



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

RONALD AND KIMBERLY STARKEY request(s) a special exception to Section 14-16-2-6(e)(1): a VARIANCE of 5' to the required 20' front yard setback for a proposed addition for all or a portion of Lot(s) 3, Block(s) 6, ANASAZI RIDGE zoned R-1, located on 6508 DESERT SPIRIT RD NW (A-10)

Special Exception No: **12ZHE-80279**
Project No: **Project# 1009423**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Ronald and Kimberly Starkey appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, requesting a Variance of 5' to the required 20' front yard setback area for a proposed addition at 6508 Desert Spirit Rd NW. Below are the findings of facts:

FINDINGS:

1. Ronald and Kimberly Starkey request a variance of 5' to the required 20' front yard setback for a proposed addition.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (a) "SPECIAL EXCEPTIONS" reads in part: "*Variance. A variance shall be approved if and only if the following tests are met: (a) The property is exceptional*"
3. Mrs. Starkey testified that the property is exceptional due to its unusual shape as it has an odd bend in the front when it was platted for development.
4. Mrs. Starkey testified that when the home was built, it should have been set back further to accommodate a two car garage. The builder Tiffany Homes is no longer building in the area.
5. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (b) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following tests are met: (b) as a result of the exceptional aspect of the property, the regulations produce unnecessary hardship*"
6. Mrs. Starkey testified that because of the unusual shape of the lot (exceptionality), and the way that the house was placed on the lot, it makes it difficult to adequately park two vehicles in the garage (unnecessary hardship).
7. Mrs. Starkey testified that the 5 ½ foot variance request would allow for our vehicles to be able to park comfortably and be protected from vandals and theft if left outside the residence.
8. Mrs. Starkey testified that her and Mr. Starkey have discussed the variance request (correspondence enclosed in the file) and have been given the approval to proceed with the special exception process.
9. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (c) "SPECIAL EXCEPTIONS" reads in part: "*A variance shall be approved if and only if the following*

tests are met: (c) a particular variance is appropriate to prevent the unnecessary hardship.”

10. Both the application and testimony provided at the hearing demonstrate that the variance (to the setback) is needed to prevent the unnecessary hardship.
11. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (2) (d) “SPECIAL EXCEPTIONS” reads in part: “*A variance shall be approved if and only if the following tests are met: (d) financial gain or loss shall not be the sole determining factor in deciding a variance.*”
12. Both the application and testimony provided at the hearing suggest that financial gain/loss is not the sole determining factor of the Variance Application.
13. The yellow “Notice of Hearing” signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
14. The Starkey’s have submitted a site plan showing the proposed changes and have included the proper documentation for the special exception submittal.
15. There are no letters of opposition letters in the file.
16. The Applicant has adequately justified the Variance request pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a VARIANCE of 5' to the required 20' front yard setback for a proposed addition for all or a portion of Lot(s) 3, Block(s) 6, ANASAZI RIDGE zoned R-1, located on 6508 DESERT SPIRIT RD NW (A-10)

DECISION:

APPROVAL of a VARIANCE of 5' to the required 20' front yard setback for a proposed addition for all or a portion of Lot(s) 3, Block(s) 6, ANASAZI RIDGE zoned R-1, located on 6508 DESERT SPIRIT RD NW (A-10)

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

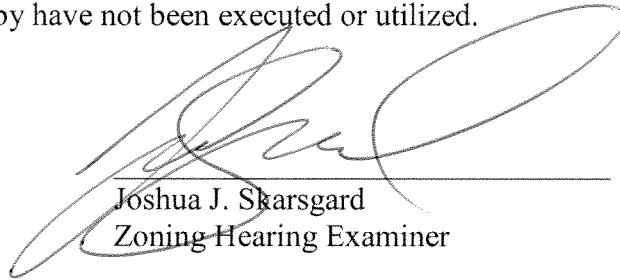
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Ronald and Kimberly Starkey, 6508 Desert Spirit Rd, 87114