



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

Yvette and Alfred Chavez-Pena request a variance to allow a 13 ft accessory building in a street side setback where height shall not exceed 8 ft for Lot 13A, Block 7, Palisades, located at 2300 La Vista Ct NW, zoned R-1D [Section 14-16-5-11(C)(3)(b)]

Special Exception No:..... **VA-2019-00198**  
Project No: ..... **Project#2019-002493**  
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 owners Yvette and Alfred Chavez-Pena (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance to allow a 13 ft accessory building in a street side setback where height shall not exceed 8 ft (“Application”) upon the real property located at 2300 La Vista Ct NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of to allow a 13 ft accessory building in a street side setback where height shall not exceed 8 ft.
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. Alfred Chavez-Pena and Yvette Chavez-Pena, property owners appeared and gave evidence in support of the application.
5. The address of the subject property is 2300 La Vista Ct. NW.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. Westside Coalition of neighborhood Associations and West Bluff Neighborhood Association are the affected neighborhood associations.
8. Applicant sent notification of the request by an e-mail dated May 20, 2019.
9. No response nor request for meeting has been submitted.
10. The subject property is currently zoned R-1D.
11. The variance requested is from *Development Standards, Building Design*; Section 14-16-5-11(C)(3)(b): *Accessory Buildings*.
12. The proposed project is construction of an accessory storage shed for storage of signs and equipment related to Applicant's business.
13. The building would be 192 square feet in area and 13 feet in height.
14. A site plan with accompanying photographs was submitted in support of the Application.
15. The shed would be constructed of wood frame and stucco finish to match the architectural character of the primary residence.
16. The subject property is a smaller lot, with a small rear yard.
17. Setback requirements limit the floor plan to the size proposed.
18. The additional height is needed in order to allow an interior storage balcony to facilitate storage of additional business items and taller equipment.
19. Transportation reports No Objection to the Application.
20. No one appeared in opposition to the Application.
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 to allow a 13 ft accessory building in a street side setback where height shall not exceed 8 ft.

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  
Alfred and Yvette Chavez-Pena, 2300 La Vista CT NW, 87120