

Board of Adjustment

Staff Report

CASE NUMBER: BA17-009
STAFF PLANNER: Kaelee Wilson
LOCATION/ADDRESS: 730 West Esquire Way
COUNCIL DISTRICT: Council District 3
OWNER/ APPLICANT: Wes Holmes

REQUESTING: 1) a variance to allow for buildings to exceed the maximum roof area allowed for a detached accessory building; and 2) and a variance to allow the detached accessory building to encroach into a required side yard; in the RS-9 District. (PLN2016-00930)

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting variance to allow a detached building to encroach into the side setback and a variance to allow the roof area of the detached building to exceed the maximum in the RS-9 zoning district.

STAFF RECOMMENDATION

Staff recommends **approval with conditions** for case BA17-009:

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

SITE CONTEXT

CASE SITE: Existing single residence – Zoned RS-9
NORTH: Existing office building – Zoned OC
EAST: (across Esquire Way) Existing Post Office- Zoned LC
SOUTH: Existing single residence – Zoned RS-9
WEST: Existing single residence – Zoned RS-9

STAFF ANALYSIS

The applicant is requesting two variances to allow the structure labeled as “ramada” on the site plan to remain in its current location. Given the current size and height of the structure, it would be required to meet the minimum 7-foot side setback. The structure currently encroaches 6’-2” into this setback.

The property is located within the Esquire Estates subdivision which has an agricultural character with most lots an acre or larger in size. The subdivision was annexed into the City of Mesa in 1990 and subsequently zoned RS-9. There have been several variance requests over the years in Esquire Estates to allow additional roof area in detached accessory buildings and variances to setbacks. The majority of detached accessory buildings on properties in Esquire Estates are considered “legal non-confirming” and were in the current configuration since the time of annexation.

For the subject parcel, the structure labeled “shop/storage” was in existence prior to annexation and is considered legal non-conforming. The applicant has cited the ramada in question was constructed to match the neighbor’s awning to the south. The neighbor to the south built their shade structure prior to annexation and is thus grandfathered. Staff has researched historic aerials and the applicant’s ramada was constructed in the late 1990’s and was slightly expanded in the early 2000’s.

There are some unique attributes to this lot. It is substantially larger than the minimum 9,000-sqft standard for RS-9 lots, as the subject parcel is 20,534 square feet. It is important to note the applicant does also own the vacant parcel to the west that is an additional 9,407 square feet in area. Surrounding this ramada is a dry well for retention and also the septic tank, which makes translates into few if any options for moving the structure to comply with the 7’ minimum side setback.

The applicant has provided the following as justification for the granting of the variance: 1) the house and garage were built in 1960; 2) the ramada built in front of the detached garage is the same height as the one on the neighbor to the

south's property; 3) the ramada follows the same lines as the grandfathered detached garage; 4) the septic tank and dry well placement happened while the site was still under County jurisdiction, and makes it difficult to move the structure; 5) aerial photos of neighboring homes have been provided to show existing detached buildings that exceed the allowable roof area and don't all comply with setback requirements; and 6) the detached buildings on the property are in keeping with the existing detached buildings throughout the neighborhood.

There is a special condition that applies to the land or building, and the special condition was pre-existing and not created by the property owner:

This lot is much larger in size than the minimum required for the RS-9 zoning district. Also, this parcel and the Esquire Estates neighborhood as a whole are very agricultural in character, with many properties having animal keeping. In fact, at the time of annexation, the Council and Esquire Estates neighborhood agreed to an annexation agreement that confirmed the allowance of livestock on parcels of land less than the minimum 1-acre lot required at that time for livestock.

At the time of construction, the home was located within the Maricopa County jurisdiction and was annexed into the City of Mesa in 1990. The home was constructed with a dry-well for storm water retention, and utilizes a septic tank for wastewater. It is a very unique and somewhat extraordinary condition to have a drywell on a single residence property. The drywell location removes the option to move the ramada to the north to meet the side setback.

Strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district and the variance would not constitute a special privilege unavailable to other properties in the vicinity and the zoning district of the subject property:

As seen in the documents provided by the applicant, many other properties within Esquire Estates have structures that appear to be encroaching within setbacks and that visibly exceed 50 percent of the roof area of the primary dwelling. The granting of this variance would not grant special privilege to this homeowner over others within Esquire Estates as many of them enjoy multiple detached accessory structures. As stated previously, the agricultural character of the neighborhood with animal keeping lends itself to have multiple detached accessory buildings for the animals. For example, a previous Board of Adjustment decision for case BA14-007 granted a property owner within Esquire Estates a variance to the maximum roof coverage and the side setback.

FINDINGS

1. The property is zoned RS-9, but is approximately 30,000 square feet in size between both parcels, over 3-times larger than the minimum area for this zoning district
2. The property is located within Esquire Estates, which maintains an agrarian character with many properties taking part in livestock and animal keeping.
3. There are properties throughout Esquire Estates that have detached accessory buildings that are encroaching within setbacks and exceed 50 percent of the roof area of the primary dwelling. Whether or not these structures were in existence prior to annexation, they are considered an accepted character of the neighborhood given the Council's acceptance of the allowing livestock on lots less than 1-acre in size at the time of annexation.
4. Based on the existing character and previously approved variances within Esquire Estates, the approval of the two requested variances will not grant special privilege to this property owner.
5. The drywell that exists on the property is pre-existing and was installed for storm water retention when the house was constructed in Maricopa County.
6. The drywell and the septic location removes viable options for allowing vehicular access to a shade cover or enclosed building, something generally accepted as typical or normal for larger lot properties.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Sec 11-5-3: RS-9 Development Standards:

RS-9: Front livable- 15', Front garage- 25', Sides: 7' and 10', Rear- 25'.