



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

Jeremy Nelson requests a Variance of 7 ft 10 inches to the required 10 ft side setback in a R-A zone for Lot 97B, MRGCD Map 34, located at 2611 Rio Grande Blvd NW, zoned R-A [Section 14-16-5-1 Table 5-1-1]

Special Exception No:..... **VA-2024-00204**
Project No: **PR-2024-010656**
Hearing Date: 10-15-24
Closing of Public Record: .. 10-15-24
Date of Decision: 10-30-24

On the 15th day of October, 2024, property owner Jeremy Nelson (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 7 ft 10 inches to the required 10 ft side setback in a R-A zone (“Application”) upon the real property located at 2611 Rio Grande Blvd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 7 ft 10 inches to the required 10 ft side setback in a R-A zone.
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 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(E)(3).
4. Property owner Jeremy Nelson appeared and gave evidence in support of the application.

5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
6. No property owners or members of any affected neighborhood association appeared or offered comment at the hearing.
7. The subject property is currently zoned R-A, Residential – Rural and Agricultural zone district.
8. 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).
9. 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).
10. 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).
11. 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).
12. 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).
13. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(J)(4).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 7 ft 10 inches to the required 10 ft side setback in a R-A zone.

APPEAL:

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

/s/ Rip Harwood

Rip Harwood, Esq.
Zoning Hearing Examiner

Cc: ZHE File
Zoning Enforcement