

Board of Adjustment

Staff Report

CASE NUMBER: BA17-012 (PLN2016-00938)
LOCATION/ADDRESS: 525 S Hunt Drive
COUNCIL DISTRICT: District 4
PLANNER: Lisa Davis, Planner II
OWNER/APPLICANT: Myrna Jensen

REQUEST: *Requesting a Variance to reduce the minimum parking requirements and to allow for an accessory structure to encroach into the required side and rear yard in the RS-6 district.*

SUMMARY OF APPLICANT'S REQUEST

The applicant has two variance requests for the site. The first 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. The request would allow a 400 square feet (SF) carport to be enclosed into livable space. The second variance request is to allow an attached 160 SF accessory structure to encroach into the required side and rear yards.

STAFF RECOMMENDATION

Staff recommends **approval** of the variance to eliminate the requirement of two covered parking spaces of the case BA17-012 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 for all structures, remodels and additions.*
3. *The 160 SF accessory structure at the northeast portion of the site shall not be allowed and shall be removed.*
4. *One 8' x 18' parking space shall be designated outside of the 20' front yard setback.*

Staff recommends **denial** of the variance request to allow an accessory structure to encroach into the required side and rear yards.

SITE CONTEXT

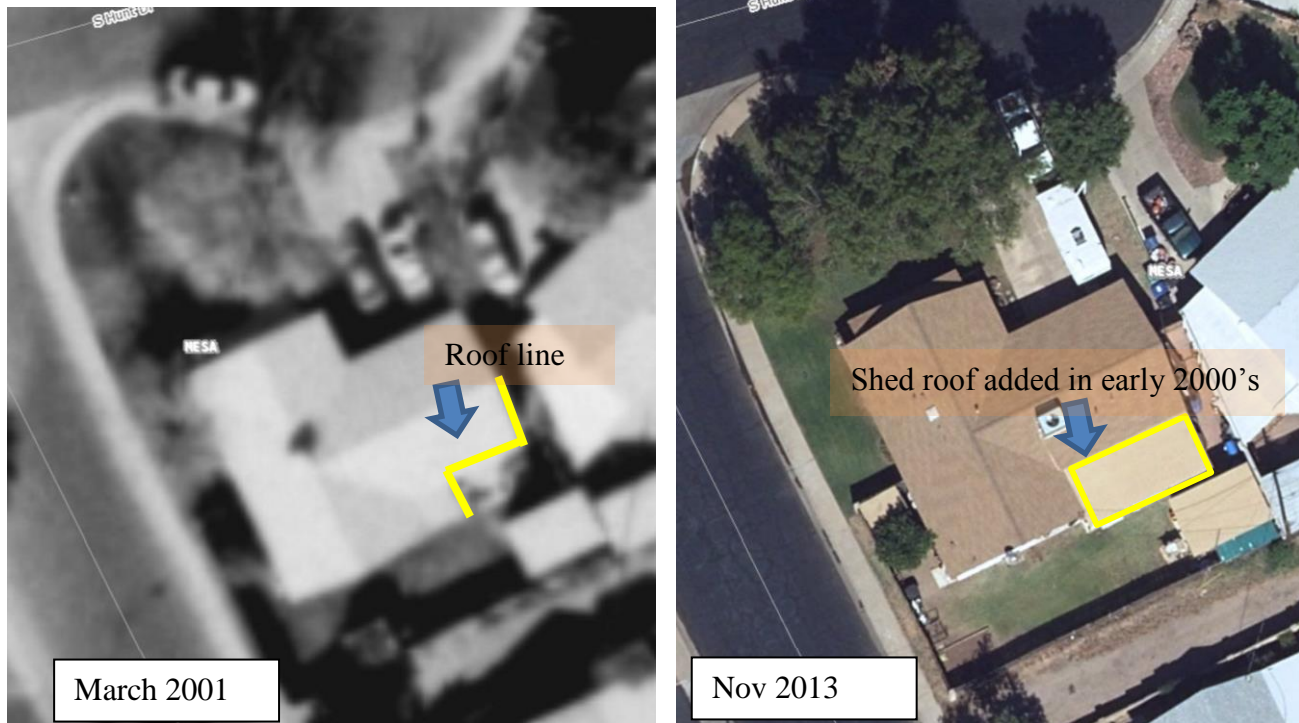
CASE SITE: Single Residence – Zoned RS-6
NORTH: (Across Hunt Drive) Existing Single Residence– Zoned RS-6
EAST: Existing Single Residence – Zoned RS-6
SOUTH: (across the alley) Existing Single Residence – Zoned RS-6
WEST: (Across Hunt Drive) Existing church – Zoned RS-6

STAFF SUMMARY

The parcel is located in the general area south of Broadway Road and east of Stapley Drive, and specifically identified as lot 26 of Crestmont subdivision. The house at 525 S Hunt Drive was originally constructed in 1961 with a 400 SF covered carport. The applicant is requesting a variance to eliminate the minimum parking requirements to allow the carport to be converted to livable space. 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 second variance request is to allow a 160 SF attached accessory structure shed to encroach into the required side and rear yards. The shed is actually detached from the main building 3'-9" but does not meet the definition

of a detached structure because it is less than 6' from the main structure. Based on this dimension the structure must be considered an attached accessory structure.

The current owner purchased the house in 1975. Staff did research building permits back to 1985 and did not find any permits for the detached shed, the detached storeroom, the attached storeroom or the enclosed carport.



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 525 S Hunt Drive
Lot Size	6,000 SF	8,496 SF
Lot Width	55'	70'
Lot Depth	90'	90' at shallowest point
Yard Setbacks		
Front	10' to livable 20' to garage	34' at the narrowest point
Side, Minimum	5'	8'
Side Aggregate of Two Sides	15'	18'
Rear	20'	28' to center of alley
Coverage	45% Maximum	33%

As justification for the requested variance regarding elimination of the minimum parking requirements and the encroachment of the accessory shed structure at the northeast corner, the applicant has noted: 1) the abnormal shape of the cul-de-sac lot; 2) the street frontage on two sides of the home and an alley at the rear; 3) there are numerous homes in the neighborhood with no carport or garage; and 4) there are numerous homes in the neighborhood with detached sheds and storerooms; 5) the Jensen family has lived in the home for over 40 years; and 6) this is a low income neighborhood that does not have resources or knowledge of the City requirements. The property owner has also provided pictures of 13 houses without a carport or garage. Addresses or maps of

building being closer than 6' away from the shed meant that the detached structure allowance no longer applied. Staff researched the site and found that there was no record of a building permit for the attached storage building adjacent to the patio, which resulted in the main structure being closer to the detached structure.

There is a second detached structure indicated adjacent to the rear property line. The storeroom at the southeast corner of the site is proposed at 9'-0" inches in height and is more than 6' from the main structure. This detached structure that is less than 10' in height, and can encroach into the side and rear yards, and therefore meets the allowances for detached structures as identified in MZO Section 11-30-17. This structure does have electric service, which requires an electric permit to ensure that all building codes are met. No variance is needed for this structure because it meets current zoning code requirements.

Question 2: The special condition was pre-existing and not created by the property owner.

Elimination of covered parking spaces to enclose the existing carport into livable space

The shape of the lot was not created by the current property owner and makes it difficult to provide two covered parking spaces to be provided on the lot.

The 160 SF attached shed accessory structure

The accessory structure indicated as shed at the east side of the property was originally constructed to meet zoning code requirements. The addition of the attached storeroom to the main house caused the main building to be pushed closer to the shed. In this case, the property owner created the hardship.

Question 3: That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.

Elimination of covered parking spaces to enclose the existing carport into livable space

There are existing homes within the neighborhood that do not have a covered carport or garage attached or detached from the home.

The 160 SF attached shed accessory structure

There are homes with accessory structures within the neighborhood. The rear yard of 525 S Hunt has been consumed by the building out of the attached storeroom, the detached store room and the shed that will encroach into the side and rear yards. Staff believes strict compliance with the code would allow for the attached and detached store room but does not allow the shed structure. Approval of the additional shed structure would not deprive the property owner of privileges enjoyed by other properties.

Question 4: The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.

Elimination of covered parking spaces to enclose the existing carport into livable space

As discussed above there are other homes in the neighborhood, including the next door neighbor, that does not have two covered parking spaces. Staff believes this does not constitute special privileges.

The 160 SF attached shed accessory structure

Allowing the variance for the additional attached shed would grant special privileges. There is an attached storeroom added in the early 2000's and the detached storeroom added around 2014 that would meet zoning code requirements. Staff believes the third shed/storeroom would grant special privileges.

The variance to allow the two covered parking spaces to be eliminated does meet the 4-part variance findings and can be justified. The variance to allow the 160 SF accessory shed structure to encroach into the required side and rear yards do not meet the 4-part variance findings and cannot be justified. While sensitive to allowing for improvements to occur at the property, the variance as proposed does not meet all requirements for granting of a both variances. The applicant has not provided sufficient justification to merit approval of the requested

variance to allow the 160 SF attached accessory structure to encroach into the required side and rear yards.

Staff did receive a phone call from a neighbor that had concern that there would be more structures on the site. After she understood there would be no additional structures she stated that she had no concern.

FINDINGS:

- 1.1 The house was built in 1961 with a two car carport.
- 1.2 The lot does have unique conditions related to shape of the lot. It has two street frontages. The front line of the property follows the cul-de-sac shape and creates a large front yard at the street intersecting corner of the lot. The unusual shape makes it difficult to comply with the two covered parking spaces on the lot.
- 1.3 The front yard takes up more than one third of the lot in area has an unusual shape that makes it difficult to improve the property without the granting of a variance.
- 1.4 Per the MZO in 1958, a minimum of one-8' x 18' parking space outside of the required front yard was required for a single residence dwelling unit. In 1970 MZO was revised and required two on-site parking spaces behind the front yard setback.
- 1.5 Changes to the MZO in 2011 required two covered parking spaces behind the front yard setback.
- 1.6 Both staff and the property owner researched and could not locate any issued building permits for the conversion of the carport to livable space, the addition of the attached storeroom, or the electric to be added to the shed or detached storeroom.
- 1.7 The front yard setback for a garage or carport in the RS-6 zoning district is 20'.
- 1.8 There is not sufficient space to provide two covered parking spaces in the front yard or the rear yard without the obtaining a variance to encroach into the required yards.
- 1.9 Because there are options for the storerooms/sheds within the rear yard and allowances for detached structures, the property would be allowed to have the attached storeroom and the detached storeroom without variance. However, the applicant has not provided sufficient justification related to the land, which would justify the degree of the requested variance for the shed.
- 1.10 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