



AGENDA MEMO

CITY COUNCIL MEETING DATE: SEPTEMBER 1, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: KOHAVA AND AZRIKAM COHEN

** STAFF RECOMMENDATION(S) **

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-38328	Staff recommends DENIAL, if approved subject to conditions:	NA

** CONDITIONS **

VAR-38328 CONDITIONS

Planning and Development

1. This approval shall be void two years from the date of final approval, unless a final inspection has been approved. An Extension of Time may be filed for consideration by the City of Las Vegas.
2. Prior to occupancy, 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 Department.
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

This application is a request for a Variance to allow an existing enclosed carport to have a four-foot side yard setback where five feet is required for a single-family residence at 4718 Lorna Place. There is no new roof line with this request as the applicant has enclosed the previously existing carport. Staff recommends denial as this a self-imposed hardship. If denied, the applicant will be required to return the carport to its original permitted condition.

ISSUES

- The side yard setback Variance request equals a 20% deviation from standard code setback of 5 feet.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
01/27/10	Code Enforcement Case #85788 was opened for inoperable vehicles on the front yard along with Trash and Debris. This case remains open.
07/23/10	Code Enforcement Case #85788 was closed with notes indicating that the owner was in compliance and passed inspection.
07/29/10	The Planning Commission voted (6-1/gf) to recommend APPROVAL (PC Agenda Item #30/mh/yk).

<i>Most Recent Change of Ownership</i>	
10/20/09	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
05/04/10	A Building Permit (#162302) was issued for a Storage Shed. This permit has not been finalized.
05/19/10	A Building Permit (#163403) was issued for a sewer tie in. This permit has not been finalized.
06/30/10	A Building Permit (#166465) was issued for a new waste drain and sewer tie in. This permit has not been finalized.

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<i>Pre-Application Meeting</i>	
05/13/10	A pre-application meeting was held with CLV staff to discuss the applicant's interest in pursuing a Variance from the Title 19.08.040 Residential Development Standards: • The applicant stated there was a previous carport on the subject site later was enclosed. • The applicant asked the previous owner to construct the existing wall before leaving. • The wall is composed of 5/8 sheathing w/ cement concrete on the outside. Applicant thinks wall is fire rated. • The applicant is not sure when previous owner built wall or if permits were obtained. • The existing eave projects out 1'-6" all the way around the existing structure. • The roofline of the existing residence remains unchanged. The previous owner enclosed the carport with out permits; the applicant added the garage door later. • The applicant was advised to discuss construction and permits with Building and Safety.

<i>Neighborhood Meeting</i>
A neighborhood meeting is not required for this type of request nor was one held.

<i>Field Check</i>	
06/29/10	Staff met with the applicant onsite and reviewed the request. It was determined that the roof line has maintained its original condition and that the carport was partially enclosed at the rear with an attached accessory storage unit.
08/17/10	There were no vehicles parked in the dirt, but there were 4 vans/SUV's parked in front of the property with a shopping cart on the ground on the southwest corner of the property.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.18

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<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.04</i>	<i>Planned or Special Land Use Designation</i>	<i>Existing Zoning District</i>
Subject Property	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
North	Restaurant with drive through	SC (Service Commercial)	C-2 (General Commercial)
South	Single Family, Detached/Office	L (Low Density Residential)/ O(Office)	R-1 (Single Family Residential)/ P-R (Professional Office & Parking)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Restaurant with drive through	SC (Service Commercial)	C-1 (Limited Commercial)

<i>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area		X	NA
<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District – 175'	X		Y
Trails		X	NA
Rural Preservation Overlay District		X	NA
Las Vegas Redevelopment Plan Area		X	NA
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.040, the following standards apply for the R-1 (Single Family Residential) Zoning District

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	7,998 SF	Y
Min. Lot Width	65 Feet	72 Feet	Y
Min. Setbacks			
• Front	20 Feet	30 Feet	Y
• Side	5 Feet	4 Feet	N (20% deviation)
• Rear	15 Feet	60 Feet	Y
Max. Lot Coverage	50%	18%	Y
Max. Building Height	2 stories or 35 Feet	14 Feet	Y

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Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Single Family, Detached	1 Unit	2 Spaces Per Unit	2	0	2	0	Y
TOTAL SPACES REQUIRED			2		2		Y

ANALYSIS

The applicant enclosed the entire carport and installed a garage door without the proper building permits. When an inspection was completed, it was noted that the applicant would need to file a request for a Variance, as the west wall was only 4 feet from the west property line. There was no new foundation or roof line built. The violation is the result of an extension of the existing wall on the carport. Although the applicant claims the enclosure was done to mitigate the noise generated from the commercial property adjacent to the west, this is not a legal justification pursuant to Title 19.18.070 for approval of a Variance request; therefore, staff recommends denial.

FINDINGS (VAR-38328)

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 19.18.070(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.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by encroaching 1 foot into the established five-foot side yard setback. The alternative of returning the carport to its original condition 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.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 20

NOTICES MAILED 204 (By City Clerk)

APPROVALS 3

PROTESTS 0