

Staff Summary Report



Hearing Officer Hearing Date: 7/05/11

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by the **FRUGLETTI RESIDENCE** located at 1539 East Williams Road for one (1) use permit and one (1) variance.

DOCUMENT NAME: 20110705cdsl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **FRUGLETTI RESIDENCE (PL110223)** (Wendy Kargman/Az Bag & Shade Inc., applicant; Anthony Frugletti, property owner) located at 1539 East Williams Street, in the R1-6, Single Family Residential District for:

ZUP11052 Use permit to allow required parking in the street side yard setback.

VAR11003 Variance to reduce the street side yard setback from ~~15~~ 10 ft. to 0 ft.

CORRECTED BY STAFF

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

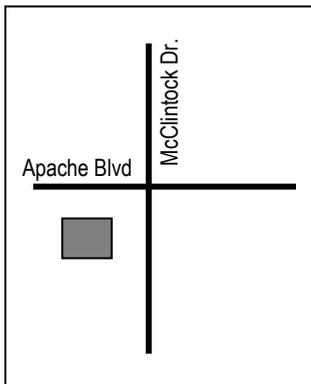
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions.**

ADDITIONAL INFO:



The Frugletti Residence is seeking a variance to reduce the street yard setback from ten (10) feet to zero (0) feet for an accessory building (shade structure). Additionally- staff research reveals no use permit has previously been granted to allow the required parking area to encroach into the street side yard setback. The use permit was advertised as part of this request to make the existing parking area legal and conforming. Staff is recommending approval of this variance. This residence is in a unique neighborhood with varying parking/driveway configurations and locations. Several of the lots have street side parking areas immediately adjacent to the right of way with some protected by shade structures. Granting this variance allows the same privileges enjoyed by other properties of the same classification in the same zoning district. In accordance with the Zoning and Development Code, the applicant posted, noticed and held a neighborhood meeting on 5/29/2011. During a site survey of the property; staff spoke with the neighbor most impacted across the street and she overwhelmingly supports the structure at the proposed set back. To date no other public input has been received.

PAGES:

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site Plan (Pg. 1)
5. Site Plan (Pg. 2)
6. Neighborhood Meeting Notification
7. Applicant Photograph

COMMENTS:

The Frugletti Residence is requesting a variance to reduce the street side yard setback for an accessory structure from ten (10) feet to zero (0) feet for the addition of a freestanding shade cover over the driveway.. The design of the structure is a "sail" design and will complement the house in massing and color. The colors will be a grey scheme to match the house color palette. The structure will provide shade on the driveway for parking cars, as well as, provide protection from landscape debris created by the mature tree located next to the driveway.

Use Permit

The Zoning and Development Code requires use permits for vehicle parking in the required front yard setback in the R1-6, Single Family Residential District.

Evaluating the use permit, the proposal appears to pass the use permit tests listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - No potential nuisances.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposal would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses. The Zoning and Development Code requires a use permit

Variance

The Zoning and Development Code Development Standards require setbacks for accessory structures in the R1-6, Single Family Residential District, to be located ten (10) feet from the street side yard property line; the applicant is seeking a reduction to a zero (0) foot setback to accommodate a thirty foot (30') wide by sixteen foot (16') deep carport structure. The proposed carport will be located approximately five (5) feet behind the existing sidewalk on the applicant's property. The dimension between the house and sidewalk is twenty-two (22) feet; the property line is located five (5) feet behind the sidewalk. Since the adoption of the ZDC; the Hearing Officer has granted similar variances for canopies over driveways on other properties in the R1-6 Zoning District. All previous requests had overwhelming support from the surrounding area. During a site survey of the property; staff spoke with the neighbor most impacted across the street and she overwhelmingly supports the structure at the proposed set back. No other public input was received.

Per the Zoning and Development Code variance(s) shall not be authorized unless the decision-making body finds upon sufficient evidence of the following:

1. That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings; and

The property is located on a corner with the parking to rear street side of the house Due to the mature landscaping the structure will have limited visibility from the surrounding neighbors.

2. The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and

A windshield survey of the neighborhood produced evidence other freestanding carport structures encroaching within the side yard setback. To date, since the ZDC was adopted at least four similar variances have been granted; for similar properties in size, within the R1-6 Zoning District.

3. The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

Shall not be considered a special privilege inconsistent with other R1-6 zoned properties.

4. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.

No evidence of an enclosed garage or carport was found in the history. The subdivision has other lots with similar parking layout.

Conclusion

Staff recommends approval of the street side yard setback variance and the use permit with the finding that the uniqueness of the neighborhood and historical privilege of variances granted to other properties within the same zoning classification as justification to warrant approval of the variance with a modification to the setback from 10' to 0'. The Zoning and Development Code was adopted in 2005 to allow open structures closer to the street, within the front yard building setback and in this case the street side yard setback. The intent that when open structures are closer to the street; that brings people closer to the street; foster a greater sense of community, bring a presence to the street and deter crime by increasing awareness of activity on the street. Additionally, the General Plan 2030 goal for the Ambient Temperature Element cites minimizing the heat island impacts from asphalt and concrete by developing standards which create opportunities for shade and reduce heat.

REASON(S) FOR APPROVAL:

1. Special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. Obtain all necessary clearances from the Building Safety Division.
2. Color scheme of carport to match the main dwelling trim color.
3. The setback variance is approved for the leading support post to be located on the property and not in City Right of Way. Verify the location of the property line relative to the sidewalk. A survey may need to be completed.

HISTORY & FACTS: None pertinent to this case.

DESCRIPTION:

Owner – Anthony Frugletti
Applicant – Wendy Kargman/Az Bag & Shade Inc.
Existing Zoning – R1-6, Single Family Residential District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 4- Section 4-202 -Development Standards for Residential Districts
Part 4- Section 4-602 (C)- Parking Standards applicable in Single Family Uses and Development.



Location Map



FRUGLETTI RESIDENCE (PL110223)

Arizona Bag and Shade, Inc.

2530 W. Buckeye Rd., Phoenix, AZ 85009 Phone: 602-272-1333 Fax: 602-278-7871



To Whom It May Concern:

6/6/11

We are applying for a variance for our parking area because the property line has a setback limit that does not work well with the install of a parking structure. The reason that it doesn't work well is that if we were to install our parking structure according to the setback limit it would only allow about 3-4 feet of shade structure for over our cars.

The purpose of this parking structure is to protect ourselves and our cars from the sun and in order to do that we need to have the variance changed to be (zero) so that we are allowed to install the parking structure closer to the house so that we will get adequate shade from the parking structure.

We have been using this area for parking for over 30 years just like most of our neighbors do and it is consistent to the area with most of the other people in the neighborhood who also use this side area for parking (see attached pictures).

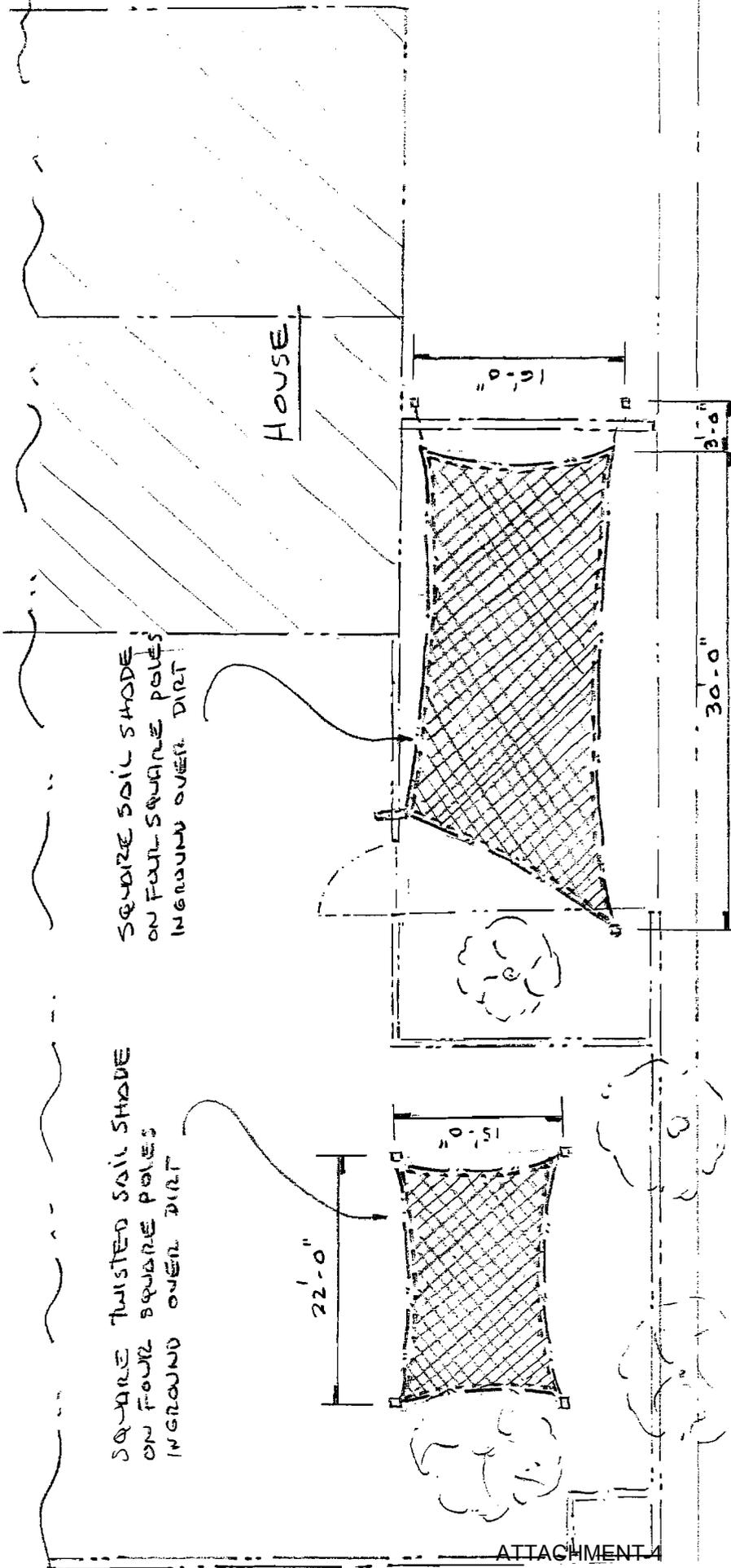
Our vehicles have never obstructed the sidewalk as we are able to pull them forward enough and closer to the house. However, because of the current set back there, we cannot install the parking shade structure where it will actually shade the vehicles. So we are asking for the variance so that we can shade our entire vehicles from the sun damage.

Please find pictures of our area attached and pictures of what our shade structure will look like. It will be done in a grey fabric, simple and clean design, contemporary and clean looking.

We ask that you grant us a variance so that we can be able to get the much needed shade parking structure. We are in our early 70's and it is much easier for us to park there because the side gate leads directly into our home. We appreciate your helping us with our variance as the older we get the harder it is to do these things in the heat and we would like to be able to park as close to the gate as we can. This shade structure will keep our cars cooler so that it won't be as hard on us to get into the cars in the summer time and to so hard to load and unload our groceries etc.

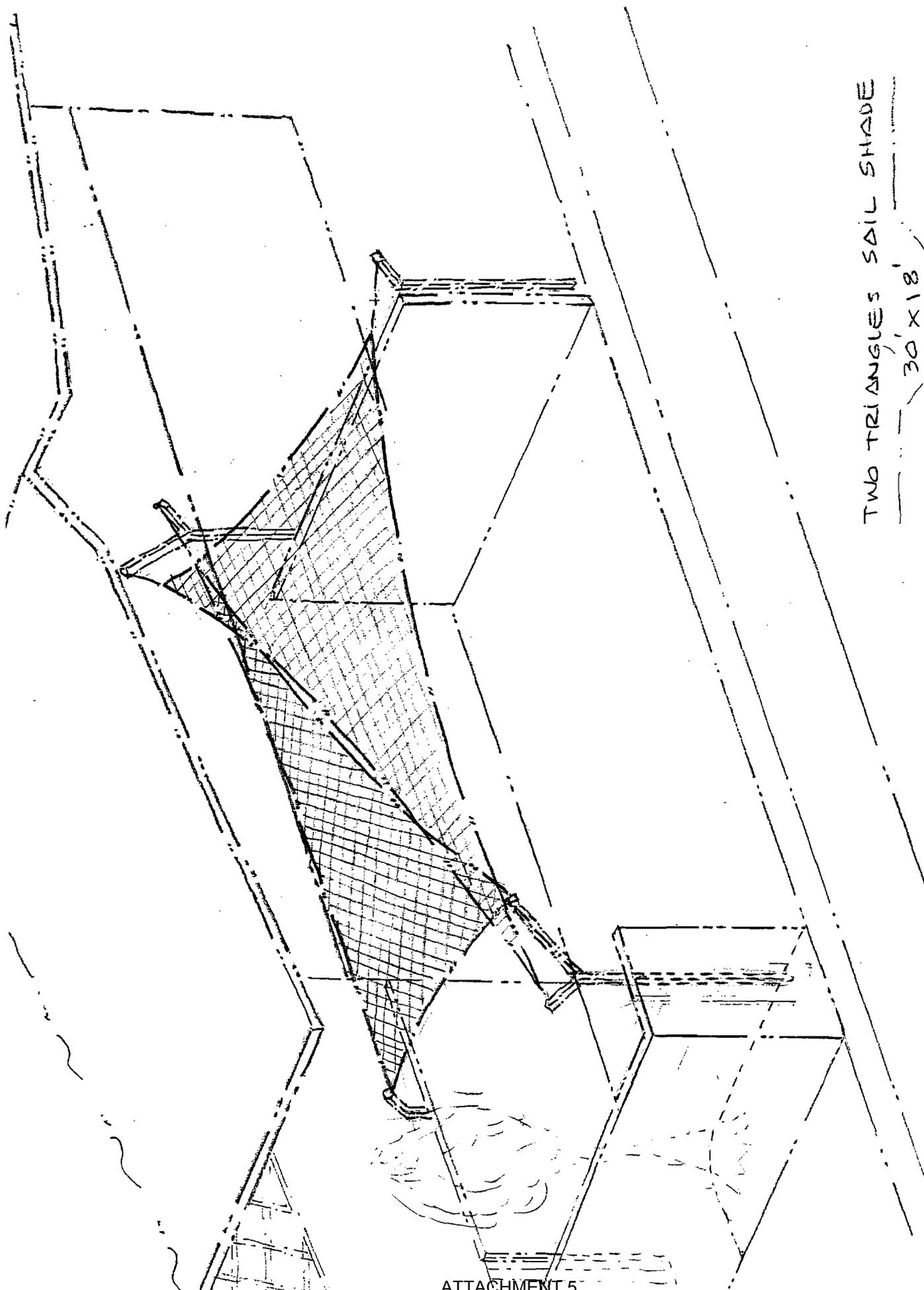
Thank you for your consideration in this matter.

Tony and Reva Fulgetti *FRUGLETTI*
1539 E. Williams Street, Tempe, AZ, 85281



CUSTOMER: TONY FULGNETTI
 ADDRESS: 1539 E WILLIAMS ST
 TEMPE AZ 85281

ARIZONA BAG & SHADE



TWO TRIANGLES SAIL SHADE
30' X 18'

OWNER: TONY FULGLETTI
ADDRESS: 1539 E WILLIAMS ST
TEMPE AZ 85281

Arizona Bag and Shade, Inc.

2530 W. Buckeye Rd., Phoenix, AZ 85009 Phone: 602-272-1333 Fax: 602-278-7871



To Whom it May Concern

RE: Parking Structure at 1539 E. Williams Street, Tempe

DATE: 5/28/11

Variance Meeting held by: Wendy Kargman, 480-200-5977
wendoms@msn.com

Dear Neighbors,

The purpose of this meeting is to let you know that we are applying for a variance in building codes for this property. We would like to change the variance in one location on our East side to make the set back from our home to be 0 (zero) as we would like to install a shade parking structure for two cars. Please see pictures of the proposed structure attached to this letter as well as a site plan.

Parking structures are consistent in this neighborhood as well as the surrounding neighborhoods. This proposed parking structure is in line with other parking structures seen around our neighborhood that are used for side yard parking. In order for us to have one built, we will need to change the set back from the house to (zero) so as not to obstruct the sidewalk area.

If you would like to attend, please come and sign in with any comments on this project. The meeting will be held on 5/29/11 at 8:00 p.m.

Sincerely,

Wendy Kargman
Arizona Bag and Shade, Inc., Contractors for this project



**PUBLIC HEARING ON
NEIGHBORHOOD
MEETING**

DATE	
TIME	
PLACE	
SUMMARY OF REQUEST	
CONTACT INFO	