



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

KARL GASS (GREG BACZEK, AGENT) requests a special exception to Section 14-16-2-6(E)(5)(a): a VARIANCE of 11' to the 15' rear yard setback area requirement for a proposed garage on all or a portion of Lot(s) 23, Block(s) 52, UNIVERSITY HEIGHTS zoned R-1, located at 403 AMHERST DR SE (K-16)

Special Exception No:..... **10ZHE-80137**
Project No:..... **Project# 1008299**
Hearing Date:..... 05-18-10
Closing of Public Record:..... 05-18-10
Date of Decision:..... 06-01-10

STATEMENT OF FACTS: The applicant, Karl Gass, requests a variance of 11' to the 15' rear yard setback area requirement for a proposed garage. The request for variances requires evidence that demonstrates that the applicant is unable to comply with zoning requirements for variances due to exceptional parcel conditions, irregular or narrow lot, or governmental action for which no compensation was received.

The applicant's agent did not offer any evidence of exceptionality to support these requests. Furthermore, the agent did not offer any evidence that his client would suffer any hardship which is also a requirement of the Zoning Ordinance.

The Nob Hill Neighborhood Association supports three of the four requests, but recommend that the fourth be denied. The letter of support essentially addresses aesthetics but does not offer any facts which speak to the requirements for the granting of variances.

For reasons above stated, this office is **COMPELLED** to deny these requests.

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 June 16, 2010 in the manner described below:

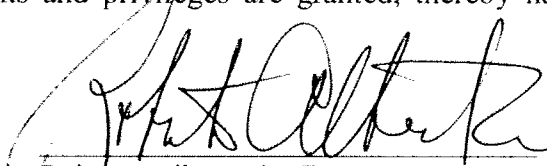
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

A handwritten signature in black ink, appearing to read 'Roberto Albertorio', is written over a horizontal line.

Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Karl Gass, 403 Amherst Drive SE, 87106
Greg Baczek, 1105 Bryn Mawr NE, 87106
Kay Marcotte, 405 Amherst Drive SE, 87106



CITY OF ALBUQUERQUE
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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

KARL GASS (GREG BACZEK, AGENT) request(s) a special exception to Section 14-16-2-6(E)(4): a VARIANCE of 4' to the 5' side yard setback area requirement for a proposed garage on all or a portion of Lot(s) 23, Block(s) 52, UNIVERSITY HEIGHTS zoned R-1, located at 403 AMHERST DR SE (K-16)

Special Exception No:..... **10ZHE-80139**
Project No: **Project# 1008299**
Hearing Date: 05-18-10
Closing of Public Record: 05-18-10
Date of Decision: 06-01-10

STATEMENT OF FACTS: The applicant, Karl Gass, requests a variance of 4' to the 5' side yard setback area requirement for a proposed garage. The request for variances requires evidence that demonstrates that the applicant is unable to comply with zoning requirements for variances due to exceptional parcel conditions, irregular or narrow lot, or governmental action for which no compensation was received.

The applicant's agent did not offer any evidence of exceptionality to support these requests. Furthermore, the agent did not offer any evidence that his client would suffer any hardship which is also a requirement of the Zoning Ordinance.

The Nob Hill Neighborhood Association supports three of the four requests, but recommends that the fourth be denied. The letter of support essentially addresses aesthetics but does not offer any facts which speak to the requirements for the granting of variances.

For reasons above stated, this office is **COMPELLED** to deny these requests.

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 June 16, 2010 in the manner described below:

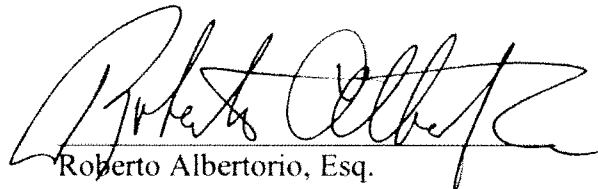
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

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Roberto Albertorio, Esq.
Zoning Hearing Examiner

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NOTIFICATION OF DECISION

KARL GASS (GREG BACZEK, AGENT) request(s) a special exception to Section 14-16-2-6(E)(4)(a): a VARIANCE of 5' to the 5' side yard setback area requirement for an existing garage on all or a portion of Lot(s) 23, Block(s) 52, UNIVERSITY HEIGHTS zoned R-1, located at 403 AMHERST DR SE (K-16)

Special Exception No:..... **10ZHE-80140**
Project No:..... **Project# 1008299**
Hearing Date:..... 05-18-10
Closing of Public Record:..... 05-18-10
Date of Decision:..... 06-01-10

STATEMENT OF FACTS: The applicant Karl Gass, requests a variance of 5' to the 5' side yard setback area requirement for an existing garage. The request for variances requires evidence that demonstrates that the applicant is unable to comply with zoning requirements for variances due to exceptional parcel conditions, irregular or narrow lot, or governmental action for which no compensation was received.

The applicant's agent did not offer any evidence of exceptionality to support these requests. Furthermore, the agent did not offer any evidence that his client would suffer any hardship which is also a requirement of the Zoning Ordinance.

The Nob Hill Neighborhood Association supports three of the four requests, but recommend that the fourth be denied. The letter of support essentially addresses aesthetics but does not offer any facts which speak to the requirements for the granting of variances.

For reasons above stated, this office is **COMPELLED** to deny these requests.

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.

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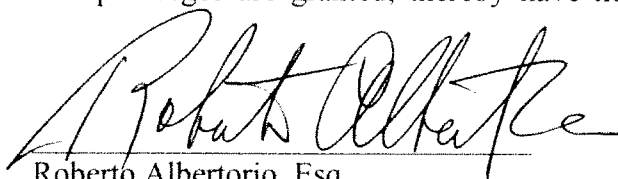
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Roberto Albertorio, Esq.
Zoning Hearing Examiner

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KARL GASS (GREG BACZEK, AGENT) request(s) a special exception to Section 14-16-2-6(E)(4): a VARIANCE of 2' 6" to the 10' distance separation requirement between dwelling units on all or a portion of Lot(s) 23, Block(s) 52, UNIVERSITY HEIGHTS zoned R-1, located at 403 AMHERST DR SE (K-16)

Special Exception No:..... **10ZHE-80141**
Project No:..... **Project# 1008299**
Hearing Date:..... 05-18-10
Closing of Public Record:..... 05-18-10
Date of Decision:..... 06-01-10

STATEMENT OF FACTS: The applicant, Karl Gass, requests a variance of 4' 6" to the 10' distance separation requirement between dwelling units. The request for variances requires evidence that demonstrates that the applicant is unable to comply with zoning requirements for variances due to exceptional parcel conditions, irregular or narrow lot, or governmental action for which no compensation was received.

The applicant's agent did not offer any evidence of exceptionality to support these requests. Furthermore, the agent did not offer any evidence that his client would suffer any hardship which is also a requirement of the Zoning Ordinance.

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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.

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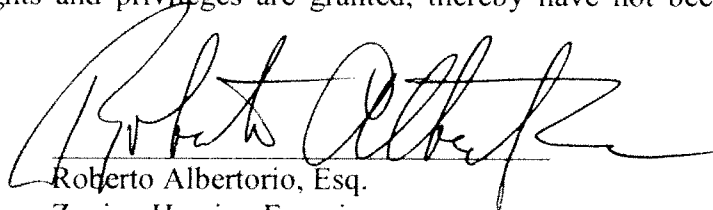
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