



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Richard Lastrapes requests a variance of 5 ft to the 10 ft side yard setback for Lot 28, Block 8, Matthew Meadows, located on 1312 Camino Ecuestre NW, zoned R-A [Section 14-16-5-1]

Special Exception No:.....**VA-2018-00036**
Project No:**Project#2018-001303**
Hearing Date:08-21-18
Closing of Public Record:08-21-18
Date of Decision:09-05-18

On the 21st day of August, 2018, property owner Richard Lastrapes (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 ft to the 10 ft side yard setback (“Application”) upon the real property located at 1312 Camino Ecuestre NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 ft to the 10 ft side yard setback.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2 (C)(2) (Special Exceptions – Variance) reads: “A variance application shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:
 - (a) The application is not contrary to the public interest or injurious to the community, or to property or improvements in the vicinity;
 - (b) There are special circumstances applicable to the subject property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid;
 - (c) Such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable zoning district; and
 - (d) Substantial justice is done.”
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).
4. Richard Lastrapes, owner, appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood associations were notified of the application.
6. A letter in support of the application was signed by a number of the adjacent property owners.
7. This letter was signed by: Lisa Z. Hooper, 1316 Camino Ecuestre NW; Ross Van Dusen 1308 Camino Ecuestre NW; Carole A. Pierce, 1319 Camino Ecuestre NW; Thomas Z. Reeves, 1304 Camino Ecuestre NW; Molly O’Rourke Wall, 1304 Camino Ecuestre NW; John Ramos, 1320 Camino Ecuestre NW; Mary Ann Cinowalt, 1320 Camino Ecuestre NW; and Dora Garcia, 1325 Camino Ecuestre NW.

8. Thomas D. Baca submitted a letter in support of the application.
9. Mary Spensley, a board member of the affected neighborhood association submitted an e-mail in support of the application.
10. All adjacent properties (14) have a 5 foot side yard setback built before the IDO.
11. The subject property has special problems relating to improper compaction of soil under the existing structure, resulting in varied settling of portions of the existing primary residence.
12. This settling has created safety and health issues unique to the subject property.
13. Most of the adjacent properties in the neighborhood have had major renovations and additions.
14. The application would strengthen and reinforce the architectural character of the neighborhood.
15. The application will improve the value of the subject property and also enhance values of properties in the surrounding neighborhood.
16. The ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2 (C)(2)(a).
17. The ZHE finds that there are special circumstances applicable to the Subject Property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-4-2(C)(2)(b).
18. The ZHE finds that such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable district, as required by Section 14-16-4-2(C)(2)(c).
19. The ZHE finds that substantial justice will be done if this Application is approved, as required pursuant to Section 14-16-4-2 (C)(2)(d).
20. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
21. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-4-2(C)(2) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a variance of 5 ft to the 10 ft side yard setback.

If you wish to appeal this decision, you must do so by September 20, 2018 in the manner described below. A non-refundable filing fee will be calculated at the Planning

Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal is to be filed within 15 days of the decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, on the west side of the lobby.
Please present this letter of notification when filing an appeal.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. **This decision does not constitute approval of plans for a building permit.** If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Richard Lastrapes, 1312 Camino Ecuestre NW, 87107