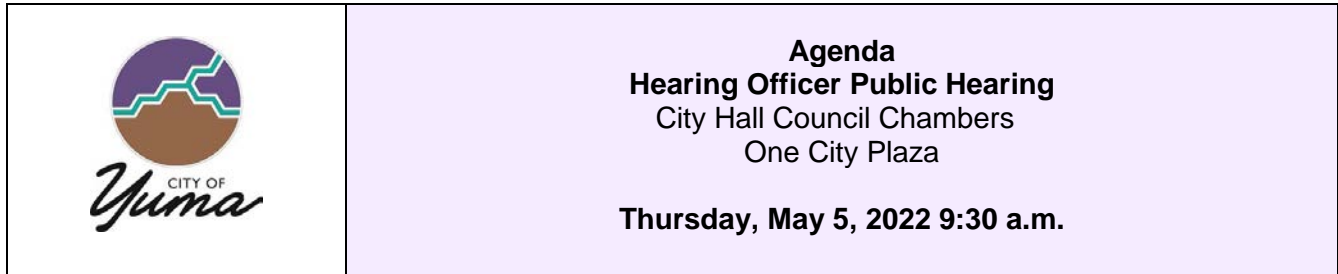


**Notice of Public Hearing of the
Hearing Officer of The City of Yuma**

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Hearing Officer of the City of Yuma and to the general public that the Hearing Officer will hold a hearing open to the public on May 5, 2022 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:



City Hall Council Chambers will be open with limited public access.

Public comment regarding any **agenda** item can be provided in written format to the Hearing Officer Secretary at email address planning@yumaaz.gov no later than 15 minutes prior to the start of the scheduled meeting. Comments received timely will be read into the record when the referenced agenda item is discussed.

CALL TO ORDER

CONSENT CALENDAR – All items listed under the consent calendar will be approved by one motion. There will be no separate discussion of these items unless the Hearing Officer or a member of the audience wishes to speak about an item.

APPROVAL OF MINUTES

- December 9, 2021

APPLICATIONS TO BE CONSIDERED

1. **TIMEX-39125-2022:** This is a request by Anne-Marie Mirante and Richard Fay for a one-year time extension to a previously approved variance (VAR-33872-2021) to reduce the side setbacks from 7' to 3'5", the rear yard setback from 10' to 4'7", and increase the allowable height for accessory structures from 15' to 18' for two RV shade structures and two storage trailers in the Recreational Vehicle Subdivision (RVS) District, for the property located at 9732 E. 38th Lane, Yuma, Arizona
2. **VAR-39102-2022:** This is a request by Deborah G Ybarra on behalf of Shannon Gonzalez, for a variance to reduce the side yard setbacks from 10' to 7' to accommodate the placement of a new single-family home, in the Residential Estate (RE-12) District, for the property located at 8334 E. Adobe Ridge Road, Yuma, AZ.

ADJOURN

A copy of the agenda for this meeting may be obtained at the office of the City Clerk at City Hall, One City Plaza, Yuma, Arizona, 85364, during business hours, Monday through Friday, 8:00 A.M. to 5:00 P.M. In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of Yuma does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of Yuma Human Resources Division, One City Plaza, PO Box 13012, Yuma, AZ 85366-3012; (928) 373-5125 or TTY (928) 373

**Hearing Officer Meeting Minutes
December 9, 2021**

A meeting of the City of Yuma's Hearing Officer was held on December 9, 2021, at City Hall Council Chambers, One City Plaza, Yuma, AZ.

HEARING OFFICER in attendance was Araceli Rodriguez.

CITY OF YUMA STAFF MEMBERS present Kenneth Scott McCoy, Assistant City Attorney; Tim Bourcier, Director of Planning and Neighborhood Services; Alyssa Linville, Assistant Director of Planning and Neighborhood Services; Amelia Griffin, Associate Planner; Chad Brown, Associate Planner and Lizbeth Sanchez, Administrative Specialist.

Rodriguez called the meeting to order at 9:30 a.m.

CONSENT CALENDAR

Rodriguez approved the minutes of October 28, 2021.

PUBLIC HEARINGS

VAR-36947-2021: This is a request by Michael St. Cyr, for a Variance to reduce the rear yard setback from 6' to 3.5' and reduce the side yard setback from 6' to 3.5', to allow the addition of a steel accessory building in the Medium Density Residential (R-2) District, for the property located at 3767 W. 25th Lane, Yuma, Arizona.

Amelia Griffin, Associate Planner, summarized the staff report and recommended **DISAPPROVAL**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Michael St. Cyr, 3767 W. 25th Lane, Yuma, AZ clarified that he originally got a quote from the contractor for an 8" feet high structure and was unaware that the structure would be 11" feet high. **St.Cyr** noted that he did not receive any blue prints from the contractor until the structure was finished.

OPEN PUBLIC COMMENT

None

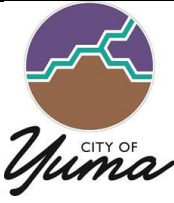
DECISION

Rodriguez granted the variance, subject to the Conditions of Approval in Attachment A, finding that the four criteria of Yuma City Code §154-03.04(D) (1) had been met.

Rodriguez adjourned the meeting at 9:37 a.m.

Minutes approved and signed this _____ day of _____, 2021.

Hearing Officer



**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Erika Peterson**

Hearing Date:

MAY 5, 2022

Case Number:

TIMEX-39125-2022

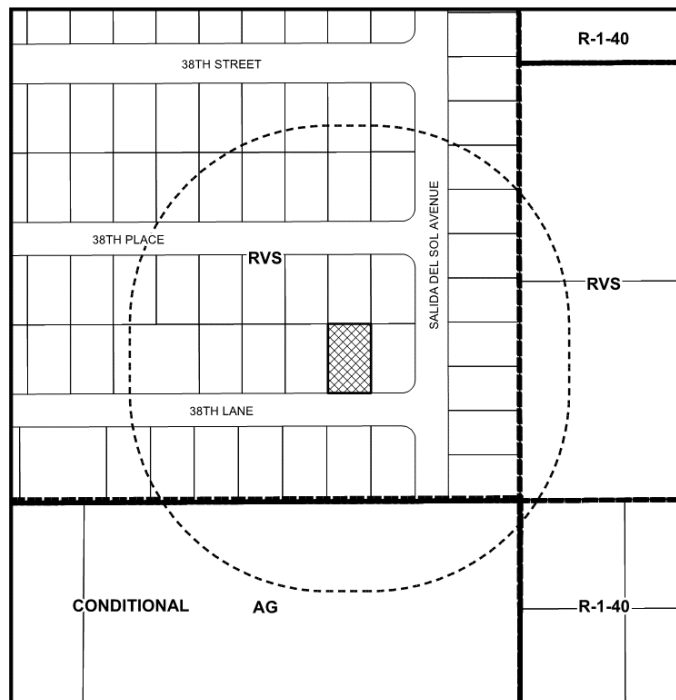
Project

Description/Location:

This is a request by Anne-Marie Mirante and Richard Fay for a one-year time extension to a previously approved variance (VAR-33872-2021) to reduce the side setbacks from 7' to 3'5", the rear yard setback from 10' to 4'7", and increase the allowable height for accessory structures from 15' to 18' for two RV shade structures and two storage trailers in the Recreational Vehicle Subdivision (RVS) District, for the property located at 9732 E. 38th Lane, Yuma, Arizona.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
North	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
South	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
East	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential
West	Recreational Vehicle Subdivision (RVS) District	Residential	Low Density Residential

Location Map:



Prior site actions: Annexation: Ord. O98-67 (09/17/1998); Subdivision: Vista Del Sol Unit 5 (01/09/2004); Rezone: Z98-026 (November 10, 1998); Code Enforcement Case No. BS006158- 2020; Variance: VAR-33872-2021

Staff recommendation: Staff recommends **APPROVAL** of the request for a one-year time extension to a previously approved variance (VAR-33872-2021) to reduce the side yard setbacks from 7 feet to 3 feet 5 inches, the rear yard setback from 10 feet to 4 feet 7 inches, and to increase the allowable height for accessory structures from 15 feet to 18 feet for two RV shade structures and two storage trailers in the Recreational Vehicle Subdivision (RVS) District, subject to the conditions listed in listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (If "YES", attach vicinity map showing locations of those variances)			Yes.
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
VAR-12685-2016	Reduce the rear yard setback from 10 feet to 6 feet to allow a 459 square foot awning/carport for parking.	Approval	Approved
VAR-12369-2015	Reduce the side yard setback from 7 feet to 6 feet for a 220 square foot carport.	Denial	Approved
VAR-11540-2015	Reduce the rear yard setback from 10 feet to 7 feet for an awning/carport.	Approval	Approved
VAR-2488-2012	Reduce the rear yard setback from 10 feet to 4 feet and the side yard setback from 7 feet to 3 feet 6 inches for three sheds ranging in size, shed 1- 164 square feet, shed 2- 198 square feet, and shed 3- 96 square feet.	Denial	Approved with modifications
VAR-2487-2012	Reduce the rear yard setback from ten feet to seven feet for a 212 square foot shed.	Denial	Approved
HO2009-001	Reduce rear yard setback from 10 feet to 3 feet 8 inches and reduce the side yard setback from 7 feet to 3 feet 3 inches.	Denial	Approved
HO2008-001	Reduce the 7 foot side yard setback to 5 feet.	Denial	Approved
MV2006-008	Decrease the side yard setback from 7 feet to 5 feet 8 inches and the rear yard setback from 10 feet to 8 feet for a 154 square foot shade structure.	Approval	Approved

Staff Analysis: The subject property, located within the Vista Del Sol Unit 5 Subdivision, is located approximately 70 feet west of E. 38th Lane and S. Salida Del Sol Avenue. This property is a typical shape, as are most of the other lots in the subdivision and is approximately 6,825 square feet. The setbacks for the Recreational Vehicle Subdivision (RVS) District are as follows: the front yard setback is 10 feet, the side yard setbacks are 7 feet, and the rear yard setback is 10 feet. Additionally, the maximum height for accessory structures is 15 feet. Per the City of Yuma Zoning Code, access to parking and one parking space are required to be paved.

Currently, the property features two RV's, two RV shade structures, and two mobile metal storage containers in the rear, one measuring 192 square feet and the other measuring 176 square feet, both of which encroach into the rear and side yard setbacks. The applicant also constructed the two RV shade structures that encroach into the side yard setbacks, one measuring 780 square feet and the other measuring 836 square feet. Additionally, both shade structures exceed the maximum height for accessory structures, measuring at 18 feet in height. The applicant did not apply for a building permit prior to the construction of the structures.

In 2021, the applicants, Anne-Marie Mirante and Richard Faye, applied for a variance (VAR-33872-2021) to reduce the side yard setbacks from 7 feet to 3 feet 5 inches and increase the allowable height for an accessory structure from 15 feet to 18 feet for the RV shade structures, and reduce the rear setback from 10 feet to 4 feet 7 inches for the placement of the storage containers. In response to the four findings of fact needed for a variance approval, the applicants indicated that they merely followed what others in their neighborhood had constructed, noting that most did not comply with the Yuma City Code. The Code Enforcement Division received a complaint from a neighbor who was concerned about one of the storage structures in the rear setback and a large pipe structure in the side yard setback. The property did not meet the criteria for a variance as set forth in §154-03.04(D)(1) of the Yuma City Code and therefore Staff recommended denial of the request. During the public outreach process for the variance, multiple neighbors voiced their concern and opposition regarding the placement of these structures in such close proximity to property lines.

The variance was ultimately approved by the Hearing Officer on April 8, 2021. On March 16, 2022, the applicant requested a one-year time extension to meet the conditions of approval for Variance Case No. 33872-2021. There are no proposed changes to the approved variance request. The applicant's reason as to why a time extension is requested is due to "health issues and financial burden."

2. Are any of the adjacent property owners opposed to this request? Yes.

Public Comments Received: Yes.

Name:	Betty Bonifacius			Contact Information: (209)483-5906						
Method of Contact:	Phone	<input checked="" type="checkbox"/>	FAX		Email		Letter		Other	
<p>4/11/2022</p> <p>9745 E. 38th Place Yuma, AZ 85365</p> <p>Lives behind the residence, I opposed to the granting of a time extension as they have had time to comply with the previous conditions. States they are adding to existing structures, which allow the applicants to look into their yard, and feels they are not abiding by the rules set by the City.</p>										

External Agency Comments: See Attachment E.

Neighborhood Meeting Comments: No Meeting Required.

Proposed conditions delivered to applicant on: April 25, 2022

Final staff report delivered to applicant on: April 28, 2022

- Applicant agreed with all of the conditions of approval on:
- Applicant did not agree with the following conditions of approval: (list #'s)
- The conditions of approval were e-mailed to the applicant and a response was not received.

Attachments

A	B	C	D	E	F	G
Conditions of Approval	Site Plan	Variance Analysis	Public Comments from Variance	Agency Notifications	Agency Comments	Site Photos

Prepared By: *Erika Peterson*
Erika Peterson
Associate Planner

Date: April 28, 2022

Erika.Peterson@YumaAZ.Gov (928)373-5000, x3071

Approved By: *Alyssa Linville*
Alyssa Linville,
Assistant Director, Planning and Neighborhood Services

Date: April 28, 2022

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

Department of Planning and Neighborhood Services Comments: Alyssa Linville, Assistant Director Community Planning, (928) 373-5000 x 3037:

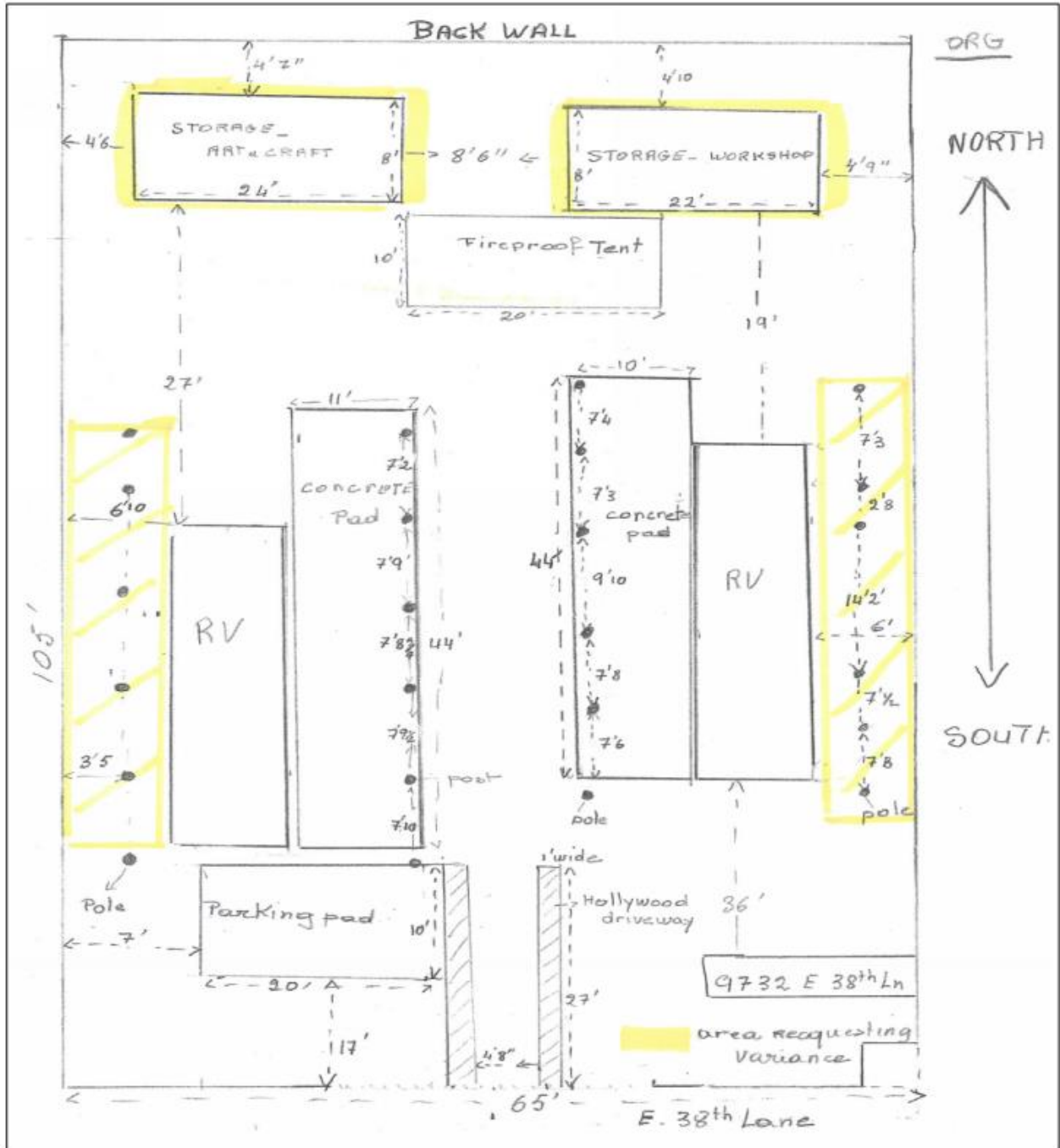
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate notarized and recorded "Waiver of Claims" document.

Community Planning, Erika Peterson, Associate Planner, (928) 373-5000 x 3071:

3. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
4. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

**ATTACHMENT B
SITE PLAN**



**ATTACHMENT C
VARIANCE ANALYSIS**

Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) “There is a special circumstance(s) or condition(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”

Is this statement correct for this application?

Yes No

Applicant Response: Applicant response from original variance narrative: *“The properties on E. 38th Lane as well as most of the properties in Vista Del Sol consist of stick built or manufactured homes. All these homes have OUTSIDE STRUCTURES (shade, casitas, storage units, Car & RV shade structures). Most of these do not comply with the Zone or Fire Codes set by the City.”*

Staff Analysis: Staff analysis from original variance: This lot has the same dimensions, topography, and characteristics as neighboring properties in the subdivision. There are no special circumstances, conditions, or unique physical features that apply to this property that do not apply to most other properties in the district. The applicant placed the two storage containers in the side and rear yard setbacks and also hired someone to construct the two RV shade structures and placed them in the side yard setbacks. The applicant states in the narrative that all the homes in the subdivision have outside structures which most do not comply with codes set by the City of Yuma.

B) “The special circumstance was not created or caused by the property owner or applicant.”

Is this statement correct for this application?

Yes No

Applicant Response: Applicant response from original variance narrative: *“When we decided to have our lot improved, we studied all the properties and duplicated some of their set ups, however we set our structures farther away from all our property lines. Some of our neighbor’s properties have structures from a few inches to a few feet from their property lines not in compliance.”*

Staff Analysis: Staff analysis from original variance: There are no special circumstances that apply to this property. The property owner created this issue when they failed to receive proper authorization for the construction/placement of the structures. Relying on the placement of neighboring structures is not a reasonable justification for the granting of a variance.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

Yes No

Applicant Response: Applicant response from original variance narrative: *“When it was time to choose the material to construct the RV shade covers, we gave a lot of time and consideration to our neighbors and to the esthetics of the covers. We chose a pitched roof with Terracotta color to blend with the roof tops of the houses and beige walls to blend with color of the houses. All this to PRESERVE THE ENJOYMENT and CONTINUITY of the NEIGHBORHOOD!”*

Staff Analysis: Staff analysis from original variance: This variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity under identical zoning designations. There are many illegal accessory structures within this subdivision that are encroaching into the side and rear yard setbacks. There are no special circumstances that apply to the property; the applicant has the ability to develop the property following the development standards set forth in the Recreational Vehicle Subdivision (RVS) District section of the Zoning Code.

D) “The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare.”

Is this statement correct for this application?

Yes No

Applicant Response: Applicant response from original variance narrative: *“When we decided upon the style of our construction, we hired a PROFESSIONAL CONTRACTOR (who has done many such projects) to build our shade covers. Upon request from the City of Yuma we hired a structural engineer to consult with and inspect the construction, some correction will be made to CONFIRM our shade covers **will not be** Detrimental to any Person(s) Residing, or Working, in the Vicinity, Adjacent to Property, to the Neighborhood or to the Public Health, Safety, and General Welfare.*

The neighbors on both sides of our property will benefit from the shade Created by our Structures during the morning and afternoon sun.

We are very responsible people: we enjoy a clean and tidy surrounding. I am a retire nurse and Richard is a retired food salesman that is highly organized and had to return to work to help pay for the EXTRA EXSPENCE of our shade structures.

We would love to be allowed to continue the improvements or our lot in order to spend our last years in peace and serenity.”

Staff Analysis: Staff analysis from original variance: While there have been several variance requests that have been approved for reduced side and rear yard setbacks, the structures were much smaller in size compared to the two RV shade structures. The applicant is requesting to reduce the side yard setbacks from 7 feet to 3 feet 5 inches and the rear setback from 10 feet to 4 feet 7 inches. Additionally, a couple of the neighbors have voiced their concern in regards to the construction, use, placement of the structures on the property. The granting of this variance will be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety and general welfare as the structures are not aesthetically compatible with the surrounding area.

ATTACHMENT D
PUBLIC COMMENTS FROM VARIANCE

From: dandcries@gmx.com
Sent: Saturday, March 20, 2021 11:17 AM
To: Peterson, Erika S. - Assistant Planner
Subject: Case #var33872-2021
Attachments: IMG_20210320_103247533.jpg

Attached is the "view" from our patio of the north side of the lot in this case. It appears that the west "storage trailer" may have been made as a living unit. Our only question is whether the red awnings are so close to the brick wall that any serious rain runoff might undermine the integrity of the wall. David and Cheryl Ries
9731 E 38th Pl



**ATTACHMENT E
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (03/19/21)
- 300' Vicinity Mailing: (03/10/21)
- Site Posted on: (04/01/21)
- 34 Commenting/Reviewing Agencies Noticed: (03/10/21)
- Neighborhood Meeting Date: N/A
- Hearing Date: (04/08/2021)
- Comments Due: (03/22/21)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	4/6/2022	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	4/5/2022	X		
Yuma County Planning & Zoning	YES	4/14/22	X		
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	4/6/2022	X		
Yuma Irrigation District	NR				
Arizona Fish and Game	YES				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	4/7/2022	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	4/7/2022			X
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	4/6/2022	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

**ATTACHMENT F
AGENCY COMMENTS**

City of Yuma Fire Department provided comment from original variance:

Conditions of approval must be written in the form of a formal condition for use in Planning and Zoning staff reports. Your conditions will be used verbatim. If you also have a comment, please indicate below.

Condition(s)

No Condition(s)

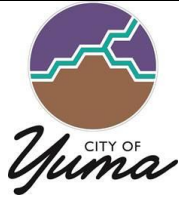
Comment

Enter conditions here: fire will defer to Building Safety's comments

DATE: 3/15/21 NAME: Kayla Franklin TITLE: Fire Marshal
CITY DEPT: Fire
PHONE: 928-373-4865
RETURN TO: Erika Peterson
Erika.Peterson@YumaAZ.gov

ATTACHMENT G
SITE PHOTOS





**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Chad Brown**

Hearing Date: May 5, 2022

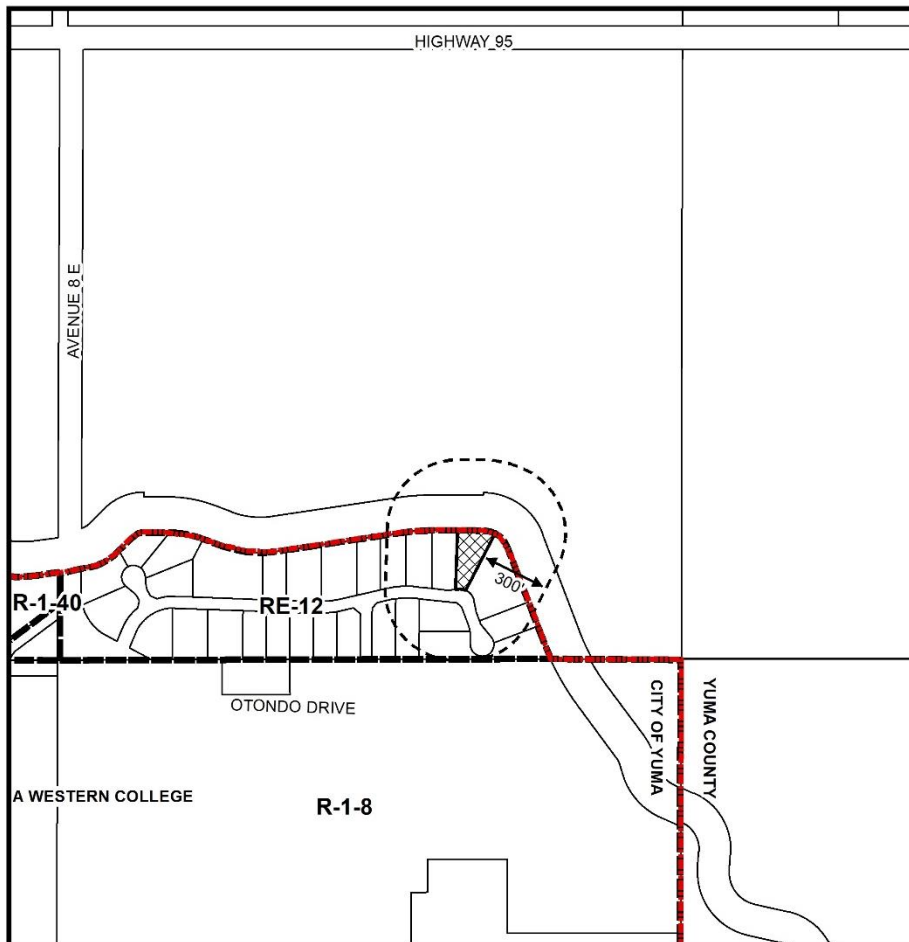
Case Number: VAR-039102-2022

Project

Description/Location: This is a request by Deborah G Ybarra on behalf of Shannon Gonzalez, for a variance to reduce the side yard setbacks from 10' to 7' to accommodate the placement of a new single-family home, in the Residential Estate (RE-12) District, for the property located at 8334 E. Adobe Ridge Road, Yuma, AZ.

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Residential Estate (RE-18)	Single-Family Home	Low Density Residential
North	Yuma County	Canal	Agriculture
South	Residential Estate (RE-18)	Single-Family Home	Low Density Residential
East	Residential Estate (RE-18)	Single-Family Home	Low Density Residential
West	Residential Estate (RE-18)	Single-Family Home	Low Density Residential

Location Map:



Prior site actions: Annexation: May 8, 1999 (Ordinance No. O99-20); Rezone Z1999-003 (Ordinance No. O99-038); Subdivision S20001-001 (April 19, 2000); Variance: November 12, 2020 (VAR-32273-2020).

Staff recommendation: Staff recommends **APPROVAL** of the request to allow the reduction of the side yard setbacks from 10' to 7', in the Residential Estate (RE-12) District, subject to the conditions outlined in Attachment A, because it meets the criteria of §154-.03.04 of the Yuma City Code.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (If "YES", attach vicinity map showing locations of those variances)			Yes
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
MV-2005-018	Rear yard 20 ft. to 18.47 ft.	Approval	Approved
VAR-32273-2020	Reduce side yard setback from 10' to 7' on one side.	Approval	Approved

Staff Analysis: The subject property is located in the Adobe Ridge Subdivision, lot 18. The property was annexed into the City of Yuma on May 8, 1999 and later rezoned to Residential Estate (RE-12). The setbacks required of this district are as follows: 25' front yard, 10' side yard, 20' rear yard, and 15' street side.

Most of the homes in the community have a street frontage of approximately 100 feet. The subject property has the smallest amount of street frontage at approximately 43.5 feet. Previously the lot to the east of the subject property had a similarly narrow frontage, but that lot and the lot further to the east were tied in an effort to create a more buildable area.

In 2020, the subject property received a variance to reduce the west setback from 10' to 7' (VAR-32273-2020; see Attachment E); this variance expired as a result of the conditions of approval not being completed. The new request, on behalf of a new property owner with a different home design, is seeking to reduce both side yard setbacks from 10' to 7'. Due to the narrow frontage, without a variance, the front of the home would need to be set back significantly from the front property line in order to meet the required setbacks. This was presented as an issue by the homebuilder as the lot has a very steep grade from the front of the lot to the rear, and the closer the home can be built to the street the less earthwork will be required.

There are several special circumstances impacting this property: 1) the frontage is narrower than all the parcels in the subdivision, 2) there is a significant topography change from the front to the back of the lot, 3) the lot is placed on a cul-de-sac which results in an irregular frontage, 4) neighboring lots do not face the same barriers to development. Together, these circumstances significantly limit the buildable area for the subject property. The granting of this variance would allow the property owner to build their home closer to the roadway, in-line with neighboring homes.

Property owners within 300' of the subject property were notified of the request and as a result staff received a couple comments, which are further detailed later in the report. In addition to these comments received, a neighborhood meeting was held

on-site, inviting area residents to learn about the request and ask any questions they may have (see Attachment G).

1. Does the proposed variance meet the criteria of §154-03.04(D)(1) of the Yuma City Code?

A) “There is a special circumstance(s) or conditions(s) that applies to the property, building, or use referred to in the application, that does not apply to most other properties in the district.”

Is this statement correct for this application?

Yes No

Applicant Response: “Due to our narrow and unusually shaped property plus the lack of average and extreme slopes, we are applying for a side variance of seven feet on the east and west side of the property.” (Full narrative on Attachment C).

Staff Analysis: The special circumstances for this property are that the frontage is more narrow than most lots in the subdivision, there is a significant topography change beginning near the middle of the lot, neighboring lots do not face the same barriers to development, and the lot is located on a cul-de-sac which results in an irregularly shaped lot. The lot is narrow in the front and widens in the rear. The development standards for the Residential Estate (RE-12) District are challenging for this unique property, unlike most of the other regularly shaped lots in the subdivision.

B) “The special circumstance was not created or caused by the property owner or applicant.”

Is this statement correct for this application?

Yes No

Applicant Response: “Ninety-nine percent of the properties in the subdivision have very traditional rectangular-shaped lots that our has not been afforded.”

Staff Analysis: The property owner did not subdivide the property, and therefor did not create the special circumstance.

C) “The granting of the variance is necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations.”

Is this statement correct for this application?

Yes No

Applicant Response: “A variance is requested for the following reasons:

-To comply with the Covenants Conditions and Restrictions, and Architectural Controls of a 3000 sq. foot structure and parking structures.

-The unique shape and narrow easements on each side.

-To be able to fit the design comfortably on the lot.” (Full narrative on Attachment C).

Staff Analysis: The variance request would allow the property owners of this irregularly shaped lot, to construct a single-family residence with placement on the property in a similar manner to the neighboring homes.

D) "The granting of the variance will not be materially detrimental to any person residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public health, safety, and general welfare."

Is this statement correct for this application?

Yes No

Applicant Response: "Granting us this variance will help us meet the current CCR's and save us a considerable amount of time, money, and materials."

Staff Analysis: Granting this variance request would not be materially detrimental to any person residing in the vicinity, nor would it pose a public, health and safety concern. Approval of this variance request will enable the owner to construct a single-family home in keeping with the character of the surrounding properties.

2. Are any of the adjacent property owners opposed to this request?

Yes. Comments below.

Public Comments Received:

Commentary from the property owner west of the subject property received as an email:

From: Jessica Haile <thurber86@yahoo.com>
Sent: Monday, April 18, 2022 11:17 AM
To: Brown, Chad - Associate Planner <Chad.Brown@yumaaz.gov>
Cc: Justin Haile <fourthavegym@aol.com>
Subject: Side Yard Variance_Case_VAR-39102-2022_Homeowner Comments

⚠ CAUTION: External Email

Good morning Chad,
I hope you had a nice Easter weekend. My husband left a voicemail for you last week, but I'm writing in regards to Case # VAR-39102-2022 request by Deborah G Ybarra on behalf of Shannon Gonzalez for a variance to reduce the side yard setbacks from 10' to 7' to accommodate a new single family home for the property located at 8334 E Adobe Ridge Road, Yuma, AZ.

On March 14, 2022 my husband, Justin Haile, received a phone call from Ms. Ybarra's phone number, however the child of Ms. Ybarra was the one who spoke. Ms. Ybarra's child asked if his family could reduce the side yard distance and build their home closer to ours. My husband and I discussed and responded back to Ms. Ybarra's phone number in text message and stated the following:

"Hey I'm really sorry, but I'm going to need to say no on that. My house is over 5,000 sq feet so its going to take up all my space so any extra separation that I can have for that size home I would like to keep it that way. Sorry I couldn't help not sure if you can ask the neighbors to the east of you. Anything else let me know"

To which Ms. Ybarra replied:

"No problem. Thank you so much!"

(I have attached a screen shot with timestamp for your review.)

Now, a month later we are being summoned to a public hearing regarding this matter. We again would like to respectfully decline reducing the variance from 10' to 7'. We purchased this land

specifically to have a little more space between neighbors (*we are coming from a standard subdivision*), and we also want the view. We would like to maintain as much space between homes as possible. We would like to keep the side yard setbacks at 10' please. I appreciate you taking the time to read my comments in regards to this case.

If you have any questions or concerns, please feel free to reach out, otherwise I will be at the Public Hearing on May 5, 2022.

Kind regards,

Jessica Haile BBA, RT (R), RDMS

928-750-6384

Chad Roberts,

4-18-2022

CASE# VAR-39102-2022

This letter is in reference for a land variance to reduce the setback from 10' to 7' at 8334 E, Adobe Ridge Road, Yuma AZ. My name is Justin Haile and I own the lot next to this future house to the west. I would like the City of Yuma to decline the request by Deborah G Ybarra to move her home 3' closer to my future home.

On March 16th Deborah had her son reach out to me from her cell phone on a call to ask if it would be ok to have the 7' setback instead of the 10'. I told them I would let them know later that day. Later that afternoon I texted Deborah's cell at 4:20pm to let her know that I wanted to keep the 10' setback and was not interested in doing the 7' since I will need all the extra space possible for the size home that I am building on my lot. They texted back to me (No problem, Thank you so much!)

The big concerns that I have on this is that I paid a lot of money for that lot to build a custom home on a custom lot with a better setback from my neighbor than I do right now. The subdivision I live in now has a 7' foot setback and I defiantly don't want to have the same thing in Adobe Ridge. The home I am planning to build is also 5,000+ sq feet so all the space I can have I need between my two neighbors. A house of this size I was still able to stay within the requirements of the 10' setback that is called for those custom lots.

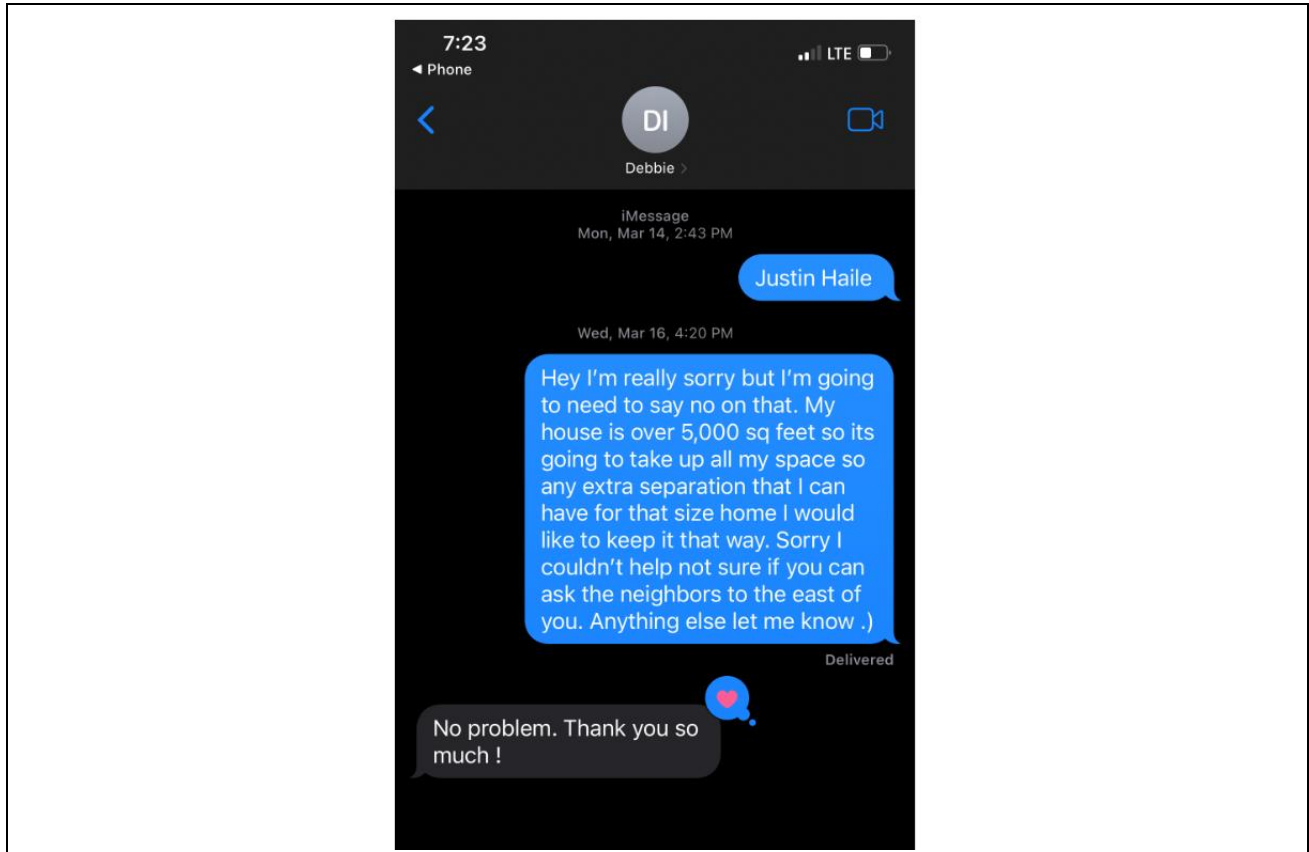
I ask again for the City of Yuma to decline the request by Deborah Ybarra and have them stay within the requirements setbacks for that area.

Thank You,

Justin Haile

928-246-497

bkbmlc@gmail.com



Commentary from the neighbor to the east of the subject property:

From: Victoria Bardo <bardo.vicki@gmail.com>
Sent: Monday, April 11, 2022 10:46 AM
To: Brown, Chad - Associate Planner <Chad.Brown@yumaaz.gov>
Subject: VAR-39102-2022

CAUTION: External Email

Chad--I have a previous commitment on 4/14/2022 and will not be available for the scheduled on-site meeting regarding VAR-39102-2022. However, I find the request acceptable, with the understanding that my road that is adjacent to the subject property is not to be used under any circumstances.

Victoria C. Bardo
8352 Adobe Ridge Rd, Yuma, AZ 85365
928-246-1468

Commentary from the neighbor to the south of the subject property. After staff dialogued with the customer, the customer stated they would send an email if they would formally state if they support or do not support the variance:

Good morning,

I used to work for the county for over 12 years for the Assessor and in the GIS department. I am a neighbor and friend of Justin Haile and am trying to understand the plan of the new owners of the lot in this case to help make a decision. Is there any way you can show us the building/lot layout so we can save everyone some time? I was talking with Ms. Bardo and she was telling me that the new owner of this lot wants to put a driveway on the side bordering Mr. Haile's property and that it will not infringe on his property. If that is the case, it may be fine, but we need to see the layout.

If the house being built will be that much closer, we will be in opposition. Other neighbors as well will also oppose it.

I called and left you a message...hope to hear from you soon. I left my number in the voicemail, but it is 928-246-1436.

Thank you,

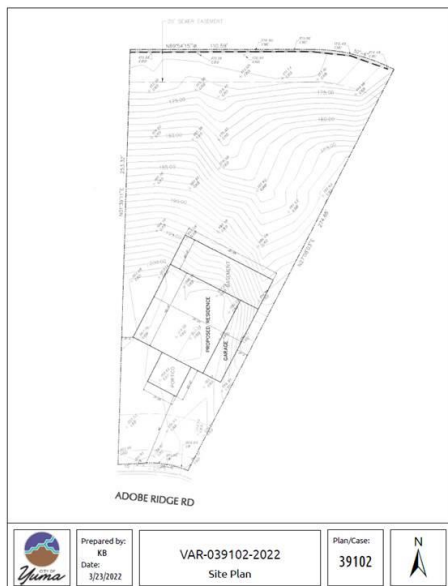
Breanna Miller

On Fri, Apr 22, 2022, 12:22 PM Brown, Chad - Associate Planner <Chad.Brown@yumaaz.gov> wrote:

Hello Breanna,

Thank you for reaching out.

The following is what was submitted with the application for the variance, which insinuates that the driveway will be on the east side of the lot, however it is not illustrated:



I am happy to have any comments. These may be added to the staff report so that the Hearing Officer (the final decision maker) can see the dialogue that has happened involving this variance.

Please let me know if you have any other questions. Would you still like a call back?

Thank you,

Chad

External Agency Comments: See Attachment F.

Neighborhood Meeting Comments: See Attachment G.

Proposed conditions delivered to applicant on: April 25, 2022

Final staff report delivered to applicant on: May 5, 2022

<input checked="" type="checkbox"/>	Applicant agreed with all of the conditions of approval on: April 26, 2022
<input type="checkbox"/>	Applicant did not agree with the following conditions of approval: (list #'s)
<input type="checkbox"/>	(If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.)

Attachments

A	B	C	D	E	F	G	H	I	J	K
Conditions of Approval	Site Plan	Applicant Narrative	Agency Notifications	Variance Received in 2020	Agency Comments	Neighborhood Meeting Comments	Site Photos	Neighbor Notification List	Neighbor Postcard	Aerial Photo

Prepared By: *Chad Brown*

Chad Brown
Associate Planner

Date: April 28, 2022

Chad.Brown@yumaaz.gov (928) 373-5000, x 3038

Approved By: *Alyssa Linville*

Alyssa Linville,
Assistant Director Community Planning

Date: April 28, 2022

**ATTACHMENT A
CONDITIONS OF APPROVAL**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed variance for the site:

Department of Planning and Neighborhood Services Comments: Alyssa Linville, Assistant Director (928) 373-5000, x 3037:

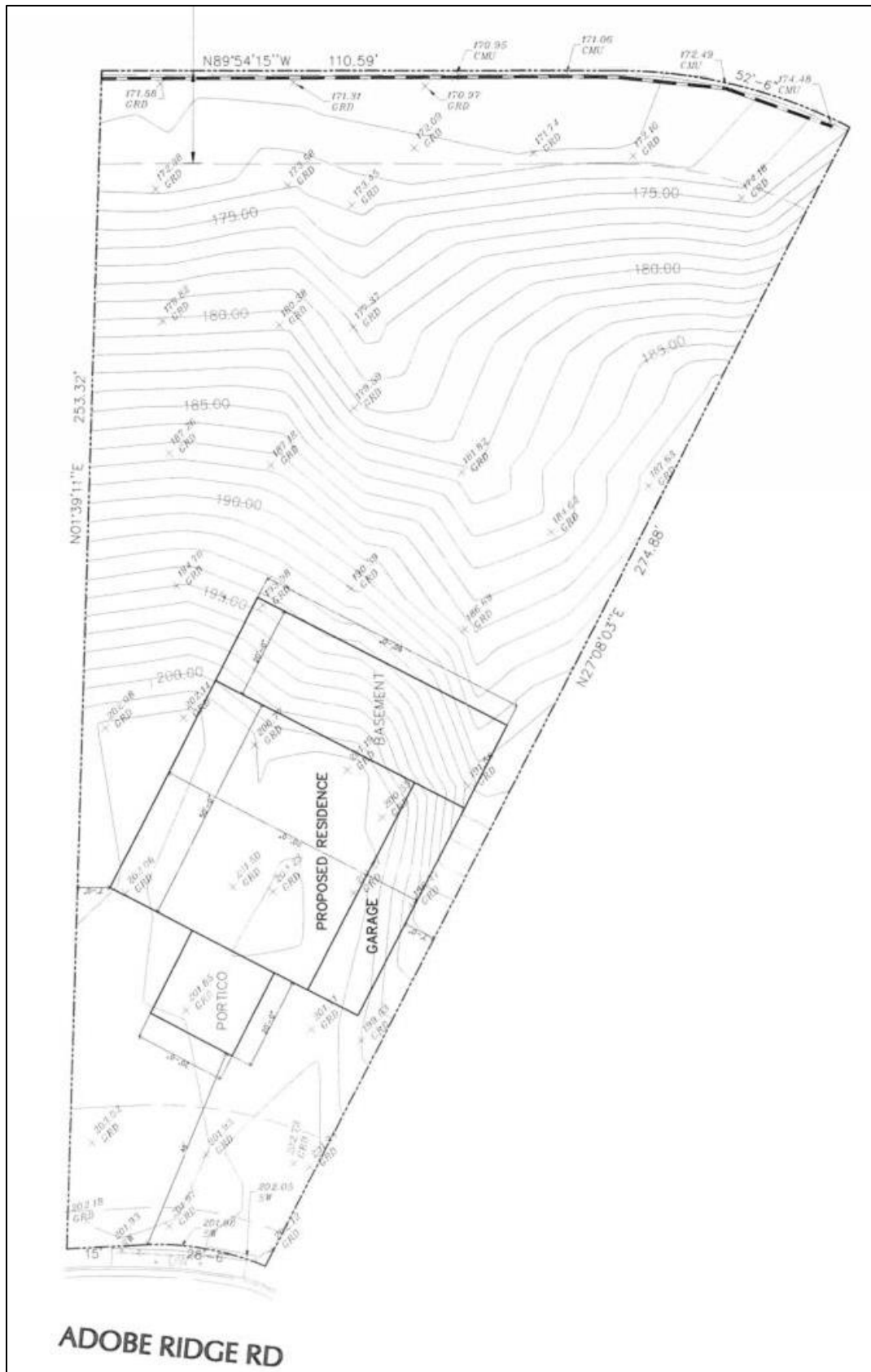
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning: Chad Brown, Associate Planner, (928) 373-5000 x 3038

3. The conditions listed above shall be completed within one (1) year of the effective date of the approval of the Variance or prior to the issuance of a Building Permit, Certificate of Occupancy or City of Yuma Business License for the property. In the event that the conditions are not completed within this time frame, the Variance shall be null and void.
4. In any case where a Variance has not been used within one year after the granting thereof, it shall be null and void.
5. Prior to the expiration date of the Variance, the applicant has the option to file for a one-year time extension.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
SITE PLAN



**ATTACHMENT C
APPLICANT NARRATIVE**

3/14/2022

Deborah G. Ybarra
8334 E Adobe Ridge Rd.
Yuma Az, 85365

To Whom it May Concern,

We appreciate your consideration to submit a variance request in reference to our property located at 8334 E Adobe Ridge Rd Yuma Az, 85365. Due to our narrow and unusually shaped property plus the lack of acreage and extreme slopes, we are applying for a side variance of seven feet on the east and west sides of the property. The previous owner was granted a variance on the west side of the lot in 2020, but it has expired.

A variance is requested for the following reasons:

- To comply with the Covenants Conditions and Restrictions, and Architectural Controls of a 3000 sq. foot structure and parking structures. See Addendum A
- The unique shape and narrow easements on each side. See addendum A
- To be able to fit the design comfortably on the lot.

Due to the extensive and mandatory architectural controls and covenants, conditions and restrictions, the minimum dwelling square footage is 3,000 square feet confined our construction space. Since our choice of metal construction material (for environmental and budgetary purposes), we cannot conform to the same design layout of the previous owner as our basement will have to be detached. The proposed setbacks, do not diminish the building and fire code life safety requirements.

To ensure our request is not detrimental to any person(s) residing in the area, we sought the advice of the direct property owner on for the new variance on the east side of the lot to ensure they are satisfied with the request. We have also sought the direction of the homeowner's association's architectural committee to ensure this is an acceptable request. Ninety-nine percent of the properties in the subdivision have very traditional rectangular-shaped lots that ours has not been afforded. Granting us this variance will help us meet the current CCR's and save us a considerable amount of time, money, and materials. We greatly appreciate your consideration in our request to meet the homeowner's association's covenants and complete our home.

Best Regards,



**ATTACHMENT D
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (4/27/22)
- 300' Vicinity Mailing: (4/13/22)
- Site Posted on: (4/7/22)
- 34 Commenting/Reviewing Agencies Noticed: (4/13/22)
- Neighborhood Meeting Date: (4/14/22)
- Hearing Date: (5/5/22)
- Comments Due: (4/25/22)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	4/6/22			
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	NR				
Yuma County Planning & Zoning	YES	4/14/22	X		
Yuma County Assessor	NR				
Arizona Public Service	NR				
Time Warner Cable	NR				
Southwest Gas	NR				
Qwest Communications	NR				
Bureau of Land Management	NR				
YUHS District #70	NR				
Yuma Elem. School District #1	NR				
Crane School District #13	NR				
A.D.O.T.	YES	4/6/22	X		
Yuma Irrigation District	NR				
Arizona Game and Fish	NR				
United States Postal Service	NR				
Yuma Metropolitan Planning Org.	NR				
El Paso Natural Gas Co.	NR				
Western Area Power Administration	YES	4/6/22	X		
City of Yuma Internal List (Conditions)	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Police	NR				
Parks & Recreation	NR				
Development Engineering	NR				
Fire	YES	4/7/22	X		
Building Safety	YES	4/6/21	X		
City Engineer	YES	4/7/22	X		
Traffic Engineer	NR				
MCAS / C P & L Office	YES	4/6/22		X	
Utilities	NR				
Public Works	NR				
Streets	NR				


**ATTACHMENT F
AGENCY COMMENTS**

Condition(s)

No Condition(s)

Comment

Enter conditions here: MCAS Yuma has reviewed the request for APN 669-42-018 and offer the following condition. The subject parcel is located near a known flight path. If not already in place, it is requested that an Avigation easement be recorded that recognizes the noise, interference or vibrations due to aviation operations that may occur at the nearby MCAS Yuma, Yuma International Airport Aviation Complex, and its associated flight paths. Please send a copy of the recorded easements to MCASYUMA_CPLO@usmc.mil. Thank you for the opportunity to review and comment.

DATE:	6 April 2022	NAME:	Antonio Martinez	TITLE:	Community Liaison Specialist
CITY DEPT:	MCAS Yuma				
PHONE:	928-269-2103				
RETURN TO:	Chad Brown				
	Chad.Brown@YumaAZ.gov				

Original subdivision case received an Avigation in 2002, Fee #2002-36027.

ATTACHMENT G
NEIGHBORHOOD MEETING COMMENTS

Date Held: 4/14/22

Location: 8334 East Adobe Ridge; subject property.

Attendees: Chad Brown; City of Yuma, David Garrison; future home builder, Debi Ybarra; property owner, Stephanie Aguilar; Neighboring property owner, Malach Ybarra; subject property owner's assistant.

SUMMARY OF ATTENDEE(S)' COMMENTS RELATED TO THE PROJECT:

- **STAFF STATED WHAT THE VARIANCE REQUEST WAS FOR.**
- **NEIGHBOR WAS IN SUPPORT OF THE PROPOSED REDUCTION.**
- **NO PARTICULAR QUESTIONS FOR STAFF.**
- **ONE OF THE OWNER'S AGENTS, DAVID GARRISON, HAD PLACED REBAR IN THE SOIL TO ILLUSTRATE WHERE THE BEGINNING OF THE BUILDABLE AREA WOULD BE IF THE VARIANCE IS APPROVED.**

ATTACHMENT H SITE PHOTOS

Photos illustrate large change in elevation on the subject property.



**ATTACHMENT I
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City/State/Zip Code		
ARIZONA WESTERN COLLEGE POLITICAL SUB	PO BOX 929	YUMA	AZ	85366
JWS ROYAL AZ LLC	502 E MARLETTE AVE	PHOENIX	AZ	85012
CLARK RON & HEATHER TRUST 4-24-2015	8289 E ADOBE RIDGE RD	YUMA	AZ	85365
WESTER EBBINGHAUS WERNER & CANDICE TRUST 6-1-1996	1637 W 34TH ST	YUMA	AZ	85365
MILLER CHRIS N TRUST 5-12-2015	8353 S ADOBE RIDGE RD	YUMA	AZ	85365
OLIVAR HECTOR JR & ANA ROSA JT	4181 W ARABIAN LN	YUMA	AZ	85365
CRAWFORD DANIEL W & PATRICIA S TRUST 9-29-2017	8376 ADOBE RIDGE RD	YUMA	AZ	85365
DRSRSS TRUST 12-11-2019	8364 E ADOBE RIDGE RD	YUMA	AZ	85365
GONZALEZ HENRY & SHANNAN CPWROS	8495 E OLIVE ANN LN	YUMA	AZ	85365
HAILE J & J TRUST 9-14-2021	4745 W 27TH PL	YUMA	AZ	85364
AGUILAR STEPHANE K	8302 E ADOBE RIDGE RD	YUMA	AZ	85365
DEMPSEY TIMOTHY R & TIFFANY A JT	8288 E ADOBE RIDGE RD	YUMA	AZ	85365
BARDO FAMILY TRUST 4-9-1991	8352 E ADOBE RIDGE RD	YUMA	AZ	85365

**ATTACHMENT J
NEIGHBOR MAILING**

This is a request by Deborah G Ybarra on behalf of Shannon Gonzalez, for a variance to reduce the side yard setbacks from 10' to 7' to accommodate the placement of a new single-family home, in the Residential Estate (RE-12) District, for the property located at 8334 E. Adobe Ridge Road, Yuma, AZ.

**MEETING DATES,
TIMES & LOCATIONS
FOR CASE #
VAR-39102-2022**

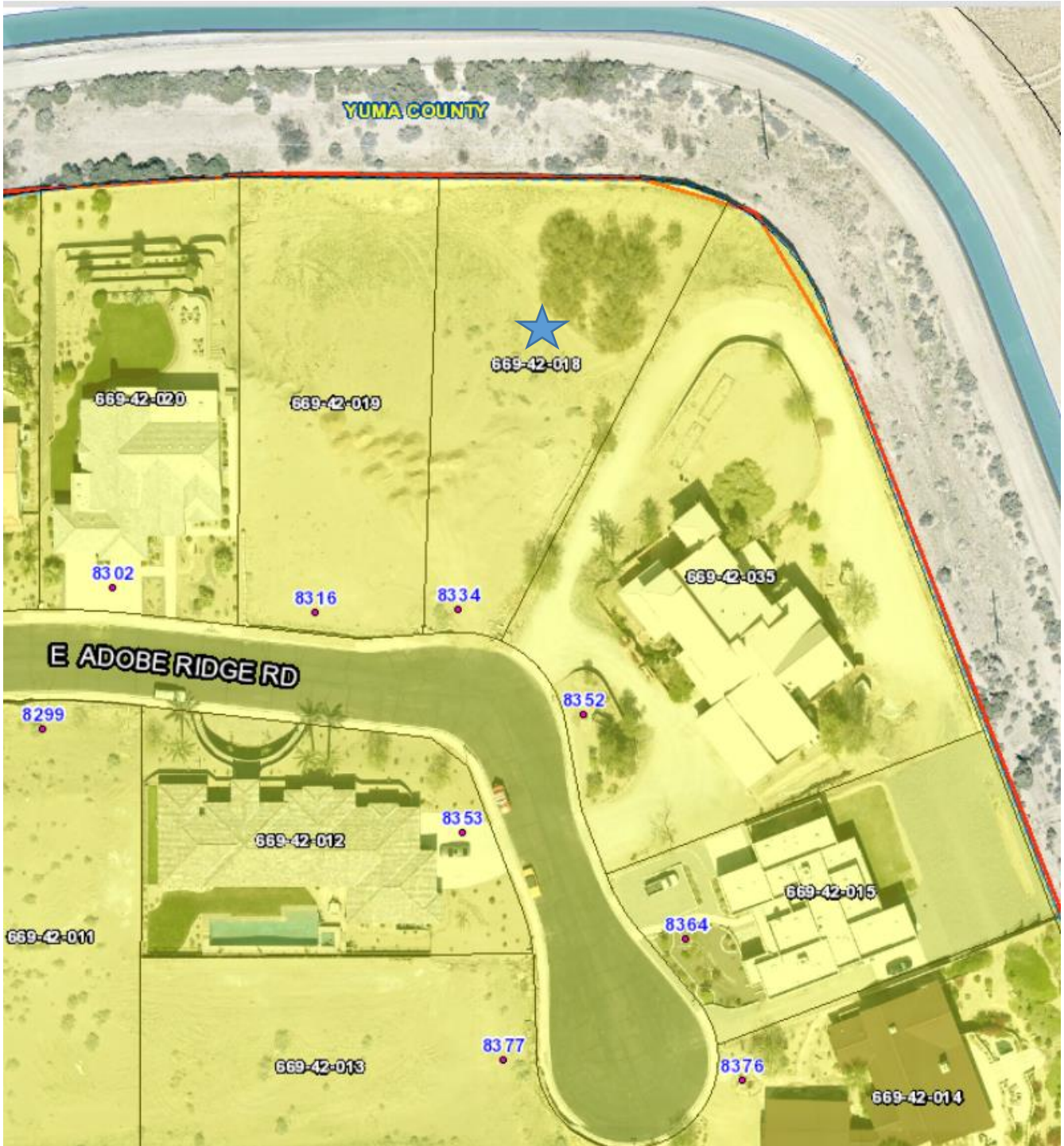
NEIGHBORHOOD MEETING
04/14/2022 @ 5:00PM
ON-SITE

PUBLIC HEARING
05/05/2022 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 8334 E. Adobe Ridge Road, Yuma, AZ, you are invited to attend the public hearing to voice your comments. If you have questions or wish to submit written comments, please contact Chad Brown by phone at (928)373-5000 ext. 3038 or by email at Chad.Brown@YumaAz.gov

ATTACHMENT K
AERIAL PHOTO



Subject property identified by the blue star symbol—the frontage area is less than half of all the neighboring property's frontage.