



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

Jason Wilby requests a permit to allow a carport in the front yard setback for Lot 13, Block 10, Mesa Court Addn, located at 3909 Anderson Ave SE, zoned R-1B [Section 14-16-5-5(F)(2)(a)2b]

Special Exception No:..... **VA-2019-00229**
Project No: **Project#2019-002624**
Hearing Date: 09-17-19
Closing of Public Record: 09-17-19
Date of Decision: 10-02-19

On the 17th day of September, 2019, Gilbert Austin, Austin's Carports, agent for property owner Jason Wilby ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a permit to allow a carport in the front yard setback ("Application") upon the real property located at 3909 Anderson Ave SE ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a permit to allow for a carport in the front yard setback.
2. The City of Albuquerque Integrated Development Ordinance Section 14-16-6-6(L)(3)(d) states;
 1. The proposed carport would strengthen or reinforce the architectural character of the surrounding area.
 2. The proposed carport would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.
 3. The design of the carport complies with the provisions in Subsection 14-16-5-5(F)(2)(a)2 (Carports).
 4. No carport wall is a hazard to traffic visibility, as determined by the Traffic Engineer.
 5. The carport is not taller than the primary building on the lot.
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. Gilbert Austin of Austin's Carports, agent for Jason Wilby, property owner appeared and gave evidence in support of the Application.
5. The address of the subject property is 3909 Anderson Ave SE.
6. All property owners within 100 feet and affected neighborhood association were notified of the application.
7. Southeast Heights Neighborhood Association and District 6 Coalition of Neighborhood Associations are the affected neighborhood associations.
8. Applicant notified the affected NAs by e-mail dated June 19, 2019.
9. No response nor request for a meeting has been submitted.
10. The subject property is currently zoned R-1B.
11. The subject property is within APO, Section 14-16-3-3: *Airport Protection Overlay Zone*.

12. The request is for a permit as required by 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.*
13. A site plan and accompanying photographs were submitted in support of the Application.
14. The proposed carport would be constructed with steel support columns and the color will match the color of the existing house.
15. It will include rain gutters and downspouts to control rainwater run-off to retain it on Applicant's property.
16. No walls will be constructed on any side of the carport.
17. An e-mail from Jim Hinde, Deputy Director, ABQ Sunport, dated September 17, 2019, indicating no issue with the Application was submitted in support of the Application.
18. An e-mail from Malak Hakim, AAICP, KAFB Community Planner, Kirkland AFB, dated September 4, 2019, indicating no concerns with the Application was submitted in support of the Application.
19. Transportation issued a report indicating "no objection" as the proposed carport is outside the clear sight triangle and does not present a hazard to traffic visibility.
20. No one appeared in opposition to the Application.
21. The color and appearance of the proposed structure matches the primary residence and the carport strengthens and reinforces the architectural character of the surrounding area as required by Section 14-16-6-6(L)(3)(d)1.
22. The proposed carport is not injurious to adjacent properties, the surrounding neighborhood, or the larger community as required by Section 14-16-6-6(L)(3)(d)2.
23. The carport design complies with the provisions in Subsection 14-16-5-5(F)(2)(a)2, as required by Section 14-16-6-6(L)(3)(d)3.
24. Transportation issued a report indicating No Objection as the carport is outside the clear sight triangle and does not present a hazard to traffic visibility, as required by Section 14-16-6-6(L)(3)(d)4.
25. The proposed carport is not taller than the primary building on the subject lot as required by Section 14-16-6-6(L)(3)(d)5.
26. The ZHE finds that 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 ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

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

DECISION:

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

APPEAL:

If you wish to appeal this decision, you must do so by October 17, 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
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Jason Wilby, 3909 Anderson Ave SE, 87108