



PLANNING DIVISION
STAFF REPORT

Board of Adjustment

November 2, 2022

CASE No.: **BOA22-00840**

CASE NAME: 6536 East Delmon Drive

Owner's Name:	Gagnon Ashley A / Socorro
Applicant's Name:	Ashley Gagnon
Location of Request:	6536 East Delmon Drive
Parcel Nos:	141-71-028
Nature of Request:	Requesting a Variance from the required front yard setback for an attached garage addition within an existing Single Residence
Zone District:	Single Residence-9 (RS-9)
Council District:	5
Site size:	.3± acres
Existing use:	Single residence
Staff Planner:	Kwasi Abebrese
Staff Recommendation:	DENIAL

HISTORY

In **1973**, according to the Maricopa County Assessor's website, the existing home was constructed.

On **March 20, 1986**, the property was annexed into the City of Mesa as part of a larger annexation 406.7± acre area and subsequently zoned RS-9 (Ord. No. 2041).

PROJECT DESCRIPTION

Background:

The applicant is requesting a variance to allow an attached tandem garage to encroach into the required front yard setback in the RS-9 zoning district. The subject property has an existing double car garage which is approximately 19 feet by 19 feet. The applicant is seeking to add a 660 square-foot attached tandem garage with enough space to accommodate two vehicles and remodel the existing garage into livable space. Per Table 11-5-3 of the Mesa Zoning Ordinance (MZO), the minimum front yard setback for garages and carports in the RS-9 zoning district is 25 feet. Per the site plan submitted, the proposed garage will encroach approximately 4 feet into the required front yard setback, leaving a total front setback of 21 feet.

According to Maricopa County Assessor, the existing home was constructed in 1973. The subject property is Lot 28 of the Skyway Village Unit One subdivision. The Skyway Village Unit One subdivision was approved by the Maricopa County Board of Supervisors in 1958 and annexed into the City of Mesa in 1986. The Skyway Village Unit One subdivision plat dedicated 100 feet of right-of-way along Delmon Drive; however, full roadway improvements were never installed. There is an existing commercial development located on the east side of Delmon Drive that constructed half-street roadway improvements, including curb, gutter, and sidewalks, along their Delmon Drive frontage, but those have been the only roadway improvements in the Skyway Village Unit One subdivision. All the roads within the subdivision, except for the commercial frontage on the east side of Delmon Drive, remain as they were when annexed into the City of Mesa and consist of a small strip of asphalt ranging in size from 24 feet to 50 feet without curbs, gutters or sidewalks. There are no clear indicators to delineate property lines, such as sidewalks, which makes it appear as if the properties on the west side of Delmon Drive have a very large setback to the roadway; however, property lines are established based on the dedicated right-of-way. Although the City of Mesa has no current plans to install road improvements in the Skway Village Unit One subdivision, the Transportation department is unwilling to abandon the right-of-way because at some point in the future, the roadway improvements may be installed, and the existing right-of-way will be needed to accommodate those improvements.

General Plan Character Area Designation and Goals:

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood with a Traditional 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 Traditional Sub-type neighborhoods are predominantly single residence in character but may contain a variety of lot sizes and dwelling types. Traditional neighborhoods may also contain supportive land uses such as small, neighborhood scale offices, retail, restaurants, and personal services that are located along arterials, and collector streets. The existing single residence use conforms to the intent of the Neighborhood character area and the Traditional Sub-type.

Site Characteristics:

The subject property is located west of Power Road and north of McKellips Road and is identified as Lot 28 of the Skyway Village Unit One subdivision. The existing lot is 12,528 square feet (.3± acres) in area and is regular in shape with no topographical constraints. Lots in the Skyway Village

Unit One subdivision range in size from approximately 12,000 square feet to approximately 40,000 square feet. The subject property exceeds all the dimensional standards identified in Table 11-5-3 for the RS-9 zoning district including lot width, lot depth and lot area. There is an existing residence on the property, which meets all required setbacks, as well as a pool located behind the residence in the northeast corner of the lot. Per the site plan submitted, the site has a septic tank and a septic drainage well which are located in the southwest portion of the site at the rear of the existing residence.

Surrounding Zoning Designations and Existing Use Activity:

Northwest RS-9 Single Residence	North RS-9 Single Residence	Northeast LC Limited Commercial (Across East Delmon Drive)
West RS-9 Single Residence	Subject Property RS-9 Single Residence	East LC Limited Commercial (Across East Delmon Drive)
Southwest RS-9 Single Residence	South RS-9 Single Residence	Southeast LC Limited Commercial (Across East Delmon Drive)

Mesa Zoning Ordinance Requirements and Regulations:

Per Section 11-80-3 of the MZO, 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;

As discussed previously, the Skyway Village Unit One subdivision was approved and developed while under the jurisdiction of Maricopa County and later annexed into the City of Mesa. The roads within the subdivision were never constructed to current City of Mesa standards and remain as they were when the property was annexed into the city. The lack of street improvements, such as sidewalks, in the subdivision gives the impression of a large setback between the property line and the right-of-way; however, the Skyway Village Unit One subdivision plat dedicated 100 feet of right-of-way along Delmon Drive and property lines are determined based on the right-of-way to allow for roadway improvements should the City decide to install them in the future. The unimproved right-of-way along Delmon Drive is not unique to the subject property, as none of the roads in the Skyway Village Unit One subdivision have been improved.

The subject property does not have physical constraints that would justify the variance request. The lot is 12,528± square feet in size, which exceeds the minimum area of 9,000

square feet required in the RS-9 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-9 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 proposed tandem garage has not been constructed. The need for the variance is self-imposed and is a result of the property owner's design choices for the placement, orientation, and size of the structure. Per the site plan submitted there is a septic tank, a septic drainage well and a swimming pool at the rear of the residence, which would make it difficult to construct a garage in these areas. However, there is ample area to construct the attached garage attached to the north side of the residence, as shown on the site plan, but simply shift the garage to the west four feet, which would allow the attached garage to meet the required 25-foot front setback and a variance would not be needed.

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.

Strict compliance with MZO development standards for the RS-9 zoning district does not deprive the property of privileges enjoyed by other properties in the neighborhood. The property is Lot 28 of the Skyway Village Unit One subdivision and is consistent in shape and size with other lots in the subdivision. Per the Maricopa County Assessor, most of the homes in the subdivision were constructed in the 1970s with many of them having attached and detached accessory structures. While there are several properties in the subdivision that have garages that encroach in the required 25-foot front setback, these were either the result of the placement of the residence on the lot at the time of construction in the 1970s or were constructed prior to annexation into the City of Mesa and would be considered legal non-conforming structures. There are also several properties in the subdivision that appear to have had additions to the carport or garage constructed more recently within the required 25-foot front setback and staff is unable to find records of building permits being issued for those additions.

Moreover, adjacent properties on East Delmon Drive do not appear to have attached or detached garages encroaching into the front setback. And, as previously discussed, the applicant can slightly shift the location of the proposed attached garage four feet closer to the rear of the house and construct garage without the need for a variance.

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 residence meet all required setbacks, lot size, and lot dimensions required in the RS-9 zoning district. Neighboring lots in the RS-9 zoning district, and specifically along Delmon Drive, 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. While the lack of street improvements in the Skyway Village One subdivision is unique, the requested variance would constitute a special privilege that is inconsistent with the RS-9 zoning district standards and the same limitations upon other properties within the vicinity.

The proposal does not meet this criterion.

Findings

- A. The existing lot is 12,528 square feet (.3± acre) in area.
- B. The subject property is Lot 28 of the Skyway Village Unit One subdivision plat, which was approved by the Maricopa County Board of Supervisors in 1958.
- C. The existing house was constructed in 1973 per Maricopa County records.
- D. In 1986, the subject property was annexed in to the City of Mesa as part of a larger ±406 acre annexation.
- E. The subject site has a septic tank, and septic drainage well which are located in the southwest portion of the site.
- F. The proposed attached tandem garage is proposed to encroach 4 feet into the required 25-foot front yard setback for garages and carports in the RS-9 zoning district.
- G. There are no special circumstances that would justify the variance request to allow for the proposed garage to encroach four feet into the required front setback. The subject property is regularly shaped and has no topographical constraints. It is possible to shift the proposed structure four feet to the west to meet the development standards for the RS-9 zoning district without approval of a variance.
- H. The need for the variance is self-imposed. It is created by the property owner's design choices for the placement, orientation and size of the proposed structure.
- I. It is possible for the property owner to construct the proposed attached tandem garage and meet the MZO development standards for the RS-9 district without the approval of a variance. Therefore, strict compliance with MZO development standards for the RS-9 district does not deprive the property of privileges enjoyed by other properties in the neighborhood.
- J. Granting of this variance request constitutes a special privilege inconsistent with MZO development standards for the RS-9 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 residents to express support or opposition to the request.

Staff Recommendations:

Based on the application received and the preceding analysis, staff finds that the requested variance for the proposed attached tandem garage to encroach 4 feet into the required front yard setback does not meet the approval criteria outlined in Section 11-80-3 of the MZO; therefore, Staff recommends **DENIAL** of the request.

Exhibits:

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