

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

ANISLEY GARCIA (ARIEL GARCIA, AGENT) request(s) a special exception to Section 14-16-2-6 (B)(5) and 14-16-2-9 (B): a CONDITIONAL USE to allow a proposed family daycare home on all or a portion of Lot(s) 5, Block(s) 3, EMIL MANN ADDN zoned R-T, located at 420 CHAMA ST SE (L-19)

Special Exception No:..... *IR* 11ZHE-80161
Project No: Project# 1008869
Hearing Date: 07-19-11
Closing of Public Record: 07-19-11
Date of Decision: 07-22-11

STATEMENT OF FACTS: The applicant, Anisley Garcia, requests a conditional use to allow a proposed family daycare home. The applicant requests a conditional use to allow for a family day care home for up to 12 children in a residential zone. The applicant, Anisley Garcia, testified that she would like to expand her existing day care to 12 children. She stated that she has been in this business for approximately 2 years and that her husband will assist her in this endeavor. She and her husband are registered by the State of New Mexico as childcare providers. The ages of the children in her care are 2 years of age to 5 years of age. The days and hours of her operation are Monday through Friday, 6:00 a.m. to 6:30 p.m. She has no pets on this property. Ms. Garcia will not transport any of the children to school. With regard to the protection and safety of the children, the Zoning Hearing Examiner advised Ms. Garcia that she provide temporary gates for the kitchen area so that potential hazards are not realized. Also, this lot contains high walls in the rear yard so that the children may not leave her property. Her clients will park in the street in front of her home when dropping off or picking up their children. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

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 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. For reasons stated above, this request is approved.

DECISION: Approved with conditions.

CONDITIONS:

1. Ms. Garcia must provide gates in the kitchen area to protect the children from any potential hazard

2. Ms. Garcia must ensure that careful attention is given when her clients are dropping off and picking up their children due to potential street traffic and the hazard that poses to the children in her care.

If you wish to appeal this decision, you may do so by 5:00 p.m., on August 8, 2011 in the manner described below:

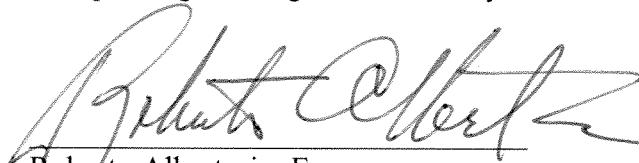
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Anisley & Ariel Garcia, 420 Chama Street SE, 87108