



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

Steve Rowan requests a variance of 5 ft to the required 10 ft side yard setback for Lot 26, Block 8, Glenwood Hills Unit 1, located at 4712 Westridge Place NE, zoned R-1D [Section 14-16-5-1(C)]

Special Exception No:..... **VA-2019-00185**
Project No: **Project#2019-002471**
Hearing Date: 07-16-19
Closing of Public Record: 07-16-19
Date of Decision: 07-31-19

On the 16th day of July, 2019, property owner Steve Rowan (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 ft to the required 10 ft side yard setback (“Application”) upon the real property located at 4712 Westridge Place NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 ft to the required 10 ft side 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. Steve Rowan, property owner appeared and gave evidence in support of the application.
5. The subject property address is 4712 Westridge Place NE.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.

7. Glenwood Hills Neighborhood Association and District 8 Coalition of Neighborhood Associations are the affected neighborhood associations.
8. The NAs were notified by an e-mail dated April 23, 2019.
9. No response or request for a meeting has been submitted.
10. The subject property is currently zoned R-1D.
11. The proposed project is to construct an addition to his garage.
12. A site plan and accompanying photographs were submitted in support of the request.
13. The subject lot is an unusual, triangular, wedge shaped piece of property.
14. The existing garage is located to the southeastern corner of the property.
15. The lot is on a slope with a grade change, and it would be difficult to build anywhere else on the subject property.
16. Applicant would be unable to build an addition anywhere else on the subject property.
17. The adjacent property to the east is at least 3 feet higher than the subject property.
18. The subject property is located on a cul-de-sac and there is minimal traffic and no pedestrian traffic which would be adversely impacted by the project.
19. The adjacent property owner on the east side supports his project and his request.
20. Property owners across the cul-de-sac also have given verbal approval of his project and his request.
21. 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).
22. 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).
23. 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).
24. 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).
25. 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).
26. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
27. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 ft to the required 10 ft side yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by August 15, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Steve Rowan, 4712 Westridge Place NE, 87111