



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

Benito Marin Ramirez & Veronica Castillo requests a variance of 7 ft. 5 in. to the required 10 ft. side yard setback for Lot 6B, Glendale Gardens, located at 4916 Glendale Rd. NW, zoned R-1D [Section 14-16-4-1]

Special Exception No:..... **VA-2023-00380**
Project No: **Project#2023-009729**
Hearing Date: 02-20-2024
Closing of Public Record: .. 02-20-2024
Date of Decision:..... 03-06-2024

On the 20th day of February, 2024, Benito Marin Ramirez and Veronica Castillo (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 7 ft. 5 in. to the required 10 ft. side yard setback (“Application”) upon the real property located at 4916 Glendale Rd. NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 7 feet 5 inches to the required 10 ft. side yard setback.
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(K)(3).
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. 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. The subject property is currently zoned R-1D.
9. 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 provided evidence that the location of the property at the intersection of two streets results in additional vehicular and pedestrian traffic that uniquely impacts the Subject Property and stated that this increased traffic increases the likelihood of theft to Applicant’s property, which the variance would resolve by allowing Applicant to enclose a pre-existing carport- or porch-like structure.
10. 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(N)(3)(a)(2). Specifically, Applicant testified that the variance would not negatively impact the neighborhood, because the variance would merely allow for enclosure of the pre-existing cement and porch which pre-dates Applicant’s purchase of the Subject Property.
11. 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(N)(3)(a)(3). Specifically, Applicant stated that it would not impact surrounding neighbors and received no negative feedback after properly posting sign, only feedback from neighbors stating they do not have a problem with the variance.
12. 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(N)(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 useability of the site in line with existing and potential development in the area.
13. Based on evidence submitted by or on behalf of Applicant, the variance approved meets the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Any lesser variance would not allow for enclosure of the pre-existing structure.
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 7 ft 5 inches to the required 10 ft side yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 2024 pursuant to Section 14-16-6-4(V), of the IDO, 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.

A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is fluid and cursive, written in a professional style.

Robert Lucero, Esq.
Zoning Hearing Examiner

ZHE File
Zoning Enforcement



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: 02-20-2024
Closing of Public Record: 02-20-2024
.....
Date of Decision:..... 03-06-2024

On the 20th day of February, 2024 property owner Brad Salzbrenners (“Applicant”) failed to appear before the Zoning Hearing Examiner (“ZHE”) regarding the requested variance of 3 feet 10 inches for an accessory building taller than the existing house of 11 ft 8 inches, originally heard on the 16th day of January, 2024, (“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 was deferred from the January 16, 2024 ZHE hearing.
2. Applicant failed to appear at the February 20, 2024, ZHE Hearing.
3. The ZHE hearing on the Application should be deferred to March 19, 2024, beginning at 9:00 a.m., to allow Applicant to appear and testify in support of the Application.

DECISION:

CONTINUANCE – The ZHE hearing on the Application is CONTINUED to March 19, 2024, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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.

A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is written in a cursive, flowing style.

Robert Lucero, Esq.
Zoning Hearing Examiner



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

Beverly Gonzales requests a variance of 3 feet to the allowed 3 feet fence height in the front yard for Lot 12, Block 3, Katherine Nichole Addn, located at 7222 Cleghorn RD NW, zoned R-T [Section 14-16- 5-7(D)(1)]	Special Exception No:	VA-2023-00344
	Project No:	Project#2023-009626
	Hearing Date:	02-20-2024
	Closing of Public Record:	02-20-2024
	
	Date of Decision:	03-06-2024

On the 20th day of February, 2024, property owner Beverly Gonzales (“Applicant”) did not appear before the Zoning Hearing Examiner (“ZHE”) to request a variance of 3 feet to the allowed 3 feet fence height in the front yard (“Application”) upon the real property located at 7222 Cleghorn RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the allowed 3 ft fence height in the front yard.
2. Applicant failed to appear at the February 20, 2024, ZHE Hearing.
3. The ZHE hearing on the Application should be deferred to March 19, 2024, beginning at 9:00 a.m., to allow Applicant to appear and testify in support of the Application.

DECISION:

CONTINUANCE – The ZHE hearing on the Application is continued to March 19, 2024, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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



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

Beverly Gonzales requests a permit fence major in the front yard for Lot 12, Block 3, Katherine Nichole Addn, located at 7222 Cleghorn RD NW, zoned R-T [Section 14-16- 5-7(D)(1)]

Special Exception No:..... **VA-2023-00353**
Project No:..... **Project#2023-009626**
Hearing Date: 02-20-2024
Closing of Public Record: 02-20-2024
.....
Date of Decision:..... 03-06-2024

On the 20th day of February, 2024, property owner (“Applicant”) did not appear before the Zoning Hearing Examiner (“ZHE”) to request a taller wall permit major in the front yard (“Application”) upon the real property located at 722 Cleghorn RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a taller wall permit major in the front yard.
2. Applicant failed to appear at the February 20, 2024 ZHE Hearing on the Application.
3. The ZHE hearing on the Application should be deferred to March 19, 2024, beginning at 9:00 a.m., to allow Applicant to appear and testify in support of the Application.

DECISION:

CONTINUANCE – The ZHE hearing on the Application is continued to March 19, 2024, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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.

A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement



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

Brian Craig (Agent Carlos Casillas) requests a conditional use to allow on-site cannabis consumption for Lot 18, Block 16, New Mexico Town Company’s Original Townsite, located at 211 Gold Ave SW, zoned MX-FB-UD [Section 14-16-4-3(D)(35)(i)]	Special Exception No:.....	VA-2023-00372
	Project No:	Project#2023-009708
	Hearing Date:	02-20-2024
	Closing of Public Record:	02-20-2024
	Date of Decision:.....	03-06-2024

On the 20th day of February, 2024, Carlos Casillas on behalf of Golden State Reserve LLC (“Agent”) appeared on behalf of Brian Craig, authorized representative of Rebel Real Estate Group (“Applicant”) before the Zoning Hearing Examiner (“ZHE”) conditional use to allow on-site cannabis consumption (“Application”) upon the real property located at 211 Gold Ave SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for on-site cannabis consumption.
2. Agent appeared and gave evidence in support of the Application.
3. A neighborhood association representative and a concerned neighbor also appeared and gave testimony regarding the Application.
4. Based on the hearing testimony, it appears that the neighborhood association was not provided with adequate opportunity to request a neighborhood meeting.
5. Also, several questions remain regarding the merits of the Application.
6. The ZHE hearing on the Application should be continued to allow Applicant to offer a neighborhood or facilitated meeting and to allow all parties to submit additional evidence regarding the Application.

DECISION:

CONTINUANCE – The ZHE hearing on the Application is CONTINUED to March 19, 2024, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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



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

Journey NM LLC (Agent, Ray Tavarez/Amanda Tavarez) request a variance of 2 ft 2 in to the allowed 3 ft wall height in the front yard for Lot 9A, Block 22, Terrace Addn, located at 541 Cedar ST SE, zoned MX-M [Section 14-16-5-7(D)(1)

Special Exception No:
Project No:
Hearing Date:.....
Closing of Public Record:
.....
Date of Decision:

VA-2023-00373
Project#2023-
009709
02-20-2024
02-20-2024
03-06-2024

On the 20th day of February 2024, Patricia Wright (“Agent”) and Journey NM LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 2 ft. 2 in. to the allowed 3 ft. wall height in the front yard (“Application”) upon the real property located at 541 Cedar St. SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 ft. 5 in. to the allowed 3 ft. wall height in the front yard.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application. Applicant duly authorized Agent Patricia Wright during ZHE Hearing on February 20, 2024 to serve as Agent, replacing Ray Tavarez and Amanda Tavarez as agents.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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)(3).
6. 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.”

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. 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. The subject property is currently zoned MX-M
6. Based on evidence submitted by 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(N)(3)(a)(1). Applicant showed through evidence of the zoning map that there is additional traffic near the location of Subject Property, particularly because of its location near public parks and transit, and stated that there has been theft to Applicant’s property and in neighborhood and that there is access to additional theft to Subject Property, which the variance would resolve.
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(N)(3)(a)(2). Applicant submitted evidence that no harm would result and 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(N)(3)(a)(3). Specifically, Applicant stated that the fence will be *constructed of wood* and will provide sufficient visibility for pedestrians and vehicle traffic on and near the Subject Property. An adjacent neighbor appeared at the hearing and asked questions regarding the Application, and was ultimately satisfied that no harm would result from the proposed variance.
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(N)(3)(a)(4). Applicant submitted evidence that no harm would result and supporting 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 useability of the site in line with prior development in the area.
10. Based on evidence submitted by or on behalf of Applicant, the variance approved meets the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Applicant submitted evidence indicating that any lesser variance would be insufficient for the security of property and any occupants within property.
11. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 2 ft 2 in to the allowed 3 ft wall height in the front yard.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 2024 pursuant to Section 14-16-6-4(V), of the IDO, 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



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

Robert Santillanes and David Santillanes (Agent, David Walker) requests a variance of 5 ft to the required 10 ft street side setback for Lot 1, Block 26, Ridgecrest Addn, located at 1001 Washington ST SE, zoned R- 1B [Section 14-16-5-1]	Special Exception No: VA-2023-00374 Project No:..... Project#2023- 009710 Hearing Date: 02-20-2024 Closing of Public Record: 02-20-2024 Date of Decision:..... 03-06-2024
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On the 20th day of February, 2024, property owner (“Applicant”) did not appear before the Zoning Hearing Examiner (“ZHE”) to request a variance of 5 ft to the required 10 ft street side setback (“Application”) upon the real property located at 1001 Washington ST SE, zoned R-1B [Section 14-16-5-1]

FINDINGS:

1. Applicant is requesting a variance of 5 ft to the required 10 ft street side setback.
2. Applicant failed to appear at the February 20, 2024 ZHE Hearing on the Application.
3. The ZHE hearing on the Application should be deferred to March 19, 2024, beginning at 9:00 a.m., to allow Applicant to appear and testify in support of the Application.

DECISION:

DEFERRAL – The ZHE hearing on the Application is deferred to March 19, 2024, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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



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

Hunter Broeck and Barbara Broeck (Agent, Modulus Design, Walter Gill) request for a permit to allow a carport in the side yard setback for Lot 46, McDonald Acres Unit 4, located at 1109 La Poblana Rd NW, zoned R-1D [Section 14-16-6-6(G)]

Special Exception No: **VA-2023-00375**
Project No:..... **Project#2023-009711**
Hearing Date: 02-20-24
Closing of Public Record: 02-20-24
.....
Date of Decision:..... 03-06-24

On the 20th day of February, 2024, Walter Gill (“Agent”) appeared on behalf of Hunter Broeck and Barbara Broeck (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit carport (“Application”) upon the real property located at 1109 La Poblana Rd NW (“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 (“IDO”) Section 14-16-6-6(G)(3) states: “An application for a Permit – Carport shall be approved if all of the following criteria are met.
 - 6-6(G)(3)(a) *The carport would strengthen or reinforce the architectural character of the surrounding area.*
 - 6-6(G)(3)(b) *The carport would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.*
 - 6-6(G)(3)(c) *The design of the carport complies with the provisions in Subsection 14-16-5-5(F)(2)(a)3 (Carports).*
 - 6-6(G)(3)(d) *No carport wall is a hazard to traffic visibility, as determined by the Traffic Engineer.*
 - 6-6(G)(3)(e) *The carport is not taller than the primary building on the lot.*
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. All property owners within 100 feet and affected neighborhood associations were notified of the application. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
7. The subject property is currently zoned R-1D.

8. Applicant appeared and gave evidence in support of the application.
9. Applicant has met the burden of providing evidence that establishes that the proposed carport would strengthen or reinforce the architectural character of the surrounding area. Specifically, Applicant testified that the design of the carport comports with that of the residence on site.
10. 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. Specifically, Applicant testified that the carport would be setback three feet from the existing front façade and that it does not impede anything.
11. Applicant has met its burden of providing evidence that establishes that the design of the proposed carport complies with IDO Subsection 14-16-5-5(F)(2)(a)(2)(a) (Carports).
12. The City Traffic Engineer issued a report indicating no objection to the proposed carport.
13. Applicant has met its burden of providing evidence that establishes that the proposed carport is not taller than the primary building on the lot. Specifically, Applicant testified that the carport would be less than the height of the house, which is sixteen feet, and “*less than thirteen feet from the existing grade*”.

DECISION:

APPROVAL of a permit-carport.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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



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

Joseph Grady and Lauri Grady request a variance of 15 ft to the required 20 front yard setback for Lot 107A1A1, MRGCD Map 31, located at 3815 Pedroncelli RD NW, zoned R-A [Section 14-16-5-1(C)(1)]

Special Exception No: **VA-2023-00376**
.....
Project No: **Project#2023-009712**
.....
Hearing Date: 02-20-2024
.....
Closing of Public Record: 02-20-2024
.....
Date of Decision: 03-06-2024
.....

On the 20th day of February 2024, Joseph Grady and Lauri Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 15 ft to the required 20 front yard setback (“Application”) upon the real property located at 3815 Pedroncelli RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 15 ft to the required 20 ft. front yard setback.
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(K)(3).
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. The subject property is currently zoned R-A.
9. Based on evidence submitted by 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(N)(3)(a)(1). Applicant submitted evidence that Subject Property is located in an area of historic platting resulting in several nonconformities in the vicinity, which make reasonable development of the Subject Property impracticable without the requested variance.
10. 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(N)(3)(a)(2). Specifically, Applicant testified that the variance would reduce traffic because there will be less lots in the development, therefore reducing the number of vehicles traveling to Subject Property. 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).
11. 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(N)(3)(a)(3). The proposal is designed to be in harmony and consistency with prior approvals, what currently exists in the neighborhood, rights of way and infrastructure.
12. 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(N)(3)(a)(4). Applicant testified that the variance would be consistent with the character of the North Valley and renovating the existing house would “*add to the North Valley and the neighborhood*”.
13. Based on evidence submitted by or on behalf of Applicant, the variance approved meets the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Evidence supports that any smaller variance would not be practicable..
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 15 ft to the required 20 ft. front yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 2024 pursuant to Section 14-16-6-4(V), of the IDO, 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



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

Joseph Grady and Lauri Grady request a variance of 6 ft. to the required 10 ft. side yard for Lot 107A1A1, MRGCD Map 31, located at 3815 Pedroncelli RD NW, zoned R-A [Section 14-16-5-1(C)(1)]

Special Exception No: **VA-2023-00377**
.....
Project No: **Project#2023-009712**
.....
Hearing Date: 02-20-2024
.....
Closing of Public Record: 02-20-2024
.....
Date of Decision: 03-06-2024
.....

On the 20th day of February 2024, Joseph Grady and Lauri Grady (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 6 ft to the required 10 ft side yard setback (“Application”) upon the real property located at 3815 Pedroncelli RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the required 10 ft. side yard setback.
 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(K)(3).
 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. The subject property is currently zoned R-A.
9. Based on evidence submitted by 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(N)(3)(a)(1). Applicant submitted evidence that Subject Property is located in an area of historic platting resulting in several nonconformities in the vicinity, which make reasonable development of the Subject Property impracticable without the requested variance.
10. 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(N)(3)(a)(2). Specifically, Applicant testified that the variance would reduce traffic because there will be less lots in the development, therefore reducing the number of vehicles traveling to Subject Property. 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).
11. 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(N)(3)(a)(3). The proposal is designed to be in harmony and consistency with prior approvals, what currently exists in the neighborhood, rights of way and infrastructure.
12. 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(N)(3)(a)(4). Applicant testified that the variance would be consistent with the character of the North Valley and renovating the existing house would *“add to the North Valley and the neighborhood”*.
13. Based on evidence submitted by or on behalf of Applicant, the variance approved meets the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Evidence supports that any smaller variance would not be practicable..
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 6 ft. to the required 10 ft. side yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 2024 pursuant to Section 14-16-6-4(V), of the IDO, 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



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

Wang Investments LLC (Agent Antonio Ruelas) requests a conditional use to allow cannabis retail within 600 ft of another cannabis retail for Lot 12A, Block 20, Bel Air, located at 4701 Menaul BLVD NE, zoned MX-M [Section 14-16-4-3(D)(35)(c)]

Special Exception No: **VA-2023-00378**
Project No: **Project#2023-009716**
Hearing Date:..... 02-20-2024
Closing of Public Record: 02-20-2024
.....
Date of Decision: 03-06-2024

On the 20th day of February, 2024, Antonio Ruelas (“Agent”) appeared on behalf of Wang Investments LLC (“Applicant”) before the Zoning Hearing Examiner (“ZHE”) conditional use to allow on-site cannabis consumption (“Application”) upon the real property located at 4701 Menaul BLVD NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow cannabis retail within 600 ft of another cannabis retail location.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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)(3).
6. Therefore, conditional use to allow on-site cannabis consumption on Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
7. The City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) 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 this 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 of a lot in any Residential zone district between the hours of 10:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.”*
8. 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).
 9. 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).
 10. Agent appeared and gave evidence in support of the Application.
 11. Applicant has met the burden of providing evidence that established that the requested Conditional Use Approval is consistent with the ABC Comp. Plan, as amended. Applicant submitted evidence supporting that the requested Conditional Use approval furthers the goals and policies of the ABC Comp. Plan by helping to ensure appropriate scale and location of development and character of design, placing new development along corridors, and providing employment and services for the area. Applicant has met the 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.
 12. Applicant has met the 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 that the building had been out of use and would like to open up a new and family-owned business. Applicant also testified that although there is a drive-thru window available from a previous usage of the building, the business will not use the drive-thru for the Subject Property’s proposed purpose as a cannabis retailer. Additionally, Applicant testified that the dispensary will follow standard best practices to prevent driving under the influence and would also like to maintain open communication with surrounding neighbors and neighborhood. A neighbor appeared and asked questions of Applicant, ultimately showing support for the Application.
 13. Applicant has met the 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 testified that the Subject Property has “*an established building, lot and traffic access*” in addition to adequate parking in both the backlot and on the westside of Subject Property.
 14. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval 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. Applicant confirmed in written submittals that non-residential activity would not increase in any prohibited manner, because the hours of operation will not occur during protected hours.

15. Applicant has met their burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Applicant testified that there will be “*no modification to the lot, sidewalks, traffic access, roadways, or any other areas that would negatively impact pedestrian or traffic connectivity*”.
16. Applicant has demonstrated compliance with the use-specific standards in IDO Section 14-16-4-3(D)(35)(i).
17. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a conditional use to allow cannabis retail within 600 ft of another cannabis retail.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 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



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

Congregation Albert of Albuquerque (Agent, Shai Shehav) request a variance of 3 ft to the allowed 3 ft fence on street side yards for Lot F, Block 11, Stardust Skies Unit 4, located at 3800 Louisiana BLVD NE, zoned MX-T [Section 14-16-5-7(D)(1)]

Special Exception No: **VA-2023-00381**
.....
Project No: **Project#2023-009730**
.....
Hearing Date: 02-20-2024
.....
Closing of Public Record: 02-20-2024
.....
Date of Decision: 03-06-2024
.....

On the 20th day of February 2024, Shai Shehav (“Agent”) and Congregation Albert of Albuquerque (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 3 ft to the allowed 3 ft fence on the street side yards (“Application”) upon the real property located at 3800 Louisiana BLVD NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the allowed 3 ft fence on street side yards.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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)(3).
6. 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.”

7. 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).
8. 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).
9. The subject property is currently zoned MX-T.
10. Based on evidence submitted by 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(N)(3)(a)(1). Applicant testified that there has been an increase in trespassing, both vehicular and pedestrian, that uniquely impact the Subject Property, in addition to an “increase in antisemitism and a specific threat to our clergy”. A variance to add a higher security fence will help mitigate those issues.
11. 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(N)(3)(a)(2). Applicant testified that the fence would only be constructed on Applicant’s Subject Property and submitted evidence that no negative impacts to public safety, health and welfare would result from approval of the Application.
12. 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(N)(3)(a)(3). Specifically, Applicant testified that the Subject Property is “far enough removed” from surrounding properties and the variance would only impact Subject Property.
13. 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(N)(3)(a)(4). Applicant submitted evidence 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 useability of the site in line with prior development in the area. .
14. Based on evidence submitted by or on behalf of Applicant, the variance approved meets the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Applicant submitted evidence that any lesser variance would not provide sufficient deterrence.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 3 ft to the allowed 3 ft fence on the street side yards.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 2024 pursuant to Section 14-16-6-4(V), of the IDO, 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



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

Sandyeva Martinez (Rick Garduno Agent, HIS Construction, LLC) request a variance of 5 feet to the required 15 feet front yard setback for Lot 6, Block 22, Princess Jean Park Addn, located at 11104 Love AVE NE, zoned R-1B [Section 14-16-5-1].

Special Exception No: VA-2023-00383
Project No: Project#2023-009744
Hearing Date: 02-20-2024
Closing of Public Record: 02-20-2024
Date of Decision: 03-06-2024

On the 20th day of February 2024, Rick Garduno, HIS Construction, LLC ("Agent") and Sandyeva Martinez ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting variance of 5 ft to the allowed 15 ft front yard setback ("Application") upon the real property located at 11104 Love AVE 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 allowed 5 feet front yard setback.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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)(3).
6. 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.”

7. 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).
8. 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).
9. The subject property is currently zoned R-1B.
10. Based on evidence submitted by 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(N)(3)(a)(1). Applicant confirmed in oral testimony and submitted evidence that, the Subject Property’s layout based on historic platting and development under prior approval regimes, as well as the location of existing public and private improvements on site and on neighboring properties, 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 request, which otherwise would comply the IDO.
11. 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(N)(3)(a)(2). Applicant submitted evidence 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).
12. 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(N)(3)(a)(3). Applicant submitted evidence that the proposal is designed to be in harmony and consistency with prior approvals, what currently exists in the neighborhood, rights of way and infrastructure
13. 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(N)(3)(a)(4). Applicant submitted evidence 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 useability of the site in line with prior development in the area.
14. Based on evidence submitted by or on behalf of Applicant, the variance approved meets the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Evidence supports that any smaller variance would not be practicable.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of variance of 5 ft to the required 15 ft front yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by March 21, 2024 pursuant to Section 14-16-6-4(V), of the IDO, 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