



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**August 3, 2022**

CASE No.: **BOA22-00199**

CASE NAME: Alex Bautista Addition

Owner's Name:	Alex Bautista Hernandez
Applicant's Name:	Alex Bautista
Location of Request:	1144 E. Nielson Avenue
Parcel Nos:	138-15-020
Nature of Request:	Requesting a Special Use Permit (SUP) to allow for the enlargement of a legal nonconforming residential structure that extends into a nonconforming yard within the Single Residence-6 (RS-6) Zoning District.
Zone District:	Single Residence 6 (RS-6)
Council District:	4
Site size:	7,619 ± square feet
Proposed use:	Single Residence
Existing use:	Single Residence
Hearing date(s):	<b>August 3, 2022 / 5:30 p.m.</b>
Staff Planner:	Chloe Durfee Daniel
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **January 5, 1949**, the City Council annexed approximately 2,419± acres, including the subject site, into the City of Mesa (Ordinance No. 228).

In the **mid to late 1950s**, the residence was constructed.

On **January 2, 2019**, the Board of Adjustment approved a SUP to allow the enlargement of a structure encroaching in a required setback (Case No. BOA18-00918).

## PROJECT DESCRIPTION

### **Background:**

The applicant is requesting a Special Use Permit (SUP) for the enlargement of an existing legal nonconforming residential home in the Single Residence 6 (RS-6) districts. The original home was constructed in the mid to late 1950s in accordance with the building and zoning codes in effect at that time; however, it does not comply with the minimum or the aggregate side yard setbacks of Table 11-5-3.A.1 of the current Mesa Zoning Ordinance (MZO) and is therefore considered legal non-conforming. The applicant would like to build an 882 square foot addition onto the rear of the home that meets the rear yard setback but would not comply with the minimum or aggregate side yard setbacks along the existing non-conformity. Section 11-36-7 of the MZO allows non-conforming structures to be enlarged and extend into non-conforming yards when approved with a SUP.

### **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 primary focus of the Neighborhood character type is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. Neighborhoods can contain a wide range of housing options and often have associated nonresidential uses such as schools, parks, places of worship, and local serving businesses. The existing use as a single residence home complies with the intent of the character area by providing housing to nearby populations.

### **Site Characteristics:**

The subject property is located at 1144 East Nielson Avenue; north of Broadway Road and west of Stapley Drive. The existing 949± square foot building is located on a 7,619 ± square foot lot in an RS-6 District. Per Section 11-5-3 of the MZO, the required internal minimum side yard setback in the RS-6 zoning district is five feet and the aggregate side yard setback is 15 feet. The home is setback four feet from the eastern property line and eight feet from the western property line. The home does not meet the individual minimum internal side yard setback, nor does it meet the required 15-foot aggregate side yard setback.

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

<b>Northwest</b> RS-6 Single Residence	<b>North</b> RS-6 Single Residence	<b>Northeast</b> RS-6 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

### **Zoning Ordinance, Section 11-36-7 – Alterations and Enlargements to Nonconforming Structures**

Per Section 11-36-7(B) of the MZO, the Board of Adjustment may approve alterations or enlargements that extend into a nonconforming yard through a Special Use Permit where the alteration 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.

The proposed addition meets all applicable setbacks and height requirements covered within the allowance of what is approved through the SUP. The addition does not trigger the need for any additional parking and will not further reduce the non-conforming yard.

**Zoning Ordinance, Section 11-70-5 – Special Use Permit**

Per Section 11-70-5 of the MZO, the Board of Adjustment shall find upon sufficient evidence when making a decision on a SUP that:

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;

**Approval of the requested SUP for the expansion of a legal non-conforming residence in the Neighborhood character area will advance the goals of the General Plan by allowing for the redevelopment and upkeep of an existing home which helps increase the usage of the area while maintaining a safe neighborhood.**

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

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 any other applicable City plan or policies;

**The addition to a single residence home meets the intent of the Neighborhood Character Area and the Single Residence Districts by providing safe habitable space for single residence dwellings. Furthermore, the proposed addition will not further increase the nonconforming conditions of the property.**

***The proposal does meet this criteria.***

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

**The proposed addition will not be injurious or detrimental to adjacent properties in the area.**

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

4. Adequate public services, public facilities and public infrastructure are available to serve the proposed project.

**The addition does not add any additional burden on the public services, public facilities, nor public infrastructure. The public infrastructure is already on-site and will adequately serve the site and proposed use.**

***The request meets this criterion.***

**Findings:**

- A. The original home was built in the 1950s in compliance with all City Building and Zoning Codes.
- B. The existing home does not meet the required minimum or aggregate side yard setbacks for the RS-6 District and is considered legal non-conforming.
- C. The applicants would like to build an 882 square foot addition onto the north side of their home.
- D. A Special Use Permit is required to expand a legal nonconforming structure into a non-conforming yard.
- E. The proposed addition will not further increase the non-conformities on the site.

**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 the writing of 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 request for a Special Use Permit to allow for the expansion of a legal nonconforming single residence into a nonconforming yard meets the approval criteria of Section 11-36-7 and Section 11-70-5 of the MZO, and therefore recommends approval with the following conditions:

**Conditions of Approval:**

1. Issuance of a building permit for the expansion of the legal nonconforming residence.
2. Compliance with all City Development Codes and regulations.

**Exhibits:**

- Exhibit 1 – Vicinity Map
- Exhibit 2 – Staff Report
- Exhibit 3 – Narrative and Justification Statement
- Exhibit 4 – Site Plan
- Exhibit 5 – Elevations
- Exhibit 6 – Floor Plan