



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

Alim Haji requests a variance of 10 ft to the required 15 ft rear yard setback for Lot 12, Block 23, Osullivans, located at 1346 Dartmouth DR NE, zoned R-MH [Section 14-16-5-1(C)]

Special Exception No:..... **VA-2019-00195**  
Project No: ..... **Project#2019-002488**  
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 Alim Haji (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 10 ft to the required 15 ft rear yard setback (“Application”) upon the real property located at 1346 Dartmouth DR NE (“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 15 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. Alim Haji, property owner appeared and gave evidence in support of the application.
5. The address of the subject property is 1346 Dartmouth NE.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified by e-mail dated June 2, 2019.

7. Summit Park Neighborhood Association is the affected neighborhood association.
8. No response, nor request for a meeting has been submitted.
9. Applicant has talked to several adjacent neighbors, who have expressed support and approval of the request and his proposed project.
10. The subject property is currently zoned R-MH.
11. The proposed project is to allow construction of a single car garage to an extension to the existing structure.
12. The variance requested is from Development Standards Section 14-16-5-1: *Dimension Standards*; Table 5-1-1; rear yard setback.
13. A site plan with accompanying photographs was submitted in support of the Application.
14. The subject property address is on Dartmouth, however the doorway to the existing residence faces Hannett Ave.
15. The requested variance will allow the garage to face Hannett Ave, which will maintain the present façade.
16. This is consistent with the north neighbor across Hannett Ave, which also has a Dartmouth address, but a front façade and garage also opening onto Hannett Ave.
17. A 5 foot utility easement exists in the rear yard setback, currently enclosed by a block wall.
18. There is an existing alley on the rear yard property line.
19. Applicant proposes to remove the rear section of the block wall so the easement is accessible and contiguous with the easement on the rear adjacent property.
20. There is an existing curb-cut to Hannett Ave which will be the entrance to the garage.
21. Transportation reported that it has No Objection to the Application.
22. No one appeared in opposition to the request.
23. 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).
24. 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).
25. 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).
26. 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).
27. 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).
28. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
29. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 10 ft to the required 15 ft rear 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.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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