



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

Jamie Leigh & Shane Robert Meihaus requests a Variance of 10 Ft to the required 15 Ft side yard setback in the Character Protection Overlay Zone-13 for Lot 5-A, Block 6, Unit 18, Cliffs Subdivision located at 6612 Kimmick Drive NW, zoned R-1D (IDO Section

Special Exception No: ..... **VA-2025-00143**

Project No: ..... NA

Hearing Date: ..... 10-21-25

Closing of Public Record: ... 10-21-25

Date of Decision: ..... 11-05-25

On October 21, 2025 Jamie Leigh & Shane Robert Meihaus (collectively, “**Applicant**”), appeared before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Variance (“**Application**”) upon the real property located at 6612 Kimmick Dr NW (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 10' to the minimum 15' side setback, 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 is not required to offer a meeting to Indian Nations, Tribes, and before filing the application, pursuant to IDO Section 14-16-6-4(B).
4. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The analyses and studies listed in IDO Section 14-16-6-4(H) were not required.
6. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
7. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
8. Applicant was informed by the Office of Neighborhood Coordination there are no Neighborhood Associations required by IDO Section 14-16-6-4(J)(2) to be contacted.
9. 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).
10. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4). The Subject Property is located in the R-A zone with a 25’ minimum rear setback.
11. Therefore, a reduction of 8' to the minimum 25' rear setback on the Subject Property requires a Variance Approval pursuant to IDO Subsection 14-16-6-6(O).
12. 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.”*
13. 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).
  14. 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).
  15. Applicant appeared at the October 21, 2025 ZHE hearing on the Application and gave evidence in support of the Application. Several neighbors also appeared and testified in opposition to the Application.
  16. 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 Subject Property was created by historic platting, which resulted in the Subject Property and its adjacent neighbor to the west along Kimmick Drive being significant smaller than lots 5 and 6 located to the west and east, respectively. An opposing neighbor testified that the subdivision of the former lot 5 into lots 5A and 5B was unlawful, but not documentation of other supporting evidence of that alleged unlawfulness was provided. It appears that Applicant did not subdivide Lot 5 and therefore cannot be said to have created a self-imposed circumstance. The narrow lot width appears to cause 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, because the depth of the proposed side-access garage (see IDO Section 14-16-3-4(N)(5)(c) and Table 3-4-1) is impacted by this special circumstance.
  17. Based on evidence submitted by or on behalf of Applicant, it appears that 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 be in line with existing development of garages on other narrow lots in the area. Neighbors

- testified in opposition to the Application stating that they relied on and conformed their homes to the requirements of larger setbacks required by CPO-13, but other than wanting Applicant to likewise comply did not state specific facts as to how they would be harmed.
18. Based on evidence submitted by or on behalf of Applicant, it appears that 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. Again, opponents testified in opposition but did not articulate specific harms that would occur to surrounding properties. No infrastructure improvements are implicated.
  19. Based on evidence submitted by or on behalf of Applicant, it appears that 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. The use is consistent with the underlying zone and CPO-13, which is low-density residential development. Applicant is not proposing higher density of dwelling units than is allowed by the IDO.
  20. Based on evidence submitted by or on behalf of Applicant, it appears that there is insufficient evidence to establish whether 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). The depth of the garage is shown as 31'8" on Applicant's architectural plans. There is no testimony of other specific evidence to establish whether any shallower depth of the garage would avoid extraordinary hardship or practical difficulties.
  21. The ZHE hearing on the Application should be continued to allow Applicant and other concerned parties to supplement the record to address the findings, above.

#### DECISION:

DEFERRAL of the ZHE hearing on the Application to take place on November 18, 2025, beginning at 9:00 a.m.

#### APPEAL:

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