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Project-2021-005169, VA-2021-00054, VA-2021-00149

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Mayor Timothy M. Keller

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

INTER-OFFICE MEMORANDUM

June 11, 2021

TO: Cynthia Borrego, President, City Council

FROM: Brennon Williams, Planning Director *BWilliams*

SUBJECT: AC-21-10, Project-2021-005169, VA-2021-00054, VA-2021-00149:
Kyle Malone & Michelle Myers, appeals the Zoning Hearing Examiners decision to approve a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)]

OVERVIEW

Applicant filed a request for a variance of 5 feet to the required 10 foot front yard setback. The request was scheduled and heard at the April 20, 2021 public hearing.

In the Notice of Decision issued May 5, 2021, the Zoning Hearing Examiner (ZHE) found that the Applicant met the criteria for approval as cited in Section 14-16-6-6(N)(3)(a) of the Integrated Development Ordinance.

May 20, 2021 Kyle Malone and Michelle Myers filed an appeal of the ZHE's decision.

BASIS FOR APPEAL

Section 14-16-6-4(V)(4) outlines the applicable criteria for the appeal in determining whether the Zoning Hearing Examiner erred in their decision:

6-4(V)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes:

6-4(V)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.

6-4(V)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

STAFF RESPONSE

The reasons for the appeal, excerpted from Appellant's letter, are listed below, with a bulleted, italicized response from the Planner for the Zoning Hearing Examiner. Please see the Appellant's letter and submittal packet for additional details.

Based on the findings from the Zoning Hearing Examiner, it seems that many of the concerns of the residents of Hollywood Avenue were not addressed and the decision was not fully thought through given the uniqueness of our quaint and historic neighborhood.

- *The ZHE acknowledged the concerns of numerous neighbors in Finding 7.*
- *The ZHE relied on testimony and evidence submitted by all parties in his decision.*

We would like to address the following statement the Zoning Hearing Examiner included in the variance approval letter, "Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned". There is no supporting evidence of this statement included.

- *The ZHE stated in Finding 6, that the Applicant testified and provided written evidence that, the Subject Property is an extremely small lot in comparison to neighboring properties.*

Number 10 of the variance acceptance letter states that "the variance approved is the minimum necessary to avoid extraordinary hardship". What is the extraordinary hardship that the owner will incur if having to abide by the required 10 foot front setback when other property owners have abided by the 10 foot setback when building homes here many years ago?

- *In Finding 10, the ZHE states that the Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended residential use.*

It was suggested by the zoning examiner during the hearing that the fire department be contacted; findings from this were not listed in the variance approval letter that we received.

- *Please reference page 11 of the April 20, 2021 hearing transcript.*

/ Lorena Patten-Quintana /
Lorena Patten-Quintana, ZHE Planner
Office of the Zoning Hearing Examiner
City of Albuquerque Planning Department





AC-21-10 Memo

Final Audit Report

2021-06-23

Created:	2021-06-23
By:	Lucinda Montoya (lucindamontoya@cabq.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAMiyCqZ4kD_ZpP4b76HF4ydeCWjNM00b

"AC-21-10 Memo" History

-  Document created by Lucinda Montoya (lucindamontoya@cabq.gov)
2021-06-23 - 5:09:36 PM GMT - IP address: 143.120.133.160
-  Document emailed to BN Williams (bnwilliams@cabq.gov) for signature
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-  Document e-signed by BN Williams (bnwilliams@cabq.gov)
Signature Date: 2021-06-23 - 7:18:55 PM GMT - Time Source: server- IP address: 143.120.133.65
-  Agreement completed.
2021-06-23 - 7:18:55 PM GMT



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

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)]

Special Exception No:..... **VA-2021-00054**
Project No: **Project#2021-005169**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, Teresa King, agent for property owner Brittany Love (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 feet to the required 10-foot front yard setback (“Application”) upon the real property located at 2311 Hollywood Ave NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 feet to the required 10-foot front yard setback.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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 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. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or 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.*”
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 14-16-6-4(N)(1).
4. Applicant and Agent appeared and gave evidence in support of the application.
5. Agent provided evidence showing that all property owners within 100 feet of the subject property and the affected neighborhood association were notified. While some public

participants testified that they did not receive notice, they were aware of the ZHE hearing in this matter, at which they provided testimony at the public hearing. Agent also provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3). Based on the foregoing, the ZHE finds that notice was proper as required by the IDO.

6. 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 provided written evidence that, the Subject Property is an extremely small lot in comparison to neighboring properties. Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned.
7. 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, evidence was submitted supporting that, if granted approval, the Applicant intends to develop the site as requested in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM). Numerous neighbors testified as to traffic problems along the very narrow Hollywood Avenue, which the Subject Property fronts. However, given that nearly all other properties along Hollywood Avenue are developed as residences, it cannot be shown how one additional residence can be said to be contrary to the public safety, health, and welfare of the community. Indeed, one of the key concerns of Applicant was to provide off-street parking in the form of a garage, to try to mitigate the congestion along Hollywood Avenue by getting parked cars off the street.
8. 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). Agent testified that there would be no adverse impact on infrastructure improvements. See finding 7, above.
9. 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 presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use and the proposed variance would merely allow for the usability of the site consistent with its residential zoning.
10. 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 submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended residential use. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
12. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 feet to the required 10-foot front yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Teresa King, teresa@kingconstruction.build
Michelle Myers, 2314 Hollywood Ave NW, 87104
Kyle Malone, 2314 Hollywood Ave NW, 87104
Thomas Montoya, 2309 Hollywood Ave NW, 87104
Regina Newall, 2226 Hollywood Ave NW, 87104
Al Sandoval, 2206 Hollywood Ave NW, 87104



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

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 feet rear yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)]

Special Exception No:..... **VA-2021-00055**
Project No: **Project#2021-005169**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

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FINDINGS:

1. Applicant is requesting a variance of 5 feet to the required 10-foot rear yard setback.
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participants testified that they did not receive notice, they were aware of the ZHE hearing in this matter, at which they provided testimony at the public hearing. Agent also provided evidence that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3). Based on the foregoing, the ZHE finds that notice was proper as required by the IDO.

6. 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 provided written evidence that, the Subject Property is an extremely small lot in comparison to neighboring properties. Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned.
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12. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 feet to the required 10-foot rear yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), 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

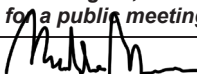

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FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

- ☐ **APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)**
- ☐ **APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)**
- ☒ **APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)**
- ☒ Interpreter Needed for Hearing? NO if yes, indicate language: _____
- ☒ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF shall be organized with the Development Review Application and this Form A at the front followed by the remaining documents in the order provided on this form.
- ☒ Project number of the case being appealed, if applicable: Project#2021-005169
- ___ Application number of the case being appealed, if applicable: _____
- ☒ Type of decision being appealed: Approval
- ☒ Letter of authorization from the appellant if appeal is submitted by an agent
- ☒ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(V)(2)
- ☒ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(V)(4)
- ☒ Copy of the Official Notice of Decision regarding the matter being appealed

<i>I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.</i>	
Signature: 	Date:
Printed Name: MICHELLE MYERS	<input checked="" type="checkbox"/> Applicant or <input type="checkbox"/> Agent
FOR OFFICIAL USE ONLY	
Case Numbers:	Project Number:
Staff Signature:	
Date:	



Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions	Decisions Requiring a Public Meeting or Hearing	Policy Decisions
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)
<input type="checkbox"/> Alternative Landscape Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)
		Appeals
		<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)

APPLICATION INFORMATION

Applicant: KYLE MALONE & MICHELLE MYERS		Phone: 505-550-6676 505-259-7315
Address: 2314 HOLLYWOOD AVE NW		Email: KYLE.AARON.MALONE@GMAIL.COM MISHMYERS@YAHOO.COM
City: ALBUQUERQUE	State: New Mexico	Zip: 87104
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site:		List all owners:

BRIEF DESCRIPTION OF REQUEST

Appeal of the decision to approve the request for a variance of 5 feet to the required front yard setback

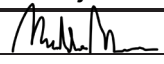

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: 266-A	Block: 0000	Unit:
Subdivision/Addition: MRGCD Map 38	MRGCD Map No.: 38	UPC Code: 101305800734221207
Zone Atlas Page(s): R-1A	Existing Zoning: R-1A	Proposed Zoning:
# of Existing Lots: 1	# of Proposed Lots:	Total Area of Site (acres): .07 acre - 3126sq/ft

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 2311 Hollywood Ave NW	Between: Rio Grande	and: Panmunjon Rd
--	---------------------	-------------------

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Project No: Project#2021-005169	Special Exemption No. VA-2021-00054
Signature:  	Date: 05/20/2021
Printed Name: Michelle Myers Kyle Malone	<input checked="" type="checkbox"/> Applicant or <input type="checkbox"/> Agent

FOR OFFICIAL USE ONLY

Case Numbers	Action	Fees	Case Numbers	Action	Fees
Meeting/Hearing Date:			Fee Total:		
Staff Signature:			Project #		

Michelle Myers
2314 Hollywood Ave. NW
Albuquerque, New Mexico 87104

May 19, 2021

To Whom It May Concern:

We are appealing the decision to approve a variance request to decrease the front setback from 10 feet to 5 feet at 2311 Hollywood Avenue Northwest 87104. We are not in opposition to the request for a decrease in the rear setback.

Based on the findings from the Zoning Hearing Examiner, it seems that many of the concerns of the residents of Hollywood Avenue were not addressed and the decision was not fully thought through given the uniqueness of our quaint and historic neighborhood. As mentioned in the meeting, Hollywood Avenue NW is an extremely narrow road, just over 12 feet, and the lot at 2311 is below the 3500 sq/ft minimum for R1-A zoned lot. Setbacks are important in any neighborhood, but even more so on Hollywood Avenue.

We would like to address the following statement the Zoning Hearing Examiner included in the variance approval letter, "Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned". There is no supporting evidence of this statement included. If one were to visit Hollywood Avenue, he or she would find quite the opposite, almost all of the properties on the north side of Hollywood Avenue are the same depth, many are fairly close to the same width or shorter, and the majority are built with at least a 10-foot setback in front.

Number 10 of the variance acceptance letter states that "the variance approved is the minimum necessary to avoid extraordinary hardship". What is the extraordinary hardship that the owner will incur if having to abide by the required 10 foot front setback when other property owners have abided by the 10 foot setback when building homes here many years ago? It is our understanding that the owner of 2311 Hollywood Avenue does not intend to live in the said home and plans to use it as a long term-rental. How is "extraordinary hardship" determined for a home that is not being built for a specific family and why is extraordinary hardship determined for this lot, when a majority of the owners of properties on the north side of Hollywood Avenue managed to build homes maintaining the required 10 foot setback?

It is our understanding that setbacks are designed to widen streets and help deal with the problem of congestion in a densely populated town. As well, streets and roads have setbacks to ensure that the way is wide enough to accommodate the teeming population. As we expressed in the hearing, this is even more important on a road that is half the size of a typical regulation sized road. Hollywood Avenue also needs to maintain the regulation 10-foot setback to create a safe space between our properties, where children play in front yards and on the street.

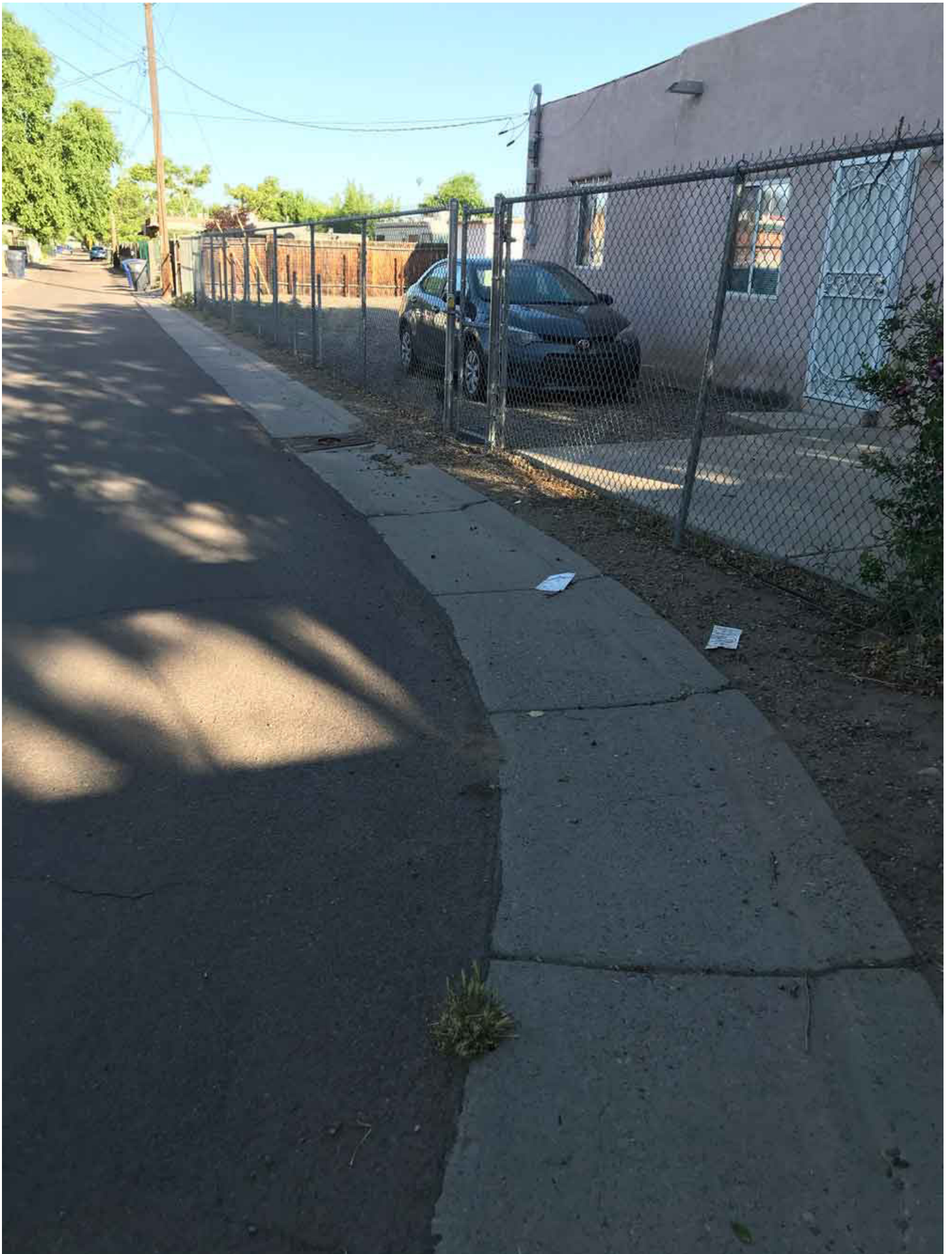
Keeping a 10-foot setback would also ensure that the road is wide enough to accommodate passing traffic and emergency vehicles. It was suggested by the zoning examiner during the hearing that the fire department be contacted; findings from this were not listed in the variance approval letter that we received. We work from home and have not left town since the hearing for this variance occurred on 4/20/2021. At no point have we, or any of our neighbors, witnessed anyone come to the property to assess the potential safety concerns that were discussed if this variance was approved, yet it is stated in the approval letter that a variance will not be contrary to the public safety, health and welfare of the community.

Many of the residents on this street, and who live in close proximity to this property, agree that there should not be a decrease in the 10-foot setback. Reducing the front setback from 10 to 5 feet is not necessary to build an adequate home on this lot as evidenced by many other homes built on this street using the 10 foot variance with the same depth of property. Appropriate setbacks aid in decreasing potential risk and harm on any street and help to create wider space along streets. Given the width of Hollywood Avenue, maintaining a 10 foot setback is even more important. Please reconsider your decision to approve the request to reduce the front setback.

Attached with this email are images of other properties on the north side of Hollywood Avenue like 2311.

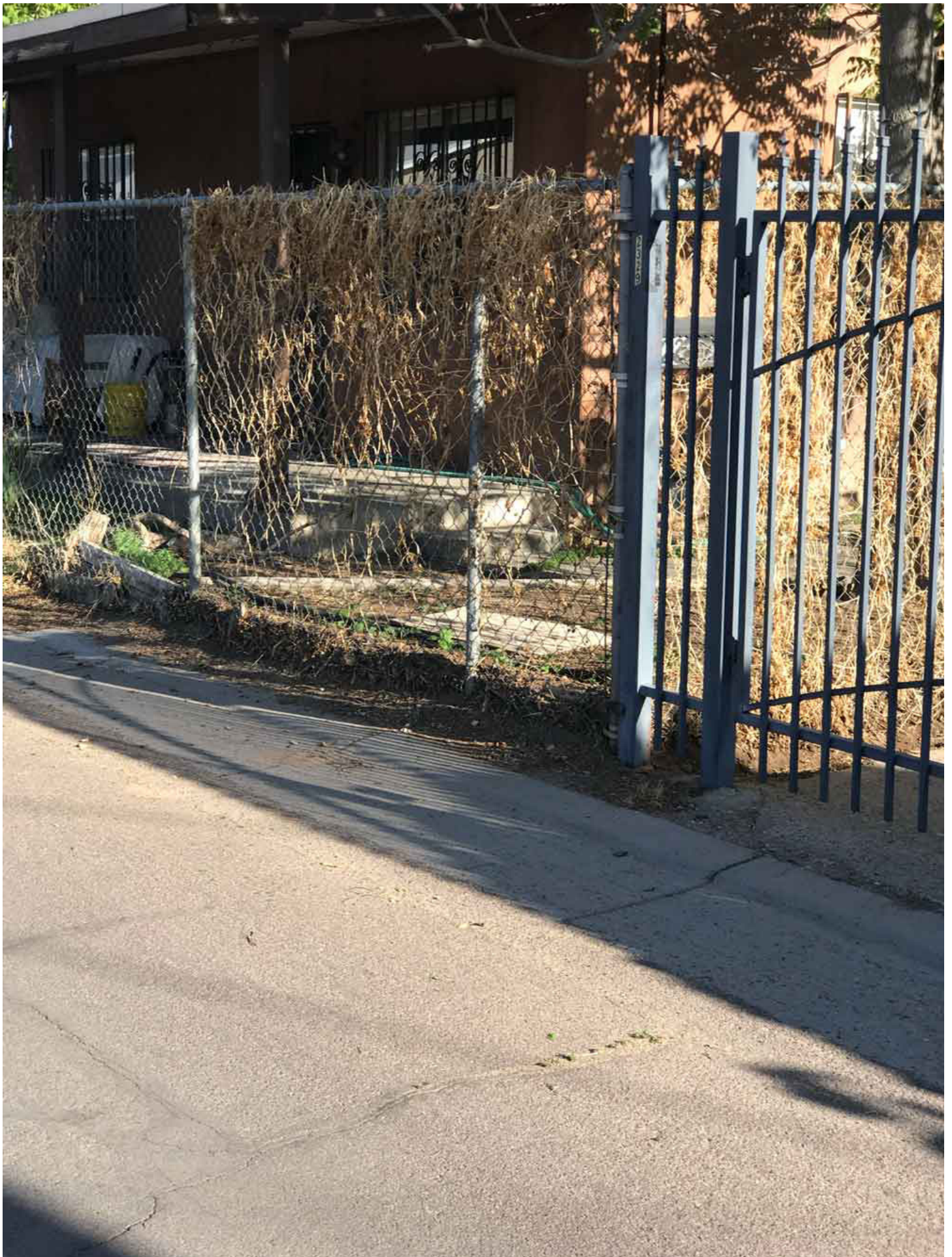
Sincerely,

Michelle Myers

















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

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)]

Special Exception No:..... **VA-2021-00054**
Project No:..... **Project#2021-005169**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

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FINDINGS:

1. Applicant is requesting a variance of 5 feet to the required 10-foot front yard setback.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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:
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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 14-16-6-4(N)(1).
4. Applicant and Agent appeared and gave evidence in support of the application.
5. Agent provided evidence showing that all property owners within 100 feet of the subject property and the affected neighborhood association were notified. While some public

participants testified that they did not receive notice, they were aware of the ZHE hearing in this matter, at which they provided testimony at the public hearing. Agent also provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3). Based on the foregoing, the ZHE finds that notice was proper as required by the IDO.

6. 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 provided written evidence that, the Subject Property is an extremely small lot in comparison to neighboring properties. Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned.
7. 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, evidence was submitted supporting that, if granted approval, the Applicant intends to develop the site as requested in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM). Numerous neighbors testified as to traffic problems along the very narrow Hollywood Avenue, which the Subject Property fronts. However, given that nearly all other properties along Hollywood Avenue are developed as residences, it cannot be shown how one additional residence can be said to be contrary to the public safety, health, and welfare of the community. Indeed, one of the key concerns of Applicant was to provide off-street parking in the form of a garage, to try to mitigate the congestion along Hollywood Avenue by getting parked cars off the street.
8. 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). Agent testified that there would be no adverse impact on infrastructure improvements. See finding 7, above.
9. 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 presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use and the proposed variance would merely allow for the usability of the site consistent with its residential zoning.
10. 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 submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended residential use. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
12. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 feet to the required 10-foot front yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Teresa King, teresa@kingconstruction.build
Michelle Myers, 2314 Hollywood Ave NW, 87104
Kyle Malone, 2314 Hollywood Ave NW, 87104
Thomas Montoya, 2309 Hollywood Ave NW, 87104
Regina Newall, 2226 Hollywood Ave NW, 87104
Al Sandoval, 2206 Hollywood Ave NW, 87104

REQUEST FOR SPECIAL EXCEPTION

☒ Variance ☐ Conditional Use ☐ Other

Interpreter: ☐ Yes ☒ No

VA# 2021-00054

PR# 2021-005169

Date:		Received By: Concetta Trujillo	
Address of Request: 2311 Hollywood Ave NW			
City: Albuquerque	State: NM	Zip: 87104	
Lot: 266-A	Block: 0000	Zone: R-1A	Map page: J12
Subdivision: MRGCD Map 38		UPC# 101305800734221207	
Property Owner(s): Brittany Love			
Mailing Address: 824 Kipuka Dr NW			
City: Albuquerque	State: NM	Zip: 87120	
Phone: 505-720-4105	Email:		
Agent: Teresa King			
Mailing Address: 5647 Valle Alegre Pl NW			
City: Albuquerque	State: NM	Zip: 87120	
Phone: 505-550-8818	Email: Teresa@KingConstruction.BUILD		
Fee Total: \$ 210.00			

Completed Application Requirements:

- o Copy of relevant IDO section
- o Letter of authorization (if agent representation)
- o Proof of Pre-application Meeting (not required for a variance)
- o Proof that neighborhood meeting requirements were met
- o Proof that public notice requirements were met
- o Photos (site and existing structures)
- o Sketch plan
- o Justification letter
- o Sign posting

Approved for acceptance by:

Date:

Hearing Date: APRIL 20, 21

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16- 2-3(B)			
Description of request: a VARIANCE of 5 feet to the required front yard setback. 10 FEET			
<input type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input type="checkbox"/> Letter of authorization included	
Case history number(s) from AGIS:			
APO:	CPO#	HPO#	VPO#
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area:			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			

REQUEST FOR SPECIAL EXCEPTION

☒ Variance ☐ Conditional Use ☐ Other

Interpreter: ☐ Yes ☒ No

VA# 2021-00055

PR# 2021-005169

Date:		Received By: Concetta Trujillo	
Address of Request: 2311 Hollywood Ave NW			
City: Albuquerque	State: NM	Zip: 87104	
Lot: 266-A	Block: 0000	Zone: R-1A	Map page: J12
Subdivision: MRGCD Map 38		UPC# 101305800734221207	
Property Owner(s): Brittany Love			
Mailing Address: 824 Kipuka Dr NW			
City: Albuquerque	State: NM	Zip: 87120	
Phone: 505-720-4105	Email:		
Agent: Teresa King			
Mailing Address: 5647 Valle Alegre Pl NW			
City: Albuquerque	State: NM	Zip: 87120	
Phone: 505-550-8818	Email: Teresa@KingConstruction,BUILD		
Fee Total: \$ 210.00			

Completed Application Requirements:

- o Copy of relevant IDO section
- o Letter of authorization (if agent representation)
- o Proof of Pre-application Meeting (not required for a variance)
- o Proof that neighborhood meeting requirements were met
- o Proof that public notice requirements were met
- o Photos (site and existing structures)
- o Sketch plan
- o Justification letter
- o Sign posting

Approved for acceptance by:

Date:

Hearing Date: APRIL 28, 21

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16- 2-3(B)			
Description of request: a VARIANCE of 5 feet to the required rear yard setback. 10 FEET			
<input type="checkbox"/> Ownership verified on AGIS	<input type="checkbox"/> Proof of ownership included	<input type="checkbox"/> Letter of authorization included	
Case history number(s) from AGIS:			
APO:	CPO#	HPO#	VPO#
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area:			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			

2-3(B) RESIDENTIAL – SINGLE-FAMILY ZONE DISTRICT (R-1)

2-3(B)(1) Purpose

The purpose of the R-1 zone district is to provide for neighborhoods of single-family homes with a variety of lot sizes and dimensions. When applied in developed areas, an additional purpose is to require that redevelopment reinforce the established character of the existing neighborhood. Primary land uses include single-family detached homes on individual lots, with limited civic and institutional uses to serve the surrounding residential area. Allowable uses are shown in Table 4-2-1.



2-3(B)(2) Use and Development Standards

Table 2-3-3: R-1 Zone District Dimensional Standards Summary					
See Table 5-3-1 for complete Dimensional Standards					
	R-1 Sub-zone	A	B	C	D
Site Standards					
A	Lot size, minimum	3,500 sq. ft.	5,000 sq. ft.	7,000 sq. ft.	10,000 sq. ft.
B	Lot width, minimum	25 ft.	35 ft.	50 ft.	70 ft.
C	Usable open space, minimum	N/A	N/A	N/A	N/A
Setback Standards					
D	Front, minimum	10 ft.	15 ft.	20 ft.	
E	Side, minimum	Interior: 5 ft. Street side: 10 ft.			10 ft.
F	Rear, minimum	10 ft.	15 ft.		
Building Height					
G	Building height, maximum	26 ft.			

Table 2-3-4: Other Applicable IDO Sections	
Overlay Zones	Part 14-16-3
Allowable Uses	14-16-4-2
Use-specific Standards	14-16-4-3
Dimensional Standards	14-16-5-1
Site Design and Sensitive Lands	14-16-5-2
Access and Connectivity	14-16-5-3
Subdivision of Land	14-16-5-4
Parking and Loading	14-16-5-5
Landscaping, Buffering, and Screening	14-16-5-6
Walls and Fences	14-16-5-7
Outdoor and Site Lighting	14-16-5-8
Neighborhood Edges	14-16-5-9
Solar Access	14-16-5-10
Building Design	14-16-5-11
Signs	14-16-5-12
Operation and Maintenance	14-16-5-13

Letter of Authorization

To: Zoning Hearing Examiner

Date: _____

Project # _____

ZHE# _____

I, Brittany Love hereby authorize Teresa King of King Construction, LLC to act on my behalf in all matters relating to this application for Special Exception filed for my property located at 2311 Hollywood Ave NW, Albuquerque, NM 87102.

Property Owner(s)* (Applicant) Printed Name Brittany Love

Property Owner(s)* (Applicant) Signature Brittany Love

Mailing Address 824 Kipuka Dr. NW Albuquerque NM 87120

* Where a property has more than one owner, all owners must consent in writing to the filing of the application to the maximum extent practicable. In the case that not all of the property owners have consented in writing to the application, or when the ownership status of some parties is unclear (as shown on a title abstract or title insurance commitment), the owner shall attest in writing that all of the property owners shown on a title abstract or title insurance commitment have been notified of the application in writing at their last known address as shown on the property tax records of Bernalillo County.

Sanchez, Suzanna A.

From: Sanchez, Suzanna A.
Sent: Monday, February 01, 2021 7:13 PM
To: Teresa@kingconstruction.Build
Subject: ZHE CONTACTS FOR 2311 Hollywood Ave NW
Attachments: 1. Letter to Neighborhood Association.pdf; 2. Letter to Property Owners-April.pdf; GENERAL VARIANCE JUSTIFICATION LETTER GUIDELINES.pdf

Dear Applicant,

1. Below are the neighborhood associations that need to be notified of your ZHE application. Please fill in and forward the attached 1. Letter to Neighborhood Association to the email addresses below.

Association Name	First Name	Last Name	Email	Address Line 1	City	State	Zip
West Old Town NA	Gil	Clarke	g.clarke45@comcast.net	2630 Aloysia Lane NW	Albuquerque	NM	87104
West Old Town NA	Glen	Effertz	gteffertz@gmail.com	2918 Mountain Road NW	Albuquerque	NM	87104

2. Below is a list of property owners within 100+ feet of the subject property. Please mail the attached, 2. Letter to Property Owners- April. Also, please provide proof that the letters were sent. Proof can be either a receipt for postage stamps purchased or a photo of the addressed envelopes.

Owner	OWNADD	OWNADD2
PEREA VIRGILENE & MAYNARD	2335 HOLLYWOOD AVE NW	ALBUQUERQUE NM 87104
CARROLL LOVETA R & JOHN M	PO BOX 7624	ALBUQUERQUE NM 87194 7624
BACA PATRICIA M	PO BOX 1834	CORRALES NM 87048-1834
VAN GAASBEEK JON	806 RIDGECREST DR SE	ALBUQUERQUE NM 87108 3369
MORGAN DANIEL CHARLES	2329 HOLLYWOOD AVE NW	ALBUQUERQUE NM 87104 1625
MONTOYA THOMAS G	2309 HOLLYWOOD AVE NW	ALBUQUERQUE NM 87104 1625
MARTINEZ-GURULE MARIA A	2228 HOLLYWOOD AVE NW	ALBUQUERQUE NM 87104
MONTOYA IVAN PAUL	2316 EDNA AVE NW	ALBUQUERQUE NM 87104
ALDECOA KIOMA VALENZUELA	2323 HOLLYWOOD AVE NW	ALBUQUERQUE NM 87104 1625
MYERS MICHELLE	2314 HOLLYWOOD AVE NW	ALBUQUERQUE NM 87104
BALDRIDGE EDWIN T TRUSTEE BALDRIDGE DECLARATION TRUST	605 SAN ANTONIO AVE	MANY LA 71449
MARTINEZ-GURULE MARIA A	315 RIO GRANDE BLVD NW APT A	ALBUQUERQUE NM 87104 1434
BACA MICHAEL A & LORRAINE	6036 GORRION ST NW	ALBUQUERQUE NM 87120
GONZALES DELFINIA	7310 LUELLA ANNE DR NE	ALBUQUERQUE NM 87109

MONTOYA IVAN P & ANNABELLE	2316 EDNA AVE NW	ALBUQUERQUE NM 87104 1517
BACA CECILIA	2817 FLORIDA ST NE	ALBUQUERQUE NM 87110 3357
BACA MICHAEL A & LORRAINE	6036 GORRION ST NW	ALBUQUERQUE NM 87120
MURPHY JUANITA C/O CASAUS EUGENE	1812 NEWTON PL NE	ALBUQUERQUE NM 87106 2527
CASAUS EUGENE R & CELESTINA B	1812 NEWTON PL NE	ALBUQUERQUE NM 87106 2527
MONTOYA LAUDENTE H (ESTATE OF)	9920 CHAPALA DR NE	ALBUQUERQUE NM 87111 4862

Please keep a copy of the email that you send and copies of each letter once you have filled them in. Please let me know if you have questions or need assistance.

The deadline for the April hearing date is **March 2nd**. If you miss this deadline, you will have to send out notice for a May hearing.

Thank you,

Suzie



SUZIE SANCHEZ

zhe administrative assistant

o 505.924.3894

e suzannasanchez@cabq.gov

cabq.gov/planning

REQUEST FOR NEIGHBORHOOD MEETING

Date: March 1, 2021

To Whom This May Concern:

I am requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use or variance to allow a reduction of 5' from the front and 5' from the rear setbacks for sufficient space to build a single-family dwelling and to provide sufficient off-street parking for the dwelling.
_____ (summary of request).

Property owner: Brittany Love

Agent if applicable: Teresa King

Property Address: 2311 Hollywood Ave NW, Albuquerque, NM, 87104 (zip code).

This letter is an offer to meet with you to provide additional information. If you wish to meet, please respond within 15 days. If you do not want to meet, or you support the proposal, please let me know.

Thank you,

Applicant Name: Teresa King, King Construction, LLC

Email: Teresa@KingConstruction.Build

Phone Number: 505-550-8818

The City may require the applicant to attend a City-sponsored facilitated meeting with the Neighborhood Associations whose boundaries include or are adjacent to the proposed project, based on the complexity and potential impacts of a proposed project. For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application.

[Note: Items with an asterisk (*) are required.]

Neighborhood Meeting Request for a Proposed Project in the City of Albuquerque

Date of Request*: _____

This request for a Neighborhood Meeting for a proposed project is provided as required by Integrated Development Ordinance (IDO) [Subsection 14-16-6-4\(K\) Public Notice](#) to:

Neighborhood Association (NA)*: _____

Name of NA Representative*: _____

Email Address* or Mailing Address* of NA Representative¹: _____

The application is not yet submitted. If you would like to have a Neighborhood Meeting about this proposed project, please respond to this request within 15 days.²

Email address to respond yes or no: _____

The applicant may specify a Neighborhood Meeting date that must be at least 15 days from the Date of Request above, unless you agree to an earlier date.

Meeting Date / Time / Location:

Project Information Required by [IDO Subsection 14-16-6-4\(K\)\(1\)\(a\)](#)

1. Subject Property Address* _____
Location Description _____
2. Property Owner* _____
3. Agent/Applicant* [if applicable] _____
4. Application(s) Type* per IDO [Table 6-1-1](#) [mark all that apply]
 - ☐ Conditional Use Approval
 - ☐ Permit _____ (Carport or Wall/Fence – Major)
 - ☐ Site Plan
 - ☐ Subdivision _____ (Minor or Major)

¹ Pursuant to [IDO Subsection 14-16-6-4\(K\)\(5\)\(a\)](#), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

² If no one replies to this request, the applicant may be submitted to the City to begin the review/decision process.

[Note: Items with an asterisk (*) are required.]

- ☐ Vacation _____ (Easement/Private Way or Public Right-of-way)
- ☐ Variance
- ☐ Waiver
- ☐ Zoning Map Amendment
- ☐ Other: _____

Summary of project/request^{3*}:

5. This type of application will be decided by^{*}: ☐ City Staff
OR at a public meeting or hearing by:
☐ Zoning Hearing Examiner (ZHE) ☐ Development Review Board (DRB)
☐ Landmarks Commission (LC) ☐ Environmental Planning Commission (EPC)
☐ City Council
6. Where more information about the project can be found^{*4}:

Project Information Required for Mail/Email Notice by [IDO Subsection 6-4\(K\)\(1\)\(b\)](#):

1. Zone Atlas Page(s)^{*5} _____
2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant^{*}: Attached to notice or provided via website noted above
3. The following exceptions to IDO standards will be requested for this project^{*}:

☐ Deviation(s) ☐ Variance(s) ☐ Waiver(s)

Explanation:

4. An offer of a Pre-submittal Neighborhood Meeting is required by [Table 6-1-1](#)^{*}: ☐ Yes ☐ No

³ Attach additional information, as needed to explain the project/request. Note that information provided in this meeting request is conceptual and constitutes a draft intended to provide sufficient information for discussion of concerns and opportunities.

⁴ Address (mailing or email), phone number, or website to be provided by the applicant

⁵ Available online here: <http://data.cabq.gov/business/zoneatlas/>

[Note: Items with an asterisk (*) are required.]

5. **For Site Plan Applications only***, attach site plan showing, at a minimum:

- ☐ a. Location of proposed buildings and landscape areas.*
- ☐ b. Access and circulation for vehicles and pedestrians.*
- ☐ c. Maximum height of any proposed structures, with building elevations.*
- ☐ d. **For residential development***: Maximum number of proposed dwelling units.
- ☐ e. **For non-residential development***:
 - ☐ Total gross floor area of proposed project.
 - ☐ Gross floor area for each proposed use.

Additional Information:

1. From the IDO Zoning Map⁶:

- a. Area of Property [typically in acres] _____
- b. IDO Zone District _____
- c. Overlay Zone(s) [if applicable] _____
- d. Center or Corridor Area [if applicable] _____

2. Current Land Use(s) [vacant, if none] _____

Useful Links

Integrated Development Ordinance (IDO):

<https://ido.abc-zone.com/>

IDO Interactive Map

<https://tinyurl.com/IDOzoningmap>

Cc: _____ [Other Neighborhood Associations, if any]

⁶ Available here: <https://tinurl.com/idozoningmap>

Sanchez, Suzanna A.

From: Teresa King <teresa@kingconstruction.build>
Sent: Tuesday, March 02, 2021 11:46 AM
To: Sanchez, Suzanna A.
Subject: Fw: Zoning Request for Variance of Setbacks
Attachments: Letter to Neighborhood Association.pdf; ZONE ATLAS PAGE.pdf; Conceptual 1ST FLOOR AREA - V3.pdf

From: Teresa King
Sent: Tuesday, March 2, 2021 11:41 AM
To: g.clarke45@comcast.net <g.clarke45@comcast.net>
Subject: Zoning Request for Variance of Setbacks

Gil,

Please find attached, a request for a variance to the front and rear setbacks from ABQ City Zoning for the purpose of building a home with the required off-street parking on this small lot. Please let me know if you have any questions.

Thank you,

Teresa King
King Construction, LLC
505-550-8818

=====
This message has been analyzed by Deep Discovery Email Inspector.

Sanchez, Suzanna A.

From: Teresa King <teresa@kingconstruction.build>
Sent: Tuesday, March 02, 2021 11:46 AM
To: Sanchez, Suzanna A.
Subject: Fw: Zoning Request for Variance of Setbacks
Attachments: Letter to Neighborhood Association.pdf; ZONE ATLAS PAGE.pdf; Conceptual 1ST FLOOR AREA - V3.pdf

From: Teresa King
Sent: Tuesday, March 2, 2021 11:45 AM
To: gteffertz@gmail.com <gteffertz@gmail.com>
Subject: Zoning Request for Variance of Setbacks

Glen,

Please find attached, a request for a variance to the front and rear setbacks from ABQ City Zoning for the purpose of building a home with the required off-street parking on this small lot. Please let me know if you have any questions.

Thank you,

Teresa King
King Construction, LLC
505-550-8818

=====
This message has been analyzed by Deep Discovery Email Inspector.

Public Notice of Hearing

Date: March 1, 2021

To Whom This May Concern:

I am requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use or variance to allow a reduction of 5' from the front and 5' from the rear setbacks for sufficient space (summary of request) to build a single-family dwelling and to provide sufficient off-street parking for the dwelling.

Property owner: Brittany Love

Agent (If applicable): Teresa King

Property Address: 2311 Hollywood Ave NW, Albuquerque, NM, 87102 (zip code).

A hearing will be held on April 20, 2021 beginning at 9:00AM via ZOOM.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

Meeting ID: 704 449 0999

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/7044490999>

Thank you,

Applicant's Name: Teresa King, Agent

Applicant's Number or Email Address: Teresa@KingConstruction.Build

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505- 924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline may result in deferral.

**OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT**



PART I - PROCESS

Use [Table 6-1-1](#) in the Integrated Development Ordinance (IDO) to answer the following:

Application Type: Variance - ZHE

Decision-making Body: Zoning Hearing Examiner

Pre-Application meeting required: ☐ Yes ☐ No ☒ X

Neighborhood meeting required: ☒ X ☐ Yes ☐ No

Mailed Notice required: ☒ X ☐ Yes ☐ No

Electronic Mail required: ☐ Yes ☐ No ☒ X

Is this a Site Plan Application: ☐ Yes ☐ No ☒ X **Note: if yes, see second page**

PART II – DETAILS OF REQUEST

Address of property listed in application: 2311 Hollywood Ave NW, Albuquerque, NM 87102

Name of property owner: Brittany Love

Name of applicant: Teresa King, Agent

Date, time, and place of public meeting or hearing, if applicable:

April 20, 2021 9:00AM via Zoom (Meeting ID# 704 449 0999)

Address, phone number, or website for additional information:

www.cabq.gov/zoninghearingexaminer or 505-924-3894

PART III - ATTACHMENTS REQUIRED WITH THIS NOTICE

☐ Zone Atlas page indicating subject property.

☐ Drawings, elevations, or other illustrations of this request.

☐ Summary of pre-submittal neighborhood meeting, if applicable.

☐ Summary of request, including explanations of deviations, variances, or waivers.

IMPORTANT: PUBLIC NOTICE MUST BE MADE IN A TIMELY MANNER PURSUANT TO [SUBSECTION 14-16-6-4\(K\)](#) OF THE INTEGRATED DEVELOPMENT ORDINANCE (IDO). PROOF OF NOTICE WITH ALL REQUIRED ATTACHMENTS MUST BE PRESENTED UPON APPLICATION.

I certify that the information I have included here and sent in the required notice was complete, true, and accurate to the extent of my knowledge.

Teresa King (Applicant signature) March 1, 2021 (Date)

Note: Providing incomplete information may require re-sending public notice. Providing false or misleading information is a violation of the IDO pursuant to IDO Subsection 14-16-6-9(B)(3) and may lead to a denial of your application.

**OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT**



PART IV – ATTACHMENTS REQUIRED FOR SITE PLAN APPLICATIONS ONLY

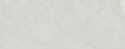
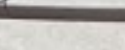
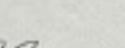
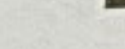
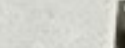
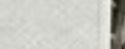
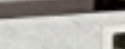
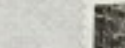
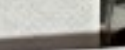
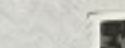
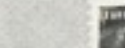
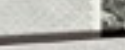
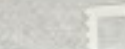
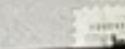
Provide a site plan that shows, at a minimum, the following:

- ☐ a. Location of proposed buildings and landscape areas.
- ☐ b. Access and circulation for vehicles and pedestrians.
- ☐ c. Maximum height of any proposed structures, with building elevations.
- ☐ d. For residential development: Maximum number of proposed dwelling units.
- ☐ e. For non-residential development:
 - ☐ Total gross floor area of proposed project.
 - ☐ Gross floor area for each proposed use.

Patricia Baca
P.O. Box 1834



Marlene Perea



Jon Van Haasbeek
1806 Ridgcrest Dr SE
Albany, NM 87108-3369









2002S-2 (1)

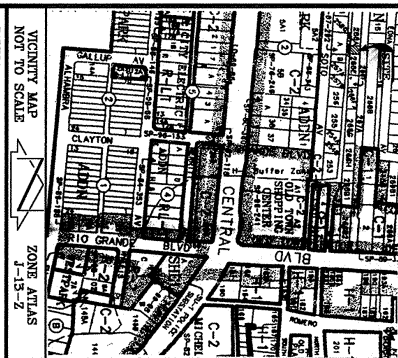
BOUNDARY SURVEY PLAT

TRACT 266-D

MIDDLE RIO GRANDE CONSERVANCY DISTRICT MAP NO. 38

ALBUQUERQUE, BERNILLO COUNTY, NEW MEXICO

NOVEMBER, 2001



VICINITY MAP
NOT TO SCALE
ZONE ATLAS
J-13-Z
PUBLISHED BY
ALBUQUERQUE TITLE CO.
07/18/97/013

LEGAL DESCRIPTION:
A certain tract of land situate in Section Eighteen (18), Township Ten (10) North, Range Three (3) East, known as Tract 266-D, Map No. 38 of the Middle Rio Grande Conservancy District, Bernalillo County, New Mexico, and being more particularly described by metes and bounds as follows:
BEGINNING at the Southwest corner of the tract herein described, whence ACS aluminum cap stamped "13-112, 1989" bears S42°38'46" W 1278.60 feet; thence from beginning point N04°06'51" W 41.91 feet to the Northwest corner of the tract herein described; thence, N85°59'51" E, 75.37 feet to the Northeast corner of the tract herein described; thence, S02°00'49" E, 41.93 feet to the Southeast corner of the tract herein described; said point being on the Northernly right-of-way line of Hollywood Avenue; thence, S85°59'35" W, 73.83 feet along the Northernly right-of-way line of Hollywood Avenue to the Southwest corner and point of beginning containing 0.07 acres (3126 sq.ft.), more or less.

TRACT 267A,
M.R.C.D. MAP NO. 38

Found tagged
tagged 7002"

Found tagged
tagged 7002"

Fence 1.2' in
N 85°59'51" E 75.37'

TRACT 266-D
3125.6 SQ. FT.
0.07 ACRES
VACANT LAND

TRACT 266-A
M.R.C.D. MAP NO. 38

N 04°06'51" W 41.91'

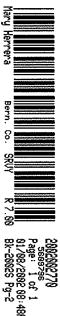
Fence 0.5' out

Fence 1.2' out

POINT OF BEGINNING
tagged 7002"

Found tagged
tagged 7002"

2311 HOLLYWOOD AVENUE N.W.
R/O/V VARIES



FLOOD CERTIFICATION:

It is hereby certified that the above described property is not located within a 100 year flood hazard boundary in accordance with current HUD Federal Administration flood hazard boundary maps dated September 20, 1996, Zone X, Community Panel No. 35001CD 351.

SURVEYOR'S CERTIFICATION:

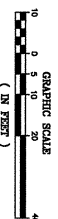
I, Douglas H. Smith, a New Mexico Professional Surveyor (77002) certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and that this survey and plat meet the Minimum Standard for Surveying in the State of New Mexico. I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this is a boundary survey plat of an existing tract or tracts.

Dated of Survey November 13, 2001
Douglas H. Smith, N.M.P.S. No. 77002



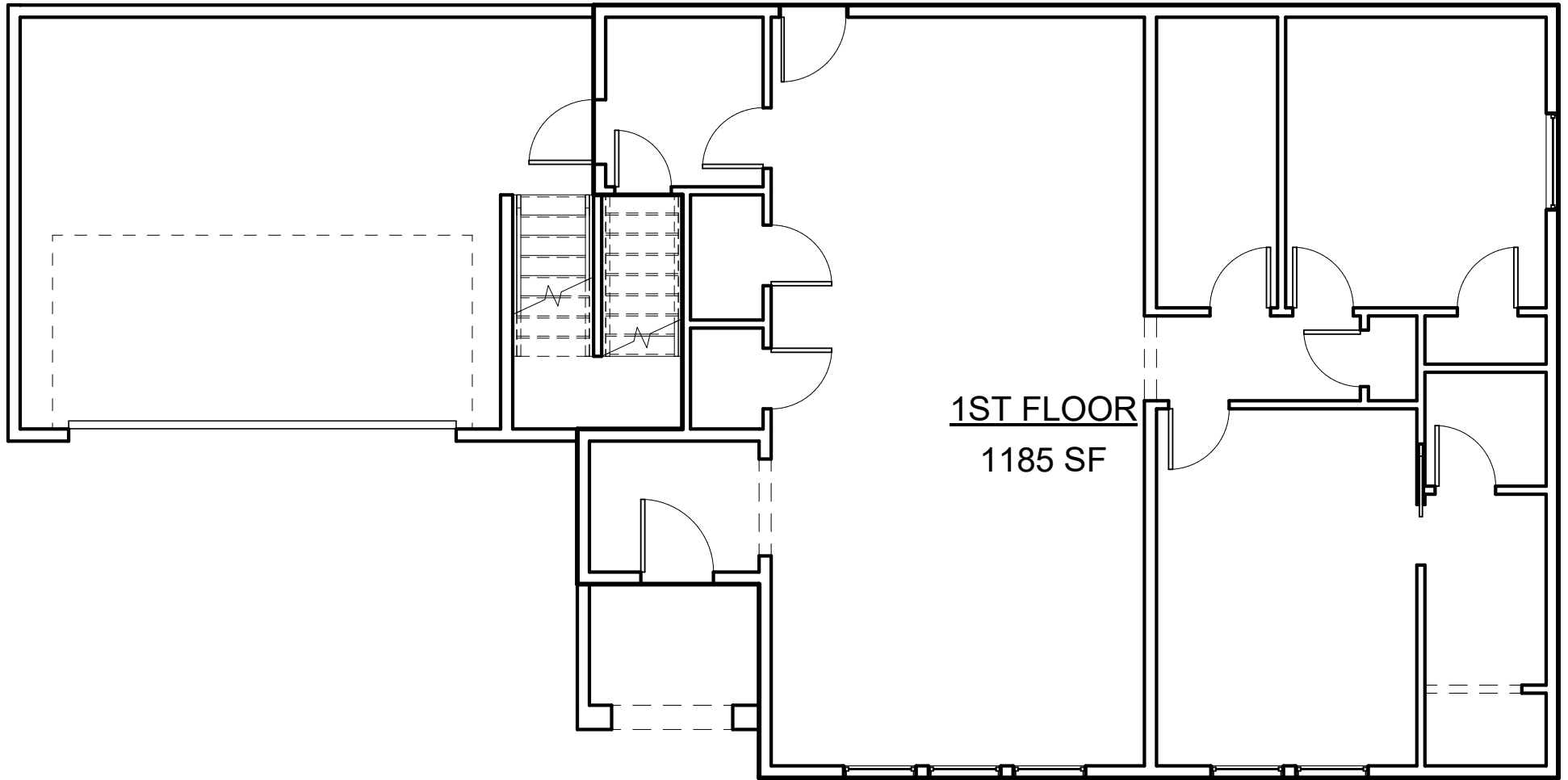
NOTES:

- 1) Measurements based on ACS 3 1/4" aluminum cap 13-112, 1989 and ACS 3 1/4" aluminum cap 14-112, 1989.
- 2) Distances are ground.
- 3) Documents used in this survey: Albuquerque Title Co. binder dated 10/24/01, CF#189737DS



2002S-2 (1)

2002S-2 (1)





City Zone Atlas Pages

City of Albuquerque, Bernalillo County, NM, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

VARIANCE JUSTIFICATION - GENERAL

Zoning Hearing Examiner
City of Albuquerque
600 2nd Street NW, 3rd Floor
Albuquerque, NM 87102

RE: Request for Variance of 5' of the required back yard setback

at 2311 Hollywood Ave NW, Albuquerque, NM 87104. (address of the subject property).

1) 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 district and vicinity. Those special circumstances create a hardship because the lot is very small and the building envelope within the setbacks is extremely difficult to build a reasonably-sized family residence with the appropriate amount of off-street parking.

2) The Variance will not be materially contrary to the public safety, health, or welfare because the request maintains safe and legal means of egress on each side of the building and it does not impede on public traffic (walking or driving) areas.

3) The Variance does not cause adverse impacts on surrounding properties or infrastructure improvements in the vicinity because it provides a minimum of 5' separation from neighboring properties and traffic areas.

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district because it will be consistent with other similarly-sized properties in this zone district and it maintains the safety, health, and well being of the residents in the area.

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties because it provides sufficient space for a reasonably-sized single-family residence and required parking space that the narrow road does not permit.

Signature Teresa King

Date: March 1, 2021

VARIANCE JUSTIFICATION - GENERAL

Zoning Hearing Examiner
City of Albuquerque
600 2nd Street NW, 3rd Floor
Albuquerque, NM 87102

RE: Request for Variance of 5' of the required front yard setback

at 2311 Hollywood Ave NW, Albuquerque, NM 87104. (address of the subject property).

1) 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 district and vicinity. Those special circumstances create a hardship because the lot is very small and the building envelope within the setbacks is extremely difficult to build a reasonably-sized family residence with the appropriate amount of off-street parking.

2) The Variance will not be materially contrary to the public safety, health, or welfare because the request maintains safe and legal means of egress on each side of the building and it does not impede on public traffic (walking or driving) areas.

3) The Variance does not cause adverse impacts on surrounding properties or infrastructure improvements in the vicinity because it provides a minimum of 5' separation from neighboring properties and traffic areas.

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district because it will be consistent with other similarly-sized properties in this zone district and it maintains the safety, health, and well being of the residents in the area.

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties because it provides sufficient space for a reasonably-sized single-family residence and required parking space that the narrow road does not permit.

Signature Teresa King

Date: March 1, 2021

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from APRIL 05, 2021 To APRIL 20, 2021

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

Terresa King
(Applicant or Agent)

3/3/21
(Date)

I issued 1 signs for this application, 03/03/21, MARCELO IBARRA
(Date) (Staff Member)

PROJECT NUMBER: PR-2021-



CITY OF ALBUQUERQUE INVOICE

TERESA KING

5647 VALLE ALEGRE PL NW

Reference NO: VA-2021-00054

Customer NO: CU-123930681

Date	Description	Amount
3/02/21	Application Fee	\$210.00

Due Date: 3/02/21

Total due for this invoice:

\$210.00

Options to pay your invoice:

1. Online with a credit card: <http://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 3/02/21
Amount Due: \$210.00
Reference NO: VA-2021-00054
Payment Code: 130
Customer NO: CU-123930681

*paid
Pbal*

TERESA KING
5647 VALLE ALEGRE PL NW
ALBUQUERQUE, NM 87120



130 0000VA202100054001025461129734574000000000000021000CU123930681



CITY OF ALBUQUERQUE INVOICE

TERESA KING

5647 VALLE ALEGRE PL NW

Reference NO: VA-2021-00055

Customer NO: CU-123930681

Date	Description	Amount
3/02/21	Application Fee	\$210.00

Due Date: 3/02/21

Total due for this invoice:

\$210.00

Options to pay your Invoice:

1. Online with a credit card: <http://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 3/02/21
Amount Due: \$210.00
Reference NO: VA-2021-00055
Payment Code: 130
Customer NO: CU-123930681

*paid
0 bal*

TERESA KING
5647 VALLE ALEGRE PL NW
ALBUQUERQUE, NM 87120



130 0000VA20210005500102546712974149100000000000021000CU123930681

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
INTER-OFFICE MEMORANDUM

April 9, 2021

To: Lorena Patten-Quintana, ZHE Planner

From: Matt Grush, P.E. Senior Engineer

Subject: COMMENTS FOR THE ZHE HEARING OF April 20, **2021**

The Transportation Development Review Services Section has reviewed the zone hearing requests, and submits the attached comments.

VA-2021-00054, -00055

PR-2021-005196

Address: 2311 Hollywood Ave. NW

Transportation Review: **No Objection**

Transportation has no objection to the request of a reduction to front yard and rear yard setback.

City of Albuquerque ZHE – April 20, 2021

Agenda Item #8

VA-2021-00054

PR-2021-005169

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-5-1(C)]

Ownership: **Owner:** ALDECOA KIOMA VALENZUELA

Zone District/Purpose: R-1/The purpose of the R-1 zone district is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions. Primary land uses include single-family detached homes on individual lots, with limited civic and institutional uses to serve the surrounding residential area.

Allowable Use: n/a

Applicable Comp Plan Designation(s): Area of Consistency; Central MT, Central MS

Applicable Overlay Zones: None listed

Applicable Use-Specific Standard(s): n/a

Applicable Dimensional/Development Standards:

Setback Standards ^{(a)(7)(d)}		
Front, minimum	20 ft.	R-1A: 10 ft.
		R-1B, R-1C: 15 ft.
		R-1D: 20 ft.

Traffic Recommendations: No objection

Planning Recommendation: This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



City of Albuquerque ZHE – April 20, 2021

Agenda Item #9

VA-2021-00055

PR-2021-005169

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 feet rear yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-5-1(C)]

Ownership: **Owner:** ALDECOA KIOMA VALENZUELA

Zone District/Purpose: R-1/The purpose of the R-1 zone district is to provide for neighborhoods of single-family homes on individual lots with a variety of lot sizes and dimensions. Primary land uses include single-family detached homes on individual lots, with limited civic and institutional uses to serve the surrounding residential area.

Allowable Use: n/a

Applicable Comp Plan Designation(s): Area of Consistency; Central MT, Central MS

Applicable Overlay Zones: None listed

Applicable Use-Specific Standard(s): n/a

Applicable Dimensional/Development Standards:

Rear, minimum	25 ft. min	R-1A: 10 ft.
		R-1B, R-1C, R-1D: 15 ft.

Traffic Recommendations: No objection

Planning Recommendation: This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



Old Republic National Title Insurance Company
Order Number: 2008397 MEC

WARRANTY DEED

Edwin T. Baldrige, Trustee of the Edwin T. Baldrige Declaration of Trust,

for consideration paid, grant(s) to

Brittany A. Love , a single woman,

whose address is: 824 Kipuka Dr NW, Albuquerque, NM 87120, the following described real estate in Bernalillo County, New Mexico,

Tract numbered Two Hundred Sixty Six-D (266-D) of Middle Rio Grande Conservancy District Map No. 38, as the same is shown and designated on the Plat Entitled "Boundary survey Plat of Tract 266-D Middle Rio Grande Conservancy District Map No. 38 Albuquerque, Bernalillo County, New Mexico November, 2001", filed in the office of the County Clerk of Bernalillo County, New Mexico, on January 8, 2002 in Plat Vol. 2002S, folio 2, as Document No. 2002002770, more fully described by metes and bounds description as follows:

A certain tract of land situate in Section Eighteen (18), Township Ten (10) North, Range Three (3) East, known as Tract 266-D Map No. 38 of the Middle Rio Grande Conservancy District, Bernalillo County, New Mexico and being more particularly described as follows:

BEGINNING at the Southwest corner of the tract herein described, whence ACS aluminum cap stamped "13-112,1989" bears S 42°38'48"W, 1276.60 feet; thence from beginning point N 04°06'51"W, 41.91 feet to the Northwest corner of the tract herein described; thence, N 85°59'51"E, 75.37 feet to the Northeast corner of the tract herein described; thence, S 02°00'49"E, 41.93 feet to the Southeast corner of the tract herein described, said point being on the Northerly right-of-way line of Hollywood Avenue; thence, S 85°59'35"W, 73.83 feet along the Northerly right-of-way line of said Hollywood Avenue to the Southwest corner and point of beginning.

SUBJECT TO all patent and mineral reservations, restrictive covenants, restrictions and reservations of easements and rights-of-way of record, and all applicable zoning regulations, restrictions and requirements and all other matters of record and to taxes for the year 2020 and subsequent years;

with warranty covenants.

Dated: October 13, 2020

Edwin T. Baldrige Declaration of Trust


Edwin T. Baldrige, Trustee

ACKNOWLEDGMENT

STATE OF Iowa

COUNTY OF Woodbury

This instrument was acknowledged before me on October 14, 2020 by Edwin T. Baldrige, Trustee of the Edwin T. Baldrige Declaration of Trust.

Daisy Murillo

Notary Public,

My Commission Expires: 11/26/2020



DAISY MURILLO
Commission Number 822484
My Commission Expires
11/26/2020



...



King Construction, LLC
505-550-8818

...



Gil Clarke

...

To: Teresa King

Tue 3/9/2021 4:51 PM

Teresa,

I have discussed your proposal with another member of the board and we will support your variance. If you need a formal letter please let me know.

Gil Clarke
WOTNA President

Sent from my iPad

...



Teresa King



Tue 3/2/2021 11:46 AM

(No message text)



Teresa King



Tue 3/2/2021 11:41 AM

Gil, Please find attached, a request for a varia...





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

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)]

Special Exception No:..... **VA-2021-00054**
Project No: **Project#2021-005169**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, Teresa King, agent for property owner Brittany Love (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 feet to the required 10-foot front yard setback (“Application”) upon the real property located at 2311 Hollywood Ave NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 feet to the required 10-foot front yard setback.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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 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. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or 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.*”
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 14-16-6-4(N)(1).
4. Applicant and Agent appeared and gave evidence in support of the application.
5. Agent provided evidence showing that all property owners within 100 feet of the subject property and the affected neighborhood association were notified. While some public

participants testified that they did not receive notice, they were aware of the ZHE hearing in this matter, at which they provided testimony at the public hearing. Agent also provided evidence that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3). Based on the foregoing, the ZHE finds that notice was proper as required by the IDO.

6. 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 provided written evidence that, the Subject Property is an extremely small lot in comparison to neighboring properties. Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned.
7. 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, evidence was submitted supporting that, if granted approval, the Applicant intends to develop the site as requested in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM). Numerous neighbors testified as to traffic problems along the very narrow Hollywood Avenue, which the Subject Property fronts. However, given that nearly all other properties along Hollywood Avenue are developed as residences, it cannot be shown how one additional residence can be said to be contrary to the public safety, health, and welfare of the community. Indeed, one of the key concerns of Applicant was to provide off-street parking in the form of a garage, to try to mitigate the congestion along Hollywood Avenue by getting parked cars off the street.
8. 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). Agent testified that there would be no adverse impact on infrastructure improvements. See finding 7, above.
9. 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 presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use and the proposed variance would merely allow for the usability of the site consistent with its residential zoning.
10. 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 submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended residential use. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
12. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 feet to the required 10-foot front yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Teresa King, teresa@kingconstruction.build
Michelle Myers, 2314 Hollywood Ave NW, 87104
Kyle Malone, 2314 Hollywood Ave NW, 87104
Thomas Montoya, 2309 Hollywood Ave NW, 87104
Regina Newall, 2226 Hollywood Ave NW, 87104
Al Sandoval, 2206 Hollywood Ave NW, 87104



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

Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 feet rear yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)]

Special Exception No:..... **VA-2021-00055**
Project No: **Project#2021-005169**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, Teresa King, agent for property owner Brittany Love (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 feet to the required 10 feet rear yard setback (“Application”) upon the real property located at 2311 Hollywood Ave NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 feet to the required 10-foot rear yard setback.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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 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. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or 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.”*
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 14-16-6-4(N)(1).
4. Applicant and Agent appeared and gave evidence in support of the application.
5. Agent provided evidence showing that all property owners within 100 feet of the subject property and the affected neighborhood association were notified. While some public

participants testified that they did not receive notice, they were aware of the ZHE hearing in this matter, at which they provided testimony at the public hearing. Agent also provided evidence that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3). Based on the foregoing, the ZHE finds that notice was proper as required by the IDO.

6. 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 provided written evidence that, the Subject Property is an extremely small lot in comparison to neighboring properties. Enforcement of the standard setback requirements essentially would render the lot unbuildable for the residential purposes for which it is zoned.
7. 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, evidence was submitted supporting that, if granted approval, the Applicant intends to develop the site as requested in the Application in a manner that is consistent with the IDO and the Development Process Manual (DPM). Numerous neighbors testified as to traffic problems along the very narrow Hollywood Avenue, which the Subject Property fronts. However, given that nearly all other properties along Hollywood Avenue are developed as residences, it cannot be shown how one additional residence can be said to be contrary to the public safety, health, and welfare of the community. Indeed, one of the key concerns of Applicant was to provide off-street parking in the form of a garage, to try to mitigate the congestion along Hollywood Avenue by getting parked cars off the street.
8. 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). Agent testified that there would be no adverse impact on infrastructure improvements. See finding 7, above.
9. 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 presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use and the proposed variance would merely allow for the usability of the site consistent with its residential zoning.
10. 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 submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended residential use. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
11. City Transportation submitted a report stating no objection.
12. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 feet to the required 10-foot rear yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Teresa King, teresa@kingconstruction.build
Michelle Myers, 2314 Hollywood Ave NW, 87104
Kyle Malone, 2314 Hollywood Ave NW, 87104
Thomas Montoya, 2309 Hollywood Ave NW, 87104
Regina Newall, 2226 Hollywood Ave NW, 87104
Al Sandoval, 2206 Hollywood Ave NW, 87104



**Hearing on Special Exceptions
to the Integrated Development Ordinance**

MINUTES

April 20, 2021

600 2nd St NW, Albuquerque, NM 87102

CITY STAFF PRESENT:

Robert Lucero – Zoning Hearing Examiner

Lorena Patten-Quintana – ZHE Planner, Planning Department

Suzie Sanchez – Hearing Monitor

VA-2021-00054-VA-2021-00055
PR-2021-005169
Applicant, Brittany Love Agent, Theresa King

ZHE: Next are two agenda items that will be heard together, they're agenda items 8 and 9. It's VA-2021-00054 and VA-2021-00055 and they're both listed under project number PR-2021-005169. I'm hearing some discussion there. Let me mute that. Okay, so agenda items 8 and 9 it's Brittany Love through agent, Theresa King requesting a variance of 5 feet to the required 10-foot front yard setback for Lot 266A, MRGCD Map 38, located at 2311 Hollywood Ave. NW, zoned R-1A. And, the same applicant and agent requesting a variance of 5 feet to the required 10-foot rear yard setback, at the same property. Ms. King, are you there?

THERESA KING: I'm here.

ZHE: Oh, thank you. Very good. Would you please state your full name and mailing address for the record?

THERESA KING: Theresa King, 5647 Valle Allegra Place Northwest, Albuquerque, 87120.

ZHE: Thank you and please raise your right hand and do affirm under penalty of perjury that your testimony will be true?

THERESA KING: Yes.

ZHE: Thank you, go ahead, five minutes. Please tell us about the application.

THERESA KING: Okay, the application is a request of a deviance from 10 feet front setback and 10 feet rear setback to 5 feet each of the front and the rear. The reason for the request is that this lot is very small; it is just over 41 feet deep and slightly over 73 feet wide across the front. There is -- that leaves about 20 feet approximately to build in. One other thing that is important in this situation is that the roadway to -- for egress to and from these properties is extremely narrow. There is no room for parking on the street and still, that would still allow vehicles to pass through. So, the garage is extremely important in this, in this request and there is another requirement that the garage be set back from the front of the property by 20 feet which, basically if, if the 10-foot front and rear setbacks were to remain, we could not have a garage and therefore, we wouldn't have room for off-street parking. The other factor here is that the lot being so small, in order to build a reasonably sized home, we would need that additional 5 feet and rear -- from the rear and front.

ZHE: Thank, thank you, thank you for that information.

THERESA KING: Hopefully, that made sense.

ZHE: It does, yes it certainly does, and I see a site plan here in the file and it says 1,185 square feet. Is it, is that right?

THERESA KING: That is approximately correct. The garage is not considered heated and cooled living space so, typically -- I would say anywhere from 1,000 square feet for a single-story to a 2,000 square-foot for a two-story home.

ZHE: Okay.

THERESA KING: And that is with the setbacks granted that we have requested.

ZHE: Okay. Very good. Well it certainly sounds like there's special circumstances, given the very small size of the lot and its orientation. Would there be any negative impacts? Would this be materially contrary to public safety, health, or welfare?

THERESA KING: None that I can think of and in fact, I do believe it would be a benefit because it would provide off-street parking. I would also like to mention that there are a few other homes on the street that have reduced setbacks and, in some cases, even, zero lot lines either on the sides or on the front or rear. Additionally, in this situation the home immediately to the east of this property does sit on the lot line between our property and theirs. So, it is a zero-lot line situation to the east. And, that's one of the reasons we're requesting the space from the front and the rear versus the sides.

ZHE: Okay, how much - - How far would the building be set back from that side zero-line lot?

THERESA KING: It would, it would be the required 5 feet.

ZHE: Okay.

THERESA KING: This request would allow means of egress on all four sides of the home and that would work best for the adjoining properties, as well.

ZHE: Okay and is this variance that's requested, the minimum necessary to avoid extraordinary hardship? Would any smaller variance work?

THERESA KING: I considered that. If we were to - - The only other option would be to do a zero-lot line either on the front or the rear. And, again, I think this is probably a better way of doing it just because it does provide means of egress on all sides of the home and for all the neighbors.

ZHE: Yes. Okay. All right. No, I think you've addressed all the questions that I had. Is there anything else you'd like to add before we call for a public comment?

THERESA KING: I would like to add that I did send out letters to the neighborhood associations and several of the neighbors. One of the neighborhood association president's, which was of the West Old Town Neighborhood Association, Gil Clark did respond very quickly and I guess the neighborhood association did discuss this request, or these requests and they are in support of that. And, I do have a copy of the email response if you'd like to see it.

ZHE: Yes, that would be great.

THERESA KING: I can show it now and or email it to you.

ZHE: Yeah, if you don't mind could you do the share screen? Suzie, could you authorize her to do a screen share, please?

HEARING MONITOR: Yes, of course.

THERESA KING: Do you mean to hold this up?

ZHE: Oh, yeah, you could do that. Let me just increase my screen size here, bear with me. Thank you. Would you, would you mind just reading it into the record that we have it, that way we have it in the record?

THERESA KING: Yes, again this is from Gil Clark, President of the West Old Town Neighborhood Association. I received this at 4:51 PM on March 9th and it says, "Theresa I have discussed your proposal with another member of the Board and we will support your variance. If you need a formal letter please, let me know, Gil Clark West Old Town Neighborhood Association President." I did respond thanking him and letting him know that a formal letter would be appreciated and possibly helpful and I did not receive a response from that.

ZHE: Okay, well thank you for that information. You know, I don't think I had any other substantive questions but I did have kind of a technical question, I guess. So, there's - - You know, the City, when we receive an application, we look at the ownership under the County Clerk records, and the county tax records has this parcel listed as being owned by Aldecoa Kioma Valenzuela and so, - - But, I know that you know, that obviously the tax records aren't updated very frequently and - - Has Brittany Love recently acquired the property?

THERESA KING: She has and Brittany is participating in this Zoom meeting if you'd like to speak with her.

ZHE: Okay, actually if you could just get - - Unless, she wants to add her own testimony, if we could just get a copy of the deed or however she obtained title to the property by this Friday, that would be sufficient.

THERESA KING: Okay, we can do that.

ZHE: Ms. Love, did you want to, did you want to provide any testimony?

BRITTANY LOVE: Not unless you have any specific questions. I think Theresa did mention everything that we wanted to today.

ZHE: Okay, very good. Well, if, if there's questions that come up from the public comment, we'll give you the opportunity to address those then. Okay?

BRITTANY LOVE: Okay.

ZHE: Is there anything else to add before we call for public comment?

THERESA KING: I don't have anything else.

ZHE: Okay, thank you. All right, so again these are agenda items 8 and 9 being heard together. And, it's Brittany Love through agent, Theresa King, requesting a front and rear yard setback at 2311 Hollywood Ave. NW. I see that we have some participants looking to speak. I see Michelle Myers? Are you there?

MICHELLE MYERS: Yes, I am. Thank you.

ZHE: Thank you.

MICHELLE MYERS: I just wanna say... sorry.

ZHE: Would you please state your full name and mailing address for the record?

MICHELLE MYERS: It's Michelle Myers, 2314 Hollywood Ave NW.

ZHE: Thank you and please raise your right hand. And, do you affirm under penalty of perjury that your testimony will be true?

MICHELLE MYERS: Yes, I do.

ZHE: Thank you; go ahead two minutes, please.

MICHELLE MYERS: Thank you. I just wanna say, we were not notified about a neighborhood meeting to discuss this and the two board members don't live on our street so, none of the people in our street were notified about a board meeting to discuss this variance on our street. I also just wanted to say that we - - I live directly across the street and because of the narrowness of Hollywood Avenue our fence has been run into several times and destroyed, costing us many hours and dollars to rebuild. And, this is especially concerning because we also have two small children that regularly play in our front yard and in the streets, you know, we can we can deal with having to repair a fence but if one of our children were to be harmed... We're just very concerned about the safety. Also, I'm concerned because our street is 12 feet wide and our house sits 12 feet from the road. If their house sits, let's say, 5 feet from the road, I think the line is really close to where the road begins. The potential of blocking light out from the windows in our house and if it's a two-story house, it'll have a direct view over our fence into our children's bedroom, our bedroom, the living room. Also, our street does sometimes become a thorough way when traffic is diverted because of accidents on I-40, when there's construction on Rio Grande. Also, just the whole month of November and December, because of the River of Lights. A lot of people use Hollywood Avenue. It's also used by bikers to access the bike trail. I - - We - - A lot of people on our street are just very concerned about building a house on this small of a property and how much traffic it's gonna bring. Two cars have a hard time passing, the way it is and often time, use those - - that little lot to get out of the way of the trash truck, delivery trucks, emergency vehicles.

ZHE: Thank you for that context, Ms. Myers and your testimony.

MICHELLE MYERS: Thank you, Mr. Examiner.

ZHE: Okay, I see Kyle Malone with a hand raised. Are you there, sir?

KYLE MALONE: Yes, sir.

ZHE: Thank you. Would you please state your full name and mailing address for the record?

KYLE MALONE: My mailing address is 2314 Hollywood Ave NW, Albuquerque, NM 87104.

ZHE: Thank you, sir and please raise your right hand. And do you affirm under penalty of perjury that your testimony will be true?

KYLE MALONE: Yes.

ZHE: Go ahead, sir. Two minutes, please.

KYLE MALONE: Yeah, we are - - There's many concerns with the neighbors that we've talked to over the past couple months. It - - The - - 2311 is, I'm pretty sure, one of the smallest lots on this road and like Michelle said, our road is only 12-feet-wide and I believe the traditional 2-lane road is about 24 feet wide, so, it is a very, very narrow road. And, and even though they plan on building a garage, I mean, if they ever have people visiting, anything else like that, there will be blockage in the road. And, we've had issues in the past where we've had a fire in our yard that we had to call the fire department and they are unable to come down our road and had to seek an alternate route because of vehicles parking on the road and making it impassible. So, it does really create a safety concern for everybody on the road, just to have additional congestion and we, we don't think that it's, it's a right move for, for building on such a small lot and, and really taking away those setbacks.

ZHE: Thank you for that information.

KYLE MALONE: And, one other thing, I'd like to raise - - I'm sorry.

ZHE: Oh no, go ahead.

KYLE MALONE: One other thing, I'd like to raise is, when the property was for sale, we did inquire just to keep the property the way it was and just sort of, just, try to find out more about purchasing it and when we did talk to the Realtor, we found out that Mrs. Love is a developer and from what we were told, this is all here-say but, that it could be potentially turned into a Bed and Breakfast or some sort of business where there would be a lot more traffic whether it'd be maintenance, whether it'd be cleaners, property managers, plus people that aren't familiar with this road continually be coming in and so just that increased amount of traffic would just, would raise a lot of problems.

ZHE: Okay. All right. Thank you for your testimony, sir.

KYLE MALONE: And, also, I'd like to...

ZHE: Thank you for your participation.

KYLE MALONE: I'd like to submit a written statement too if that's okay.

ZHE: Is it in the record?

KYLE MALONE: The written statement?

ZHE: Yes.

KYLE MALONE: I haven't submitted one but if it, if it's possible, I'd like to submit one.

ZHE: If you, if it's short, you can read it but we're - - I have to enforce the time limits so go ahead and read it if it's short.

KYLE MALONE: I went through a lot of the stuff. I feel like we have other neighbors that would like to bring up issues as well.

ZHE: Okay.

KYLE MALONE: Thank you.

ZHE: Thanks for your testimony. All right, I see a hand raised, with a phone number 1-904-583-0409? Are you there?

ELENA MONTOYA: Yes, yes we are here. I'm speaking for my father. Here is my father, he'll tell you about himself.

THOMAS MONTOYA: I'm Thomas Montoya; I live at 2309 Hollywood NW, 87104, Albuquerque.

ZHE: Thank you, Mr. Montoya.

THOMAS MONTOYA: And, my daughter is going to talk for me.

ZHE: Would you please raise - - Oh okay.

THOMAS MONTOYA: Here.

ELENA MONTOYA: Yes.

ZHE: Hello, are you there?

ELENA MONTOYA: Yes, I'm here.

ZHE: Oh good. Would you go ahead and state your name and mailing address?

ELENA MONTOYA: My name is Elena Montoya, I'm his daughter. I live at 5401 Copeland SW, Albuquerque, NM 87105 and he is the adjoining neighbor on the east side that he spoke of.

ZHE: Thank you. And, please raise your right hand. And, do you affirm under penalty of perjury that your testimony will be true?

ELENA MONTOYA: Yes, sir.

ZHE: Thank you. Go ahead, two minutes, please.

ELENA MONTOYA: Yes, like I said, he is the, the neighbor on the east side. He has been living there over 60 years now and he has seen a lot of issues down that road, especially how small it is. Without that empty lot, his life you know, could have been in really - - His life was in danger without that little, tiny spot. There was a high-power line that came down and was sparking in front of his house and the fire truck could not get down the road and without that lot, allowing vehicles to pull in and park because it is in the middle of the road and it is quite small. The best way to describe that lot is probably a little bigger than a home depot shed so, it is really small there. And, the vehicles had to - - the emergency vehicle couldn't get down the road so, he was knocking on people's homes that did have you know, one or two vehicles just to get down there and they pulled them in there, real fast so they can secure the scene for him to get out of his home safely. And, the concern is, is if it's gonna be any Bed and Breakfast, any rentals, visitors, those - - There is no street parking at all. The neighbors there, park in their yards to maintain an open, you know, access to that road. It's frequently drove down as you know, an alternative road to bypass Central and Rio Grande. It is high traffic as well, at times, it backs up. Now, also, there was mention of a Home Owner's Association, I spoke with my father, he has no idea who those guys are. He's never been notified of any, any meeting regarding this lot as far as Home Owner Association goes. Do you have anything else?

THOMAS MONTOYA: That's it.

ELENA MONTOYA: And, he is, he's also concerned about his safety. He is 80 years old; he just recently had a hip surgery. If something was to happen to him, and that house being so close, say, on you know, -
- Hopefully - - Like a fire or an emergency, something like that, there is no way he would be able to evacuate his home in the amount of time needed, due to you know, fire safety issues of the truck getting down there because he has seen it and experienced it first-hand. Do you have anything else for me to add, daddy?

THOMAS MONTOYA: The rescue squad couldn't go in there.

ELENA MONTOYA: Just tell them how the rescue squad couldn't go in there. Tell them how the fire truck couldn't get in there.

THOMAS MONTOYA: The fire truck couldn't get in there because of the car on the side. The road is too narrow. It just fits two cars, one going and one coming. They barely fit in the road because the road is too narrow.

ZHE: Thank you Mr. Montoya. Thank you, sir. Let's get you sworn in, just since you're testifying as well. Do you affirm under penalty of perjury that your testimony is true, Mr. Montoya?

THOMAS MONTOYA: Yes, it's true.

ZHE: Thank you, sir. All right, anything further Mr. and Ms. Montoya?

ELENA MONTOYA: And, then, I am wondering as well, is it going to be a two-story and what kind of home is going to be built because it is a historic district. His house is adobe and if it goes to a two-story, it can ruin the integrity of keeping Old Town, Old Town. And, that is you know, all we have to add. Thank you for your time, sir.

ZHE: Thank you. We'll let the agent and applicant address those questions when the time comes. Thank you, Mr. and Ms. Montoya. Okay, I see Regina Waterspirit with a hand raised. Are you there?

REGINA NEWALL: Yes, I'm here. Thank you, sir.

ZHE: Oh good.

REGINA NEWALL: Do you need my...

ZHE: Let's get you sworn in. Would you state your full name and mailing address for the record?

REGINA NEWALL: My legal name is Regina Newall, 2226 Hollywood Avenue, 87104. I live right on Hollywood. And...

ZHE: Thank you and do you affirm under penalty of perjury that your testimony will be true?

REGINA NEWALL: Yes, I do.

ZHE: Thank you. Go ahead, two minutes, please.

REGINA NEWALL: Okay, I don't think it's been mentioned that, that piece of property, that little lot is the only access to the alley behind the houses on Hollywood, on the north side of the street of Hollywood. That is the only access to that alley behind the houses. And, the other thing is that, I'm one of the elders on the street and very, very concerned about the emergency vehicles. There have been times where there was one car, because most of the neighbors are all very cooperative but, there was one car that was parked on the street and we had a fire engine come and they had to back up and, and use that property and turn around and go back onto Soto Street, which is behind my house, like between me and McDonald's. So, as a grandmother, I am very concerned of course about the children. There's at least 8-10 children on this block and invariably I walk out of my house, I see a kid you know, playing in the street. I try to encourage them to stay on the side but, you know how children are. So, those are the main considerations that I have although, I am in agreement with the other residences about their concerns but, my concern as an elder is that, is for the children like - - I think that Mr. Malone said, this is a 12-foot street, it's so narrow and also I have personally witnessed and called the police about 3 times from seeing people doing over 60 miles an hour going down this little, tiny street and so I don't know how we can stop that. I think that there is a lot of danger on this street. The stop sign at Rio Grande and Hollywood Avenue is indented about 5 feet so nobody stops at that stop sign except for I think, myself and one other person that I know of. And, there's a sidewalk there, I have witnessed so many bike riders and women with little babies and strollers who don't even turn their head when they, when they cross Hollywood, there. So, if the cars that are on Hollywood are not paying attention, that is a disaster waiting to happen. So, I know all of this is surrounding the problem that we're talking about but I would really, really be disappointed to see an Air BNB or a Bed and Breakfast or any kind of a business. I don't know if the street is zoned for that way but I did hear also that, that Ms. Love's intention is not to live here but to turn this into a business. Thank you for your time. And also, I have a neighbor here who didn't have Zoom so I think he would like to speak.

ZHE: Okay. Well, thank you, Ms. Waterspirit, let's have - - I see a gentleman there. Would you please state your name and mailing address for the record?

AL SANDOVAL: My name is Al Sandoval, I live on 2206 Hollywood Ave NW, and I also have a lot of concern about the emergency vehicles. I witnessed it.

ZHE: Let's go ahead and get you sworn in. Would you please raise your right hand and do you affirm under penalty of perjury that your testimony will be true?

AL SANDOVAL: I do.

ZHE: Thank you, sir. Go ahead, two minutes, please.

AL SANDOVAL: And, I have witnessed a lot of people using this road as a through fare and they fly through here 60 to 80 miles an hour. And, I've fought with people to try and get them to slow down because there's a lot of kids in our neighborhood and there's a lot of women with strollers and there's, there's people walking their dogs and there's bicycles and they come flying thorough here like it's a freeway. And, I've gotten into so many arguments with people, I was even forced to buy a weapon to protect myself because these people are out of hand and it's bad and we don't need another, another place, you know, people coming in and out, outsiders. I don't think we need that. You know, we don't know what kind of people we're going to be having coming into our neighborhood.

ZHE: Yes. Thank you, sir. I appreciate your testimony.

AL SANDOVAL: You know, I fight with people all the time. I've been here over 23 years and I fight with people all the time hauling a** down our street and it's, it's pretty bad.

ZHE: All right. Thank you, sir. Thank you very much.

AL SANDOVAL: Thank you.

ZHE: Let's see if there's any other public comment? Again, these are agenda items 8 and 9. Please raise your hand if you haven't yet spoken on those and would like to do so. Agenda items 8 and 9, Brittany Love through agent, Theresa King requesting setback variances for front and back of 2311 Hollywood. I'm scrolling through the participants list and I don't see anyone raising their hand here. Last call for agenda items 8 and 9. Let's see, I see Regina Waterspirit raising a hand. I'll note that you've already spoken, so...

REGINA NEWALL: Yes.

ZHE: Is there someone else there that wants to speak?

REGINA NEWALL: I just wanted to add that on Soto Street behind this strip of Hollywood, on the south side of Hollywood, they took down a whole bunch of trees a couple of years ago and there are 3 trees on that little lot. And, I just want to mention that I know those trees would have to go if, something was built there. So, that's all I have to say about that.

ZHE: Thank you, ma'am. Okay, very good. I see Ms. Myers with her hand raised but you know, unfortunately, she's already had the chance to speak and we do have a lot of other items to get through today. So, let's let the applicant address the public comment that we've heard so far. Are you there Ms. King?

THERESA KING: I am, yes.

ZHE: Okay. Would you like...

THERESA KING: Can you hear me?

ZHE: Yes. Would you like to address the public comment?

THERESA KING: I would. I think - - It sounds like pretty much everyone that spoke, I want to say first of all that I totally understand your concerns particularly, about the width or lack thereof of the street, Hollywood Avenue because that was something that seems to be a bit of an issue. That is nothing, there is nothing we can do regarding the width of that lot and regarding that, I also wanted to say that 2311, Ms. Love's lot that she has recently purchased, is zoned R-1A, which means that it is zoned for residential. Either a single story or a two-story, we have not decided yet, which is going to be built. We will do our best to take everyone's concerns into consideration but I do think that more than anything else, the concerns that we have for the need of off-street parking has been substantiated over and over and over again in each of your comments. She does - - She is not a developer. I'm not sure where that came from. She does not plan to build a BNB. Also, there is no HOA, that is a Home Owner's Association. There are however, two neighborhood associations and we do not have control as to when or even if

they call neighborhood meetings to discuss items, so that is beyond our control as well. Currently, there, it appears that there are several neighbors that are using this lot as a parking lot, so I totally understand if that may be of concern as well but again, Ms. Love does have the right to build a residential, either single story or two-story home on this property. Again, she is a wonderful person. I don't know if any of you have had the opportunity to meet her. And, I know that she, as well, to the best of her ability, would also be sensitive to your needs.

ZHE: Okay, I had a question just because of the - - Over and over it was safety concerns that were raised and you know, I do see that in the record that we have a report from the City Transportation stating that they had no objection to the request but have you conferred with them or with the fire department or anyone about sort of the safety of, given the narrowness of the street?

THERESA KING: I have not but I would think that would be a great idea for any and all neighbors that are concerned about that, to do that as well and that is something that I can speak to Ms. Love about as well.

ZHE: Okay.

THERESA KING: I'm not sure that they can do much about it, though. As I mentioned, there are some homes that are - - have been built on a zero front lot line.

ZHE: Yes. Okay. Anything else that you'd like to add in response to the public comment?

THERESA KING: I don't have anything. I'm not sure if Brittany does.

ZHE: Ms. Love, did you have anything to add before we close the record?

BRITTANY LOVE: Other than, I just did acquire the property and no, I don't know where the Bed and Breakfast came about but that's definitely not my intentions. I also have a daughter so I understand the concerns and the street is narrow but all I could really say to that is, you know, I don't have any control of that, narrowness. And, like Ms. King said, it is a residential lot so, you know, it's one of the last ones left on the street. I think there might be maybe another one down the road. But, yeah, I just want to you know, try to increase the neighborhood values and bring a nice property to the area. It's a great location, close to Old Town and all of that so, hopefully, we can figure out something that will work. You know, Theresa, she's very well versed in all of this so, she'll help us you know, take all those concerns into consideration, so thank you.

ZHE: Ms. Love, thank you for that. Because we didn't get you sworn in, let's go ahead and do that now. Would you please state your full name and mailing address for the record?

BRITTANY LOVE: Sure, my name is Brittany Love and my mailing address is 824 Kipuka DR NW, Albuquerque, 87120.

ZHE: Thank you and please raise your right hand and do you affirm that your testimony today was true under penalty of perjury?

BRITTANY LOVE: Yes.

ZHE: Thank you.

BRITTANY LOVE: Thank you.

ZHE: Okay, well, I think that - - One, one last question for Ms. King before I close the record because it sounds like what Ms. Love is saying, you know, she wants to - - she's hearing what the neighbors are saying and you know, is - - Would it be beneficial to have a deferral to sort of see if there is any reasonable revisions to the site plan that can be made or is the - - or does the applicant want to stand on the application as is?

THERESA KING: We could do that if you'd like. Again, I think the main concern there and main issue with changing this would be that garage and as everyone has stated over and over again, the road is so narrow that it does not permit on-street parking so, the idea of the garage is obviously to have parking space that would not impede upon driving traffic and or walking traffic. And, if we are unable to get these variances in the front and back then, we would be unable to build a garage on the property.

ZHE: Okay.

BRITTANY LOVE: And, if I could add to that. Like Theresa said, we didn't request a zero-lot line variance, we went with the 5 feet and I believe one of the first neighbors that spoke said hers was at 6 so, we're not too far away from that one.

ZHE: Okay. All right, well it sounds like we'll you know, you want to proceed sort of, with the application as is and I, I have a lot to consider. So, let me - - With that, we'll go ahead and close the record on the, on this matter and I want to thank everyone for their participation, it was very helpful. I appreciate all of your public testimony and comment and I appreciate the agent and the applicant with their submittals and their testimony as well. And so, I will take it all under consideration and do my best to apply the rules to the facts in front of me and will issue the written decision in 15 days. Thank you, everybody.

THERESA KING: Thank you, Mr. Examiner and thanks to all the neighbors to state and voice their concerns today as well.

ZHE: Thank you. So, that concludes agenda items 8 and 9.



ZONING HEARING EXAMINER'S AGENDA

TUESDAY, April 20, 2021 9:00 A.M.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

Meeting ID: 704 449 0999

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/7044490999>

Robert Lucero, Esq., Zoning Hearing Examiner

Lorena Patten-Quintana, ZHE Planner

Suzie Sanchez, ZHE Administrative Assistant

For Inquiries Regarding This Agenda, Please Call The Planning Dept. at (505) 924-3894.

PLEASE ADDRESS ALL CORRESPONDENCE TO:

Robert Lucero, Esq., Zoning Hearing Examiner at suzannasanchez@cabq.gov

NOTICE TO PEOPLE WITH DISABILITIES: If you have a disability and you require special assistance to participate in this hearing, please contact Planning Information at (505) 924-3860.

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INTERPRETER NEEDED:

- | | | |
|------------------|--------------------------------|--|
| 1. VA-2021-00046 | Project#
PR-2021-
005138 | Samuel Martinez and Maria Cholico request a Permit-Wall or Fence Major for Lot 163, Rio Grande Heights Addn, located at 518 57 th ST SW, zoned R-1C [Section 14-16-5-7-D] |
|------------------|--------------------------------|--|

OLD BUSINESS:

- | | | |
|------------------|--------------------------------|--|
| 2. VA-2020-00379 | Project#
PR-2020-
004657 | Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D] |
|------------------|--------------------------------|--|

NEW BUSINESS:

- | | | | |
|-----|---------------|----------------------------|---|
| 3. | VA-2021-00043 | Project#
PR-2021-005096 | James Love and Deana Mercer request a Permit-Wall or Fence-Major for Lot 6, Block 2, Sunrise Call Addn Unit 2, located at 823 Girard Blvd NE, zoned R-1B [Section 14-16-5-7-D] |
| 4. | VA-2021-00048 | Project#
PR-2021-005143 | Christopher M Montoya (Agent, Paul Luce) requests a variance of 5ft to the 15ft required front yard setback for Lot 1, Block 34, Bel Air, located at 2845 Washington St NE, zoned R-1C [Section 14-16-5-1] |
| 5. | VA-2021-00049 | Project#
PR-2021-005147 | Valentine Garcia requests a Permit-Wall or Fence Major for Lot 6, Block A, Kirtland Addn Unit 2, located at 1609 Gerald Ave SE, zoned R-1B [Section 14-16-5-7-D] |
| 6. | VA-2021-00052 | Project#
PR-2021-005151 | Donald Harville (Agent, RSDGP, LLC) requests a conditional use to allow for alcohol sales within 500 feet of a residential zone for Lot D1, Paradise Heights Unit 1, located at 10850 Golf Course Road RD NW, zoned MX-M [Section 14-16-4-3-(D)(38)(c)] |
| 7. | VA-2021-00053 | Project#
PR-2021-005157 | Jeremy Olguin (Agent, Reggie Olguin) requests a Permit-Wall or Fence-Major for Lot 2, Block D, Ceilo Dorado, located at 7505 Elderwood DR NW, zoned R-1B [Section 14-16-5-7-D] |
| 8. | VA-2021-00054 | Project#
PR-2021-005169 | Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)] |
| 9. | VA-2021-00055 | Project#
PR-2021-005169 | Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 feet rear yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)] |
| 10. | VA-2021-00056 | Project#
PR-2021-005170 | Duncan Allard (Agent, Gilbert Austin) requests a permit to allow a carport within the front/side setback for Lot 5, Block 12, Monterey Hills Addn, located at 615 Carlisle Blvd SE, zoned R-1C [Section 14-16-5-5-F-2] |
| 11. | VA-2021-00057 | Project#
PR-2021-005172 | Miguel Martinez requests a Permit-Wall or Fence Major for Lot 1, J M Moore Realty Co Addn No 1, located at 1248 8 TH ST NW, zoned R-1A [Section 14-16-5-7-D] |
| 12. | VA-2021-00058 | Project#
PR-2021-005172 | Miguel Martinez requests a Permit-Wall or Fence Major for Lot 2, J M Moore Realty Co Addn No 1, located at 1248 8 TH ST NW, zoned R-1A [Section 14-16-5-7-D] |
| 13. | VA-2021-00060 | Project#
PR-2021-005173 | Juan Gabriel Medrano (Agent, Ed Mader) requests a variance to allow a carport closer than 3 feet from property line for Lot 14, Block 4, Crestview Heights Unit 1, located at 12452 Morrow Ave NE, zoned R-1C [Section 14-16-5-5-F-2] |
| 14. | VA-2021-00063 | Project#
PR-2021-005182 | Richard Galko (Agent, Gilbert Austin) requests a permit-carport for Lot 21, Block 2, El Rancho Atrisco Unit 3, located at 2512 Los Compadres NW, zoned R-1 [Section 14-16-5-5-F-2] |

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|-----|---------------|--------------------------------|--|
| 15. | VA-2021-00064 | Project#
PR-2021-
005183 | Tyler Smith (Agent, Paul Chavez) requests a variance of 7 ft 6 inches to the required 15 ft side yard setback for Lot 11, Block 5, Volcano Cliffs Unit 19, located at 6515 Azor LA NW, zoned R-1D [Section 14-16-3-4(N)(3)(b)] |
| 16. | VA-2021-00065 | Project#
PR-2021-
005189 | Cara Potter / Ed Rosenblum (Agent, Matthew Osofsky) requests a Permit-Wall or Fence-Major for Lot 4, Block 19, Uning Castle Addn, located at 1506 San Carlos DR SW, zoned [Section 14-16-5-7-D] |
| 17. | VA-2021-00066 | Project#
PR-2020-
004747 | 98th & I-40 Land LLC (Agent, Tierra West) requests a conditional use to allow heavy vehicle and equipment sales, rental, fueling, and repair for Lot 2, Avalon Unit 5, located at 99999 Daytona RD NW. zoned [Section 14-16- |

Planning Department
Brennon Williams, Planning Director
Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

May 24, 2021

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on May 21, 2021. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Ernesto Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-21-10
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2021-005159, VA-2021-00054, VA-2021-00149

APPLICANT: KYLE MALONE & MICHELLE MYERS
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