

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

AHMET TIRYAKI d/b/a DAMA CONSTRUCTION (DAC ZONING & LAND USE SERVICES) request(s) a special exception to Section 14-16-2-9(D)(1): a VARIANCE to the 22' lot width per townhouse to allow a proposed 46 townhouse unit on a lot width of 462' for all or a portion of Lot(s) I, Tract(s) H&I, LA CUESTA zoned R-T, located on 12004 ZIA RD NE (K-22)

Special Exception No:..... **12ZHE-80227**
Project No: **Project# 1009371**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Decision: 10-03-12

On September 18, 2012, Doug Crandall, agent for Ahmet Tiryaki appeared before the Interim Hearing Officer, Stanley D. Harada for a variance to the 22' lot width per townhouse to allow 46 townhouse units at 12004 Zia Rd NE.

SUMMARY:

1. Mr. Crandall testified that his client is requesting a variance to the 22' requirement of street frontage for each townhouse in the RT zone.
2. Mr. Crandall testified that in 2006, the subject property was re-zoned from SU-1 for retirement apartments to RT zoning.
3. Mr. Crandall testified that under the previous SU-1 zoning, 20 dwelling units per acre were allowed.
4. Mr. Crandall testified that the property is approximately 2.9 acres. This acreage would have allowed 58 dwelling units on the property.
5. Mr. Crandall testified that the RT zone would allow only one townhouse for every 2,200 square feet of area.
6. Mr. Crandall testified that his client is seeking to develop 46 townhouses.
7. Mr. Crandall testified that the property is exceptionally larger than the lots in the vicinity.
8. Mr. Crandall testified that lots H & I have the same depth as Zia Rd NE.
9. The exceptionality is that these lots have only one street frontage, whereas lot A has two street frontages.
10. Mr. Crandall testified that there are no two similarly configured lots in the near vicinity.
11. Mr. Crandall testified that other exceptionality aspect of the applicant's lot is that the frontage along Paisano NE has been taken by another SU-1 property.
12. Mr. Crandall testified that if the entire site had been zoned R-T, there would have been another possibility for building an additional 10 townhomes.
13. Mr. Crandall testified that the regulations of the exceptional lot create a substantial and unjustified limitation on the applicant's reasonable use of the property. The property has been zoned for townhouse development.

14. Mr. Crandall testified that aside from the lot width per unit, the proposal meets all other regulations pertaining to the R-T zone category.
15. Mr. Crandall and his client would like to build 46 townhome units, and would build according to all applicable city rules and regulations.
16. Mr. Crandall testified that substantial justice would be consentient with the granting of the requested variance.
17. There are no letters of opposition in the file, or were there anyone to speak in opposition at the hearing.

FINDINGS:

Doug Crandall agent for Ahmet Tiriyaki has met the burden for a variance of 22' lot width per townhouse to allow 46 townhouse units at 12004 Zia Rd NE.

DECISION: Approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on October 18, 2012 in the manner described below:

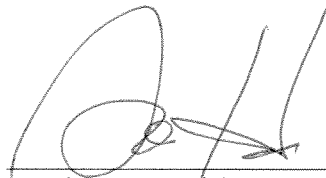
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
Doug Crandall DAC, 9520 Macallan Rd NE 87109
ZHE File