

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

GIRAUDE CATERINA D. TRUSTEES
GIRAUD CREDIT SHELTER RVT (ROGER
CINELLI, AGENT) request(s) a special
exception to Page 4, Paragraph 2 of the
DOWNTOWN 2010 SECTOR
DEVELOPMENT PLAN: a VARIANCE of .5'
foot candles to the required .5' foot candles of
light for a commercial surface parking lot for all
or a portion of Lot(s) 12, Block(s) 27, NEW
MEXICO TOWN COMPANYS ORIGINAL
TOWNSITE zoned SU-3, located on 620
GOLD ST SW (K-14)

Special Exception No: **12ZHE-80289**
Project No: **Project# 1009430**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Roger Cinelli, agent for Giraud Credit Shelter RVT appeared before Zoning Hearing Examiner, Joshua Skarsgard, requesting a variance of .5' foot candles of light for a commercial surface parking lot at 620 Gold St SW. Below are the findings of facts.

FINDINGS:

1. Caterina Giraud requests a variance of .5' foot candles of light for a commercial surface parking lot at 620 Gold St SW.
2. Roger Cinelli, agent for Caterina Giraud testified that his client received notification that they needed to submit a variance application to the ZHE for their parking lot.
3. Currently there are 3' foot candles on the perimeter of the lot. Mr. Cinelli and the City of Albuquerque went out and read the light shed from a nearby parking lot with an instrument. Mr. Cinelli testified that the readings taken on the field visit erroneously include some light that was emanating from a building to the south of the subject site.
4. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
5. The Applicant testified at the public hearing that the property is exceptional because the parking lot is a less than a quarter of an acre and there is a driveway off of 7th street. Additionally, the Applicant testified that the parking lot serves the United States New Mexico Federal Credit Union and the United States Federal Court and is used in the day time.
6. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"

7. The Applicant testified that as a result of the exceptional nature of the property (small and narrow parking lot) that the foot candle lighting requirements produce an unnecessary hardship on this property.
8. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.*"
9. The application and testimony provided at the hearing suggest that the variance to the foot candle requirements, if approved, will prevent the unnecessary hardship from bestowing upon the Applicant.
10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.*"
11. The Application and testimony from Mr. Cinelli both provide evidence that financial gain/loss is not the sole determining factor of the Variance Application.
12. On September 6, 2012 the owners observed the parking lot for night time activity. Their results produced that there was not any cars after 6:00 p.m.
13. Mr. Cinelli proposed that the owners could install signage for no night or weekend parking or violators will be towed.
14. The United States New Mexico Federal Credit Union bank sent in a letter explaining that they currently lease ten (10) spaces of the parking lot. These spaces are used primarily Monday through Friday from 8:30 a.m. to 5:00 p.m. They believe that the lot is adequately lighted and are comfortable with the current lighting situation. There is no weekend or night time use.
15. There is a letter of opposition in the file from Joseph Lane. Mr. Lane believes that this parking lot should be held to the same standards for lighting.
16. 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.
17. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS.: a VARIANCE of .5' foot candles to the required .5' foot candles of light for a commercial surface parking lot for all or a portion of Lot(s) 12, Block(s) 27, NEW MEXICO TOWN COMPANYS ORIGINAL TOWNSITE zoned SU-3, located on 620 GOLD ST SW (K-14)

DECISION:

APPROVAL of a VARIANCE of .5' foot candles to the required .5' foot candles of light for a commercial surface parking lot for all or a portion of Lot(s) 12, Block(s) 27, NEW MEXICO TOWN COMPANYS ORIGINAL TOWNSITE zoned SU-3, located on 620 GOLD ST SW (K-14)

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:

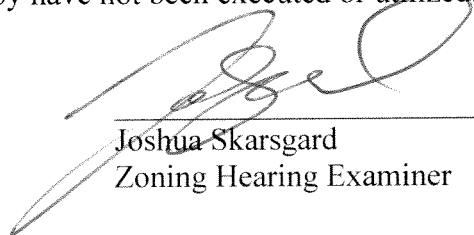
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
U.S. New Mexico Federal Credit Union, PO Box 129, 87103
Roger Cinelli, 2418 Manuel Torres Lane NW, 87107
Caterina Giraude Trustees RVT, 99 Juniiper Hill Lp, Cedar Crest, NM 87008
Joseph Lane, 610 Central Ave SW, 87102