Laura Aguirre requests a variance of 10 ft to the required 10 ft rear yard setback for Lot 4, Block 1, Lewis & Simonds Addn, located at 724 Walter ST SE, zoned R-1A [Section 14-16-5-1]

Special Exception No: ............ VA-2019-00074
Project No: .......................... Project# 2019-002172
Hearing Date: .................. 04-16-19
Closing of Public Record: ...... 04-16-19
Date of Decision: .................. 05-01-19

On the 16th day of April, 2019, property owner Laura Aguirre (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 10 ft to the required 10 ft rear yard setback (“Application”) upon the real property located at 724 Walter ST SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 10 ft to the required 10 ft 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. Laura Aguirre, property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
6. South Broadway Neighborhood Association is the affected neighborhood association.
7. An e-mail from Frances Armijo, Co-Chair of the South Broadway Neighborhood Association, dated February 22, 2019, was submitted in support of the Application.
8. The subject property is 724 Walter SE.
9. The subject property is currently zoned R-1A.
10. A site plan, accompanied by photographs of the subject property, was submitted in support of the Application.
11. The variance will allow Applicant to construct a garage on the rear of the subject property.
12. The proposed garage would face an existing public alleyway.
13. The proposed garage would replace a 20 year old existing garage that is deteriorating and is substandard.
15. The garage would increase the value of the subject property and also enhance and upgrade the neighborhood.
16. The colors are in harmony with the surrounding area.
17. The garage would enhance the public safety by allowing Applicant to park her vehicle in a safe and secure environment.
18. A letter from adjacent property owner, Harriet Lindenberg, 720 Walter SE, dated February 27, 2019, was submitted in support of the Application.
19. A letter from nearby property owner, Samuel Poarch and Greg Martinez, 615 Sante Fe SE, dated February 26, 2019, was submitted in support of the Application.
20. A letter from adjacent property owner, Katherine J. James, 722 Walter SE, dated February 26, 2019, was submitted in support of the Application.
21. A letter from adjacent property owner, Irene Ramirez, 728 Walter SE, dated February 27, 2019, was submitted in support of the Application.
22. Irene Romero, 720 Walter SE, appeared and gave testimony in support of the Application.
23. Transportation reported that it has No Objection to the Application.
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 10 ft to the required 10 ft rear yard setback.

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
    Laura Aguirre, 724 Walter ST SE, 87102