

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

KENNETH AND MICHELLE SWAN request(s) a special exception to Section 14-16-2-6(E)(3)(a): a VARIANCE of 5' to the required 20' for a proposed addition in the side yard setback area for all or a portion of Lot(s) 4, Block(s) 27, MESA VILLAGE ADDITION zoned R-1, located on 1000 WADE CIRCLE NE (J-20)

Special Exception No:..... **12ZHE-80147**
Project No: **Project# 1009252**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 3, 2012

On June 19, 2012, the Interim Zoning Hearing Examiner heard Project# 1009252, 12ZHE-80147, a variance of 5' to the required 20' side yard setback area for a proposed addition at 1000 Wade Circle NE.

SUMMARY AND FINDINGS:

1. Kenneth and Michelle Swan are requesting a variance of the required 20' corner side yard setback for a proposed garage addition.
2. Mr. Swan testified that he has owned the property for 16 years.
3. Mr. Swan failed to demonstrate the exceptionality of his property to the Interim Zoning Hearing Examiner.
4. Mr. Swan failed to answer how the unnecessary hardship in relation to the exceptionality of the property would affect him.
5. Mr. Swan would like to build the garage addition for extra storage of equipment for his business.
6. Mr. Swan testified that his neighbor would have a better view with the removal of shrubs as an answer to the question of how the variance would not interfere with the enjoyment of other land in the vicinity.
7. Mr. Swan testified that he spoke to a few neighbors, and had no adverse comments to his request.
8. There are no letters of opposition in the file.
9. There are no clear sight triangle problems identified by the City of Albuquerque Traffic Engineer.
10. In 2003, Mr. Swan requested a variance for the west end of his property. The variance was 10' to the required 25' setback for an addition. That special exception was approved.

CONCLUSIONS: Mr. Swan has not met the burden for his special exception request for a variance of 5' to the required 20' corner side yard area.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 19, 2012 in the manner described below:

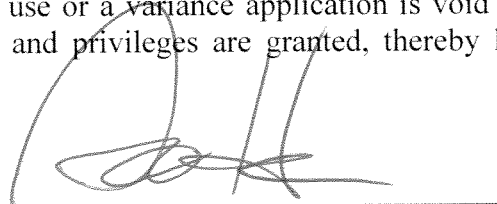
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Kenneth and Michelle Swan, 1000 Wade Circle NE, 87112