



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

Sam & Shae Zsiga (Owner) & Tim Muller (Applicant) request an Expansion of a Nonconforming Structure for Lot 17, 16, Block 12, College View Addition, located at 429 Morningside Drive NE, zoned R-1B (K-17) IDO Section 14-16- 6-8(D)(5)

Special Exception No: .... **VA-2026-00039**  
Project No: .....  
Hearing Date:..... 05-19-26  
Closing of Public Record: 05-19-26  
Date of Decision: ..... 06-03-26

On May 19, 2026, Sam & Shae Zsiga (“**Owner**”) Tim Muller (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (“**ZHE**”) requesting an Expansion of a Nonconforming Structure (“**Application**”) located at 429 Morningside Dr NE. (“**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting an Expansion of a Nonconforming Structure, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“**IDO**”) Section 14-16-6-6(C).
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 Pueblos 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 in the R-1B zone district and has a nonconforming structure sought to be expanded.
12. Therefore, the expansion of the structure on the Subject Property requires an Expansion of Nonconforming Use or Structure, pursuant to IDO Subsection 14-16-6-6(C).

13. IDO Section 14-16-6-6(C)(3) (Review and Decision Criteria for Expansion of a Nonconforming Structure) reads: “An application for an Expansion of Nonconforming Use or Structure shall be approved if it meets all of the following criteria, as applicable.”

*6-6(C)(3)(a) The expansion will not create material negative impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.*

*6-6(C)(3)(b) The expansion will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M.*

*6-6(C)(3)(c) The expansion will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*

*6-6(C)(3)(d) The expansion will not exceed 25 percent of the gross floor area of the structure occupied by the nonconforming use, or 25 percent of the area occupied by the nonconforming use at the time it became nonconforming.*

*6-6(C)(3)(e) The expansion will not expand the gross floor area of a nonconforming structure by more than 25 percent of the gross floor area existing at the time the structure became nonconforming.*

*6-6(C)(3)(f) The expansion will not increase an existing nonconformity more than allowed by Subsection (d) or (e) above or create a new nonconformity.*

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 has provided a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
16. Under 6-6(C)(3)(a), the expansion will not create material negative impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts. The proposed expansion has no such negative impacts.
17. 6-6(C)(3)(b) The expansion will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 8:00 P.M. and 6:00 A.M. The requested expansion does not increase non-residential activity.
18. 6-6(C)(3)(c) The expansion will not negatively impact pedestrian or transit connectivity without appropriate mitigation. The proposed expansion has no such negative impact.
19. 6-6(C)(3)(d) The expansion will not exceed 25 percent of the gross floor area of the structure occupied by the nonconforming use, or 25 percent of the area occupied by the nonconforming use at the time it became nonconforming. The expansion does not inappropriately exceed floor area.
20. 6-6(C)(3)(e) The expansion will not expand the gross floor area of a nonconforming structure by more than 25 percent of the gross floor area existing at the time the

structure became nonconforming. The expansion does not inappropriately exceed floor area.

21. 6-6(C)(3)(f) The expansion will not increase an existing nonconformity more than allowed by Subsection (d) or (e) above or create a new nonconformity.
22. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of an Expansion of a Nonconforming Structure.

APPEAL:

If you wish to appeal this decision, you must do so by June 19, 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.

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

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. 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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ZHE File  
Zoning Enforcement