must meet the minimum required building setbacks for the applicable zoning district. The subject site is zoned R-D (Single Family Residential Restricted) and the minimum required rear yard setback is 30 feet; the requested nine-foot rear yard setback represents a 70% deviation. Staff is recommending denial of this request as the applicant has created a self-imposed hardship by converting an existing carport into habitable space within a required setback area, resulting in a site that is overbuilt and not compatible with the adjacent residential properties.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), 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 19.18.070L 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 overbuilding the site. Alternatively, expansion of the residence within areas that do not encroach into the required setbacks would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the sites physical characteristics, it is concluded that the applicants hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There were six speakers in protest at the Planning Commission meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 550 by City Clerk

APPROVALS 0

PROTESTS 3