



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

VERA GONZALES (PATRICK RUIZ, AGENT) request(s) a special exception to Section 14-16-2-6(E)(4): a VARIANCE of 10' to the 10' distance separation requirement between an existing dwelling and accessory structure on all or a portion of Lot(s) 30, Block(s) 4, COUNTRY CLUB ADDN zoned R-1, located at 424 SYCAMORE ST NE (K-15)

Special Exception No:..... **10ZHE-80216**  
Project No: ..... **Project# 1008383**  
Hearing Date: ..... 07-20-10  
Closing of Public Record: ..... 07-20-10  
Date of Decision: ..... 08-02-10

**STATEMENT OF FACTS:** The applicant, Vera Gonzales, requests a variance of 10' to the 10' distance separation requirement between an existing dwelling and accessory structure. The applicant's representative raised numerous equity considerations to support these two requests. He also states that the parcel is narrow to the rear and obtains slopes to the front. However, he did not comment nor was there any evidence that these conditions are unique or exceptional as compared to other parcels in the community.

This request is opposed by the Spruce Park, Sycamore and Silver Hills Neighborhood Association. In summary they argue that this request does not meet the test for approval of variances as required by Section 14-16-2-6(E)(4).

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:** This case has some history. In the ZA-90-221, dated September 13, 1990, it was determined that the applicant's request required denial as the parcel was not exceptional and further the applicant was not experiencing practical difficulties or unnecessary hardship.

There is no record that the ZA-90-221 determination was reversed by any appellate review.

In this case, there is no evidence adduced to persuade a different conclusion from 1990. Therefore, given the limited jurisdiction of this office, I am **COMPELLED** to deny this request. 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 August 17, 2010 in the manner described below:**

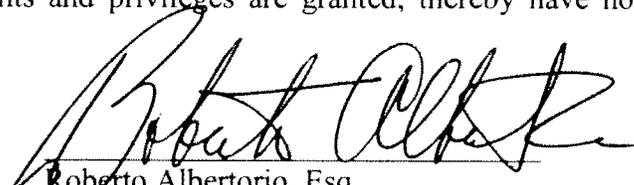
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

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