



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

AHEPA 501 – III LLC requests a variance of 143- sq ft of Usable Open Space to required 225-sq ft of Usable Open Space per Dwelling Unit for Lot A1A2C1, Block 0000, Hubell Plaza, located at 6620 Bluewater Rd NW, zone R-ML [14-16-5-1(C)(1) Table 5-1-1]

Special Exception No:..... **VA-2024-00044**
Project No: **Project#2024-007290**
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 AHEPA 501 – III LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 143- sq ft of Usable Open Space to required 225-sq ft of Usable Open Space per Dwelling Unit (“Application”) upon the real property located at 6620 Bluewater Rd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 143-sq ft of Usable Open Space to required 225-sq ft of Usable Open Space per Dwelling Unit.
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-ML.
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 and confirmed in written submittals that the size and unique location in relation to the public right of way and preexisting improvements create special circumstances. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.)
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 Applicant intends to construct the proposed project in a manner that is consistent with the Development Process Manual (DPM).
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 confirmed in written submittals that the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, including easements of record that accommodate infrastructure.
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 confirmed in written submittals that the intent of the IDO will still be met in that the subject site will be in harmony with existing uses and proposed variance would merely add to the safety and useability of the site.
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 any smaller variance would be ineffective to provide for the useability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 143-square feet open space to the required 225-square feet open space per dwelling unit.

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:

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Zoning Enforcement
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Mark Bullock, 8322 Krim Dr, 87109



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NOTIFICATION OF DECISION

AHEPA 501 – III LLC requests a variance of 11-feet to the maximum allowed height of 38-feet for Lot A1A2C1, Block 0000, Hubell Plaza, located at 6620 Bluewater Rd NW, zone R-ML [14-16-5-1(C)(1) Table 5-1-1]

Special Exception No:..... **VA-2024-00045**
Project No: **Project#2024-007290**
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 AHEPA 501 – III LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 11-feet to the maximum allowed height of 38-feet of Usable Open Space per Dwelling Unit (“Application”) upon the real property located at 6620 Bluewater Rd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 11-feet to the maximum allowed height of 38-feet.
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-ML.
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 and confirmed in written submittals that the size and unique location in relation to the public right of way and preexisting improvements create special circumstances. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.)
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 request is a nominal height increase, which would support the health, welfare and of the community and future residents.
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 surrounding properties are sister properties of Applicant’s Subject Property and the other surrounding properties are an industrial building and parking lot, which is more than 75 ft from the proposed new building. Applicant also stated that the surrounding properties to the South would not be adversely impacted because the height variance *would not create additional shading or loss of sunlight*.
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 confirmed in written submittals that the intent of the IDO will still be met in that the proposed building is next to a three-story building, which is of similar size to one another with the proposed property a four-story building.
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 that any lesser variance would be impracticable.
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 11-feet to the maximum allowed height of 38-feet.

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.



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NOTIFICATION OF DECISION

AHEPA 501 – III LLC requests a variance of .65 to required 1.5 minimum Parking space per Dwelling Unit to allow for .85 parking space per unit for Lot A1A2C1, Block 0000, Hubell Plaza, located at 6620 Bluewater Rd NW, zone R-ML [14-16-5-1(C)(1) Table 5-1-1]

Special Exception No:..... **VA-2024-00046**
Project No: **Project#2024-007290**
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 AHEPA 501 – III LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of .65 to required 1.5 minimum Parking space per Dwelling Unit to allow for .85 parking space per unit (“Application”) upon the real property located at 6620 Bluewater Rd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of .65 to required 1.5 minimum Parking space per Dwelling Unit to allow for .85 parking space per unit.
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-ML.
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 and confirmed in written submittals that the size and unique location in relation to the public right of way and preexisting improvements create special circumstances. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.) Also, Applicant testified and confirmed in written submittals that the special circumstance that exists at the proposed senior living property that less than 70% of residents own cars. Applicant provided written and testimonial evidence based on their experience operating three other senior living properties in the area owned by Applicant.
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 of less parking would not impact the safety, health and welfare because the reduced parking will lessen the amount of impervious surface, decreasing the urban heat island effect and create more space.
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 surrounding properties are sister properties of Applicant's Subject Property and the other surrounding properties are an industrial building and parking lot, which is more than 75 ft from the proposed new building. Applicant also stated that the surrounding properties to the South would not be adversely impacted because the height variance would not create additional shading or loss of sunlight.
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 confirmed in written submittals that the intent of the IDO will still be met because the parking space will meet the intended use for senior living, which the Applicant owns three other similar properties where less

than 70% of residents own cars. The Subject Property will be developed and operated in conformance with IDO requirements.

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 provided evidence that any lesser variance would make the reasonably proposed development impracticable.
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of .65 to required 1.5 minimum Parking space per Dwelling Unit to allow for .85 parking space per unit.

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.



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