



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

Maryanne Pils (Owner) requests a Variance of 5 feet, 6 inches from the required 10-foot rear setback for the eastern residence on proposed Lot 8A in the replat of Lots 8 and 9, Block 3, Winona Addition, located at 4104 6th St NW, zoned R-1.

Special Exception No: VA-2026-00115
Project No: PR-2019-002179
Hearing Date: 09-15-2026
Closing of Public Record: 09-15-2026
Date of Decision: 09-30-2026

On September 15, 2026, Maryanne Pils ("Applicant") appeared before the Zoning Hearing Examiner (the "ZHE") requesting a Variance of 5 feet, 6 inches from the required 10-foot rear setback for the eastern residence on proposed Lot 8A ("Application") upon the real property located at 4104 6th St NW, zoned R-1 (the "Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS, VARIANCE TO MINIMUM REAR SETBACK:

1. Applicant requests a Variance of 5 feet, 6 inches from the required 10-foot rear setback, resulting in a 4-foot, 6-inch rear setback, for the eastern residence on proposed Lot 8A, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("IDO") § 14-16-6-6(O). (Application; proposed survey; staff report.)
2. Applicant, as owner of the Subject Property, has authority to pursue the Application pursuant to IDO § 14-16-6-4(D). (Application; staff report.)
3. Applicant did not authorize an agent to act on her behalf regarding the Application. (Application; Applicant testimony.)
4. The Planning Director's designee determined that the Application was complete pursuant to IDO § 14-16-6-4(G). (Staff report; case file.)
5. The Application was referred to commenting agencies pursuant to IDO § 14-16-6-4(I). (Staff report; case file.)
6. The content of the notice of the Application satisfies IDO § 14-16-6-4(J)(1). (Notice materials in the case file; staff report.)
7. Applicant provided the required electronic mail notice to the pertinent Neighborhood Associations pursuant to IDO § 14-16-6-4(J)(2). (Notice materials in the case file; staff report.)
8. Applicant provided mailed notice to property owners within 100 feet pursuant to IDO § 14-16-6-4(J)(3). (Notice materials in the case file; staff report.)

9. Applicant posted the required sign notice pursuant to IDO § 14-16-6-4(J)(4). (Notice materials in the case file; staff report.)
10. The Subject Property is zoned R-1. IDO § 14-16-2-3(B)(2) and Table 5-1-1 establish a 10-foot rear setback for development in the R-1 zone district. (Application; staff report; IDO § 14-16-2-3(B)(2); IDO § 14-16-5-1(C) and Table 5-1-1.)
11. The requested reduction is 55 percent of the applicable setback, which exceeds the 10 percent maximum deviation in Table 6-4-1. The request is therefore beyond the allowable deviation and is reviewed as a Variance pursuant to IDO § 14-16-6-4(N)(2). The ZHE has jurisdiction under IDO § 14-16-6-6(O)(1). (Application dimensions; proposed survey; IDO Table 6-4-1.)
12. The requested Variance is associated with the proposed replat of Lots 8 and 9 into proposed Lots 8A and 9A. Any granted Variance associated with the replat must be noted on the approved plat pursuant to IDO § 14-16-6-6(O)(2)(f). (Application materials; proposed survey; Applicant's July 22, 2026 justification letter.)
13. IDO § 14-16-6-6(O)(3)(a) provides that an application for a Variance - ZHE shall be approved if it meets all five general variance criteria stated below.
 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.
14. 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).
15. 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).
16. The Application must also satisfy the general review and decision criteria in IDO § 14-16-6-4(M).
17. Applicant appeared at the September 15, 2026 hearing and testified in support of the Application. The record includes the application materials, Applicant's July 22, 2026 justification letter, the proposed survey, the staff report, agency review, and hearing testimony. Substantial evidence in the record establishes the facts found below. (Hearing record.)

18. The historic platting and the placement of the preexisting improvements are special circumstances applicable to the affected lot. Those circumstances predate the current Application, are not self-imposed by Applicant, and do not apply generally to other property in the same zone district and vicinity. The historic lot line passes through the preexisting residences. The proposed boundary is intended to separate the residences so that each will be located on its own lot. Strict application of the setback standard to a boundary that accomplishes that separation would create practical difficulties. IDO § 14-16-6-6(O)(3)(a)(1) is satisfied. (Applicant's July 22, 2026 justification letter; proposed survey; Applicant testimony.)
19. The Variance will not be materially contrary to public safety, health, or welfare. The Application changes the lot line and recognizes the location of preexisting residences; it does not authorize new construction or a change in residential use or intensity. Reviewing agencies provided no comments or objections identifying a safety, health, or welfare concern. IDO § 14-16-6-6(O)(3)(a)(2) is satisfied. (Application materials; proposed survey; staff report; agency review; Applicant testimony.)
20. The Variance will not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity. The existing building footprints remain unchanged, and the record identifies no variance-related physical change to neighboring property or infrastructure. (Application materials; proposed survey; staff report; Applicant testimony.)
21. The Variance will not materially undermine the intent and purpose of the IDO or the R-1 zone district. The R-1 zone district is intended to provide low-density residential neighborhoods and to reinforce established neighborhood character in developed areas. The replat aligns the proposed lots with the preexisting residences and does not add a dwelling, authorize new construction, or change the residential use. IDO § 14-16-6-6(O)(3)(a)(4) is satisfied. (IDO § 14-16-2-3(B)(1); application materials; proposed survey; Applicant testimony.)
22. The requested 5 feet, 6 inches Variance is the minimum necessary to address the practical difficulties created by the historic platting and the location of the preexisting improvements. The proposed survey and Applicant's testimony establish that the requested relief corresponds to the setback created by the proposed lot line for the eastern residence on proposed Lot 8A; no greater relief is approved. IDO § 14-16-6-6(O)(3)(a)(5) is satisfied. (Proposed survey; Applicant testimony.)
23. IDO § 14-16-4-3(B)(1)(a) allows only one single-family dwelling per lot in the R-1 zone district unless the dwellings are part of a cottage development. The proposed replat places one preexisting single-family dwelling on each proposed lot. This use-specific standard is satisfied. (Application materials; proposed survey; Applicant testimony.)
24. IDO § 14-16-5-4(F)(3)(a) requires lot sizes to comply with applicable IDO standards. No lot-size variance is requested or approved in this decision; review of the proposed replat for compliance with subdivision and lot-dimension standards remains part of the applicable plat approval process. (Application materials; proposed survey.)
25. IDO § 14-16-5-1(B)(4) requires compliance with applicable Fire Code setback standards notwithstanding any IDO standard or Variance. This decision does not waive or modify any Fire Code requirement. (IDO § 14-16-5-1(B)(4).)

26. Applicant's justification is sound and is supported by substantial evidence. IDO § 14-16-6-4(M)(1) is satisfied. (Application materials; Applicant's July 22, 2026 justification letter; proposed survey; staff report; hearing testimony.)
27. The specific review and decision criteria in IDO § 14-16-6-6(O)(3)(a) have been met. IDO § 14-16-6-4(M)(2) is satisfied. (Findings above.)
28. IDO § 14-16-6-4(M)(3) does not supply the controlling approval standard because IDO § 14-16-6-6(O)(3)(a) provides specific review and decision criteria for a Variance - ZHE.

DECISION:

APPROVAL WITHOUT CONDITIONS of a Variance of 5 feet, 6 inches from the required 10-foot rear setback, resulting in a 4-foot, 6-inch rear setback, for the eastern residence on proposed Lot 8A in the replat of Lots 8 and 9, Block 3, Winona Addition, located at 4104 6th St NW.

CONDITIONS OF APPROVAL:

None.

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.

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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ZHE File
Zoning Enforcement