



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

Jacqueline Arguelles requests a permit carport for Lot 13, Rancho Alegre, located at 2444 Iris RD NW, zoned R-A [Section 14-16-5-5(F)(2)(a)(3)]

Special Exception No: **VA-2023-00324**
Project No: **Project#2023-009519**
Hearing Date: 12-19-23
Closing of Public Record: 12-19-23
Date of Decision: 01-03-24

On the 19th day of December, 2023, property owner Jacqueline Arguelles (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit carport (“Application”) upon the real property located at 2444 Iris RD 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(G)(3) states: the criteria for a permit-carport:
 - 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)3 (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-A.
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. 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. Applicant testified that the carport would not significantly impact views from adjacent properties given that the neighbor’s wall already obstructs their views, 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. 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 January 18, 2024 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: ZHE File

Zoning Enforcement

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NOTIFICATION OF DECISION

Jacqueline Arguelles requests a variance of 2 ft and 4 inches to the required 3 ft setback to a lot line for a carport for Lot 13, Rancho Alegre, located at 2444 Iris RD NW, zoned R-A [Section 14-16-5-5(F)(2)(3)(c)]

Special Exception No: **VA-2023-00325**
Project No: **Project#2023-009519**
Hearing Date: 12-19-23
Closing of Public Record: 12-19-23
Date of Decision: 01-03-24

On the 19th day of December, 2023, property owner Jacqueline Arguelles (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft and 4 inches to the required 3 ft setback to a lot line for a carport (“Application”) upon the real property located at 2444 Iris RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 ft and 4 inches to the required 3 ft setback to a lot line for a carport.
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 this IDO, the applicable zone district, or any applicable Overlay Zone.*
 - (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. The subject property is currently zoned R-A.
6. Based on evidence submitted in the record, on balance, it appears that there are no 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(O)(3)(a)(1). Applicant's written justification states only that similar setbacks exist in the neighborhood, and this does not constitute a special circumstance applicable to the Subject Property. Applicant testified that the property is located on a cul de sac and therefore has a rounded boundary line that abounds the cul de sac. However, other properties in the vicinity and same zone district are similarly situated, and the location on a cul de sac therefore does not constitute a special circumstance. The Application must be denied, because no special circumstance exists.
7. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy the above-stated prongs of the test, the Application must be denied.
8. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the test in this Notification of Decision.
9. Nevertheless, Applicant's companion application for a carport permit, VA-2023-00324, Project#2023-009519, has been approved by the ZHE, and Applicants may construct a carport compliant with that notification of decision and all other IDO requirements, including without limitation all required setbacks.

DECISION:

DENIAL of a variance of 2 ft and 4 inches to the required 3 ft setback to a lot line for a carport.

APPEAL:

If you wish to appeal this decision, you must do so by January 18, 2024 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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