



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

Paul Chavez requests a variance of 5 ft to both required 10 ft side yard setbacks for Lot 3, Block 23, Parkland Hills Addn, located at 704 Carlisle Blvd SE, zoned R-1D [Section 14-16-5-1(C)]

Special Exception No:..... **VA-2019-00199**
Project No: **Project#2019-002494**
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 Paul Chavez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 ft to both required 10 ft side yard setbacks (“Application”) upon the real property located at 704 Carlisle Blvd SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 ft to both required 10 ft side yard setbacks.
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. Paul Chavez, agent for Premium Investments, 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. District 6 Coalition of Neighborhood Associations and Southeast Heights Neighborhood Association are the affected neighborhood associations.
7. No response nor request for meeting was submitted.
8. The subject property is currently zoned R-1D.
9. The address of the subject property is 704 Carlisle SE.
10. The subject property is within the Airport Protection Overlay (APO), and subject to Section 14-16-3-3.
11. The variance requested is from 14-16-5-1: *Development Standards; Dimensional Standards; Table: 5-1-1*.
12. The request is for 5 feet from the side yard setback minimum 10 feet required.
13. The proposed project is construction of a single family, single story residence.
14. The pre-existing deteriorated structure was demolished and removed.
15. The setbacks for the subject property were changed by enactment of the IDO.
16. The previous setback requirements are what the Application is requesting.
17. The size of the subject lot (6,700 square feet) is smaller than defined in the new zoning district for a lot (10,000 square feet) that imposes the setback requirements.
18. The request does not undermine the intent and purpose of the IDO or the applicable zone district.
19. The present setback requirements would restrict and hinder Applicant's ability to construct a single story residence to accommodate his needs.
20. Adjacent neighbors approve the request, contingent on construction of only a single story building.
21. An e-mail with accompanying letter from Melanie Brooks Campbell, dated July 8, 2019, was submitted in support of the requests.
22. She is an adjacent property owner to the east, and supports the requests, so long as Applicant's project remains a single story residence.
23. An e-mail from Jim Hinde, Deputy Director of ABQ Sunport, dated July 10, 2019, stating no opposition to the request from the airport, was submitted in support of the requests.
24. An e-mail from Malak Halim, AIPC, dated July 10, 2019, stating no concerns from KAFB was submitted in support of the requests.
25. Transportation issued a report dated July 11, 2019 indicating No Opposition to the requests.
26. Alexandra Kazaras, 713 Carlisle SE, signed in to speak, however was not present when the items were called for comment.
27. 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).
28. 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).
29. 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).
30. 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).
31. 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).

32. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
33. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 ft to both required 10 ft side yard setbacks.

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
Paul Chavez, 7104 Osuna RD NE, 87109
Alexandra Kazaras, 713 Carlisle SE, 87106