



**PLANNING DIVISION
STAFF REPORT**

Board of Adjustment

November 2, 2022

CASE No.: **BOA22-00975**

CASE NAME: 8129 E. Ebola

Owner's Name:	Kenneth Clapp
Applicant's Name:	Kenneth Clapp
Location of Request:	8129 E. Ebola Ave. Located west of Hawes Road and north of Southern Avenue.
Parcel Nos:	218-62-092
Nature of Request:	Requesting a Variance for the required rear yard setback for a proposed home addition.
Zone District:	Single Residence-6 with a Planned Area Development and Age Specific overlays (RS-6-PAD-AS)
Council District:	5
Site size:	.2± acres
Existing use:	Single Residence
Staff Planner:	Sean Pesek
Staff Recommendation:	APPROVAL with Conditions

HISTORY

In **1978**, according to the Maricopa County Assessor's website, the existing home was constructed.

On **June 5, 1985**, the subject property was annexed into the City of Mesa as part of a larger 597± acre annexation and subsequently zoned RS-6-PAD-AS (Ordinance No. 1942).

On **September 22, 1987**, Mesa's Zoning Administrator approved a blanket variance to allow for a minimum front setback of 17 feet throughout the Fountain of the Sun subdivision (ZA87-140)

PROJECT DESCRIPTION

Background:

The applicant is requesting a variance for relief from the required rear building setback in the Single Residence-6 (RS-6-PAD-AS) zoning district. If approved, the request will allow construction of a proposed 854 square-foot home addition that will encroach approximately 13-feet 5-inches (13'5") into the rear setback, establishing a new rear setback of 6-feet, 7-inches (6'7"). Per Table 11-5-3 in the Mesa Zoning Ordinance (MZO), the minimum rear building setback is 20 feet for the RS-6 zone, measured from the property line.

General Plan Character Area Designation and Goals:

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood with a Suburban Sub-type. 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 Suburban Sub-type is the predominant neighborhood pattern in Mesa; these neighborhoods are primarily single residence in nature but may also contain areas for higher density residential and commercial uses along arterial frontages. The proposed home addition complies with the General Plan's Neighborhood Character Area and Suburban Sub-type designation for the property.

Site Characteristics:

The subject property is addressed as 8129 E. Ebola Avenue and is within Fountain of the Sun subdivision, which developed under Maricopa County Jurisdiction and was annexed into the City of Mesa in 1985. According to Maricopa County records, the existing home was constructed in 1978 and is situated on a 7,784 square foot lot with a minimum lot width of 92 feet and a minimum lot depth of 151 feet. According to the submitted site plan, the existing home complies with the required front and side setback and encroaches approximately 5 feet into the required rear building setback.

Surrounding Zoning Designations and Existing Use Activity:

Northwest RS-6-PAD-AS Single Residence	North RS-6-PAD-AS Single Residence	Northeast RS-6-PAD-AS Single Residence
West RS-6-PAD-AS Single Residence	Subject Property RS-6-PAD-AS Single Residence	East RS-6-PAD-AS Single Residence
Southwest RS-6-PAD-AS Single Residence	South RS-6-PAD-AS Single Residence	Southeast RS-6-PAD-AS 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 has a triangular shape with an acute angle intersection where the rear and side property lines meet. This results in a significantly reduced buildable area in the back 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 was built in 1978 under a different development code on a lot that the current zoning ordinance considers substandard. Per Section 9-6-3-E.4 of Mesa's Code of Ordinances, rear lot lines shall not have acute angle intersections. Rather, rear lot lines shall be a series of straight line segments occurring at junctions of side and rear lot lines.

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 (see Exhibit 6) shows similar rear setback encroachments. Strict application of the zoning ordinance would deprive the applicant from constructing a modest rear home addition on the subject lot.

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 March 20, 2012, the Board of Adjustment granted a variance to allow a proposed detached garage to encroach into the required rear building setback for the property located at 8261 E. Euclid Ave (Case No. BA12-012). Based on a previous variance approval within the neighborhood and within the same zoning district, approval of this variance request to allow a home addition within the rear yard setback does not grant special privileges inconsistent with the limitation upon other properties in the area and within the RS-6-PAD-AS district.

The proposal meets this criteria.

Findings:

- A. The existing house was constructed in 1978 under Maricopa County jurisdiction and annexed into the City of Mesa in 1985.

- B. The subject lot has an irregular shape, which creates a unique hardship related to the lot itself.
- C. The special circumstance is pre-existing and not created by the property owner.
- D. On March 20, 2012, the Board of Adjustment granted a variance to allow a detached garage to encroach into the rear setback for the property addressed as 8261 E. Euclid Ave. The resulting variance allowed the proposed detached garage to be ten-feet, two-inches (10'2") from the south property line, an encroachment of 9-feet, 10-inches into the required setback. Strict application of the zoning ordinance will deprive the subject property of privileges enjoyed by other property within the same zoning district and within the same neighborhood.
- E. Based on a previous approval of a similar variance within the neighborhood and within the RS-6 District, approval of this variance request to allow a proposed home addition within the rear yard setback, does not grant special privileges inconsistent with the limitation upon other properties in the area or in the RS-6-PAD-AS 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 request for a home addition within the rear yard meets the approval criteria of Section 11-80 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 proposed home addition.
- 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, Floor Plan, and Elevations

Exhibit 5 – Aerial Photos