



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

Michael Keefe requests a variance of 35 ft to the required 50 ft separation for drive through lanes to allow for a 15 ft separation from abutting protected lot for Lot 86, Los Alamos Addn, located at 321 Sandia RD NW, zoned MX-T [Section 14-16-5-9(F)(1)]

Special Exception No:..... **VA-2019-00119**
Project No: **Project# 2019-002281**
Hearing Date: 05-21-19
Closing of Public Record: 05-21-19
Date of Decision: 06-05-19

On the 21st day of May, 2019, Roger Cinelli, agent for property owner Michael Keefe (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 35 ft to the required 50 ft separation for drive through lanes to allow for a 15 ft separation from abutting protected lot (“Application”) upon the real property located at 321 Sandia RD NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 35 ft to the required 50 ft separation for drive through lanes to allow for a 15 ft separation from abutting protected lot.
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 variance is requested from Development Standard Section 14-16-5-9(F)(1) (*Parking, Drive-Through or Drive-Ups, and Loading*).
4. The subject property is a Regulated Lot (10,000 square feet or larger) and the abutting residential lot is a Protected lot, which requires a minimum separation of 50 feet.

5. The project would also have parking lot edges, landscaping requirements contained in Section 14-16-5-6(F)(1).
6. 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).
7. Roger Cinelli, agent for Michael Keefe, property owner appeared and gave evidence in support of the application.
8. A site plan with accompanying photographs of the subject site was submitted in support of the Application.
9. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
10. Los Alamos Addition Neighborhood Association and Gavilan Neighborhood Association are the affected neighborhood associations.
11. The subject property is currently zoned MX-T.
12. The site is located on the northeast corner of 4th St NW and Sandia Road NW.
13. The current primary residential building on subject property is uninhabitable, blighted and has become a public nuisance.
14. The owner of the property proposes to remove the blighted building and to construct eight townhouses on the site.
15. The project would consist of two 4-unit townhouses built in a northern New Mexico architectural style oriented north and south on the site.
16. These units would be affordable rentals with strict standards applied to renters.
17. Access to the units will be via a 24-foot wide drive pad, situated parallel to the eastern property line of the project.
18. The property will not be subdivided and the units will occupy a single lot.
19. The adjacent neighborhood to the east is an eclectic neighborhood consistently of a great variety of architectural styles, including Territorial, Missions, Pueblo and Ranch.
20. There is no emphasis on a single architectural style and the proposed project would complement and enhance the character of the neighborhood and surrounding area.
21. Exceptional hardships are created by the physical characteristics of the subject property.
22. The subject lot is zoned MX-T and is adjacent to the R-A zoned Sandia Road neighborhood.
23. Subject property is a long narrow lot, with a unique subdivision pattern.
24. Its dimensions are approximately 230 feet along 4th St. and 135 feet on Sandia Road and is oriented north to south.
25. A new 6 foot wide sidewalk to parallel 4th St is required by the City as part of the Main Street Corridor required setbacks along 4th St.
26. Compliance with these buffers, landscaping and sidewalk requirements would severely harrow the land available for building, would impose a significant hardship and would make the project much more economically challenging.
27. Transportation has reported No Objections to the Application.
28. An e-mail from Matthew Brewer, dated May 13, 2019, stating general opposition to the project, based upon traffic congestion concerns, and being generally opposed to a townhouse development was submitted in opposition to the Application.

29. An e-mail from Chris Kenny, dated May 15, 2019, stating he was not a member of LAANA, that he was in support of all requests, provided, entrance to the project was relocated to 4th St, and the developer to pay to replace the east boundary wall; and relocate the refuse container and provide two guest parking sites on the project, was submitted in support of the Application.
30. An e-mail from Alexandra Wilson, 305 Sandia Rd. NW, dated May 15, 2019, advising that the subject property was within the Los Alamos Addition-Historic Area (LAAHA) District, which was given special-use parameters within the Fourth Street Rank III Corridor Plan, which limits properties within the LAAHA District to a maximum height of one story.
31. An e-mail from Erskine and Barbara Burns, 208 Sandia Road NW, dated May 14, 2019, stating a protest to the request due to traffic congestion and safety issues caused by an entrance on Sandia Road, and a multiple rental development was not consistent with the single-family area, was submitted in opposition to the Application.
32. Applicant participated in a pre-application meeting with the Los Alamos Neighborhood Association on May 12, 2019.
33. A letter from Don Dudley, Secretary of the LAANA, dated May 14, 2019, was submitted as a report of the results of that meeting.
34. There were 2 conditions agreed to by the NA and the Applicant and 2 additional requests made by the NA for consideration by the Applicant.
35. No entrance or egress will be made from Sandia Road, and the single entrance to the project will be from 4th St.
36. Applicant has agreed to this change, but stated that it is contingent to approval by the City of Albuquerque Traffic Engineering and any other city departments with jurisdiction to this entrance off 4th.
37. Applicant will construct a new 6-foot high split face block wall along the east property line of the subject property, transitioning from a 3 foot high wall extending approximately 22 feet from the south property line, and then continuing at 6 feet for the remainder of the east property line.
38. Applicant also agreed to construct the wall, and stated these changes would be made before submission for site approval to the DRB.
39. LAANA also requested relocation of the refuse container from the middle of the east wall to the southeast corner of the property, and inclusion of two guest parking spaces on the site.
40. Applicant is also amenable to the refuse container relocation, also contingent on City Solid Waste approval.
41. Applicant is making efforts to address guest parking by including provisions in his rental agreements, which urges tenants to refrain from on street parking.
42. The site layout and unit density would not allow for inclusion of additional parking spaces for guests.
43. Don Dudley, 302 Sandia NW, appeared and gave testimony in opposition to the Application.
44. He is the authorized representative of the LAANA, and spoke on behalf of the neighborhood association.

45. He restated comments made in the report from LAANA submitted previously, and stated the LAANA was in full support of the Applications and requests, as long as one major adverse material issue was addressed by Applicant.
46. LAANA objects to the entrance to the project being Sandia Road, and insists that a ingress and egress only be permitted from 4th St.
47. Applicant agreed to redesign the project to allow entrance from 4th St. as stated in the above findings.
48. There exists currently, a drive pad entrance on 4th St, and that might allow the City to approve the change.
49. Diane Bishop, 315 Sandia Rd. NW, appeared and gave testimony in support of the Application.
50. A letter from John and Dianne Bishop, dated April 30, 2019, was previously submitted in support of the request for the 6-foot east boundary wall.
51. She testified in support of the wall, and concurring in opposition to ingress and egress from Sandia Road in favor of entrance to the project from 4th St.
52. Rosa Weiss, 305 Sandia Rd. NW, appeared and gave testimony in opposition to the Application.
53. A letter from Rosa Weiss, dated May 15, 2019, was previously submitted in opposition to the Application, unless the entrance was relocated to 4th St., and in general opposition to a townhouse development.
54. She is a homeowner in the Sandia Road neighborhood and her primary opposition to the project is having the entrance from Sandia Road, which she feels would create an adverse traffic safety concern.
55. She testified she would not be so opposed if the entrance is relocated to 4th St.
56. Kay Shaffer, 299 Sandia Rd. NW, appeared and gave testimony in opposition to the Application.
57. She is a longtime resident of the Sandia Road neighborhood.
58. She is opposed to the whole project.
59. She requested delay to the hearing due to the fact that she just found out about the Application, and wants more time to in which to read and understand the IDO, and more time to evaluate the Application.
60. Applicant responded to concerns raised in opposition.
61. He agreed that the existing 4th St. driveway cut to the subject property would be additional evidence to justify the request to relocate the entrance to the project.
62. He agreed Applicant would redesign the site plan, after City Traffic Engineers approved the entrance to 4th St.
63. 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).
64. 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).
65. 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).

66. 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).
67. 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).
68. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
69. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 35 ft to the required 50 ft separation for drive through lanes to allow for a 15 ft separation from abutting protected lot.

APPEAL:

If you wish to appeal this decision, you must do so by June 20, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Michael Keefe, 321 Sandia RD NW, 87107
Roger Cinelli, 2418 Manuel Torres Lane NW, 87107
Don Dudley, 302 Sandia NW, 87107
Dianne Bishop, 315 Sandia RD NW, 87107
Rosa Weiss, 305 Sandia RD NW, 87107
Kay Shaffer, 299 Sandia RD NW, 87107