



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**September 2, 2020**

|                              |                                 |
|------------------------------|---------------------------------|
| CASE No.: <b>BOA20-00367</b> | CASE NAME: <b>Poe Residence</b> |
|------------------------------|---------------------------------|

|                       |   |
|-----------------------|---|
| Owner's Name:         | Jeanette and Devin Poe  |
| Applicant's Name:     | Jeanette Poe  |
| Location of Request:  | 103 S Olive   |
| Parcel Nos:           | 138-28-041  |
| Nature of Request:    | Requesting a Special Use Permit (SUP) to allow for the enlargement of a non-conforming structure to encroach into a side yard in the RM-2 District. |
| Zone District:        | Multi-Residential 2 (RM-2)  |
| Council District:     | 4   |
| Site size:            | 1 ± acres   |
| Proposed use:         | Detached Single-Family Home   |
| Existing use:         | Detached Single-Family Home   |
| Hearing date(s):      | <b>September 2, 2020 / 5:30 p.m.</b>  |
| Staff Planner:        | Kellie Rorex  |
| Staff Recommendation: | APPROVAL with Conditions  |

**HISTORY**

On **January 5, 1949**, the subject site was annexed into the City of Mesa as part of a 2,419 ± acre annexation area (Ord. #228).

According to historical aerial photography, the subject site was developed as a single-family home in the **1950s**.

## PROJECT DESCRIPTION

### **Background:**

The applicant is requesting a Special Use Permit (SUP) to allow for an addition to a non-conforming structure within the side street setback in the Multi-Residential 2 (RM-2) zoning district. The required side street setback in the RM-2 zoning district is 20 feet. When the existing home was built in the 1950s, the zoning ordinance only required a ten-foot (10') street side setback in residential districts. The home was built thirteen feet and ten inches (13'10") from the side street and therefore encroaches into the side yard setback by six feet and two inches (6'2"), resulting in a non-conforming side yard.

In April of 2020, the home experienced a fire that left every room damaged by either fire, smoke, or water. When trying to rebuild their home, the applicants learned that southern and western portions of the house were not built on a permanent foundation. Because the applicants have to remove these areas to rebuild on a permanent foundation, they would like to make the house more rectangular to facilitate the rebuild. Additionally, with the destruction of the roof, the applicants want to use this opportunity to create a partial second story.

Section 11-36-6 of the Mesa Zoning Ordinance (MZO) allows for the administrative review and approval of restoration to damaged or partially destroyed nonconforming structures as long as rebuild does not exceed 50% of the construction value and the restoration does not exceed the original size, extent, and configuration of the structure. The proposed repairs exceed the provisions of Section 11-36-6; therefore the applicant must receive approval of a Special Use Permit to allow for the extension of the home into the non-conforming yard (Section 11-6-7[B]) or raze and rebuild the home to current standards outside the side street setback.

The proposed reconstruction includes the addition of a 501 square foot second story and an extension of the western wall, resulting in 21 square feet of additional living space. The proposed configuration would result in the entire western wall being setback 13 feet and 10 inches (13'10") from the property line but would not further reduce the existing nonconforming yard.

### **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. 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 non-residential uses such as schools, parks, places of worship, and local serving businesses. Traditional neighborhoods are predominantly single residence in character but may contain a variety of lot sizes and dwelling types and other uses along one street. The existing single-family home complies with both the Neighborhood Character area and Traditional sub-type designation on the property.

### **Central Main Street Area Plan:**

The site is also located in the Central Main Street Area Plan within the Neighborhood character area. The existing neighborhoods in this area, south and east of the Mesa Arizona Temple,

encompass areas of both stability and decline. Those stable areas are envisioned to maintain the single residence character while accommodating compatible higher-intensity residential infill and redevelopment. Those declining areas are envisioned to evolve over time into stable neighborhoods containing a mix of single residence, duplex, and small apartment buildings. An emphasis is placed on compatible residential redevelopment and infill development that creates a stronger sense of place for the entire area and benefits from improved connections to Pioneer Park, Temple grounds, and Mesa Drive light rail station. The existing single-family residence fits within the Neighborhood character area of the Central Main Street Area Plan and with the proposed updates the home will contribute to redevelopment in the neighborhood.

**Site Characteristics:**

The subject parcel is a corner lot in the RM-2 zoning district. Per Table 11-5-5 of the MZO, a detached, single residence home is required to have a street side setback of twenty feet (20'), an interior side setback of five feet (5'), a rear setback of fifteen feet (15'), and a front setback of twenty feet (20'). The existing home is legal non-conforming with the western wall of the home encroaching into the 20' street side setback between four feet (4') and six feet two inches (6'2") leaving a minimum street side setback of thirteen feet ten inches (13'10"). The proposed site plan shows a two-story, 2,825 square foot home meeting all setbacks except for the street side setback which is shown as thirteen feet ten inches (13'10").

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

|  |  |  |
|--|--|--|
| <b>Northwest</b><br>(Across 1 <sup>st</sup> Avenue and Olive Street)<br>RM-2<br>Existing multi-residential development | <b>North</b><br>(Across 1 <sup>st</sup> Avenue)<br>RM-2<br>Existing single-family home | <b>Northeast</b><br>(Across 1 <sup>st</sup> Avenue)<br>RM-2<br>Existing single-family home |
| <b>West</b><br>(Across Olive Street)<br>RM-2<br>Existing multi-residential development                                 | <b>Subject Property</b><br>RM-2<br>Existing single-family home                         | <b>East</b><br>RM-2<br>Existing single-family home   |
| <b>Southwest</b><br>(Across Olive Street)<br>RM-2<br>Existing single-family home                                       | <b>South</b><br>RM-2<br>Existing single-family home                                    | <b>Southeast</b><br>RM-2<br>Existing single-family home                                    |

**Mesa Zoning Ordinance Requirements and Regulations:**

Per Section 11-36-7(B) of the Mesa Zoning Ordinance (MZO), alterations and enlargements that extend into a nonconforming yard or height limit may be approved through a Special Use Permit where the alteration or enlargement would not:

1. Further reduce any existing nonconforming yard;

**The existing home encroaches into the street side setback by approximately six feet and two inches (6'2"). The applicant is requesting to extend one portion of the western wall to square the corner of the home off with the southern wall. Therefore, the request would not further reduce the existing nonconforming yard.**

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

2. Exceed applicable building height limits;

**The maximum allowed height in the RM-2 District is 30 feet. The proposed second story, measured at the peak of the roof, will be twenty-two feet one inch (22'1").**

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

3. Further reduce existing nonconforming lot coverage or floor area ratio requirements;

**The maximum lot coverage in the RM-2 District is 70%. The proposed enlargement would result in lot coverage of 38%.**

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

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 subject property will continue to be used as a single residence home and is not required to provide additional parking.**

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

Per Section 11-70-5 of the City of Mesa Zoning Ordinance, 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;

**The subject site is located within the Neighborhood Character Area with a Traditional Sub-Type per the Mesa 2040 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. Traditional neighborhoods are predominantly single residence in character but may contain a variety of lot sizes and dwelling types and other uses along one street. The existing single residence home complies with both the Neighborhood Character area and Traditional sub-type designation on the property.**

The subject site is located in the Central Main Street Area Plan. The character area for the property within the Central Main Plan is Neighborhood. Stable areas within the Central Main Plan are envisioned to maintain the single residence character while accommodating compatible higher-intensity residential infill and redevelopment. The existing single residence home fits within the Neighborhood character area of the Central Main Street Area Plan and with the proposed updates the home will contribute to redevelopment in the 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 with any other applicable City plan or policies;

The existing single residence home meets the required development standards of the RM-2 District with the exception of the street side setback. The location, size, design and operating characteristics of the proposed project are consistent with the purposes of the District the site is located and conforms with the General Plan and all other applicable City Plans and policies.

*The proposal meets 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 single-family home is existing, and the proposed alterations are within the existing building footprint. The height of the partial second story is also below the required height per the zoning district. The Central Main Street Plan also encourages redevelopment of single-family homes. Therefore, 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.

*The proposal meets this criteria.*

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

The existing home is served by public services, facilities and infrastructure.

*The proposal meets this criteria.*

**Findings:**

- A. The subject house was built in the 1950s when the minimum street side setback for residential development was ten feet (10’).
- B. Current MZO standards require a minimum street side setback of twenty feet (20’) in the RM-2 zoning district.
- C. The existing home is considered legal non-conforming because the street side setback is thirteen feet ten inches (13’10’’).
- D. A fire in April of 2020 destroyed the roof and left fire and water damage in every room of the home.
- E. Portions of the house were not built on a permanent foundation. The applicants wanted to use the reconstruction of the home as an opportunity to place the entire home on a permanent foundation and add a partial second story.
- F. Alterations and enlargements to non-conforming structures that extend into a non-conforming yard may be approved through a SUP when meeting the requirements of MZO Section 11-36-7(B).
- G. The subject request meets all requirements of Section 11-36-7(B) and conforms with the criteria for the granting of a SUP as outlined in Section 11-70-5(E) of the Mesa Zoning Ordinance.

**Neighborhood Participation Plan and Public Comments:**

The applicant mailed 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 or property owner to express support or opposition to the request.

**Staff Recommendation:**

Based upon the application received and preceding analysis, Staff finds that the requested SUP complies with the criteria of Section 11-36-7(B) for the alteration or enlargement of non-conforming structures that extend into a non-conforming yard, and SUP approval criteria of Section 11-70-5(E); and therefore, recommends approval with the following conditions.

**Conditions of Approval:**

- 1. Compliance with the final site plan and elevations submitted.
- 2. Compliance with all applicable City of Mesa Development Codes and regulations.
- 3. All unpermitted detached structures must be removed or permitted prior to the issuance of a building permit for the reconstruction of the primary structure.

**Exhibits:**

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