

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

Special Exception Number: VA-2026-00127

Project Number: PR-2026-000147

Hearing Date: 09-15-26

Closing of Public Record: 09-15-26

Date of Decision: 09-30-26

Case Description: Shiloh C Morgan (Owner) requests a Variance of 3 feet from the required 3-foot minimum separation between a carport and a side lot line, allowing the carport to be located at the side lot line, for LOT 15 BLOCK 2 PLAT OF VALENCIA ESTATES SUBDIVISION CONT .0992 AC, located at 736 Libby Ave SW, zoned R-1 [IDO §§ 14-16-6-6(O) and 14-16-5-5(F)(2)(a)3.c].

On September 15, 2026, Shiloh C Morgan (Owner) appeared before the Zoning Hearing Examiner ("ZHE") requesting a Variance of 3 feet from the required 3-foot minimum separation between a carport and a side lot line, allowing the carport to be located at the side lot line ("Application"), for the real property located at 736 Libby Ave SW ("Subject Property"). The ZHE makes the following findings of fact and decision.

FINDINGS:

1. Applicant requests a Variance - ZHE pursuant to IDO § 14-16-6-6(O) for Lot 15, Block 2, Plat of Valencia Estates Subdivision, containing approximately 0.0992 acre and located at 736 Libby Ave SW.
2. Applicant has authority to pursue the Application pursuant to IDO § 14-16-6-4(D), and Applicant has not authorized an agent to act on Applicant's behalf regarding the Application.
3. Applicant was not required to offer a meeting to Indian Nations, Tribes, and Pueblos pursuant to IDO § 14-16-6-4(B).
4. The Planning Director's designee determined that the Application was complete pursuant to IDO § 14-16-6-4(G).
5. The analyses and studies listed in IDO § 14-16-6-4(H) were not required.

6. The Application was referred to commenting agencies pursuant to IDO § 14-16-6-4(I).

7. The content of the public notice satisfied IDO § 14-16-6-4(J)(1). Applicant sent electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for the pertinent Neighborhood Associations, sent mailed notice to property owners within 100 feet of the Subject Property, and posted sign notice as required by IDO § 14-16-6-4(J)(2), (3), and (4).

8. The Subject Property is zoned R-1.

9. IDO § 14-16-5-5(F)(2)(a)3.c provides:

In the R-A, R-1, R-T, R-ML, R-MH, and MX-T zone districts, no portion a carport structure may be located within 3 feet of a lot line.

10. The site plan shows the proposed carport at the side lot line. The Application therefore requests a three-foot variance from the minimum separation required by IDO § 14-16-5-5(F)(2)(a)3.c. IDO § 14-16-6-6(O)(1) applies to this request. Its Subsection (1)(e) does not require a Waiver - DHO because IDO § 14-16-6-4(N)(1)(a)1 excludes the carport standards in IDO § 14-16-5-5(F)(2)(a)3 from that procedure, and no other exclusion applies. Under IDO § 14-16-6-6(O)(2)(e), the ZHE conducts the public hearing and decides the Application.

11. IDO § 14-16-6-6(O)(3)(a) provides:

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.

12. Applicant bears the burden of providing a sound justification based on substantial evidence and of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary pursuant to IDO § 14-16-6-4(E)(3) and (4).

13. Applicant appeared at the September 15, 2026 hearing and testified in support of the Application. Where written evidence did not independently establish a required fact, the hearing testimony confirmed it, and substantial evidence in the record establishes the facts found below.

14. As to IDO § 14-16-6-6(O)(3)(a)1, the site plan, application materials, and Applicant's hearing testimony establish that the approximately 0.0992-acre lot contains an existing dwelling, a paved parking and recreational-vehicle area, and a narrow side area. The size, location, existing improvements, and physical configuration of this single lot are special circumstances not self-imposed and not generally applicable to other property in the same zone district and vicinity. Strict compliance with the three-foot minimum separation would create practical difficulties in providing the proposed residential carport. The criterion is met.

15. As to IDO § 14-16-6-6(O)(3)(a)2, the site plan, the City Traffic Engineer's no-objection comment, the absence of public opposition, and Applicant's hearing testimony establish that allowing the carport at the side lot line will not be materially contrary to public safety, health, or welfare. The criterion is met.
16. As to IDO § 14-16-6-6(O)(3)(a)3, the site plan, agency comments, absence of public opposition, and Applicant's hearing testimony establish that the variance will not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity. The criterion is met.
17. As to IDO § 14-16-6-6(O)(3)(a)4, the requested variance supports a residential accessory carport on an R-1 lot. Substantial evidence in the record establishes that no Overlay Zone standard is implicated and that the variance will not materially undermine the intent and purpose of the IDO or the R-1 zone district. The criterion is met.
18. As to IDO § 14-16-6-6(O)(3)(a)5, Applicant's hearing testimony established that a full three-foot reduction, allowing zero-foot separation at the side lot line, is the minimum relief necessary to address the practical difficulties created by the lot's size, existing improvements, and physical configuration, and that lesser relief would not provide a functional carport in the available area. The criterion is met.
19. Although the staff report did not find criteria 1 and 5 satisfied on the written submission alone, Applicant's testimony at the hearing supplied substantial evidence concerning the special circumstances, practical difficulties, alternatives, and minimum necessary relief. The complete hearing record supports Findings 14 and 18.
20. The City Traffic Engineer and Historic Preservation staff submitted comments stating no objection to the Application. No public opposition was submitted or presented.
21. Pursuant to IDO § 14-16-6-4(M)(1), the ZHE reviewed Applicant's justification and finds it sound based on the substantial evidence identified in these findings.
22. Pursuant to IDO § 14-16-6-4(M)(2), the Application may be approved because all specific review and decision criteria in IDO § 14-16-6-6(O)(3)(a) have been met.
23. IDO § 14-16-6-4(M)(3) does not supply a separate approval test because IDO § 14-16-6-6(O)(3)(a) lists specific review and decision criteria for this Application.
24. The record does not establish any basis for denial under IDO § 14-16-6-4(M)(4).

DECISION:

APPROVAL of a Variance of 3 feet from the required 3-foot minimum separation between a carport and a side lot line, allowing the carport to be located at the side lot line, for LOT 15 BLOCK 2 PLAT OF VALENCIA ESTATES SUBDIVISION CONT .0992 AC, located at 736 Libby Ave SW.

APPEAL:

If you wish to appeal this decision, you must do so by October 15, 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.

A handwritten signature in blue ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc: ("Applicant") Shiloh C Morgan
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736 Libby Ave SW Albuquerque, NM 87121

ZHE File
Zoning Enforcement