



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

David Keleher requests a variance of 12 ft 6" to the required 15 ft rear yard setback for Lot 13, Block 1, Heights Reservoir Addn, located at 231 Adams ST NE, zoned R-MH [Section 14-16-5-1(C)]

Special Exception No:..... **VA-2019-00131**
Project No: **Project# 2019-002292**
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, property owner David Keleher ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 12 ft 6" to the required 15 ft rear yard setback ("Application") upon the real property located at 231 Adams ST NE ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 12 ft 6" to the required 15 ft rear yard setback.
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. David Keleher, property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
6. Highland Business and neighborhood Association is the affected neighborhood association.

7. The subject property is currently zoned R-MH.
8. The address of the subject property is 231 Adams St. NE.
9. The request is to allow construction of an accessory building to replace an existing accessory structure.
10. A site plan with accompanying photographs was submitted in support of the Application.
11. The request is for a variance from Development Standards Section 14-16-5-1, Table 5-1-1. (*Residential Zone Dimensional Standards*).
12. Adjacent neighbors are supporting the request.
13. A letter from Harris and Bekah Moskowitz, 235 Adams St. NE, was submitted in support of the Application.
14. A letter from Lew and Lili Critchfield, 236 Washington NE, dated May 7, 2019, was submitted in support of the Application.
15. The buildings on the subject property were constructed in the late 1940's.
16. The primary structure was constructed utilizing a 30 foot, 4-inch front yard setback, which narrows the rear yard.
17. A structure on the adjacent neighboring property is 2 feet 10 inches from the side yard property line.
18. Compliance with the present IDO dimension standards would create practical difficulties and substantial hardships for Applicant.
19. Barb Villa, 4516 Central SE, appeared and gave evidence in support of the Application.
20. She is the current President of the Highland Business Neighborhood Association.
21. She report the HBNA Board voted May 9, 2019, in support of the Application.
22. Jean Griffin, 230 Washington NE, appeared and gave evidence in support of the Application.
23. She is an adjacent neighbor, and she is in full support of the Application.
24. 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).
25. 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).
26. 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).
27. 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).
28. 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).
29. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
30. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 12 ft 6" to the required 15 ft rear yard setback.

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
Sanam & David Keleher, 231 Adams ST NE, 87108
Barb Villa, 4516 Central Ave SE, 87108
Jean Griffin, 230 Washington NE, 87108