



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

June 5, 2024

CASE No.: BOA24-00221	CASE NAME: Remalia Shed
------------------------------	-------------------------

Owner's Name:	Kenneth and Marianne Remalia
Applicant's Name:	Kenneth Remalia
Location of Request:	7309 East Halifax Street. Located east of Power Road and north of Brown Road.
Parcel Nos:	218-03-016
Nature of Request:	Requesting a Variance to allow an addition within the required street side and rear yards in the Single Residence 9 (RS-9) District.
Zone District:	Single Residence 9 (RS-9)
Council District:	5
Site size:	0.2± acres
Existing use:	Single Residence
Hearing date(s):	June 5, 2024 / 5:30 p.m.
Staff Planner:	Charlotte Bridges, Planner II
Staff Recommendation:	APPROVAL with Conditions

HISTORY

On **August 7, 1983**, the City Council annexed a 1,382± acre area, including the project site, into the City of Mesa (Ordinance No. 1737).

On **July 2, 1984**, the City Council rezoned 48± acres, including the project site, from Maricopa County R1-35 to Single Family Residence-9 (R1-9) (equivalent to Single Residence 9 [RS-9]) to allow the development of a 146 single family residential subdivision (Ordinance No. 1737, Case No. Z84-109).

On **August 5, 1985**, the City Council approved the final plat for the Meadow View Estates subdivision. The project site is Lot 13 of the Meadow View Estates subdivision

In **1986**, per City of Mesa building permit records, the residence was constructed on the project site (HOST Permit No. 7331).

In **1995**, per City of Mesa building permit records, the swimming pool was constructed on the project site (HOST Permit No. 103927).

PROJECT DESCRIPTION

Background:

The applicant is requesting a Variance to allow an addition to be within the required street side and rear yards in the Single Residence 9 (RS-9) District. Per Table 11-5-3 of the Mesa Zoning Ordinance (MZO), the required street side yard is 10 feet and the required rear yard is 25 feet in the RS-9 District.

Per Chapter 87 of the MZO, a detached accessory structure is required to be six feet from the main building. Since the subject garage/shed is only four feet from the main building, it is considered to be an addition to the existing residence rather than a detached accessory structure.

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. The existing single-residence use conforms to the goals of the Neighborhood Character Area.

Site Characteristics:

The project site is located east of Power Road and north of Brown Road at 7309 East Halifax Street, which is the southeast corner of Augustine and Halifax Street. The subject property is lot 13 of the Meadow View Estates subdivision and is irregular in shape since its width ranges from 78± feet along the north property line to 108± feet along the south property line and depth ranges from 92± feet along the west (Augustine street side) property line to 119± feet along the east property line. In addition, the Meadow View Estates subdivision indicates there is an eight-foot-wide public utility easement along the north and west property lines, and a three-foot-wide public utility easement along the east property line. Also, per the Meadow View Estates subdivision plat, Lot 14 to the south of the project site is a key lot. Per Chapter 87 of the MZO, a key lot is defined as an interior lot adjoining the rear lot line of a corner lot. Per Section 11-30-17(B)(6) of the MZO, a detached accessory building shall not be located in the required rear yard of a corner lot closer to the street than any dwelling on an adjacent key lot.

City of Mesa building permit records indicate the existing residence was constructed in 1986 and the swimming pool constructed in 1995 on the project site. Per the information provided in the justification statement, the applicant bought the property in 1997. Then, in 2011 the applicant constructed an approximately eight-foot, six-inch tall carport on the west side of the existing residence. Later that same year, the applicant attached corrugated steel around the sides of the carport to enclose it into a garage/shed. The site plan provided by the applicant indicates the attached garage/shed is 693 square foot in area, located four feet from the existing residence, seven inches from the west (street side) property line, and 15 feet from the south (rear) property

line. As constructed, the attached garage/shed is within the required 10-foot street side yard along Augustine and the required 25-foot wide rear yard. It is also within the eight-foot wide public utility easement that is located along the west property line adjacent to Augustine. City staff in engineering have determined that no utilities exist in this easement, so an encroachment is feasible. There is currently a 110 square foot detached accessory building located adjacent to the south property line, which is closer to the street than the dwelling on the adjacent key lot, and closer than six feet to the proposed addition; this building will be removed.

Surrounding Zoning Designations and Existing Use Activity:

Northwest (Across Augustine and Halifax Street) RS-9 Single Residences	North (Across Halifax Street) RS-9 Single Residences	Northeast (Across Halifax Street) RS-9 Single Residences
West (Across Augustine) RS-9 Single Residences	Subject Property RS-9 Single Residence	East RS-9 Single Residences
Southwest (Across Augustine) RS-9 Single Residences	South RS-9 Single Residences	Southeast RS-9 Single Residences

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 property is irregular in shape and adjacent to a key lot. These special circumstances along with the location of the swimming pool, limit the area available on the lot to construct an addition or a detached accessory building on the property.

The proposal meets this criteria.

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

The irregular lot configuration, the location of a key lot immediately to the south, and the placement of the residence and swimming pool on the existing lot existed before the applicant owned the property.

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

The special circumstance associated with project site limit the area available to construct an addition or detached accessory building. Consequently, the property owner is deprived of privileges enjoyed by other properties in the RS-9 zoning district that have a rectangular shaped lot and are not immediately adjacent to a key lot. Variances have been approved for similar properties in the neighborhood, to allow encroachments into the rear yards.

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.

Given the irregular shape of the lot, the proximity of a key lot directly to the south and the location of the existing swimming pool, the ability to construct an addition or detached structure in the rear yard is restricted in comparison to other properties in the Meadow View Estates subdivision and RS-9 district. Therefore, the granting of a variance would not constitute a special privilege.

The proposal meets this criteria.

Findings:

- A. The subject property was annexed by the City of Mesa in 1983 and the existing residence and swimming pool were constructed in 1986 and 1995 respectively.
- B. The subject property is identified as Lot 13 of the Meadow View Estates subdivision and is zoned RS-9.
- C. There are special circumstances applicable to the irregular shape of the lot, the location of a key lot immediately adjacent to the south (rear) property line and the location of the swimming pool on the subject lot.
- D. The special circumstances related to the irregular lot configuration, the location of a key lot immediately to the south, and the location of the swimming pool on the existing lot existed before the applicant owned the property.
- E. Strict application of the zoning ordinance would deprive the property of privileges enjoyed by other properties in the RS-9 district.
- F. Approval of the proposed variance request will not constitute special privileges and is only the result of special circumstance associated with the lot and its surroundings.

Neighborhood Participation Plan and Public Comments:

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

Staff Recommendation:

Based on the application received and the preceding analysis, staff finds that the requested variance meets the approval criteria outlined in Section 11-80-3 of the MZO. Therefore, staff recommends approval with the following **Conditions of Approval:**

1. Compliance with the final site plan as submitted, except as follows:
 - A. Remove the attached garage/shed from within the eight-foot-wide public utility easement adjacent to Augustine, or obtain approval of an encroachment agreement by the City of Mesa City Engineer to allow the attached garage/shed to remain within the public utility easement.
 - B. Remove the 110 square foot detached accessory building located adjacent to the south property line.
2. Issuance of a building permit for the attached garage/shed.
3. Compliance with all City Development Codes and regulations.

Exhibits:

Exhibit 1 – Staff Report

Exhibit 2 – Vicinity Map

Exhibit 3 – Project Narrative

Exhibit 4 – Site Plan

Exhibit 5 – Lot 13 Meadow View Estates Subdivision

Exhibit 6 – Aerial Photo of Lot 13 and Lot 14 of the Meadow View Estate Subdivision

Exhibit 7 – Site Photos

Exhibit 8 – Power Point Presentation