



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:12-16-25

Closing of Public Record: ... 12-16-25

Date of Decision:12-31-25

On December 16, 2025 Jamie Leigh & Shane Robert Meihaus (collectively, “**Applicant**”), were scheduled to appear 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 Ft to the required 15 Ft side yard 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) are 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 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).
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).
11. The Subject Property is located at 6612 Kimmick Dr NW in the R-1D zone which allows for a 15 foot side setback for a garage. Therefore, the wall height being requested 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.*
14. 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).
 15. 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).
 16. Applicant appeared at the December 16, 2025 ZHE hearing on the Application and gave evidence in support of the Application.
 17. The ZHE heard testimony in favor and opposed to the Application on December 16, after remand from a prior ZHE hearing.
 18. Applicant revised the Application to seek a 4-foot variance, instead of the previously sought 10-foot variance. As such, Applicant revised the site plan to move the proposed garage farther away from the side-yard boundary line.
 19. Based on evidence submitted by or on behalf of Applicant, 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 significantly smaller than lots 5 and 6 located to the west and east, respectively. It appears that Applicant did not subdivide Lot 5 and therefore cannot be said to have created a self-imposed circumstance. Although an opponent raised case law arguments that Applicant should be charged with knowledge of pre-existing conditions and how those apply to the IDO, the ZHE does not find that any such implied knowledge should prohibit Applicant from seeking a variance. The narrow lot width causes 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.
 20. 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 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, and that the garage would harm views intended to be protected by

the CPO-13 regulations. The ZHE finds that the 4-foot variance requested is not significant enough to rise to the level of being contrary to the public safety, health and welfare of the community.

21. 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. No infrastructure improvements are significantly implicated.
22. 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). Applicant proposes 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. Any potential misalignment with the intent and purpose CPO-13 regulations does not rise to the level of materiality.
23. Based on evidence submitted by or on behalf of Applicant, it the Variance of 4-feet is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). Applicant revised the site plan to reduce the requested variance to 4-feet (from the previously requested 10-feet) and has submitted substantial evidence establishing that any smaller variance would be impracticable.
24. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Variance of 4 Ft to the required 15 Ft side yard setback.

APPEAL:

If you wish to appeal this decision, you must do so by January 15, 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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ZHE File
Zoning Enforcement