



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

Diego & Armando Sedillo request a variance of 0.0378 acres to allow a lot larger than the allowable contextual standards for Lot 9, Block 6, Lewis & Simonds Addn, located at 812 Arno ST SE, zoned R-1A [Section 14-16-5-1(c)(2)(b)]

Special Exception No:..... **VA-2019-00342**
Project No: **Project#2019-001985**
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 Diego & Armando Sedillo (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 0.0378 acres to allow a lot larger than the allowable contextual standards (“Application”) upon the real property located at 812 Arno ST SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 0.0378 acres to allow a lot larger than the allowable contextual standards in an R-1A zone district.
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. Derek Archuleta of Arch + Plan Land Use Consultants, LLC for Estate of Diego and Armando Sedillo, property owners appeared and gave evidence in support of the application.
5. The address of the subject property is 806 Arno St. SE.
6. The subject property is currently zoned R-1A and is in an Area of Consistency.

7. The request is for variance from Section 14-16-5-1(C)(2)(b)2: ***Development Standards; Dimensional Standards; Residential Zone Districts; Lot Size.***, which states: “*New low-density residential development shall not be constructed on a Tax Assessor’s lot, or combination of abutting Tax Assessor’s lots, that is greater than 125 per cent of the average of the size of the Tax Assessor’s lots, or combination of adjacent Tax Assessor’s lots, that contain a primary building on that lot.*”
8. Applicant is requesting a variance of 0.0378 acres to the lot size contextual standards maximum 0.1659 acres to allow combining of 3 lots into 2 lots, resulting in new lot sizes of 0.2037 acres for each lot.
9. The request is to allow consolidation of three lots with the following legal descriptions: **Lot 7:** (UPC# 1-014-057-393-085-417-13), **Lot 8:** (UPC# 1-014-057-393-081-417-14) and **Lot 9,** northerly ½ (UPC# 10-14-057-393-077-417-15), Block 6, Lewis and Simmonds Addition, located at 806, 808 and 812 Arno St. SE., into two separate lots.
10. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
11. South Broadway Neighborhood Association is the affected neighborhood association.
12. The affected neighborhood association was notified by e-mail, dated September 17, 2019.
13. No response nor request for meeting has been submitted.
14. A survey, site plan and accompanying photographs were submitted in support of the Application.
15. The request is based upon the property owners’ interest to consolidate and realign existing lots that are based upon portions of lots and reflect existing development.
16. A Sketch Plat was submitted to the Development Review Board (DRB) for review at the January 23, 2019 meeting, with the intent and purpose to realign and consolidate three existing lots of record that have historically functioned as two lots.
17. The DRB found that a variance would be needed for each proposed lot to precede with the completion of the platting action dues to contextual standards for this area at this location in the R-1A zone and Area of Consistency.
18. Calculated lot sizes based on Section 14-16-5-1(C)(2)(b) determined that the largest lot size allowed would be 0.1659 acres and the smallest lot size allowed would be 0.0995 acres.
19. The proposed lot sizes exceed the 0.1659 acres allowed by 0.0378 acres.
20. The Application was rejected by DRB on the basis that the combined lot would exceed the new limits imposed by the IDO and the proposed replat must meet the contextual standards required by the IDO, and indicated the largest lot allowed would be 0.1659 acres.
21. There are many existing lots in the surrounding area that are non-conforming relative to lot size with the adoption of the IDO.
22. Several nearby existing lots do not meet the calculation for the smallest lot size allowed under the IDO.
23. Applicant wishes to maintain the lots as residential land use to the property by replatting lot configurations to more accurately reflect existing development and function of the property.
24. The proposed project would maintain the existing land without compromising the underlying zone and residential character of the neighborhood.
25. This special circumstance of the property creates an extraordinary hardship in the form of substantial and unjustified limitation of the reasonable use of the Lots and creates difficulties resulting from strict compliance with the maximum lot size in this R-1A Zone imposed by the IDO.

26. The adoption of the IDO created a unique and special circumstance upon the Lots, and creates an extraordinary hardship in the form of substantial and unjustified limitation of the reasonable use of the Lots.
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. Applicant will rehabilitate the existing houses, which are over 70 years old on the lots as combined or the same results if the lots are not combined, and therefore 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 ZHE variance criteria allows for relief from the strict interpretation of the zoning regulations if the criteria are met.
31. 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).
32. 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).
33. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
34. The Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

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

DECISION:

APPROVAL of a variance of 0.0378 acres to allow a lot larger than the allowable contextual standards in an R-1A] zone district.

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.



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Zoning Hearing Examiner

cc:

ZHE File
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