

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

JACK & MICKEY ATKINSON (JOSH SKARSGARD, AGENT) request(s) a special exception to Section 14-16-2-1(B)(10): a CONDITIONAL USE to allow an existing mobile home for a watchman/caretaker quarters 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-80227**
Project No: **Project# 1008968**
Hearing Date: 11-14-11
Closing of Public Record: 11-14-11
Date of Decision: 11-29-11

STATEMENT OF FACTS: The applicants, Jack & Mickey Atkinson, request a conditional use to allow an existing mobile home for a watchman/caretaker quarters. This matter was originally scheduled to be heard on October 18, 2011; however, was deferred and re-scheduled to November 14, 2011. Josh Skarsgard, agent for the applicant, testified that his clients have owned this property for approximately 30 years. There is an existing mobile home on this property, which is used as a watchman's quarters, next to their dry cleaning business.

Mr. Jose Padilla testified that he opposes both the variance and conditional use requests because he feels that the use of the mobile home is illegal because the applicants are already living in the mobile home. Mr. Padilla also testified that the property had been red tagged for various zoning violations.

Louis Tafoya who represents the West Mesa Neighborhood Association testified in support of both the variance and conditional use requests. Mr. Tafoya said that all members of the West Mesa Neighborhood Association support both the variance and conditional use requests. There are also two letters of support noted in the file.

Based on all of the testimony and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures. For reasons stated above, this request is approved.

DECISION: Approved with conditions.

CONDITIONS: Mobile home must be moved so that it meets the requirement that the mobile home shall not be within 100' of a lot in a residential zone or a dwelling unit in any zone.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

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.



Anita Reina, Esq.

Deputy Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Jack & Mickey Atkinson, 3924 Calle del Prado NW, 87105

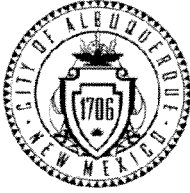
Joshua Skarsgard, 8220 San Pedro NE, Ste, 500, 87113

West Mesa NA, President@WestMesaNA.org

Francisco Torres, 434 Loma Hermosa NW, 87105

Louis Tafoya, 6411 Avalon Road NW, 87105

Jose Padilla, 347 58th Street NW, 87105



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NOTIFICATION OF 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 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 variance is not an appropriate request in this case. 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: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. 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:

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