

Board of Adjustment

Staff Report

CASE NUMBER: BA17-01 (PLN2016-00779)
LOCATION/ADDRESS: 2700 E Main Street
COUNCIL DISTRICT: District 2
PLANNER: Lisa Davis, Planner II
OWNER/APPLICANT: Backes and Baum-Cindy Backes Solomonson

REQUEST: *Requesting a Variance and a Substantial Conformance Improvement Permit (SCIP) to add a canopy at an existing auto repair facility in the GC district.*

SUMMARY OF APPLICANT'S REQUEST

Requesting a variance to allow a covered canopy to encroach into the required side and rear side yards and a Substantial Conformance Improvement Permit (SCIP) to allow an expansion of an existing major automotive repair facility at 2700 W Main Street, Main Street Collision Center.

STAFF RECOMMENDATION

Staff recommends approval of the variance and SCIP for case **BA17-001** subject to the following conditions:

- 1. Compliance with the site plan, landscape plan and elevations submitted except as modified by the conditions listed below.*
- 2. Compliance with all requirements of the Development Services Division with regard to the issuance of permits.*
- 3. Add 3 trees, minimum 15 gallon, and 10 shrubs, 5 shall be minimum 5 gallon in size, in the existing landscape areas adjacent to Main Street.*
- 4. Removal of the barbed wire and chain link fence adjacent to the east property line and install a minimum 8' high masonry wall from the north property line to the corner of the building where the wall shall return to the building to provide required screening of the outdoor storage.*

SITE CONTEXT

CASE SITE: Existing auto repair center – zoned GC
NORTH/EAST: Existing Church – zoned LC
SOUTH: (Across E. Main St.) Existing RV sales – zoned GC
WEST: (Across N. Lyn Rae Dr.) Existing auto repair– zoned GC

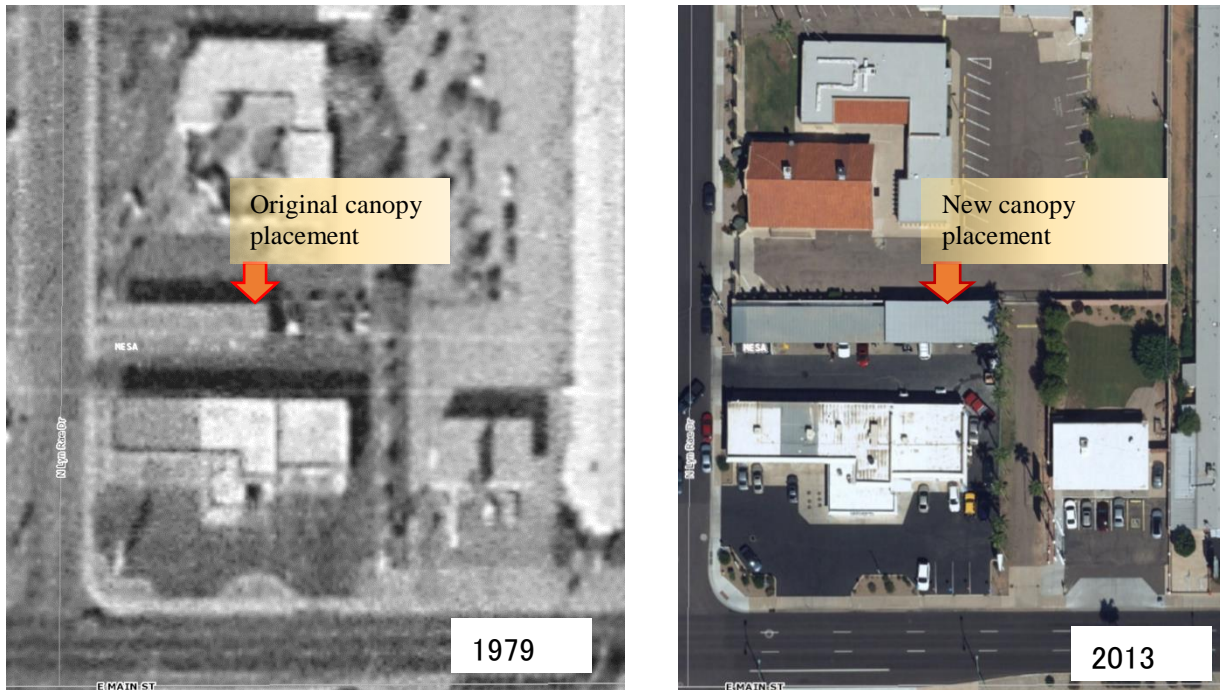
PROJECT DESCRIPTION

Development	Overall Commercial site
Overall Site area	.5± acres or 23,710 SF
Existing Building area	4,811 SF
Existing (original) canopy area	1,760
Proposed (new) canopy area	1,435
Existing parking spaces	14

STAFF SUMMARY AND ANALYSIS

The existing major automotive repair business, Main Street Collision Center, is a permitted use in the General Commercial (GC) Zoning District and is located at the north side of Main Street just west of Lindsay Road. This site was annexed in 1963 as fragment of a large annexation area totaling just under 400 acres, Ord. 447. The auto repair building was constructed in the late 1970's with one canopy at the north property line. Below are

aerial photos from 1979 and 2013. The 1979 photo shows the repair facility after completion of construction. The 2013 photo shows the site after the new canopy was installed. The applicant has stated in the narrative that the new canopy was installed about 2002 by a business that was leasing the property. They did not realize the business installed the new canopy without a building permit.



To the north of the automotive use is an existing church. The church property further wraps the automotive site to the east with a palm tree lined drive aisle accessed from Main Street. At the north end of the driveway at the access point to the larger church site is an existing wrought iron gate. At this time, the applicant is requesting a variance for the new canopy to encroach into the required side and rear yards. The SCIP is requested as part of the variance to address the existing non-conforming overall site. The variance for the canopy would need to be approved prior to the SCIP approval because the Mesa Zoning Ordinance (MZO) states that a SCIP cannot be granted if it creates a new non-conforming condition.

VARIANCE

As justification for the requested variance regarding elimination of the minimum parking requirements, the applicant has noted: 1) the lot is bordered on two sides with street frontages; 2) the lot is small and this makes it difficult to accommodate setbacks 3) application of the 15' setbacks would reduce the required minimum 20' driveway; 4) it does not grant special privileges and is consistent with surrounding uses; and 5) the variance is the minimum that will make possible the reasonable use of the lot. (see narrative provided by the applicant).

As proposed, the placement of the new canopy will require the granting of a variance. The Board of Adjustment must find the following items are present to approve a variance:

- a) *There are special conditions that apply to the land or building.*
- b) *The special condition was pre-existing and not created by the property owner.*
- c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
- d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

ANALYSIS

Question 1: There are special conditions that apply to the land or building

MZO Section 11-31-6 provides additional standards for the specific use of major/minor automobile repair, which includes a minimum 1-acre property size. The existing site does not meet this requirement. Specifically, the site is 23,710 SF or .5 acres. This makes it difficult to comply with all requirements associated with this vehicle repair activity, such as the setback requirements. The new covered canopy is required to have a 15' setback from the north and east property line. The intended layout of the collision center and the church site it appears on the surface to be a group commercial center. If the two sites were considered a group commercial center the setback for the canopy would be 0' at both the north and east property line.

The following table summarizes the minimum development standards required and compares them to the setbacks indicated on the site plan:

	Minimum standards for GC and/or auto repair standards	2700 E Main Street	
Lot Size	43,560 SF or 1 acre	23,710 SF	
Lot Width	50'	150'	
Lot Depth	100'	150'	
Yard Setbacks Building and landscape	Required	Proposed	
Front	15' measured from future right of way	0'	
Street Side, Minimum	20'	6'9"	
Interior side adjacent to non-residential use	15'	1.5'	
Rear	15'	0'	

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

The lot size is smaller than is typical for an auto-repair facility, which under the present zoning ordinance requires a minimum of 1-acre.

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

The existing automotive repair facility was constructed with a covered canopy at 18" from the north property line. The proposed new canopy would not be any closer than the existing canopy. At the east side the new covered canopy would encroach to 0' for a distance of 23'. It appears the canopy may be overhanging the property line, this would not be allowed. The existing automobile repair facility across Lyn Rae Drive to the west, does have an existing covered canopy at the north west corner of the site adjacent to both property lines. The ministorage facility west of this site at 2630 E Main Street obtained a variance to allow the mini storage facility buildings to encroach into the required side yards to 0', ZA98-016.

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

The cases listed above address this question and show that the ministorage to the west of the site obtained a variance to allow the buildings to encroach to 0' from the property line. The existing facility has an approved covered canopy for more than 30 years within 18" of the north property line. There is no other location on the site that would allow for the installation of a covered canopy.

The special condition that applies to this site is the existing smaller, approximately one-half acre lot size. The MZO requires a minimum of one acre for a major automotive repair facility. Staff believes that the variance as proposed meets all requirements for granting of a variance. The present request to encroach into the required 15' side and rear yard is justified. As proposed, this variance will not constitute a special privileges not available to other properties in the area.

Substantial Conformance Improvement Permit (SCIP)

The SCIP is needed to address the following non-conformities on the existing site. As discussed above the site is .5 acre and 1 acre is required per MZO 11-31-6 for development of an automobile repair facility. The landscape and building setback required adjacent to main Street is 15' measured from the future right of way (ROW). The site plan indicates that the existing landscape area will remain adjacent to Main Street at 0' from the future ROW. The landscape/building setback is required at 20' adjacent to Lyn Rae Drive and is indicating existing 6'-9" will remain on the site. Should the variance be approved by the Board, as part of the SCIP, staff suggests that additional landscape material should be added adjacent to Main Street as indicated in the table below:

Development Standard	Code Requirement	Applicant Proposed	Staff Recommended
<i>Landscape material</i> Main Street	6 trees & 36 shrubs	Existing	In addition to existing material: 3 trees 10 shrubs
Lyn Rae Drive	6 trees & 36 shrubs	Existing	As proposed
North Property Line	none	none	As proposed

The east property line does have an existing chain link fence with barbed wire at 6' to 8' in height. As per MZO 11-30-4 does not allow chain link fence visible from the right of way or the hazardous barbed wire material. MZO 11-30-7 does require screening of all outdoor storage with a minimum 8' high masonry wall. Staff recommends the chain link fence and barbed wire be removed. The minimum 8' masonry wall should be installed at the east property line from the north property line to the corner of the existing building and then return to the building at the corner. This would meet the screening requirements as required in screening outdoor storage.

The intent of a SCIP is to recognize existing site constraints, and work with the applicant to proportionately improve the property based upon current development standards. The proposed modifications, and those recommended in the conditions of approval, constitute the greatest degree of compliance with current development standards without requiring demolition of existing buildings or other significant improvements to the site. Should the variance for the covered canopy be approved, modifications to current development standards are necessary to accommodate the continued viable use of this site. The modifications requested will allow the development of the site in a manner that is consistent with development at other similar sites. The deviations will result in a development compatible with and not detrimental to, adjacent properties or neighborhoods.

FINDINGS FOR VARIANCE

1. The major automobile repair facility was built in the late 1970's.
2. The lot is not unique in shape. It is a standard square lot oriented perpendicular to the abutting street.
3. The existing lot is undersized to meet MZO 11-31-6 that requires a minimum 1-acre sized site for major/minor automobile facilities. The parcel is 23,710 SF in area or .5 acres.
4. The smaller lot was not created by the owner.
5. Granting of the variance will not constitute the granting of special privileges.

FINDINGS FOR SCIP

6. The site was constructed in 1979 with a 1,760 SF covered canopy placed adjacent to the north property line.
7. Existing on the site is a 4,811 SF commercial building, a 1,760 SF canopy and 14 parking spaces on the .5-acre site.
8. The proposed improvements do not create a new non-conformity.
9. Full compliance with development standards would require demolition of the existing site improvements including removal of parking and circulation.
10. The proposed improvements together with the recommended conditions of approval will help bring the site into a closer degree of conformance with current standards.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Sec. 11-6-3 – Development Standards for the GC District:

Front Yard (6-lane arterial)- 15' Minimum building and landscape, street-facing side(local street)- 20' Minimum building and landscape; Interior side and rear adjacent to non-residential district-15' Rear Yard 20' minimum; Side Yard: minimum one side 5' and both sides must total 15' (paraphrased from table found in Sec. 11-6-3)

Zoning Ordinance Sec. 11-80-3: Variance 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

Section 11-73-1 Substantial Conformance Improvement Permits (SCIP) Purpose and Applicability

The purpose of this chapter is to establish a review process by which improvement standards required by this Ordinance can be incrementally installed on non-conforming sites when such sites are enlarged; buildings are replaced, extended or have additions constructed; or other site modification developed. The intent is to recognize existing site constraints, and work proportionately with the degree of improvement being sought by the applicant to also improve the property based upon the development standards adopted by the Ordinance, and therefore bring non-conforming developments into substantial compliance with this Ordinance through approval of a Substantial Conformance Improvement Permit (SCIP).

Section 11-73-2 Allowed Modifications

The only development requirements that may be modified in a SCIP are building setbacks, landscaping design, on-site parking, building height, right of way dedication, and other site development provisions, contained in this Ordinance.

Section 11-73-3 Required Findings

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

- A. The entire development site will be brought into substantial conformance. Substantial conformance shall mean physical improvements to the existing development site which constitute the greatest degree of compliance with this Ordinance that can be attained without causing or creating any of the following conditions:
 - 1. The demolition or reconstruction of existing buildings or other significant structures (except signs); or
 - 2. The cessation of the existing conforming use, or the preclusion of any other lawful, permitted use.
 - 3. The creation of new non-conforming conditions.
- B. The improvements authorized by the SCIP will result in a development that is compatible with, and not detrimental to, adjacent properties or neighborhoods.

11-31-6: Automobile/Vehicle Repair, Major and Minor

Major Automobile/Vehicle Repair, and Minor Automobile/Vehicle Service and Repair, each as described in Section 11-86-4, shall be located, developed, and operated in compliance with the land use regulations in Article 2 and the following standards:

- A. Minimum Lot Size. 1 acre, unless part of a larger group commercial center.
- B. Screening. Car service and storage areas shall be screened per Sections 11-30-9(F), Auto Service Bays and 11-30-9(H), Parking Areas.
- C. Litter. No used or discarded automotive parts or equipment or disabled, junked, or wrecked vehicles may be stored outside of the main building.
- D. Noise. All body and fender work, or similar noise-generating activity, shall be enclosed in masonry or similar building with sound attenuating measures incorporated into the building design and construction to absorb noise to comply with Title 6, Chapter 12 of the Mesa City Code. Bay openings shall be oriented so as to minimize the effects of sound emanating from the auto repair building towards residential uses, towards outdoor restaurant seating and outdoor reception areas. Compressors shall be located within separately enclosed, sound attenuated rooms.