

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

Special Exception Number: VA-2026-00101

Project Number: PR-2024-010994

Hearing Date: 08-18-26

Closing of Public Record: 08-18-26

Date of Decision: 09-02-26

Case Description: Robert Garcia (Applicant) & Katie Niblett, Tierra West (Agent) requests a Variance to the front setback for an existing structure for Lot 223, Map 35 Tract 223 E8, located at 1208 Rio Grande Boulevard NW, zoned MX-L [IDO § 14-16-5-1(D), Table 5-1-2]

On August 18, 2026, Katie Niblett and Tierra West – Tierra West, LLC (“Agent”) as agent for Robert Garcia (“Applicant”) was scheduled to appear before the Zoning Hearing Examiner (the “ZHE”) requesting a Variance to the front setback for an existing structure in the (“Application”) upon the real property located at 1212 Rio Grande Blvd NW (the “Subject Property”). Below are the ZHE’s findings of fact and decision.

FINDINGS, VARIANCE TO MINIMUM REAR SETBACK:

1. Applicant is requesting a Variance of 4.2 feet to the required minimum 5-foot front setback, pursuant to the City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) § 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 with Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
4. The Planning Director’s designee 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 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 on Lot 223 E8 MAP 35 in an Area of Change within an MX-L zone district.
12. The MX-L zone requires a front setback of 5 feet; the existing structure maintains a setback of 0.8 feet; therefore, a Variance Approval pursuant to IDO Subsection 14-16-6-6(O) is required.
13. This variance is necessary to facilitate forthcoming subdivision and site plan applications and was previously reviewed and approved in December 2024 under case numbers PR-2024-010994 and VA-2024-00278.
14. 13. However, in accordance with IDO Table 6-4-3 (Variance - ZHE approvals), such approvals expire after one year and are no longer valid.
15. 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.”*
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. 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 conditions of the Subject Property create special circumstances under which practical difficulties result from strict compliance with the minimum standards.

19. 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.
20. 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.
21. 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.
22. 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 4.2 feet to the required minimum 5 feet front setback.

APPEAL:

If you wish to appeal this decision, you must do so by September 17, 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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Zoning Hearing Examiner

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