

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

TONY PEREDO (PATRICK PENNINGTON, AGENT) request(s) a special exception to Section 14-16-2-6(E)(5)(a): a VARIANCE of 15' to the 15' maximum to allow for a proposed addition in the rear yard setback area for all or a portion of Lot(s) 13, Block(s) 11, ELDER HOMESTEAD ADDN zoned R-1, located on 937 DAKOTA ST SE (L-18)

Special Exception No:..... **12ZHE-80165**
Project No: **Project# 1009270**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 5, 2012

On June 19, 2012, the Interim Zoning Hearing Examiner, Stanley D. Harada heard Project# 1009270, 12ZHE-80165, a variance of 15' to the 15' maximum to allow for a proposed addition the rear yard setback area at 937 Dakota St SE.

SUMMARY:

1. Patrick Pennington, agent/contractor for Tony Peredo requests a variance of 15' to the 15' maximum to allow for a proposed addition the rear yard setback area at 937 Dakota St SE.
2. Mr. Pennington testified that the property is exceptional due to the fact that it is a corner lot which makes the setback rules different than interior lots.
3. The property also is contiguous to an alley where there are pre 1970 detached accessory buildings.
4. Mr. Pennington testified that the owners would like to connect two buildings by constructing a sunroom for their daughter, Rachelle who has Luekodystrophy and is confined to a wheelchair. This addition will allow Rachelle to enjoy the sunroom without having to go outside the house.
5. Mr. Pennington testified that there was an existing concrete pad that will be used to connect the existing residence with the existing garage structure.
6. Mr. Pennington testified that the addition will not be going tout of the building envelope.
7. There is a letter of support from the Elder Homestead Neighborhood Association.
8. There are no letters of opposition in the file or was there any opposition at the hearing.
9. The yellow signs were posted for the required time.

FINDINGS:

1. The property is exceptional as it is located on a corner lot.
2. The variance will not interfere with the enjoyment of other properties in the vicinity and will stay consistent with the spirit of the Zoning Ordinance.
3. The yellow signs were posted.

CONCLUSION: There is substantial evidence to support the application submitted, and therefore it is approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 20, 2012 in the manner described below:

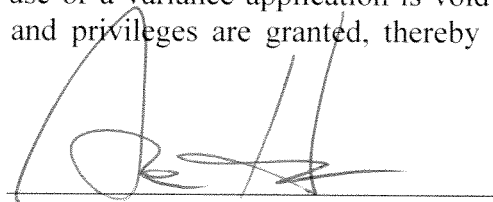
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Tony Peredo, 937 Dakota St SE, 87108
Patrick Pennington, PO Box 7725, 87194
Elder Homestead Neighborhood Association, PO Box 80106, 87198