



Board of Adjustment

Staff Report

CASE NUMBER: BOA18-00918
STAFF PLANNER: Charlotte Bridges, Planner I
LOCATION/ADDRESS: 1144 East Nielson Avenue
COUNCIL DISTRICT: District 4
OWNER: Alex Bautista
APPLICANT: Alex Bautista

REQUEST: *Requesting a Special Use Permit (SUP) to allow an enlargement of a structure encroaching in the required setback in the RS-6 District.*

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a Special Use Permit (SUP) to allow an enlargement (addition) of an existing nonconforming structure (home) encroaching in the required side yard setback in the RS-6 District.

STAFF RECOMMENDATION

Staff recommends ***approval*** of case **BOA18-00918**, ***with the following conditions:***

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

SITE CONTEXT

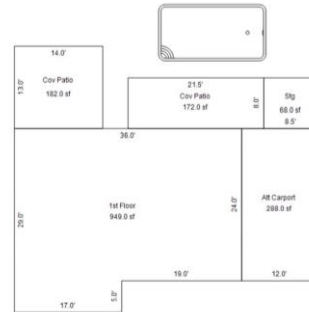
CASE SITE: Single Residence – Zoned RS-6
NORTH: (Across the alley) Single Residence – Zoned RS-6
EAST: Single Residence – Zoned RS-6
SOUTH: (Across Nielson Avenue) Single Residence – Zoned RS-6
WEST: Single Residence – Zoned RS-6

STAFF SUMMARY AND ANALYSIS:

This property is Lot 18 of the “Los Del Santos” subdivision plat, which was recorded in 1946 and is located approximately 142’ west of Stapley Drive on the north side of Nielson Avenue. The Maricopa County Assessor’s site notes that the home was originally built in 1955. At the time the home was constructed, it met Mesa Zoning Ordinance (MZO) requirements. Then, in 1980, a swimming pool was installed and sometime between 1979-1986, based on a review of the Maricopa County historical photos, a 13’ X 14’ covered patio structure was constructed. These improvements are reflected on the Maricopa County building footprint sketch (see below).



Street view of 1144 East Nielson Avenue



Building sketch from Maricopa County Assessor

Since the construction of the existing home, MZO development standards have changed. Under the current RS-6 development standards, an aggregate of 15' is required for the 2 side yards (with a 5' minimum for any single yard.) The existing 12' aggregate is comprised of an 8' west-side yard and a 4' east-side yard. This was allowable under the Zoning Ordinance in effect in 1955 when the house was built. 7' side yards were required at that time, with an allowance for carports to encroach (an unspecified amount) into any yard. For the side yards to meet current Code, the east yard would need to be 7' wide. (8' & 7' = the 15' required minimum.)

The existing carport and storage room encroach 3' into that 7' east-side yard resulting in a house structure that is "existing, nonconforming" and a side yard that is "nonconforming". MZO 11-36-7.B provides for a SUP to allow alterations and enlargements that extend into a nonconforming yard providing the enlargement would not further reduce the nonconforming yard. (See Table 1 for a comparison of the current MZO development standards for the RS-6 District to existing conditions of the subject lot.)

Table 1: MZO 11-5-3: Development Standards for RS-6 Residential Single Dwelling Districts

	Standards for RS-6	1144 E Nielson
Minimum		
Lot Size	6,000 SF	7,619 SF
Lot Width	55'	60'
Lot Depth	90'	±127'
Yard Setbacks		
Front	20'	20'
Side	5'	Measured from the east property line to the existing carport & storage room: 4'
Aggregate of Two Sides	15'	12'
Rear	20'	32'-9" to the new addition/2' to the new detached carport
Maximum Lot Coverage	50%	Existing residence plus addition and carport: 32%

The applicant is proposing to construct a new 882 SF livable addition and a new 10' X 20' detached single-carport structure at the rear of the existing house. The existing 13' X 14' covered patio structure will be removed to accommodate the construction of the proposed addition. The location of the proposed detached carport structure meets MZO development standards for a detached accessory building in the RS-6 District. However, the east and west sides of the proposed addition are in-line with the east and west sides of the existing home, and consequently, the east side of the proposed addition encroaches 3' into the required 7' side yard and the aggregate of both side yards remains at 12' as opposed to the required 15' for both side yards.

A SUP can be approved to allow an expansion into a nonconforming yard if the expansion would *not*:

MZO 11-36-7.B Requirements	Proposed New Livable Addition
1. Further reduce any existing nonconforming yard	Meets requirement
2. Exceed applicable building height limits;	Meets requirement
3. Further reduce existing nonconforming lot coverage or floor area ratio requirements; and	Meets requirement
4. Increase the required number of off-street parking spaces unless parking is provided under current standards for the addition of the use only.	Meets requirement

Summary of Applicant's Justification

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

1. The addition does not further encroach into the existing side yards of 8' and 4'.
2. The current design conforms with the Suburban Neighborhood designation of the 2040 General Plan.
3. Lot coverage is at 32%, which complies with Code.
4. The size and design will conform to the current surrounding homes.
5. The addition is on the rear of the rear of the property as to not change the current street view.
6. The addition will not be injurious or detrimental to the surrounding properties or the general welfare of the City.
7. Adequate public services, public facilities and public infrastructure are available to serve the property residential addition.

MZO 11-70-5: Special Use Permit

MZO 11-70-5 provides required findings for approval of a SUP. To approve the request, the Board must find the following criteria are met:

- a) Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies; **See Finding 7**
- b) The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies; **See Findings 5,6 and 8**
- c) The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and **See Finding 9**
- d) Adequate public services, public facilities and public infrastructure are available to serve the proposed project. **See Finding 10**

FINDINGS:

1. At the time the home was constructed in 1955, it met MZO requirements.
2. The east side of the existing home (carport and storage room) encroaches 3' into the required 7' side yard and the aggregate of both side yards is only 12', whereas the current MZO requires an aggregate of 15' for both side yards.
3. The existing home is considered "existing, nonconforming."
4. The east and west sides of the proposed 882 SF addition are in-line with the east and west sides of the existing home, and do not further reduce any nonconforming yard.
5. The proposed addition meets the criteria of MZO 11-35-7.B for a SUP to allow alterations and

enlargements that extend into a nonconforming yard providing the enlargement would not further reduce the nonconforming yard

6. The location of the proposed detached carport structures meets MZO development standards for a detached accessory building in the RS-6 District.
7. This single residence is located in the Suburban Neighborhood character type of the Mesa 2040 General Plan. The proposed addition is consistent with the policies of the General Plan for single residential neighborhoods.
8. The project is consistent with the standards of the RS-6 District (with a SUP) and conforms with the General Plan.
9. The proposed project is consistent with the scale of development of the surrounding neighborhood. Consequently, staff does not foresee this project being detrimental or injurious to the surrounding properties, the neighborhood or the City.
10. The proposed project is served by existing City of Mesa utilities and public infrastructure.

Based on the findings noted above, this request for a SUP to allow an enlargement (addition) to an existing nonconforming structure (home) encroaching into a nonconforming side yard setback in the RS-6 District without further reducing any existing nonconforming yards, meets the criteria for a SUP.

ORDINANCE REQUIREMENTS:

11-36-7: Alterations and Enlargements to Nonconforming Structures

Nonconforming structures may be enlarged, extended, structurally altered, or repaired in compliance with all applicable laws, subject to the following provisions.

- B. Alterations and enlargements that extend into a nonconforming yard or height limit may be approved through Special Use Permit where the alteration or enlargement would not:
 1. Further reduce any existing nonconforming yard;
 2. Exceed applicable building height limits;
 3. Further reduce existing nonconforming lot coverage or floor area ratio requirements; and
 4. Increase the required number of off-street parking spaces unless parking is provided under current standards for the addition of the use only.

11-70-5: Special Use Permit

- E. **Required Findings.** A SUP shall only be granted if the approving body determines that the project as submitted or modified conforms to all of the following criteria. If it is determined that it is not possible to make all of the required findings, the application shall be denied. The specific basis for denial shall be established in the record.
 1. Approval of the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable City plan and/or policies;
 2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conform with the General Plan and with any other applicable City plan or policies;
 3. The proposed project will not be injurious or detrimental to the adjacent or surrounding properties in the area, nor will the proposed project or improvements be injurious or detrimental to the neighborhood or to the general welfare of the City; and
 4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.