



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

Juana F. Martinez requests a permit to allow a carport in the side yard setback for Lot 11, White – EB, located at 500 59th ST NW, zoned R-ML [Section 14-16-5-5(F)(2)(a)]

Special Exception No:..... **VA-2019-00300**
Project No: **Project#2019-002825**
Hearing Date: 10-15-19
Closing of Public Record: 10-15-19
Date of Decision: 10-30-19

On the 15th day of October, 2019, property owner Juana Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit to allow a carport in the side yard setback (“Application”) upon the real property located at 500 59th ST NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a permit to allow for a carport in the side yard setback.
2. The City of Albuquerque Integrated Development Ordinance Section 14-16-6-6(L)(3)(d) states;
 1. The proposed carport would strengthen or reinforce the architectural character of the surrounding area.
 2. The proposed carport would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.
 3. The design of the carport complies with the provisions in Subsection 14-16-5-5(F)(2)(a)2 (Carports).
 4. No carport wall is a hazard to traffic visibility, as determined by the Traffic Engineer.
 5. The carport is not taller than the primary building on the lot.
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. Juana F. Martinez, property owner appeared and gave evidence in support of the Application.
5. Applicant is requesting a permit to allow for a carport in the side yard setback.
6. The address of the subject property is 500 59th St. NW.
7. The subject property is currently zoned R-ML.
8. The request is for a permit as required by Section 14-16-5-5(F)(2)(a)(2): *Development Standards; Parking and Loading; Design Access and Circulation; Low Density Residential Development; Table 5-5-6: Maximum Side Yard Parking Area; Carports.*
9. The request is to permit an existing carport constructed without a permit.
10. All property owners within 100 feet and affected neighborhood association were notified of the application.
11. West Mesa Neighborhood Association and Westside Coalition of Neighborhood Associations, and Southwest Alliance of Neighborhoods (SWAN) are the affected neighborhood associations.

12. Applicant notified the affected NAs by e-mail dated August 12, 2019.
13. An e-mail from Steven Budenski, President, West Mesa NA, dated September 9, 2019, indicating the WMNA members approved Applicant's request, was submitted in support of the Application.
14. A site plan and accompanying photographs were submitted in support of the Application.
15. The carport was originally constructed by the previous owners/sellers in 2004 through 2006.
16. Applicant purchased the residence and the construction of the carport without a permit was not disclosed by previous owners/sellers.
17. The carport is located in the side yard setback of the property and is situated 3 feet from the side property line.
18. The existing carport has been in place for 10 years and adjacent neighbors and the surrounding community have never had a complaint or any material adverse impacts caused by the carport.
19. The carport is not within the clear sight triangle nor the mini-clear sight triangle, and does not present a hazard to traffic visibility.
20. The existing carport is a wooden framed structure with a pitched shingled roof, with a color and architecture and structure that matches the existing primary residential structure.
21. The carport has rain gutters and downspouts to control rain water run-off to retain it on Applicant's property.
22. There are no walls on any side of the existing carport.
23. No one appeared in opposition to the Application.
24. The color and appearance of the proposed structure matches the primary residence and the carport strengthens and reinforces the architectural character of the surrounding area as required by Section 14-16-6-6(L)(3)(d)1.
25. The proposed carport is not injurious to adjacent properties, the surrounding neighborhood, or the larger community as required by Section 14-16-6-6(L)(3)(d)2.
26. The proposed carport complies with the provisions in Subsection 14-16-5-5(F)(2)(a)2, as required by Section 14-16-6-6(L)(3)(d)3.
27. Transportation issued a report indicating the carport design does not present a hazard to traffic visibility, as required by Section 14-16-6-6(L)(3)(d)4.
28. The proposed carport is not taller than the primary building on the subject lot as required by Section 14-16-6-6(L)(3)(d)5.
29. The ZHE finds that 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 ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(L)(3)(d) of the IDO are satisfied.

DECISION:

APPROVAL of a permit to allow for a carport in the side yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 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:

ZHE File
Zoning Enforcement
Juana F Martinez, 500 59th ST NW, 87105