



AGENDA MEMO

CITY COUNCIL MEETING OF: SEPTEMBER 2, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-34662 - APPLICANT/OWNER: REBECCA CARR

THIS ITEM WAS HELD IN ABEYANCE FROM THE AUGUST 19, 2009 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILMAN BARLOW.

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to conditions.

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. A revised site plan shall be submitted to and approved by the Planning and Development, prior to or at the time application is made for a building permit, to accurately depict the minimum five-foot side yard setbacks required for the property.

**** STAFF REPORT ****

PROJECT DESCRIPTION

The subject site contains an existing single-family residence located at 521 Byrnes Avenue. The applicant is requesting this Variance for an existing carport constructed within the front yard setback area without the required permits. The carport does not meet Title 19.08.040 standards, which require a 20-foot front yard setback and limit encroachment of architectural features, including a roof eave, to no more than two feet into any required setback area. If this request is denied, the carport must be either removed or redesigned to meet all setback requirements of Title 19.08. Staff is recommending denial of this request as the applicant has provided no evidence of unique or extraordinary circumstances and has created a self-imposed hardship by constructing the carport prior to obtaining all required permits.

Issues:

- Construction commenced before obtaining the necessary permits from the Department of Building and Safety. The applicant has submitted an application for a building permit for the proposed structure on 05/26/09, which has since been denied by the Planning and Development Department pending approval of this request.
- The structural elements of the carport, as constructed, are set back only 11 feet from the front property line where 20 feet is required. The roof eave of the structure extends an additional four feet into the required setback area where a maximum of two feet is allowed.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
06/02/80	Last change of Ownership
07/23/09	The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #20/jb).
<i>Related Building Permits/Business Licenses</i>	
02/18/09	A building permit (#133177) was issued for a room addition at 521 Byrnes Avenue. The project was completed on 05/05/09.
05/26/09	An application for a building permit (#140237) was submitted for a carport at 521 Byrnes Avenue. It has since been denied by the Planning and Development Department pending approval of this Variance request.
<i>Pre-Application Meeting</i>	
05/22/09	A pre-application meeting with the applicant was held where elements of submitting a Variance were discussed. Topics included: • Title 19 Zoning Code setback requirements • Application Materials and Documents • Meeting Dates and Deadlines • Variance approval criteria

<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one conducted.	
<i>Field Check</i>	
06/18/09	During a routine site inspection staff observed existing wooden framing for a carport, which encroached into the required 20-foot front yard setback of the subject site.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.15

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	L (Low Density Residential)	R-1 (Single-Family Residential)
North	Single-Family Residence	L (Low Density Residential)	R-1 (Single-Family Residential)
South	Single-Family Residence	L (Low Density Residential)	R-1 (Single-Family Residential)
East	Single-Family Residence	L (Low Density Residential)	R-1 (Single-Family Residential)
West	Single-Family Residence	L (Low Density Residential)	R-1 (Single-Family Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
West Las Vegas Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District – (140 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

DEVELOPMENT STANDARDS

Title 19.08.040 Standards

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	6,534 SF	Y
Min. Setbacks			
• Front	20 Feet	11 Feet	N
• Side	5 Feet	5 Feet	Y
Max. Lot Coverage	50%	35%	Y
Max. Building Height	2 stories or 35 feet, whichever is less	12 Feet	Y

ANALYSIS

The subject site is an existing single-family residence located at 521 Byrne Avenue. This is a request for a Variance to allow an 11-foot front yard setback where a 20-foot front yard setback is required, and to allow a 4-foot architectural feature (roof eave) where two feet is the maximum. The applicant has indicated that the carport was constructed because the property has no garage or shade for a vehicle in the drive way.

The request for this Variance is a result of a self-imposed hardship. The placement of the addition to the principle dwelling within the front yard setback area was determined before consulting Title 19 standards. In addition, construction commenced before obtaining the necessary permits from the Department of Building and Safety. Had the applicant consulted with the City prior to construction to determine allowable setbacks for the principle dwelling the need for a Variance could have been eliminated. The proposed deviations are preferential in nature and are self-imposed; therefore staff recommends denial.

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 commencing construction for an addition to the principle dwelling, prior to consulting with the City of Las Vegas. An alternative site design removing the additions to the principle dwelling within the front yard setback area 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.

PLANNING COMMISSION ACTION

There was one speaker in opposition and one speaker in favor of this project at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

12

ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 293 by City Clerk

APPROVALS 0

PROTESTS 0