

**AGENDA MEMO - PLANNING****PLANNING COMMISSION MEETING DATE: JUNE 11, 2013****DEPARTMENT: PLANNING****ITEM DESCRIPTION: APPLICANT/OWNER: WILLIAM BIRTHISEL**

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

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
VAR-47494	Staff recommends DENIAL, if approved subject to conditions:	N/A

**** CONDITIONS ****

VAR-47494 CONDITIONS

Planning

- 1.This approval shall be void two years from the date of final approval, unless exercised pursuant to the provisions 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

This is a request for a Variance to allow a carport to encroach into the front yard and to side yard setbacks, as well as to allow an existing addition to the south side of the main dwelling with a zero-foot side yard setback. The site is located at 1243 Barnard Drive. The proposed Variance is self-imposed and does not meet the minimum standard for the zoning district; therefore, staff recommends denial. If the application is denied, the existing structures will have to be removed or altered to meet the minimum R-1 (Single Family Residential) Zoning District standards.

ISSUES

- A Variance is required to allow an existing carport to be nine feet from the front property line and zero feet from the side property lines where 20 and five feet are the required setback distances, respectively.
- A Variance is required to allow an existing addition and awning to be zero feet from the south property line where five feet is the required setback distance.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
10/01/12	A Code Enforcement case (#120321) was processed due to a construction of a carport on site w/o permit at 1243 Barnard Drive. The enforcement case is pending.

<i>Most Recent Change of Ownership</i>	
09/16/88	A deed was recorded for a change in ownership.

<i>Related Building Permits/Business Licenses</i>	
C. 1952	The building was constructed in 1952.

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<i>Pre-Application Meeting</i>	
11/14/12	A pre-application meeting was held with the applicant and submittal requirements for a Variance to allow a carport in the front yard area of and additions to the single family residence were discussed with the applicant.
01/16/13	A meeting was held with the applicant to accept revised Site Plans. The building Department discussed the permitting process for the carport in the front yard and additions to the single family residence.

<i>Neighborhood Meeting</i>
A Neighborhood Meeting is not required for this application, nor was one held.

<i>Field Check</i>	
11/29/12	Staff conducted a field check of the subject property and noted the site was a well maintained residential property with a carport in the front driveway and additions to the main structure that extended to the concrete block wall.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	0.19

<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>
A-O (Airport Overlay) District (200 Feet)	Y

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<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

DEVELOPMENT STANDARDS

Pursuant to Title 19.06, the following standards apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Front	20 Feet	9 Feet	N
• North Side (Main Building)	5 Feet	0 Feet	N
• South Side (Main Building)	5 Feet	0 Feet	N
Min. Distance Between Buildings	6 Feet	11 Feet	Y

ANALYSIS

This property is located within the A-O (Airport Overlay) District and is in compliance with the standards of the district. There are two instances on the site that require a Variance from the R-1 (Single Family Residential) Zoning District setback standards. The first is the existing carport and the second is the existing addition to the south façade of the main dwelling.

An accessory structure is not allowed in the front yard of an R-1 (Single Family Residential) Zoning District and is subject to the main dwelling setbacks of five feet from the side property line and 20 feet from the front property line. The carport was built on the concrete for the driveway. The structure is nine feet from the front property line and the posts are two feet from the north property line with overhang of the carport ending at the property line. The carport exceeds the main dwelling setbacks by 55%.

The addition to the south side of the main dwelling is composed of an enclosed room and awnings that extend out from the main dwelling and addition to the top of the concrete block wall separating the two properties. The side yard setback for main dwelling is five feet from the property line. The addition is zero feet from the property line and exceeds the main dwelling setbacks by 100%. The applicant did not secure a building permit for the construction of the carport or the addition and permits will be required if the Variance is approved.

The intent of the R-1 (Single Family Residential) district is to provide a low density residential setting with a buffer from the street and other residences. The proposed addition is inconsistent with the intent of the district and the request is a self-imposed hardship. The existing structure does not meet the minimum standard for the zoning district; therefore, staff recommends denial.

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FINDINGS (VAR-47494)

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.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by constructing structures that do not meet the R-1 (Single Family Residential) Zoning District standards. Removal or modification to the structures 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

70

NOTICES MAILED

285

APPROVALS

13

PROTESTS

10