

CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

JESUS R AND LUZ MARIE GONZALEZ (LEYBA BUILDING CONTRACTOR, INC., PERCY LEYBA, AGENT) request(s) a special exception to Section 14-16-2-6(B)(12), 14-16-2-14(E)(2) and 14-16-2-12 (B)(1): a CONDITIONAL USE to allow a proposed covered patio in the rear yard setback area for all or a portion of Lot(s) 14-P1, STINSON PARK zoned R-D 6DU/AC, located on 743 JACONITA PL SW (L-10)

Special Exception No: ..... **12ZHE-80263**  
Project No: ..... **Project# 1009408**  
Hearing Date: ..... 10-16-12  
Closing of Public Record: ..... 10-16-12  
Date of Decision: ..... 10-31-12

On October 16, 2012, Percy Leyba, agent for Jesus and Luz Marie Gonzalez appeared before Zoning Hearing Examiner, Joshua Skarsgard, requesting a conditional use to allow a proposed covered patio in the rear yard setback area at 743 Jaconita Pl SW. Below are the findings of facts.

**FINDINGS:**

1. Jesus and Luz Marie Gonzalez request a conditional use to allow a proposed covered patio in the rear yard setback at 743 Jaconita Pl SW.
2. Percy Leyba, agent and contractor testified that the Gonzalez family purchased their home in 2008 and retired in Albuquerque in 2010.
3. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*"
4. Mr. Leyba testified that his request will not be injurious to the surrounding community because there are no neighbors to the back of the property that would be significantly impacted by the patio or its construction.
5. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*"
6. Mr. Leyba testified that the proposed covered patio would be 10' from the rear property line and 5' from the south side property lines and will not significantly damage surrounding structures or activities.
7. The home currently has a small porch but is not big enough for use by the owner.

8. Mr. Leyba testified that the patio will match the stucco of the home.
9. There is a letter of support in the file from Norman Mason, President of the Stinson Tower Neighborhood Association.
10. There are no letters of opposition in the file nor was there any opposition at the hearing.
11. 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.

**DECISION:**

**APPROVAL WITH CONDITIONS** of a **CONDITIONAL USE** to allow a proposed covered patio in the rear yard setback area for all or a portion of Lot(s) 14-P1, STINSON PARK zoned R-D 6DU/AC, located on 743 JACONITA PL SW (L-10)

**CONDITION OF APPROVAL:**

The applicant shall ensure that the patio stucco is architecturally harmonious to the personal residence.

**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:**

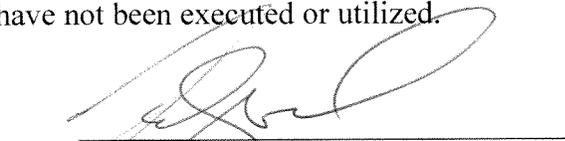
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



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Joshua Skarsgard  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Jesus and Luz Marie Gonzalez, 743 Jaconita Pl SW, 87121  
Percy Leyba, 2300 Lakeview Rd SW, 87105  
Norman Mason, STNA, 7427 Via Tranquilo SW, 87121