

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

TRACY & SAM HERRERA (DON DUDLEY, AGENT) request(s) a special exception to Section 14-16-2-6(B)(1) and 14-16-2-5(B)(1): a CONDITIONAL USE to allow for a proposed detached accessory living quarters in an RA-2 zone on all or a portion of Lot(s) 38, QUAKER HEIGHTS ADDN zoned RA-2, located at 4610 QUAKER HEIGHTS PL NW (F-11)

Special Exception No:..... **10ZHE-80130**  
Project No:..... **Project# 1008295**  
Hearing Date:..... 05-18-10  
Closing of Public Record:..... 05-18-10  
Date of Decision: ..... 06-01-10

**STATEMENT OF FACTS:** The applicants, Tracy & Sam Herrera, request a conditional use to allow for a proposed detached accessory living quarters in an RA-2 zone. Don Dudley, agent for the applicant, testified that his clients have owned and resided on this property for approximately 25 years. Mr. Dudley indicated that the lot is exceptional because of its irregularly large size and shape. There will be no second kitchen and it will not be used as a rental. There are letters of support from neighbors noted in the file. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file. If approved, a 3,130 sq ft two story detached addition will be constructed on the property. This is not incidental to the primary residence but establishes a secondary residence on a single lot. The primary residence is 3,770 sq ft. The proposed accessory structure is intended to be 3,137 sq ft. This is too large to be considered as an accessory structure. The intent of the accessory structure is that it is incidental and complimentary to the main structure. This proposal would result with two large homes on a single RA-2 zone and would compromise the zoning category. These facts do not comply with the goals for accessory structures. Accordingly this request is denied upon a finding that this proposed conditional use will cause injury to the neighborhood, adjacent property and the community.

The alleged exceptionality does not create unusual hardship and would not deny reasonable use of the property nor deny a reasonable return on his investment.

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 June 16, 2010 in the manner described below:**

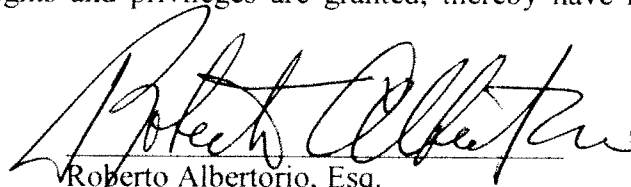
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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  
Tracy & Sam Herrera, 4610 Quaker Heights Place NW, 87120  
Don Dudley, 400 Gold Avenue SW, Studio 850, 87102  
Tony Groom, 5800 Jones Place NW, 87120  
Georgia Allen, 4608 Quaker Heights Place NW, 87120

Albert Teupell, 4620 Quaker Heights Place NW, 87120



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NOTIFICATION OF DECISION

TRACY & SAM HERRERA (DON DUDLEY, AGENT) request(s) a special exception to Section 14-16-3-3(B)(2)(a): a VARIANCE of 4' 5" to the 18' accessory living structure maximum height limit requirement for a proposed 22' 5" high detached two-story accessory living quarters on all or a portion of Lot(s) 38, QUAKER HEIGHTS ADDN zoned RA-2, located at 4610 QUAKER HEIGHTS PL NW (F-11)

Special Exception No:..... **10ZHE-80131**  
Project No:..... **Project# 1008295**  
Hearing Date:..... 05-18-10  
Closing of Public Record:..... 05-18-10  
Date of Decision: ..... 06-01-10

**STATEMENT OF FACTS:** The applicants, Tracy & Sam Herrera, request a variance of 4' 5" to the 18' accessory living structure maximum height limit requirement for a proposed 22' 5" high detached two-story accessory living quarters. Don Dudley, agent for the applicant, testified that his clients have owned and resided on this property for approximately 25 years. Mr. Dudley indicated that the lot is exceptional because of its irregularly large size and shape. There will be no second kitchen and it will not be used as a rental. There are letters of support from neighbors noted in the file. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file. If approved, a 3,130 sq ft two story detached addition will be constructed on the property. This is not incidental to the primary residence but establishes a secondary residence on a single lot. The primary residence is 3,770 sq ft. The proposed accessory structure is intended to be 3,137 sq ft. This is too large to be considered as an accessory structure. The intent of the accessory structure is that it is incidental and complimentary to the main structure. This proposal would result with two large homes on a single RA-2 zone and would compromise the zoning category. These facts do not comply with the goals for accessory structures. Accordingly this request is denied upon a finding that this proposed conditional use will cause injury to the neighborhood, adjacent property and the community.

The alleged exceptionality does not create unusual hardship and would not deny reasonable use of the property nor deny a reasonable return on his investment.

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 June 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.

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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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