



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**December 7, 2022**

CASE No.: **BOA22-00240**

CASE NAME: 7952 East Gale Avenue Variance

Owner's Name:	Joseph Galindo
Applicant's Name:	Joseph Galindo
Location of Request:	7952 East Gale Avenue. Located east of South Sossaman Road and south of East Southern Avenue.
Parcel Nos:	218-65-033
Nature of Request:	Requesting a Variance from the required minimum covered parking spaces.
Zone District:	Single Residence-6 (RS-6)
Council District:	5
Site size:	6,617 square feet or .15± acres
Existing use:	Single Residence
Staff Planner:	Alexis Jacobs, Planning Technician
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **July 8, 1974**, the Maricopa County Board of Supervisors approved a Final Subdivision Plat for the Desert Sands Golf and Country Club Unit Eight subdivision, which included the subject property.

According to the Maricopa County Assessor's website, the existing home was constructed in **1981** with an attached 1-car carport.

On **April 15, 1985**, the property was annexed into the City of Mesa as part of a larger 612± acre area and subsequently zoned RS-6 (Ordinance No. 1936).

On **April 16, 2021**, there was a fire at the subject property, which caused significant water and smoke damage and required repairs to be made to the property.

## **PROJECT DESCRIPTION**

### **Background:**

The applicant is requesting a variance from the required minimum covered parking spaces in the Single Residence-6 (RS-6) zoning district. Per Section 11-32-3(D)(1) of the Mesa Zoning Ordinance (MZO), single residences shall provide a minimum of two (2) covered parking spaces per dwelling unit. The existing home was constructed in 1981 while under the jurisdiction of Maricopa County with an attached 1-car carport.

Prior to 2011, the homeowner enclosed the carport to livable space and did not obtain a permit. On April 16, 2021, the home experienced fire damage and while attempting to obtain the proper permits to rebuild, it was discovered that a building permit was not issued for the existing carport conversion. Per Section 11-36-6 of the MZO, a lawful nonconforming structure that is damaged or partially destroyed may be restored or rebuilt. The existing home, including the converted livable space, is not considered a lawful nonconforming structure as covered parking was not provided after the conversion was completed. Therefore, to receive issuance of a building permit, the applicant must bring the site into compliance with current MZO standards with regard to covered parking. The applicant is requesting a variance from the minimum covered parking requirements outlined in section 11-32-3(D)(1) of the MZO.

### **General Plan Character Area Designation and Goals:**

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood. Per Chapter 7 of the General Plan, the focus of the Neighborhood Character Area is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. Neighborhoods character areas are primarily single residence in nature but may also contain areas for higher density residential and commercial uses along arterial frontages. The existing single residence complies with the General Plan's Neighborhood Character Area designation for the property.

### **Site Characteristics:**

The subject property is located at 7952 East Gale Avenue, which is east of South Sossaman Road and south of East Southern Avenue and is identified as Lot 1,379 of the Desert Sands Golf and Country Club, Unit Eight Subdivision. The subject lot is 6,617 square feet and is similar in shape and size with other lots within the subdivision. Per the Maricopa County Assessor, the home was constructed in 1981, while under the jurisdiction of Maricopa County, and is in conformance with the development standards for the Desert Sands Golf and Country Club Unit Eight subdivision. Although the lot is rectangular and exceeds the minimum lot area, lot width and lot depth requirements of the RS-6 zoning district, sewer is not available in this portion of the subdivision. Because sewer is not available, each lot is required to have a septic tank. On the subject property, the septic tank and leech field is located directly to the rear of the residence, which limits the homeowner's ability to construct a detached garage in the rear of the home. In addition, Section 11-5-3-B-5-A of the MZO, vehicular access to the rear yard is only permitted if the side yard measures at least 12 feet in width. The side yard on the west side of the existing residence measures five feet in width and the east side yard measures five feet in width, which is insufficient for vehicular access from the front of the lot. The Desert Sands Golf and Country Club Unit Eight

subdivision plat also shows a Vehicular Non-Access Easement (VNAE) along the north property line adjacent to Southern Avenue, which further restricts vehicular access to the rear yard of the lot.

**Surrounding Zoning Designations and Existing Use Activity:**

<b>Northwest</b> (Across Southern Avenue) RS-6 PAD, AS Single Residence	<b>North</b> (Across Southern Avenue) RS-6 PAD, AS Single Residence	<b>Northeast</b> (Across Southern Avenue) RS-6 PAD, AS Single Residence
<b>West</b> RS-6 Single Residence	<b>Subject Property</b> RS-6 Single Residence	<b>East</b> RS-6 Single Residence
<b>Southwest</b> RS-6 Single Residence	<b>South</b> RS-6 Single Residence	<b>Southeast</b> RS-6 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 property still utilizes a septic tank that is located underground in the backyard.**

**Per the Maricopa County Standards there is an 18-foot Public Utility Easement (PUE) on the northern property line in addition a required 35-feet of unencumbered area for the exclusive use of individual disposal system. These site constraints limit the amount of buildable area on the property. In addition, no covered parking could be provided in the rear of the property due to the VNAE easement that runs along the northern property line (Southern Avenue) and the requirement for a 12 foot side yard for vehicular access from the front yard to the rear yard.**

***The proposal meets this criteria.***

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

**The existing residence is consistent with the development standards for the Desert Sands Golf and Country Club Unit Eight subdivision; however, as sewer is not available for the property owner to connect to, there is a septic tank and associated leech field located in the rear of the lot. The necessity of the having the septic tank results in a large unbuildable area in the rear yard of the lot. These conditions are pre-existing and not created by the property owner.**

***The proposal meets this criteria.***

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

**A survey of the neighborhood (Exhibit 3) indicates other properties in the area do not provide two covered parking spaces. Strict application of the zoning ordinance would result in the demolition of the enclosed carport.**

***The proposal meets this criteria.***

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.

**On May 25, 2004, a permit was issued to enclose the carport to livable space for the property located at 1207 South 80<sup>th</sup> Street. On February 17, 2016, a permit was issued to enclose the carport to livable space for the property located at 1244 South 78<sup>th</sup> Street. Based on these approved permits and other properties in the area that do not provide two covered parking spaces, approval of this variance request to deviate from the required minimum covered parking spaces does not grant special privileges inconsistent with the limitation upon other properties in the area withing the RS-6 district.**

***The proposal meets this criteria.***

Findings:

- A. The existing house was constructed in 1981 with a single-car carport on a lot in the Desert Sands Golf and County Club, unit 8 subdivision in compliance with the Maricopa County development standards in effect at that time.
- B. The special circumstance is pre-existing and not created by the property owner.
- C. On May 25, 2004, and February 17, 2016, permits were issued for surrounding properties to enclose a carport to livable space. In addition, there are other home in the neighborhood which do not provide two covered parking spaces. Strict application of the zoning ordinance will deprive the subject property of privileges enjoyed by other properties within the same zoning district and within the same neighborhood.
- D. Based on the survey of the neighborhood, approval of this variance request to deviate from the required minimum covered parking spaces does not grant special privileges inconsistent with the limitation upon other properties in the area or in the RS-6 District.

**Neighborhood Participation Plan and Public Comments:**

The applicant sent the required notification letters to all property owners within 150 feet 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 Recommendation:**

Based on the application received and preceding analysis, staff finds that the variance request from the required minimum covered parking spaces in the Single Residence-6 (RS-6) District meets the approval criteria of Section 11-80-3 of the MZO, and therefore recommends approval with the following conditions:

**Conditions of Approval:**

1. Compliance with the final site plan as submitted.
2. Issuance of a building permit for the conversion of a carport to livable space.
3. Compliance with all City Development Codes and regulations.

**Exhibits:**

Exhibit 1 – Vicinity Map

Exhibit 2 – Staff Report

Exhibit 3 – Justification Statement

Exhibit 4 – Site Plan