



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

October 2, 2019

CASE No.: **BOA19-00617**

CASE NAME: **Connolly Brothers**

Owner's Name:	Connolly Marilyn Joyce Tr/Connolly Ray Dean
Applicant's Name:	Justin Connolly
Location of Request:	2550 North Brimhall
Parcel Nos:	136-11-025X
Nature of Request:	A variance from the required minimum lot area and minimum lot width to allow the creation of two lots.
Zone District:	Single Residence (RS-43)
Council District:	1
Site size:	81,457 square feet or 1.87 ± acres
Proposed use:	Single Residence
Existing use:	Single Residence
Staff Planner:	Charlotte Bridges
Staff Recommendation:	Denial

HISTORY

The **1969** Maricopa County historical aerial photo of the property indicates that Brimhall (street) did not exist adjacent to this property.

On **July 6, 1970**, the subject site was annexed into the City of Mesa (ORD #672) as part of a larger 1,394± annexation area that included a large portion of the Lehi area.

Deed information provided by the applicant indicates the current owner purchased the property in **October of 1970** with a lot area of 1.99± acres.

In **November of 1970**, the current owner dedicated the "east 25 feet" or .14± acres of the property to the City of Mesa for a public street (Brimhall) for access and frontage for the lot.

In **the early 1970's**, according to the applicant, a home built in the 1950's was moved from Scottsdale to this property and became the framework for the existing home. The existing single residential lot currently has one single residence and two detached accessory buildings constructed on the property.

PROJECT DESCRIPTION

Background

The applicant is requesting a variance from the required minimum lot area and minimum lot width in the RS-43 district to allow for a lot split that would not meet the minimum criteria of the RS-43 district. The existing lot is 81,457 square feet and 254.6' feet wide at the Brimhall Street frontage. The applicant would like to split the subject lot to create two, 40,729 square foot (.94 ± acre) lots, each with 129 feet of lot width or frontage on Brimhall (street). Per Table 11-5-3 of the Mesa Zoning Ordinance (MZO), the minimum lot area required in the RS-43 zoning district is 43,560 square feet (1 acre) and the minimum lot width is 130 feet

General Plan Character Area Designation and Goals

The Mesa 2040 General Plan designates this property as a Neighborhood character type with a Large/lot Rural Agriculture sub type. Per Chapter 7 of the General Plan (pg. 7-6), Agricultural neighborhood types are typically at least 80 acres. A prominent component of the neighborhood is the keeping and raising of livestock for personal enjoyment.

The subject site is also within the adopted Lehi sub area plan. Extensive outreach was done as part of that Plan and a set of recommendations for future development were established to guide development in the area. The first recommendation of the Plan was that all future residential developments should conform to the standards of the RS-43 zoning designation (Lehi Sub Area Plan, pg. 24). The request for a lot size of less than the minimum lot area allowed in the RS-43 district, does not comply with the Lehi sub area plan.

Site Characteristics:

As shown on the site plan, if the lot is approved to be split, the existing single residence and one of the existing detached accessory buildings are located on the proposed southern lot. The proposed site plan for the southern lot shows these structures comply with the RS-43 district minimum yard setback requirements. The proposed northern lot shows an existing detached accessory building. Per Chapter 87 of the Mesa Zoning Ordinance (MZO) an accessory structure is subordinate to the main structure and cannot be built prior to the main structure or house on the lot. If the lot is approved to be split, the detached accessory structure on the north lot must be removed to be in compliance with the MZO.

Surrounding Zoning Designations and Existing Use Activity:

Northwest RS-43 Single Residence	North RS-43 Single Residence	Northeast RS-43 Single Residence
West RS-43 Single Residence/Vacant	Subject Property RS-43 Single Residence	East RS-43 Single Residence
Southwest RS-43 Single Residence	South RS-43 Single Residence	Southeast RS-43 Single Residence

Mesa Zoning Ordinance Requirements and Regulations:

Per Section 11-80-3 of the City of Mesa Zoning Ordinance, the Board of Adjustment shall find upon sufficient evidence when making a decision on variances that:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surrounding;

The subject lot in its current configuration conforms to the MZO requirements of the RS-43 district. Special circumstances are not present that would justify the variance request to create two non-conforming lots. The ability to split a lot is not a "by right" condition unless all requirements are in place. The applicants request to split the lot creates the need for the variance.

2. That such special circumstances are pre-existing, and not created by the property owner or appellant;

The applicant cites the transfer of 25-feet to the City of Mesa as special circumstances and not self-imposed. The dedication of 25-foot for the Brimhall (street) half-street right-of-way is not a special circumstance since frontage on a public right-of-way is a requirement for all buildable lots in the City of Mesa. Inclusion of the 25-foot dedication area in the overall lot square footage provides a lot area of 1.99± acres, however the property deed still indicates a 254.60 lot width, which is not enough width to split the lot and create two new lots with a minimum width of 130-foot each, per the requirements of Table 11-5-3 of the MZO for lots in the RS-43 district.

3. 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

Strict compliance with development requirements does not hinder the lot from existing in its present condition or configuration. In addition, a new lot created within the City of Mesa is required to meet the minimum lot width and minimum lot area requirements for the zoning district of the property, per the requirements of Table 11-5-3 of the MZO.

4. 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.

The applicant provided an example of a variance, ZA98-152, that was granted in 1998 to allow the creation of two lots with less than the minimum required area and width in the R1-43 (RS-43) district. Information in the case file for ZA98-152, indicates the Zoning Administrator approved a variance to create two lots with less than the minimum required area (.9963 acres each) and width (122.34-feet each) in the R1-43 district. The Zoning Administrator's "Finding of Fact" stated, "Approval of this variance will not be granting special favor to this site, since several other properties in the area are less than the minimum required width. This project will not have a negative impact on surrounding properties." Based on the information, the

Zoning Administrator determined the area of the lots at .9963 acres (each) was negligible and approved the variance to allow the creation of two lots with less than 130-feet of lot width in the R1-43 district.

The Lehi Area was platted in the County prior to annexation; therefore, there are several non-conforming lots that do not meet the minimum lot size requirement and/or minimum lot width requirement of the RS-43 district. These lots are considered legal non-conforming and may continue in their current configuration and are not allowed to increase their non-conformity.

Findings

- A. The request for a lot size of less than the minimum lot area allowed in the RS-43 district, does not comply with the Lehi sub area plan.
- B. The current lot area is well above the allowable minimums for the zoning district. However, the proposed lot split does not meet minimum lot size for lots located in the RS-43 district.
- C. The current lot width is between 254.6±-feet. The proposed lot split does not provide the minimum lot width of 130 feet for each lot as required in the RS-43 district.
- D. The lot in its current configuration conforms to the MZO requirements in the RS-43 district. Unique conditions are not present that would justify approval of a variance. The applicant's request to split the lot is a self-imposed condition not related to any unique conditions of the land itself.
- E. Compliance with MZO development requirements does not hinder the lot from existing in its present condition or configuration, or hinder its use as a single residence lot.

Neighborhood Participation Plan and Public Comments

The applicant mailed the required notification letters to all property owners within 150' of the site. As of writing this report, staff has not been contacted by any resident to express support or opposition to the request.

Staff Recommendations:

Based on the application and the criteria for approving a variance outlined in Section 11-80 of the MZO, Staff recommends denial of this request.