



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No: **12ZHE-80068**
Project No: **Project# 1009174**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Joann Padilla appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, as a remand from the Board of Appeals, requesting a Variance of 3'6" to the 5' minimum separation requirement between existing structures at 9416 Vista Del Valle St SW. Below are the findings of facts.

FINDINGS:

1. Joann Padilla is requesting a Variance of 3'6" to the minimum separation requirement between existing structures at 9416 Vista Del Valle St NW.
2. Ms. Padilla testified at the hearing that she has owned and resided at this property for approximately 16 years.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
4. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of it being a corner lot (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of an electrical box (transformer) being located on property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
6. Ms. Padilla testified at the Board of Appeals that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of a grade change on the property. The Board of Appeals felt that this was a valid justification of exceptionality as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"

8. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
9. At the April 17, 2012 Zoning Hearing Examiner public hearing, the Zoning Hearing Examiner asked Ms. Padilla if the accessory structure could be moved to eliminate the need for a Variance application. Ms. Padilla responded by stating that the structure could be moved, but she could not afford to move the structure.
10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.*"
11. Both the application and testimony provided at the hearing demonstrate that the variance is needed to prevent the unnecessary hardship.
12. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.*"
13. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
14. The yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. There was no opposition to this request at the hearing nor is there any opposition noted in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9).

DECISION:

APPROVAL of a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9).

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

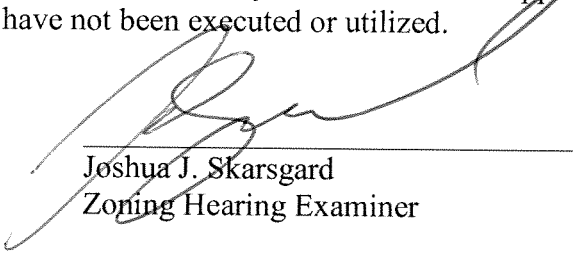
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.

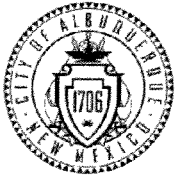
You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building 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.



Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista Del Pueblo SW, 87121



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 2' 6" to the 10' minimum distance separation requirement between an existing dwelling and existing accessory structure for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No:12ZHE-80069
Project No:Project# 1009174
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision:..... 10-31-12

On October 16, 2012, Joann Padilla appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, as a remand from the Board of Appeals, requesting a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 2' 6" to the 10' minimum distance separation requirement between an existing dwelling and existing accessory structure at the property located at 9416 Vista Del Valle St SW. Below are the findings of facts:

FINDINGS:

1. Joann Padilla is requesting a Variance of 2'6" to the 10' minimum separation requirement between an existing dwelling and an existing structure at 9416 Vista Del Valle St NW.
2. Ms. Padilla testified at the hearing that she has owned and resided at this property for approximately 16 years.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
4. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of it being a corner lot (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of an electrical box (transformer) being located on property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
6. Ms. Padilla testified at the Board of Appeals that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of a grade change on the property. The Board of Appeals felt that this was a valid justification of exceptionality as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following*

tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship”

8. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
9. At the April 17, 2012 Zoning Hearing Examiner public hearing, the Zoning Hearing Examiner asked Ms. Padilla if the accessory structure could be moved to eliminate the need for a Variance application. Ms. Padilla responded by stating that the structure could be moved, but she could not afford to move the structure.
10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) “SPECIAL EXCEPTIONS” reads in part: *“A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.”*
11. Both the application and testimony provided at the hearing demonstrate that the variance is needed to prevent the unnecessary hardship.
12. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) “SPECIAL EXCEPTIONS” reads in part: *“A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.”*
13. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
14. The yellow “Notice of Hearing” signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. There was no opposition to this request at the hearing nor is there any opposition noted in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 2' 6" to the 10' minimum distance separation requirement between an existing dwelling and existing accessory structure at the property located at 9416 Vista Del Valle St SW.

DECISION:

APPROVAL of a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 2' 6" to the 10' minimum distance separation requirement between an existing dwelling and existing accessory structure for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

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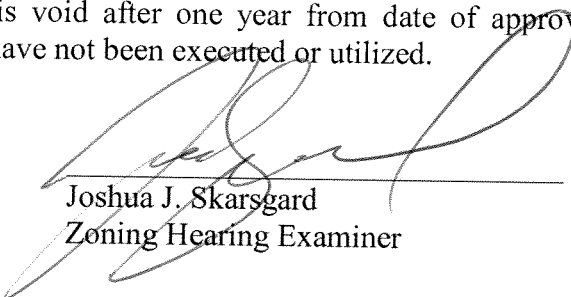
Please present this letter of notification when filing an appeal. When an application is withdrawn, the fee shall not be refunded.

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.

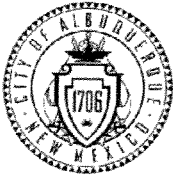
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Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista Del Pueblo SW, 87121



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 1' 1" to the 10' minimum distance separation requirement between an existing dwelling and existing shade structure for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No:.....**12ZHE-80070**
Project No:**Project# 1009174**
Hearing Date:10-16-12
Closing of Public Record:10-16-12
Date of Decision:.....10-31-12

On October 16, 2012, Joann Padilla appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, as a remand from the Board of Appeals, requesting a VARIANCE of 1' 1" to the 10' minimum distance separation requirement between an existing dwelling and existing shade structure for the property located at 9416 Vista Del Valle St SW. Below are the findings of facts:

FINDINGS:

1. Joann Padilla is requesting a Variance of 1'1" to the 10' minimum separation requirement between an existing dwelling and an existing shade structure at 9416 Vista Del Valle St NW.
2. Ms. Padilla testified at the hearing that she has owned and resided at this property for approximately 16 years.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
4. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of it being a corner lot (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of an electrical box (transformer) being located on property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
6. Ms. Padilla testified at the Board of Appeals that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of a grade change on the property. The Board of Appeals felt that this was a valid justification of exceptionality as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following*

tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship”

8. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
9. At the April 17, 2012 Zoning Hearing Examiner public hearing, the Zoning Hearing Examiner asked Ms. Padilla if the accessory structure could be moved to eliminate the need for a Variance application. Ms. Padilla responded by stating that the structure could be moved, but she could not afford to move the structure.
10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) “SPECIAL EXCEPTIONS” reads in part: *“A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.”*
11. Both the application and testimony provided at the hearing demonstrate that the variance is needed to prevent the unnecessary hardship.
12. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) “SPECIAL EXCEPTIONS” reads in part: *“A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.”*
13. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
14. The yellow “Notice of Hearing” signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. There was no opposition to this request at the hearing nor is there any opposition noted in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a VARIANCE of 1' 1" to the 10' minimum distance separation requirement between an existing dwelling and existing shade structure for the property located at 9416 Vista Del Valle St SW.

DECISION:

APPROVAL of a VARIANCE of 1' 1" to the 10' minimum distance separation requirement between an existing dwelling and existing shade structure for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9).

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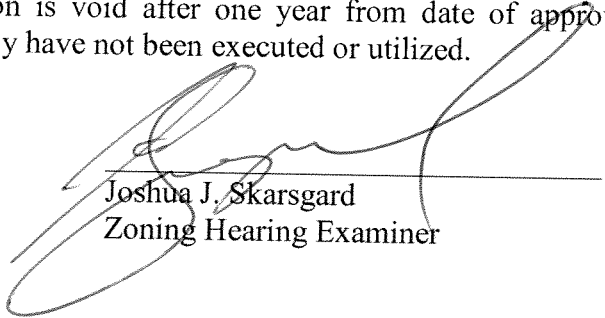
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Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista Del Pueblo SW, 87121



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-2-6(B)(2)(e): a VARIANCE of 3' 5" to the 10' minimum distance separation requirement between an existing shade structure and existing neighboring dwelling for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No: **12ZHE-80071**
Project No: **Project# 1009174**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Joann Padilla appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, as a remand from the Board of Appeals, requesting a Variance of 3'5" to the 10' minimum separation requirement between an existing dwelling and an existing shade structure at 9416 Vista Del Valle St SW. Below are the findings of facts:

FINDINGS:

1. Joann Padilla is requesting a Variance of 3'5" to the 10' minimum separation requirement between existing shade structure and an existing neighboring dwelling at 9416 Vista Del Valle St NW.
2. Ms. Padilla testified at the hearing that she has owned and resided at this property for approximately 16 years.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
4. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of it being a corner lot (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of an electrical box (transformer) being located on property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
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8. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
9. At the April 17, 2012 Zoning Hearing Examiner public hearing, the Zoning Hearing Examiner asked Ms. Padilla if the accessory structure could be moved to eliminate the need for a Variance application. Ms. Padilla responded by stating that the structure could be moved, but she could not afford to move the structure.
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11. Both the application and testimony provided at the hearing demonstrate that the variance is needed to prevent the unnecessary hardship.
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13. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
14. The yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. There was no opposition to this request at the hearing nor is there any opposition noted in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a Variance of 3'5" to the 10' minimum separation requirement between an existing dwelling and an existing shade structure at 9416 Vista Del Valle St SW.

DECISION:

APPROVAL of a Variance of 3'5" to the 10' minimum separation requirement between an existing dwelling and an existing shade structure for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9).

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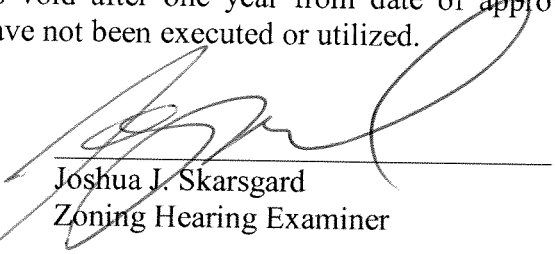
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Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista Del Pueblo SW, 87121



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(a): a VARIANCE of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No: **12ZHE-80072**
Project No: **Project# 1009174**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Joann Padilla appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, as a remand from the Board of Appeals, requesting a Variance of 2'4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback at 9416 Vista Del Valle St SW. Below are the findings of facts:

FINDINGS:

1. Joann Padilla is requesting a Variance of 2'4" to the 6' maximum wall height allowance for an existing structure in the side yard setback area at 9416 Vista Del Valle St NW.
2. Ms. Padilla testified at the hearing that she has owned and resided at this property for approximately 16 years.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
4. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of it being a corner lot (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of an electrical box (transformer) being located on property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
6. Ms. Padilla testified at the Board of Appeals that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of a grade change on the property. The Board of Appeals felt that this was a valid justification of exceptionality as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"

8. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
9. At the April 17, 2012 Zoning Hearing Examiner public hearing, the Zoning Hearing Examiner asked Ms. Padilla if the accessory structure could be moved to eliminate the need for a Variance application. Ms. Padilla responded by stating that the structure could be moved, but she could not afford to move the structure.
10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.*"
11. Both the application and testimony provided at the hearing demonstrate that the variance is needed to prevent the unnecessary hardship.
12. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.*"
13. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
14. The yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. There was no opposition to this request at the hearing nor is there any opposition noted in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a Variance of 2'4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback at 9416 Vista Del Valle St SW.

DECISION:

APPROVAL of a VARIANCE of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

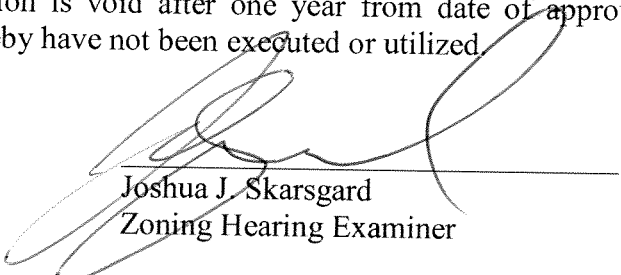
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista Del Pueblo SW, 87121



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No: **12ZHE-80073**
Project No: **Project# 1009174**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Joann Padilla appeared before Zoning Hearing Examiner, Joshua J. Skarsgard as a remand from the Board of Appeals, requesting a Variance of 3'6" to the 5' minimum separation requirement between existing accessory structures at 9416 Vista Del Valle St SW. Below are the findings of facts.

FINDINGS:

1. Joann Padilla is requesting a Variance of 3'6" to the 5' minimum separation requirement between existing accessory structures at 9416 Vista Del Valle St NW.
2. Ms. Padilla testified at the hearing that she has owned and resided at this property for approximately 16 years.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
4. Ms. Padilla testified that her lot is exceptional as compared with other land in the vicinity subject to the same regulations by reason of it being a corner lot (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
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7. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"

8. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
9. At the April 17, 2012 Zoning Hearing Examiner public hearing, the Zoning Hearing Examiner asked Ms. Padilla if the accessory structure could be moved to eliminate the need for a Variance application. Ms. Padilla responded by stating that the structure could be moved, but she could not afford to move the structure.
10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.*"
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13. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
14. The yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. There was no opposition to this request at the hearing nor is there any opposition noted in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

DECISION:

APPROVAL of a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures for all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located on 9416 VISTA DEL VALLE ST SW (L-9)

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

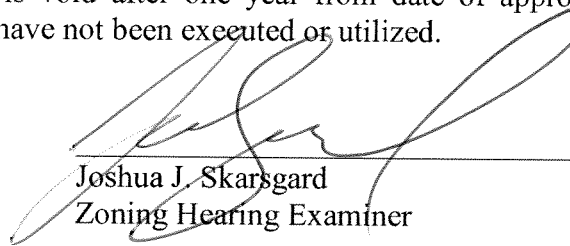
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Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista Del Pueblo SW, 87121