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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 1, Block A, Sombra del Oeste, located at 1802 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00040**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1802 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 2, Block A, Sombra del Oeste, located at 1806 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00041**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1806 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 3, Block A, Sombra del Oeste, located at 1810 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00042**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1810 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 4, Block A, Sombra del Oeste, located at 1814 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00043**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement (**"Application**") upon the real property located at 1814 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
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15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

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18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 5, Block A, Sombra del Oeste, located at 1818 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00044**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1818 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 6, Block A, Sombra del Oeste, located at 1822 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00045**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1822 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 7, Block A, Sombra del Oeste, located at 1826 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00046**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1826 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 8, Block A, Sombra del Oeste, located at 1830 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00047**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1830 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of [Variance Request Description] to the allowed 15' rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 9, Block A, Sombra del Oeste, located at 1834 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00048**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1834 Smoketree Dr SE (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' the allowed 15' rear setback requirement for Lot 10, Block A, Sombra del Oeste, located at 1838 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00049**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1838 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 1, Block B, Sombra del Oeste, located at 8881 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00050**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8881 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 2, Block B, Sombra del Oeste, located at 8885 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00051**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8885 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 3, Block B, Sombra del Oeste, located at 8889 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00052**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8889 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 4, Block B, Sombra del Oeste, located at 8893 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00053**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8893 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 5, Block B, Sombra del Oeste, located at 8897 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00054**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8897 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 6, Block B, Sombra del Oeste, located at 8901 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00055**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8901 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

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18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 7, Block B, Sombra del Oeste, located at 8905 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00056**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8905 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 8, Block B, Sombra del Oeste, located at 8909 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00057**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8909 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 9, Block B, Sombra del Oeste, located at 8913 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00058**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8913 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 10, Block B, Sombra del Oeste, located at 8917 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00059**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8917 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
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15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 11, Block B, Sombra del Oeste, located at 8921 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00060**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8921 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 12, Block B, Sombra del Oeste, located at 8925 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00061**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8925 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 13, Block B, Sombra del Oeste, located at 8929 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00062**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8929 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 14, Block B, Sombra del Oeste, located at 8933 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00063**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8933 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

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18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 5.5' to the allowed 15' rear setback requirement for Lot 15, Block B, Sombra del Oeste, located at 8937 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00064**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 5.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8937 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 5.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.5' to the allowed 15' rear setback requirement for Lot 16, Block B, Sombra del Oeste, located at 8941 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00065**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8941 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 4.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.5' to the allowed 15' rear setback requirement for Lot 17, Block B, Sombra del Oeste, located at 8947 Golden Raintree Ave, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00066**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8947 Golden Raintree Ave (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 4.5’ to the allowed 15’ rear setback requirement.

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.5' to the allowed 15' rear setback requirement for Lot 18, Block B, Sombra del Oeste, located at 8953 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00067**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8953 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
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15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 4.5’ to the allowed 15’ rear setback requirement.

If you wish to appeal this decision, you must do so by August 14, 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.

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Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.5' to the allowed 15' rear setback requirement for Lot 19, Block B, Sombra del Oeste, located at 8957 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00068**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.5' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8957 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.5' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 4.5’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 1, Block D, Sombra del Oeste, located at 8900 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00069**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8900 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 2, Block D, Sombra del Oeste, located at 8906 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00070**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8906 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 3, Block D, Sombra del Oeste, located at 8912 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00071**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8912 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 4, Block D, Sombra del Oeste, located at 8916 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00072**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8916 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 5, Block D, Sombra del Oeste, located at 8920 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00073**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8920 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 6, Block D, Sombra del Oeste, located at 8924 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00074**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8924 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 7, Block D, Sombra del Oeste, located at 8928 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00075**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8928 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 8, Block D, Sombra del Oeste, located at 8932 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00076**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8932 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.3' to the allowed 15' rear setback requirement for Lot 9, Block D, Sombra del Oeste, located at 8936 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00077**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.3' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8936 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.3' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 4.3’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 2.8' to the allowed 15' rear setback requirement for Lot 9, Block D, Sombra del Oeste, located at 8936 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00077**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 2.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8936 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.3' to the allowed 15' rear setback requirement for Lot 10, Block D, Sombra del Oeste, located at 8940 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00078**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.3' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8940 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.3' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
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15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.3' to the allowed 15' rear setback requirement for Lot 11, Block D, Sombra del Oeste, located at 8944 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00079**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.3' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8944 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 4.3' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

_____

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 4.3' to the allowed 15' rear setback requirement for Lot 12, Block D, Sombra del Oeste, located at 8948 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00081**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 4.3' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8948 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

22. Applicant is requesting a Variance of 4.3' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
23. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
24. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
25. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
26. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
27. Applicant has 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).
28. Applicant has 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).
29. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
30. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
31. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

32. 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[:]*
    6. *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.*
    7. *The Variance will not be materially contrary to the public safety, health, or welfare.*
    8. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
    9. *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
    10. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties."*
33. 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).
34. 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).
35. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
36. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
37. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

38. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
39. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
40. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
41. 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). Any smaller variance would be impractical.
42. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 2.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (1Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 1, Block E, Sombra del Oeste, located at 1827 Valley Cottonwood Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00082**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1827 Valley Cottonwood Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 2, Block E, Sombra del Oeste, located at 1831 Valley Cottonwood Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00083**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1831 Valley Cottonwood Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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.*
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12. 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).
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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 3, Block E, Sombra del Oeste, located at 1835 Valley Cottonwood Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00084**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1835 Valley Cottonwood Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 4, Block E, Sombra del Oeste, located at 1839 Valley Cottonwood Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00085**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1839 Valley Cottonwood Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 5, Block E, Sombra del Oeste, located at 1843 Valley Cottonwood Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00086**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1843 Valley Cottonwood Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.7' to the allowed 15' rear setback requirement for Lot 6, Block E, Sombra del Oeste, located at 1847 Valley Cottonwood Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00087**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.7' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1847 Valley Cottonwood Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.7' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
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15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.7’ to the allowed 15’ rear setback requirement.

If you wish to appeal this decision, you must do so by August 14, 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.

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Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 1, Block C, Sombra del Oeste, located at 8900 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00088**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8900 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 2, Block C, Sombra del Oeste, located at 8908 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00089**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8908 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 3, Block C, Sombra del Oeste, located at 8912 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00090**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8912 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 4, Block C, Sombra del Oeste, located at 8916 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00091**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8916 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 5, Block C, Sombra del Oeste, located at 8920 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00092**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8920 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 6, Block C, Sombra del Oeste, located at 8924 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00093**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8924 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 7, Block C, Sombra del Oeste, located at 8928 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00094**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8928 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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."*

12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 8, Block C, Sombra del Oeste, located at 8932 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00095**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8932 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, 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. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).
11. 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.*
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16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units

essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

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Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 9, Block C, Sombra del Oeste, located at 8936 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00096**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8936 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

_____

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 10, Block C, Sombra del Oeste, located at 8940 Golden Raintree Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00097**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8910 Golden Raintree Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 25, Block C, Sombra del Oeste, located at 8901 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00098**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8901 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 24, Block C, Sombra del Oeste, located at 8905 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00099**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8905 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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[:]*
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    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."*
12. 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).
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15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 23, Block C, Sombra del Oeste, located at 8909 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00100**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8909 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

[If applicable CONDITIONS: (each condition must be supported by a finding)]

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 22, Block C, Sombra del Oeste, located at 8913 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00101**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8913 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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[:]*
    11. 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.
    12. The Variance will not be materially contrary to the public safety, health, or welfare.
    13. The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
    14. The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.
    15. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties."
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 21, Block C, Sombra del Oeste, located at 8917 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00102**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8917 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 20, Block C, Sombra del Oeste, located at 8921 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00103**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8921 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 19, Block C, Sombra del Oeste, located at 8925 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00104**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8925 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 18, Block C, Sombra del Oeste, located at 8959 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00105**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8959 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 17, Block C, Sombra del Oeste, located at 8933 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00106**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8933 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 16, Block C, Sombra del Oeste, located at 8937 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00107**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8937 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).

43. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
44. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
45. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
46. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
47. Applicant has 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).
48. Applicant has 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).
49. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
50. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
51. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

52. 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."*
53. 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).
54. 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).
55. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
56. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
57. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

58. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
59. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
60. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
61. 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). Any smaller variance would be impractical.
62. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 7.8' to the allowed 15' rear setback requirement for Lot 15, Block C, Sombra del Oeste, located at 8941 Mountain Ash Ave SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00108**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 7.8' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 8941 Mountain Ash Ave SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 7.8' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).

1. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
2. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
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 has 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 has 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 has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
8. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
9. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback 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. Agent appeared at the 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, as required by Section 14-16-6-6(O)(3)(a)(1). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
15. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

16. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
17. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
18. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
19. 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). Any smaller variance would be impractical.
20. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 7.8’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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.

Robert Lucero, Esq.

Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Charlene Johnson Johnson@consensusplanning.com
Jim Strozier, cp@consensusplanning.com
Rene Horvath, aboard111@gmail.com

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 3.1' to the allowed 15' rear setback requirement for Lot 13, Block C, Sombra del Oeste, located at 1827 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00109**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 3.1' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1827 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 3.1' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 3.1’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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

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

Homewise, Inc. & Eugene Chavez (Agent, Charlene Johnson, Consensus Planning, Inc.) requests a Variance of 3.3' to the allowed 15' rear setback requirement for Lot 14, Block C, Sombra del Oeste, located at 1831 Smoketree Dr SW, zoned MX-M [IDO Section Table 5-1-2]

Special Exception No:	**VA-2025-00110**
Project No:	**Project#2019-002042**
Hearing Date:	07-15-25
Closing of Public Record:	07-30-25
Date of Decision:	07-30-25

On July 15, 2025, Charlene Johnson, Consensus Planning, Inc. ("**Agent**") as agent for Homewise, Inc. & Eugene Chavez ("**Applicant**") was scheduled to appear before the Zoning Hearing Examiner (the "**ZHE**") requesting a Variance of 3.3' to the allowed 15' rear setback requirement ("**Application**") upon the real property located at 1831 Smoketree Dr SW (the "**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 3.3' to the allowed 15' rear setback requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("**IDO**") Section 14-16-6-6(O).
2. Applicant [has/does not have] authority to pursue this Application, pursuant to 14-16-6-Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. Applicant has 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).
7. Applicant has 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).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the R-A zone district, in which the IDO requires a 20' front yard setback; however, applicant proposes to a 3'11" setback.
10. Therefore, the Subject Property requires a Variance of 16' 1" to the allowed 20' front yard setback pursuant to IDO Subsection 14-16-6-6(O).

11. 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."*
12. 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).
13. 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).
14. Agent appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
15. 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). The special circumstance is that the Subject Property is subject to conflicting standards for the MX-M zone and those for "low-density" residential development. A Variance is being requested because the development must meet the driveway requirement of 20 feet for low-density residential developments, which includes townhomes. However, the townhomes were designed according to the setback standards of the MX-M zone, which requires only a 5-foot setback. This moderate-density residential development aligns more closely with the characteristics typical of MX-M developments, offering greater density and reduced setbacks. Applicant submits that this request aligns with DFT staff's recommendation to apply for variances concerning the rear setbacks, as DFT staff deemed the 20-foot driveway requirement a higher priority. Consequently, the site plan has been revised to reduce the size of the units and position them further into the lot, thereby achieving the necessary 20-foot driveway length.
16. Further, strict adherence to the rear setback requirements, while also complying with the 20-foot driveway rule, would create extraordinary hardship by making the subdivision

unviable as an affordable housing development. The proposed shorter rear setbacks will allow the development to maintain the existing platted lots and provide the number of units essential to keep the project affordable to consumers, while still delivering a high-quality product.

17. 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). Evidence establishes that the proposed variance would have no negative impact on neighbors or the community.
18. 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). Evidence submitted by Applicant establishes that no negative impacts would occur.
19. 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). If approved, Applicant intends to develop and use the Subject Property in line with all applicable IDO requirements.
20. 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). Any smaller variance would be impractical.
21. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 3.3’ to the allowed 15’ rear setback requirement.

APPEAL:

If you wish to appeal this decision, you must do so by August 14, 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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