On the 16th day of April, 2019, property owner Kyle Falls (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of the lot size contextual standards maximum .4673 acres (“Application”) upon the real property located at 6801 Rim Rock Cir NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of the lot size contextual standards maximum .4673 acres.
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).
5. A plat map was submitted in support of the request.
6. The subject property address is 6801 Rim Rock Circle NW.
7. The subject property is within a Character Protection Overlay Zone CPO-12 and View Protection Overlay VPO-2.
8. The subject property is in an Area of Consistency as designated by the ABC Comp. Plan.
10. Applicant is requesting a variance of the lot size contextual standards maximum 0.4673 acres to allow combing of 2 lots into 1 lot.
11. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
12. Molten Rock Neighborhood Association is the affected neighborhood association.
13. The subject property is currently zoned R-1D.
14. The Applicant wants to combine Lots 13 and 14 in Block 1.
15. Rear property lines are Unser Blvd. and the Petroglyph Park boundary.
16. The existing separate lots are unusual in triangular shape.
17. Both lots are presently vacant and has been used as an illegal dump of trash in the past.
18. The lot shapes would present extraordinary difficulties in designing a residential building that would conform to required setbacks and still be economically feasible.
19. The access for both lots is on a cul-de-sac and has an entrance from the narrow end of the properties.
20. A single custom home would be constructed on the combined lots.
21. It will be consistent with the architectural character of the surrounding neighborhood and community.
22. No variances from the required setbacks and height limitations will be needed on the larger lot.
23. Transportation reports No Objection to the request.
24. 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).
25. 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).
26. 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).
27. 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).
28. 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).
29. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
30. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of the lot size contextual standards maximum .4673 acres.

APPEAL:
If you wish to appeal this decision, you must do so by May 16, 2019 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.

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Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
    ZHE File
    Kyle Falls, 1850 Camino Rincon, 87031