

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

PAUL L. DANNER (AUSTIN'S CARPORTS, GILBERT AUSTIN, AGENT) request(s) a special exception to Section 14-16-2-6(B)(3): a CONDITIONAL USE for a proposed carport in the front yard setback area for all or a portion of Lot(s) 21, Block(s) 4, GRANDVIEW HEIGHTS zoned R-1, located on 1208 LANDMAN DR NE (J-22)

Special Exception No: **12ZHE-80265**
Project No: **Project# 1009410**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Gilbert Austin, agent for Paul L. Danner appeared before Zoning Hearing Examiner, Joshua Skarsgard, requesting a conditional use for a proposed carport in the front yard setback area at 1208 Landman Dr NE. Below are the findings of facts.

FINDINGS:

1. Mr. Paul L. Danner requests a conditional use for a proposed carport in the front yard setback area at 1208 Landman Dr NE.
2. Gilbert Austin, agent for Paul L. Danner testified that his client has owned the property since 1989.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*"
4. Mr. Austin testified at the public hearing that the proposed use will not be injurious to the neighbors or surrounding community because will be constructed of steel and will be attractive in appearance.
5. Additionally, Mr. Austin testified that the carport will not damage adjacent properties or be injurious to the surrounding community because it will fit in well with the community.
6. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*"
7. Mr. Austin testified that the use, if approved, will not be damaged by surrounding structures because rain gutters placed on the carport and drainage will run off onto the owner's property and **not** on to the adjacent neighboring property.
8. Mr. Austin testified that Mr. Danner is a senior citizen and would like the carport to shield from snow and provide safe walking to his vehicle.

9. There are no letters of opposition in the file nor was there any opposition at the hearing.
10. The City of Albuquerque Traffic Engineer Report states there are no clear sight triangle problems.
11. 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.

DECISION:

APPROVAL WITH CONDITIONS of a CONDITIONAL USE for a proposed carport in the front yard setback area for all or a portion of Lot(s) 21, Block(s) 4, GRANDVIEW HEIGHTS zoned R-1, located on 1208 LANDMAN DR NE (J-22)

CONDITIONS OF APPROVAL:

1. The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained.
2. The applicant shall ensure that any and all vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this carport.
3. The applicant shall ensure that the carport does NOT drain on to the adjacent neighboring property.

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:

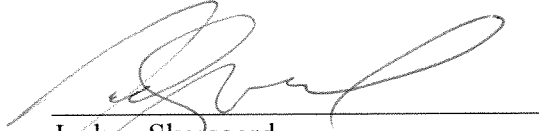
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

cc: Zoning Enforcement
ZHE File
Paul L. Danner, 1208 Landman NE, 87112
Gilbert Austin, 528 2nd Street SW, 87102