

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

PHILLIP PANUZZO (PAUL D. SANTILLANES, ALCON INC) request(s) a special exception to Page 74 and 75 of the UNIVERSITY NEIGHBORHOODS SECTOR DEVELOPMENT PLAN and 14-16-2-9(E)(1): a VARIANCE of 15' to the required 15' front yard setback area for a proposed single family dwelling for all or a portion of Lot(s) D , OF REPLAT OF LOTS 4,5 &6, Block(s) 33, TERRACE ADDN zoned SU- 2 MD-2, located on 1206 COAL AV SE (K-15)

Special Exception No:..... **12ZHE-80258**
Project No: **Project# 1009399**
Hearing Date: 09-18-12
Closing of Public Record:..... 09-18-12
Date of Decision: 10-03-12

On September 18, 2012, Paul D. Santillanes, agent for Phillip Panuzzo appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a variance of 15' to the required 15' front yard setback area for a proposed residence at 1206 Coal Ave SE.

SUMMARY:

1. Mr. Santillanes testified that the subject property is exceptional in that it is unusual in size, location and orientation as granted by a previous re-plat.
2. Mr. Santillanes testified that the property measures 75' in width and only 50' in depth.
3. Mr. Santillanes testified the property was formed by a re-plat of the rear sections of properties that face Coal Ave.
4. Mr. Santillanes testified that the rear properties originally abutted th alley that now forms the southeastern edge of the subject property.
5. Mr. Santillanes testified that the property is addressed off of Coal Ave, but maintains no direct access to Coal Ave. The sole access to the property is from the alley.
6. Mr. Santillanes testified that the properties to the east and west allow for no access to allow for an easement, as well as having existing structures/walls in place.
7. Mr. Santillanes testified that his client's property is the only property in the alley corridor on either side that suffers from these unusual conditions.
8. Mr. Santillanes testified that from a zoning standpoint, the property as it exists does not have a front side with which to start the setback analysis. Also, the depth, width, and orientation of the existing structures regardless of front orientation restrict the building footprint to a very small residence.
9. Mr. Santillanes testified the current address of 1206 Coal Ave se is creating difficulties for emergency response agencies a swell as other utility agencies access.

10. Mr. Santillanes testified that he and his client are working with the City of Albuquerque Surveyor to have the alley named a street and then grant the property a new address. This action would then make the alley side the new front of the property.
11. Mr. Santillanes testified the variance he and his client are seeking would allow a structure to be built on the new front lot line in the same fashion as the property to the west.
12. Mr. Santillanes testified that all other setback requirements will be met.
13. Peter Shillkie who spoke for Marden Gardella, Zoning Chairperson for the Sycamore Neighborhood Association, as she was out of town at the time of the hearing..
14. Mr Shillkie testified that although the Neighborhood Association is sympathetic to the Mr. Panuzzo's situation, the request should not be considered at this time.
15. Mr. Shillkie submitted a number of plats showing the numerous replats through the years.
16. Mr. Shillkie testified the alley is only 16 feet wide and is not wide enough to accommodate a legal city street.
17. Mr. Shillkie testified that the alley slopes down from east to west.
18. Mr. Shillkie testified that that the request should not be approved unless the condition of the alley is upgraded and addressed, and access on both ends of the alley is addressed.
19. Ms. Gardella expressed concern that only one dwelling should be allowed if the application is approved, and would like a condition of the one dwelling placed if approved.
20. Mr. Santillanes agreed to place only one dwelling on the lot if approved, as well as making sure that the alley is going to be allowed through other city processes.
21. The City Traffic Engineer does not have an issue with the clear sight triangle measurement.
22. The yellow signs were posted for the required time.

FINDINGS: Mr. Santillanes has met the burden for a variance of 15' to the required 15' front yard setback area for a proposed residence at 1206 Coal Ave SE.

DECISION: Approved with conditions.

CONDITIONS:

1. The variance approval shall not be applied until the City of Albuquerque acts to designate the adjacent alley that abuts Mr. Panuzzo's property to designate the alley as a street.
2. Only one dwelling shall be allowed to be built on the property.

If you wish to appeal this decision, you may do so by 5:00 p.m., on October 18, 2012 in the manner described below:

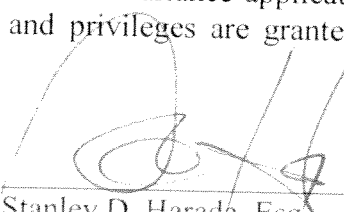
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Paul D. Santillanes, P.O. Box 6504 87197
Phillip Panuzzo, 1206 CoalAe SE 87106
Mardon Gardella, 1217 Coal Ave SE 87106
ZHE File