



County of Los Alamos

1000 Central Avenue,
Suite 110, BCC Room

Agenda - Final Board of Adjustment

Jessie Dixon

Monday, March 19, 2018

5:30 PM

Suite 110, BCC Room
Municipal Building

1. CALL TO ORDER/ROLL CALL

2. PUBLIC COMMENT

This section of the agenda is reserved for comments from the public on items that are not otherwise included in this agenda.

3. APPROVAL OF AGENDA

4. APPROVAL OF MINUTES

[10586-18](#)

Attachments: [BOA Minutes 12-18-17.pdf](#)

5. PUBLIC HEARING(S) - QUASI JUDICIAL

A. Case No. WVR-2018-0053- 509 Brighton Drive

Waiver to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Article XIII, Site Development Requirements, from a minimum front yard setback requirement of twenty-five (25) feet, to eighteen (18) feet, thereby encroaching seven (7) feet into a required front yard setback area; and a Waiver to Article VII, §16-271(a)(1), which limits the height of solid walls in a front yard to a maximum height of three (3) feet. The purpose for requesting these waivers is to permit construction of a solid wall measuring six (6) feet in height to be located within a required front yard setback area.

[10585-18](#)

Attachments: [WVR-2018-0053- Staff Report REVISED for March 19.pdf](#)

B. Case No. WVR-2018-0054- 3090 Orange Street

Waiver to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Article XIII, Site Development Requirements, from a minimum front yard setback requirement of twenty (20) feet, to zero (0) feet; and to Article VII, §16-272 (d), Projection into required yards, (7), which permits a carport to project no more than 40 percent of the distance into the required front yard setback.

[10587-18](#)

Attachments: [StaffReport_WVR-2018-0054_MARCH-19.pdf](#)

6. PUBLIC COMMENT

7. ADJOURNMENT

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the County Human Resources Division at 662-8040 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the personnel in the Community Development Department at 505-662-8006 if a summary or other type of accessible format is needed.

MINUTES

Board of Adjustment

December 18, 2017 – 5:30 P.M.

1000 Central Avenue, Boards and Commissions Room
Los Alamos, NM 87544

Members Present: Amy Woods, Acting Chair
Jessie Dixon, Commissioner
Craig Martin, Commissioner

Members Absent: Jaret McDonald, Chair

Staff Present: Tamara Baer, Planning Manager
Anders Millmann, Senior Planner
James Naranjo, Assistant Planner

I. CALL TO ORDER / ROLL CALL

Chair Woods called the meeting to order at 5:30 PM and asked James Naranjo to call the roll. A quorum was present.

II. PUBLIC COMMENTS

NONE

III. APPROVAL OF AGENDA

Commissioner Dixon made a motion to approve the agenda as presented. Commissioner Martin seconded the motion. Motion passed unanimously.

IV. APPROVAL OF MINUTES

Commissioner Martin made a motion to approve the minutes for the December 4, 2017 Board of Adjustment meeting as presented. Commissioner Dixon seconded the motion. Motion passed.

V. PUBLIC HEARINGS

a. Case No. WVR-2017-0049 A request for approval of a Waiver from a required twenty (20') foot rear yard setback to fifteen (15') feet, and a Waiver from a required ten (10') foot side yard setback to eight (8'), to allow for the construction of a patio cover/deck roof that will encroach five (5') feet into a required rear yard setback area, and two (2') feet into a required side yard setback area. The property is located at 123 Aragon Avenue, in the White Rock 2 Subdivision, Addition No. 2, Block 3, Lot 20; and is zoned R-1-10 (single family residential).

John Haynes, owner/applicant 123 Aragon, was sworn in.

John Haynes presented case WVR-2017-0049. Anders Millmann presented case WVR-2017-0049 on behalf of staff. The Applicant and the Board was given an opportunity to comment.

MOTION:

Commissioner Dixon made a motion to approve Case No. WVR-2017-0049, a A request for approval of a Waiver from a required twenty (20') foot rear yard setback to fifteen (15') feet, and a Waiver from a required ten (10') foot side yard setback to eight (8'), to allow for the construction of a patio cover/deck roof that will encroach five (5') feet into a required rear yard setback area, for the reasons

stated in the staff report, reasons determined during the public hearing, and adoption of findings of fact, subject to the following condition:

1. If the waiver is approved, the applicant shall apply for and receive a Building Permit prior to commencing construction activities.

Seconded by Commissioner Martin.

Motion passed unanimously.

VI. ADJOURNMENT

5:50 pm

Jessie Dixon, Chair



County of Los Alamos

Staff Report

March 19, 2018

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.:

Index (Council Goals):

Presenters:

Legislative File: **10585-18**



Los Alamos County
Community Development Department
BOARD OF ADJUSTMENT STAFF REPORT

Public Hearing Date: March 19, 2018 (postponed from February 26, 2018)
Subject: Case No. WVR-2018-0053
Owners/Applicants: Irma Holtkamp
Property Address: 509 Brighton Drive, White Rock
Case Manager: Anders Millmann, Senior Planner
Through: Tamara Baer, Planning Manager

Case No. WVR-2018-0053: Irma Holtkamp, the property owner and petitioner, is seeking a Waiver to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Article XIII, Site Development Requirements, from a minimum front yard setback requirement of twenty-five (25) feet, to eighteen (18) feet, thereby encroaching seven (7) feet into a required front yard setback area; and a Waiver to Article VII, §16-271(a)(1), which limits the height of solid walls in a front yard to a maximum height of three (3) feet. The purpose for requesting these waivers is to permit construction of a solid wall measuring six (6) feet in height to be located within a required front yard setback area. The property is located at 509 Brighton Drive, White Rock in the Pinon Estates Subdivision, Lot 045, on land zoned: R-1-10 (Single-family residential).

Board Action Options

Motion Option 1:

I move that the Board of Adjustment **deny** Case No. WVR-2018-0053 with the finding that it does not meet the Criteria of Section 16-157 for the following reason(s):

1. The applicant has not demonstrated that the request conforms to criterion (b) of §16-157 of the Development Code, which states that “the waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship is not self-imposed.”

Motion Option 2:

I move that the Board of Adjustment **approve** Case No. WVR-2018-0053, a request for approval of a waiver from the requirements specified in Article XIII, Site Development Requirements, from a minimum front yard setback requirement of twenty-five (25) feet, to eighteen (18) feet, and a waiver to Article VII, Section 16-271(1)(a), to permit a solid wall in a required front yard to be erected to a height of six (6) feet, where three (3) feet is the maximum height permitted, for the reasons stated in the staff report, reasons determined during the public hearing, and adoption of findings of fact, subject to the following conditions:

1. The applicant shall obtain a building permit prior to construction.
2. ...

I. Summary

The applicant is requesting a waiver to allow for the construction of a solid wall measuring six (6) feet in height in a required front yard setback area. The proposed wall will run from the eastern property line across the front yard, for a distance of approximately seventy-five (75) feet [Exhibit 1]. The applicant states that the wall will be constructed of stucco to match the exterior of the residence. It is designed to enclose most of the front yard, and provide a measure of security and privacy from neighboring properties.

The applicant states that there was a six (6) foot high wooden fence that ran from the eastern property line to the southeastern corner of the residence when she and her late husband purchased the property. She recently had that fence removed in order to erect the solid stucco wall that is proposed to extend across the entire front yard [Exhibit 7].

The required front yard setback for this lot is twenty-five (25) feet. The garage of the existing dwelling unit is set back a distance of approximately twenty-five (25) feet from the front property line. The main portion of the dwelling unit is set back approximately thirty-six (36) feet from the front property line.

There are no known easements that would be impacted by the proposed construction.

All adjacent properties are developed, and contain single family residential land uses.

Waivers or variances are typically granted for the minimum amount necessary to relieve a problematic condition. In this case the possibility of erecting a six-foot high solid wall that observes the minimum front yard setback requirement was discussed with and rejected by the applicant. It should be noted that nothing in the County Development Code grants a right for a homeowner to construct a solid wall exceeding the maximum height requirement of three (3) feet that encroaches into a required front yard area, and that the development standards, including setbacks, are adopted in the public interest to protect privacy, light and air, and to maintain and protect a residential character of development.

On Friday February 2, 2018, the Inter-Departmental Review Committee reviewed the request and voted unanimously (6-0) to recommend denial of this request to the Board of Adjustment.

This application for a waiver was properly and legally advertised, posted and noticed. No complaints or inquiries were received by the Community Development Department as of Wednesday, February 21, 2018. A letter was received by the Planning Division Staff from the neighbor owning the property adjacent to the west of the subject property expressing their support of the waiver requested [Exhibit 6].

II. Waiver Review Criteria

Sec. 16-157: During the course of review of any waiver request, the board of adjustment shall base its decision on all the following criteria. The board of adjustment shall approve, approve with conditions and limitations, or deny the request depending on the extent to which the request meets or fails to meet these criteria:

(a) Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement, and

Applicant Response: To my knowledge the waiver will not impact the current utility easement.

Staff Response: The proposed construction will not be placed over any known easements.

(b) The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed, and

Applicant Response: I am recently widowed and live alone. The front area is the only place that receives sunlight throughout the year. Enclosing the area as proposed will improve the security and privacy of my home. It will also improve the view from the front of my home minimizing the view of neighbor's RVs, trailers, cars, and other recreational vehicles [Exhibits 8 & 9].

Staff Response: The location of the residence on the property provides a front yard setback of twenty-five (25) feet, which meets the minimum yard requirements specified within the Development Code for properties within the R-1-10 District. The placement of the residence on the subject property does not preclude the applicant from erecting a six-foot high solid "privacy" wall without the necessity of obtaining a waiver. Staff explained several options to the applicant concerning the placement of and height of a solid "privacy" wall without the necessity of obtaining a variance. All options presented by Staff were rejected by the applicant.

(c) Granting of the waiver will not create a health or safety hazard or violate building code requirements, and

Applicant Response: To my knowledge the waiver will not create a health or safety hazard. It will improve the security of my home and also the visual appearance to and from the street.

Staff Response: Staff has verified during a site inspection that there are no apparent health or safety issues present. If the waiver is approved, the applicant shall be required to secure a Building Permit and construct the wall in compliance with all applicable Building Code requirements, including but not limited to ensuring that the wall has an engineered foundation (to withstand wind loads).

(d) Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.

Applicant Response: No impact on sight lines. It will increase the security of my home and also the privacy of my home.

Staff Response: The subject property is located on the outside curve radius of the street, thereby posing no visual obstruction to traffic driving on Brighton Drive. The proposed wall is not likely to create any negative physical impacts to the subject property or to any properties in the immediate vicinity.

III. Findings of Fact

1. This public hearing was announced by publication in the Los Alamos Daily Post, the Newspaper of Record for Los Alamos County, on Thursday February 1, 2018. Property owner notices were mailed via first class mail to all owners of real property located within 100 yards of the subject property, per the requirements contained in Article V, §16-193 of the Los Alamos County Development Code.
2. The request of waiver was properly and sufficiently noticed, and no objections have been received as of the publication date of this report.
3. This and adjacent properties are residentially-developed, and are zoned R-1-10 (single family residential).
4. The applicant owns the subject property.

5. The subject property is located in the Pinon Estates Subdivision, Lot: 045, in White Rock, which contains 10,773 Ft² of area. The existing residence contains 2,870 Ft² of area, yielding a lot coverage factor of 26.6%. The maximum lot coverage permitted in the R-1-10 zoning district is 35%.
6. Approval of this waiver will allow the petitioner to construct a six (6) foot high solid stucco wall that will encroach seven (7) feet, into a required front yard setback area.
7. Approval of this waiver will also allow the petitioner to erect a solid stucco wall at a height exceeding the maximum permitted height of three (3) feet that is specified in §16-271(a)(1) of the Los Alamos County Development Code for walls or fences erected in a front yard.
8. The adjacent property owner to the west (365 Briston Place) has submitted a letter in support of the waiver requested.
9. This petition was discussed at the Interdepartmental Review Committee meeting, on Friday February 2, 2018. At this meeting, the IDRC voted unanimously (6-0) to recommend denial of this petition to the Board of Adjustment.
10. Due to a lack of a quorum, the public hearing for this petition was re-scheduled for March 19, 2018.
11. The petitioner has not provided sufficient evidence to satisfy the requirements contained within §16-157 of the Los Alamos County Development Code to warrant issuance of the waiver requested.

IV. Exhibits

- | | |
|-----------|--|
| Exhibit 1 | Application, and Site Plan |
| Exhibit 2 | Vicinity Map of the subject property |
| Exhibit 3 | List of property owners of record within 100 yards of subject property |
| Exhibit 4 | Interdepartmental Review Committee (IDRC) Report |
| Exhibit 5 | Photographs of Subject Property, Staff (4) |
| Exhibit 6 | Letter from adjoining property owner, 365 Briston Place |
| Exhibit 7 | Google Street View Image (May 2014) view of subject property illustrating wooden fence |
| Exhibit 8 | Photographs Provided by Petitioner (4) |
| Exhibit 9 | Photographs of 506 Brighton, Staff (3) |



Community Development

WAIVER APPLICATION

Los Alamos County Community Development Department

1000 Central Ave, Suite 150, Los Alamos NM 87544

(505) 662-8120

Note: The Board of Adjustment considers Applications for Waivers at a public hearing. Waiver means an adjustment of dimensional requirements, parking regulations, or design standards contained in the Land Development Code. Waivers shall not apply to regulations controlling density or land use.

Describe the Waiver request:

Request is to build a 6 foot wall to enclose front courtyard.
(see attached drawing where red line indicates placement
of wall) within 18 feet of front property line.

Address of Property to which the Waiver Request applies:

509 BRIGHTON

Zoning District: R-1-10 Acreage: _____ Lot Coverage: _____ Related Applications (if any): _____

APPLICANT (Unless otherwise specified, all communication regarding this application shall be to Applicant):

Name: IRMA S. HOLTKAMP Phone: 505-672-0302 Cell #: 505-660-6154
Please Print

Address: 509 BRIGHTON Email: phiisholtkamp@gmail.com

Irma S. Holtkamp
SIGNATURE

22 JAN 2018
DATE

PROPERTY OWNER (If different from Applicant)

☒ Check here if same as above

Name: _____ Phone: _____ Cell #: _____
Please Print

Address: _____ Email: _____
Owner's Address

My signature below indicates that I authorize the Applicant to make this Waiver application on my behalf.

SIGNATURE

DATE

THIS SECTION TO BE COMPLETED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

For County Use:

Date of Submittal: 1-22-18

Staff Initial: JW

CDD Application Number: WVR-2018-0053

Fees Paid: \$250.00

WAIVER REVIEW CRITERIA:

The Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-157 establishes four (4) criteria upon which the Board of Adjustment shall base its decision to approve, approve with conditions and limitations, or deny the waiver request. The Board's decision shall depend upon the extent to which the request meets or fails to meet these criteria. Please review each of the criteria listed and provide short comments on how your application meets the criteria in the space provided. (Attach additional sheets if needed.)

- (a) **Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement; and**

To my knowledge the waiver will not impact the current utility easement.

- (b) **The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed; and**

I am recently widowed and live alone. The front area is the only place that receives sunlight throughout the year. Enclosing the front area as proposed will improve the security and privacy of my home. It will also improve the view from the front of my home minimizing the view of neighbors' RVs, trailers, cars, and other recreational vehicles.

- (c) **Granting of the waiver will not create a health or safety hazard or violate building code requirements; and**

To my knowledge the waiver will not create a health or safety hazard. It will improve the security of my home and also the visual appearance to and from the street.

- (d) **Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.**

No impact on sight lines. It will increase the security of my home and also the privacy of my home.

SUBMITTALS:

Provide all information necessary for a complete review of the Waiver request. Check each of the boxes to indicate which information you have provided, and, if possible, also provide one complete copy of all materials on disk:

☒ Proof of property ownership.

☒ A scaleable drawing including all information pertinent to the waiver request:

☐ Existing and proposed lot coverage.

☐ Show and label the footprint of all existing buildings and structures on the site.

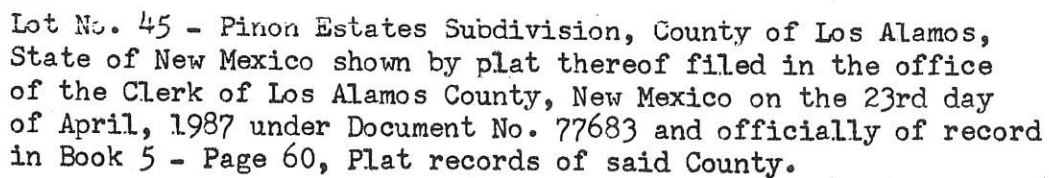
☐ Show, dimension and label all existing and proposed easements.

☐ Show, dimension and label all existing and proposed setbacks.

☐ Show, dimension and label building/structure elevations.

☐ Other. Describe: _____

Address 509 Brighton Drive Los Alamos, New Mexico





509 Brighton
WVR-2018-0053

0 75 150 300 Feet



All mapping information is for reference only.
Users are solely responsible to confirm data accuracy.
Los Alamos County assumes no liability for errors
associated with these data.

Exhibit 2 Vicinity Map of the subject property



LOS ALAMOS

KIM DOO NAM & CHOI CHANMI
459 RIDGECREST AVE
WHITE ROCK NM 87547

PRESTON DEAN L & SALLY E
518 BRIGHTON DR
WHITE ROCK NM 87547

JOHNSON W WILLIAM & EMILY R
451 RIDGECREST AVE
WHITE ROCK NM 87547

SHEPPARD MAURICE G & JENSINA
458 BRIGHTON DR
WHITE ROCK NM 87547

HICK JASON & LEANNE
524 BRIGHTON DR
WHITE ROCK NM 87547

JOHNSON CARL E & MAUREEN G
452 BRIGHTON DR
WHITE ROCK NM 87547

C DE BACA CHRISTOPHER J & THERESA L REG
464 BRIGHTON DR
WHITE ROCK NM 87547

GAUSS TYSON H & KATHLEEN M
340 KIMBERLY LANE
WHITE ROCK NM 87547

INBODY MICHAEL A & YVONNE M
446 BRIGHTON DR
WHITE ROCK NM 87547

BOWYER CLINTON D & DONNA
470 BRIGHTON DR
WHITE ROCK NM 87547

KUBIC JR WILLIAM L & MARIA F A
338 KIMBERLY LANE
WHITE ROCK NM 87547

DYE ROBERT C & CATHERINE L
434 BRIGHTON DR
WHITE ROCK NM 87547

JONES ROLLIN & TERRY
476 BRIGHTON DR
WHITE ROCK NM 87547

FILIP MICHAEL W & DEBBIE R
467 RIDGECREST AVE
WHITE ROCK NM 87547

ATCHER ROBERT W & SHARON L CIESSAU
482 BRIGHTON DR
WHITE ROCK NM 87547

PAN PAUL YANG & JASMINE CHIAO-LI TRUST
415 BRIGHTON DR
WHITE ROCK NM 87547

CLIFFORD JAMES R
463 RIDGECREST AVE
WHITE ROCK NM 87547

CHEN SHUH-RONG & BIH-LING Y TRUST
488 BRIGHTON
WHITE ROCK NM 87547

KOCH KENNETH R & SUSAN H REV TR
377 BRISTON PLACE
WHITE ROCK NM 87547

ANDERSON KEVIN I
455 RIDGECREST AVE
WHITE ROCK NM 87547

ATTREP KATHERINE A
344 KIMBERLY LANE
WHITE ROCK NM 87547

TORRES JOY M LIVING TRUST
532 PAIGE LOOP
WHITE ROCK NM 87547

HYPES PHILIP A & BOWERS AMY B
447 RIDGECREST AVE
WHITE ROCK NM 87547

KIRK ALAN S & PATRICIA M
342 KIMBERLY LANE
WHITE ROCK NM 87547

SPIVA REBECCA C & ALTSCHULER ANDREW E
348 KIMBERLY LANE
WHITE ROCK NM 87547

ERY DAVID A & CATHERINE K
443 RIDGECREST AVE
WHITE ROCK NM 87547

FREER EDWARD LEE & LEA RAE
506 BRIGHTON DR
WHITE ROCK NM 87547

GARDNER DAVID L & LOIS J
PO BOX 92
GOLD BAR WA 98251

CHANCE BRYAN J & SANDRA A
440 BRIGHTON DR
WHITE ROCK NM 87547

ARAGON BRYAN R & KIMBERLY
409 BRIGHTON DR
WHITE ROCK NM 87547

PERATT ANTHONY L & GLENDA D
551 BRIGHTON DR
WHITE ROCK NM 87547

ORR KEITH R & LESLIE A
494 BRIGHTON DR
WHITE ROCK NM 87547

RUSSELL JOHN J & CONSTANCE
559 BRIGHTON DR
WHITE ROCK NM 87547

REAGOR DAVID W & YONEKO Y
500 BRIGHTON DR
WHITE ROCK NM 87547

JUSTUS ALAN L & MARY S
359 BRISTON PLACE
WHITE ROCK NM 87547

ART BLAIR M & KELLIE J
346 KIMBERLY LANE
WHITE ROCK NM 87547

SPALL WALTER & MANGENG CAROL
365 BRISTON PLACE
WHITE ROCK NM 87547

KATZ JOEL & SCHERER-KATZ CAROLYNN P
370 BRISTON PLACE
WHITE ROCK NM 87547

BRUG WILLIAM P & BRIDGID W
376 BRISTON PLACE
WHITE ROCK NM 87547

MILLIGAN KELLY F
455 BRIGHTON
WHITE ROCK NM 87547

TIBBITTS ARIC A & DREESEN WENDI M REVOC LIVI
NG TRUST
503 BRIGHTON DR
WHITE ROCK NM 87547

FRIAR JAMES L & SUSAN S REV TRUST
493 BRIGHTON DR
WHITE ROCK NM 87547

SKOLNIK RICHARD & SOPHIA SIU FAI LI
467 BRIGHTON DR
WHITE ROCK NM 87547



IDRC REPORT

Case: WVR-2018-0053: Fence Height, 509 Brighton Street (Second Review)

Date of Meeting: 2 February 2018

Member/ Alternate	Dept.	Attended	Recommended Conditions/Comments	Approved	Approved conditions	Denied
T. Baer	Planning	X	Other high walls in neighborhood but they all meet setback requirements			X
A. Millmann	Planning	X				
<i>J. Naranjo / A. Barela</i>	Planning	X				
M. Arellano / J. Dudziak	Building	X	Could not find a hardship required to approve Waiver; Contractor has been informed			X
D. Erickson	Traffic	X				X
P. Guerrerortiz / C. Moseley	Utilities	X	Applicant can petition to amend Code			X
A. Gurule / L. Martinez	Env. Svs.	X				
E. Martinez / D. Lujan	PW	X				X
J. Wetteland / S. Rinaldi	Fire	X	Alternatives are available, no practical hardship is present			X
OTHERS ATTENDING:						
Erie Peterson /	Parks					
Jason Romero	PW	X				
Lucas Fresquez	Assessor					
* Turquoise strikethrough indicates not present at meeting.						

ACTION: Michael Arellano moved and Patricio Guerrerortiz seconded, to recommend DENIAL of the petition to the Board of Adjustment.

Motion passed 6-0. Anders Millmann & Angelica Gurule abstained from voting.



Photo 1: Location of Proposed Wall with Respect to Front Property Line



Photo 2: View of Subject Property and Proposed Wall Location from Brighton Avenue



Photo 3: Location of Proposed Wall Facing East from Driveway



Photo 4: Location of Proposed Wall Facing West from East Property Line

Board of Adjustment

1000 Central Avenue Suite 150

Los Alamos, NM 87544

February 1, 2018

Ref: Case No. WVR-2018-0053

We received a hearing notice because we are owners of property within 300 ft of a proposed action. We are unavailable to attend the hearing on the referenced waiver request. However, **we support granting this waiver.**



Walter Dale Spall

365 Briston Place, White Rock



Carolyn Mangeng



EXHIBIT 7



Photo 1 by Petitioner



Photo 2 by Petitioner



Photo 3 by Petitioner



Photo 4 by Petitioner



Photo 1: 506 Brighton Drive – Directly across the street from applicant's residence



Photo 2: 506 Brighton Drive



Photo 3: 506 Brighton Drive



County of Los Alamos

Staff Report

March 19, 2018

Los Alamos, NM 87544
www.losalamosnm.us

Agenda No.:

Index (Council Goals):

Presenters:

Legislative File: **10587-18**



Los Alamos County
Community Development Department
BOARD OF ADJUSTMENT STAFF REPORT

Public Hearing Date: March 19, 2018 (postponed from February 26, 2018)
Subject: Case No. WVR-2018-0054
Owners/Applicants: Earl & Ninfa Whitney, Owners & Applicants
Case Manager: Anders Millmann, Senior Planner
Through: Tamara Baer, Planning Manager

Case No. WVR-2018-0054: Earl Whitney, the property owner and petitioner, is requesting a Waiver to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Article XIII, Site Development Requirements, from a minimum front yard setback requirement of twenty (20) feet, to zero (0) feet; and to Article VII, §16-272 (d), Projection into required yards, (7), which permits a carport to project no more than 40 percent of the distance into the required front yard setback. The property is located at 3090 Orange Street, Los Alamos, New Mexico, Subdivision: Western Area 2, Lot 72, and is zoned R-M (Residential Mixed District).

Related Case: WVR-2017-0027, 3114 Orange Street (Anne C. Hawes); property immediately adjacent to the west. A similar waiver request was approved by the Board of Adjustment on February 6, 2017.

Board Action Options

Motion Option 1:

I move that the Board of Adjustment **approve** Case No. WVR-2018-0054, a request for approval of a waiver from a required front yard setback requirement for the construction/placement of a proposed carport, for the reasons stated in the staff report, reasons determined during the public hearing, and adoption of findings of fact, subject to the following conditions:

1. Should the waiver be approved, the approval shall be for a carport, and not for a garage.
2. Should the waiver be approved, the applicant shall apply for and receive a Building Permit prior to construction/placement of the carport.
3. Should the waiver be approved, any carport structure placed or constructed per the waived setbacks shall be further subject to review by the Traffic Engineer/Public Works Department to ensure that no sight obstruction is created [See §16-271(c) of the Los Alamos County Development Code].

Motion Option 2:

I move that the Board of Adjustment **deny** Case No. WVR-2018-0054 with the finding that it does not meet the Criteria of Section 16-157 for the following reason(s):

1. ...

I. Summary

The applicant is requesting a waiver to allow for the construction of a carport in a required front yard. The Los Alamos County Code of Ordinances, Chapter 16 (Development Code), Site Development Requirements (table), Residential Mixed District, establishes a minimum front yard setback of twenty (20) feet, as measured from the front property line.

In addition, the Los Alamos County Code of Ordinances, Chapter 16 (Development Code), Section 16-272 (Yards), (d) "Projections into required yards; (7), permits a:

"carport, consisting of a roof that has no walls, or wholly or partially enclosed walls, except those that are part of the main structure, shall project no more than 40 percent of the distance into the required front yard setback."

While the application specifies that is for a carport the accompanying construction plans and elevations indicate that the construction will be a "garage." However, after review of the petition by the Interdepartmental Review Committee (IDRC), the Committee determined that sight visibility issues would preclude the construction of an enclosed structure (garage), but felt that these issues could be addressed if the structure were built as a carport.

The subject property is located mid-block on a street that terminates in a cul-de-sac. The parcel is roughly rectangular in shape, and is occupied by a single family residence. Although the subject property contains a concrete pad for the parking of a vehicle, it does not contain either a garage or a carport. The subject property slopes significantly downward to the north from the Orange Street right-of-way.

There is a permanent concrete parking pad located at the southwestern corner of the front yard that measures 24' in width by 21.5' in depth. It is shared with and straddles the property line with the adjacent property to the west. The parking pads, accessed directly from the street, are a common accommodation for parking in the area and were constructed in 1948 at the same time as the housing. With few exceptions, the parking pads remained uncovered.

The vast majority of properties in the vicinity do not contain garages or carports. Although properties located along the south side of Orange Street contain these traditional parking pads, and the residences are at or elevated above these driveway pads, several properties located along the north side of Orange Street also contain concrete pads that are utilized for off-street parking, but they are higher in elevation than the residential structures. Most of these concrete pads straddle property lines to allow one off-street parking space per residence. One resident (2982 Orange Street) has constructed a permanent carport structure over the entire concrete pad (see photos). This specific pad does not straddle any property line. A Waiver was approved for this property in 1996 subject to two (2) Conditions of Approval:

1. Prior to beginning of construction, the applicants shall obtain a valid building permit in substantial compliance with the submitted development plans. The building permit shall be obtained within 180 days or the variance will be null and void.
2. Side walls shall be no closer than four feet from the sidewalk. Side walls shall be no more than three feet in height.

The type of carport proposed measures ten (18) feet in width by twenty-four (24) feet in depth, contains $432 \pm \text{Ft}^2$, and will stand approximately eight (8) feet tall at the rear of the structure, and ten and one-half ($10\frac{1}{2}$) feet tall at the front property line. The carport proposed will occupy the entire space of the concrete pad and contain two off-street parking stalls. One stall will be utilized by the applicant (Whitney), and the other stall will be occupied by the adjacent property owner (Hawes).

Ms. Hawes received approval of a Waiver (WVR-2017-0027) in February, 2017. The structure she proposed and submitted as part of her application did not meet Building Code requirements, and was therefore disapproved. While waivers “run with the land,” they are subject to expiration after 18 months if a permit has not been issued for construction. As of this date, a Building Permit application has not been filed with the Community Development Department. Ms. Hawes must obtain a Building Permit prior to August 23, 2018, or approval of the Waiver will expire.

This Waiver application is only for consideration of setback requirements. Any future carport structure will require compliance with all Building and Fire Code regulations, and be subject to review by Traffic Engineering for sight visibility conditions.

II. Waiver Review Criteria

Sec. 16-157: During the course of review of any waiver request, the board of adjustment shall base its decision on all the following criteria. The board of adjustment shall approve, approve with conditions and limitations, or deny the request depending on the extent to which the request meets or fails to meet these criteria:

(a) Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement, and

Applicant Response: Request to encroach into front yard setback to front property line (4-ft from edge of sidewalk).

Staff Response: There is a gas service line located very near to the existing concrete pad. Although the concrete pad is already in place, the petitioner should contact the Utilities Services Department to ascertain the exact location of the utility easement and utility line (if one exists).

(b) The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed, and

Applicant Response: Slope of property and placement of house precludes construction elsewhere.

Staff Response: The existing residence is set back only 24’ from the front property line and, due to a significant slope, is located several feet below the grade of the right-of-way. There is insufficient room within either side yard to accommodate a carport structure without the need for a waiver.

(c) Granting of the waiver will not create a health or safety hazard or violate building code requirements, and

Applicant Response: It will be built to code and in a safe manner.

Staff Response: The Building Code is a minimum standard and there is no waiver of any provision of the building code.

(d) Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.

Applicant Response: The structure would do none of the above.

Staff Response: Within the neighborhood, there is only one other permanent carport which encroaches into the front yard setback, located at 2982 Orange Street, and that was granted a setback waiver in 1996 (Case No. 96-V-16). One of the conditions of that waiver was that the side walls of the carport be no closer than four feet

from the sidewalk and no more than three feet in height. These conditions were to ensure sight visibility. There are also a few, mostly single-car garages in the neighborhood, which are an integral part of the residential structure, therefore meeting the front yard setback requirement.

III. Findings of Fact

1. This public hearing was announced by publication in the Los Alamos Daily Post, the Newspaper of Record for Los Alamos County, on Thursday 1 February 2018; and property owner notices were mailed via first class mail to all owners of real property located within 100 yards of the subject property, per the requirements contained in Article V, §16-193 of the Los Alamos County Development Code.
2. The request of waiver was properly and sufficiently noticed. One letter from a property owner of record within 100 yards of the subject property was received on February 21, 2018, expressing support of the waiver requested. [Exhibit 6]
3. This and adjacent properties contain residential land uses, and are Zoned R-M (Residential Mixed District).
4. The subject property is located in the WESTERN AREA 2 Subdivision, Lot: 072, which contains 0.199± acres, or 8,707 square feet of area. The existing residential structure contains approximately 1,240 Ft² of area (measured from County GIS), yielding a lot coverage factor of 14.24%. The maximum lot coverage percentage permitted by Section 16-537 Site Development Requirements, of the Los Alamos County Development Code for properties in the R-M District, is 40%.
5. The existing residence on the subject property is set back twenty-four (24) feet from the front property line; thereby meeting the minimum required 20-foot front yard setback requirement.
6. The proposed carport that will encroach within a required front yard setback area, will measure 24 feet in width by 18 feet in length, thereby adding approximately 216 Ft² (432 Ft² ÷ 2) of additional lot coverage to the subject property, bringing the lot coverage factor up to 16.73%.
7. Section 16-537, Site Development Requirements, of the Los Alamos County Development Code, requires a minimum front yard setback of twenty (20) feet, a minimum rear yard setback of twenty (20) feet, and minimum side yard setbacks totaling fifteen (15) feet. The existing single family residence occupying the subject property is compliant with this requirement.
8. Per §16-537, the minimum required front yard setback for structures in an R-M (Residential Mixed) zone is twenty (20) feet. Additionally, per §16-272 (d) (7), a carport is permitted to project up to forty (40%) percent of the setback distance into a required front yard area. Approval of this waiver will allow the petitioner to place a carport that will encroach twenty (20) feet, or 100%, into a required front yard setback area.
9. This petition was discussed at the Interdepartmental Review Committee meeting, on Friday February 2, 2018. At this meeting, the IDRC voted (4-3, with 1 abstention) to recommend approval of this petition to the Board of Adjustment.
10. Due to a lack of a quorum, the public hearing for this petition was re-scheduled for March 19, 2018.
11. The petitioner has provided sufficient evidence to satisfy the requirements contained within §16-157 of the Los Alamos County Development Code to warrant issuance of the waiver requested.

IV. Exhibits

- Exhibit 1 Application and Site Plan
- Exhibit 2 Proposed Construction Plans and Elevations
- Exhibit 3 Vicinity Map of the subject property
- Exhibit 4 List of property owners of record within 100 yards of subject property
- Exhibit 5 Interdepartmental Review Committee (IDRC) Report
- Exhibit 6 Letter from adjacent property owner (Susan M. Duran)
- Exhibit 7 Photographs of Subject Property, Staff (4)
- Exhibit 8 Case No. 96-V-16 Certificate of Approval

LOS ALAMOS
Community Development

WAIVER APPLICATION

Los Alamos County Community Development Department

1000 Central Ave, Suite 150, Los Alamos NM 87544

(505) 662-8120

Note: The Board of Adjustment considers Applications for Waivers at a public hearing. Waiver means an adjustment of dimensional requirements, parking regulations, or design standards contained in the Land Development Code. Waivers shall not apply to regulations controlling density or land use.

Describe the Waiver Request: Request to encroach on front yard set back to front property line to install carport (4 feet from edge of sidewalk)
Please refer to Case No. WVR-2017-0027 and ~~the~~ certificate of approval. This carport is in conjunction with that Case No. and Address of Property to which the Waiver Request applies: Together with Anne Hawes at 3114 3090 Orange St. Orange Street
Zoning District: R-M Acreage: _____ Lot Coverage: _____ Related Applications (if any): _____

APPLICANT [Unless otherwise specified, all communication regarding this application shall be to Applicant]:

Name: Earland Ninta Whitney Phone: 505 662 1420 Cell #: _____
Please Print Work: 505 667-3595
Address: 3090 Orange St Email: earl.ninta@hotmail.com
Earland Whitney 11/10/18
SIGNATURE DATE

PROPERTY OWNER (If different from Applicant)

☐ Check here if same as above

Name: Same Phone: _____ Cell #: _____
Please Print
Address: _____ Email: _____
Owner's Mailing Address

My signature below indicates that I authorize the Applicant to make this Waiver application on my behalf.

SIGNATURE

DATE

THIS SECTION TO BE COMPLETED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

For County Use:

Date of Submittal: _____

Staff Initial: JW

CDD Application Number: WVR-2018-0054

Fees Paid: \$250

WAIVER REVIEW CRITERIA:

The Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sec. 16-157 establishes four (4) criteria upon which the Board of Adjustment shall base its decision to approve, approve with conditions and limitations, or deny the waiver request. The Board's decision shall depend upon the extent to which the request meets or fails to meet these criteria. Please review each of the criteria listed and provide short comments on how your application meets the criteria in the space provided. (Attach additional sheets if needed.)

- (a) Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement; and *Request to encroach into front yard setback to front property line (4ft from edge of sidewalk)*
- (b) The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed; and *Slope of property and Correct placement of house precludes construction elsewhere.*
- (c) Granting of the waiver will not create a health or safety hazard or violate building code requirements; and *Correct*
Built to code and in a safe manner
- (d) Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts. *Correct*
Structure would do none of the above

SUBMITTALS:

Provide all information necessary for a complete review of the Waiver request. Check each of the boxes to indicate which information you have provided, and, if possible, also provide one complete copy of all materials on disk:

- ☐ Proof of property ownership.
- ☐ A scaleable drawing including all information pertinent to the waiver request: *See Case No. WVR-2017-0017*
- ☐ Existing and proposed lot coverage.
- ☐ Show and label the footprint of all existing buildings and structures on the site.
- ☐ Show, dimension and label all existing and proposed easements.
- ☐ Show, dimension and label all existing and proposed setbacks.
- ☐ Show, dimension and label building/structure elevations.
- ☐ Other. Describe: _____

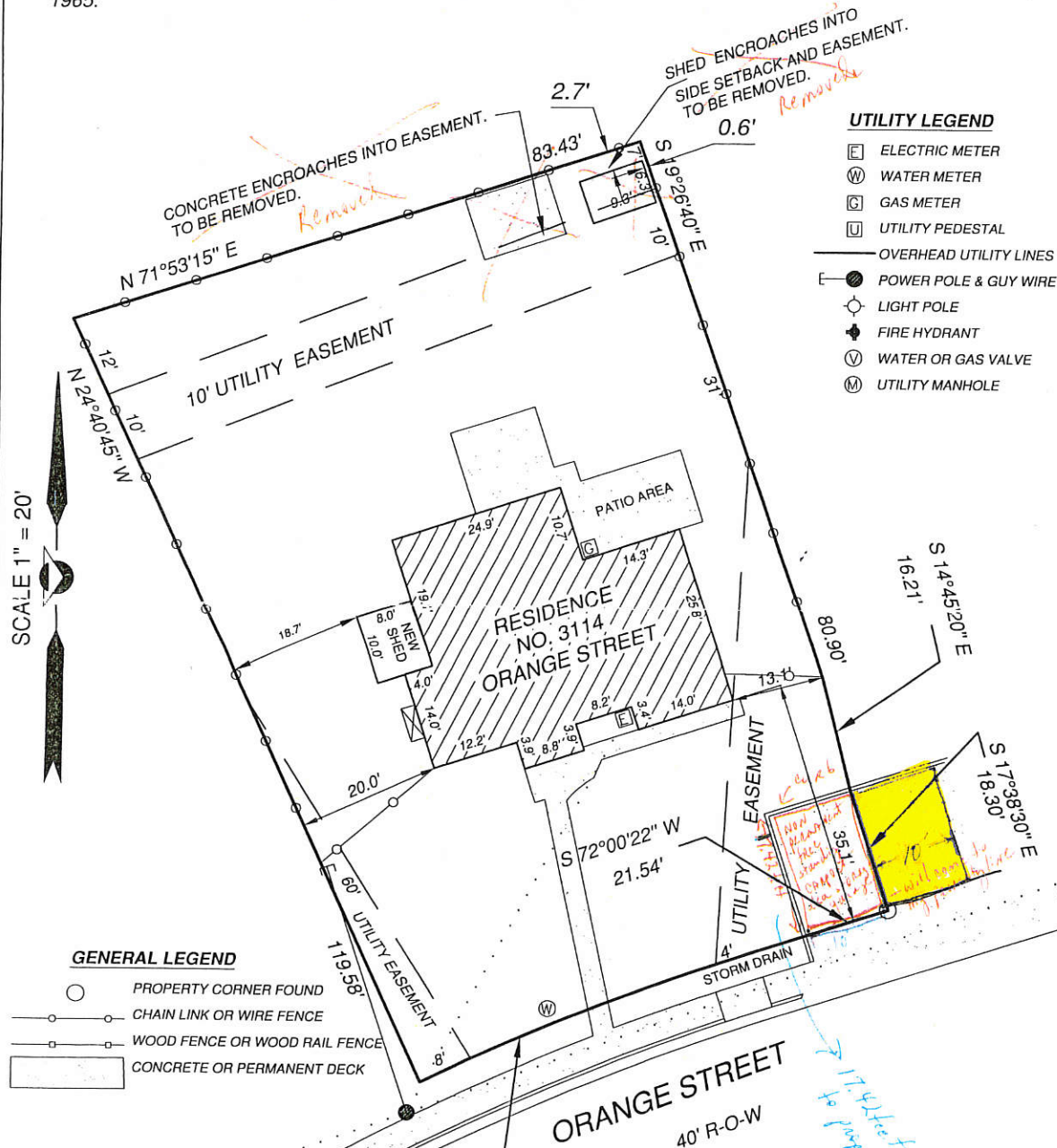


can't
be built
here

SITE PLAN

LOT 74,
WESTERN AREA NO. 2
LOS ALAMOS, NEW MEXICO
FOR
ANNE HAWES

PLAT DATA TAKEN FROM THE SUBDIVISION PLAT OF WESTERN AREA NO.2 FILED IN THE OFFICE OF THE COUNTY CLERK OF LOS ALAMOS COUNTY, NEW MEXICO IN PLAT BOOK 1, PAGE 65 ON SEPTEMBER 10, 1965.



1362 Trinity Drive, Suite A2
Los Alamos, NM 87544

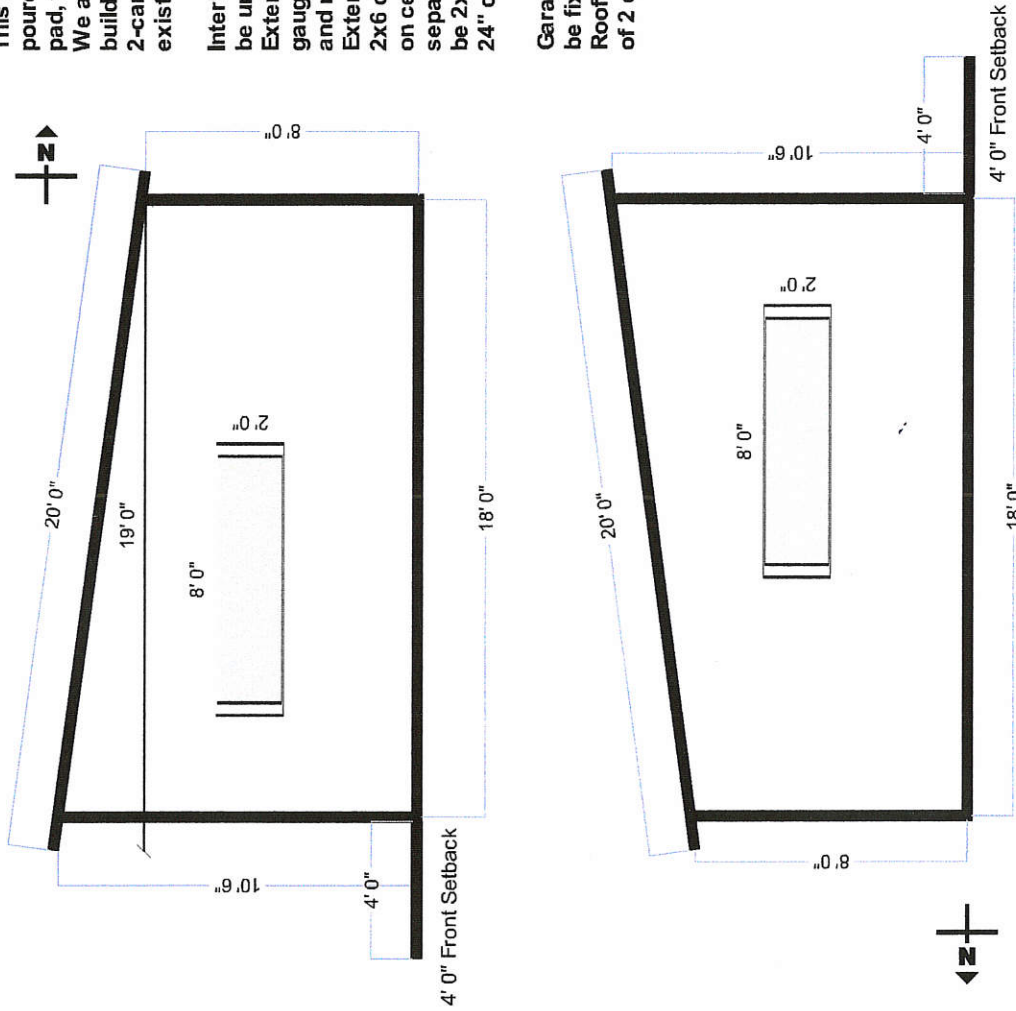
505.661.4262 PHONE
505.661.4263 FAX

L=49.12'
Δ=08°21'40"
R=336.91'

This is an existing poured concrete pad, with stem wall. We are proposing to build a single story 2-car garage, on this existing foundation.

Interior of garage will be unfinished studs. Exterior will be 29 gauge metal siding and metal roofing. Exterior walls will be 2x6 construction, 24" on center. Interior separation wall will be 2x4 construction, 24" on center.

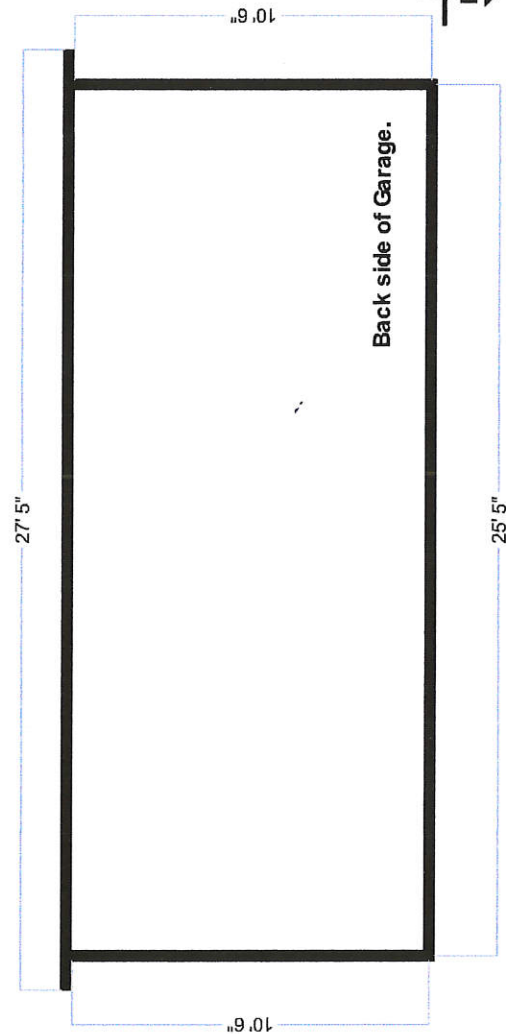
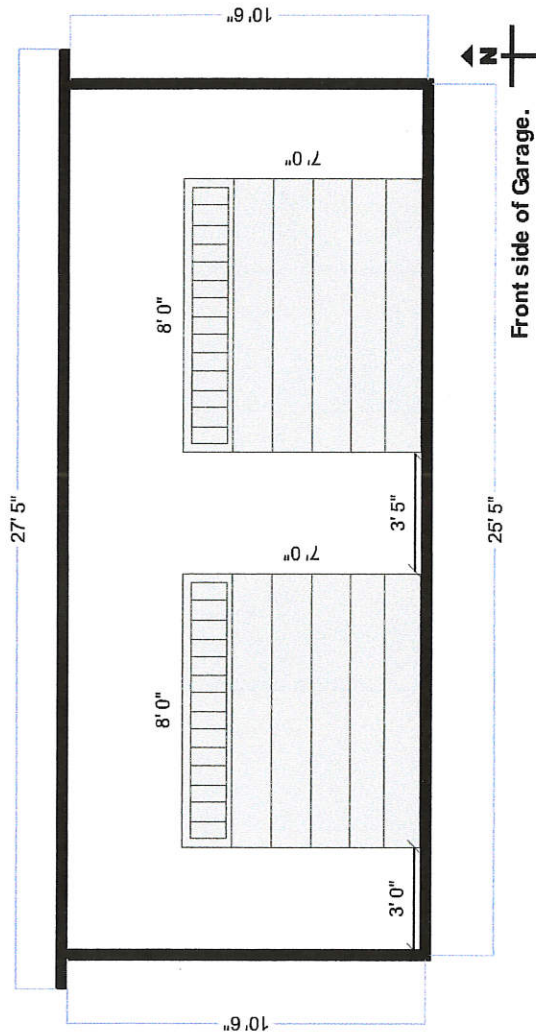
Garage windows will be fixed acrylic/plexiglass. Roof will be a minimum of 2 on 12 pitch.



Site:	3114 Orange St., Los Alamos	Project:	2017-100	Drawn:	Simon/Devon Bergauer	Notes:	DOJO BUILDERS, LLC P.O. Box 1089 Los Alamos, NM 87544 505-412-0180
Title:	Single Story 2-Car Garage	Scale:	1/4" = 1'0"	Date:	09/23/2017	Rev:	1

This is an existing poured concrete pad, with stem wall. We are proposing to build a single story 2-car garage, on this existing foundation.

Interior of garage will be unfinished studs. Exterior will be 29 gauge metal siding and metal roofing. Exterior walls will be 2x6 construction, 24" on center. Interior separation wall will be 2x4 construction, 24" on center.

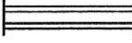



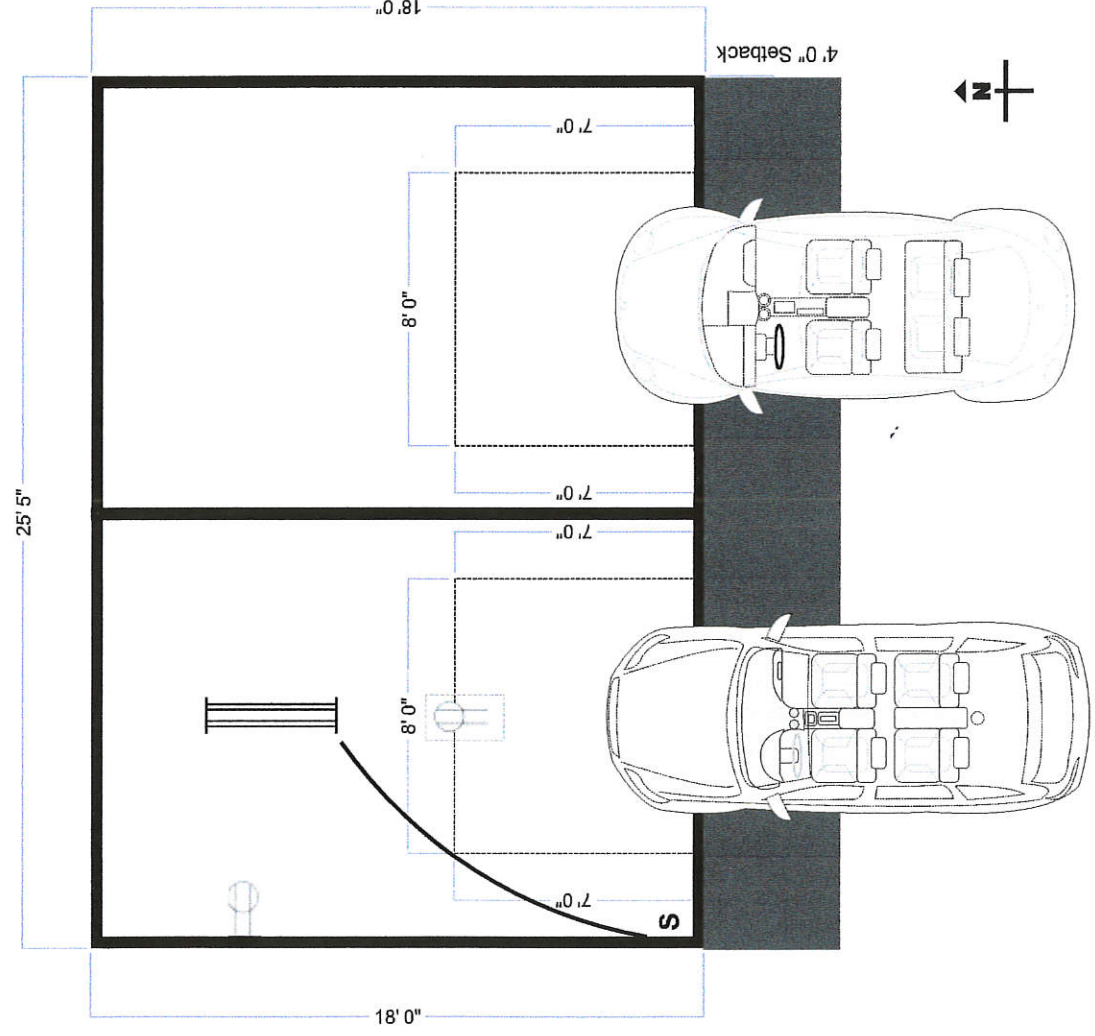
Site:	3114 Orange St., Los Alamos	Drawing:	3 of 4	Project:	2017-100	Drawn:	Simon/Devon Bergauer	Notes:	DOJO BUILDERS, LLC P.O. Box 1089 Los Alamos, NM 87544 505-412-0180
Title:	Single Story 2-Car Garage	Scale:	1/4"=1'0"	Date:	09/23/2017	Rev:	1		

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Interior of garage will be unfinished studs. Exterior will be 29 gauge metal siding and metal roofing. Exterior walls will be 2x6 construction, 24" on center. Interior separation wall will be 2x4 construction, 24" on center.

LEGEND:

-  = Fluorescent Light
-  = GFCI Outlet
- S** = Single Pull Light Switch



Site: 3114 Orange St., Los Alamos	Drawing: 4 of 4	Project: 2017-100	Drawn: Simon/Devon Bergauer	Notes:	
Title: Single Story 2-Car Garage	Scale: 1/4" = 1' 0"	Date: 09/23/2017	Rev: 1	DOJO BUILDERS, LLC P.O. Box 1089 Los Alamos, NM 87544 505-412-0180	



3090 Orange
WVR-2018-0054

0 75 150 300
Feet



All mapping information is for reference only.
Users are solely responsible to confirm data accuracy.
Los Alamos County assumes no liability for errors
associated with these data.

Exhibit 3 Vicinity Map of the subject property



LOS ALAMOS

LOS ALAMOS COUNTY
P O BOX 30
LOS ALAMOS NM 87544

WERNICKE JAMES & ALEJANDRA
3034 NICKEL ST
LOS ALAMOS NM 87544

STAPLES WENDY ANN REV TRUST
3071 NICKEL ST
LOS ALAMOS NM 87544

MACROBERTS FAMILY TRUST
2982 ORANGE ST A
LOS ALAMOS NM 87544

DI ROSA MICHAEL
9304 HARVEY ROAD
SILVER SPRING MD 20910

JE RUNYAN FAMILY SURVIVORS TRUST
553 CAMINO TIERRA ALTA
SANTA FE NM 87501

ULRICH TIMOTHY J II & KAY R
3016 ORANGE ST A
LOS ALAMOS NM 87544

PIAZZA NICHOLAS
5908 N GRANITE REEF RD
SCOTSDALE AZ 85250

GEOFFRION GREGORY L & ANGELIQUE M
1348 42ND ST A
LOS ALAMOS NM 87544

MOJICA MARIA J
3064 ORANGE ST A
LOS ALAMOS NM 87544

DURAN SUSAN M
PO BOX 1003
LOS ALAMOS NM 87544

GEOFFRION ANGELIQUE & GREG
3125 NICKEL ST
LOS ALAMOS NM 87544

HAWES ANNE C
3114 ORANGE ST
LOS ALAMOS NM 87544

RABY ERIC & PARK UMI
3146 NICKEL ST
LOS ALAMOS NM 87544

TRENT BRUCE C & MARIA T B
3227 ORANGE ST A
LOS ALAMOS NM 87544

KRIER DONATHON J
223 MAPLE DR
LOS ALAMOS NM 87544

ODEZULU BEATRICE & NZEKWE EMMANUEL
2997 NICKEL ST
LOS ALAMOS NM 87544

THOMPSON TERRY NEIL
2988 NICKEL ST
LOS ALAMOS NM 87544

BENSON FAITH A & HOWARD M
3031 NICKEL ST A
LOS ALAMOS NM 87544

VIRGILIO RUSSELL & ANGEL
3158 ORANGE ST
LOS ALAMOS NM 87544

GOULD THOMAS E & ABIGAIL R
3131A NICKLE ST
LOS ALAMOS NM 87544

PICKETT NEALE T & AMY V
2995 ORANGE ST
LOS ALAMOS NM 87544

BRENEMAN TRAVIS M & ERIN M
3177 A NICKLE ST
LOS ALAMOS NM 87544

HOPKINS JOHN G & ANN TRUST
3220 ORANGE ST B
LOS ALAMOS NM 87544

HARTMAN MARK GREGORY
3177 NICKEL ST B
LOS ALAMOS NM 87544



IDRC REPORT

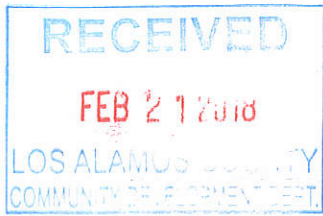
Case: WVR-2018-0054: Carport, Front Yard Setback, 3090 Orange Street (Second Review)

Date of Meeting: 2 February 2018

Member/ Alternate	Dept.	Attended	Recommended Conditions/Comments	Approved	Approved conditions	Denied
T. Baer	Planning	X	Pad exists, no other place on property to construct carport.		X	
A Millmann	Planning	X	Subdivision pre-dates adoption of Dev. Code; Condition: One hour firewall.		X	
J. Naranjo / A. Barela	Planning	X				
M. Arellano / J. Dudziak	Building	X	Applicant did not identify practical hardship. Noted smaller pad on E side of lot.			X
D. Erickson	Traffic	X			X	
P. Guerrerortiz / C. Moseley	Utilities	X				X
A. Gurule / L. Martinez	Env. Svs.	X	—Abstained—			
E. Martinez / D. Lujan	PW	X	Asked about other options.		X	
J. Wetteland / S. Rinaldi	Fire		Applicant did not identify practical hardship.			X
OTHERS ATTENDING:						
Eric Peterson/	Parks					
Jason Romero	PW	X				
Lucas Fresquez	Assessor	X				
Michael Smith	GIS					
* Turquoise strikethrough indicates not present at meeting.						

ACTION: Dan Erickson moved and Tamara Baer seconded, to recommend APPROVAL WITH CONDITIONS, to the Board of Adjustment.

Motion passed 4-3. Angelica Gurule abstained from voting.



PO Box 1003
Los Alamos, NM 87544
February 5, 2018

Mr. Anders Millmann
Senior Planner
Community Development, Planning
County of Los Alamos
1000 Central Avenue, Suite 150
Los Alamos, NM 87544

Re: Case No. WVR-2018-0054

Dear Mr. Millmann,

I am the homeowner at 3097 Orange St., Los Alamos, NM 87544, directly across the street from Mr. and Mrs. Earl Whitney at 3090 Orange St. I understand Mr. Whitney has requested a waiver from the required front yard setback to construct a carport.

The purpose of this letter is to let you know that I have no objection to the waiver and suggest it be approved for construction of this carport.

If you have any questions, I can be reached at 505-670-9167.

Sincerely,

A handwritten signature in blue ink that reads "Susan M. Duran". The signature is fluid and cursive.

Susan M. Duran

cc: Mr. and Mrs. Earl Whitney
3090 Orange St.
Los Alamos, NM 87544



Photo 1: Subject Property. Concrete Pad is at Left



Photo 2: Concrete pad, Location of Proposed Carport

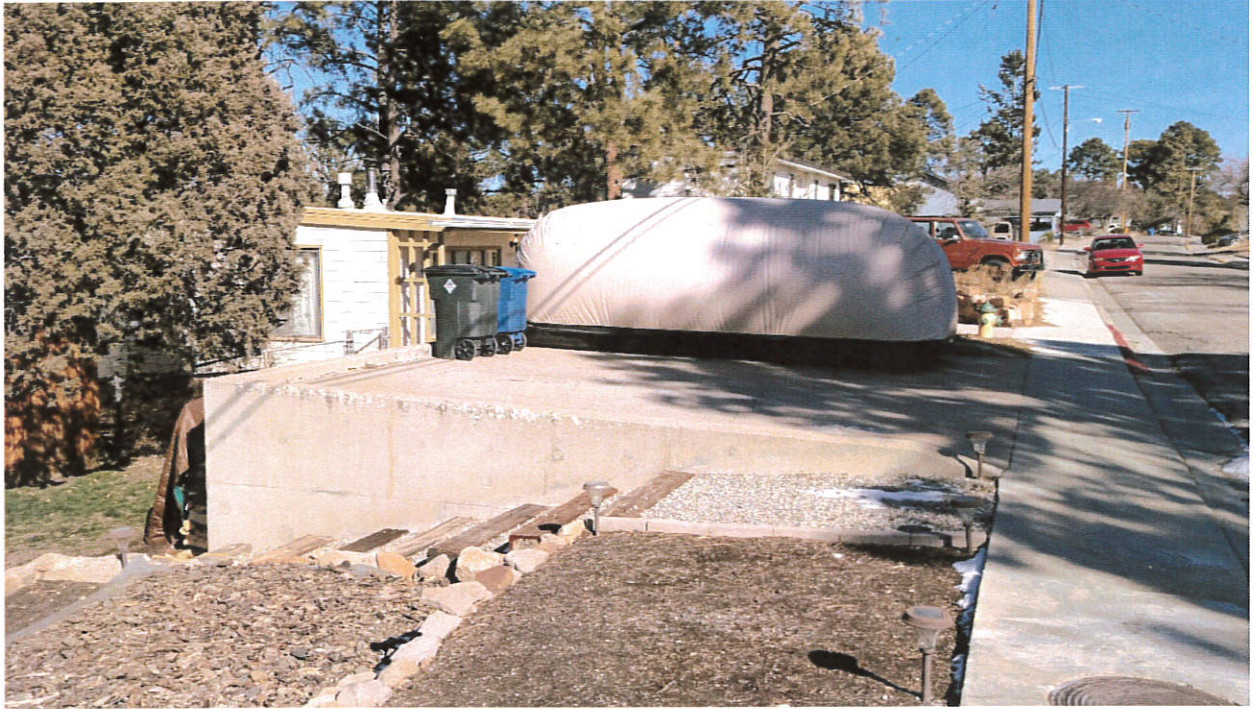


Photo 3: Concrete Pad, Looking East



Photo 4: Concrete Pad, Looking West



CERTIFICATE OF APPROVAL

This is to certify that Case No. 96-V-16, a request to construct a carport over an existing parking pad at 2982 Orange Street, legally described as Western Area No. 2, Lot 67, submitted by Martin and Frances MacRoberts, applicants; was approved on August 28, 1996, by the Planning and Zoning Commission, subject to the following condition(s):

1. *Prior to beginning construction, the applicants shall obtain a valid building permit in substantial compliance with the submitted development plans. The building permit shall be obtained within 180 days or the variance will be null and void.*
2. *Side walls shall be no closer than four feet from the sidewalk. Side walls shall be no more than three feet in height.*

In accordance with Section 17.22.070 LACC, this Certificate of Approval must be filed with the County Clerk prior to proceeding with the development or use approved and before the issuance of any building permit, license, or occupancy permit.

Kevin D. Fenner

Kevin D. Fenner
Community Development Director

September 16, 1996

Date

STATE OF NEW MEXICO	
COUNTY OF LOS ALAMOS	95
DOC	121985
Filed for record on	
September 17, 1996	
At 8:40	O'Clock A M
BOOK misc 46	PAGE 850
COUNTY CLERK	<i>Marta R. Talar</i>
DEPUTY	<i>Isabel</i>



EXHIBIT 8: Certificate of Approval for Waiver No. 96-V-16