



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

Brad Salzbrenners requests a variance of 3 feet 10 inches for an accessory building taller than the existing house of 11 ft 8 inches for Lot 28, Block 48, Four Hills Village Twelfth Installment, located at 1515 Soplo Rd SE, zoned R-1D [Section 14-16-5-1]

Special Exception No: **VA-2023-00340**
Project No:..... **Project#2023-009620**
Hearing Date:..... 1-16-24
Closing of Public Record:..... 1-16-24
Date of Decision:..... 01-31-24

On the 16th day of January, 2024, property owner Brad Salzbrenners (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 3 feet 10 inches for an accessory building taller than the existing house of 11 ft 8 inches (“Application”) upon the real property located at 1515 Soplo RD SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. The Application originally requested a variance of 3 feet 10 inches for an accessory building taller than the existing house of 11 ft 8 inches. However, Applicant stated in the January 16, 2024 ZHE hearing on the Application that he is requesting a variance of 2 feet 4 inches for an accessory building taller than the existing house of 14 feet.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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 has authority to pursue this Application.
4. 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).
5. 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).
6. Applicant appeared and gave evidence in support of the application.
7. All property owners within 100 feet of the subject property and the affected neighborhood association were notified. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
8. Four Hills Village Association is the affected neighborhood association.
9. The subject property is currently zoned R-1D.
10. Regarding whether 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, as required by Section 14-16-6-6(N)(3)(a)(1), Applicant states that the current minimum standards for a single-story addition to Subject Property do not provide sufficient living, garage and storage space. However, these statements fail to address how the Subject Property is different than other properties in the same zone and vicinity in a manner that would constitute a special circumstance uniquely impacting the Subject Property. Applicant's submittals indicate that several other properties are similarly situated and have existing nonconforming accessory buildings within IDO setback areas, but this is not a special circumstance applying uniquely to the Subject Property.
11. The Application should be continued to the February 20, 2024 ZHE hearing to allow Applicant and the public to provide additional evidence regarding whether any special circumstances applicable to the Subject Property exist.
12. Applicant is encouraged to confer with concerned neighbors and other parties who have questions regarding or object to the Application.

DECISION:

CONTINUANCE of the Application to be heard at the February 20, 2024 ZHE hearing, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by February 15, 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
Pat Dingman