

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

SREEJITH VIJAYAN (HOME RESORT LIVING, SHERI BARAJAS, AGENT) request(s) a special exception to Section 14-16-2-14(E)(1) and 14-16-2-12(B)(1), 14-16-2-11(B)(1) AND 14-16-2-6(B)(12): a CONDITIONAL USE for a proposed shade structure in the rear yard setback area for all or a portion of Lot(s) 11, Block(s) E, KENSINGTON PHASE 2 zoned R-D, located on 6412 AMBERSIDE RD NW (H-10)

Special Exception No:..... **12ZHE-80156**
Project No: **Project# 1009261**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 5, 2012

On June 19, 2012, Interim Zoning Hearing Examiner heard Project# 1009261, 12ZHE-80156, a conditional use for a proposed shade structure in the rear yard setback area at 6412 Amberside Rd NW.

SUMMARY:

1. Sreejith Vijayan requests a conditional use for a proposed shade structure in the rear yard setback area.
2. Larry Chavez Jr, agent for Home Resort Living testified that Mr. Vijayan has owned the property for approximately 6 years.
3. Mr. Chavez testified that the shade structure would provide the homeowner shade to the south of the home.
4. The proposed shade structure will be 11' from the home and 5' into the 15' rear setback area.
5. Mr. Chavez testified that any drainage from the shade structure will drain into the homeowner's property.
6. Mr. Chavez was advised that no wall will be built within the required setback area. He did testify that there is an existing fence to the west on the property line. However, the shade structure will not be enclosed.
7. He also testified that the shade structure will not damage surrounding structures or activities.
8. There is no letters of opposition in the file or was there any opposition at the hearing.
9. The yellow signs were posted.

FINDINGS:

1. The proposed structure is harmonious with the building site and surrounding sites.
2. There are no letters of opposition.
3. The yellow signs were posted.

CONCLUSION: The burden has been met for a conditional use for a proposed shade structure.

DECISION: Approved with conditions.

CONDITIONS:

1. No part of the shade structure will be within three feet of a property line.
2. No building wall is ever built within the required setback area.
3. No more than 50% of the required yard setback area is covered by a roof.
4. The structure will not exceed 12 feet in height nor shall it exceed the height of the principal building on the site.
5. A second floor deck is prohibited.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 20, 2012 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.

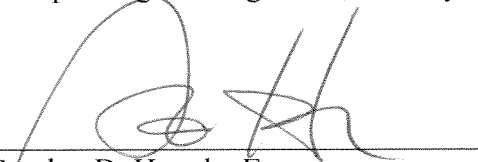
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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.



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Sreejith Vijayan, 6412 Amberside Rd NW, 87120
Home Resort Living, 4500 Hawkins St NE, 87109