

# Board of Adjustment

## Staff Report

**CASE NUMBER:** BOA18-00037  
**STAFF PLANNER:** Charlotte Bridges, Planner I  
**LOCATION/ADDRESS:** 3135 E Leland Circle  
**COUNCIL DISTRICT:** District 1  
**OWNER:** Spencer Wallace  
**APPLICANT:** Reese Anderson, Pew and Lake, PLC

**REQUEST:** *Requesting a variance to allow a detached accessory structure to exceed the allowed height in the required rear yard in the RS-15 District.*

### SUMMARY OF APPLICANT'S REQUEST

This variance request is to allow a 17.5' tall (measured at the mid-height of the roof slope) detached accessory structure to exceed the 15' allowed height in the required rear yard in the RS-15 District.

### STAFF RECOMMENDATION

Staff recommends **approval** of case **BOA18-00037** *conditioned upon the following:*

- 1. Compliance with the site plan and elevations submitted.*
- 2. Compliance with all requirements of the Development Services Department in the issuance of a building permit.*

### SITE CONTEXT

**CASE SITE:** Single Residence – Zoned RS-15  
**NORTH:** (Across Leland Circle) Single Residence – Zoned RS-15  
**EAST:** Single Residence – Zoned RS-15  
**SOUTH:** Single Residence – Zoned RS-15  
**WEST:** Single Residence – Zoned RS-9

### STAFF SUMMARY AND ANALYSIS:

Mesa Zoning Ordinance (MZO) 11-30-17.B.2 allows detached accessory buildings (DAB) to encroach into the required rear yard if they are limited to 15' tall. The applicant is requesting a variance to allow a 1,312 SF detached accessory structure, 17.5' in height (measured at the mid-height of the slope), to exceed the maximum 15' height. Per the site plan, the proposed 17.5' tall DAB encroaches 23' into the 30' rear setback, leaving 7' to the rear (south) property line and meets the 7' side (east) yard setback requirement.

The variance will allow the applicant to expand an existing detached shop/garage. This structure was permitted (permit #89477) and completed in 1996, and was constructed with a roof style that matches the home. The property owner is proposing to remodel and expand this existing shop/garage to accommodate a recreational vehicle (RV). The expansion will require additional roof height.



Per MZO 11-30-17.B.2, a detached accessory building or structure may be located in the required rear yard but outside of the required side yard provided it does not exceed 15' in height. The following tables compares MZO 11-5-3: "Development Standards for RS-15 Residential Single Dwelling Districts" and MZO 11-30-17.B.2 "Detached Accessory Buildings" to the conditions proposed by the applicant for the subject detached accessory building.

**Table 1: MZO 11-5-3: Development Standards for RS-15 Residential Single Dwelling Districts**

	Minimum standards for RS-15	Proposed Detach Accessory Structure -- 3135 E Leland Cir.
Lot Size	15,000 SF	17,908 SF
Lot Width	110'	meets
Lot Depth	120'	meets
Yard Setbacks		
Front	30'	meets
Side, Minimum	7'	meets
Aggregate of Two Sides	20'	meets
Rear*		
- South	30'	<b>7'</b>
- West	30'	meets
Lot Coverage	40%	meets

\*This cul-de-sac lot has rear yards on both the south and west property lines.

**Table 2: MZO 11-30-17.B.2 Detached Accessory Structure requirement**

Subject	Code Standard	Proposed	Amount of Discrepancy
Detached Accessory Building (DAB)	May be located in the required rear yard but outside of the required side yard provided that it does not exceed 15' in height.	<b>17.5'</b> in height DAB located in the rear yard	<b>2.5'</b> in height

As justification for the requested variance, the applicant has noted:

1. The circumstances leading up to this request are not a self-imposed hardship.
2. The proposed garage is similar in nature and scale to the existing garages in the neighborhood and the family's primary residence.
3. The property's building lot coverage is only 26.5%, below the City's maximum lot coverage of 40%.
4. The aggregate area of accessory structures on the property is 1,466 SF, which is less than 50% of the 3,227 SF primary residential dwelling.
5. The proposed garage would enhance the quality and value of the Wallace's home and neighborhood, and is consistent with the intent of the City of Mesa Residential Design Guidelines.
6. The granting of the variance and the construction of the garage with the preferred design will have a better curb appeal than some of the contemplated alternatives described in the Justification & Compatibility Statement as it would look "out-of-place" or "out-of-scale" with the home and neighborhood.
7. The variance request is supported by the adjacent neighbors and specifically the neighbor most affected by the new shop/garage.



8. Access to the rear yard is not diminished due to the 13 ft. setback remaining on the north and the space between the new shop/garage on the east.
9. The variance request is minimal in nature and unobtrusive.
10. The special circumstances and conditions that apply to this property are that the strict application of the zoning code results in a less desirable outcome for both the property owner and the adjacent neighbors, and would not cause a relocation of the structure.
11. These special circumstances/conditions are created by the unique application and intersection of various provision of the zoning code and the shape and configuration of this lot, which are pre-existing to the Wallace's purchase of the property and desire to construct the new shop/garage. Accordingly, these conditions are not self-imposed.
12. Strict compliance of the Zoning Ordinance would deprive the property of the better development option, the more desirable development option, which is available to other properties in the same zoning district.
13. This requested variance will not grant special privilege or unusual favor to this property. Rather, the granting of this privilege grants to the Wallace family what would typically be the preferred design and aesthetic approach.

The application of the Zoning Ordinance cannot be cited as a special circumstance for a property. Per MZO 11-80-3 special circumstances applicable to a property include "its size, shape, topography, location, or surroundings..." Staff finds that the configuration of the site, with its side property lines converging on a narrow street frontage *is* a special circumstance that is not self-imposed, as it was created through the subdivision plat. MZO provides allowances for DABs to encroach into various required yards, but these allowances work best on standard lots with parallel side property lines. The proposed height of the detached accessory building requires a variance. The proposed 2.5' of additional height is a minimal deviation from code that allows the property owner to locate the DAB in an otherwise appropriate way, with a roof slope that matches the main house, a solution that makes aesthetic sense.

The Board of Adjustment must find the following items are present to approve a variance:

- a) *There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings. See Findings 1.1*
- b) *That such special circumstances are pre-existing, and not created by the property owner or appellant. See Findings 1.1 and 1.2*
- c) *The strict application of the Mesa Zoning Ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same zoning district. See Findings 1.3*
- 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. See Findings 1.3*

#### FINDINGS:

- 1.1** The shape of the property is a special circumstance that limits the location of accessory buildings. This is a cul-de-sac lot, with side property lines that converge toward the front of the lot, minimizing the buildable area. When the RS-15 required yards are applied to this irregularly shaped lot (30' front yard, and 30' rear yards along both the south and west property lines) the remaining buildable area of the lot is more limited than on a standard rectangular lot in the area.
- 1.2** The special circumstance regarding the lot shape is pre-existing and not created by the property owner or

appellant. The subject site is Lot 99 within the Rancho De Arboleda Unit Three subdivision, which was recorded in 1986.

- 1.3** The approval of the requested variance will not grant special privileges to this property owner. There are other detached accessory buildings in the area, on lots with proportions that more easily allow them.

#### **CONCLUSION:**

The variance to allow a 17.5' tall (measured at the mid-height of the roof slope) detached accessory structure to exceed the 15' allowed height in the required rear yard in the RS-15 District does meet the 4-part variance findings and the applicant has provided sufficient justification to merit approval of the requested variance.

#### **ORDINANCE REQUIREMENTS:**

##### MZO 11-80-3: Required Findings (for a Variance):

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

##### Zoning Ordinance Sec 11-30-17.B.2 Detached Accessory Buildings:

- B. Detached accessory buildings or structures located on lots or parcels in AG, RS and RM districts are permitted subject to the following provisions.  
Detached accessory structures:
  - 1. May be located in the required side/rear yards provided that they are within the rear one-quarter of the lot and do not exceed 10 feet in height.
  - 2. May be located in the required rear yard but outside of the required side yard provided that they do not exceed 15 feet in height.
  - 3. May be located in the required side yard (outside of the rear ¼ of the lot), provided that they do not exceed 8 feet in height and 200 square-feet of roof area, and are not located in a side yard required for vehicular access.
  - 4. May be located in any required side yard, and be closer to the primary residence than 6-feet, provided all of the following are present:
    - a. Does not exceed 7-feet in height (at the peak of the roof) and 120 square feet in roof area.
    - b. Has no permanent attachment to the ground or permanent foundation.
    - c. Shall not have any electrical or plumbing fixtures installed.
    - d. Shall drain all stormwater back to the same lot or parcel as the accessory structure.
  - 5. Shall not be located in the required front yard or in the area between the front of the principal dwelling and the front property line.
  - 6. Shall not be located in the required rear yard of a corner lot closer to the street than any dwelling on an adjacent key lot.
  - 7. Shall not exceed 30 feet in height when located within any part of the buildable lot area.
  - 8. In the AG, RS-90, and RS-43 districts, shall not have an aggregate area of all such detached buildings greater than 100 percent of the roof area of the dwelling, unless a larger aggregate roof area is approved by Special Use Permit.
  - 9. In the RS-35, RS-15, RS-9, RS-7, RS-6, DR-1 and DR-2 districts, and on lots in a multiple residence district with a single residence use, shall not have an aggregate area of all such detached buildings greater than 50 percent of the roof area of the dwelling.
  - 10. Detached accessory structures in multiple residence districts shall not be located in any required yard when in conjunction with a multiple residence use.

Figure 11-30-17: Detached Accessory Buildings

