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**TO:** City Council  
**FROM:** Amelia Domby, Principal Planner  
**DATE:** December 18, 2025  
**RE:** **Appeal of the October 23, 2025, Hearing Officer Denial of VAR-44509-2025  
for the property located at 1220 S. 8<sup>th</sup> Avenue, Yuma, Arizona.**

### **Executive Summary**

This appeal concerns Mr. Raul and Mrs. Esmeralda Estrada's ("Property Owners") variance application. The Property Owners sought the Hearing Officer's approval of VAR-44509-2025 to increase the allowable accessory structure height from 11 feet 3 inches to 16 feet 6 inches for a detached garage/workshop, in the Low Density Residential/Infill Overlay (R-1-6/IO) District, for the property located at 1220 S. 8<sup>th</sup> Avenue ("Property"). Within this zoning district, the maximum height of an accessory structure is the height of the principal building. The accessory structures code ensures accessory buildings or structures are incidental to the principal residential use on the property. The Property is located within the Thomas A. White Subdivision.

On October 23, 2025, the Hearing Officer held a hearing on the Property Owners' request for a variance. City Staff filed a report with the Hearing Officer and recommended denial of the request, noting that the Property Owners' request for a variance failed to meet the criteria of §154-03.04(D) of the Yuma City Code. After taking testimony on the variance application, the Hearing Officer denied the variance request after determining that the request did not meet the required findings for approval under A.R.S. § 9-462.06 and Y.C.C. § 154-03.04(D). Specifically, no special circumstance unique to the property was identified that would warrant relief from the zoning code accessory structure height requirement as the variance request is based on a design preference rather than the physical characteristics of the property such as size, shape, topography, or location.

Pursuant to Yuma City Code § 154-02.02(C) Mr. Bob Wiles, the agent for the Property Owners, appeals the Hearing Officer's denial of the variance request.

## **Argument**

State law and City Code require four conditions for a variance. See A.R.S. § 9-462.06 and Y.C.C. § 154-03.04(D). Specifically, Y.C.C. § 154-03.04(D)(1) states that the Hearing Officer:

. . . shall grant a variance(s) ***only when*** findings of fact are made that ***all of the following conditions exist:***

- (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.
- (b) The special circumstance was not created or caused by the property owner or applicant.
- (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.
- (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.

Each of the four (4) criteria required for the approval of a variance application must be answered in the affirmative. The inability to answer any one of the four (4) criteria in the affirmative, as a matter of law, must result in the denial of the variance application.

In this case, Staff determined the Property Owners failed to meet three of the four required conditions.

### **I. Is there a special circumstance that does not apply to most other properties in the district?**

#### **Staff's Position:**

Staff was unable to find a 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 or layout of the property which satisfies the need to recommend approval of this variance request. The maximum allowable height for an accessory structure on this property is the height of the principal residential building – 11 feet 3 inches. In addition, accessory structures are required to be designed with a logical hierarchy of masses regarding height, size, and volume; and use construction materials and colors that are contextually appropriate and compatible with the principal building and surrounding neighborhood. The new 16-foot 6-inch-tall accessory structure would not be in character with the existing residential structure on the property and does not meet the accessory structures development standards for this zoning district.

Hearing Officer's Finding:

Hearing Officer Urias stated he did not agree with staff's analysis that the home is typical to other homes in the area. Hearing Officer Urias agreed accessory structures should match the height, size, and materials of the principal residential building. Hearing Officer Urias added the home may suffer from a unique hardship due to having the flattest roof in the neighborhood. However, Hearing Officer Urias then stated he was not confident enough to consider that a special circumstance or a unique hardship. Hearing Officer Urias added the structure should be smaller in scale compared to the primary residence.

**II. Was the “special circumstance” created by the property owner or applicant?**

Staff's Position:

As indicated in the staff analysis and by the applicant, there is no special circumstance that relates to this property, building, or use that does not apply to most other properties in the district. This is a new 16-foot 6-inch-tall garage/workshop proposed by the Property Owners. The Property Owners have an alternative solution in the form of constructing the garage/workshop the same height as the home.

The placement of the proposed accessory structure is behind the existing garage along the southern boundary of the property. The garage is lower in height than the peak of the primary building at 11 feet 3 inches, which would make the proposed accessory structure seem much taller than the principal building height, making it the primary focus of the property, not an accessory structure.

Hearing Officer's Finding:

Hearing Officer Urias was unable to identify a special circumstance.

**III. Would denying the variance prevent the applicant from enjoying substantial property rights enjoyed by other property owners in the vicinity?**

Staff's Position:

The granting of the variance is not necessary for the preservation of substantial property rights enjoyed by other property owners in the vicinity, under identical zoning designations. The accessory structures code was adopted in 2014 and recently amended and approved by City Council in 2025. The existing accessory structures on the neighboring properties identified by the Property Owners were constructed without a building permit or prior to the adoption of the accessory structures code.

Hearing Officer's Finding:

The Hearing Officer stated he was having difficulty finding that the structure met Criteria No. 3 and noted the applicant could construct other accessory structures such as a garage or shed that does not exceed the zoning code accessory structure height requirement, similar to other property owners.

**IV. Would granting the variance be materially detrimental to other people residing or working in the area?**

**Staff's Position:**

Granting the variance will not be materially detrimental to any person residing or working in the vicinity, as the proposed garage/workshop meets the minimum front, side, and rear yard setback, and lot coverage requirements in the Low Density Residential/Infill Overlay (R-1-6/IO) District.

**Hearing Officer's Finding:**

Hearing Officer Urias stated this criteria was met.

**Conclusion**

The requirements for approval of a variance application required by Yuma City Code § 154-03.04(D) have not been satisfied by the Property Owners. The Property Owners failed to demonstrate a special circumstance applies to the Property. Therefore, the Property Owners are not eligible for a variance under State Law or City code. As such, the variance application for the Property must be denied.