

Virtual Platform

Date: November 4, 2020 Time: 5:30 p.m.

MEMBERS PRESENT:

*Chair Adam Gunderson
*Vice Chair Ken Rembold
*Boardmember Chris Jones
*Boardmember Steve Curran
*Boardmember Kathy Tolman
*Boardmember Nicole Lynam
*Boardmember Alexis Wagner

MEMBERS ABSENT:

None

(*Boardmembers and staff participated in the meeting through the use of audio conference equipment)

STAFF PRESENT:

Rachel Prelog
Cassidy Welch
Kellie Rorex
Charlotte Bridges
Chloe Durfee-Sherman

OTHERS PRESENT:

None

1 Call meeting to order.

Chair Gunderson declared a quorum present and the meeting Public Hearing was called to order at 5:38 p.m.

2 Take action on all Consent Agenda items.

A motion to approve the Consent Agenda was made by Boardmember Tolman as read by Vice Chair Rembold and seconded by Boardmember Jones

Items on the Consent Agenda

3 Approval of the following minutes from previous meetings:

***3-a Minutes from October 7th, 2020 Study Session and Public Hearing.**

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Jones-Tolman-Rembold-Curran-Gunderson-Lynam-Wagner

NAYS – None

ABSENT – None

ABSTAINED – None

4 Take action on the following cases:

***4-a Case No.: BOA20-00622 (Approved with Conditions)**

Location: District 3. 2311 W Broadway Road.

Subject: Requesting a Special Use Permit (SUP) to allow a Comprehensive Sign Plan (CSP) for a medical building and use in the LC District.

Decision: Approved with Conditions.

Summary: This item was on the consent agenda and not discussed on an individual basis.

A motion to approve case BOA20-00622 was made by Boardmember Tolman as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Jones to approve the following conditions:

1. Compliance with the final site plan and all requirements of case ZON20-00488.
2. Compliance with the final elevations, landscape plan, and all requirements of case DRB20- 00495.
3. Compliance with all conditions of approval for Case BOA20-00580.
4. Compliance with the sign plan documents submitted.
5. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.
6. All signage to be reviewed and approved through a separate permit application.

The Board's decision is based upon the following Findings of Fact:

- A. The elevations were recommended for approval for the development of a train depot themed dental office building on October 13, 2020 by the Design Review Board.
- B. Per Section 11-43-3(D)(1) of the MZO, the development is allowed three (3) attached signs with a maximum aggregate sign area of 160 square feet and a maximum 160 square feet of sign area per a sign.
- C. The applicant is proposing eight (8) attached signs that have a maximum aggregate sign area and a maximum area per a sign below what is permitted per the MZO.

- D. Per Section 11-43-3(D)(3) of the MZO, LC zoned properties are allowed multiple detached signs with one (1) foot of sign height per 20 lineal feet of street frontage.
- E. The applicants are proposing one (1) detached monument sign that is 14 feet tall.
- F. Per Section 11-43-9 of the MZO, detached three-dimensional objects are permitted in commercial zoning districts. When these detached three-dimensional objects are within 100-feet from the right of way, 50% of the area of the object shall be deducted from the allowed detached sign area.
- G. The applicants are proposing three (3), three-dimensional objects that include a semaphore, a train crossing arm, and a model train. The three-dimensional objects would not be counted towards the total sign area allowed.
- H. The materials and design of the proposed signs will be well integrated with the theme and architecture of the building.
- I. The subject CSP will advance the goals and objectives of the General Plan. The sign area allowances are also consistent with the location, size, design and operating characteristics of the property and will not be injurious or detrimental to the surrounding properties.

***4-b Case No.: BOA20-00629 (Approved with Conditions)**

Location: District 3. 3050 S. Country Club Drive.
Subject: Requesting a Special Use Permit to allow a Day Care Center in conjunction with a Place of Worship.
Decision: Approved with Conditions.
Summary: This item was on the consent agenda and not discussed on an individual basis.

A motion to approve case BOA20-00629 was made by Boardmember Tolman as read by Vice Chair Rembold with the acceptance of Findings of Fact and Conditions of Approval, and seconded by Boardmember Jones to approve the following conditions:

1. Compliance with the final floor plan and narrative submitted.
2. Compliance with all applicable City of Mesa Development Codes and regulations.

The Board's decision is based upon the following Findings of Fact:

- A. A day care center is an allowed use in the GC zoning district.
- B. Day care centers in conjunction with a place of worship requires a Special Use Permit (SUP).
- C. All modifications to the building will be internal.

- D. All activities related to the proposed day care center will be located internally.
- E. This request conforms with the criteria for the granting of a SUP as outlined in Section 11- 70-5(E) of the Mesa Zoning Ordinance.

Consent Agenda Approved

Vote: 7-0

Upon tabulation of vote, it showed:

AYES – Jones-Tolman-Rembold-Curran-Gunderson-Lynam-Wagner

NAYS – None

ABSENT – None

ABSTAINED – None

Items not on the Consent Agenda

5 Take action on the following cases:

5-a Case No.: BOA20-00568 (Denied)

Location: District 2. 4359 E Decatur Street.

Subject: Requesting a variance to allow a detached accessory building, which exceeds eight feet in height, to be closer to the primary residence than six feet and within the side yard in the RS-9 District. (Continued from October 7, 2020 Meeting)

Decision: Denied.

Summary: This item was not on the consent agenda and was discussed on an individual basis.

Chair Gunderson opened up the Public Hearing and invited the applicant to speak on the case.

Ms. Tucker who resides at 4359 E. Decatur Street, stated that she didn't know where else she could put the shed because of existing fruit trees and pavers in the backyard. The shed could be moved back a little bit, but only probably about six to eight feet.

The contractor also stated that if the shed's height was brought down to the height required in that space, a regular sized door would not fit.

Vice Chair Rembold asked staff to clarify that if the applicant reduced the shed to seven feet and removed it from its permanent foundation if it could remain in its current location.

Staffmember Bridges replied, that's correct, they would have to be in compliance with the detached accessory building of the Mesa Zoning Ordinance, which would require the reduction in height and then the non-permanent foundation at that location.

Chair Gunderson asked if the alternative would be to leave it at its current size and if it was moved back further towards the back quarter of the yard, then then its current size would be okay?

Staffmember Bridges replied that that was correct, but the relocation would be to the south west corner where her papers is located to the west in the swimming pool to be located in the rear quarter of the property right and be allowed to remain at 10 feet.

Chair Gunderson summarized for the applicant the two current options for the shed to be within compliance and made sure the applicant understood.

Ms. Tucker said she understood, but asked if she would still be able to get a variance as she would have to tear the shed down to do either option?

Chair Gunderson stated that the Board still needed to discuss the case, but based on what staff had presented, it didn't seem like she had met the criteria for a variance.

Ms. Tucker then asked Staffmember Bridges where she was supposed to put the shed?

Staffmember Bridges told Ms. Tucker that she could locate the detached accessory building in the southwest corner and still have clearance for her gate to access the easement to the south of the property. Based on the site plan that was submitted, there was 29 feet between the west property line and the edge of the pool. The proposed structure was 7 by 20, so 140 square feet. Additionally, there was 29 feet from the rear of the house to the rear property line. So, she had a 29 square foot area to locate a structure that is seven feet by 20 feet wide.

Ms. Tucker clarified that Staffmember met on top of the pavers?

Staffmember Bridges answered yes, that is correct.

Boardmember Jones stated that there are several things that needed to be discussed so he recommended that the Board move to discuss it.

Boardmember Curran asked the contractor if he could reduce the door height to have the shed meet the height requirement for that location?

The contractor stated that if the owner buys a special door, they could put it in a smaller shed.

Chair Gunderson explained that the Board was trying to see if the property met the requirements for a variance and mentioned that what had been talked about up to this

point were options for the shed without needing a variance. He then asked Ms. Tucker and the contractor if they can think of any way they could meet the first requirement that there was some kind of special circumstances applicable to the property, including its size, shape, topography location or surrounding it relating to this property that would that would make different from the from the lots surrounding it that would make it eligible for a variance?

Ms. Tucker said not, but that she had thought that because she couldn't put it in the location that was allowed with the pavers being in the way, that would be what would allow the variance.

Chair Gunderson responded that the pavers then bring up the next requirement. He asked if the pavers were a pre-existing special circumstance that were not created by the owner or the applicant?

Ms. Tucker answered that some pavers were in place when she moved in, but that she did put in the rest of them.

Chair Gunderson responded that when he looked at the requirements of what he needed to find to be able to vote for the variance, he did not see it. If there was something that she had noticed that the Board was overlooking he just wanted to make sure she had the opportunity to present it.

Boardmember Lynam asked what the height of the walls of the shed were as the roof looked steep?

The contractor answered that the walls were seven feet tall.

Boardmember Lynam stated that she was thinking that if they built a lower pitch roof or a shed roof that they might be able to be in compliance, but it sounds like they would not quite be there at the seven foot requirement.

Boardmember Tolman asked if the shed were moved back seven or eight feet, would they still need a variance?

Staffmember Prelog answered that moving the shed back that far would not put it in the rear quarter of the lot so it would not meet the code requirements.

Boardmember Tolman asked if it would have to be seven feet tall still also need a variance?

Staffmember Bridges answered no, if the contractor or property owner modified the structure to be seven feet tall and not on a permanent foundation, it would be allowed to remain as president low present location. The code requirement says that if a structure is located in the rear quarter of the lot, so they would have to be within the rear setback and the rear side yard, then they would be allowed to have a height at a maximum height of 10 feet. So just relocating the existing building to the south seven or eight feet is still not going to be in compliance with the Mesa Zoning Ordinance standards.

Boardmember Curran asked if they reduce the height where it is right now, they still have a problem with the permanent foundation?

Staffmember Bridges answered yes, that is correct.

The contractor stated that the shed is not attached to the foundation. It was only place on top of the foundation with a few bolts placed in the corners, but it is not permanently attached.

Chair Gunderson stated that if they could remove the connections and lower the height, they might be able to leave the shed in place.

Chair Gunderson closed the meeting for public comment.

Vice Chair Rembold asked if concrete is not counted permanent or is it only if a structure is bolted down is it then counted a permanent?

Staffmember Bridges answered yes, as long as it is not attached and can be moved around, it is not permanent. It can be placed on a slab, but it cannot be attached and needs to be moveable.

Vice Chair Rembold asked for clarification that if they were to cut the bolts off and reduce the height, then it would conform to code and they would not need to come back to the Board?

Staffmember Bridges answered that is correct.

Boardmember Jones stated that he believed there's a way to resolve this, but it does not meet the criteria for a variance.

A motion to deny case BOA20-00568 was made by Boardmember Jones and seconded by Vice Chair Rembold. The Board's decision is based upon the following Findings of Fact:

- A. The house was built in the 1984 in compliance with the RS-9 District development standards.
- B. The swimming pool was built in 1986 in compliance with RS-9 District development standards.
- C. The addition to the east side of the house, authorized by PMT20-06109, complies with the RS-9 District development standards.
- D. The lot does not have special circumstances related to its size, shape, topography, location, or surroundings. It is a rectangular, 9,071 square foot lot and complies with the RS-9 District development standards.
- E. The addition to the east side of the home, constructed in 2020 by the current property owner, narrowed the property owner's options for the size and height of a detached accessory building constructed on the property. Therefore, the perceived hardship is self-imposed.
- F. It is possible to construct a detached accessory building on the subject lot in compliance with Sections 11-30-17(B)(1), Section 11-30-17(B)(2) or 11-30-17(B)(4) of the MZO. Consequently, strict application of the MZO will not deprive the property of privileged enjoyed by other properties of the same classification in the same zoning district.
- G. The granting of this variance request constitutes a special privilege inconsistent with MZO development standards for detached accessory building applicable to other properties in the surrounding neighborhood.

5-b Case No.: BOA20-00630 (Denied)

Location: District 1. 1024 E Norwood Street.

Subject: Requesting a variance from the required side yards setbacks to allow for an addition to an existing single residence in a RS-43 District.

Decision: Denied.

Summary: This item was not on the consent agenda and was discussed on an individual basis.

Chair Gunderson opened up the Public Hearing and invited the applicant to speak on the case.

Erin White, who resides at 1024 East Norwood Street, stated that she had requested a variance to encroach in the side yard setback to allow for a two-car garage. After receiving the board's feedback, she did some additional studies of possible other locations and dimensions. As shown in exhibit eight option A, those would greatly reduce her immediate backyard and be an eye sore for her family as well as her neighbors. It would require a new wall to enclose a backyard and would allow minimal to no natural light in her home as well as obstruct her view of her beautiful yard. Option D would still require a height variance as

she would need 14-foot doors to allow access into the backyard to allow for any type of equipment. It would also be nice for her and her neighbors and would not technically be attached.

She also looked into reducing the garage size to the minimum width of 20 feet, but due to the existing chimney butting into the existing driveway, she felt they needed a minimum of 24 feet from exterior of the house. This would actually be feasible and would allow for two cars with room to get in and out of the car and keep the existing tree while also increasing the side setback to 73 inches and increasing the total aggregate setback to 24 feet.

In regards to what needs be met, the first one, which is special circumstances applicable to the property including its size, our lot is long and narrow and currently does not meet the minimum dimensions set forth by the city. Due to the reduced lot size, they are now meeting the variance. Had her lot size met the minimum requirements, she would not be requesting a variance. Her lot size was preexisting prior to those requirements and setbacks being put into place. The circumstances are preexisting and not created by the applicant as it was, once again, a reduce lot size. If her lot met the required minimum width, the variance for detached garage would not be needed.

The zoning ordinance has deprived the property of privileges enjoyed by similar properties because similar and larger properties within the surrounding location have been allowed to encroach into their side yard setback for room and garage additions allowing these properties to maintain their backyard space. If the variance was approved, it would not grant special privileges her home because it would be adding what many homes in Lehi already have which is an attached two to three-car garage. Other larger properties have been allowed to encroach into their side yard setbacks and multiple car garages therefore not granting us the privilege other properties have already been given.

It is mentioned that her lot is largely undeveloped and therefore she should put her garage elsewhere. Being that she has requested an attached garage, the options for that are limited. As mentioned earlier, those actions would significantly reduce our immediate backyard and be an eyesore, require relocating her wall, or another variance. While there might be an alternative location for attached garage she feels that their proposed location makes the most sense and allows them to keep their yard open for her children to run around and potentially allow for animals in the future.

Placing a garage anywhere other than on existing concrete driveway would then limit their yard size and not be pleasing to the eye. We are willing to reduce the garage width to allow the aggregate setback to be closer to their current requirements. We feel the design and location of the proposed garage fits in with the feel of the area it will add both curb appeal

and value not only to our home and our neighbors homes, but also to the neighborhood of Lehi.

Chair Gunderson read the comment card from Kathy Willis in opposition to the project. As there were no other comments, Chair Gunderson gave the time back to Mrs. White.

Comment card from Kathy Willis, who resides at 1038 East Norwood Street.

“We have talked with the Ryans about their plans and expressed our thoughts. (1) There is no other properties in the area that are within 6' of property line, we don't want to be the first. (2) the height of building that close (30') is over whelming. (3) fire safety . How would the fire department access in the event of fire? (4) when they bought the property a short time ago did they not read the CC&R's? (5) the community has fought to keep the open feel, for years, this would be a slap in the face to us. (6) we would like the current set-backs be observed, as we and others have lived by.”

Mrs. White asked if homes on Sorenson St, the next block over, are not close enough to be considered when listing nearby properties that have been given a variance to go into their encroachment or add a garage? She stated that there is a lot on Sorenson that is larger and deeper, and they were given a variance to add a detached three-car garage and come within six feet of their property line. This was not one of the properties listed in the earlier meeting.

Staffmember Prelog stated that when Staffmember Bridges responded to that question earlier, she spoke in reference to the immediate area in which she was referring to that block base. There are additional properties that were provided by the applicant in their narrative and justification statement, but staff did not read off all those properties.

Chair Gunderson clarified that there was a house on the street that had been approved for a variance for an encroachment into the side yard and there is another one on Sorenson, the next street over?

Staffmember Bridges confirmed and stated that the case she was referring to was ZA87-025 located at 835 E Sorenson.

Boardmember Tolman asked if Mrs. White had spoken to her neighbors directly?

Mrs. White confirms that she had spoken with the neighbors to the east of them, where Kathy Willis lives, and they were concerned that they would be coming within six feet of the property line. After that, they measured out the driveway and marked it with blue tape shown in the photos. If they were to reduce the garage size to 24 feet from the house, and that was because of the chimney's overhang, that would be increased to 11 feet three inches. That would have made the encroachment into the side yard six feet, not 12 feet, which is what she stated the original encroachment would have been.

Staffmember Bridges stated that they would still need a variance and they would still need to meet the minimum aggregate side yard setback for the RS-43 district. The existing one side setback at 12 feet, almost 13 feet in the proposed setback on the east with 24 foot wide garage, measured from the house wall, not the garage, not the chimney stack through the house, right, leaving them that dimension of 11 foot three inches. So that would give them an aggregate of about 24 inches. They would still need a variance to encroach into the side yard setback.

Boardmember Tolman asked how close is the other house on the other side?

Staffmember Prelog stated that the adjacent home located at 1038 E Norwood is about 18 feet from their property line, so an additional 24 feet between the homes.

Boardmember Tolman stated I know the staff is aware of my concerns and feelings about the whole Lehigh area. And you know, we just see this over and over again, where areas are annex that are so mixed use and there's really there's really no vehicle to try to allow for these people to improve and better use their properties not trying to stick to a cone. These properties if it's a new development, then I don't think there would be any question but it's it's not it's just an existing property and everything throughout that whole area has has exceptions to it. Because, because there's so much existing there, that's, that was already not. Not perfect, I don't know how else to say it, to try to overlay a perfect code over an area. That's so old, you know, the original settlement of Mesa, I, I just think it's fruitless to try to continue to try to hold these property owners accountable to an unattainable requirement. So I don't know if they would be willing to reduce their garage down to 24 feet, I would see if they could work out something with some of their neighbors been happy, not so unhappy, I I wouldn't have problem was the proof variance. That's my saying.

Staffmember Prelog clarified that if the applicant were to provide the minimum garage size, they would be an adherence code. The garage dimensions that they are proposing greater than what is required by the code.

Mrs. White stated that they plan on putting in two 14 four doors to allow a pass-through so they would not be cutting off their entrance into the backyard. The reason they can't do the 20-foot garage is because of the chimney stack as its taking away from them having enough space within those 20 feet. They would need to go at least 20 feet off the chimney stack to have a 20-foot garage. Because of this, it is still technically larger than 20 feet because that chimney stack.

Boardmember Tolman stated that no matter what, it is going to cost them some money so they could move the chimney stack as that would probably be more desirable than sitting their garage in the backyard.

Boardmember Curran asked if the height of the structure was in question?

Staffmember Bridges answered yes, that is correct. It's within the height allowance of 30 feet, which is allowed for the RS-43 district.

Boardmember Curran stated that the comments by Mrs. Willis mentioned that the height was overwhelming at 30 feet, but that is not a problem, right?

Staffmember Bridges responded that Mrs. Willis' comments were to indicate the proximity of this 30 foot wall would be six feet four inches away from the common property line, which could seem overwhelming.

Chair Gunderson asked if there were other homes in the area that have encroachments into the required setbacks that are that tall?

Staffmember Bridges answered that she did not look at heights.

Chair Gunderson asked Mrs. White if she was aware of any properties that are within the required setback that are as tall as the building she is proposing?

Mrs. White stated that she has not looked at the height as that was never in question. They had just been focusing on the side yard setbacks.

Chair Gunderson stated that she could build up to 30 feet if following the normal setbacks. Going back to some of the requirements that the Board needs to find in order to grant a variance, some of those she had already addressed. There are special circumstances to the property, including its size, shape, topography, location or surroundings. Mrs. White pointed out that her lot is smaller than the zone size for a typical lot in this area. This addresses that the special circumstances are preexisting and not created by the property owner. With the next requirement, strict application of the zoning ordinance would deprive such property of privileges enjoyed by other property of the same classification in the same zoning district, that's the question. He was trying to figure out whether or not this is going to give Mrs. White some kind of privilege that other people don't enjoy. The right to build into the required setback doesn't seem like a significant privilege. It seems like that has been happening all over the place. But to be able to extend a home as high as Mrs. White's into that setback, when the neighbor immediately on the other side of the of the

property line is opposed to that, that's the biggest concern. There is no requirement that it be a specific height, but what is being determined is whether or not allowing her to have this variance, which would be outside of the typical zoning laws, is going to give Mrs. White a special privilege not enjoyed by others.

The section for public comment was closed and then re-opened to ask Mrs. White a question and then re-closed again.

A motion to deny case BOA20-00568 was made by Boardmember Jones and seconded by Boardmember Curran. The Board's decision is based upon the following Findings of Fact:

- A. The house was built in the 1963 and annexed into the City of Mesa in 1970.
- B. At the time of annexation, the existing lot, 118.15 feet wide by 333.17 feet long and 39,378 square feet (.90± acre) in area, did not meet the RS-43 District minimum required lot width of 130 feet and lot area of 43,560 square (1 acre), per Table 11-5-3 of the MZO, and is considered legal non-conforming.
- C. The existing structures on the subject site meet the MZO development standards for the RS-43 district, including an interior side yard setback of 12 feet to the west property line and a 35 feet, 5-inch side yard setback to the east property line.
- D. Special circumstances are not present that would justify the variance request since the existing lot is largely undeveloped, has an existing building coverage of 8%± and it is possible to construct a new attached double car garage and other additions to the existing home and still meet the MZO development standards for the RS-43 district without approval of a variance.
- E. The need for the variance is created by the property owner's design choices for the placement, orientation and size of the proposed attached garage and future additions to the home.
- F. Strict compliance with MZO development standards for the RS-43 District does not deprive the property of privileges enjoyed by other properties in the neighborhood since it is possible to construct a new attached double car garage and other additions to the existing home and still meet the MZO development standards for the RS-43 district without approval of a variance.
- G. Granting of this variance request constitutes a special privilege inconsistent with MZO development standards for the RS-43 District.

6 Items from citizens present: None

7 Adjournment.

Vice Chair Rembold moved to adjourn the Public Hearing and was seconded by Boardmember Tolman. Without objection, the Public Hearing was adjourned at 6:49 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Rachel Prelog". The signature is written in a cursive style with a long horizontal stroke at the end.

Rachel Prelog,
On behalf of Zoning Administrator (Dr. Nana Appiah)