



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

Margie Ray Schell (Applicant) requests a Variance for 1 foot 6 inches to the minimum 5-foot side yard setback to allow for an attached garage addition, for Lot 24, Block 3, Ridge Park, located at 4700 McKnight Avenue NE, zoned R-1C (J-17) IDO Section 14-16-5-1(C)(1); Table 5-1-1

Special Exception No: .... **VA-2026-00013**  
Project No: .....  
Hearing Date:..... 04-21-26  
Closing of Public Record: 04-21-26  
Date of Decision: ..... 05-06-26

On April 21, 2026, Margie Ray Schell (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (“**ZHE**”) requesting a Variance of 1’6” to the minimum 5’ side yard setback, (“**Application**”) upon the real property located at 4700 McKnight Ave, NE. (“**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. This request is for a variance of 1-foot, 6-inches to the required minimum 5-foot side yard setback to allow for an attached garage addition with a side yard setback of 3-feet. 6-inches.
2. This request is for all or a portion of Lot 24, Block 3, Ridge Park, located at 4700 McKnight Ave NE, between Indian School Rd. NE and Mock Pl. NE (the “subject site”).
3. The Albuquerque/Bernalillo County Comprehensive Plan and the City of Albuquerque Integrated Development Ordinance (IDO) are incorporated herein by reference and made part of the record for all purposes.
4. The applicant has authority to pursue this application, pursuant to IDO 14-16-6-4(D).
5. The applicant has submitted the request as an owner/applicant with assistance from a contractor and attorney to assist the applicant regarding the request.
6. The applicant was not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
7. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
8. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
9. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).

10. Recognized Neighborhood Associations within 660-feet, the District 7 Coalition of Neighborhood Associations and Sandia Ridge Neighborhood Association, and all property owners within 100-feet of the subject site were notified as required.
11. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
12. The subject site is zoned R-1C, which requires a 5-foot side yard setback for the subject site. (IDO Table 5-1-1)
13. Therefore, in order for the proposed attached garage to have a side yard setback of 3'6" on the subject site, Variance Approval is required pursuant to IDO 14-16-6-6(O).
14. The IDO Biennial update will be in effect as of April 20, 2026, the sub-zones of the R-1 zone district will be removed and the setback requirements will be updated to have a single, consistent minimum requirement throughout all R-1 zoned properties. The subject site will no longer be zoned R-1C, it will be zoned R-1. The side setback requirement will remain 5 feet for all R-1 zoned sites.
15. On September 23, 2025, a building permit (BPR-2025-01476) for the garage attachment was submitted, and a building permit was issued on November 24, 2025. However, on January 26, 2026, a stop work order was placed on this permit, the permit was approved in error by zoning and a variance is required.
16. This request was originally scheduled to be heard during the March 17, 2026 ZHE hearing. During staff review and analysis, it was found that an additional variance for the front yard setback was required, and the case was deferred to the April 17, 2026 hearing to allow the applicant time to submit an application for the additional variance.
17. Pursuant to §14-16-6-6(O)(3)(a) of the Integrated Development Ordinance, Variance –ZHE Review and Decision Criteria, "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.*
18. CABQ Transportation staff has noted no objection to this request.

19. Staff has received 2 letters in opposition of this request following the evidence submittal deadline. Staff has received a verbal comment in opposition of this request.
20. Applicant has adequately described special circumstances that are not self-imposed and are only applicable to the subject site. The subject site is uniquely shaped that, while uncommon to the area, is not unique. The site is wide in the rear and narrows as you move towards the front property line, reducing the buildable area on the subject site. The primary justification for this variance request is due to a previous private access agreement with the easterly property owner, which was in place for over 50 years, was discontinued following a change in ownership. The applicant began to park their vehicle on the street, which was then broken into, leaving the applicant to explore options to safely park their vehicle on their property. The proposed garage would provide the applicant a safe place to store their vehicle and, given the applicants age, would serve as a safety mechanism that protects the applicant from unknown individuals being aware if she is home alone.
21. Additionally, when the homes were originally developed along McKnight Ave NE in the 1950s, dividing walls were built between properties. When construction on the attached garage began, it was found that the dividing wall was not directly on the property line. Originally thought to be on the property line, the wall to the west of the subject site, has a slight curve that encroached onto the western neighboring lot, 1401 Madison St. NE, by two feet. This discovery resulted in the garage no longer being in compliance with the 5-foot minimum side yard setback.
22. Should the requested variances be denied, the applicant could experience extraordinary hardship as a result of strict compliance with minimum IDO standards.
23. The requested variance will not be materially contrary to the public safety, health, or welfare of Albuquerque residents. Rather, the request will reduce the number of vehicles parked on the street and provide the applicant a safe place to store their personal vehicle with a design that matches the existing home and character of the community.
24. The variance request is to allow an attached garage to be developed on the front of the subject site, that will be 3'6" from the western side lot line and 9'7" from the front lot line along McKnight Ave NE. The proposed development will meet separation requirements from other structures and will not negatively impact surrounding properties. As of the writing of this report, staff is unaware of any future infrastructure improvements in the area, however, in maintaining a 9'7" front setback, future infrastructure improvements should not be impacted by this request. Additionally, there is a 4'6" gas line easement outside of the subject site property line, which would provide 14'1" of clearance from the gas line easement to the face of the garage.
25. The variance request will not undermine the intent IDO, nor the R-1C zone district. Rather, it is the intent of the IDO to provide the public an opportunity to seek relief from IDO requirements and request a variance to a developmental regulation pursuant to IDO 14-16-6-6(O).
26. Applicant is not undermining the purpose of the IDO, nor the variance process. The applicant has adequately demonstrated compliance with the listed criteria pursuant to IDO 14-16-6-6(O)(3)(a). The proposed attached garage would be built in compliance with all other applicable IDO/DPM regulations.
27. Additionally, it is important to note that, with the upcoming IDO Biennial update, which will be in effect as of April 20, 2026, the sub-zones of the R-1 zone district will be removed

and the setback requirements will be updated to have a single, consistent minimum requirement throughout all R-1 zoned properties. For instance, the subject site will no longer be zoned R-1C, it will be zoned R-1. While the side setback requirement will remain 5 feet, the front setback will change from 15 feet for R-1C to 10 feet for all R-1 zoned sites. This project would be closer to compliance with the front setback if applied for after April 20, 2026, further demonstrating that the variance request will not undermine the intent and purpose of the IDO and underlying zone district.

28. Applicant has explored various options to safely park their vehicle. The subject site has a curb cut at the location of the proposed garage and an additional curb cut at the eastern property boundary, that is no longer usable due to the revoked access agreement. Unfortunately, a carport would still leave the vehicle in view and accessible to pedestrians, and, without a drivable path to the rear yard, the proposed location of the garage is the most practical in location and will provide the applicant a secure place to store her vehicle as the minimum necessary to avoid hardship and practical difficulties.

#### DECISION:

APPROVAL of a Variance of 1'6" to the minimum 5' side yard setback.

#### CONDITIONS:

THIS NOTICE OF DECISION DOES NOT CONSTITUTE APPROVAL OF PLANS FOR A BUILDING PERMIT.

#### APPEAL:

If you wish to appeal this decision, you must do so by May 06, 2026 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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