

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

JAMES L MAESTAS request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 7' to the 10' separation from a dwelling for an existing carport for all or a portion of Lot(s) 18A, Block(s) 2, VISTA DEL SANDIA zoned R-D, located on 11421 PASEO DEL OSO NE (F-22)

Special Exception No:..... **12ZHE-80185**
Project No: **Project# 1009302**
Hearing Date: 08-07-12
Closing of Public Record: 08-07-12
Date of Decision: 08-20-12

On August 7, 2012, James L. Maestas appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a variance of 7' to the 10' separation from a dwelling for an existing carport at 11421 Paseo Del Oso NE.

SUMMARY:

1. Mr. Maestas testified that he is seeking a variance of 7' to the 10' separation from a dwelling for an existing carport at 11421 Paseo Del Oso NE.
2. Mr. Maestas testified that his property was exceptional due to the fact that PNM would not allow him to construct anything underneath the power lines. PNM had placed a 4'x 2' transformer box in the rear of the property to service about four homes in the neighborhood when the subdivision was developed. Mr. Maestas also testified that his property had open space in the rear of his property, and he could not build anything in the rear yard due to the open space per the subdivision covenant. Mr. Maestas had no other explanations or justifications for the property being exceptional.
3. Mr. Masetas testified that he had the carport placed on the side of his house to store a newly purchased truck.
4. Mr. Maestas testified he has an existing two-car garage that is attached to the house.
5. Mr. Maestas testified that he contracted Build Well to construct the carport, and admitted that there was no building permit ever obtained.
6. Pete Scholander was present to testify at the hearing, and lives next to Mr. Maestas at 11417 Paseo Del Oso NE objects to all three of Mr. Maestas requests.
7. Mr. Scholander testified that he does not feel Mr. Maestas property is exceptional and it does not meet the exceptionality test.
8. Mr. Scholander testified the carport was constructed without a permit in 2012 contrary to the city zoning code regulations.
9. Mr. Scholander stated that if the carport was approved, it would create a great potential for drainage problems for his property. The carport is built too close to the property line and would drain rain run-off onto the property and potentially flood portions of Mr. Sholander's residence.

10. Mr. Scholander testified that he knows of no covenant for the subdivision that prohibits constructing structures in the rear yards of the subdivision. In fact, Mr. Maestas has a sunshade structure and basketball court in his rear yard. The shade structure appears to be in the public utility easement.
11. Mr. Scholander testified that he feels that this variance request would be a health and safety problem and will interfere with the enjoyment of the surrounding neighborhood. Mr. Scholander stated that this is the only carport in the immediate vicinity of the neighborhood, and is out of character with the area.

CONCLUSIONS: Mr. Maestas has not met the burden for his special exception request for a variance of 7' to the 10' separation from a dwelling for an existing carport at 11421 Paseo Del Oso NE.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on September 3, 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.

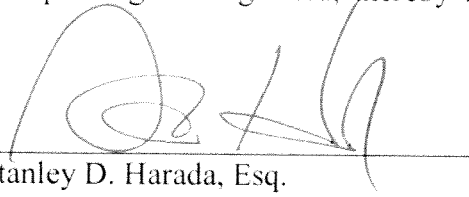
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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.

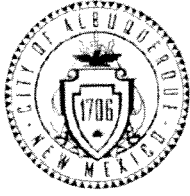
Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for 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.

A handwritten signature in black ink, appearing to read 'S. Harada', is written over a horizontal line.

Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
James L. Maestats, 11421 Paseo Del Oso NE, 87111
Pete Scholander, 11417 Paseo Del Oso NE, 87111



CITY OF ALBUQUERQUE
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NOTIFICATION OF DECISION

JAMES L MAESTAS request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 7' to the 10' separation from a dwelling for an existing shed for all or a portion of Lot(s) 18A, Block(s) 2, VISTA DEL SANDIA zoned R-D, located on 11421 PASEO DEL OSO NE (F-22)

Special Exception No:..... **12ZHE-80186**
Project No: **Project# 1009302**
Hearing Date: 08-07-12
Closing of Public Record: 08-07-12
Date of Decision: 08-20-12

On August 7, 2012, James L. Maestas appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a variance of 7' to the 10' separation from a dwelling for an existing shed at 11421 Paseo Del Oso NE.

SUMMARY:

1. Mr. Maestas testified that he is seeking a variance of 7' to the 10' separation from a dwelling for an existing carport at 11421 Paseo Del Oso NE.
2. Mr. Maestas testified that his property was exceptional due to the fact that PNM would not allow him to construct anything underneath the power lines. PNM had placed a 4'x 2' transformer box in the rear of the property to service about four homes in the neighborhood when the subdivision was developed. Mr. Maestas also testified that his property had open space in the rear of his property, and he could not build anything in the rear yard due to the open space per the subdivision covenant. Mr. Maestas had no other explanations or justifications for the property being exceptional.
3. Mr. Masetas testified that he had the carport placed on the side of his house to store a newly purchased truck.
4. Mr. Maestas testified he has an existing two-car garage that is attached to the house.
5. Mr. Maestas testified that he contracted Build Well to construct the carport, and admitted that there was no building permit ever obtained.
6. Pete Scholander was present to testify at the hearing, and who lives next to Mr. Maestas at 11417 Paseo Del Oso NE objects to all three of Mr. Maestas requests.
7. Mr. Scholander testified that he does not feel Mr. Maestas property is exceptional and it does not meet the exceptionality test.
8. Mr. Scholander testified the carport was constructed without a permit in 2012 contrary to the city zoning code regulations.
9. Mr. Scholander stated that if the carport was approved, it would create a great potential for drainage problems for his property. The carport is built too close to the property line and would drain rain run-off onto the property and potentially flood portions of Mr. Sholander's residence.

10. Mr. Scholander testified that he knows of no covenant for the subdivision that prohibits constructing structures in the rear yards of the subdivision. In fact, Mr. Maestas has a sunshade structure and basketball court in his rear yard. The shade structure appears to be in the public utility easement.
11. Mr. Scholander testified that he feels that this variance request would be a health and safety problem and will interfere with the enjoyment of the surrounding neighborhood. Mr. Scholander stated that this is the only carport in the immediate vicinity of the neighborhood, and is out of character with the area.

CONCLUSIONS: Mr. Maestas has not met the burden for his special exception request for a variance of 7' to the 10' separation from a dwelling for an existing shed at 11421 Paseo Del Oso NE.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on September 3, 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.

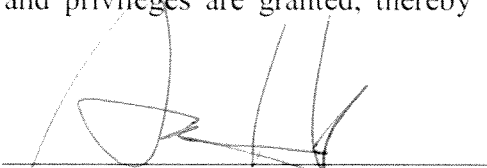
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Please note that pursuant to Section 14. 16. 4. 4. (B). of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

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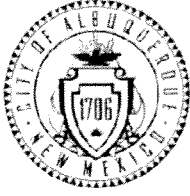
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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

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ZHE File
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NOTIFICATION OF DECISION

JAMES L MAESTAS request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 4' to the 5' separation between accessory structures for all or a portion of Lot(s) 18A, Block(s) 2, VISTA DEL SANDIA zoned R-D, located on 11421 PASEO DEL OSO NE (F-22)

Special Exception No:..... **12ZHE-80187**
Project No:..... **Project# 1009302**
Hearing Date:..... 08-07-12
Closing of Public Record: 08-07-12
Date of Decision: 08-20-12

On August 7, 2012, James L. Maestas appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a variance of 4' to the 5' separation between accessory structures at 11421 Paseo Del Oso NE.

SUMMARY:

1. Mr. Maestas testified that he is seeking a variance of 4' to the 5' separation between accessory structures at 11421 Paseo Del Oso NE.
2. Mr. Maestas testified that his property was exceptional due to the fact that PNM would not allow him to construct anything underneath the power lines. PNM had placed a 4'x 2' transformer box in the rear of the property to service about four homes in the neighborhood when the subdivision was developed. Mr. Maestas also testified that his property had open space in the rear of his property, and he could not build anything in the rear yard due to the open space per the subdivision covenant. Mr. Maestas had no other explanations or justifications for the property being exceptional.
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11. Mr. Scholander testified that he feels that this variance request would be a health and safety problem and will interfere with the enjoyment of the surrounding neighborhood. Mr. Scholander stated that this is the only carport in the immediate vicinity of the neighborhood, and is out of character with the area.

CONCLUSIONS: Mr. Maestas has not met the burden for his special exception request for a variance of 4' to the 5' separation between accessory structures at 11421 Paseo Del Oso NE.

DECISION: Denied.

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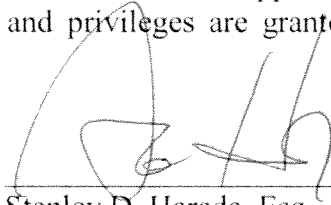
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