



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

Joseph & Marissa Conroy request a variance of 15 ft to the allowed 25 ft rear setback for Lot 4-P1, Block 0, Rio Del Norte, located at 2515 Griegos Pl NW, zoned R-A [Section 14-16-5-7(D)(I)]

Special Exception No:..... **VA-2024-00043**
Project No: **Project#2024-010012**
Hearing Date: 04-16-24
Closing of Public Record: .. 04-16-24
Date of Decision: 05-01-24

On the 16th day of April, 2024, property owner Joseph & Marissa Conroy (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 15 ft to the allowed 25 rear setback (“Application”) upon the real property located at 2515 Griegos Pl NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 15 ft to the allowed 25 ft rear setback.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. 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).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), Section 14-16-6-6(O)(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 a single lot 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, physical characteristics, natural forces or government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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.*”

Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

6. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
7. Applicant appeared and gave evidence in support of the application.
8. The subject property is currently zoned R-A.
9. Based on evidence submitted by or on behalf of Applicant, it appears that 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, Applicant testified that the Subject Property was platted prior to the current IDO requirements, which had smaller setbacks, under which the neighborhood was developed. Further, the rear of the Subject Location is ideal because the neighboring properties have closer setbacks and that the Subject Property has narrower side setbacks.
10. 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, Applicant testified and confirmed in written submittals that the variance for the addition would not be impede neighboring properties' visibility and is located in the rear of the Subject Property, which would not impact traffic or safety.
11. 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, Applicant testified and confirmed in written submittals that the wall will not infringe on the views of the neighbors and will not be seen from the front of the home.
12. 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 provided evidence that the property will be developed in accordance with the IDO.
13. 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, Applicant testified and confirmed in written submittals that the rear construction would be less disruptive as opposed to constructing a variance in the front of the Subject Property, in addition to maintaining the Subject Property's natural landscape.
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 15 feet to the allowed 25 feet rear setback.

APPEAL:

If you wish to appeal this decision, you must do so by May 16, 2024 pursuant to Section 14-16-6-4(V), 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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