



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

Michael Espinosa requests a variance of 6 ft to the required 15 ft front setback for Lot 15, Block 5, Snelgrove- -Kenneth L, located at 1413 Valencia DR NE, zoned R-1C [Section 14-16-5-1]

Special Exception No:..... **VA-2019-00448**  
Project No: ..... **Project#2019-003201**  
Hearing Date: ..... 02-18-20  
Closing of Public Record: ..... 02-18-20  
Date of Decision: ..... 03-04-20

On the 18th day of February, 2020, property owner Michael Espinosa (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the required 15 ft front setback (“Application”) upon the real property located at 1413 Valencia DR NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the required 15 ft front 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. Applicant 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. The subject property is currently zoned R-1C.

7. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, orientation of the garage in relation to the house on site and the required setbacks provides minimal room for garage space. No evidence to the contrary was presented.
8. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Agent testified that the proposed addition would not have any negative impact on public safety, health and welfare of the community. Also, if granted approval, the Applicant intends to develop the garage in a manner that is consistent with the IDO and the Development Process Manual (DPM), which requires proper building permitting and approvals, helping to assure that the development would not be contrary to the public safety, health and welfare of the community. No evidence to the contrary was presented.
9. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, the proposed wall is designed to be in harmony and consistency with what currently exists in the neighborhood. No increase in drainage onto neighboring parcels would result. No evidence to the contrary was presented.
10. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use and the proposed garage would merely add to the functionality of the site. No evidence to the contrary was presented.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Agent testified that any lower square footage of the wall would be ineffective in providing sufficient working and storage space. Thus, the applicants are not requesting more than what is minimally necessary for a variance. No evidence to the contrary was presented.
12. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
13. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 ft to the required 15 ft front setback.

APPEAL:

If you wish to appeal this decision, you must do so by March 19, 2020 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Michael Espinosa, 1413 Valencia DR NE, 87110