



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

Charter Schools Solutions (Agent, Garcia/Kraemer & Associates) requests a variance of 120 feet to the minimum required 660-foot distance from the outer edge of Tramway Blvd right of way for a proposed electronic sign for Lot E1A2, Panorama Heights Addn, located at 99999 Lomas BLVD NE, zoned MX-M [Section 14-16-5-12(H)(2)(c)]

Special Exception No:..... **VA-2020-00386**
Project No: **Project#2020-004669**
Hearing Date: 12-15-20
Closing of Public Record: 12-15-20
Date of Decision: 12-30-20

On the 15th day of December, 2020, Garcia/Kraemer & Associates, agent for property owner Charter Schools Solutions (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 120 feet to the minimum required 660-foot distance from the outer edge of Tramway Blvd right of way for a proposed electronic sign (“Application”) upon the real property located at 99999 Lomas BLVD NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 120 feet to the minimum required 660-foot distance from the outer edge of Tramway Blvd right of way for a proposed electronic sign.
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 has authority to pursue this Application.

4. 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).
5. Agent appeared and gave evidence in support of the application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. The subject property is currently zoned MX-M.
8. Section 14-16- 5-12(H)(2)(c) specifically prohibits electronic signs within 660 feet of the outer edge of Tramway.
9. Approval of the variance would materially undermine the intent and purpose of the IDO.
10. Given that criterion (4) in Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) has not been satisfied, the variance must be denied, and it is therefore unnecessary to examine any other element required to establish a variance.

DECISION:

DENIAL of a variance of 120 feet to the minimum required 660-foot distance from the outer edge of Tramway Blvd right of way for a proposed electronic sign.

APPEAL:

If you wish to appeal this decision, you must do so by January 15, 2021 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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cc:

ZHE File
Zoning Enforcement
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