

## Board of Adjustment

### *Staff Report*

**CASE NUMBER:** BOA18-00763  
**LOCATION/ADDRESS:** 536 West Dana Avenue  
**COUNCIL DISTRICT:** District 4  
**STAFF PLANNER:** Veronica Gonzalez  
**OWNER/Applicant:** Roman Pina

**REQUEST:** *Requesting a Variance to allow an encroachment into the required side yard setback in the RM-2 District.*

### **SUMMARY OF APPLICANT'S REQUEST**

This request involves allowing a carport addition that encroaches 2' into the required side yard to exceed 1/3 the length of the building wall in the RM-2 District.

### **STAFF RECOMMENDATION**

Staff recommends **approval** of case **BOA18-00763** with the following conditions:

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

### **SITE CONTEXT**

**CASE SITE:** Existing Single Residence – Zoned RM-2  
**NORTH:** Existing Single Residence – Zoned RM-4  
**SOUTH:** (Across Dana Avenue) Vacant, Undeveloped – Zoned RM-2  
**EAST:** Existing Single Residence – Zoned RM-2  
**WEST:** Existing Single Residence – Zoned RM-2

### **STAFF SUMMARY AND ANALYSIS**

This variance request is for a parcel located south and west of the southwest corner of Main Street and Country Club Drive, which is known as Lot 34 of the subdivision "Vineyard Place Amended" recorded in 1910. According to Maricopa County Assessor records, the home was originally built in 1930 without a carport. However, prior to the applicant acquiring ownership of the property in 2005, a carport was added on to the east side of the home. Due to a code compliance complaint on the property, the homeowner received a notice of violation as it was determined the carport was constructed without a permit.

To bring the property into compliance with Mesa Zoning Ordinance parking requirements for single family residences and allow a building permit to be issued for the carport, the homeowner/applicant is requesting a variance to allow a carport encroachment to exceed 1/3 the length of the adjacent building wall.

The following table summarizes the minimum required development standards for the RM-2 District in comparison to the proposed request. Items in bold indicate deviations from code:

	Minimum required standards for RM-2	Proposed for 536 W. Dana Ave
Lot Size	7,200 SF	<b>6,625 SF</b>
Yard Setbacks		
Front	20'	25'
Interior Sides, Minimum	5'	8' (west side)/ <b>3'</b> * (east side)
Rear	15'	58'
Detached Accessory Structure	15'	<b>14'</b> **
Maximum Coverage	45%	35%

\*MZO 11-5-7.A.3 allows encroachments up to 2' into a required side yard provided the aggregate width of the encroachment does not exceed 1/3 the length of the building wall.

\*\*MZO 11-30-17.B.1 allows detached accessory structures to be located in the required side and rear yard setbacks provided they are within the rear one-quarter of the lot and do not exceed 10' in height.

#### **Variance – Encroachment into Side Yard Setback**

Per MZO 11-32-3.D.1, single residences are required to provide a minimum of two covered parking spaces. The existing home is considered a legal, non-conforming structure as it was built in 1930 without covered parking. The applicant desires to provide a carport that will measure 10'2.5" wide x 42' long to allow for two parking spaces in tandem on the property. Due to the length of the proposed carport, the applicant is requesting a variance to allow the structure to exceed 1/3 the length of the adjacent building wall.

MZO 11-5-7.A.3 allows a 2' encroachment into a side yard for projections such as "vestibules, bay windows, nooks, chimneys or similar wall projections..." provided the projected element is limited to 1/3 of the length of the building wall. As proposed, the carport will encroach no more than 2' into the required 5' yard setback but will exceed 1/3 the length of the building wall. Currently, the length of the building wall adjacent to the proposed carport is approximately 53' allowing the length of the encroachment to be just 17.5'. Per MZO standards, a single-car carport shall measure at least 10' wide by 20' long. As a result, a tandem two-car carport would need to measure at least 40' long. Strict compliance with MZO requirements for covered parking on this property has necessitated a variance for the additional carport length.

As noted earlier in this report, a carport had already been added to the home without a building permit sometime prior to 2005 when title transferred to the current owner. While the current owner was not responsible for constructing the carport without a valid building permit, he was the owner of record at the time the infraction was discovered. As originally constructed, the unauthorized carport encroaches 100% into the required 5' side setback. The applicant's proposal entails modifying the carport so that it is in closer compliance with MZO requirements by cutting it back to 3' from the property line. As such, the Board is advised to review the request as if the carport has not been built and as a "plan on paper."

### **Summary of Applicant's Justification**

As justification for the requested variances, the applicant has stated:

1. The size of the lot is less than the minimum required by MZO standards.
2. The existing, non-conforming carport addition was constructed by a previous owner.
3. A two-car carport is a privilege enjoyed by other single family residences in the RM-2 District.
4. The property will be brought into compliance with MZO 11-32-3.D.1 by providing two covered parking spaces.

To approve the variance, the Board must find the following items to be present:

1. There are special conditions that apply to the land or building. ***See Findings 1 and 2***
2. The special condition was pre-existing and not created by the property owner. ***See Findings 1***
3. That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district. ***See Findings 3***
4. The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property. ***See Findings 4***

### **FINDINGS:**

1. The original home was built in 1930 without covered parking, which was in compliance with development standards at that time.
2. The lot area is less than the minimum 7,200 square feet required in the RM-2 District and was created as a part of a subdivision plat recorded in 1910.
3. The MZO requires single family residences provide two covered parking spaces on site.
4. Granting of the variance would not constitute a special privilege as all single residences are now required to provide two covered parking spaces and the proposed carport will bring the property into compliance with current MZO standards.

### **ORDINANCE REQUIREMENTS:**

Chapter 80, Variances

#### **MZO 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
- E. privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.