

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

ROBERT HABIGER & LYNN ELLEN DIXON request(s) a special exception to Section 14-16-2-6 (B)(11): a CONDITIONAL USE for a proposed second kitchen in a single family home for all or a portion of Lot(s) 018A, Block(s) 1, WHITE OAK ADDN zoned R-1, located on 2101 VALENCIA DR NE (J-18)

Special Exception No:..... **12ZHE-80111**
Project No: **Project# 1009214**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: The applicants, Robert Habiger and Lynn Ellen Dixon request a conditional use for a proposed second kitchen in a single-family dwelling at 2101 Valencia Dr NE. Mr. Habiger and Mrs. Dixon testified that they have owned the home for approximately 5 months. They testified that they have a young daughter with minor disabilities and would like to convert the garage into living space to give her somewhat of an independent living experience. Mr. Habiger stated that he does not feel the request will not be injurious to the adjacent property, the neighborhood or the community. He has spoken to the neighbors who have no adverse comments to this request. There is a letter of support in the file from George A. Stracke, III and Laura Stracke. There were no objections at the hearing. Mr. Habiger was told that if this request is approved the terms of the action should be recorded with the County Clerk. The yellow signs were posted. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this addition.

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

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures.

DECISION: Approved with conditions.

CONDITIONAL USE: The applicant will have the record of the terms of the action with the County Clerk, together with a signed acceptance of such terms by the owners. The terms of the city action shall run with the land. The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be

maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this addition.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 15, 2012 in the manner described below:

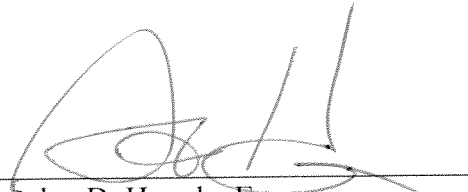
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

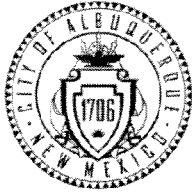
You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building 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
Robert Habiger and Lynn Ellen Dixon, 4005 Tara Dr NE, 87111
George A. Stracke, III and Laura Stracke,
1002 Forest Park Dr, Lewisville, TX 75057



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

ROBERT HABIGER & LYNN ELLEN DIXON request(s) a special exception to Section 14-16-2-6 (B)(3): a CONDITIONAL USE for a proposed carport in the side yard setback area for all or a portion of Lot(s) 018A, Block(s) 1, WHITE OAK ADDN zoned R-1, located on 2101 VALENCIA DR NE (J-18)

Special Exception No:..... **12ZHE-80112**
Project No: **Project# 1009214**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: The applicants, Robert Habiger and Lynn Ellen Dixon request a conditional use to allow a proposed carport in the side yard setback area at 2101 Valencia Dr NE. Mr. Habiger and Mrs. Dixon testified that they have owned the home for approximately 5 months. They testified that they would like to have a doublewide carport in the side yard setback area for protection of his vehicles. Mr. Habiger testified that there is no driveway at the front yard to construct a garage or carport, therefore his only option is to expand and use the existing driveway. There is already an existing driveway at this location, he only wants to expand the driveway. He also stated that the distance from the centerline of the driveway to the street corner is approximately 70', which provides sufficient distance for the safety of cars turning the corner. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this carport. Mr. Habiger stated that he does not feel that this request will be injurious to the adjacent property, the neighborhood or the community. He has spoken to the neighbors who have no adverse comments to this request. There is a letter of support in the file from George A. Stracke, III and Laura Stracke. There were no objections at the hearing. The yellow signs were posted.

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

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures.

DECISION: Approved with conditions.

CONDITIONS: The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or

landscaping that may mature and cause an obstruction to clear sight may not be placed next to this carport. The applicant must maintain any water run-off that the carport produces by placing gutters on the side of the structure.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 15, 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
Robert Habiger and Lynn Ellen Dixon, 4005 Tara Dr NE, 87111
George A. Stracke, III and Laura Stracke,
1002 Forest Park Dr, Lewisville, TX 75057



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

ROBERT HABIGER & LYNN ELLEN DIXON request(s) a special exception to Section 14-16-2-6(E)(3)(b): a VARIANCE of 2' to the required 10' side yard setback area for an existing dwelling for all or a portion of Lot(s) 018A, Block(s) 1, WHITE OAK ADDN zoned R-1, located on 2101 VALENCIA DR NE (J-18)

Special Exception No:..... **12ZHE-80113**
Project No: **Project# 1009214**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: The applicants, Robert Habiger and Lynn Ellen Dixon request a variance of 2' to the required 10' side yard setback area for an existing dwelling at 2101 Valencia Dr NE. Mr. Habiger and Mrs. Dixon testified that they have owned the home for approximately 5 months. They testified that they would like to request the variance to allow an existing structure to remain. Mr. Habiger testified that he would connect the two structures with a sunroom. This will be a secondary entrance to the house. Mr. Habiger stated that he feels the property is exceptional because it is surrounded on three sides by a public right of way. The property is a corner lot with an alley. He also feels the property is exceptional because both the street side property lines are located greater than the normal distance from the back of the curb. The front yard and side yard property lines are both over 13' from the back of the curb. Mr. Habiger stated that he does not feel that this request will be injurious to the adjacent property, the neighborhood or the community. He has spoken to the neighbors who have no adverse comments to this request. There is a letter of support in the file from George A. Stracke, III and Laura Stracke. There were no objections at the hearing. The yellow signs were posted.

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 exceptional as compared to other parcels in the vicinity and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular zoning regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in

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

DECISION: Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

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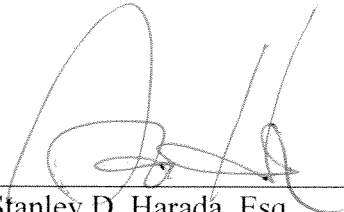
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An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place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

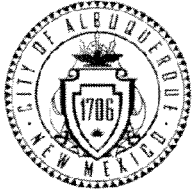
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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Robert Habiger and Lynn Ellen Dixon, 4005 Tara Dr NE, 87111
George A. Stracke, III and Laura Stracke,
1002 Forest Park Dr, Lewisville, TX 75057



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

ROBERT HABIGER & LYNN ELLEN DIXON request(s) a special exception to Section 14-16-2-6(E)(5)(a): a VARIANCE of 7' to the required 15' rear yard setback area for an existing dwelling for all or a portion of Lot(s) 018A, Block(s) 1, WHITE OAK ADDN zoned R-1, located on 2101 VALENCIA DR NE (J-18)

Special Exception No:..... **12ZHE-80114**
Project No: **Project# 1009214**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: The applicants, Robert Habiger and Lynn Ellen Dixon request a variance of 7' to the required 15' rear yard setback area for an existing dwelling at 2101 Valencia Dr NE. Mr. Habiger and Mrs. Dixon testified that they have owned the home for approximately 5 months. They testified that they would like to request the variance to allow an existing structure to remain. Mr. Habiger testified that he would connect the two structures with a sunroom. This will be a secondary entrance to the house. Mr. Habiger stated that he feels the property is exceptional because it is surrounded on three sides by a public right of way. The property is a corner lot with an alley. He also feels the property is exceptional because both the street side property lines are located greater than the normal distance from the back of the curb. The front yard and side yard property lines are both over 13' from the back of the curb. Mr. Habiger stated that he does not feel that this request will be injurious to the adjacent property, the neighborhood or the community. He has spoken to the neighbors who have no adverse comments to this request. There is a letter of support in the file from George A. Stracke, III and Laura Stracke. There were no objections at the hearing. The yellow signs were posted.

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 exceptional as compared to other parcels in the vicinity and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular zoning regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in

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

DECISION: Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 15, 2012 in the manner described below:

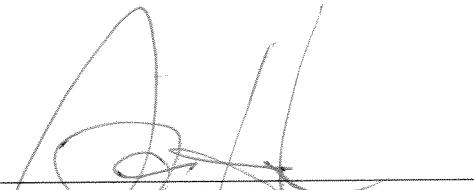
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Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

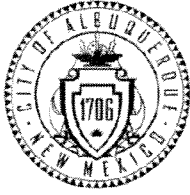
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Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, 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
Robert Habiger and Lynn Ellen Dixon, 4005 Tara Dr NE, 87111
George A. Stracke, III and Laura Stracke,
1002 Forest Park Dr, Lewisville, TX 75057



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

ROBERT HABIGER & LYNN ELLEN DIXON request(s) a special exception to Section 14-16-3-19(A)(2)(a): a VARIANCE of 3' to the maximum 3' height for a proposed 6' high wall in the front yard setback area for all or a portion of Lot(s) 018A, Block(s) 1, WHITE OAK ADDN zoned R-1, located on 2101 VALENCIA DR NE (J-18)

Special Exception No:..... **12ZHE-80115**
Project No:..... **Project# 1009214**
Hearing Date:..... 05-15-12
Closing of Public Record:..... 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: The applicants, Robert Habiger and Lynn Ellen Dixon request a variance of 3' to the maximum 3' height for a proposed 6' high wall in the front yard setback area. Mr. Habiger and Mrs. Dixon testified that they have owned the home for approximately 5 months. They testified that they would like to request the variance to provide protection and security for the property. The wall will also provide sound control for the property. The site plan submitted shows that the wall will be inside the property line and will be 11' feet from the property line. Mr. Habiger testified that the property is exceptional because it is surrounded on three sides by a public right of way. The property is a corner lot with an alley. He also feels the property is exceptional because both the street side property lines are located greater than the normal distance from the back of the curb. The front yard and side yard property lines are both over 13' from the back of the curb. Mr. Habiger stated that he does not feel that this request will be injurious to the adjacent property, the neighborhood or the community. He has spoken to the neighbors who have no adverse comments to this request. There is a letter of support in the file from George A. Stracke, III and Laura Stracke. There were no objections at the hearing. The yellow signs were posted. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

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 exceptional as compared to other parcels in the vicinity and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will

differ from development which will be permitted under the existing regular zoning regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Approved with conditions.

CONDITIONS: The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

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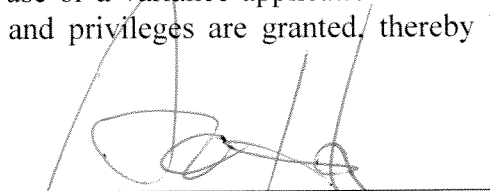
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Please note that pursuant to Section 14.16.4.4.(B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

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.

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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

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