



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

JACK & MICKEY ATKINSON (JOSH SKARSGARD, AGENT) request(s) a special exception to Section 14-16-2-1(B)(10): a VARIANCE of 27' to the 100' distance separation requirement between an existing mobile home, for a watchman/caretaker quarters, and a residential zone on all or a portion of Lot(s) A, B, & F, Block(s) 3, PALISADES ADDN zoned C-2, located at 420 LOMA HERMOSA DR NW (J-11)

Special Exception No:..... **11ZHE-80228**  
Project No:..... **Project# 1008968**  
Hearing Date:..... 11-14-11  
Closing of Public Record:..... 11-14-11  
Date of Amended Decision:.... 11-29-11

**STATEMENT OF FACTS:** The applicants, Jack & Mickey Atkinson, request a variance of 27' to the 100' distance separation requirement between an existing mobile home, for a watchman/caretaker quarters, and a residential zone. This matter was originally scheduled to be heard on October 18, 2011; however, was deferred and re-scheduled to November 14, 2011. The use variance is not an appropriate request. The allowable use of the premises may not be changed via a variance. This request would change an allowable use through this variance request.

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:** The Zoning Enforcement Officer, for the City of Albuquerque, advises that use variances are not permitted as Special Exceptions to the Zoning Ordinance. This office does not have authority to approve use variance requests. 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 December 14, 2011 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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Anita Reina, Esq.  
Deputy Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Jack & Mickey Atkinson, 3924 Calle del Prado NW, 87105  
Joshua Skarsgard, 8220 San Pedro NE, Ste, 500, 87113  
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