



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

Vonda Long (Agent, Jeff Speck) requests a conditional use to allow an accessory dwelling unit without a kitchen in the R-1 zone district for Lot 4, Block 1, Sunrise Call Addn Unit 2, located at 916 Vassar DR NE, zoned R-1 [Section 14-16-4-3(F)(5)(g)]

Special Exception No: **VA-2023-00030**
Project No: **Project#2023-008189**
Hearing Date: 03-21-23
Closing of Public Record: 03-21-23
Date of Decision: 04-05-23

On the 21st day of March, 2023, Jeff Speck, agent for property owner Vonda Long (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow an accessory dwelling unit without a kitchen in the R-1 zone district (“Application”) upon the real property located at 916 Vassar DR NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow an accessory dwelling unit without a kitchen.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: *“An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) It is consistent with the ABC Comp. Plan, as amended;*
 - (b) It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above;*
 - (c) It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) On a project site with existing uses, it will not increase non- residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.;*
 - (f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*

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 has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, evidence supports that the community would benefit from an attractive and harmoniously designed accessory structure to allow uses compatible with single family dwellings and that the requested Conditional Use approval would help “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
6. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No prior permits or approvals apply.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would in fact enhance property value as well as that of neighboring properties.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking, congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts. Applicant confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would not increase traffic congestion, parking, congestion, noise, or vibration.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 10:00 pm and 6:00 am. Applicant confirmed in written submittals that non-residential activity would not increase in any prohibited manner.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Applicant confirmed in written submittals that no negative impact on pedestrian or transit connectivity would result.
11. The City Traffic Engineer submitted a report stating no objection to the Application.
12. All property owners within 100 feet and affected neighborhood association(s) were notified.
13. 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).
14. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow an accessory dwelling unit without a kitchen.

APPEAL:

If you wish to appeal this decision, you must do so by April 20, 2023 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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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Vonda Long (Agent, Jeff Speck) requests a variance of 5 feet to the required 5 foot side yard setback for Lot 4, Block 1, Sunrise Call Addn Unit 2, located at 916 Vassar DR NE, zoned R-1 [Section 14-16-5-1(C)]

Special Exception No: **VA-2023-00031**
Project No: **Project#2023-008189**
Hearing Date: 03-21-23
Closing of Public Record: 03-21-23
Date of Decision: 04-05-23

On the 21st day of March, 2023, Jeff Speck, agent for property owner Vonda Long (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 5 feet to the required 5 foot side yard setback (“Application”) upon the real property located at 916 Vassar DR NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 5 feet to the required 5 ft side yard 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 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. Agent appeared and gave evidence in support of the application.

6. 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(O)(3)(a)(1). Applicant confirmed in oral testimony and submitted evidence that, the Subject Property's location and configuration, and the location of existing improvements on the Subject Property create special circumstances. 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 development, which otherwise would be in compliance with the IDO.
7. 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(O)(3)(a)(2). 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).
8. 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(O)(3)(a)(3). The proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, including immediately adjacent uses.
9. 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(O)(3)(a)(4). 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.
10. 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(O)(3)(a)(5). Applicant submitted evidence that any smaller variance would be ineffective to provide for the useability of the site. Thus, Applicant is not requesting more than what is minimally necessary for a variance.
11. The City Traffic Engineer submitted a report stating no objection to the Application.
12. All property owners within 100 feet and affected neighborhood association(s) were notified.
13. 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).
14. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 5 feet to the required 5 ft side yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by April 20, 2023 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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