



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

MARY CORRINE ANAYA request(s) a special exception to Section 14-16-2-6(B)(1): a CONDITIONAL USE to allow for an existing accessory living quarters in the rear yard setback area on all or a portion of Lot(s) 5, Block(s) 7, STRONGHURST ADDN zoned R-1, located at 3012 FRANCISCAN ST NE (G-15)

Special Exception No:..... **09ZHE-80238**  
Project No:..... **Project# 1007896**  
Hearing Date:..... 02-16-10  
Closing of Public Record: ..... 02-16-10  
Date of Decision: ..... 03-01-10

**STATEMENT OF FACTS:** The applicant, Mary Corrine Anaya, requests a conditional use to allow for an existing accessory living quarters in the rear yard setback area. This matter was originally scheduled to be heard at the August 18, 2009 hearing at which time Ms. Anaya failed to appear. The matter was deferred to the October 20, 2009 hearing, and marked “final”. The applicant also failed to appear at the October hearing; thereby receiving a decision of denial for failure to appear. Ms. Anaya filed an appeal to the Board of Appeals and the matter was remanded back to the ZHE for a hearing on the merits.

Ms. Anaya testified that she has owned and resided on this property for approximately six years. She stated that her son currently resides in the accessory living quarters which contains a second kitchen and separate utilities. Accessory structures, by definition, are allowed as conditional use when they are complimentary to the main dwelling. In this instance this structure is set up as an independent house on a single lot. The home has a second kitchen and separate utilities; thereby potentially used as a separate rental. This is not allowable in this zone category. For this reason, it is determined that this proposed conditional use will be injurious to the neighborhood in that it would establish two homes on a single lot and have a negative impact on open space and property values. Conditional use approvals have been determined to be approvals that attaché to the land and are in perpetuity and therefore the potential for future violations of approvals may be realized. I am, therefore, compelled to deny this request.

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 does not comply with Section 14. 16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will cause injury to the neighborhood, adjacent property or the community, and will be damaged by surrounding structures. For reasons stated above, this request is denied.

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on March 16, 2010 in the manner described below:**

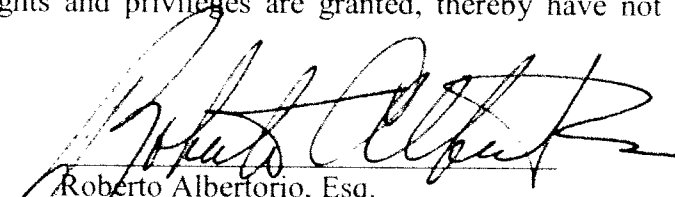
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

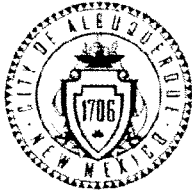
You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building 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  
Mary Corrine Anaya, 3012 Franciscan Street NE, 87107  
Art Torres, [bluevoodoo7@msn.com](mailto:bluevoodoo7@msn.com)  
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NOTIFICATION OF DECISION

MARY CORRINE ANAYA request(s) a special exception to Section 14-16-2-6(B)(3): a CONDITIONAL USE to allow for an existing carport in the front yard setback area on all or a portion of Lot(s) 5, Block(s) 7, STRONGHURST ADDN zoned R-1, located at 3012 FRANCISCAN ST NE (G-15)

Special Exception No:.....**09ZHE-80239**  
Project No:.....**Project# 1007896**  
Hearing Date: .....02-16-10  
Closing of Public Record: .....02-16-10  
Date of Decision: .....03-01-10

**STATEMENT OF FACTS:** The applicant, Mary Corrine Anaya, requests a conditional use to allow for an existing carport in the front yard setback area. This matter was originally scheduled to be heard at the August 18, 2009 hearing at which time Ms. Anaya failed to appear. The matter was deferred to the October 20, 2009 hearing, and marked “final”. The applicant also failed to appear at the October hearing; thereby receiving a decision of denial for failure to appear. Ms. Anaya filed an appeal to the Board of Appeals and the matter was remanded back to the ZHE for a hearing on the merits.

Ms. Anaya testified that she has owned and resided on this property for approximately 6 years. She submits that this existing carport is a permanent attached structure to the front porch of the home and does not cause injury to the adjacent property. There are two letters of opposition, from neighbors, noted in the file. There are no other like carports in the community. The opponents indicate there is considerable clutter as the carport is attached to the front of the porch and not to the side yard as is customary with carports. The existing carport is used to store debris and other unsightly items.

The carport does not conform to the architectural scheme of the home. The carport appears to have been purchased as an independent unit and anchored to the home. It is unappealing and dissimilar to conventional carport structures that add to property values and to the community. I find that this proposed use would cause injury to the neighborhood, adjacent property and the community in that it will impact the streetscape in a negative manner and devalue property.

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 does not comply with Section 14. 16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will cause injury to the neighborhood, adjacent property or the community, and will be damaged by surrounding structures. For reasons stated above, this request is denied.

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on March 16, 2010 in the manner described below:**

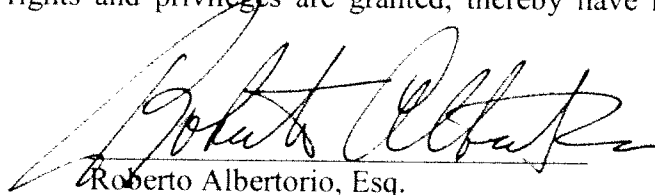
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Please note that pursuant to Section 14.16.4.4.(B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

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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