

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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ZONING HEARING EXAMINER NOTICE OF DECISION

Special Exception Number: VA-2026-00074

Hearing Date: 07-21-26

Closing of Public Record: 07-21-26

Date of Decision: 08-05-26

Case Description: Zephaniah Wristen (Applicant) requests a Variance to side setback to allow the attachment of an existing accessory structure located within the side yard setback to the primary residence for Lot 87, Block 10A, Four Hills Village Fifth Installment, located at 1301 Cuatro Cerros Trail SE, zoned R-1. [IDO § 14-16-2-3(B)(1) (Table2-3-3)]

On July 21, 2026, Zephaniah Wristen (Applicant) was scheduled to appear before the Zoning Hearing Examiner ("ZHE") requesting a Variance of 3 feet-10 inches to the minimum 5-foot side yard setback. ("Application") upon the real property located at 1301 Cuatro Cerros Trail SE ("Subject Property"). Below are the ZHE's findings of fact and decision.

FINDINGS, VARIANCE TO MINIMUM REAR SETBACK:

1. This is a request for a Variance to side setback for Lot 87, Block 10A, Four Hills Village Fifth Installment, located at 1301 Cuatro Cerros Trail SE, zoned R-1. and containing approximately 0.33 acres.
2. The Variance to side setback is requested to allow the attachment of an existing accessory structure located within the side yard setback to the primary residence.
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 Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
6. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).

7. Applicant sent electronic mail notice to the email addresses of Neighborhood Associations as required by IDO Section 14-16-6-4(J)(2).
8. 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).
9. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
10. The Subject Property is located in the R-1 zone which requires a 5-foot side yard setback pursuant to IDO Subsection 14-16-2-3(B)(1) Table 2-3-3.
11. Therefore, the requested variance to allow for a 3 feet 10 inches side setback on the Subject Property requires a Variance Approval pursuant to IDO Subsection 14-16-6-6(O).
12. IDO § 14-16-6-6(O)(3)(a) (Review and Decision Criteria) 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 § 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 § 14-16-6-4(E)(4).
15. Applicant appeared at the July 21, 2026 ZHE hearing on the Application and gave evidence in support of the Application.
16. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO § 14-16-6-4(E)(3).
17. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO § 14-16-6-4(E)(4).
18. The Nob Hill Neighborhood Association provided a letter of support for the application.
19. Applicant provided a revised site plan for the project showing that the existing structure is located 4.2 feet from the property line.
20. Staff has reviewed the project and finds that the request for Variance of .8 feet to the required 5-foot side setback meets the Review and Decision Criteria.
21. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO § 14-16-6-4(E)(3).

22. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO § 14-16-6-4(E)(4).
23. 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, and 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, as required by Section 14-16-6-6(O)(3)(a)(1). The pre-existing structures and conditions of the Subject Property create special circumstances under which practical difficulties result from strict compliance with the minimum standards.
24. 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). No safety, health or welfare concerns are implicated in the record without sufficient mitigation.
25. 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). The variance requested does not impose upon neighboring properties.
26. 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). The development of the property is consistent with the IDO and the Application merely seeks to rectify a variance situation.
27. 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). Applicant requests only the minimum required to accommodate the development of the Subject Property.

DECISION:

APPROVAL of a Variance of 3 feet 1 inches to the minimum 5-foot side yard setback.

APPEAL

If you wish to appeal this decision, you must do so by August 20, 2026, Pursuant to IDO § 14-16-6-4-(U), you must demonstrate that you have legal standing to file an appeal.

PERIOD OF VALIDITY:

Approval of a Variance is valid for one (1) year from date of approval.

OTHER REQUIREMENTS:

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, submit this Notice of Decision when you apply for any related building permit or other necessary permit.



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ZHE File
Zoning Enforcement