

Board of Adjustment

Staff Report

CASE NUMBER: BA16-039 (PLN2016-00520)
LOCATION/ADDRESS: 636 E 2nd St
COUNCIL DISTRICT: 4
PLANNER: Lisa Davis
OWNER/APPLICANT: Marisela Contreras

REQUEST: *Requesting a Variance to eliminate the minimum parking requirements to allow for an addition to the house in the RS-6 zoning district.*

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a variance to eliminate the minimum parking requirements for the single residence. The Mesa Zoning Ordinance (MZO) currently requires two covered parking spaces for a single detached residence. However, this site has an existing legal non-forming single car garage that is considered "grandfathered" unless the garage structure is modified. The variance request to eliminate the parking requirements will allow the existing single car garage to be converted into a 178 square feet (SF) expansion of livable area to be used as a master bedroom and bathroom.

STAFF RECOMMENDATION

Staff recommends **denial** of case BA16-039. However, should the Board determine that the case be approved, staff recommends that it be conditioned upon the following:

1. *Compliance with the site plan, narrative and exhibits submitted.*
2. *Compliance with all requirements of the Development Services Division in the issuance of building permits.*

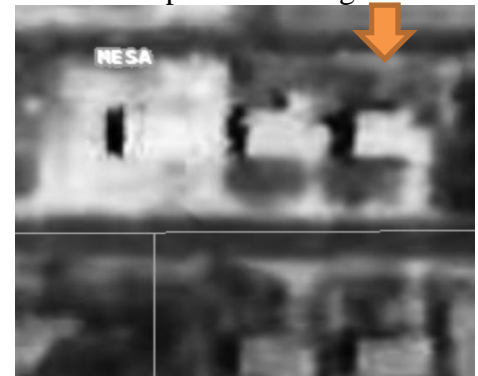
SITE CONTEXT

CASE SITE: Single Residence – Zoned RS-6
NORTH: Existing parking for the church – Zoned RS-6
EAST: Existing Single Residence – Zoned RS-6
SOUTH: (across 2nd Street) Existing Single Residence – Zoned RS-6
WEST: Existing Single Residence– Zoned RS-6

STAFF SUMMARY

The parcel is located in the general area south of University Drive and east of Mesa Drive, and specifically identified as lot 4 of Easton Place. The applicant is requesting a variance to eliminate the minimum parking requirements for a single residence house. Mesa Zoning Ordinance (MZO) Section 11-32-3 currently requires a minimum of two covered parking spaces for all detached single residence dwelling units. The house at 636 E 2nd Street was originally constructed in 1949 with a single covered carport. In 1993, a building permit was issued to enclose the carport into a single car garage with manual opening double doors at the front of the house. Refer to the 2011 MLS sheet provided by the applicant shows a picture of the house with the garage door. It is important to note that the existing single car garage would be considered as a legal non-conforming structure and would

1951 aerial photo showing the house



The side yard setbacks are required at 5' minimum with both sides totaling 15'. At this time the site plan shows 5' to the east and 8' to the west therefore is an existing condition. The following table summarizes the minimum development standards required for RS-6 zoned lots and compares them to the setbacks indicated on the site plan:

	Minimum standards for RS-6	Existing for 636 E 2 nd St
Lot Size	6,000 SF	4,487 SF
Lot Width	55'	55'
Lot Depth	90'	90'
Yard Setbacks		
Front	10' to livable 20' to garage	27' to livable 23' to garage
Side, Minimum	5'	5'
Side Aggregate of Two Sides	15'	13'
Rear	20'	30'
Coverage	45% Maximum	31%

The lot is smaller than the minimum, but there is ample space in the front and rear within the buildable envelope to allow for addition of livable area. The MZO allows a 10' front setback for livable space and the site plan indicates that the livable area of the house is setback 27' from the front property line. There is also space at the rear of the house for an addition to the house to extend an additional 10'. This could be done while maintaining the existing single car garage.

The applicant has provided pictures showing no covered parking spaces provided on 6 parcels on 2nd street. Pulling information from Maricopa County, three of the houses (757 E 2nd Street, 731/733 E 2nd Street, and 653 E 2nd Street) were constructed in the 1940's without covered parking spaces are considered legal non-conforming. Just as the existing single car garage on this site is considered as a legal non-conforming structure and would not be required to be increased to a 2 car garage. Unless the addition or remodel modifies the existing garage structure.

While sensitive to allowing for improvements to occur at the property, the variance as proposed does not meet all requirements for granting of a variance. The present request to eliminate minimum parking requirements is not justified. As proposed, this variance will constitute a special privilege unavailable to other properties in the vicinity and zoning district. The property owner could maintain the single car garage and add to the front or rear of the house as there is ample area on the lot.

Due to the degree of deviation requested and the options available to the homeowner to add onto the front or rear of the house with livable space. The applicant has not provided sufficient justification to merit approval of the requested variance to eliminate the minimum required parking for the lot.

FINDINGS:

- 1.1** The house was built in the 1949 with a single car carport.
- 1.2** The lot is not unique in shape. It is a standard rectangular lot oriented perpendicular to the abutting street.
- 1.3** The lot is surrounded by homes and lots of similar size and shape.
- 1.4** Based on the 1939 Mesa Zoning Ordinance that was in place at the time of construction, no on-site parking space was required at that time.
- 1.5** The existing lot is undersized for a standard RS-6 zoned lot. The parcel is 4,487 SF in area with dimensions of 50' x 90'. The lot is 5' narrower and 1,537 SF smaller than the minimum lot area for a RS-6 lot.

- 1.6 Since 1958, a minimum of one-8' x 18' parking space outside of the required front yard has been required for a single residence dwelling unit. Two on-site parking spaces have been required since 1970. The two parking spaces were required to be covered in 2011.
- 1.7 A permit was issued in 1993 to convert the single car carport into a single car garage. It is considered a legal, but non-conforming standard, unless the garage is modified from its parking function into livable area.
- 1.8 The front yard setback for livable space in the RS-6 zoning district is 10'. There is sufficient space for an addition of livable space at the front of the house.
- 1.9 There is not sufficient space to allow vehicular access to the back yard for covered spaces to be provided in the rear of the house.
- 1.10 The lot does have unique conditions related to the site in the form of the smaller lot area and smaller width and depth of the lot. This smaller area makes it difficult to add livable area and comply with the covered parking requirement. However, the revision to the zoning ordinance which added the two-car covered parking requirement also proved additional building area on the lot in the form of reduced setbacks for livable area in the front and rear yards (from 20-ft to 10-ft in the front, and a 10-ft encroachment into the rear yard for 50% the width of the residence), and increased lot coverage (from 40 to 50% of the area of the lot).
- 1.11 Because there are options available to building livable area in the front or rear yards without variance, the applicant has not provided sufficient justification related to the land, which would justify the degree of the requested variance.
- 1.12 Further, strict compliance with Code would not completely deprive the property of the ability to construct livable additions at the front of the house and/or at the rear of the house.

ORDINANCE REQUIREMENTS:

Zoning Ordinance, Sec. 11-5-3 – Development Standards for the RS District:

RS-6 District – Front Yard: 10' Minimum to enclosed Livable Areas, Porches, Porte Cocheres; Front Yard: 20' Minimum front yard to garage and carports; Rear Yard 20' minimum; Side Yard: minimum one side 5' and both sides must total 15' (paraphrased from table found in Sec. 11-5-3)

Zoning Ordinance Sec 11-32-3: Parking Spaces Required:

D.1. Single residences shall provide a minimum of 2 covered parking spaces per unit.

Zoning Ordinance Sec. 11-80-3: Required Findings:

A variance shall not be granted unless the Zoning Administrator, when acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence make a determination:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- B. That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- C. The strict application of the zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and
- D. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located