

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

RACHEL MONTENEGRO (KEN HOVEY, AGENT) request(s) a special exception to Section 14-16-2-6(E)(5)(a): a VARIANCE of 9' 8" to the required 15' for a proposed addition in the rear yard setback area for all or a portion of Lot(s) West 40' Lot 28 & East 40' Lot 29, Block(s) 3, AZTEC ADDN UNIT 2 zoned R-1, located on 9215 SHOSHONE RD NE (G-20)

Special Exception No:..... **12ZHE-80217**
Project No: **Project# 1009352**
Hearing Date: 08-21-12
Closing of Public Record: 08-21-12
Date of Decision: 09-06-12

On August 21, 2012, Ken Hovey, agent for Rachel Montenegro appeared before the Interim Hearing Officer, Stanley D. Harada, for a variance of 9'9" to the required 15' rear yard setback area for a proposed addition to a single family dwelling.

SUMMARY:

1. Mr. Hovey testified that he is seeking a variance of 9'9" to the required 15' rear yard setback area at 9215 Shoshone RD NE
2. Mr. Hovey testified that he and his wife Rachel Montenegro, who owns the residence disabled and have medical hardships as exceptionality to the property.
3. Mr. Hovey testified that he had his two legs amputated in April 2012, due to a drug resistant staph infection. He is now dependent on friends and relatives for transportation.
4. Mr. Hovey testified that the reason for the variance request is necessary due to the physical disabilities he and his wife have attained.
5. Mr. Hovey testified that he is an architect, and has since closed his professional services office which was located at 1506 Central Ave SE, due to his recent disability.
6. Mr. Hovey testified he would like to construct a home studio/office and attach it to the rear of the property. This would allow him to keep his architecture business running and allow him some degree of self sufficiency.
7. Mr. Hovey testified that his wife Rachel also is physically disabled and is nominally ambulatory, but frequently needs a wheelchair to get around.
8. Mr. Hovey testified that he feels that the property is exceptional by token of the physical disabilities of the property's residence.
9. Mr. Hovey testified that the property has a residence consisting of approximately 1,200 heated square feet and a detached 20'x 12' accessory structure.
10. Mr. Hovey testified that he is proposing to construct a 17'x17' addition to the residence which will connect the residence to the detached structure.

11. Mr. Hovey testified that without indoor access to the studio/home office, he will subject to a substantial and unjustified limitation to a reasonable use of the property. Approval of the variance is necessary to to prevent unnecessary hardship
12. Mr. Hovey testified that the appearance of the addition will be in harmony with the existing house and community.
13. Mr. Hovey testified that the variance request will not cause injury to adjacent properties, the neighborhood or the community. The proposed improvements will be an asset to the community.
14. There are 2 letters of support (Colin Fitzgerald, Melanie B. Michalski) in the file.

FINDINGS: Mr. Hovey has met the burden for a variance of 9'9" to the required 15' rear yard setback area for a proposed addition to a single family dwelling.

DECISION: Approved

If you wish to appeal this decision, you may do so by 5:00 p.m., on September 21, 2012, 2008 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.

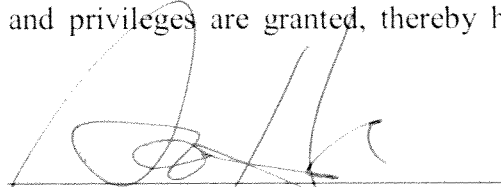
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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
Ken Hovey, 9215 Shoshone NE, 87111
Colin Fitzgerald, 9221 Shoshone Rd NE 87111
ZHE File