



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

Mike Miyaki (Agent, Gilbert Austin) requests a carport permit for Lot 9, Block 26, Farr--Frederick A Addn, located at 1712 Indiana ST NE, zoned R-1C [Section 14-16-5-5(F)(2)(a)(3)(b)]

Special Exception No: **VA-2023-00193**
Project No: **Project#2023-008930**
Hearing Date: 08-15-23
Closing of Public Record: 08-15-23
Date of Decision: 08-30-23

On the 15th day of August, 2023, Gilbert Austin, agent for property owner Mike Miyaki (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a carport permit (“Application”) upon the real property located at 1712 Indiana ST NE (“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)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-1C.
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 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. 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 14, 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
Gilbert Austin, austinscarports@gmail.com



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NOTIFICATION OF DECISION

Mike Miyaki (Agent, Gilbert Austin) requests a variance of 2 ft to the required 3 ft lot line distance for a carport in an R-1 zone for Lot 9, Block 26, Farr--Frederick A Addn, located at 1712 Indiana ST NE, zoned R-1C [Section 14-16-5-5(F)(2)(a)(3)(c)]

Special Exception No: **VA-2023-00195**
Project No: **Project#2023-008930**
Hearing Date: 08-15-23
Closing of Public Record: 08-15-23
Date of Decision: 08-30-23

On the 15th day of August, 2023, Gilbert Austin, agent for property owner Mike Miyaki (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft to the required 3 ft lot line distance for a carport in an R-1 zone (“Application”) upon the real property located at 1712 Indiana ST NE (“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 3 ft lot line distance for a carport in an R-1 zone.
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. 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. 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 at the ZHE hearing on this matter and gave evidence in support of the Application.
6. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
7. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
8. Applicant established that proper notice was provided pursuant to IDO requirements.
9. Applicant has authority to pursue this Application.
10. The City Traffic Engineer submitted a report stating no objection to the Application.
11. The subject property is currently zoned R-1C.
1. Evidence submitted does not establish that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other properties 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). Evidence indicates that the size, shape, topography, location, surroundings, and physical characteristics of the Subject Property are very typical of those of other properties in the vicinity and zone district. It appears that the desired carport could still be constructed without the variance.
2. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy Section 14-16-6-6(O)(3)(a)(1), the Application must be denied.
3. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the variance test in this Notification of Decision.
12. Nevertheless, Applicant's companion application for a permit for a Wall or Fence - Major, VA-2023-00138, is approved by the ZHE, and a fence up to 5-feet tall complying with the requirements of the notification of decision for VA-2023-00138 may be placed on the subject property.

DECISION:

APPROVAL of a variance of 2 ft to the required 3 ft lot line distance for a carport in an R-1 zone.

APPEAL:

If you wish to appeal this decision, you must do so by September 14, 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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