



**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO**

Case No. VAR-2025-0014, a request for a Variance to reduce the required front setback from twenty (20)-feet to one and a half (1.5)-feet to allow placement of an accessory structure (carport). The property is in a Residential Mixed (RM-1) zone district and is addressed as 2339 35th Street, Los Alamos, New Mexico.

ORDER ON APPLICATION VAR-2025-0014

NOW COMES, the Planning and Zoning Commission (“Commission”) of the Incorporated County of Los Alamos (“County”), that hereby finds as follows:

I. FINDINGS OF THE COMMISSION

The Commission finds as follows:

1. On August 8, 2025, Jacoby Baker and Heather Baker (Applicant”), submitted an application for a variance to reduce the required front setback from twenty (20’)-feet to one and a half (1.5’)-feet to allow placement of an accessory structure (“Application”). The property is in a Residential Mixed (RM-1) Zone District and is addressed as 2339 35th Street, Los Alamos, New Mexico (“Property”). See PLANNING & ZONING COMMISSION STAFF REPORT (hereafter “CDD Staff Report”), by Danyelle Valdez, Planning Manager (hereafter “CDD Staff Valdez”), Attachment A.

2. The Application was assigned case number VAR-2025-0014. *Id.*

3. A quorum of the Commission was present at the public hearing held on October 22, 2025¹.

The public hearing was open to the receipt of evidence and testimony given under oath, of which

¹ The Video for this hearing is available at [Planning and Zoning Commission Meeting – October 22, 2025](#). All citations to testimony are from this video and is in Hour:Minute:Second format

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was subject to cross-examination in accordance with Section 16-72(f)(5)(b) of the County Development Code².

4. Present for the Applicant was Property owner, Heather Baker.

5. Present for Community Development Department (“CDD”) was Danyelle Valdez, CDD Planning Manager.

6. There was no one present in opposition to the Application.

7. Evidence received by the Commission at the public hearing included: 1) CDD Staff Report, Attachment A; 2) Public Notices, Attachment B; 3) Application Packet, Attachment C; and 4) public hearing presentation, questioning, testimony from Applicant and CDD Staff Valdez.

8. The Property’s legal description is described as North Community 3, Lot 105, Section 9, Township 19N, Range 6E and is located in RM-1 zoning district pursuant to the County’s adopted Zoning Map. *See* CDD Staff Report, Attachment A, Pages 10-11.

9. As provided in the CDD Staff Report, notice of the public hearing was published in accordance with Section 16-72(c)(4) of the County Development Code, as notice was published in the *Los Alamos Daily Post* on October 2, 2025, notice of the proposed action and public hearing was mailed via U.S. Mail to the owners of real property within three hundred (300) feet of the Property on October 7, 2025, and the notice was posted at the Property on October 7, 2025. *See* CDD Staff Report, Attachment A, Pages 12-13.

10. Pursuant the County Development Code Section 16-5, Table 5 establishes a minimum 20-foot front setback for residential structures in the RM-1 district. Pursuant to Section 16-21, Permitted Projections into Required Setback Areas, carports may occupy up to 40 percent of the required front setback, equating to an approximate 8- foot encroachment and a minimum

² Available at [Municode Chapter 16](#).

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remaining distance of 12-feet from the front Property line. Existing parking improvements on the Property constrain the Applicant's ability to comply with this setback requirement. Because the proposed carport would encroach beyond the 40% allowance, a variance approval under Section 16-74(g) is required.

11. Based on the CDD Staff Report and testimony of CDD Staff Valdez, the Application was presented to the Interdepartmental Review Committee (IDRC") on September 25, 2025. Upon review of the Application, it was determined by the IRDC that if the Application was approved, some requirements for construction of the accessory structure would be necessary:

- The existing structure must be removed, as it was constructed without a permit and does not meet current building code requirements.
- The Applicant must apply for a permit prior to construction of any new structure.
- The proposed carport must be finished with roofing material designed to sustain structural integrity.
- The roof must be designed so that it does not drain or slope toward the adjacent property/neighboring parking space.

Compliance with these requirements will be reviewed and enforced through the permit process if the variance is approved. *See* CDD Staff Report, Attachment A, Page 12.

12. The Commission finds the applicable review criteria in determining whether to approve, approve with conditions, or to deny the Application (*see generally* §16-69(b)(2)) are found in Section 16-74(g)(3) of the County Development Code.

13. The Commission, having received testimony and evidence of the Applicant and CDD Staff Valdez, moved to conditionally approve the Application as follows:

"I move to conditionally approve, Case No. VAR-2025-0014, a request by Jacoby and Heather Baker, property owners, for a variance from Los Alamos County Code, Chapter

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16, Article II, Division 3 (Base Zone District Dimensional Standards) for 2339 35th Street, Los Alamos. The request seeks to reduce the required 20-foot front yard setback in the Residential Mixed (RM-1) zone district to 1.5 feet to allow an accessory structure. Approval is based on the findings established at the hearing and the conclusion that the Applicant has met the decision criteria for a Variance per Section 16-74(g)(3) of the Los Alamos County Development Code, subject to the following conditions:

1. The carport roof shall be constructed of a material capable of withstanding local weather conditions to ensure structural integrity and public safety.
2. The carport roof shall be designed to slope and drain away from the adjacent property, ensuring no runoff flows into neighboring parking area or parcel.

The Commission acts under the authority of Section 16-69(b)(2) and (6) of the Development Code.

I further move to authorize the Chair to sign the Findings of Fact and Conclusions of Law for this case that reflects the decision of the Commission. This document will be prepared by county staff based on this decision.”

The vote resulted in a 3 to 2 vote in support of the motion. However, pursuant to Section 16-69(7) of the County Development Code, a minimum of four (4) votes in the affirmative are needed for approval of the Application. Therefore, the motion failed.

II. ORDER

Pursuant to Section 16-72(f)(5)(b)(9), failure to issue a final decision or recommendation prior to the close of the hearing shall constitute denial of the Application.

APPROVED on this date: 11/13/2025

Karen Easton

Karen Easton, Chair of the Planning & Zoning
Commission for the Incorporated County of Los
Alamos