

**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 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 Thursday August 24, 2023 at 9:30 a.m. in City Council Chambers, One City Plaza, Yuma, AZ.

The Agenda for the hearing is as follows:



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

- August 10, 2023

APPLICATIONS TO BE CONSIDERED

1. **VAR-41572-2023**: *This is a request by Dan Kenley, on behalf of Lucia Garcia, for a variance to reduce the front yard setback from 20 feet to zero feet to allow the required parking to be located within the front yard setback in the High Density Residential (R-3) District, for the property located at 2690 S. James Avenue, 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) 373-5149.

Hearing Officer Meeting Minutes August 10, 2023

A meeting of the City of Yuma Hearing Officer was held on Thursday, August 10, 2023, at City Hall Council Chambers, One City Plaza, Yuma, Arizona.

HEARING OFFICER in attendance was Sonia Ramirez.

CITY OF YUMA STAFF MEMBERS present included Jennifer Albers, Assistant Director of Planning; Amelia Domby, Senior Planner; Zenia Fiveash, Assistant Planner; Guillermo Moreno-nunez, Assistant Planner; Emily Hart, Assistant City Attorney and Alejandro Marquez, Administrative Specialist.

Hearing Officer Sonia Ramirez called the meeting to order at 9:31 a.m.

CONSENT CALENDAR

Hearing Officer Sonia Ramirez approved the minutes of July 27, 2023.

PUBLIC HEARINGS

VAR-41468-2023: *This is a request by Antonio Alcocer II for a variance to reduce the side yard setback from 6 feet to 3 feet 9 inches and the rear yard setback to legalize the placement of an accessory structure 11 feet in height within the Low Density Residential (R-1-6) District. The property is located at 1819 W. 17th Place, Yuma, AZ.*

Zenia Fiveash, Assistant Planner, summarized the staff report and recommended **Denial**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Antonio Alcocer, 1819 W. 17th Pl., Yuma AZ, stated that he had already invested a considerable amount of money, and that he would like to be able to keep the storage shed.

Hearing Officer Sonia Ramirez asked how long had the shed been there. **Alcocer** replied eight months. **Hearing Officer Sonia Ramirez** then asked if **Alcocer** had anything more to add. **Alcocer** stated he hopes that an agreement can be made so that he may be able to keep the shed. **Hearing Officer Sonia Ramirez** then asked if there were other similar types of sheds in the neighborhood. **Alcocer** answered yes. **Hearing Officer Sonia Ramirez** asked if the other sheds are in close proximity to the wall. **Alcocer** replied yes.

Fiveash stated that there were other similar types of sheds constructed in the neighborhood, and that they were not in compliance.

Hearing Officer Sonia Ramirez stated that she did not see many Conditions in Attachment A other than the time limitation, then asked if that was correct. **Fiveash** answered yes, and that the Building Safety Department may add other requirements at a later time because the shed is in a flood zone, but those requirements will not be included until the applicant applies for the building permit.

Hearing Officer Sonia Ramirez then asked **Alcocer** if he had seen and understood the time restriction condition located in Attachment A. **Alcocer** replied yes.

PUBLIC COMMENT

None

DECISION

Hearing Officer **Sonia Ramirez** 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.

VAR-41582-2023: *This is a request by Wilson C. Okwuobu, for a Variance to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 67 feet in the Low Density Residential (R-1-6) District, for the property located at 2475 S. 43rd Trail, Yuma, AZ.*

Amelia Domby, Senior Planner, summarized the staff report and recommended **Denial**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Wilson C. Okwuobu and Katie Sass, on behalf of Legacy Healthcare, were available for questions.

Hearing Officer **Sonia Ramirez** asked if they had any questions or comments. **Okwuobu** gave a brief presentation about his company. **Okwuobu** then stated that he was not aware that there was another care facility close to the proposed project, and that the two facilities would not congest the community because the other facility is not located on the same street.

Hearing Officer **Sonia Ramirez** asked if there was any more comments.

Sass commented that the other facility was a care home not a substance abuse recovery facility, so it was not the same type of population.

Hearing Officer **Sonia Ramirez** asked if the facilities would be able to function without a variance. **Okwuobu** replied yes, if it was a five bed facility but since it is a ten bed a variance would need to be granted. **Okwuobu** went on to say that these types of facilities are very discreet and private, and that the neighbors most likely would not realize the facility is there.

PUBLIC COMMENT

None

DECISION

Hearing Officer **Sonia Ramirez** denied the request to reduce the required distance between Residential Care Facilities from 1,320 feet to approximately 67 feet in the Low Density Residential (R-1-6) District, for the property located at 2475 S. 43rd Trail, Yuma, AZ.

VAR-41566-2023: *This is a request by Heather King, for a Variance to increase the allowable fence height in the front yard setback from 3' to 6', in the Low Density Residential (R-1-8) District. The property is located at 4638 S. Marlin Dr., Yuma, AZ.*

Guillermo Moreno-nunez, Assistant Planner, summarized the staff report and recommended **Approval**.

QUESTIONS FOR STAFF

None

APPLICANT/APPLICANTS REPRESENTATIVE

Heather King, 4638 S. Marlin Dr., Yuma AZ, stated the reason for the request was that they would not be able to utilize either side of the house for accessibility to the backyard only from the front because of the shape of the lot, and that all of the other homes in the subdivision were rectangle and can use either side to access their back yard. **King** went on to say that their home only has two side walls and a front with no back wall, that's why they want to build the wall across the front so high.

PUBLIC COMMENT

None

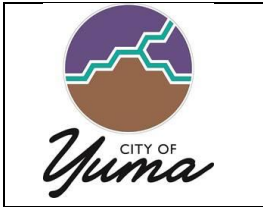
DECISION

Hearing Officer Sonia Ramirez 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.

Hearing Officer Sonia Ramirez adjourned the meeting at 9:46 a.m.

Minutes approved and signed this _____ day of _____, 2023.

Hearing Officer



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

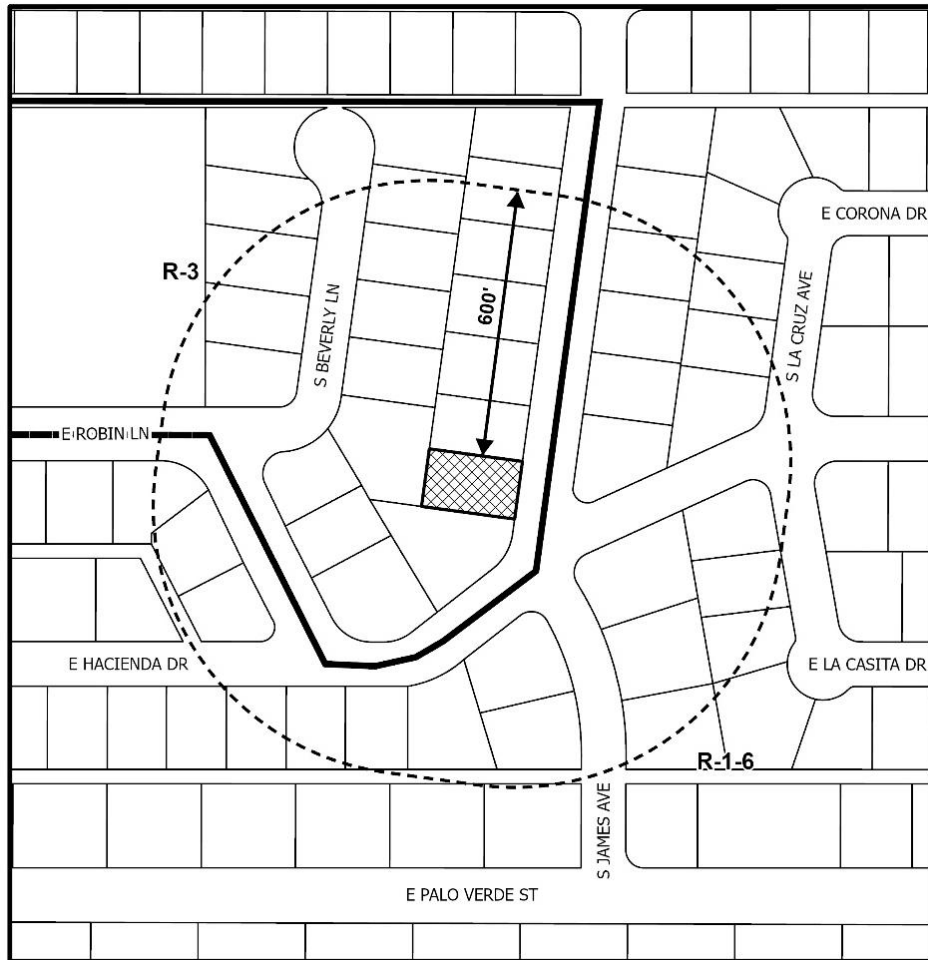
Hearing Date: AUGUST 24, 2023

Case Number: VAR-41572-2023

Project Description/Location: This is a request by Dan Kenley, on behalf of Lucia Garcia for a variance to reduce the front yard setback from 20 feet to zero feet to allow the required parking to be within the front yard setback in the High Density Residential (R-3) District, for the property located at 2690 S. James Avenue, Yuma, AZ

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	High Density Residential(R-3)	Single Family Residence	Medium Density Residential
North	High Density Residential(R-3)	Single Family Residence	Medium Density Residential
South	High Density Residential(R-3)	Single Family Residence	Medium Density Residential
East	Low Density Residential (R-1-6)	Single Family Residence	Low Density Residential
West	High Density Residential(R-3)	Single Family Residence	Medium Density Residential

Location Map:



Prior site actions: Annexation: (December 31, 1959); Subdivision: Holiday Park (October 10, 1964)

Staff recommendation: Staff recommends **DENIAL** of the request to reduce the front yard setback from 20 feet to 0 feet to allow the required parking to be within the front yard setback in the High Density Residential (R-3) District. Although Staff is not recommending approval of the request, if a variance is granted Staff recommends that the variance be conditioned to include those conditions listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district? (See Attachment J)			Yes
Case #	Nature of Variance Requested	Staff Recommendation	ZBA/Hearing Officer Action
BA02-66	Reduce side yard setback	Approval	Withdrawn
BA12-70	Reduce side yard setback	Approval	Approved
BA92-03	Reduce side yard setback	Approval	Approved

Staff Analysis: The subject property is located along James Avenue, within the Holiday Park Subdivision. The property features a single-family residence on a parcel which measures approximately 6,825 square feet, in the High Density Residential (R-3) District. The said property is subject to the following setback requirements: front yard setback of 20', side yard setback of 7', and rear yard setback of 10'.

According to the Yuma City Code, all required parking shall be located outside of the required front yard setback as specified in the applicable zoning district. When the property was developed, the garage, located outside of this front yard setback, satisfied this requirement. With this request, the applicant is seeking to enclose the existing legal parking area for the purposes of legalizing more livable space within the residence. In enclosing this parking area, the applicant intends on utilizing the existing driveway for their required parking area; reducing the required parking setback from 20 feet to zero feet.

In addition, the pergola located in the driveway is located within the front yard setback, which is not illustrated correctly on the applicant site plan. There are also two additional shade structures not shown on the applicant site plan. The lot coverage for this property is 35%. With all the structures not included on site plan, it brings the lot coverage to 31%. There were no approved permits found for the pergola or the two additional shade structures.

After researching the request and the property, it has been determined that there are no special circumstances that apply to the property in regards to the size, shape or layout. While the request to reduce the front yard setback would not be uncommon within the surrounding area, the permitting of this variance could be detrimental to the surrounding property owners or those in nearby proximity.

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 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: *“There is an additional concrete driveway adjacent to the existing driveway. There are no other viable options for parking in the front yard due to multiple citrus trees. There is an alley behind the house, but cars cannot park there.”*

Staff Analysis: There is no special circumstance or condition that applies to the property that does not apply to most other properties in this district. After researching the property, staff was unable to identify a special circumstance that relates to the size, shape nor layout of the property which satisfies the need to recommend approval for this variance request.

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: *“The single-car garage had already been semi-converted by a previous owner with carpet and finished drywall to include an interior wall 5.5 ft into the garage when the house was bought.”*

Staff Analysis: According to staff’s analysis, the special circumstance is being created by the property owner. The property owner is seeking to legalize the existing garage conversion within the single-family residence; this remodel would create a lot that does not meet the parking requirements within the High Density Residential (R-3) District. While not the preferred location of the applicant, an alternative solution does present itself in the form of parking, accessed from the adjacent alleyway or placing the parking requirement on the north side of the property.

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: *“The variance is necessary to be able to park in the driveway as well as the adjacent concrete parking slab.”*

Staff Analysis: The purpose of a front yard setback is to ensure reasonable clear vision along the street for either the driver or a pedestrian to safely cross the sidewalk and safely enter into traffic without mishap. The applicant has the options of parking at the rear of the property or to construct a second driveway on the north side of the home.

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: *”Approval of the variance will not be materially detrimental to anyone or any adjacent property, neighborhood, public health, safety, or general welfare.”*

Staff Analysis: The granting of this variance will lead to some detrimental effects on the neighbors and general public traveling near this property without the required clear vision of traffic. Since the 1964 creation of this subdivision, several property owners have converted there parking requirements to living spaces which increases the potential for visual impediments along James Avenue.

2. Are any of the adjacent property owners opposed to this request? No

External Agency Comments: None

Neighborhood Meeting Comments: See Attachment D

Proposed conditions delivered to applicant on: July 31, 2023

Final staff report delivered to applicant on: August 8, 2023

- Applicant agreed with all of the conditions of approval on: July 31, 2023
- Applicant did not agree with the following conditions of approval: (list #'s)
- (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
Conditions of Approval	Site Plan	Agency Notifications	Neighborhood Meeting Comments	Site Photo	Neighbor Notification List	Neighbor Postcard	Aerial Photo	Neighboring Property Photos	Neighboring Variance Cases

Prepared By: *Zenia Fiveash* **Date:** **August 7, 2023**
Zenia Fiveash
 Assistant Planner Zenia.Fiveash@yumaaz.gov (928)373-5000, x3040

Approved By: *Jennifer L. Albers* **Date:** *8/9/23*
 Jennifer L. Albers
 Assistant Director of Planning

**ATTACHMENT A
CONDITIONS OF APPROVAL**

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

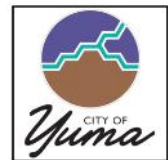
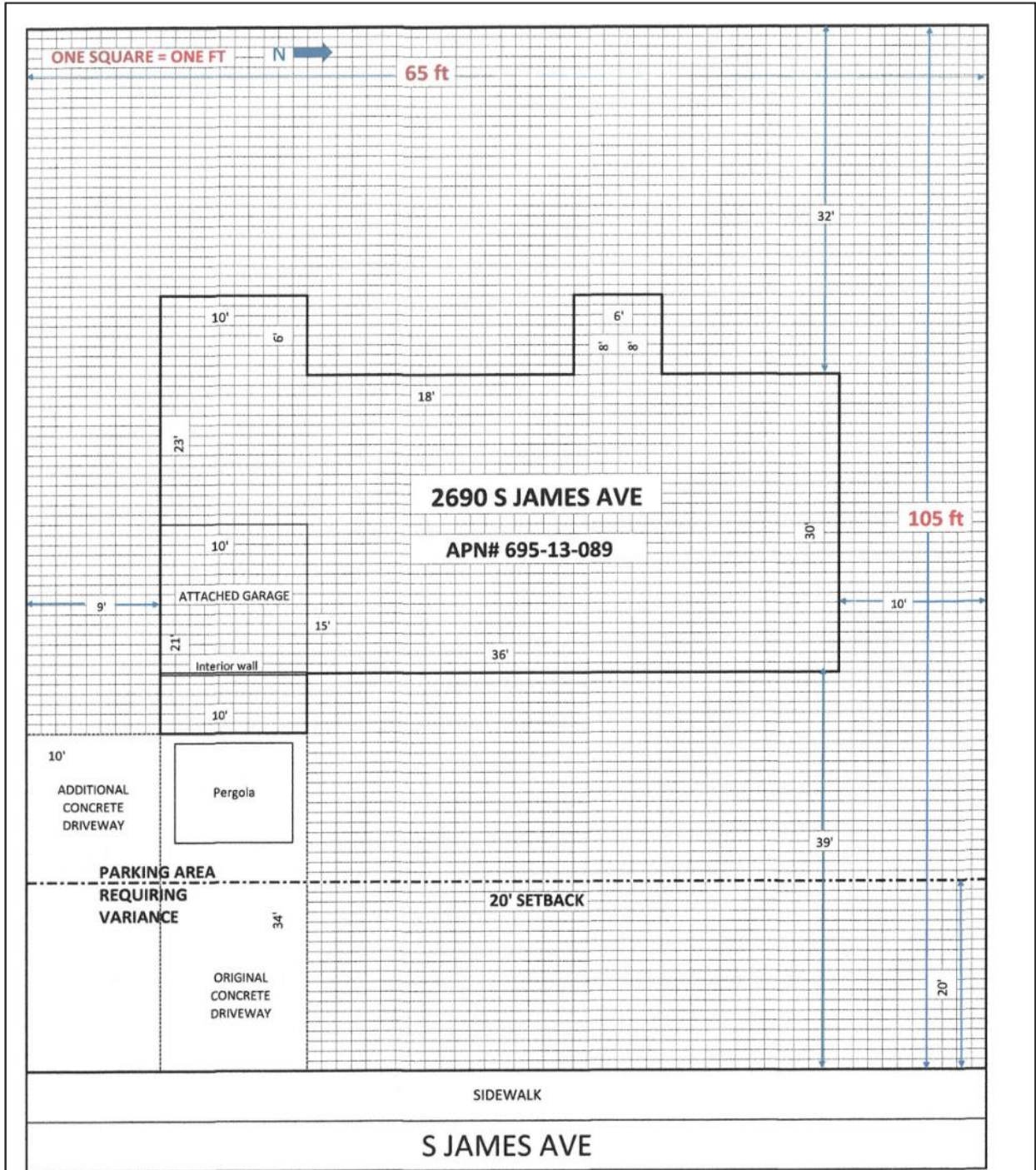
1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action shall constitute a waiver of any claims for diminution in value pursuant to A.R.S. § 12-1134.

Community Planning: Zenia Fiveash, Assistant Planner, (928) 373-5000 x 3040:

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



Prepared by:
DG
Date:
7/12/2023

VAR-41572-2023
Site Plan

Plan/Case:
41572



**ATTACHMENT C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun (7/23/23)
- 300' Vicinity Mailing: (7/13/23)
- Site Posted on: (8/26/23)
- 34 Commenting/Reviewing Agencies Noticed: (8/07/23)
- Neighborhood Meeting Date: (8/02/23)
- Hearing Date: (8/24/23)
- Comments Due: (8/07/23)

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	7/21/23		X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	NR				
Yuma County Planning & Zoning	8/07/23		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.	NR				
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	7/24/23		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	7/20/23		X		
Building Safety	NR				
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	7/21/23		X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
NEIGHBORHOOD MEETING COMMENTS

Attendees:

Neighbor: David Griffin

Applicant: Dan Kenley & Lucia Garcia

Staff: Zenia Fiveash

Summary of Attendee(s') Comments Related to the Project:

- Dan Kenley – He just wants to make the garage conversion legal.
- Lucia Garcia – She would also like to add an ADU to property.
- David Griffin – No opposition to the applicant's request.

ATTACHMENT E
SITE PHOTO



**ATTACHMENT F
NEIGHBOR NOTIFICATION LIST**

Property Owner	Mailing Address	City/State/Zip Code		
ALLEN JACOB ROBERT & MIRANDA	840 E PALO VERDE ST	YUMA	AZ	85365
ARELLANO ALEX G &	2676 S LA CRUZ AVE	YUMA	AZ	85365
BARRAGAN FRANCISCA	721 E ROBIN LN	YUMA	AZ	85365
BERNAL RAFAEL	2667 S BEVERLY LN	YUMA	AZ	85365
BILLDT DONALD S & KARLA JT	801 E HACIENDA DR	YUMA	AZ	85365
BLACK CHERYL	810 E HACIENDA DR	YUMA	AZ	85365
BOWDEN GENE P & JOHNNIE F TRUST 6-15-04	2780 S JAMES AVE	YUMA	AZ	85364
CABRERA BERNABE & ADRIANA M JT	3447 W 27TH LN	YUMA	AZ	85364
CABRERA NOEL ISAAC BANUELOS	2660 S JAMES AVE	YUMA	AZ	85365
CAMPUZANO MICHAEL G	2649 S JAMES AVE	YUMA	AZ	85365
DANIEL BOBBY DEAN &	2717 S JAMES AVE	YUMA	AZ	85365
DE LA VEGA ALONSO RAMSES	2686 S LA CRUZ AVE	YUMA	AZ	85364
ELIAS ARTHUR A & DONNA L TRUST 11-2-2012	2689 JAMES AVE	YUMA	AZ	85365
ERWIN RAYMOND S & MARJORIE ANN	741 E HACIENDA DR	YUMA	AZ	85365
EVENSEN JAMES	721 E HACIENDA DR	YUMA	AZ	85365
FIGUEROA JOSE A & SILVESTA M JT	2647 S BEVERLY LN	YUMA	AZ	85364
FOOTE BRUCE J & BARBARA E TRUST 01-01-2010	2670 S JAMES AVE	YUMA	AZ	85365
GALE SHARON E TRUST 8-19-2021	2642 S BEVERLY LN	YUMA	AZ	85365
GREN JUDY & WAMMACK SONDR	2672 S BEVERLY LN	YUMA	AZ	85365
GRIFFIN DAVID A	731 E ROBIN LN	YUMA	AZ	85365
		CAMANO		
HARPER PEGGY & THOMAS	310 RUSSELL RD	ISLAND	WA	98282
HERNANDEZ GONZALEZ IGNACIO JR	2734 S LA CRUZ AVE	YUMA	AZ	85365
HERNANDEZ IGNACIO JR	2734 S LA CRUZ AVE	YUMA	AZ	85365
HIGUERA TRUST 1-19-2021	2696 S LA CRUZ	YUMA	AZ	85364
HIXON KASSEY N	PO BOX 176	YUMA	AZ	85366
HOLIDAY APARTMENTS DE LLC	550 E ROBIN LN	YUMA	AZ	85365
HUERTA JUAN MANUEL	2669 S JAMES AVE	YUMA	AZ	85365
KOPCZYNSKI TRUST 11-12-2020	800 E PALO VERDE ST	YUMA	AZ	85365
LOPEZ SANDRA & RAUL R CPWROS	2680 S JAMES AVE	YUMA	AZ	85365
MERCADO FAMILY TRUST 12-14-2012	381 W EL FRED A RD	TEMPE	AZ	85284
NEAL MARTHA L	800 E HACIENDA DR	YUMA	AZ	85365
PARKER JAMES CHRISTOPHER	2659 S JAMES AVE	YUMA	AZ	85365
PELAYO FAMILY TRUST 3-6-2018	684 HARRISON RD	SALINAS	CA	93907
POOLE ERNEST LEE & JUDITH DARBY JT	711 E ROBIN LN	YUMA	AZ	85365
REINERT WILLIAM F III & BROOKLYN R CPWROS	811 E HACIENDA DR	YUMA	AZ	85365
RODRIGUEZ GUADALUPE	2657 S BEVERLY LN	YUMA	AZ	85365
RODRIGUEZ RACHEL	2704 S LA CRUZ AVE	YUMA	AZ	85365
ROSNER JOHN P	710 E ROBIN LN	YUMA	AZ	85365
SANCHEZ STEPHANIE ARACELI & ARNOLD				
CORTES	10460 E 36TH PL	YUMA	AZ	85365
SMITH EUNICE FRANCES	2652 S BEVERLY LN	YUMA	AZ	85365
STRUCK JENNIFER L	2737 S JAMES AVE	YUMA	AZ	85365
TITOTA LIVING TRUST 3-23-2023	4028 S SUNFLOWER DR	YUMA	AZ	85365
TURNAY GENE D	2679 S JAMES AVE	YUMA	AZ	85365
VAN ZANT NORMAN ALLAN & NELLIE M A JT	2727 S JAMES AVE	YUMA	AZ	85365
WEST STEVEN P & PATRICIA S JT	2650 S JAMES AVE	YUMA	AZ	85365
ZAVALA EDUARDO Z	731 E HACIENDA DR	YUMA	AZ	85365
ZEPEDA ELIAS G & YOLANDA	1502 CSNELLI COURT	SALINAS	CA	93905

**ATTACHMENT G
NEIGHBOR MAILING**

This is a request by Dan Kenley, on behalf of Lucia Garcia, for a variance to reduce the front yard setback from 20 feet to zero feet to allow the required parking to be located within the front yard setback in the High Density Residential (R-3) District. The property is located at 2690 S. James Avenue, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
VAR-41572-2023**

NEIGHBORHOOD MEETING
8/2/2023 @ 5:00PM
ON-SITE

PUBLIC HEARING
8/24/2023 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 2690 S. James Avenue, 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 Zenia Fiveash by phone at (928)373-5000 ext. 3040 or by email at Zenia.Fiveash@YumaAz.gov

ATTACHMENT H
AERIAL PHOTO



**ATTACHMENT I
NEIGHBORING PROPERTY PHOTO**

2680 James Avenue



2649 James Avenue



811 Hacienda Drive



801 Hacienda Drive



**ATTACHMENT J
NEIGHBORING VARIANCE CASES**

