

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

TAL REALTY INC request(s) a special exception to Section 14-16-2-6(E)(4)(a): a VARIANCE of 5' to the required 5' side yard setback to allow for a proposed addition for all or a portion of Lot(s) 6, Block(s) 8, MONKBRIDGE ADDN zoned R-1, located on 209 HEADINGLY AVE NW (G-14)

Special Exception No:..... **12ZHE-80131**  
Project No: ..... **Project# 1009227**  
Hearing Date: ..... 05-15-12  
Closing of Public Record: ..... 05-15-12  
Date of Decision: ..... 05-31-12

**STATEMENT OF FACTS:** The applicant, Tal Realty, Inc., requests a variance of 5' to the required 5' side yard setback area at 209 Headingly Ave NW. Miles Gray, agent for Tal Realty testified that his client would like to add an addition that will attach the existing residence and garage for living space. This request would make the garage less than 10 feet from the adjacent neighbor's garage. When asked by Stan Harada, the Interim Zoning Hearing Examiner, how the property is exceptional, Mr. Gray stated that the lots width of 40' is very narrow with a small old house on it. Mr. Gray testified that his client wants to add a bedroom to make thou house more livable and to improve the property and neighborhood. Mr. Gray feels that the property owner is limited to what can be done due to the garage existing in its current location at the time of the adoption of the zoning regulations. Mr. Gray feels that the inability to add onto the house and the exceptional aspect of the very narrow lot denies the owners reasonable use of the property. Mr. Gray testified that he and his client spoke with the neighbors, who had no objections. There are no letters of opposition in the file, nor were there any objections at the hearing. The yellow signs were posted. This matter was recommended for facilitation by the City of Albuquerque Land Use Facilitation Program. However, the project did not require a facilitated meeting.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

**FINDINGS AND CONCLUSIONS:** I find that this parcel is exceptional as compared to other parcels in the vicinity because the property is narrow, (40' Wide), and would not be able to be developed under today's regulations. The minimum lot width in an R-1 zone today is 50' wide. I feel that the applicant has met the burden of proving that the property is exceptional due to the 40' wide lot and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular

zoning regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

**DECISION:** Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on June 15, 2012 in the manner described below:**

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

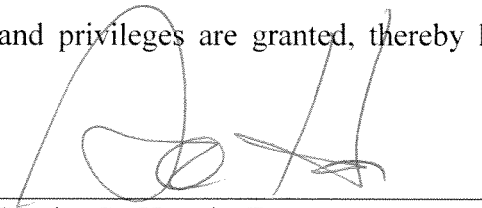
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

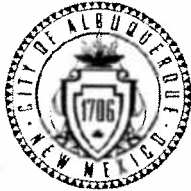
Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year

from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

A handwritten signature in black ink, appearing to read 'S. Harada', is written over a horizontal line.

Stanley D. Harada, Esq.  
Interim Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Miles Gray, PO Box 56607, 87187  
Tal Realty, 1115 Central Ave NW, 87102



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

TAL REALTY INC request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 5' to the 10' separation between an existing dwelling and an existing garage structure for a proposed addition for all or a portion of Lot(s) 6, Block(s) 8, MONKBRIDGE ADDN zoned R-1, located on 209 HEADINGLY AVE NW (G-14)

Special Exception No:..... **12ZHE-80132**  
Project No: ..... **Project# 1009227**  
Hearing Date: ..... 05-15-12  
Closing of Public Record: ..... 05-15-12  
Date of Decision: ..... 05-31-12

**STATEMENT OF FACTS:** The applicant, Tal Realty, Inc., requests a variance of 5' to the required 10' Separation between an existing dwelling and an existing garage structure at 209 Headingly Ave NW. Miles Gray, agent for Tal Realty testified that his client would like to add an addition that will attach the existing residence and garage for living space. This request would make the garage less than 10 feet from the adjacent neighbor's garage. Mr. Gray testified that the garage would be open and have a drive through garage door. When asked by Stan Harada, the Interim Zoning Hearing Examiner, how the property is exceptional, Mr. Gray stated that the lots width of 40' is very narrow with a small old house on it. Mr. Gray testified that his client wants to add a bedroom to make thou house more livable and to improve the property and neighborhood. Mr. Gray feels that the property owner is limited to what can be done due to the garage existing in its current location at the time of the adoption of the zoning regulations. Mr. Gray feels that the inability to add onto the house and the exceptional aspect of the very narrow lot denies the owners reasonable use of the property. Mr. Gray testified that he and his client spoke with the neighbors, who had no objections. There are no letters of opposition in the file, nor were there any objections at the hearing. The yellow signs were posted. This matter was recommended for facilitation by the City of Albuquerque Land Use Facilitation Program. However, the project did not require a facilitated meeting.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

**FINDINGS AND CONCLUSIONS:** I find that this parcel is exceptional as compared to other parcels in the vicinity because the property is narrow, (40' Wide), and would not be able to be developed under today's regulations. The minimum lot width in an R-1 zone today is 50' wide. I feel that the applicant has met the burden of proving that the property is exceptional due to the 40' wide lot and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular

variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular zoning regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

**DECISION:** Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

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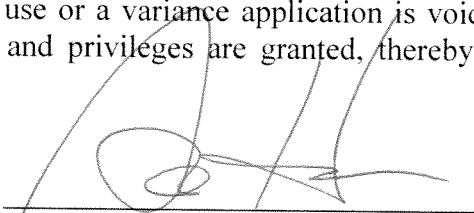
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Stanley D. Harada, Esq.  
Interim Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Miles Gray, PO Box 56607, 87187  
Tal Realty, 1115 Central Ave NW, 87102