

Board of Adjustment

Staff Report

CASE NUMBER: BOA19-00044
LOCATION/ADDRESS: 524 South Barkley
COUNCIL DISTRICT: District 4
STAFF PLANNER: Charlotte Bridges, Planner I
OWNER: Jared and Rachel Malone
APPLICANT: Jared Malone

REQUEST: *Requesting a Special Use Permit (SUP) to allow an enlargement of a structure to extend into an existing nonconforming side yard in the RS-6 District.*

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a Special Use Permit (SUP) to allow an addition, a new carport, new covered porch, and a new covered patio to an existing nonconforming structure (home) to extend into a non-conforming side yard setback in the RS-6 District. The existing carport and storage room on the south side of the home currently encroach 5' into the required 10' side yard, thus creating a non-conforming condition. The existing carport and storage room will be remodeled to create an accessory dwelling unit.

STAFF RECOMMENDATION

Staff recommends **approval** of case **BOA19-00044**, 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

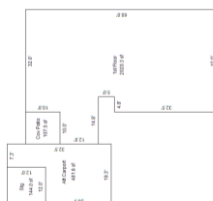
CASE SITE: Single Residence – Zoned RS-6
NORTH: Single Residence – Zoned RS-6
EAST: (Across Barkley) Single Residence and Place of Worship– Zoned RS-6
SOUTH: Single Residence – Zoned RS-6
WEST: Single Residence – Zoned RS-6

STAFF SUMMARY AND ANALYSIS:

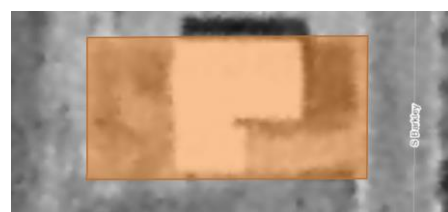
This property is Lot 11 of the “Armstrong Acres” subdivision plat, which was recorded in 1958 and is located approximately 825' south of Broadway Road on the west side of Barkley. According to the Maricopa County Assessor's site information, the home was originally built in 1966. Below is a photo of the street view of the existing home and a copy of the home's building sketch from the Maricopa County Assessor's website.



Street view of 524 South



Building Sketch from
Maricopa County



1969 Historical Aerial
of 524 South Barkley

Since the original construction of the existing home, the City of Mesa's Zoning Ordinance (MZO) requirements have changed. The current development standards for the RS-6 District require an aggregate of 15' for the two combined side yards, with a 5' minimum for any single side yard. The existing side yards on the property are 5' on the north and 5' on the south, which is a 10' aggregate for both side yards. At the time the house was constructed, the City's Zoning Ordinance required 7' side yards at each side of the property with an allowance for carports to encroach up to 3' into any side yard. The existing carport and storage room on the property conformed with the setback requirements at the time of construction in 1966.

Currently, the existing 5' south-side yard of the house is 5' less than the required setback creating a nonconforming structure setback. Section 11-36-7.B of the MZO allows for alterations and enlargements to legal non-conforming structures with the approval of a Special Use Permit (SUP). See Table 1 for a comparison of the current MZO development standards for the RS-6 District compared 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	524 South Barkley
Minimum		
Lot Size	6,000 SF	10,054 SF
Lot Width	55'	72'
Lot Depth	90'	±142'
Yard Setbacks		
Front	20'	29'5"
Side (north)	5'	5'
Side (south)	10'	5' -- Measured from the south property line to the existing carport & storage room
Aggregate of Two Sides	15'	10'
Rear	20'	52'-3"
Maximum Lot Coverage	50%	30%

The applicant is proposing to construct additions to the west and east sides of the existing home, which include a covered patio, porch and new carport. The proposed additions are in-line with the south side of the existing home and will maintain the existing 5' setback. The existing carport and storage area will be remodeled into an accessory dwelling unit. Other than the non-conforming setback, the new accessory dwelling unit complies with the requirements of MZO 11-31-3 Accessory Dwelling Unit.

Section 11-36-7.B allows for an expansion into a nonconforming yard with the approval of a SUP if the expansion would *not*:

MZO 11-36-7.B Requirements	Proposed New Additions
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

MZO 11-70-5: Special Use Permit

Section 11-70-5 of the Mesa Zoning Ordinance (MZO) 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;**

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.

- 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;**

The single family residential use conforms with the uses allowed in the RS-6 District and the proposed additions to the existing home are consistent with the character of district and contributes to the revitalization of the Suburban Neighborhood character type.

- 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**

The proposed project is consistent with the scale of development of the surrounding neighborhood.

- d) Adequate public services, public facilities and public infrastructure are available to serve the proposed project.**

The proposed project is served by existing City of Mesa utilities and public infrastructure.

Summary of Applicant's Justification

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

- A. The existing single family residence was built in the mid-1960's and has remained unchanged since that time.
- B. The house was originally constructed with 5'0" side yard setbacks on the north and south sides of the property.
- C. The proposed changes maintain the existing 5'-0" setback on the south side of the property.
- D. The existing and proposed front and rear yards conform to current zoning requirements.
- E. The proposed addition is below the maximum building height and complies with the maximum lot coverage percentage and will not increase the number of required off-street parking spaces.
- F. The proposed addition will have no detrimental impact to the surrounding properties and conforms to the City's General Plan as a single family residence in the Suburban Neighborhood character type.
- G. The proposed addition is in-line with the original design and intended use of the existing house and will not be an additional burden on the public facilities or infrastructures.

FINDINGS:

- 1. The home was constructed in 1966.
- 2. The south side of the existing home (carport and storage room) encroaches 5' into the required 10' side yard and the aggregate of both side yards is only 10', whereas the current MZO requires an aggregate of 15' for both side yards.
- 3. The existing home is considered "existing, nonconforming."
- 4. The proposed additions are in-line with the south side of the existing home, and do not further reduce the existing nonconforming side yard.
- 5. The proposed addition meets the MZO 11-36.7.B criteria to request a SUP to allow alterations and enlargements that extend into a nonconforming yard because the enlargement would not further reduce

the nonconforming yard.

6. This request conforms with the criteria for the granting of a SUP as outlined in Section 11-70-5 of the Mesa Zoning Ordinance by providing the following findings:
 - a. 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.
 - b. The project is consistent with the standards of the RS-6 District (with a SUP) and conforms with the General Plan.
 - c. The proposed project is consistent with the scale of development of the surrounding neighborhood and will not be detrimental or injurious to the surrounding properties, the neighborhood or the City.
 - d. 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:

11-31-3: Accessory Dwelling Unit

One accessory dwelling unit is permitted on a residential lot in all Single Residence (RS) Districts. Accessory Dwelling Units may be detached, attached, or directly accessible from the primary dwelling unit. Accessory dwelling units must also comply with the following provisions:

- A. An Accessory Dwelling Unit that is attached to or part of the same structure as the primary dwelling unit must be provided a separate entrance and if facing the street, must be setback from the front façade and not visible from the public right-of-way.
- B. The maximum floor area of an Accessory Dwelling Unit shall not exceed 30 percent of the roof area of the primary unit, except within the Town Center Redevelopment Area or within an Infill District (unless modified by Council through the approval of an Infill Incentive Plan for a specific Infill District), where Accessory Dwelling Units shall not exceed 50 percent of the roof area of the primary dwelling.
- C. Accessory Dwelling Units shall conform to all setbacks, height, lot coverage and other requirements applicable to the primary dwelling unit, based on the zoning district requirements. Attached Accessory Dwelling Unit is required to meet setbacks including supplemental standards of 11-5-7.A. Detached Accessory Dwelling Unit shall comply with standards established in 11-30-17.
- D. The architectural design, exterior materials and colors, roof pitch and style, type of windows and trim details shall be substantially the same as and compatible with the primary dwelling unit.
- E. An Accessory Dwelling Unit must be served by the water service of the primary residence. The Accessory Dwelling Unit cannot be served by separate water services.

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.