

**AGENDA MEMO****PLANNING COMMISSION MEETING DATE: DECEMBER 16, 2010****DEPARTMENT: PLANNING AND DEVELOPMENT****ITEM DESCRIPTION: APPLICANT/OWNER: TERESA R. GARCIA**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-40150	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-40150 CONDITIONS

Planning and Development

- 1.This approval shall be void two years from the date of final approval, unless a final inspection is 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

The subject site is located at 1240 South 10th Street, which contains a 1,166 square-foot residence and an existing carport that extends six feet into the required 20-foot front yard setback. A Variance to allow the reduced setback is required. Staff is recommending denial the Variance request, as the applicant has not provided compelling evidence of a unique or extraordinary circumstance related to the property and has created a self-imposed hardship by constructing the existing carport without obtaining the necessary building permits prior to construction. If this application is denied, the existing carport would need to be removed.

ISSUES

- The new carport was constructed without building permits and extends six feet into the front yard setback.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
No previous land use entitlements are associated with the subject property.	

<i>Most Recent Change of Ownership</i>	
05/30/08	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
C.1942	The single family residence was constructed.
05/11/99	A building permit (99009029) was issued for a 194 square-foot room addition at 1240 South 10 th Street. The permit was finaled on 10/28/10.
12/28/05	A building permit (56812) was issued for a wall/fence at 1240 South 10 th Street. The permit was finaled on 11/08/10.
08/25/10	A code enforcement case (93948) was opened for the construction of a carport without a building permit at 1240 South 10 th Street. The case was closed on 10/28/10.

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<i>Pre-Application Meeting</i>	
10/05/10	A pre-application meeting was held with the applicant where the submittal requirements for a Variance were discussed. Also noted was that the maximum height permitted is 12 feet.

<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required, nor was one held.	

<i>Field Check</i>	
11/09/10	During a site visit staff noted a single family residence that was clean of trash and debris. The carport is aesthetically compatible with the main dwelling.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.14

<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 Residence	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
South	Elementary School	PF (Public Facilities)	C-V (Civic)
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>Master Plan Areas</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Master Plan Area		X	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Las Vegas Redevelopment Plan Area		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

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DEVELOPMENT STANDARDS

Pursuant to 19.08, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	6,026 SF	N*
Min. Lot Width	65 Feet	60 Feet	N*
Min. Setbacks • Front • Side • Side • Rear	20 Feet 5 Feet 5 Feet 15 Feet	14 Feet 5 Feet 10 Feet 40 Feet	N Y Y Y
Max. Lot Coverage	50 %	20 %	Y
Max. Building Height (Carport)	12 Feet	12 Feet	Y

*The subject site was developed prior to these Title 19 Requirements and is therefore legally nonconforming.

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

Street Name	Functional Classification of Street(s)	Governing Document	Street Width (Feet)	Compliance with Street Section
10th Street	N/A	N/A	60	Y

ANALYSIS

Title 19.08.040 Table 1 requires a front yard setback of 20 feet in the R-1 (Single Family Residential) zoning district. The placement of the existing two-car carport addition to the existing single family home is six feet closer to the front yard property line than allowed by code, or a 30 percent deviation. The applicant is requesting a Variance to allow a 14-foot front setback where 20 feet is required. The applicant has indicated that an older carport was removed without obtaining a demolition permit, and replaced with the existing one. Staff recommends denial, as the requested Variance is self-imposed.

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FINDINGS (VAR-40107)

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.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing the carport contrary to Title 19 requirements without obtaining building permits. Alternative design of the carport and reconstruction with building permits and inspections 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

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NOTICES MAILED

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APPROVALS

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PROTESTS

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