



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

Jeff and Anna Bechtold request a permit to allow for a carport in the front yard setback for Lot 4, Block 52, Westgate Heights Addn Unit 1, located at 1104 Jenaro ST SW, zoned R-1C [Section 14-16-5-5(F)(2)(a)]

Special Exception No:..... **VA-2019-00332**
Project No: **Project#2019-002932**
Hearing Date: 11-19-19
Closing of Public Record: 11-19-19
Date of Decision: 12-04-19

On the 19th day of November, 2019, property owners Jeff and Anna Bechtold (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit to allow for a carport in the front yard setback (“Application”) upon the real property located at 1104 Jenaro ST SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a permit to allow a carport in the front 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. Jeff and Anna Bechtold, property owners appeared and gave evidence in support of the Application.
5. The address of the subject property is 1104 Jenaro St. SW.
6. The subject property is currently zoned R-1C.

7. The request is for a variance from Section 14-16-5-5(F)(2)(a)(2): ***DEVELOPMENT STANDARDS; Parking and Loading; Design Access and Circulation; Low Density Residential Development***; Table 5-5-6: *Maximum Front Yard Parking Area; Carports*.
8. Applicant is requesting a variance to allow a carport to be built to the property line.
9. All property owners within 100 feet and affected neighborhood association were notified of the application.
10. South West Alliance of Neighborhoods (SWAN); Westside Coalition of Neighborhood Associations; Westgate Heights Neighborhood Association and South Valley Coalition of Neighborhood Associations are the affected neighborhood associations.
11. Applicant notified the affected NAs by e-mail dated September 17, 2019.
12. No response nor request for a meeting has been submitted.
13. The rear property lines of the subject lot are an extreme triangular shape, narrowing down to a point.
14. The subject property is a unique shape.
15. A site plan and accompanying photographs were submitted in support of the Application.
16. The proposed project had previously been approved, in fall 2018, but Applicants were unable to begin construction during the time period allowed and the permit expired.
17. The IDO changed the setback requirements and Applicants needed the variance in order to proceed.
18. The proposed carport would be constructed of wooden support poles with a pitched shingled roof and the color and architecture and structure will match the color of the existing house.
19. It will include rain gutters and downspouts to control rain water run-off to retain it on Applicant's property.
20. No walls will be constructed on any side of the carport.
21. The proposed carport is within the clear sight triangle.
22. Transportation issued a report indicating conditional approval as long as the metal columns supporting the carport are no wider than 8 inches solid and contains no walls greater than 3 feet tall.
23. Applicant agreed that the support posts are to be no larger than 8 X 8 inches and that the carport will contain no walls.
24. No one appeared in opposition to the Application.
25. A site plan and photographs were submitted in support of the Application.
26. The subject lot is exceptionally shaped and unique in form compared to other lots in the surrounding neighborhood.
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. There is no evidence of adverse impacts on surrounding properties or infrastructure improvements in the vicinity.

30. 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).
31. The request will protect the quality and character of residential neighborhoods; provide for the efficient administration of land use and development regulations in the City; protect the health, safety and welfare of the public; and ensure development in the City is consistent with the spirit and intent of the IDO.
32. 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).
33. 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).
34. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
35. The Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(N)(3)(a) of the IDO are satisfied.

DECISION:

APPROVAL of a permit to allow a carport in the front yard setback.

CONDITIONS:

Final design shall abide with the conditions given by Transportation in its conditional approval.

APPEAL:

If you wish to appeal this decision, you must do so by December 19, 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:

ZHE File
Zoning Enforcement
Jeff & Anna Bechtold, 1104 Jenaro ST SW, 87121