

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

MARIE BELL request(s) a special exception to Section 14-16-2-6(B)(3): a CONDITIONAL USE for a carport in the front yard setback area for all or a portion of Lot(s) 7, Block(s) 10, FRED A. MOSSMAN'S MESA VILLAGE zoned R-1, located on 1305 LUTHY CIRCLE NE (J-20)

Special Exception No:..... **12ZHE-80154**
Project No: **Project# 1009259**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 3, 2012

On June 19, 2012, the Interim Zoning Hearing Examiner heard Project# 1009259, 12ZHE-80154, a conditional use for a carport in the front yard setback area at 1305 Luthy Circle NE.

SUMMARY AND FINDINGS:

1. Marie Bell requests a conditional use for a carport in the front yard setback area at 1305 Luthy Circle NE.
2. Ms. Bell has owned the property since 1983.
3. Ms. Bell testified that she is requesting a conditional use to construct a carport which will be slightly larger than a single carport but smaller than a double carport.
4. She also testified that the carport will not be enclosed and that there will be rain gutters placed on the carport to assure that no water run off will damage adjacent properties.
5. Ms. Bell testified that she believes the proposed request will not be harmful to the surrounding community or adjacent properties.
6. Ms. Bell testified that although she initially requested the conditional use for a proposed carport. She started construction without a permit approximately 1 ½ months ago but has recently stopped construction. She claimed a licensed contractor, whom she met at Home Depot, told her that she didn't need a permit to construct the carport.
7. Ms. Bell testified that the carport is partially constructed without a roof. She does not know if the contractor who has built the carport is licensed or non-licensed. Ms. Bell also acknowledged that it is too close to her neighbor's wall.
8. A site visit by City staff concluded that a carport is constructed in her front yard. The roof appears to be attached. The carport is in close proximity to the property line and adjacent property.
9. The yellow signs were posted for the prescribed time.
10. There are no clear site triangle problems reported from the City of Albuquerque's Traffic Engineer.

11. Ms. Bell testified submitted two letters of support with her application from Douglas Davenport and Meredith and Timothy Schwall.
12. Mary Brown, a neighbor, testified in opposition of the carport. She testified that construction on the carport has been continuous since March. She believes that the foundation does not support the carport because it was built without concrete or footing. She testified that it is a safety hazard because it was built without a permit and without any knowledge of utility lines.
13. There are no clear sight triangle problems reported by The City of Albuquerque's Traffic Engineer.

CONCLUSIONS: Ms. Bell has met the burden for his special exception request for a conditional use for a carport in the front yard setback area at 1305 Luthy Circle NE.

DECISION: Approved with conditions.

CONDITIONS:

1. Must be able to abide by the site plan which states that the carport will be 3' from the property line.
2. Must obtain proper permits and conduct all inspections on approval.
3. The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 19, 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.

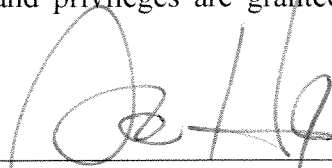
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of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



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Marie Bell, 1305 Luthy Circle NE, 87112
Vincent Gonzalez, 1304 Luthy Circle NE, 87112
Mary Brown, 1308 Luthy Circle NE, 87112