

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

GENE J. STURNER request(s) a special exception to Section 14-16-3-3(2)(A): a VARIANCE of 9' to the 20' front yard setback area requirement for a proposed accessory structure (garage) on all or a portion of Lot(s) 1B, OLD TOWN GARDENS zoned R-1, located at 2421 CONSUELO LN NW (J-13)

Special Exception No:..... **10ZHE-80207**
Project No: **Project# 1008375**
Hearing Date: 07-20-10
Closing of Public Record: 07-20-10
Date of Decision: 08-03-10

STATEMENT OF FACTS: The applicant, Gene Sturner, requests a variance of 9' to the 20' front yard setback area requirement for a proposed accessory structure (single car garage). Mr. Sturner testified, at the hearing, that he owns this property. After renovations have been made, Mr. Sturner intends to use this property as either a rental unit or for re-sale. He indicated that this lot is exceptional because of its irregular size and shape. If approved, a detached single car garage will be constructed. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this garage. The yellow sign was posted.

Mary Otero testified in opposition to this request. She indicated that the proposed accessory structure is too large and does not fit in with the architectural scheme of the neighborhood. In rebuttal, Mr. Sturner stated that it will conform to the architectural scheme of the existing dwelling and will not obstruct the neighbors' views.

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: This parcel is located in a cul de sac development with this unique pattern attaching to this applicant's property. There is sufficient exceptionality to warrant approval. Further, this approval will not interfere with the enjoyment of other property owners. 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 August 18, 2010 in the manner described below:

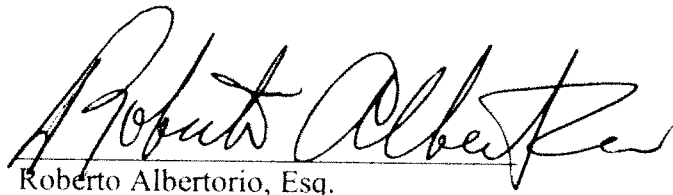
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Gene Sturner, 2421 Consuelo Lane, 87112