

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

MANUEL A. ARAGON (DAC ZONING & LAND USE SERVICES) request(s) a special exception to Page 45 of the SOUTH BROADWAY SECTOR DEVELOPMENT PLAN and 14-16-2-6(D)(2)(a)(1): a VARIANCE of 279' to the required 5000' for a proposed lot for all or a portion of Lot(s) A, AINSWORTH TRACT zoned SU-2 MR, located on 1114 COMMERCIAL ST SE (L-14)

Special Exception No:..... **12ZHE-80242**
Project No: **Project# 1009384**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Amended Decision: 12-27-12

On September 18, 2012, Doug Crandall, agent for Manuel Aragon appeared before the Interim Hearing Officer, Stanley D. Harada for a variance of 279 square feet to the 5,000 square feet for a proposed lot at 109 Garfield SE. The application was inadvertently advertised as being at the location of 1114 Commercial St SE, and was amended at the hearing to the correct address of 109 Garfield SE.

SUMMARY:

1. Mr. Crandall testified that his client is requesting a variance of 279 square feet to the required 5,000 square for a proposed lot at 109 Garfield SE.
2. Mr. Crandall testified that the property is located within the boundaries of the South Broadway Sector Development Plan.
3. Mr. Crandall testified that Mr. Aragon's property was originally zoned R-2 and had the zone changed to SU-2/MR IN 1986 when the South Broadway Sector Development Plan was adopted.
4. The SU-2/MR zone allows uses allow R-1 uses as a permissive use and R-2 uses conditionally.
5. Mr. Crandall testified that there currently 2 dwelling units at the western portion of the lot and a large vacant area on the eastern portion.
6. Mr. Crandall testified that his client would like to re-plat the lot and build a new residence on the vacant, eastern part of the lot.
7. Mr. Crandall testified that the two existing residences that will remain on their own lot will be in compliance with the SU-2/MR zoning regulations.
8. MR Crandall testified the parcel is exceptional because it is much larger than the lots that are in the near vicinity.
9. Mr. Crandall also testified that the parcel is an irregular in shape with the three lots creating an I shaped lot.
10. Mr. Crandall testified the lot is also not as deep as the other larger lots in the vicinity.
11. Mr. Crandall would allow a single family development on a lot that is similar to the other lots in the vicinity.

12. Mr. Crandall testified the spirit of the Zoning Code would be maintained by providing the same number of lots allowed as a conditional use request.
13. Mr. Crandall testified that he feels that the criteria for a approving a variance request has been met and his applicant does not ask that financial loss be a determining factor in the Zoning Hearing Examiner's decision.

FINDINGS:

Doug Crandall agent for Manual Aragon has met the burden for a Variance of 279 square feet to the 5,000 square feet for a proposed lot at 109 Garfield SE.

DECISION: Approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on January 14, 2013 in the manner described below:

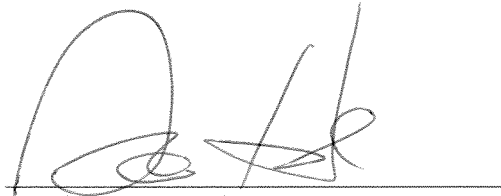
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Doug Crandall (DAC), 9520 Macallan Rd NE, 87109
Manuel A. Aragon, 1114 Commercial St SE, 87102