

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

LUPE AND MARIA PRECIADO (MODULUS DESIGN, CHRISTAN HARPER, AGENT) request(s) a special exception to Section 14-16-2-6(E)(4)(a): a VARIANCE of 2' 1.5" to the required 5' for a proposed addition in the side yard setback area for all or a portion of Lot(s) 7, Block(s) 25, HUNING CASTLE ADDN zoned R-1, located on 1512 ESCALANTE AVE SW (K-13)

Special Exception No:..... **12ZHE-80152**
Project No:..... **Project# 1009257**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 5, 2012

On June 19, 2012, Interim Zoning Hearing Examiner, Stanley D. Harada heard Project# 1009257, 12ZHE-80152, a variance of 2' 1.5" to the required 5' for a proposed addition in the side yard setback area at 1512 Escalante Ave SW.

SUMMARY:

1. Lupe and Maria Preciado request a variance of 2' ½" to the required 5' side yard setback area at 1512 Escalante Ave SW.
2. Mrs. Preciado testified that she and her husband have owned the property for 10 years.
3. Mrs. Preciado testified that the variance request is to convert an existing office back into a garage.
4. Mrs. Preciado testified that the garage will be a single car garage with some storage space.
5. Mrs. Preciado testified that the variance request is exceptional due to the fact that the existing house was built in the 1930's before the zoning code was codified, and was built before setback requirements were enforced.
6. Mrs. Preciado stated that the existing side yard setback is 2' ½" from the property line.
7. Mrs. Preciado testified that the 5' ½" addition to the front of the garage/office will be inline with the existing side of the house, which would maintain the existing 2' ½" side yard setback.
8. Mrs. Preciado testified that the unnecessary hardship in relation to the exceptionality of the property is the need to bring back to the original garage to the residence.
9. Mrs. Preciado testified that the variance request will not significantly interfere with the enjoyment of the other land in the vicinity and will raise the integrity of the neighborhood.
10. There is one letter of support from Huning Castle Neighborhood Association in the file.
11. There are no letters of opposition in the file.
12. The yellow signs were posted for the required time.

FINDINGS:

1. Pursuant to Section 14-16-3-3(A) (3) (b), states that a setback variance may be approved for the following structures even though there is minimal showing as to the exceptional physical conditions:

(b) Houses located on lots created when side yard setback requirements were less severe and the lots dimensions make it unreasonable to require the current side yard set back requirement.

2. This request satisfies the provisions of Section 14-16-3-3 (A) (3) (b). It would cause unnecessary hardship to the applicant if the request is not granted.
3. The request will not significantly interfere with the enjoyment of other land in the neighborhood.
4. The request will enhance the neighborhood.
5. There is no opposition to the request.
6. Signs were posted for the required length of time.

CONCLUSION: There is substantial evidence to support the application submitted and it is therefore approved.

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:

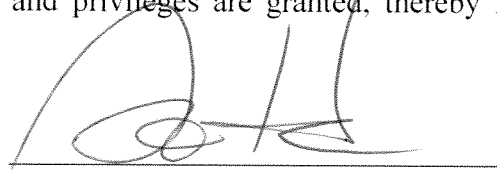
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Lupe and Maria Preciado, 1512 Escalante Ave SW, 87104
Modulus Design, 912 Broadway Blvd NE, 87102
Huning Castle Neighborhood Association, 201 Laguna Blvd SW, 87104