



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

Vicki Garcia Golden (Agent, Dave Aube – Studio Architects) requests a Variance of 10 feet to the 10-foot required setback for Urban Center, Main Street, and Premium Transit Areas where sidewalks are less than 10 feet wide for Lot 1, Garcia Properties Development, located at 1736 CENTRAL AVE SW, zoned MX-M (J-13) [IDO Section 14-16-5-1(D)(2)(a)].

Special Exception No:... VA-2025-00020
Project No:..... PR-2024-010933
Hearing Date:..... 05/20/2025
Closing of Public 05/20/2025
Record:
Date of Decision:..... 06/04/2025

On May 20, 2025 Vicki Garcia Golden (Agent, Dave Aube – Studio Architects) (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Variance of 10 feet to the 10-foot required setback for Urban Center, Main Street, and Premium Transit Areas where sidewalks are less than 10 feet wide (“**Application**”) upon the real property located at 1736 CENTRAL AVE SW (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 10 feet to the 10-foot required setback for Urban Center, Main Street, and Premium Transit Areas where sidewalks are less than 10 feet wide, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“**IDO**”) Section 14-16-6-6(O).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
4. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
5. Applicant sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
6. Applicant sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
7. Applicant posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
8. The Subject Property is Zoned MX-M and located in a Main Street (MS) area.

9. Therefore, the requested setback on the Subject Property requires a Variance of 10 feet to the 10-foot required setback for Urban Center, Main Street, and Premium Transit Areas where sidewalks are less than 10 feet wide, pursuant to IDO Subsection 14-16-6-6(O).
10. IDO Section 14-16-6-6(O)(3)(a) (Review and Decision Criteria– Variance) 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 district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by 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 this IDO, the applicable zone district, or any applicable Overlay Zone.*
 5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
11. 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).
12. 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).
13. Applicant and Agent appeared at the May 20, 2025 ZHE hearing on the Application and gave evidence in support of the Application.
14. 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, and 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, as required by Section 14-16-6-6(O)(3)(a)(1). The structure existing on the Subject Property was apparently permitted in its existing location decades before enactment of the IDO. It has since become apparent that a setback variance is necessary for the structure to remain in its present location and to allow existing sidewalk widths to remain. This creates a situation where practical difficulties result from strict compliance with the minimum standards.
15. 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(O)(3)(a)(2). There were no complaints of material harm directed at the setback, and Applicant submitted evidence that no negative impact would result.
16. 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(O)(3)(a)(3). The Application merely seeks to maintain the status quo.
 17. 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(O)(3)(a)(4). The uses of the property are consistent with the IDO and the Application merely seeks to rectify a setback situation.
 18. 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(O)(3)(a)(5). Applicant requests only the minimum required to accommodate the permitted structure.
 19. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Variance of 10 feet to the 10-foot required setback for Urban Center, Main Street, and Premium Transit Areas where sidewalks are less than 10 feet wide.

APPEAL:

If you wish to appeal this decision, you must do so by June 19, 2025, pursuant to Section 14-16-6-4(U) 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 Notice of Decision does not constitute approval of plans for a building permit. If your Application is approved, bring this Notice of Decision with you when you apply for any related building permit or occupation tax number. Approval of a Conditional Use is void after two (2) years from date of approval if the rights and privileges granted thereby have not been executed or utilized. Approval of a Variance is void after one (1) year from date of approval if the rights and privileges granted thereby have not been executed or utilized.



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Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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