



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

AHMET TIRYAKI (RIO GRANDE ENGINEERING, AGENT) requests a special exception to Section 14-16-2-12(E)(1) : a VARIANCE of 4 ft 8 in to the required 15 ft front yard setback for all or a portion of Lot 11A, Block 7, Baron Burg Heights Mendlesburg Replat zoned R-3, located on 5501 BELL AV SE (L-18)

Special Exception No:..... **17ZHE-80080**
Project No:..... **Project# 1011211**
Hearing Date:..... 05-16-17
Closing of Public Record:..... 05-16-17
Date of Decision: 05-31-17

On the 16th day of May, 2017, RIO GRANDE ENGINEERING (“Agent”) acting as agent on behalf of the property owner AHMET TIRYAKI (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 4 ft 8 in to the required 15 ft front yard setback (“Application”) upon the real property located at 5501 BELL AV SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 4 ft 8 in to the required 15 ft front yard setback.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2 (C)(2) (Special Exceptions – Variance) reads: “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 Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).
4. The ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2 (C)(2)(a).

5. Specifically, the ZHE finds that the proposed development is of high quality, will be harmonious with the neighborhood and will constitute needed investment.
6. The ZHE finds that 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, as required by Section 14-16-4-2(C)(2)(b).
7. Specifically, the ZHE finds that the location at an intersection, with the requirement that one side be considered a front yard, resulting in the project having to be oriented to face Bell Ave.
8. The existing of special conditions is also supported by the Subject Property being one of the last undeveloped properties in an established neighborhood.
9. The ZHE finds that 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 district, as required by Section 14-16-4-2(C)(2)(c).
10. Specifically, the ZHE finds that the corner lot situation, which constitutes a hardship, was not created by the Applicant, and the Applicant addressed the hardship as much as possible with the combination of two lots.
11. The ZHE finds that substantial justice will be done if this Application is approved, as required pursuant to Section 14-16-4-2 (C)(2)(d).
12. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
13. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-4-2(C)(2) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a variance of 4 ft 8 in to the required 15 ft front yard setback.

If you wish to appeal this decision, you must do so by June 15, 2017, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department’s Land Development Coordination counter and is required at the time the Appeal is filed.

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
david@riograndeengineering.com



CITY OF ALBUQUERQUE
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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

AHMET TIRYAKI (RIO GRANDE ENGINEERING, AGENT) requests a special exception to Section 14-16-3-19(A)(2) : a VARIANCE of 3 ft to the required 3 ft wall height in the front yard setback for all or a portion of Lot 11A, Block 7, Baron Burg Heights Mendlesburg Replat zoned R-3, located on 5501 BELL AV SE (L-18)

Special Exception No:..... **17ZHE-80081**
Project No:..... **Project# 1011211**
Hearing Date:..... 05-16-17
Closing of Public Record:..... 05-16-17
Date of Decision: 05-31-17

On the 16th day of May, 2017, RIO GRANDE ENGINEERING (“Agent”) acting as agent on behalf of the property owner AHMET TIRYAKI (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the required 3 ft wall height in the front yard setback (“Application”) upon the real property located at 5501 BELL AV SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the required 3 ft wall height in the front yard setback.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2 (C)(2) (Special Exceptions – Variance) reads: “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 Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).

4. The ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2 (C)(2)(a).
5. Specifically, the ZHE finds that the proposed development is of high quality, will be harmonious with the neighborhood and will constitute needed investment.
6. The ZHE finds that 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, as required by Section 14-16-4-2(C)(2)(b).
7. Specifically, the ZHE finds that the location at an intersection, with the requirement that one side be considered a front yard, resulting in the project having to be oriented to face Bell Ave.
8. The existing of special conditions is also supported by the Subject Property being one of the last undeveloped properties in an established neighborhood.
9. The ZHE finds that 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 district, as required by Section 14-16-4-2(C)(2)(c).
10. Specifically, the ZHE finds that the corner lot situation, which constitutes a hardship, was not created by the Applicant, and the Applicant addressed the hardship as much as possible with the combination of two lots.
11. The ZHE finds that substantial justice will be done if this Application is approved, as required pursuant to Section 14-16-4-2 (C)(2)(d).
12. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
13. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-4-2(C)(2) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL WITH CONDITIONS of a variance of 3 ft to the required 3 ft wall height in the front yard setback.

CONDITIONS OF APPROVAL

The portion of the wall located within the clear sight triangle must not exceed 3 feet in height as shown on the site plan sheet 101 provided within the ZHE Application.

If you wish to appeal this decision, you must do so by June 15, 2017, in the manner described below. A non-refundable filing fee will be calculated at the Planning

Department's Land Development Coordination counter and is required at the time the Appeal is filed.


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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
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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

AHMET TIRYAKI (RIO GRANDE ENGINEERING, AGENT) requests a special exception to Section 14-16-3-1(A)(24)(a) : a VARIANCE of 2 parking spaces for the required 12 parking spaces for all or a portion of Lot 11A, Block 7, Baron Burg Heights Mendlesburg Replat zoned R-3, located on 5501 BELL AV SE (L-18)

Special Exception No:..... **17ZHE-80082**
Project No:..... **Project# 1011211**
Hearing Date:..... 05-16-17
Closing of Public Record:..... 05-16-17
Date of Decision: 05-31-17

On the 16th day of May, 2017, RIO GRANDE ENGINEERING (“Agent”) acting as agent on behalf of the property owner AHMET TIRYAKI (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 parking spaces for the required 12 parking spaces (“Application”) upon the real property located at 5501 BELL AV SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 parking spaces for the required 12 parking spaces.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2 (C)(2) (Special Exceptions – Variance) reads: “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 Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).
4. The ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2 (C)(2)(a).

5. Specifically, the ZHE finds that the proposed development is of high quality, will be harmonious with the neighborhood and will constitute needed investment.
6. The ZHE finds that 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, as required by Section 14-16-4-2(C)(2)(b).
7. Specifically, the ZHE finds that the location at an intersection, with the requirement that one side be considered a front yard, resulting in the project having to be oriented to face Bell Ave.
8. The existing of special conditions is also supported by the Subject Property being one of the last undeveloped properties in an established neighborhood.
9. The ZHE finds that 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 district, as required by Section 14-16-4-2(C)(2)(c).
10. Specifically, the ZHE finds that the corner lot situation, which constitutes a hardship, was not created by the Applicant, and the Applicant addressed the hardship as much as possible with the combination of two lots, although parking on site is still limited.
11. The ZHE finds that substantial justice will be done if this Application is approved, as required pursuant to Section 14-16-4-2 (C)(2)(d).
12. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
13. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-4-2(C)(2) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL WITH CONDITIONS of a variance of 2 parking spaces for the required 12 parking spaces.

CONDITIONS OF APPROVAL

1. A Traffic Circulation Layout (TCL) plan is required when new or modified changes are requested for site access, circulation for parking areas, and drive through facilities.
3. On-Street parking credit to fulfill zoning’s parking requirement must be requested and approved by the Traffic Engineer, Racquel Michel, prior to TCL approval.

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Department's Land Development Coordination counter and is required at the time the Appeal is filed.


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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.



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NOTIFICATION OF DECISION

AHMET TIRYAKI (RIO GRANDE ENGINEERING, AGENT) requests a special exception to Section 14-16-12-(D)(1) : a VARIANCE of 54 ft to the required 150 ft lot width and depth to build apartments for all or a portion of Lot 11A, Block 7, Baron Burg Heights Mendlesburg Replat zoned R-3, located on 5501 BELL AV SE (L-18)

Special Exception No:..... **17ZHE-80083**
Project No:..... **Project# 1011211**
Hearing Date:..... 05-16-17
Closing of Public Record:..... 05-16-17
Date of Decision: 05-31-17

On the 16th day of May, 2017, RIO GRANDE ENGINEERING (“Agent”) acting as agent on behalf of the property owner AHMET TIRYAKI (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 54 ft to the required 150 ft lot width and depth to build apartments (“Application”) upon the real property located at 5501 BELL AV SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 54 ft to the required 150 ft lot width and depth to build apartments.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2 (C)(2) (Special Exceptions – Variance) reads: “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 Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).

4. The ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2 (C)(2)(a).
5. Specifically, the ZHE finds that the proposed development is of high quality, will be harmonious with the neighborhood and will constitute needed investment.
6. The ZHE finds that 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, as required by Section 14-16-4-2(C)(2)(b).
7. Specifically, the ZHE finds that the location at an intersection, with the requirement that one side be considered a front yard, resulting in the project having to be oriented to face Bell Ave.
8. The existing of special conditions is also supported by the Subject Property being one of the last undeveloped properties in an established neighborhood.
9. The ZHE finds that 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 district, as required by Section 14-16-4-2(C)(2)(c).
10. Specifically, the ZHE finds that the corner lot situation, which constitutes a hardship, was not created by the Applicant, and the Applicant addressed the hardship as much as possible with the combination of two lots but unfortunately there is not another lot available to combine to obtain the adequate dimensions.
11. The ZHE finds that substantial justice will be done if this Application is approved, as required pursuant to Section 14-16-4-2 (C)(2)(d).
12. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
13. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-4-2(C)(2) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a variance of 54 ft to the required 150 ft lot width and depth to build apartments.

If you wish to appeal this decision, you must do so by June 15, 2017, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department’s Land Development Coordination counter and is required at the time the Appeal is filed.


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