



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

Thakur Enterprises, LLC requests a variance of 12 ft to the max 45 ft height on Lot A-WLY Portion Of, Block 20, Bellehaven Addn, located at 99999 Indian School Rd NE, zoned MX-M [Section 14-16-5-(1)(D)]

Special Exception No:..... **VA-2019-00013**  
Project No: ..... **Project# 2019-001936**  
Hearing Date: ..... 03-19-19  
Closing of Public Record: ..... 03-19-19  
Date of Decision: ..... 04-03-19

On the 19th day of March, 2019, Jackie Fishman, Consensus Planning, agent for property owner Thakur Enterprises, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 12 ft to the max 45 ft height (“Application”) upon the real property located at 99999 Indian School Rd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 12 ft to the max 45 ft height.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) reads: “... an application for a Variance-ZHE shall be approved if it meets all of the following criteria:
  - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that 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. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
  - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
  - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
  - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
  - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
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 14-16-6-4(N)(1).
4. Jacqueline Fishman of Consensus Planning, agent for Thakur Enterprises, LLC, property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association(s) were notified.

6. Indian Moon Neighborhood Association and North Eastern Association of Residents are the affected NAs.
7. An e-mail from Jo Martin, President of the NEAR NA, dated January 2, 2019, stating the Board of NEAR had “no objection” to the proposed use and variance requests, was submitted in support of the Applications.
8. The subject property is currently zoned MX-M.
9. The subject property is in an Area of Change, and near a Multimodal Corridor as designated by the ABC Comp. Plan.
10. The proposed project is a multi-story indoor storage facility.
11. The facility will be developed with slightly larger unit sizes, distinguishing it from those found in other local storage facilities.
12. Ceiling heights will be taller to accommodate the larger volume storage units.
13. A site plan, drawings of the proposed building and photographs of the subject property and surrounding area was submitted in support of the requested use and variance requested.
14. The shape of the subject site is long and narrow, with the narrow end on Indian School Rd. NE.
15. The site is currently a vacant, underutilized dirt lot, with dimensions of 170 feet wide by 302 feet deep (rear dimension is 162 feet wide), and is 1.16 acres in area.
16. Illegal dumping of refuse and trash have been reported on the subject property.
17. Adjacent commercial properties to the east are a drive-through restaurant and a plumbing business warehouse building, zoned MX-M.
18. Adjacent property to the west is a medical office building, zoned MX-M.
19. There are no windows or entryways on the medical building façade facing the site.
20. One third of the site is currently being used as overflow parking for the adjacent medical office building.
21. The subject property is the only remaining vacant site in this area.
22. There is an R-1C zone district development of single-family homes to the south of the subject property.
23. There is an existing 20 foot alley on the southern boundary edge with the adjacent resident zone district.
24. There are two other indoor storage facilities in the area.
25. The requested variance will serve the surrounding community with a low intensity, low traffic generating, commercial infill development on a vacant and undeveloped lot.
26. Neighborhood Edges provisions of the IDO require a 100 foot building stepdown for areas adjacent to residential zones.
27. This requirement decreases maximum building height for the rear portion of the building to 30 feet, which limits the necessary floor area need for a storage building.
28. The subject property dimensions limit the developable area for the proposed storage building.
29. The site dimensions and the IDO limit the size of any proposed building and create practical difficulties and a limitation for infill development.
30. The requested variance will address these limitations by shifting a portion of the height lost in the rear due to stepdown requirements to front of the building.
31. The requested variance is the most practical and reasonable way to address the physical limitations of the site and the IDO.
32. The requested variance is designed to respond to site conditions and ensure compliance with the IDO Neighborhood Edges provisions.

33. The proposed development will provide protection and a buffer to the adjacent residential zone district.
34. The requested variance will not require any additional infrastructure improvements.
35. The proposed indoor storage building is a low intensity commercial use, which is compatible with the underlying zoning and other IDO development standards.
36. The requested variance will enhance the built environment and blend in with surrounding structures and streetscape.
37. The proposed site plan complies with all applicable Neighborhood Edges provisions of the IDO.
38. The site is buffered from nearby uses through the use of setbacks, landscaping, building stepdown and buffer areas.
39. There are special circumstances applicable to the Subject Property that are not self-imposed and that 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 14-16-6-6(N)(3)(a)(1).
40. The variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2).
41. The variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3).
42. The variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4).
43. The variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5).
44. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
45. The Applicant has authority to pursue this Application.

#### CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(N)(3)(c) of the Albuquerque Zoning Code are satisfied.

#### DECISION:

APPROVAL of a variance of 12 ft to the max 45 ft height.

#### APPEAL

If you wish to appeal this decision, you must do so by April 18, 2019 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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Jackie Fishman, Consensus Planning, 302 Eighth St NW, 87102