

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

RUBEN & LENORA TERAN (SUSAN PRICE, AGENT) request(s) a special exception to Section 14-16-2-9(E)(4)(a): a VARIANCE of 15' to the 15' rear yard setback area requirement for an existing dwelling on all or a portion of Lot(s) 64, BELL PARK VILLA TOWNHOUSES, zoned R-5, located at 204 SHAWNEE CT NE (L-19)

Special Exception No:	*10ZHE-80347
Project No:	Project# 1008549
Hearing Date:	01-18-11
Closing of Public Record:	
Date of Decision:	01-31-11

STATEMENT OF FACTS: The applicants, Ruben & Lenora Teran, request a variance of 15' to the 15' rear yard setback area requirement for an existing dwelling. Susan Price, agent for the applicant, testified that her clients constructed two separate additions. The initial addition, which is a bedroom and bath, was inspected and permitted; however, the drawings were inaccurate and the addition actually encroached into the 15' rear yard setback area by 3' 8". A second addition, which encroaches 15' into the 15' rear yard setback area, was later constructed and was neither inspected nor permitted. This addition is used as a laundry room.

Ms. Price stated that this lot is exceptional because it has streets on three sides; however, there are other lots in the vicinity which also have streets on three sides. The Zoning Ordinance provides that a variance is to be granted only under unusual circumstances. An applicant is required to demonstrate that he/she is unable to comply with the Zoning requirement as a result of some physical exceptional parcel conditions which cause unnecessary hardship. This applicant has not shown that this request meets the exceptionality standard. Having been unable to meet this standard, it is therefore unnecessary to inquire any further.

There are several signatures from neighbors who support this request noted in the file. There are also several letters of opposition from neighbors noted in the file. All these comments have been taken into consideration when making my determination.

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

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other

land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

<u>DECISION:</u> Approved with condition(s).

<u>CONDITION(S)</u>: The applicant must **immediately** remove the existing laundry room addition which encroaches 15' into the rear yard setback area. The existing bedroom/bath addition which encroaches 3' 8" into the rear yard setback area may remain.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 15, 2011 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.

Mobile Cloud

Roberto Albertorio, Esq. Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Ruben and Lenora Teran, 204 Shawnee Court SE, 87108

Susan T. Price, 3700 Coors Blvd, NW, Ste. E, 87120

Art Baldonado, 211 Shawnee Court SE, 87108

Christian Anchendo,

Joana Pintor, 447 Texas Street NE

Laura Cuzuas, 349 Dallas Street SE

Pastor Valle

Victor Munoz

Jose Antonio Ortiz

Jose Luis Cardenas

Edsar Lopez Lujan

Raul Hernandez Lara

Cecilia Valles

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Dario Quiroz Luna

Dina Gortiz

Joyce Rivera

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