

**STAFF REPORT TO THE HEARING OFFICER
DEPARTMENT OF PLANNING AND NEIGHBORHOOD SERVICES
COMMUNITY PLANNING DIVISION
CASE TYPE – VARIANCE
Case Planner: Guillermo Moreno-nunez**

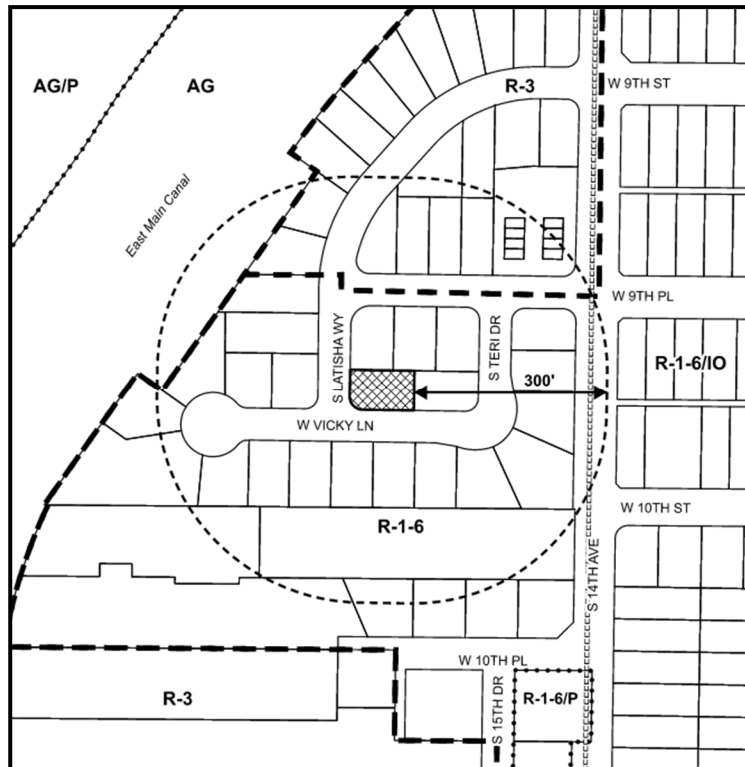
Hearing Date: JULY 11, 2024

Case Number: VAR-42764-2024

Project Description/Location: This is a request by Mario and Concepcion Polanco, for a Variance to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ

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

Location Map:



Prior site actions: Annexation: Ord. 787 (December 31, 1959); Subdivision: Westridge South (August 24, 1984); Code Enforcement Case No. CODE-BS-008943-2023.

Staff recommendation:

Staff recommends **DISAPPROVAL** of the request to reduce the minimum front yard setback from 20 feet to 8 feet for the installation of a metal shade structure, in the Low Density Residential (R-1-6) District, for the property located at 963 S Latisha Way, Yuma, AZ, because it does not meet the criteria of §154-03.04 of the Yuma City Code.

Although staff is not recommending approval, if a variance is granted staff recommends that the variance be conditioned to include conditions listed in Attachment A.

Have there been any other variance requests of a similar nature in the vicinity and zoning district?	No.
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Staff Analysis:

The subject property is located at 963 S Latisha Way, within the Westridge South Subdivision, which was recorded August 24, 1984. The property is approximately 6,214 square feet in size and is currently developed with a single-family home featuring an approximate 465 square foot attached garage. The parcel is zoned Low Density Residential (R-1-6) District which is subject to the following development standards: minimum 20-foot front yard setback, 7-foot side yard setback, 10-foot street side yard setback and 10-foot rear yard setback. Additionally, the subject property has an 8-foot utility easement along the west and south property lines; the setbacks and easement must be maintained free of any structures.

The applicant is requesting to reduce the minimum front yard setback from 20 feet to 8 feet for a 240 square foot metal shade structure for parking vehicles. The City of Yuma Code Enforcement received the complaint, stating that a 400 square foot shade structure had been built in the front yard setback, without permits (CODE-BS008943-2023). The property owner is proposing to modify or replace the structure to avoid encroaching into the 8-foot utility easement. However, the structure will encroach 12 feet into the required front yard setback.

After analyzing the subject property, staff has determined that there are no special circumstances regarding this property in relation to its size, shape, or elevation. Additionally, the applicant has not demonstrated a special circumstance that applies to the property that would warrant a variance. Similar to other adjacent properties in the surrounding neighborhood, this property has a two-car garage meeting the minimum required legal parking for a single-family home.

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: *“My property located on 963 S Latisha Way Yuma, AZ 85364-9016, is a corner home between S Latisha Way and Vicky Ln resulting in reduced space for our*

vehicles to park overall. The northeastern side of my property is where the service drop, and drainage are placed making it impossible to construct anything. On the Southeastern side of my property the main telephone cable line and the water main are stationed, therefore unable to construct as well. Since my property is unevenness to the front of my home, I am completely unable to build anywhere inside my property except the front of my garage!"

Staff Analysis: After analyzing the subject property, it has been determined that a special circumstance or condition does not apply to the property that does not apply to most other properties within the district and surrounding development. This property is developed with a single-family home featuring a two car garage, which is the minimum legal required parking for single family home, just as any other home in the neighborhood. Because there is no special circumstance that applies to this property, approval of this variance would grant special privileges to the property owner. In addition, approval of this variance may set a precedent for other variances to be pursued within this neighborhood and zoning district.

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: "All these circumstances were placed prior to my purchasing."

Staff Analysis: There is no special circumstance that applies to this 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: "Being able to have my shade in front of my garage has provided my family and I the ability to fully use our driveway providing a safer exit and entry from our home to our vehicle and vice versa. According to Arizona University study: "Hot cars can hit at deadly temperatures" the cars cabin under the sun for an hour can reach scorching temperatures of 116 degrees compared to a cars cabin under the shade for an hour was closer to 100 degrees providing a 16-degree difference. This difference provides my family and I the health safety of being able to use a vehicle a bit cooler in temperature then a blistering hot oven."

Staff Analysis: 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. All property owners within the Westridge South Subdivision are required to comply with the development standards of the Low Density Residential (R-1-6) District, including minimum required setbacks. Properties within the neighborhood are developed with similar single-family homes with two car garages, similar in size as the subject property, and meeting minimum required front yard setbacks. The granting of the variance should not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and in the district.

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: “*The shade is fire resistant placed only in my driveway area and only in my property away from any neighbors’ properties. The granting of having my shade in front of my garage will not be detrimental to anyone residing, or working in the vicinity, to adjacent to my property, to the neighborhoods or to the public health, safety, and general welfare*”.

Staff Analysis: 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, and to the public health, safety, and general welfare.

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

Public Comments Received: No.

External Agency Comments: None Received.

Neighborhood Meeting Comments: None Received.

Proposed conditions delivered to applicant on: July 1, 2024

Final staff report delivered to applicant on: July 2, 2024

- Applicant agreed with all of the conditions of approval on: July 2, 2024
- Applicant did not agree with the following conditions of approval: (list #'s)
- Conditions of approval have been emailed to applicant and no response has been received:

Attachments

A	B	C	D	E	F	G	H	I
Conditions of Approval	Site Plan	Agency Notifications	Agency Comment	Neighborhood Meeting Comments	Site Photos	Neighbor Notification List	Neighbor Postcard	Aerial Photo

Prepared By: *Guillermo Moreno-nunez*

Date: June 27, 2024.

Guillermo Moreno-nunez

Assistant Planner

Guillermo.moreno-nunez@yumaaz.gov

(928) 373-5000, x3038

Approved By: *Jennifer L, Albers*

Date: 7/1/24

Jennifer L. Albers

Assistant Director of Planning

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, 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: Guillermo Moreno-nunez, Assistant Planner, (928) 373-5000 x3038

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 C
AGENCY NOTIFICATIONS**

- Legal Ad Published: The Sun 06/21/24
- 300' Vicinity Mailing: 06/11/24
- Site Posted on: 06/14/24
- 34 Commenting/Reviewing Agencies Noticed: 06/12/24
- Neighborhood Meeting Date: 06/24/24
- Hearing Date: 07/11/24
- Comments Due: 06/24/24

External List (Comments)	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Yuma County Airport Authority	YES	6/12/24	X		
Yuma County Engineering	NR				
Yuma County Public Works	NR				
Yuma County Water Users' Assoc.	YES	6/12/24	X		
Yuma County Planning & Zoning	NR				
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	YES	6/17/24	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	6/12/24	X		
Building Safety	YES	6/13/24			X
City Engineer	NR				
Traffic Engineer	NR				
MCAS / C P & L Office	YES	6/17/24	X		
Utilities	NR				
Public Works	NR				
Streets	NR				

ATTACHMENT D
AGENCY COMMENT

Alan Kircher, Building Safety, Building Safety Manager for the City of Yuma, (928) 373-5169

- *“If this variance is approved, plans will need to be submitted and a building permit issued for this carport.”*

ATTACHMENT E
NEIGHBORHOOD MEETING COMMENTS

Date Held: June 24, 2024

Location: On-site

Attendees: Applicant: Mario and Concepcion Polanco

Staff: Guillermo Moreno-nunez, Assistant Planner

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

- Staff explained the next steps of variance process.

ATTACHMENT F
SITE PHOTOS



ATTACHMENT G
NEIGHBOR NOTIFICATION LIST

Property Owner	Mailing Address	City	State	ZIP
ARIAS LUIS & JACQUELINE	1527 9TH PL	YUMA	AZ	85364
BALLESTEROS MARIA D	1532 W 9TH PL	YUMA	AZ	85364
BARERRA MIGUEL C & BLANCA E	960 S TERI DR	YUMA	AZ	85364
BELTRAN JOHN T & GENEVIEVE C	1553 W VICKY LN	YUMA	AZ	85364
CACHUMARA LLC	8222 S AVENUE D	YUMA	AZ	85364
CASTILLO GREGORY SCOTT & MEGAN JT	1681 W 10TH ST	YUMA	AZ	85364
CASTILLO GREGORY SCOTT & MEGAN JT	1681 W 10TH ST	YUMA	AZ	85364
CHAVEZ MICHELLE	11238 S HOLLAND AVE	YUMA	AZ	85365
DIMINO GIOVANNI & REGINA R C JT	7616 E OLIVE ANN LN	YUMA	AZ	85365
DURON JAIME & CECILIA JT	1502 W 9TH PL #4	YUMA	AZ	85364
ESPINOZA MARIA L	1519 W 9TH PL	YUMA	AZ	85364
GALINDO ALEJANDRO AYALA	2553 W 16TH ST #8	YUMA	AZ	85364
GARCIA JORGE L & ROSA MARIA &	PO BOX 5403	YUMA	AZ	85366
GERARDO ABEL & CAROLINA A	1529 W VICKY LN	YUMA	AZ	85364
GILL STEPHANIE A	1531 W 9TH ST	YUMA	AZ	85364
GREENVIEW DEVELOPMENT LLC	340 W 32ND ST #353	YUMA	AZ	85364
HERNANDEZ JORGE & CARINA JT	1550 W VICKY LN	YUMA	AZ	85364
HOANG ANH	957 S TERI DR	YUMA	AZ	85364
HOTCHKISS MELVIN K & MABLE J TRUST	1730 W 10TH PL	YUMA	AZ	85364
KEMP CAROLYN E TRUST 10-7-99	PO BOX 460169	HOUSTON	TX	77056
KEMP CAROLYN E TRUST 10-7-99	PO BOX 460169	HOUSTON	TX	77056
KHALIL JOHN G	951 S TERI DR	YUMA	AZ	85364
LARA JOSE & ROSA	1536 W 10TH PL	YUMA	AZ	85364
LILLIE DAVID W	1565 W VICKY LN	YUMA	AZ	85364
MADRID IRMA	1517 W 9TH ST	YUMA	AZ	85364
MARTINEZ AURORA	680 S 14TH AVE	YUMA	AZ	85364
MARTINEZ JOSE R	1502 W 9TH PL SP 3	YUMA	AZ	85364
MICHELS LUCINDA CLARK	1556 W VICKY LN	YUMA	AZ	85364
MORA HECTOR J	1528 W 10TH PLACE	YUMA	AZ	85364
MOUSTAFA SAMIR MARK JR	1508 W 9TH PL #8	YUMA	AZ	85364
ORTA BARBARA J	1515 W VICKY LN	YUMA	AZ	85364
POLANCO MARIO PATRON & CONCEPCION	963 S LATISHA WAY	YUMA	AZ	85364
RAMIREZ JUAN JOSE	1540 W 9TH STREET	YUMA	AZ	85364
RANGEL NOE T & MARIA C JT	PO BOX 5797	SALINAS	CA	93915
REGALADO SARA MORALES DE	1541 W VICKY LN	YUMA	AZ	85364
RIDESHORSE SAMUEL JR & CECILE M JT	1544 W VICKY LN	YUMA	AZ	85364
SALINAS DARLENE C	1526 W 9TH PL	YUMA	AZ	85364
SCHUSLER CATHERINE & ALAN II	971 TERI DR	YUMA	AZ	85364
SHARIF MOUSTAFA AZ LLC	1416 S 5TH AVE	YUMA	AZ	85364
SHARIF MOUSTAFA AZ LLC	1416 S 5TH AVE	YUMA	AZ	85364
SHARIF MOUSTAFA AZ LLC	1416 S 5TH AVE	YUMA	AZ	85364
TORRES STEVEN SAL	1521 W VICKY LN	YUMA	AZ	85364
VALVERDE TIMOTHY DAVID & LISA HEATHER	1547 W VICKY LN	YUMA	AZ	85364
VELAZQUEZ JOSE L & ALMA D	1516 W 10TH PL	YUMA	AZ	85364
WESTRIDGE NORTH CONDOMINIUMS	192 S MAIDEN LN	YUMA	AZ	85364
YUMA CHRISTIAN ACADEMY INC	101 E 26TH ST	YUMA	AZ	85364
ZAYD LLC	PO BOX 1010	YUMA	AZ	85366

**ATTACHMENT H
NEIGHBOR MAILING**

This is a request by Mario and Concepcion Polanco, for a Variance to reduce the minimum front yard setback from 20 to 8 feet to allow the installation of a metal shade structure, in the Low Density Residential (R-1-6) District. The property is located at 963 S. Latisha Way, Yuma, AZ.

**MEETING DATE,
TIME & LOCATION
FOR CASE #
VAR-42764-2024**

NEIGHBORHOOD MEETING
06/24/2024 @ 5:00PM
ON-SITE

PUBLIC HEARING
07/11/2023 @ 9:30AM
City of Yuma Council Chambers
One City Plaza, Yuma, AZ



Because you are a neighbor within 300' of 963 S. Latisha Way, 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 Guillermo Moreno-nunez by phone at (928)373-5000 ext. 3038 or by email at Guillermo.Moreno-Nunez@YumaAz.gov

ATTACHMENT I
AERIAL PHOTO

