

**AGENDA MEMO - PLANNING****PLANNING COMMISSION MEETING DATE: MAY 14, 2013****DEPARTMENT: PLANNING****ITEM DESCRIPTION: APPLICANT/OWNER: BRIAN BURTON**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-48848	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-48848 CONDITIONS

Planning

- 1.This approval shall be void two years from the date of final approval, unless exercised pursuant to the provision of LVMC Title 19.16. An Extension of Time may be filed for consideration by the City of Las Vegas.
- 2.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 Department of Building and Safety.
- 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 applicant is requesting a Variance to allow a three-foot six-inch side yard where five-foot is required in order to obtain building permits for the unpermitted garage conversion at 1225 Buehler Drive. The garage is approximately 379 square feet in size and is attached to the primary structure. The current owner purchased the property with a non-permitted enclosed carport (garage). Staff recommends denial of this request as it does not conform to Title 19 requirements. If denied, the applicant will be required to modify the existing construction in order to maintain a five-foot side yard setback.

ISSUES

- A five-foot side yard setback is required for primary residence per code.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
05/10/2006	A complaint was filed with Code Enforcement, Case (#41127) was opened for unpermitted construction of a gutted house. The complaint was resolved on 05/11/06.

<i>Most Recent Change of Ownership</i>	
01/11/13	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
02/13/13	A building permit (#229478) was applied for to convert the existing enclosed carport to a garage. The permit was not issued.
02/12/13	A building permit (#229529) was issued for a water heater and to re-stucco the front of the house and carport. The permit was finalized on 04/03/13

<i>Pre-Application Meeting</i>	
02/23/13	A pre-application meeting was held with the applicant to discuss the variance process. The applicant was informed that additional building permits were required should a variance be issued.

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<i>Neighborhood Meeting</i>	
A neighborhood meeting was not held nor was one needed.	

<i>Field Check</i>	
04/03/13	Staff conducted a field check to the site and found the carport on the south end of the primary structure was enclosed and that enclosure encroaches in the required side yard setback.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.24

<i>Surrounding Property</i>	<i>Existing Land Use Per Title 19.12</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	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residential)

<i>Master Plan Areas</i>	<i>Compliance</i>
No Applicable Master Plan Area	N/A
<i>Special Purpose and Overlay Districts</i>	<i>Compliance</i>
Rancho Charleston Land Use Study	Y
<i>Other Plans or Special Requirements</i>	<i>Compliance</i>
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

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DEVELOPMENT STANDARDS

Pursuant to 19.06.070, the following standards apply:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	10,454.4 SF	Y
Min. Lot Width	65 Feet	80 Feet	Y
Min. Setbacks			
• Front	20 Feet	30 Feet	Y
• Side	5 Feet	3.5 Feet	N
• Corner	15 Feet	N/A Feet	Y
• Rear	15 Feet	63 Feet	Y
Max. Lot Coverage	50 %	22.5 %	Y
Max. Building Height	35 Feet	12 Feet	Y

ANALYSIS

The enclosure of the carport to a garage was done in a manner that is architecturally compatible with the existing neighborhood; however, it was built in the required five-foot setback. The Variance represents a 30 percent intrusion into the required setback. Since the setback does not meet code, Staff recommends denial. If denied, the applicant will have to modify existing construction to conform to minimum setback of five feet.

FINDINGS (VAR-48848)

In accordance with the provisions of Title 19.16.140(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 19.16.140(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 enclosed garage was constructed in the required side yard setback. Alternatively, if the garage width was reduced by one and one half feet the garage would meet 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 32**NOTICES MAILED** 201**APPROVALS** 3**PROTESTS** 0