

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

RICK GALLEGOS (SANDIA SUNROOMS, AGENT) request(s) a special exception to Section 14-16-2-6(B)(12): a CONDITIONAL USE for a proposed shade structure in the rear yard setback area for all or a portion of Lot(s) 7, Block(s) 8, Tract(s) UNIT 2, KNOLLS OF PARADISE HILLS zoned R-1, located on 9824 BENTON DR SW (B-13)

Special Exception No:..... **12ZHE-80140**  
Project No: ..... **Project# 1009238**  
Hearing Date: ..... June 19, 2012  
Closing of Public Record: ..... June 19, 2012  
Date of Decision: ..... July 5, 2012

On June 19, 2012, the Interim Zoning Hearing Examiner heard Project# 1009238, 12ZHE-80140, a conditional use for a proposed shade structure in the rear yard setback area at 9824 Benton Dr NW.

**SUMMARY:**

1. Rick Gallegos, requests a conditional use for a proposed shade structure in the rear yard setback area at 9824 Benton Dr NW.
2. Greg Garwood agent for Sandia Sunrooms called Mr. Gallegos to testify about the request.
3. Mr. Gallegos has owned the property for 6 ½ years.
4. Mr. Gallegos would like a pre-manufactured aluminum shade structure that will be no more than 5' from the rear setback area.
5. Both testified that the structure will not be harmful to the surrounding community. The structure will be harmonious with the building site and with surrounding sites. They testified that the shade structure will not interfere with any of the neighbors view.
6. Mr. Gallegos obtained consent from his side and back neighbors regarding the request. The side neighbors did not have any objection and the back neighbor wished to stay neutral.
7. They were told and agreed that if approved, that no wall will be built within the required setback area and it may not be built within 3' of the property line.
8. There are no letters of opposition in the file or at the hearing.
9. The yellow signs were posted for the prescribed time.

**FINDINGS:**

1. The shade structure will not be harmful to the surrounding community or adjacent property.
2. According to the site plan, the structure will be five feet from the property line.

**CONCLUSION:** Mr. Gallegos has met the burden for the conditional use for a proposed shade structure in the rear yard setback area at 9824 Benton Dr SW.

**DECISION:** Approved with conditions:

**CONDITIONS:**

1. No part is within three feet of the property line.
2. No building wall is ever built within the required setback area.
3. No more than 50% of the required rear yard setback area is covered by a roof.
4. The structure shall not exceed 12 feet in height nor shall it exceed the height of the principal building on the site.
5. A second floor deck is prohibited.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on July 20, 2012 in the manner described below:**

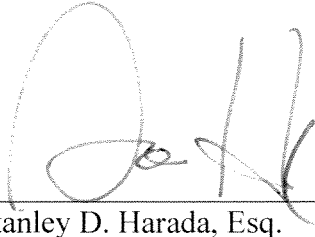
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



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Stanley D. Harada, Esq.  
Interim Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Rick Gallegos, 9824 Benton St NW, 87114  
Greg Garwood, 4308-G Alexander Blvd NE, 87107