

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

WILLIAM CRAIG GINN request(s) a special exception to Section 14-16-2-6(E)(3)(b): a VARIANCE of 9' to the 10' side yard setback area requirement for a proposed covered patio on all or a portion of Lot(s) 10, Block(s) 13, WILLOW WOOD UNIT 4 zoned R-1, located at 1146 TONY SANCHEZ DR SE (L-21)

Special Exception No:..... **09ZHE-80324**
Project No: **Project# 1007996**
Hearing Date: 11-17-09
Closing of Public Record: 11-17-09
Date of Decision: 12-02-09

STATEMENT OF FACTS: The applicant, William Craig Ginn, requests a variance of 9' to the 10' side yard setback area requirement for a proposed covered patio. The applicant's request requires a showing of exceptional physical parcel conditions as compared to other parcels in the immediate vicinity. The applicant states that this is a corner parcel which is exceptionally busy. This does not comply with the requirements of the Zoning Ordinance. Mr. Ginn's attachment to his application, by letter, also does not evince sufficient exceptionality to warrant approval.

There is considerable opposition to this request which indicates that this already existing covered patio negatively impacts on the community's covenants. Opponents state the patio is an eyesore, nuisance and impacts on property values. There were nine people present at the hearing in opposition to 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 parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on December 17, 2009 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

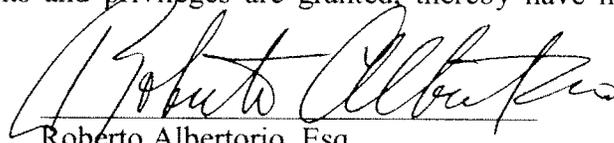
reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the 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
William Craig Ginn, 1146 Tony Sanchez Drive SE, 87123
Anthony Salazar, 1135 Tony Sanchez Drive SE, 87123
Shirley Winckel, 1159 Chiricahua SE, 87123
Matthew Cattaneo, 1143 Tony Sanchez Drive SE, 87123
Mr. & Mrs. Jensen, 1100 Jewel Cave, 87123
Francis Bushman, 11101 Jewel Cave Road SE, 87123
Bea & Richard Salazar, 1135 Tony Sanchez Drive SE, 87123
Clay & Violet Whelstine, 800 Bryce Canyon SE, 87123
Patty Comiskey, 1155 Chiricahua, SE, 87123
Dave Rider, 11839 Isle Royale Place SE, 87123
Bobby Fowler, 11847 Isle Royale Place SE, 87123