



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

HEAD START ENTERPRISES LIMITED PARTNERSHIP/DBA CAR CRAFTERS (GARCIA/KRAEMER & ASSOCIATES, AGENT) requests a special exception to Section 14-16-2-23(A) and Pg 38(E)(5) North I-25 SDP : a VARIANCE request of 24 in to the maximum 18 in letter height allowed for proposed new wall sign for all or a portion of Lot 8C, Block 18, N Abq Acres TR A Unit B zoned SU-2 M-1 or SU-2 RC, located on 5600 HOLLY AV NE (C-18)

Special Exception No:..... **15ZHE-80286**  
Project No:..... **Project# 1010663**  
Hearing Date:..... 12-15-15  
Closing of Public Record:..... 12-15-15  
Date of Decision: ..... 12-30-15

On the 15th day of December, 2015 (hereinafter “**Hearing**”) GARCIA/KRAEMER & ASSOCIATES, (hereinafter “**Agent**”) acting as agent on behalf of the property owner, HEAD START ENTERPRISES LIMITED PARTNERSHIP/DBA CAR CRAFTERS (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Variance of 24 inches to the maximum 18 inch letter height allowed for proposed new wall sign (hereinafter “**Application**”) upon the real property located at 5600 HOLLY AV NE (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Variance of 24 inches to the maximum 18 inch letter height allowed for proposed new wall sign.
2. The City of Albuquerque Zoning Code of Ordinances Section § 14-16-4-2 (C) (2) “SPECIAL EXCEPTIONS – VARIANCE” reads in part: “A variance application shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:  
(a) The application is not contrary to the public interest or injurious to the community, or to property or improvements in the vicinity;  
(b) There are special circumstances applicable to the subject property which 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;  
(c) Such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable zoning district; and  
(d) Substantial justice is done.”

3. The ZHE finds that the Applicant has met its burden<sup>4</sup> of providing evidence (both oral testimony and written material) that establishes that the Application is not going to be: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property/improvements located in the nearby vicinity of the Subject Property. Specifically, the Applicant provided testimony that the additional letter height will not constitute any type of danger, will not produce objectionable light or noise, will not be visually intrusive as compared to similar and larger signs in the vicinity, and is the minimal increase needed to permit easier recognition by motorists potentially even further traffic safety over the otherwise allowable size [as required pursuant to Section § 14-16-4-2 (C) (2) (a)].
4. It is also relevant to the ZHE that the proposed signage is less nonconforming than the pre-existing signage on the same building, and less than numerous other examples in the immediate vicinity.
5. Further, the Application and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
6. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that there are “special circumstances” applicable to the Subject Property which do not apply generally to other property in the same zone and vicinity. Specifically, the Applicant provided testimony that the location, on a dead end and substantially setback from trafficked routes in the area puts the Subject Property in a unique situation in the context of the 2010 sign restrictions significantly limiting sizes [as required pursuant to Section § 14-16-4-2 (C) (2) (b)].
7. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that the special circumstances presented hereinabove were not “self-imposed”, and that those special circumstances create an unnecessary hardship upon the Applicant. Specifically, the Applicant provided testimony that Applicant seeks to make reasonable commercial use of the Subject Property in a manner that will be more attractive and less nonconforming than the preexisting use, which constitutes an “*unjustified limitation on the reasonable use of the Subject Property*” [as required pursuant to Section § 14-16-4-2 (C) (2) (c)]
8. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that substantial justice will be done if this Application is approved. [as required pursuant to Section § 14-16-4-2 (C) (2) (d)]
9. Applicant testified at the Hearing that the yellow “Notice of Hearing” signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 (B) (4).

**CONCLUSIONS OF LAW:**

The Applicant has met their burden of submitting an Application that provides evidence that satisfies the elements required within §14-16-4-2 (C) (2) of the Albuquerque Zoning Code.

---

<sup>4</sup> The ZHE appreciates the full presentation and substantial support offered for the requested variance.

**DECISION:**

**APPROVAL** of a VARIANCE of 24 in to the maximum 18 in letter height allowed for proposed new wall sign.

If you wish to appeal this decision, you may do so in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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.

  
\_\_\_\_\_  
Christopher L. Graeser, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
[jturner@garciakraemer.com](mailto:jturner@garciakraemer.com)