

City of Las Vegas

AGENDA MEMO - PLANNING

PLANNING COMMISSION MEETING DATE: JULY 13, 2021

DEPARTMENT: PLANNING

ITEM DESCRIPTION: APPLICANT/OWNER: KIM & KATERI CHRISTIAN

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

CASE NUMBER	RECOMMENDATION	REQUIRED FOR APPROVAL
21-0144-VAR1	Staff recommends DENIAL, if approved subject to conditions:	

**** NOTIFICATION ****

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 27

NOTICES MAILED 346

PROTESTS 0

APPROVALS 0

**** CONDITIONS ****

21-0144-VAR1 CONDITIONS

Planning

1. A Variance is hereby approved to allow a zero-foot side yard setback where five feet is required.
2. 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.
3. 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.
4. These Conditions of Approval shall be affixed to the cover sheet of any plan set submitted for building permit.
5. 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 for a zero-foot side yard setback where five feet is required for an existing carport constructed within the R-1 (Single Family Residential) zoning district at 1513 South 9th Street.

ISSUES

- This Variance application is the result of Code Enforcement case number CE20-04038.

ANALYSIS

On July 15, 2020, Code Enforcement received a complaint for a non-permitted wooden patio cover constructed next to the southern property line at 1513 South 9th Street. Upon inspection conducted by Code Enforcement on July 16, 2020, the Officer noted the existence of the attached patio cover and advised the property owner that both a building permit and a Variance would be necessary since the patio cover is attached to the house and is within the required five-foot side yard setback area. A Correction Notice was mailed to the property owner on July 22, 2020.

The applicant is requesting a Variance to allow the attached patio cover/carport to remain as constructed within the side yard setback area with a zero-foot setback from the southern property line.

As stated by Title 19.16.140, a Variance may be granted in order to relieve an undue hardship such as exceptional topographic conditions or an exceptional narrowness or shallowness of a piece of property. None of these conditions exist in this instance, as this is a self-imposed hardship due to the construction of the carport without a building permit. The building permit application process would have limited the scope of the carport construction and kept it out of the required side yard setback area. Staff is not able to support a self-imposed hardship and therefore recommends denial of the Variance application.

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FINDINGS (21-0144-VAR1)

In accordance with the provisions of Title 19.16.140(B), the 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 a carport without a building permit. 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.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by Planning, Fire, Bldg., etc.</i>	
07/15/20	Code Enforcement received an anonymous complaint (CE20-04038) for a non-permitted wooden carport constructed at 1513 South 9 th Street. The case is open as of 06/03/21.

<i>Most Recent Change of Ownership</i>	
04/2009	A deed was recorded for a change in ownership.

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Related Building Permits/Business Licenses	
1953	Construction year of single-family residence.

Pre-Application Meeting	
03/09/21	Staff provided the applicant with a submittal checklist for the variance application request.

Neighborhood Meeting	
A neighborhood meeting was not required, nor was one held.	

Field Check	
05/26/21	Staff performed a routine field check in order to observe the subject carport. The carport is painted to match the residence and nothing of concern was noted by staff during the visit.

Details of Application Request	
Site Area	
Net Acres	0.16

Surrounding Property	Existing Land Use Per Title 19.12	Planned or Special Land Use Designation	Existing Zoning District
Subject Property	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residence)
North	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residence)
South	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residence)
East	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residence)
West	Single Family, Detached	L (Low Density Residential)	R-1 (Single Family Residence)

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Master and Neighborhood Plan Areas	Compliance
No Applicable Master Plan Area	N/A
Special Area and Overlay Districts	Compliance
A-O (Airport Overlay) District – 200 Feet	Y
Other Plans or Special Requirements	Compliance
Trails	N/A
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	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:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	6,500 SF	6,970 SF	Y
Min. Lot Width	60 Feet	70 Feet	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	5 Feet	0 Feet	N*
• Corner	15 Feet	N/A	N/A
• Rear	15 Feet	20 Feet	Y

**The applicant is requesting a Variance in order to keep an existing carport located within the side yard setback.*

Street Name	Functional Classification of Street(s)	Governing Document	Actual Street Width (Feet)	Compliance with Street Section
9 th Street	Local Street	Title 13	50	Y