

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

MARY LOU LANGFORD (ELIZA LINDE) request(s) a special exception to Section 14-16-3-10(E)(3)(b): a VARIANCE of 6' to the required 6' landscape buffer for a proposed addition in the side yard setback area for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17)

Special Exception No:12ZHE-80238
Project No:.....Project# 1009383
Hearing Date:10-16-12
Closing of Public Record:10-16-12
Date of Decision:10-31-12

On October 16, 2012, Eliza Linde, Agent for Mary Lou Langford appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, requesting a Variance of 6' to the required 6' landscape buffer for a proposed addition in the side yard setback area at 4400 Lead Ave SE. Below are the findings of facts:

FINDINGS:

1. Eliza Linde, agent for Mary Lou Langford is requesting a Variance of 6' to the required 6' landscape buffer for a proposed addition.
2. Ms. Linde testified that the street trees are needed due a 700 Square foot addition to an existing building to be built in Mid-November.
3. 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*"
4. Ms. Linde testified that the property located at 4400 Lead Ave SE is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the irregularly shaped lot that was developed in 1975, prior to the current City of Albuquerque Zoning landscape ordinance requirements (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. 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*"
6. Ms. Linde testified that as a result of the exceptional lot it is unfeasible to add a 6' wide landscape buffer along the west (side) and south (rear) boundaries, which will result in an unnecessary hardship upon the Applicant (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
7. 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.*"

8. Ms. Linde's application and testimony provided at the hearing suggest that the variance, if approved, will prevent the unnecessary hardship.
9. 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.*"
10. The Application and testimony both provide evidence that financial gain/loss is not the sole determining factor of the Variance Application.
11. Ms. Linde testified that her client is requesting to waive the 6' wide landscape buffer on the west boundary to maintain the existing 24' wide emergency vehicle access/driveway width, which is 24' per the Albuquerque Fire Department regulations.
12. Ms. Linde testified that her client is requesting to revise the 6' wide landscape buffer on the south property boundary to a 2' wide landscape buffer to maintain the existing 26' wide two-way traffic circulation.
13. Ms. Linde testified that a new 2' wide landscape buffer can be added to the boundary by revising the existing 20' long parking spaces to 18' long parking spaces.
14. Ms. Linde submitted a properly scaled site plan to the file that demonstrates these requests for changes which is required pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
15. Ms. Linde met with the Nob Hill Neighborhood Association, and received unanimous support (11-0 vote) to all three variance requests. The letter of support is in the file.
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 14-16-3-10(E)(3)(b) and Section § 14-16-4-2 SPECIAL EXCEPTIONS.: a Variance of 6' to the required 6' landscape buffer for a proposed addition in the side yard setback area for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17).

DECISION:

APPROVAL of a special exception to Section 14-16-3-10(E)(3)(b): a VARIANCE of 6' to the required 6' landscape buffer for a proposed addition in the side yard setback area for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17).

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.

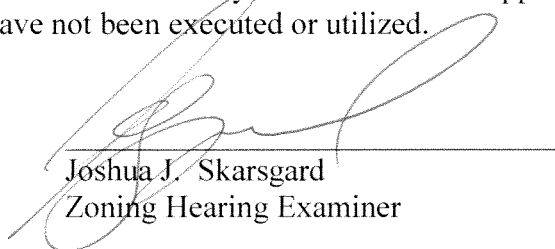
Please present this letter of notification when filing an appeal. When an application is withdrawn, the fee shall not be refunded.

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.

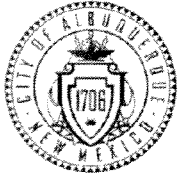
You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building 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 J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Eliza Linde, 924 2nd St NW, Ste C, 87102
Mary Lou Langford, 4400 Lead Ave SE, 87102
Greg Weirs, NHNA, PO Box 4875, 87196



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

MARY LOU LANGFORD (ELIZA LINDE) request(s) a special exception to Section 14-16-3-10(E)(3)(C): a VARIANCE of 4' to the required 6' rear landscape buffer for a proposed addition in the rear yard setback area for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17)

Special Exception No:12ZHE-80239
Project No:.....Project# 1009383
Hearing Date:10-16-12
Closing of Public Record:10-16-12
Date of Decision:.....10-31-12

On October 16, 2012, Eliza Linde, Agent for Mary Lou Langford appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, requesting a variance of 4' to the required 6' landscape buffer for a proposed addition in the rear yard setback area at 4400 Lead Ave SE. Below are the findings of facts.

FINDINGS:

1. Eliza Linde, agent for Mary Lou Langford is requesting a Variance of 4' to the required 6' rear landscape buffer for a proposed addition.
2. Ms. Linde testified that the street trees are needed due a 700 Square foot addition to an existing building to be built in mid November.
3. 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*"
4. Ms. Linde testified that the property located at 4400 Lead Ave SE is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the irregularly shaped lot that was developed in 1975, prior to the current City of Albuquerque Zoning landscape ordinance requirements (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. 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*"
6. Both the application and testimony provided at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
7. Ms. Linde testified that the exceptional lot makes it unfeasible to add a 6' wide landscape buffer along the west (side) and south (rear) boundaries, which will make it an unnecessary hardship in relation to the exceptionality of the property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).

8. Ms. Linde testified that her client is requesting to waive the 6' wide landscape buffer on the west boundary to maintain the existing 24' wide emergency vehicle access/driveway width, which is 24' per the Albuquerque Fire Department regulations.
9. Ms. Linde testified that her client is requesting to revise the 6' wide landscape buffer on the south property boundary to a 2' wide landscape buffer to maintain the existing 26' wide two-way traffic circulation.
10. Ms. Linde testified that a new 2' wide landscape buffer can be added to the boundary by revising the existing 20' long parking spaces to 18' long parking spaces.
11. 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.*"
12. Both the application and testimony provided at the hearing by Ms. Linde demonstrate that the variance is needed to prevent the unnecessary hardship.
13. 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.*"
14. Both the application and testimony provided by Ms. Linde at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
15. Ms. Linde submitted a properly scaled site plan to the file that demonstrates these change requests (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
16. Ms. Linde met with the Nob Hill Neighborhood Association, and received unanimous support (11-0 vote) to all three variance requests. Letter of support is in the file.
17. 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.
18. The Applicant has adequately justified the Variance request pursuant to Section 14-16-3-10(E)(3)(c) and Section § 14-16-4-2 SPECIAL EXCEPTIONS.: a Variance of 4' to the required 6' landscape buffer for a proposed addition in the rear yard setback area for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17).

DECISION:

APPROVAL of a Variance of 4' to the required 6' landscape buffer for a proposed addition in the rear yard setback area for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17).

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:

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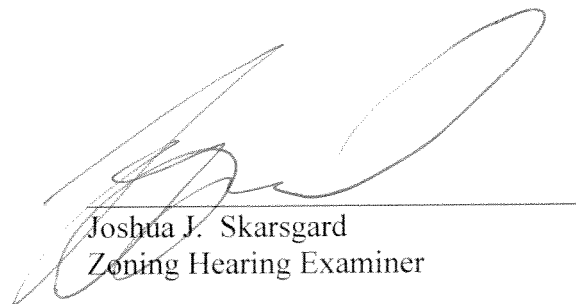
appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

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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.

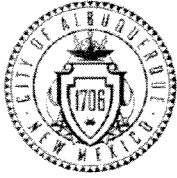
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Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Eliza Linde, 924 2nd St NW, Ste C, 87102
Mary Lou Langford, 4400 Lead Ave SE, 87102
Greg Weirs, NHNA, PO Box 4875, 87196



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

MARY LOU LANFORD (ELIZA LINDE) request(s) a special exception to Section 6-6-2-5: a VARIANCE of 1 street tree to the required 6 street trees for a proposed addition for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17)

Special Exception No:12ZHE-80240
Project No:.....Project# 1009383
Hearing Date:10-16-12
Closing of Public Record:10-16-12
Date of Decision:.....10-31-12

On October 16, 2012, Eliza Linde, Agent for Mary Lou Langford appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, requesting a variance of 1 street tree to the required 6 street trees for a proposed addition at 4400 Lead Ave SE. Below are the findings of facts.

FINDINGS:

1. Liza Linde, agent for Mary Lou Langford, is requesting a variance of 1 street tree to the required 6 street trees for a proposed addition at 4400 Lead Ave SE.
2. Ms. Linde testified that the requirement of each street tree to be planted with 30' spacing between trees would block visibility of the existing pole mounted business sign located at the corner of Lead Ave and Washington Ave.
3. 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*"
4. Ms. Linde testified that the property located at 4400 Lead Ave SE is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the irregularly shaped lot that was developed in 1975, prior to the current City of Albuquerque Zoning landscape ordinance requirements (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
5. 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*"
6. Both the application and testimony provided by Ms. Linde at the hearing demonstrate that as a result of the exceptionality of the lot, the City of Albuquerque regulations produce an unnecessary hardship.
7. Ms. Linde testified that the request would reduce the number of street trees along the north (Lead Ave.) and east (Washington Ave.) to preserve visibility from the street to the existing sign.
8. Ms Linde testified that the requirement to plant 6 trees pursuant to City of Albuquerque Code of Ordinances Section 6-6-2-5 would present an unnecessary hardship (depriving the owner of a reasonable return on the property under a use permitted by its existing

zone) in relation to the exceptionality of the property (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).

9. Ms. Linde testified that the request is to locate the new street trees on the Washington Ave boundary within the landscape buffer instead of within the existing sidewalk to maintain a consistent tree planting pattern with the north side of the property located along Lead Ave.
10. Ms. Linde testified that the sidewalk will only be 5'3" wide along the north boundary of the sidewalk, and City of Albuquerque Code of Ordinances Section § 6-2-2-5 Section B requires trees to be planted 2' beyond the property edge if the sidewalk is less than 6' wide.
11. 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.*"
12. Ms. Linde testified that the variance is needed to prevent the unnecessary hardship.
13. 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.*"
14. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
15. Ms. Linde submitted a properly scaled site plan to the file that demonstrates these change requests (as required by City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS).
16. Ms. Linde met with the Nob Hill Neighborhood Association, and received unanimous support (11-0 vote) to all three variance requests. The letter of support is in the file.
17. 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.
18. The applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances § Section 6-6-2-5 and § 14-16-4-2 SPECIAL EXCEPTIONS: a Variance of 1 street tree to the required 6 street trees for a proposed addition for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17).

DECISION:

APPROVAL of a Variance of 1 street tree to the required 6 street trees for a proposed addition for all or a portion of Lot(s) B, Block(s) 24, MESA GRANDE ADDITION zoned C-1, located on 4400 LEAD AVE SE (K-17).

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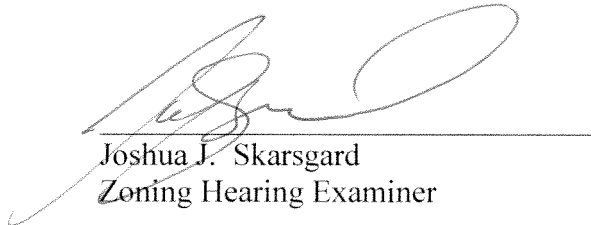
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