



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

Faith Lutheran Church - Amber Webb (Agent JAG Planning & Zoning LLC - Juanita Garcia) requests a Variance of 135 ft to the required 200' distance for an Illuminated Sign to be visible from a residential zone for Lot ZIA, Academy Place, located at 10000 Spain Rd NE [Section 14-16-5-12(E)(5)(c)(1)]

Special Exception No: ..... **VA-2024-00262**  
Project No: ..... **PR-2024-010860**  
Hearing Date: ..... 10-15-24  
Closing of Public Record: ..... 10-15-24  
Date of Decision: ..... 10-30-24

On the 15<sup>th</sup> day of October, 2024, JAG Planning & Zoning LLC - Juanita Garcia, agent for property owner Faith Lutheran Church - Amber Webb (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 135 ft to the required 200' distance for an Illuminated Sign to be visible from a residential zone (“Application”) upon the real property located at 10000 Spain Rd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 135 ft to the required 200' distance for an Illuminated Sign to be visible from a residential zone.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. 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(J)(4).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), 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 a single lot 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, physical characteristics, natural forces or government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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.*”

6. 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).
7. 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).
8. Applicant appeared and gave evidence in support of the application.
9. Based on evidence in the record, the variance will cause significant adverse material impacts on surrounding properties, and therefore does not satisfy IDO Section 14-16-6-6(O)(3)(a). Specifically, opponent neighbors who live directly across Spain Rd NE submitted written correspondence and sworn testimony as to the negative impacts the light from the existing sign has on their quality of life. The existing sign was constructed prior to the IDO effective date and is apparently legally nonconforming. The Application seeks to replace the existing reader board with an LED board, which necessitates the requested variance. Evidence in the record supports a conclusion that the new sign would be at least as bright, if not brighter, than the existing sign. During testimony, Applicant appeared unwilling to institute mitigating measures, such as dimming or turning off lights during late night hours.
10. Because all prongs of the IDO test must be satisfied and, as stated above, the Application failed to satisfy IDO Section 14-16-6-6(O)(3)(a), the Application must be denied. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the IDO test in this Notification of Decision.

DECISION:

DENIAL of a variance of 135 ft to the required 200' distance for an Illuminated Sign to be visible from a residential 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.



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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc: ZHE File  
Zoning Enforcement

Juanita Garcia PO BOX 7857, 87194, jag@jagpandz.com

Jerry Watts 4804 Todd St NE, 87109

Haldon Lewin 1728 Buffalo Dancer Trail, 87112

Ryan Ratliff 5300 Lucille Drive, 87111

Marcos Ortiz 5308 Lucille Drive, 87111