

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

EARL & ELIZABETH PERRY (SALAZAR CONSTRUCTION, JAMES SALAZAR, AGENT) request(s) a special exception to Section 14-16-2-6(B)(12): a CONDITIONAL USE to allow a proposed patio cover within the required rear yard setback area in a SU-3 zone for all or a portion of Lot(s) 16, OXBOW NORTH zoned SU-3, located on 4315 BERESFORD LANE NW (F-11)

Special Exception No:..... **12ZHE-80198**
Project No: **Project# 1009326**
Hearing Date:08-21-12
Closing of Public Record:08-21-12
Date of Decision:08-28-12

On August 21, 2012, James Salazar, agent for Earl and Elizabeth Perry came before Interim Hearing Officer, Stanley D. Harada, for a conditional use to allow a proposed patio cover within the required rear yard setback area at 4315 Beresford Lane NW.

SUMMARY OF FACTS:

1. Earl and Elizabeth Perry request a conditional use to allow a proposed patio cover within the required rear yard setback area at 4315 Beresford Lane NW.
2. Mr. Salazar testified that his clients have owned the property for seven (7) years.
3. Mr. Salazar testified that the shade structure will not be injurious to the surrounding community or adjacent property.
4. Mr. Salazar testified that it will not be enclosed by a building wall and will not be within 3' of the property line.
5. The patio cover will help eliminate heat in the evenings and nights. The back of the house faces west and the Perry's would like to enjoy their backyard. Mr. Salazar testified that the owners had placed a portal to eliminate heat but it has been unsuccessful.
6. There are no letters of opposition in the file nor was there any opposition at the hearing.
7. The project was approved by the Oxbow North Homeowners Association.
8. The yellow signs were posted for the prescribed time.

CONCLUSIONS: Mr. and Mrs. Perry have met the burden for a conditional use to allow a proposed patio cover within the required rear yard setback area at 4315 Beresford Lane NW.

DECISION: Approved with conditions.

CONDITIONS:

1. No part is within three feet of the property line.
2. No building wall is ever built within the required setback area.
3. No more than 50% of the required rear yard setback area is covered by a roof.

4. The structure shall 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 September 13, 2012 in the manner described below:

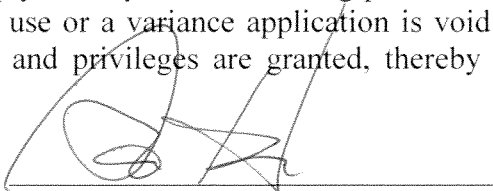
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Earl and Elizabeth Perry, 4315 Beresford Lane NW, 87120
James Salazar, #12 Arroyo Negro, Santa Fe, NM 87506