

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

MICHAEL VON BLOMBERG request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 9' to the 10' distance separation requirement between an existing carport and dwelling on all or a portion of Lot(s) 8A, REALTY SALES CO FIRST ADDN zoned SU-2/R-1, located at 608 7TH SW (K-14)

Special Exception No: 09ZHE-80448
Project No: Project# 1008126
Hearing Date: 02-16-10
Closing of Public Record: 02-16-10
Date of Decision: 03-03-10

STATEMENT OF FACTS: The applicant, Michael Von Blomberg, requests a variance of 9' to the 10' distance separation requirement between an existing carport and dwelling. Mr. Von Blomberg testified that he purchased this property July 2009 and the carport existed at the time of purchase. A review of the file indicates that there was no previous permit granted with regard to this carport. The carport borders the property line and the debris from the carport appears to be impacting the adjacent neighbor. He testified that the adjacent neighbor had a similar carport, however it was removed. The applicant is required to show that in order to obtain a variance; his parcel has some exceptional physical qualities so as to warrant the variance. An on-site inspection, as well as the testimony offered at the hearing, indicated that this parcel does not have any exceptionality sufficient to warrant the requested variance. Accordingly, this request is denied.

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 March 18, 2010 in the manner described below:

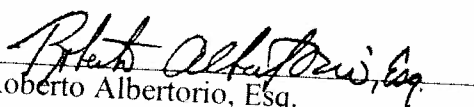
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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


Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Michael Von Blomberg, 608 7th Street SW, 87102