

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

ARCHDIOCESE OF SANTA FE (ST. FRANCIS XAVIER PARISH) request(s) a special exception to Section 14-16-3-10(E)(3)(b): a VARIANCE of 6' to the 6' side yard landscape buffer requirement for an existing parking lot on all or a portion of Lot(s) 1-12, Block(s) 5, LEWIS & SIMONDS ADDN zoned SU-2 NCR/SU-2 MR, located at 820 BROADWAY BLVD SE (K-14)

Special Exception No:..... **10ZHE-80023**
Project No:..... **Project# 1008168**
Hearing Date: 09-02-10
Closing of Public Record: 09-02-10
Date of Decision: 09-30-10

STATEMENT OF FACTS: The applicant, Archdiocese of Santa Fe, requests a variance of 6' to the 6' side yard landscape buffer requirement for an existing parking lot. This matter was remanded in order to assure compliance with notice provisions for the SU-2 NCR SU-2 MR zoning. The matter was re-advertized, yellow signs were posted, and appropriate neighborhood associations notified and property owners within 300' of the subject site were mailed notice. At the subsequent hearing, all interested party representatives agreed that there was full compliance with the notice requirements and therefore that issue was moot.

At the subsequent hearing, all interested parties were given opportunity to present their evidence. Presentations were cumulative with the previous record. The statements of facts of the previous hearing are incorporate by reference herein.

The applicant has submitted a new site plan which provides some landscaping along the southern property line. The remainder of the area is generously landscaped. However, the parties agreed to meet in order to come to some resolution of the remaining area for landscape.

The findings and conclusions of the original decision remain and are repeated as follows.

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 exceptional as compared to other parcels in the vicinity and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular zoning

regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Approved.

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.

If you wish to appeal this decision, you may do so by 5:00 p.m., on October 15, 2010 in the manner described below:

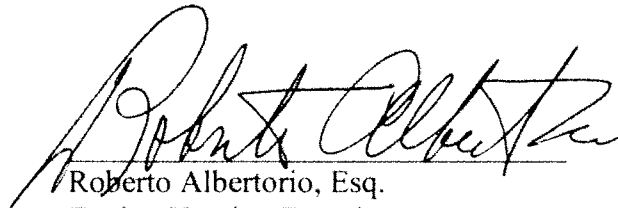
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
 ZHE File
 Archdiocese of Santa Fe, 4000 St. Joseph Place NW, 87120
 Sister Bernice Garcia, St. Francis Xavier Parish, 820 Broadway Blvd., SE, 87102
 Angela Benson, 4700 Lincoln Road NE, 87111
 Diana Dorn-Jones, SBNA, 1213 Edith SE, 87102
 Doug Crandall, P.O. Box 16658, 87191
 Anna Cordova, 1417 Lucreta St., SW, 87121
 Tina Martinez, 1212 High St., SE, 87102
 Lorraine Smith, 1123 William SE, 87102
 Laura Jones, 1012 Broadway Blvd., 87102
 Marie Legrand, 918 Walter Street SE, 87102
 Patrick Martinez, 801 John SE, 87102
 Esther Lopez, 617 Edith SE, 87102
 Cathy Maestas, 4201 Axtell SE, 87105
 Adela Trujillo, 1807 High Street SE, 87102
 Alfredo Urban, 801 Tulane NE, 87102
 E. Bustillos, 2945 Broadway SE, 87102
 Andrea Trujillo, 1222 William Street SE, 87102
 Roni Montoya, 611 Edith SE, 87102
 Janice Chavez, 919 Walter Street SE, 87102
 Leslie Bailly, 919 Walter Street SE, 87102