



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

ESMERALDA ANCHONDO (CHASE SMOTHERMON, AGENT) requests a special exception to Section 14-16-2-8(B)(1) and 14-16-2-6(B)(14)(a) : a CONDITIONAL USE approval for a proposed 5 ft fence in the front yard setback area for all or a portion of Lot 22, Block H, El Rancho Grande Unit 8b zoned R-LT, located on 10031 ATRISCO RANCH RD SW (M-9)

Special Exception No: ..... \*IR\* 15ZHE-80220  
Project No:..... Project# 1010570  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015 (hereinafter “**Hearing**”) CHASE SMOTHERMON, (hereinafter “**Agent**”) acting as agent on behalf of the property owner ESMERALDA ANCHONDO (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use for a proposed 5 ft fence in the front yard setback area (hereinafter “**Application**”) upon the real property located at 10031 ATRISCO RANCH RD SW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Conditional Use for a proposed 5 ft fence in the front yard setback area.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
3. Applicant submitted evidence that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community. Applicant has worked with her neighbors to secure support for the project, which will be constructed in an attractive manner and will not block views or otherwise pose an injury. Applicant provided reasonably justification of need for the fence.
4. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*”
5. Applicant submitted evidence that the proposed conditional use will not be significantly damaged by the surrounding structures or activities due to its location, being adequately separated from the street and sidewalk and by its nature not susceptible to damage from other structures or uses.

6. 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 SPECIAL EXCEPTIONS.
7. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

**DECISION:**

**APPROVAL** of a CONDITIONAL USE for a proposed 5 ft fence in the front yard setback area.

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

STEVE NUANEZ requests a special exception to Section 14-16-2-23(A) and pg 85 LOS DURANES SDP and 14-16-3-19(A)(2)(b) : a CONDITIONAL USE to allow an existing 6 ft fence within 10 ft of the right away line in the side yard of a corner lot for all or a portion of Lot B, Romero-Josh zoned SU-2 LD RA-2, located on 2807 CAMILO LA NW (H-12)

Special Exception No:..... \*IR\* 15ZHE-80245  
Project No:..... Project# 1010601  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) STEVE NUANEZ (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow an existing 6 ft fence within 10 ft of the right away line in the side yard of a corner lot (hereinafter “**Application**”) upon the real property located at 2807 CAMILO LA NW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Conditional Use to allow an existing 6 ft fence within 10 ft of the right away line in the side yard of a corner lot.
2. The ZHE took testimony at the Hearing from Applicant and from concerned resident Jackie Fishman.
3. The ZHE finds that this matter is appropriate for referral to the City of Albuquerque Land Use Facilitation Program.

**DECISION:**

**REFERRAL** to Land Use Facilitation Program and placement on the November 17, 2015 ZHE hearing agenda.

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

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

STEVE NUANEZ requests a special exception to Section 14-16-2-23(A) and pg 85 LOS DURANES SDP and 14-16-3-19(A)(2)(a) : a VARIANCE request of 3 ft to the maximum 3 ft height allowed in the front yard setback area for an existing 6 ft fence for all or a portion of Lot B, Romero-Josh zoned SU-2 LD RA-2, located on 2807 CAMILO LA NW (H-12)

Special Exception No:..... \*IR\* 15ZHE-80246  
Project No:..... Project# 1010601  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) STEVE NUANEZ (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Variance of 3 ft to the maximum 3 ft height allowed in the front yard setback (hereinafter “**Application**”) upon the real property located at 2807 CAMILO LA NW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Variance of 3 ft to the maximum 3 ft height allowed in the front yard setback.
2. The ZHE took testimony at the Hearing from Applicant and from concerned resident Jackie Fishman.
3. The ZHE finds that this matter is appropriate for referral to the City of Albuquerque Land Use Facilitation Program.

**DECISION:**

**REFERRAL** to Land Use Facilitation Program and placement on the November 17, 2015 ZHE hearing agenda.

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.

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

ROCHELLE ROBYN ATENCIO requests a special exception to Section 14-16-2-6(B)(7): a CONDITIONAL USE to allow therapy as a home occupation for all or a portion of Lot 20, Block 17, Desert Terrace Addn. Unit 3 zoned R-1, located on 5020 SAN PEDRO CT NE (F-18)

Special Exception No:..... **15ZHE-80055**  
Project No:..... **Project# 1010397**  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015 (hereinafter “**Hearing**”) ROCHELLE ROBYN ATENCIO (hereinafter “**Applicant**”) was scheduled before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow therapy as a home occupation (hereinafter “**Application**”) upon the real property located at 5020 SAN PEDRO CT NE (“**Subject Property**”). Below are the findings of fact:

**FINDINGS:**

1. Applicant is requesting a Conditional Use to allow therapy as a home occupation.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
3. Applicant submitted application materials and appeared at prior hearings on the Application, but failed to appear at the Hearing despite the ZHE rescheduling the hearing on several occasions to accommodate the Applicant.
4. The ZHE deferred the Hearing until well after the scheduled start time to ensure Applicant had adequate opportunity to attend. The ZHE adopts into the record Applicant’s prior testimony.
5. A number of residents of the neighborhood appeared to testify as to the injurious nature of the proposed use.
6. Those testifying raised significant concerns regarding security, traffic, parking and the specific nature of Applicant’s proposed practice and intended clientele.
7. Applicant was not present to respond to the objections, explain why any concerns may have been unfounded or meet her burden of proof that the proposed use would not be injurious.
8. The ZHE accepts the expressed concerns as posing potential injury to the adjacent property and neighborhood.
9. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions*

- imposed, the use proposed will not be significantly damaged by surrounding structures or activities.”*
10. The ZHE makes no finding on this code requirement.
  11. The Applicant has failed to adequately justify the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
  12. “Subsequent to the hearing, the ZHE was informed that Applicant communicated with ZHE staff and requested that the Application be withdrawn.”

**DECISION:**

**Withdrawn Application** of a CONDITIONAL USE to allow therapy as a home occupation.

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.

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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.

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

TODD E. AND DEBRA L. OWEN (SPAM'S CONSTRUCTION, AGENT) requests a special exception to Section 14-16-2-14(D) and 14-16-2-6(E)(5)(a): a VARIANCE of 10' to the required 15' rear yard setback for a proposed garage for all or a portion of Lot 16, Block 51, FOUR HILLS VILLAGE SEVENTEENTH INSTALLMENT zoned R-D, located on 1621 CATRON AV SE (M-23)

Special Exception No: ..... **15ZHE-80168**  
Project No:..... **Project# 1010494**  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015 (hereinafter "**Hearing**") SPAM'S CONSTRUCTION, (hereinafter "**Agent**") acting as agent on behalf of the property owner TODD E. AND DEBRA L. OWEN (hereinafter "**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Variance of 10' to the required 15' rear yard setback for a proposed garage (hereinafter "**Application**") upon the real property located at 1621 CATRON AV SE ("**Subject Property**"). Below are the findings of facts:

**FINDINGS:**

Applicant voluntarily withdrew the Application.

**DECISION:**

**NO DECISION MADE** due to Applicant's voluntary withdrawal.

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.

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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.

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Christopher L. Graeser, Esq.  
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

TODD E SHENBERGER (AUSTIN'S CARPORTS, AGENT) requests a special exception to Section 14-16-2-6-(B)(3) : a CONDITIONAL USE to allow for a carport in the front yard setback for all or a portion of Lot 4, Block A, La Sala Grande zoned R-1, located on 8611 LA SALA DEL NORTE NE (G-20)

Special Exception No:..... **15ZHE-80242**  
Project No:..... **Project# 1010598**  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) TODD E SHENBERGER (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) through Austin’s Carports, agent, requesting a Conditional Use to allow for a carport in the front yard setback (hereinafter “**Application**”) upon the real property located at 8611 LA SALA DEL NORTE NE (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Conditional Use to allow for a carport in the front yard setback.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
3. Applicant provided evidence and testimony that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because:

In winter this carport will keep frost off windshield; snow, ice and water off driveway, to provide safe walking for Mr. and Mrs. Shenberger. Carport will also reduce heat from inside of vehicle in summer months.

This carport is 3’0” from property line on East side and 25.53 from South side, which is where driveway is located. Carport is constructed of steel for strength, durability and easy up keep, attractive in appearance, it also has rain gutters and down spouts to control water drainage onto owners own property. Also, allows full view of traffic, and does not disrupt the view from street. There is nothing in the area (structures, etc.) that is effected by carport.

September 3, 2015 letter from Gilbert F. Austin.

4. In the absence of any further indication of injury this evidence is generally adequate to sustain Applicant's burden.
5. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*"
6. The ZHE finds the proposed conditional use will not be significantly damaged by the surrounding structures or activities due to its location and by its nature not susceptible to damage from other structures or uses.
7. 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 SPECIAL EXCEPTIONS.
8. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

### **DECISION:**

**APPROVAL** of a CONDITIONAL USE to allow for a carport in the front yard setback.

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.

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

ROBERTO BRITO requests a special exception to Section 14-16-2-17(B)(13) : a CONDITIONAL USE to allow outside storage and activity in a C-2 zone for all or a portion of Lot 17-20, Block 12, Original Townsite of Westland zoned C-2, located on 8930 BRIDGE BLVD SW (K-9)

Special Exception No:..... **15ZHE-80221**  
Project No:..... **Project# 1010573**  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) ROBERTO BRITO (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) through Manuel Brito requesting a Conditional Use to allow outside storage and activity in a C-2 zone (hereinafter “**Application**”) upon the real property located at 8930 BRIDGE BLVD SW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Conditional Use to allow outside storage and activity in a C-2 zone.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
3. Applicant intends to park semi-trucks and RV’s in the subject premises.
4. Applicant presented evidence that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because “All activity will be furthest to the north of the residential to keep noise level down.”
5. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*”
6. Applicant testified at the Hearing that the proposed conditional use will not be significantly damaged by the surrounding structures or activities due to the separation from the residential uses by approximately one hundred feet. The ZHE further finds that the proposed activity, parking vehicles, is not susceptible to damage from residential uses and structures.
7. 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 SPECIAL EXCEPTIONS.

8. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

**DECISION:**

**APPROVAL WITH CONDITIONS** of a **CONDITIONAL USE** to allow outside storage and activity in a C-2 zone.

**CONDITIONS OF APPROVAL:**

1. Approval of Conditional Use for parking of vehicles and commercial equipment only.
2. All vehicles parked on the subject premises shall be operational, licensed and insured.

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.

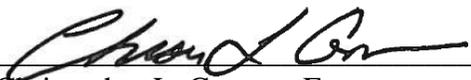
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of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

  
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Christopher L. Graeser, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
[mbrito3@cnm.edu](mailto:mbrito3@cnm.edu)



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

SUSAN PETRECCA requests a special exception to Section 14-16-2-6(E)(4)(a) : a VARIANCE of 2 ft 7 in to the required 5 ft side yard setback to allow a proposed addition for all or a portion of Lot 16, Block 1, Montoya Addition zoned R-1, located on 2313 EDNA AV NW (J-12)

Special Exception No:..... **15ZHE-80224**  
Project No:..... **Project# 1010577**  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) SUSAN PETRECCA (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Variance of 2 ft 7 in to the required 5 ft side yard setback to allow a proposed addition (hereinafter “**Application**”) upon the real property located at 2313 EDNA AV NW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Variance of 2 ft 7 in to the required 5 ft side yard setback to allow a proposed addition.
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 her burden 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 evidence that there is no impact on safety, no encroachment, and no impact from her proposed use as a studio for her art and

temporary guest quarters [as required pursuant to Section § 14-16-4-2 (C) (2) (a)]. To the contrary, Applicant submitted evidence of the value of her proposed investment in the neighborhood and how it will improve both the property and the surrounding area. Further, the Application and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.

4. The ZHE finds that the Applicant has met her 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 unique construction methods of her home, including adobe on block, make adding on to the existing house both impractical and challenging, particularly when attempting to construct an addition that allows for reduced mobility [as required pursuant to Section § 14-16-4-2 (C) (2) (b)].
5. 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 evidence that Applicant purchase the property in its current condition, which is both substandard in size when compared to the neighborhood and particularly difficult to add on to, 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)]
6. 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 because Applicant would be able to construct the needed improvements without a variance if her house was of a more standard construction. [as required pursuant to Section § 14-16-4-2 (C) (2) (d)]
7. 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 her 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.

### **DECISION:**

**APPROVAL** of a VARIANCE of 2 ft 7 in to the required 5 ft side yard setback to allow a proposed addition.

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.

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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.

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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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Christopher L. Graeser, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
[silverdollarspud@aol.com](mailto:silverdollarspud@aol.com)



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

SUSAN PETRECCA requests a special exception to Section 14-16-2-6(E)(5)(a) : a VARIANCE of 6 ft 8 in to the required 15 ft rear yard setback to allow a proposed addition for all or a portion of Lot 16, Block 1, Montoya Addition zoned R-1, located on 2313 EDNA AV NW (J-12)

Special Exception No:..... **15ZHE-80225**  
Project No:..... **Project# 1010577**  
Hearing Date:..... 10-20-15  
Closing of Public Record:..... 10-20-15  
Date of Decision: ..... 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) SUSAN PETRECCA (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Variance of 6 ft 8 in to the required 15 ft rear yard setback to allow a proposed addition (hereinafter “**Application**”) upon the real property located at 2313 EDNA AV NW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Variance of 6 ft 8 in to the required 15 ft rear yard setback to allow a proposed addition.
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.
8. The ZHE finds that the Applicant has met her burden 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 evidence that there is no impact on safety, no encroachment, and no impact from her proposed use as a studio for her art and temporary guest quarters [as

required pursuant to Section § 14-16-4-2 (C) (2) (a)]. To the contrary, Applicant submitted evidence of the value of her proposed investment in the neighborhood and how it will improve both the property and the surrounding area. Further, the Application and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.

9. The ZHE finds that the Applicant has met her 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 unique construction methods of her home, including adobe on block, make adding on to the existing house both impractical and challenging, particularly when attempting to construct an addition that allows for reduced mobility [as required pursuant to Section § 14-16-4-2 (C) (2) (b)].
10. 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 evidence that Applicant purchase the property in its current condition, which is both substandard in size when compared to the neighborhood and particularly difficult to add on to, 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)]
11. The ZHE finds that the Applicant has met her burden of providing evidence (both oral testimony and written material) that establishes that substantial justice will be done if this Application is approved because Applicant would be able to construct the needed improvements without a variance if her house was of a more standard construction. [as required pursuant to Section § 14-16-4-2 (C) (2) (d)]
12. 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 her 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.

### **DECISION:**

**APPROVAL** of a VARIANCE of 6 ft 8 in to the required 15 ft rear yard setback to allow a proposed addition.

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

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Christopher L. Graeser, Esq.  
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