



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

Javier & Martha Castro requests a variance of 2 ft to the required 3 ft setback for a Carport for lot 76-P1, Block 0000, Eldorado Park Unit 2, located at 512 94th St SW, zoned R-1A [14-16-5-5(F)(2)(a)(3)(b)]

Special Exception No:..... **VA2024-00066**
Project No: **Project#2024-010073**
Hearing Date: 05-21-24
Closing of Public Record: .. 05-21-24
Date of Decision: 06-05-24

On the 21st day of May, 2024, Javier and Martha Castro (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 2 ft to the required 2 ft setback for a Carport (“Application”) upon the real property located at 512 94th St SW (“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 setback for a Carport.
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. Applicant appeared and gave evidence in support of the application.
 9. The subject property is currently zoned R-1A.
 10. 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(N)(3)(a)(1). Specifically, Applicant stated that the residence is located in a unique location on a cul-de-sac and the property lines are therefore unusual and cause an extraordinary hardship, because the reasonably proposed carport would not be able to be constructed without the variance because of the unusually shaped lot.
 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). No drainage would run onto neighbors property from the carport and the proposed carport would not impact any clear sight triangle.
 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 no negative impacts would result.
 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). Specifically, Applicant stated that the carport would be constructed in accordance with IDO processes and requirements.
 14. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant stated that any lesser variance would make the carport nonfunctional.
 15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 2 ft to the required 3 ft setback for a Carport..

APPEAL:

If you wish to appeal this decision, you must do so by June 20, 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 style and is positioned above a horizontal line.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement



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

Javier & Martha Castro requests a carport permit for Lot 76-P1, Block 0000, Eldorado Park Unit 2, located at 512 94th St SW, zoned R-1A zoned [14-16-5-5(F)(2)(a)(3)(b)]

Special Exception No:..... **VA-2024-00067**
Project No: **Project#2024-010073**
Hearing Date: 5-21-24
Closing of Public Record: .. 5-21-24
Date of Decision: 6-5-24

On the 21st day of May, 2024, Javier and Martha Castro (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a carport permit (“Application”) upon the real property located at 512 94th St SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a carport permit.
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 Section 14-16-6-6(L)(3)(d) requires that:
 - 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 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. Applicant appeared and gave evidence in support of the application.
6. The subject property is currently zoned R-1A.

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. Specifically, Applicant testified that the carport would be constructed in harmony with existing improvements on the Subject Property, which would strengthen the architectural character of the surrounding area.
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. Specifically, Applicant testified that no negative impacts would result from the proposed carport.
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), based on the justification letter, site plan, drawings and other evidence in the record.
10. 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 to the same.
11. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a carport permit.

APPEAL:

If you wish to appeal this decision, you must do so by June 20, 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