



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

Nicole Ackerman (Agent, Consensus Planning) requests a variance of 30 ft to the required 45 ft open space landscape buffer for Lot 12, Block 6, Volcano Cliffs Unit 22, located at 6204 Camino Alto NW, zoned R-1D [14-16-5-2(J)(a)(1)]	Special Exception No:	VA-2024-00094
	Project No:	Project#2024-010171
	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, agent for property owner, Consensus Planning (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting variance of 30 ft to the required 45 ft open space landscape buffer (“Application”) upon the real property located at 6204 Camino Alto NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 30 ft to the required 45 ft open space landscape buffer.
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 were sent notice, and required neighborhood association(s) received notice of the Application.
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. Applicant and Agent appeared and gave evidence in support of the application.
10. The subject property is currently zoned R-1D.
11. 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). Applicant confirmed in oral testimony and submitted evidence that the Subject Property's shape and layout based on historic platting and development under prior approval regimes create special circumstances. Specifically, the lot is unusually shaped, located on a cul-de-sac, with the longest boundary abutting the Petroglyphs National Monument. The lot is much wider than it is deep, and the cul-de-sac creates a concave front yard boundary, pushing the front yard setback even further toward the back yard. This results in a buildable envelope that is wide, but not relatively deep.
12. However, there does not appear to be sufficient evidence in the record for the ZHE to determine whether these apparent special circumstances would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, or whether practical difficulties would result from strict compliance with the minimum standards.
 - a. From a site plan exhibit submitted by Agent, it appears that compliance with the minimum standards would provide for a building envelope only approximately 27.33 feet deep at its narrowest, but deeper toward the side yards. However, it also appears that the square footage of the building envelope would be approximately 2,987 square feet, which is larger than several homes in the surrounding area.
 - b. Evidence of whether, if so, how such a building envelope would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, or whether practical difficulties would result from strict compliance with the minimum standards, might include exhibits and other evidence addressing whether or not there is any reasonably practical way to architecturally configure a house on the existing building envelope, as the case may be.

13. The ZHE hearing on the Application should be deferred to Tuesday, June 18, 2024, beginning at 9:00 a.m., to enable applicant and other interested parties the opportunity to supplement the record on the Application, in particular, with regard to whether and, if so, how such a building envelope would create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, or whether practical difficulties would result from strict compliance with the minimum standards.

DECISION:

DEFERRAL to Tuesday, June 18, 2024, beginning at 9:00 a.m.

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

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