



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

JOHN GUILLEN (AUSTINS CARPORTS, AGENT) requests a special exception to Section 14-16-2-6(B)(3) : a CONDITIONAL USE to allow a proposed carport in the front yard setback area for all or a portion of Lot 13, Block 10, Hoffmantown Addn zoned R-1, located on 9117 MATTHEW AV NE (H-20)

Special Exception No:..... **15ZHE-80267**
Project No:..... **Project# 1010631**
Hearing Date:..... 11-17-15
Closing of Public Record:..... 11-17-15
Date of Decision: 12-02-15

On the 17th day of November, 2015 (hereinafter “**Hearing**”) AUSTINS CARPORTS, (hereinafter “**Agent**”) acting as agent on behalf of the property owner JOHN GUILLEN (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow a proposed carport in the front yard setback area (hereinafter “**Application**”) upon the real property located at 9117 MATTHEW AV NE (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

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

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

This carport is 5’0” from property line on West side and 12’2” from South side, which is where driveway is located. Carport is constructed of steel for strength, durability and easy up keep, attractive in appearance, it also has rain gutters and down spouts to control water drainage onto owners own property. Also, allows full view of traffic, and does not disrupt the view from street. There is nothing in the area (structures, etc..) that is effected by carport.

- September 29, 2015 letter from Gilbert F. Austin.
4. In the absence of any further indication of injury this evidence is generally adequate to sustain Applicant's burden.
 5. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*"
 6. The ZHE finds the proposed conditional use will not be significantly damaged by the surrounding structures or activities due to its location and by its nature not susceptible to damage from other structures or uses.
 7. The yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
 8. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

DECISION:

APPROVAL WITH CONDITIONS of a CONDITIONAL USE to allow a proposed carport in the front yard setback area.

CONDITIONS OF APPROVAL:

The carport shall not be enclosed

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

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

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

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

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

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



Christopher L. Graeser, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
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