



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

September 7, 2022

CASE No.: **BOA22-00697**

CASE NAME: **Portorreal Residence**

Owner's Name:	Dorcas Portorreal
Applicant's Name:	Nusrat Jafar
Location of Request:	755 East 1 st Street
Parcel No(s):	138-24-075
Nature of Request:	Requesting a variance to allow an accessory dwelling unit to exceed the maximum size of 30% of the primary residence in the Single Residence 6 (RS-6) Zoning District
Zone District:	Single Residence-6 (RS-6)
Council District:	4
Site Size:	.22± acres
Existing Use:	Single Residence
Hearing Date(s):	September 7, 2022 / 5:00 pm
Staff Planner:	Samantha Brannagan
Staff Recommendation:	DENIAL

HISTORY

In May 1947, the subject lot was created as part of Block 2 of the Mesa Villa Subdivision Plat 2 in Maricopa County, giving the lot its current configuration.

On December 21st, 1948, the property was annexed into the City of Mesa as part of a larger 2,420± acre area and subsequently zoned RS-6 (Ordinance No. 228).

PROJECT DESCRIPTION

Proposal Background:

The applicant is requesting a variance from the maximum floor area of an accessory dwelling unit in the RS-6 zoning district. Per Section 11-31-3 of the Mesa Zoning Ordinance (MZO), the

maximum floor area of an accessory dwelling unit cannot exceed 30% of the roof area of the primary residence. The primary residence is 1,350 square feet in size and the applicant is proposing an accessory dwelling to be 968 square feet in size. Approval of the variance request would allow an accessory dwelling unit with a floor area that would be 72% of the primary residence roof area and exceed the 30% maximum allowed in the RS-6 zoning district.

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 design, development, and maintenance of neighborhoods focuses on ensuring clean, safe, and healthy areas where people want to live and maintain their investments. 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 755 East 1st Street, which is south of 1st Street and west of the intersection at East 1st Street and North Horne Street. The subject lot is 9,693± square feet and Lot 14 of the Mesa Villa Subdivision Plat 2, which was recorded in 1947. The subject property is similar in size and shape to surrounding lots in the Mesa Villa Subdivision Plat 2. The existing residence was constructed in 1950 in conformance with the codes in place at the time. In addition to the residence, there is also an existing gazebo in the southern portion of the property and an existing storage building in the southwest corner of the site, both of which are proposed to remain on the site. Currently the subject lot and structures meet all required setbacks, lot size, and lot dimensions required in the RS-6 zoning district.

Surrounding Zoning Designations and Existing Use Activity:

Northwest RS-6 Single Residence	North RS-6 Single Residence	Northeast RS-6 Single Residence
West RS-6 Single Residence	Subject Property RS-6 Single Residence	East RS-6 Single Residence
Southwest RS-6 Single Residence	South RS-6 Single Residence	Southeast 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 subject property does not have physical constraints that would justify the variance request. The lot is 9,693± square feet in size, which exceeds the minimum area of 6,000 square feet required in the RS-6 zoning district. The site is flat and regularly shaped and the lot is similar in size and shape to the surrounding lots in the RS-6 zoning district. There are no special circumstances relating to the size, shape, topography, encumbrances, location, or surrounding area present on the subject site.

The proposal does not meet this criterion.

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

The subject site consists of a single-family residence and detached accessory storage structure that meet the MZO development standards for the RS-6 zoning district. The need for the variance is created by the property owner's design choices regarding the size of the accessory dwelling unit. As the proposed accessory dwelling has not been constructed and could be modified to meet the development standards outlined in the MZO, Staff finds thereto be no pre-existing special circumstances on this lot.

The proposal does not meet this criterion.

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.

Per Section 11-31-4 of the MZO, the maximum floor area of an accessory dwelling unit is 30% of the roof area of the primary residence and is applicable to all lots in the RS-6 zoning district. The subject property is flat and not irregular in shape. The primary residence is 1,350 square feet in the size and following strict compliance with the MZO development standards in the RS-6 zone would allow for a 30% floor area of the primary residence, or 405 square feet in size, without a variance. The proposed accessory dwelling unit could be reduced in size to meet the MZO development standards, or an addition could be constructed to the existing single-family residence to provide additional living area. Approval of the requested variance would provide the owner with special privileges not enjoyed by other property owners in that zoning district.

The proposal does not meet this criterion.

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 subject lot and structures meet all required setbacks, lot size, and lot dimensions required in the RS-6 zoning district. Neighboring lots in the RS-6 zoning district are also in conformance with these development standards and have been able to construct additions onto the primary residence or construct detached accessory structures while maintaining the MZO development standards. The requested variance would constitute

a special privilege that is inconsistent with the RS-6 zoning district standards and the same limitations upon other properties within the vicinity.

The proposal does not meet this criterion.

Findings:

- A. The property was platted in 1947 as part of the Mesa Villa Subdivision Plat 2.
- B. The property was annexed into the City of Mesa in 1948 and subsequently zoned RS-6.
- C. The existing residence was constructed in 1950 in compliance with the MZO development standards in the RS-6 zoning district in effect at that time.
- D. Special circumstances are not present on the subject property related to the size, shape, topography, location, or surround area that would justify the variance.
- E. The need for the variance is created by the property owner's design choices for the size of the accessory dwelling unit.
- F. Strict compliance with the MZO development standards for the RS-6 zoning district does not deprive the property of privileges enjoyed by other properties in the neighborhood as it is possible to construct an addition to the primary residence or an accessory dwelling unit that adheres to the MZO development standards without approval of a variance.
- G. Granting of this variance request would constitute a special privilege inconsistent with the MZON development standards for the RS-6 zoning ordinance.

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 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 requested variance does not meet the approval criteria outlined in Section 11-80-3 of the MZO, and therefore recommends **denial** of the request.

Exhibits:

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