WELLS FARGO BANK, N.A. AS TRUSTEE OF CRISTOPHER SILLEROY requests a special exception to Section 14-16-4-13: a request for STATUS ESTABLISHED BUILDING for all or a portion of Lot 29, Block 5, Country Club Addn zoned R-1, located on 1608 ROMA AV NE (K-15)

Special Exception No:............17ZHE-80084
Project No:.............................Project# 1011212
Hearing Date:..........................05-16-17
Closing of Public Record:.......05-16-17
Date of Decision: ......................05-31-17

On the 16th day of May, 2017, WELLS FARGO BANK, N.A. AS TRUSTEE OF CRISTOPHER SILLEROY (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a STATUS ESTABLISHED BUILDING (“Application”) upon the real property located at 1608 ROMA AV NE (“Subject Property”).

FINDINGS:

1. Applicant is requesting a status established building for the duplex structure located at 1608 Roma Ave NE.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-13(C) (Status Established Building Review Procedures; Criteria for Decision) requires that the Applicant demonstrate to the satisfaction of the Hearing Officer that:
   (1) The current use of the building is nonconforming;
   (2) The subject property is clearly identified by a site plan and the improvements upon it are accurately depicted;
   (3) The continuance of the use, if approved, will not be contrary to the public health, safety or welfare of the community.
   (4) The use, as currently operated and/or maintained, did not, and the continuance of the use is not likely to, significantly interfere with the enjoyment of, or be injurious to, other land in the vicinity;
   (5) No significant public purpose would be served by requiring removal of the use;
   (6) The use, if continued, will not be damaged by surrounding structures or activities; and
   (7) Continuance of the use does not create a significant disparity between the existing zoning and the status established building.
The following factors shall be evaluated in determining whether there is a significant disparity between existing zoning and the status established building:

(a) The scale, height and overall density of the building;
(b) The noise, air or other pollution generated by the use;
(c) The traffic and traffic congestion generated by the use;
(d) Parking needs and availability;
(e) Usable open space;
(f) Lighting generated by the use;
(g) Access to the building;
(h) Existing landscaping;
(i) Any other factor deemed relevant by the Hearing Officer.

3. Applicant has adequately demonstrated conformance with the above criteria.
4. The current use of the building is nonconforming, as it is a duplex structure located in a single-family (R-1) zone.
5. Applicant submitted a site plan clearly identifying the Subject Property and accurately depicting the improvements.
6. There is no evidence in the record that continuation of the 89-year use of the Subject Property would be contrary to the public health, safety or welfare or be injurious to or interfere with the enjoyment of other land in the vicinity. Rather, continuation of that use would be reasonable, appropriate and in historic harmony with the site and neighborhood.
7. The ZHE is unable to identify any significant public purpose to be served by requiring removal of the use, and in fact such removal would be detrimental to the historic fabric of the building and neighborhood, and would reduce available, quality historic housing stock.
8. There is no indication of potential damage to the use from surrounding single family residential structures or activities, and the 9-decade history of the Subject Property indicates no likelihood of such injury.
9. There is no significant disparity between continuation of the existing duplex use, with two small residential units, and the surrounding single-family zoning, taking into consideration each and every one of the factors contained in Section 14-16-4-13(C)(7)(a)-(i).
10. I find no need to impose conditions of approval other than as contained below.

DECISION

APPROVAL WITH CONDITIONS of status established building for all or a portion of Lot 29, Block5, Country Club Addn located at 1608 Roma Ave NE.

CONDITIONS OF APPROVAL

Applicant shall within fifteen days of the date of this decision submit an affidavit in conformance with Section 14-16-4-13(A)(2).
If you wish to appeal this decision, you must do so by June 15, 2017, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department’s Land Development Coordination counter and is required at the time the Appeal is filed.

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

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

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

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

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

Christopher L. Graeser, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
    ZHE File
    heather.fox@wellsfargo.com
    drrenes@aol.com