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MEETING LOCATION:  
CITY COUNCIL CHAMBER  
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JULIE CALLOWAY, CPRP

# City Council Meeting

## May 27, 2025

### Item No. 9

### Staff Report

TO: Ned Thomas, City Manager

FROM: Nakeisha Lyon, City Planner

DATE: May 27, 2025

#### SUBJECT:

For possible action: Matters pertaining to an appeal (CAP-25-03) of the Planning Commission's denial of a variance (V-25-683) to permit a single-family residence and an accessory structure in excess of each structures' applicable height maximums at 3 Linda Lane:

A. Public hearing on CAP-25-03

B. Determination of CAP-25-03

Business Impact Statement: As per NRS 237.060.2(c), the requirements for a business impact statement do not apply to planning and zoning matters (NRS Chapter 278).

Action Requested: That the City Council conduct the required public hearing and take action on the appeal, to either affirm, reverse or modify the Planning Commission's denial of a variance.

#### Overview:

- The property owner at 3 Linda Lane is proposing a new single-family residence with a building height of 25'-10" (maximum allowed is 25') and an accessory structure with a building height of 19'-3" (maximum allowed is 16').
- As each structure would exceed their applicable height maximums, the property owner submitted a variance application for consideration by the Planning Commission.
- On April 16, 2025, The Planning Commission denied the variance request by a vote of 5-2.
- The property owner has appealed this action for consideration by the City Council.

Background Information:

Appellant (Property Owner): Thomas Martens

Location: 3 Linda Lane

Assessor Parcel No. 186-04-311-007

Zoning: R1-15, Single Family Residential Zone

Historic District: This property is not located within the Historic District.

Planning Commission Action: On April 16, 2025, The Planning Commission denied the requested variance by a vote of 5-2; refer to Attachment 2 for minutes.

*Details about this variance request are in the staff report and backup information presented to the Planning Commission, as attachments.*

Please note that the applicant has a Request for Confidentiality Order on file. Personal information—other than the street address—was previously redacted from all variance-related application documents submitted to the Planning Commission. For this appeal request, however, the applicant has consented to the full disclosure of all personal information. See attached for more details.

Appeal Procedure: Chapter 11-34 governs appeals related to the zoning ordinance. Section 11-34-1 states “The purpose of an appeal procedure is to provide recourse in the event that the appellant is dissatisfied with any decision made by an administrative officer or the planning commission in the administration or enforcement of this Title.”

Section 11-34-6.A. states: “Upon hearing an appeal, the City Council shall consider the record and such additional evidence as may be offered and **may affirm, reverse or modify in whole or in part the decision appealed from, or make and substitute such other or additional decisions as it may find warranted under the provisions of this Title.**

**Section 11-34-6-B. states: “In reviewing the decision being appealed, the City Council shall consider the health, safety, morals, or the general welfare of the community, as per Nevada Revised Statutes 278.3195.2(f) and 278.020.”**

Actions on variances must be supported by findings as stated in Section 11-32-4 of the zoning ordinance (see attached).

Consideration of affirming the Planning Commission’s decision: Should the City Council decide to affirm the action of the Planning Commission (denying the variance), the same findings for denial of the variance may be used as noted in the Planning Commission staff report:

1. There are no exceptional or extraordinary circumstances or conditions applicable to the property or to its intended use that do not apply generally to the other property or classes of use in the same vicinity and zone. Regardless of the existing topography, the applicant can adjust their proposed residence and RV garage to meet the applicable building height maximums. The property owner could grade the southwestern portion of the property to even out the topography. The building height provisions for structures in Chapter 3 and Chapter 20 of the City Code apply generally to all R1-15, Single Family Residential (15,000 sf) zoned properties, other residential uses within the area, and in other residential zoning districts (Criterion A).
2. The variance is not necessary for the preservation and enjoyment of a substantial property right, possessed by other property in the same vicinity and zone, but which is denied to the property in question. The ability and substantial property right to have a single-family residence and accessory structure are not denied to the subject property. A principal structure and accessory structure conforming to the City's standards could be developed on the subject property. This would require the applicant to reduce the proposed building heights to meet the requirements of Title 11. (Criterion B).

The property owner must redesign their proposed single family residential home and the detached RV garage to conform to the applicable height maximums within Title 11.

**Consideration of reversing the Planning Commission's decision:** Should the City Council decide to reverse the action of the Planning Commission and conditionally approve the variance as requested by the appellant, new findings for approval of the variance must be made based on the criteria as stated in Section 11-32-4:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property or to its intended use that do not apply generally to the other property or classes of use in the same vicinity and zone. The topography of the property creates challenges as the property owner is seeking to use the existing grades present to construct their home. The lot elevation changes from the northwest corner of the lot to southwest corner of the lot by an increase of 17 feet. The lot elevation changes along the southwestern boundary decreasing by 11.4 feet.

For the principal structure, the building height provisions for structures in Chapter 3 of the City Code apply generally all R1-15, Single Family Residential (15,000 sf) zoned properties, other residential uses within the area, and in other residential zoning districts. However, the 10" increase in building height is a minimal deviation from this standard.

For the accessory building, the building height provisions for these structures in Chapter 20 of the City Code apply generally apply generally all R1-15, Single Family Residential (15,000 sf) zoned properties, other residential uses within the area, and in other residential zoning districts. However, the 3'-3" increase in

building height is a minimal deviation due to the fact that this area will be at a lower elevation, similar to the elevation of the attached garage on the lower level (Criterion A);

2. The variance is necessary for the preservation and enjoyment of a substantial property right, possessed by other property in the same vicinity and zone, but which is denied to the property in question. Though, the ability and substantial property right to have a single-family residence and accessory structure are not denied to the subject property, the grading differences of the property creates challenges as the property owner is working within these constraints to construct their home. As stated in their justification, the property owners have adjusted the location of the home to provide an optimal view of Lake Mead similar to other properties in the area. The 10" increase on the proposed principal structure accommodates a slanted roof design which also serves as a cantilevered protective shade and weather cover for their proposed deck. Their design also includes a row of windows near the top of the roof to maximize natural light and conserve energy which would be eliminated if the 10" increase was not allowed.

The design of the RV garage to have a higher height is in order to accommodate a taller RV. There are no other houses or properties nearby whose view may be impacted by the height of the RV garage. Additionally, the City has allowed similar variances as provided below within this staff report (Criterion B);

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located. The Building Department, Utilities Department, Fire Department, and Public Works Department have reviewed the proposed request, drawings and materials provided by the applicant and have no comments or revisions (Criterion C);
4. The granting of this variance will not adversely affect, or be contrary to, the Comprehensive Plan (Criterion D); and
5. Approval of the variance would not create a condition whereas a general or recurrent regulation is formed as variance requests specific to building height are dependent on the specific conditions related to the subject property (Criterion E).

#### Conditions:

1. The proposed detached garage shall not be used as or converted to a dwelling unit.
2. The variance approval is based on the plans and information submitted and discussed as part of the variance request, and the variance shall not apply to deviations to the plans if the scope of the variance is expanded beyond that shown on the plans and submitted information.

**Consideration of modifying or substituting in whole or in part components of the Planning Commission's decision:** Should the City Council make modifications in whole or in part regarding the decision appealed, or making and substituting such other or additional decisions as it may be warranted, *findings for such changes must be made based on the criteria as stated in Section 11-32-4* and allowed per Chapter 34, Appeals.

Public Notice Requirements: This appeal was noticed in accordance with Sec. 11-32-5 which requires that notices and hearing shall be held in accordance with the procedures and requirements as set forth in chapter 35 of this Title. Notice of the public hearing and application request were mailed to all property owners within 500' of the subject property on May 15, 2025. As of the writing of this staff report, the city has not received any written public comments.

Financial: No financial impacts anticipated at this time.

Boulder City Strategic Plan Goal: Goal 3: Maintain Community Character through the Growth Control Ordinance

Department Recommendation: The Community Development Department Staff respectfully requests that the City Council conduct the required public hearing and make a determination on the appeal, to either affirm, reverse or modify the Planning Commission's denial of a variance (V-25-683) to permit a single-family residence and an accessory structure in excess of each structure's applicable height maximums at 3 Linda Lane subject to the findings.

Attachments:

- Appeal Application and Supporting Documents
- Planning Commission minutes excerpt, 04-16-2025
- Planning Commission Staff Report
- Backup materials to Planning Commission Staff Report
- Variance application and justification
- Elevations, site plan and images
- Location map