

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

WAYNE ALVERSON request(s) a special exception to Section 14-16-2-6 (B)(1): a CONDITIONAL USE for an existing accessory living quarters for all or a portion of Lot(s) 6, HUBBELL HEIGHTS zoned R-1, located on 124 65TH ST SW (K-11)

Special Exception No:..... **12ZHE-80171**
Project No: **Project# 1009275**
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 #1009275, 12ZHE-80171, a conditional use to allow for an accessory living quarters at 124 65th St SW

SUMMARY:

1. Wayne Alverson requests a conditional use to allow for an accessory living quarters, which has been built as a second story addition.
2. Mr. Alverson testified that the requested conditional use will not be injurious to the surrounding neighbors or community due to the fact that his home has always been a two family home since 1959, and was built in 1949.
3. Mr. Alverson testified that he completed the living quarters in 2008 and that all of the inspections have been done. Mr. Alverson testified that access to the second story living quarters will be by an exterior stairway, and there will not be a kitchen as defined in the Albuquerque Zoning Code.
4. Mr. Alverson testified that the request will not be significantly damaged by the surrounding structures or activities.
5. Dorren Esquibel-Castillo testified in opposition to the request and does not think the request should be approved by the hearing examiner.
6. Mr. Alverson is requesting to live in the top part of the living quarter, and have tenants in the downstairs front of the residence.
7. Alamosa Neighborhood Association was offered a facilitated meeting, but declined.
8. The yellow signs were posted.

CONCLUSION AND DECISION:

1. The definition of accessory structure is a building detached from and smaller than the main building on the same lot; the use of an accessory building shall be appropriate, subordinate and customarily incidental to the main use of the lot.
2. Mr. Alverson built a structure that is attached to the main dwelling, therefore does not qualify for an accessory structure, or accessory living quarters.
3. Mr. Alverson has not met the burden of justifying the conditional use request, and is therefore denied.

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:

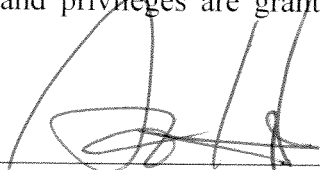
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Wayne Alverson, 124 65th St SW, 87121