



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

HopeWorks (co-app, COA Dept. of Family and Comm Services) requests a variance to eliminate the required 6 ft minimum setback on buildings above 30 ft per the North 4th Interim Development Regulations for Lot 7A, Block 6, Paris Addn, located at 1205 3<sup>RD</sup> ST NW, zoned MX-M [Council Bill No R-19-162, Enactment No R-2019-061]

Special Exception No:..... **VA-2019-00367**  
Project No: ..... **Project#2019-002952**  
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, Jacqueline Fishman of Consensus Planning, agent for property owner HopeWorks (co-app, COA Dept. of Family and Comm Services) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance to eliminate the required 6 ft minimum setback on buildings above 30 ft per the North 4th Interim Development Regulations (“Application”) upon the real property located at 1205 3<sup>RD</sup> ST NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance to eliminate the required 6 foot minimum setback on buildings above 30 feet per the North 4<sup>th</sup> Interim Development Regulations.
2. The City of Albuquerque Integrated Development Ordinance (IDO), 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. Jacqueline Fishman of Consensus Planning, Inc., agent for HopeWorks, property owners and the Co-Applicant City of Albuquerque, Dept. Family and Community Services, appeared and gave evidence in support of the application.
5. The address of the subject property is 1215 3<sup>rd</sup> St. NW.
6. The subject property is currently zoned MX-M.
7. The request is for a variance from Interim Regulations for the 4<sup>th</sup> Corridor, Council Bill No. R-19-162, Exhibit “B” to R-19-162, which reads in part:

“Regulations provided below are applicable to all properties zoned MX-L or higher, within Exhibit “A” (North 4<sup>th</sup> Rank III Corridor Plan Area). The following requirements supplement those that exist in the Integrated Development Ordinance. In the event of a conflict, these interim design requirements shall prevail.

#### Building Mass & Scale

8. Any portion of a building over 30 feet shall incorporate minimum setback of 6 feet from the front façade facing a public street.”
9. The variance requested is to eliminate this requirement.
10. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
11. Wells Park Neighborhood Association is the affected neighborhood association.
12. Applicant and its representatives held a meeting with the Wells Park Neighborhood Association to discuss the request.
13. Minutes from that meeting, dated September 19, 2019, indicating general support for the project, was submitted in support of the Application.
14. The proposed project is construction of a facility to provide housing to 42 chronically homeless people with mental illness and addiction issues.
15. The project is a partnership of HopeWorks, property owner, YES Housing and the City of Albuquerque.
16. The project is being jointly funded by the City of Albuquerque, Bernalillo County, and the New Mexico Mortgage Finance Authority.
17. A site plan, with detailed drawings, elevations and construction drawing were submitted in support of the Application.
18. Transportation issued a report indicating no opposition to the Application.
19. The variances requested are for Lot 3A, 5A, 6A, and 7A as part of the Hope Village project.
20. Lots 3A, 5A and 6A are located at 1215 Third Street NW and currently vacant.
21. Lot 7A is located at 1205 Third Street and is a narrow rectangular lot that runs from Third Street to Fourth Street.
22. The subject property is within the Fourth Street Main Street Corridor Area and the Major Transit Corridor Areas of Mountain Road and Third Street, as designated by the ABC Comp. Plan.
23. Fourth Street is a multi-modal, Urban Minor Arterial and Third Street is an Urban Principal Arterial.
24. Lot 3A is in an Area of Consistency and Lots 5A, 6A, and 7A are in an Area of Change, as designated by the ABC Comp. Plan.

25. The subject property is zoned MX-M and is surrounded by properties also zoned MX-M. Existing land uses surrounding the site are varied and include residential, commercial, services, and industrial uses.
26. The proposed project is to develop a three-story, 42 unit, single site, permanent supportive housing development on the subject property.
27. Permanent supportive housing is designed to provide rental assistance, paired with supportive services to assist homeless persons who have multiple barriers to housing and are unable to maintain housing without supportive services.
28. The project will contain offices for behavioral support services and community space on the first floor of the building and 1-bedroom, 400 square foot residential units on the second and third floors.
29. This development will allow residents to access essential services easily and safely at their place of residence with the goal of building independent living and housing stability.
30. The building is designed to stack the 1-bedroom units on the second and third floors, which maximizes and creates efficient use of the space.
31. There are eight units each on the floors that face Third Street, each designed with two windows (one double window for the living space and a single window for the bathroom).
32. The front façade of the building faces Third Street.
33. Owner is currently in the process of consolidating the five lots that will contain the project.
34. In August 2019, the City Council adopted interim design guidelines for the North 4<sup>th</sup> Corridor that will be ... “in place for one year or until the IDO has been updated to include amended regulations for the area, whichever occurs first.”
35. The third floor of Hope Village is 38 feet in height and is therefore required to meet the stepback requirement.
36. The subject property contains one through lot (7A) that fronts both Third Street (Urban Principal Arterial) and Fourth Street (Urban Major Arterial), and once consolidated, the entire subject property will be a through lot.
37. There are no other MX-M properties in the vicinity and along main Street Corridor that share this same characteristic.
38. There is an existing lease area for a communications tower within Lot 4A and the utility easements that run north-south along the existing property lines at the center of the subject property.
39. Both physical characteristics limit the developable area and constrain the shape and layout of the building and overall project.
40. The 6 foot stepback requirement imposed by the North 4<sup>th</sup> Street Corridor Interim Guidelines create an extraordinary hardship on the reasonable use and return on the property by eliminating the 8 units facing Third Street or create efficiency units that would violate the terms of the funding agencies (City of Albuquerque, Bernalillo County and the NM Finance Authority) as well as not meet the MFA and HUD rental reimbursement requirements.
41. 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).

42. The project will redevelop a currently vacant and blighted property with a new facility that will add value to this area of Albuquerque and provide housing for a vulnerable, hardest to house population.
43. The project is designed to take 42 people currently living on the street and bring them inside to live in their own apartment with dignity and services that will assist them in life skills and becoming productive members of the community.
44. The project is the first of its kind in New Mexico and will have a positive effect on the City and surrounding neighborhoods.
45. 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).
46. The project will provide secure housing and shelter for individuals living in precarious circumstances and will have a positive impact on the surrounding properties and the Wells Park neighborhood.
47. The project will further the priorities of the City by addressing the needs of the chronically homeless and creating infill development within Central Albuquerque.
48. As the project is in a highly urbanized area of the City, infrastructure is available and adequate for the development and will not be negatively impacted.
49. There is no evidence of adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
50. 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).
51. The purpose of the MX-M Zone District stated in the IDO is to “provide for a wide array of moderate-intensive retail, commercial, institutional and moderate-density residential uses, with taller multi-story buildings encourage in Centers and Corridors”.
52. The purpose of the stepback requirement is to add articulation for buildings over 30 feet in height.
53. The project east façade includes changes in color and materials, windows and a pop-out on the north side of the Third Street façade.
54. The site design also provides a wide, 10 foot sidewalk, a 5 foot parkway with street trees and a 4 foot 5 inch landscape area next to the building’s east façade.
55. These design elements meet the intent and purpose of the North 4<sup>th</sup> Street Corridor Development Regulations, which is to protect the character of that the now defunct North Fourth Rank III Corridor Plan intended.
56. 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.
57. 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).
58. The 6 foot stepback requirement came into effect August 2019 many months after the project had been planned, funded according to the plan, and design was well underway.
59. As found above there is no way to provide for the stepback without the elimination of 8 units, which would cause the violations of funding and rental reimbursement requirements, also found above.
60. 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).

61. No one appeared in opposition to the Application.
62. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
63. 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 elimination of the setback requirements imposed by the North 4<sup>th</sup> Interim Development Regulations.

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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Stan Harada, Esq.  
Zoning Hearing Examiner

cc:

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