



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

Nikola Babic and Sarah Streng requests a permit carport for Lot 1A, Block 3, Garcia Addn, located at 1200 11th ST NW, zoned R-1A [Section 14-16-5-5(F)(2)(a)(3)(b)]

Special Exception No:..... **VA-2022-00182**
Project No: **Project#2022-007282**
Hearing Date: 08-16-22
Closing of Public Record: 08-16-22
Date of Decision: 08-31-22

On the 16th day of August, 2022, property owner Nikola Babic and Sarah Streng (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit carport (“Application”) upon the real property located at 1200 11th ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting permit-carport.
2. The City of Albuquerque Integrated Development Ordinance Section 14-16-6-6(L)(3)(d) states;
 - a. *The proposed carport would strengthen or reinforce the architectural character of the surrounding area.*
 - b. *The proposed carport would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.*
 - c. *The design of the carport complies with the provisions in Subsection 14-16-5-5(F)(2)(a)2 (Carports).*
 - d. *No carport wall is a hazard to traffic visibility, as determined by the Traffic Engineer.*
 - e. *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. All property owners within 100 feet and affected neighborhood associations were notified of the application.
5. The subject property is currently zoned R-1A.
6. Agent appeared and gave evidence in support of the application.
7. Applicant has met its burden of providing evidence that establishes that the proposed carport would strengthen or reinforce the architectural character of the surrounding area. Specifically, Applicant testified that the design of the carport comports with that of the residence on site and is in harmony with architecture of neighboring properties.
8. Applicant has met its burden of providing evidence that establishes that the proposed carport would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified that the carport would not impact views from adjacent properties and that no water from the carport would flow onto adjacent properties.

9. Applicant has met its burden of providing evidence that establishes that the proposed carport complies with IDO Subsection 14-16-5-5(F)(2)(a)(2)(a) (Carports).
10. The City Traffic Engineer issued a report indicating no objection to the proposed carport.
11. Applicant has met its burden of providing evidence that establishes that the proposed carport is not taller than the primary building on the lot. Specifically, Applicant testified that the top of the carport would be lower than the primary residence on the lot.

DECISION:

APPROVAL of a permit-carport.

APPEAL:

If you wish to appeal this decision, you must do so by September 15, 2022 pursuant to Section 14-16-6-4(V), 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

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NOTIFICATION OF DECISION

Nikola Babic and Sarah Streng requests a variance of 2 ft to the required minimum 15 ft rear setback for Lot 1A, Block 3, Garcia Addn, located at 1200 11th ST NW, zoned R-1A [Section 14-16-3-4(M)(3)(a)(3)]

Special Exception No:..... **VA-2022-00183**
Project No: **Project#2022-007282**
Hearing Date: 08-16-22
Closing of Public Record: 08-16-22
Date of Decision: 08-31-22

On the 16th day of August, 2022, property owner Nikola Babic and Sarah Streng (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft to the required minimum 15 ft rear setback (“Application”) upon the real property located at 1200 11th ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 ft to the required minimum 15 ft rear setback.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).

5. Applicant appeared and gave evidence in support of the application.
6. The subject property is currently zoned R-1A.
7. All property owners within 100 feet and affected neighborhood association(s) were notified.
8. 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)(4).
9. The ZHE finds that the Applicant has authority to pursue this Application.
10. Based on evidence submitted by or on behalf of Applicant, it appears that 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). Specifically, Applicant confirmed in oral testimony and submitted evidence that, the Subject Property's unique size, shape, and orientation in relation to other properties and existing improvements give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM).
12. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony by Applicant. According to photographs that were submitted showing the neighborhood, and existing fences, the proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
13. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant confirmed in written submittals that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and useability of the site.
14. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant submitted evidence that any smaller variance would be ineffective to provide for the useability of the site. Thus. the applicant is not requesting more than what is minimally necessary for a variance.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 2 ft to the required minimum 15 ft rear setback.

APPEAL:

If you wish to appeal this decision, you must do so by September 15, 2022 pursuant to Section 14-16-6-4(V), 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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NOTIFICATION OF DECISION

Nikola Babic and Sarah Streng requests a variance of 1 ft 3 inches to the required 10 ft setback for a building over 15 ft tall for Lot 1A, Block 3, Garcia Addn, located at 1200 11th ST NW, zoned R-1A [Section 14-16-3-4(M)(5)(b)(1)]

Special Exception No:..... **VA-2022-00184**
Project No: **Project#2022-007282**
Hearing Date: 08-16-22
Closing of Public Record: 08-16-22
Date of Decision: 08-31-22

On the 16th day of August, 2022, property owner Nikola Babic and Sarah Streng (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 1 ft 3 inches to the required 10 ft setback for a building over 15 ft tall (“Application”) upon the real property located at 1200 11th ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 1 ft 3 inches to the required 10 ft setback for a building over 15 ft tall.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(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 providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Applicant appeared and gave evidence in support of the application.
6. The subject property is currently zoned R-1A.
7. All property owners within 100 feet and affected neighborhood association(s) were notified.
8. 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)(4).
9. The ZHE finds that the Applicant has authority to pursue this Application.
10. Based on evidence submitted by or on behalf of Applicant, it appears that 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). Specifically, Applicant confirmed in oral testimony and submitted evidence that, the Subject Property's unique size, shape, and orientation in relation to other properties and existing improvements give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM).
12. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony by Applicant. According to photographs that were submitted showing the neighborhood, and existing fences, the proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
13. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant confirmed in written submittals that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and useability of the site.
14. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant submitted evidence that any smaller variance would be ineffective to provide for the useability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 1 ft 3 inches to the required 10 ft setback for a building over 15 ft tall.

APPEAL:

If you wish to appeal this decision, you must do so by September 15, 2022 pursuant to Section 14-16-6-4(V), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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