



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

JOANNE M. BLACK request(s) a special exception to Section 14-16-2-14 (E)(1) and 14-16-2-6 (B)(7): A CONDITIONAL USE for a proposed counseling as a home occupation for all or a portion of Lot(s) 15, ACADEMY ACRES UNIT 2 zoned R-D, located on 5205 ZURICH PLACE NE (F-21)

Special Exception No:..... **12ZHE-80108**
Project No: **Project# 1009211**
Hearing Date:..... 05-15-12
Closing of Public Record:..... 05-15-12
Date of Decision: 05-29-12

STATEMENT OF FACTS: The applicant, Joanne M. Black requests a conditional use to allow counseling as a home occupation at 5205 Zurich Place NE. Ms. Black would like to use a small bedroom (less than 25%) of her house to counsel patients, Monday through Friday, from 12:00 p.m. to 6:00 p.m. She testified that she would meet with patients by appointment for an hour and have ½-hour breaks in between. Ms. Black is a licensed therapist and nurse practitioner and has a business license to practice out of her residence. Ms. Black testified that this request would not be harmful to the surrounding community because it is a very small-scale business. She believes that the neighbors will not even notice the activity. Ms. Black met with surrounding neighbors, and received approval of the request. This matter was recommended for facilitation through the City of Albuquerque, Land Use Facilitation Program. However, no facilitated meeting was desired or warranted in this matter. Ms. Black testified that there is adequate parking on site for her patients and that there should never be more than one car in her driveway. A site visit and photos taken of the property by city staff confirmed the adequacy of parking. Signage consists of a small door sign. The yellow signs were posted. There was no opposition at the hearing nor is there any opposition in the file.

Based on all of the testimony and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C). 1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures.

DECISION: Approved with conditions.

CONDITIONS: No more than 25% of the floor area of the dwelling is devoted to the home occupation. No more than 5% of the floor area of the dwelling will be devoted to storing stock in trade. There will be no retail sale sold at any time from the residence. There is to be no external evidence of the activity, including, but not limited to, the parking of commercial vehicles, inordinate amount of traffic, outside storage, noise, dust, odors, noxious fumes, or other nuisances emitted from the premises.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 13, 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
Joanne M. Black, 5205 Zurich Place NE, 87111