



**PLANNING DIVISION**  
**STAFF REPORT**

**Board of Adjustment**

**March 1, 2023**

CASE No.: **BOA22-01335**

CASE NAME: Ketterson Addition

Owner's Name:	Kristen Ketterson
Applicant's Name:	Tim Boyle
Location of Request:	4040 East McLellan Road, Unit 18.
Parcel Nos:	141-29-051
Nature of Request:	Requesting a Variance to allow a new building addition to encroach into the required rear setback.
Zone District:	Single Residence-35 with a Planned Area Development overlay (RS-35-PAD)
Council District:	2
Site size:	.7± acres
Existing use:	Single Residence
Staff Planner:	Emily Johnson
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **December 4, 1978**, the subject property was annexed into the City of Mesa as part of a larger 1,633± acre annexation and subsequently zoned R1-35 (Ordinance No. 1193).

On **June 19, 1995**, City Council approved a rezone from R1-35 to R1-35-PAD on 19± acres, including the subject site, to create a maximum 21 lot subdivision with private streets (Case No. Z95-031, Ordinance No. 3053).

In **1998**, according to the Maricopa County Assessor's website, the existing home was constructed.

## PROJECT DESCRIPTION

### **Background:**

The applicant is requesting a variance for relief from the required rear building setback in the Single Residence-35 with a Planned Area Development overlay (RS-35-PAD) zoning district. If approved, the request will allow construction of a proposed 2,211 square-foot home addition that will encroach approximately 15-feet, 6-inches (15' 6") into the required 30-foot rear setback.

### **General Plan Character Area Designation and Goals:**

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood with a Citrus 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 Citrus Sub-type area of Mesa was previously occupied by citrus orchards. The character type for this area is large lots with single-residence homes surrounded by citrus trees and other large-leaf foliage and trees along streets. Per the Citrus Sub-Area Plan, this area provides for low-density, suburban-estate type residential uses that contribute to the area's unique characteristics. The proposed home addition complies with the General Plan's Neighborhood Character Area and Citrus Sub-type designation for the property.

### **Site Characteristics:**

The subject property is addressed as 4040 East McLellan Road Unit 18 and is within the Los Estados subdivision, recorded in 1996. According to Maricopa County records, the existing home was constructed in 1998 and is situated on a 30,555 square foot lot with a lot width of 90 feet, measured at the front setback, at the north property line and 179 feet, measured at the rear setback, at the south property line. According to the submitted site plan, the existing home complies with the required setbacks.

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

<b>Northwest</b> RS-35-PAD Single Residence	<b>North</b> RS-35-PAD Community Amenity	<b>Northeast</b> RS-35-PAD Single Residence
<b>West</b> RS-35-PAD Single Residence	<b>Subject Property</b> RS-35-PAD Single Residence	<b>East</b> RS-35-PAD Single Residence
<b>Southwest</b> RS-35-PAD Single Residence	<b>South</b> RS-35-PAD Single Residence	<b>Southeast</b> RS-35-PAD 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 tapered shape results in a significantly reduced buildable area in the rear yard.**

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

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

**Though the subject property has street frontage to the east and the home is oriented in this direction, Section 11-2-3(K)(1) of the MZO identifies the narrowest dimension of the lot with street frontage, the north property line in this case, as the front lot line. Therefore, the east and west property lines are considered side lot lines and the south property line is considered the rear lot line.**

**If setbacks were based on the orientation of the house, the east property line would be considered the front lot line, the north and south property lines would be considered side lot lines, and the west property line would be the rear lot line. With this orientation, the proposed addition would be fully out of the “side” setback in the south and would encroach 6-feet, 4-inches (6’ 4”) into the “rear” setback in the west. Per Section 11-5-3(B)(2)(iii)(6) of the MZO, livable rooms may encroach up to ten feet into a required rear yard and this addition would have met that standard and would not have required a variance.**

***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 5) shows similar rear setback encroachments. Strict application of the zoning ordinance would deprive the applicant from constructing a 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.

**Approval of this variance request will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which**

**such property is located. Several homes in the immediate vicinity have structures built within 15 feet of their rear property line.**

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

**Findings:**

- A. The subject property was annexed by the City of Mesa in 1978 and the existing house was constructed in 1998.
- 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. Strict application of the zoning ordinance will deprive the applicant from privileges enjoyed by other properties of the same zoning classification in the immediate vicinity.
- E. Granting of this variance request does not constitute a special privilege inconsistent with the limitations upon other properties.

**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. Compliance with Section 11-31-3 of the Mesa Zoning Ordinance; the maximum floor area of an Accessory Dwelling Unit shall not exceed 30 percent of the roof area of the primary unit.
- 3. Issuance of a building permit for the proposed home addition.
- 4. 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 and Floor Plan  
Exhibit 5 – Aerial Photos