

**COUNTY OF LOS ALAMOS
BEFORE THE LOS ALAMOS COUNTY COUNCIL**

IN THE MATTER OF AN APPEAL OF)	
PLANNING AND ZONING)	APL-2025-0024
COMMISSION DENIAL OF)	
VARIANCE REQUEST VAR-2025-0014)	
2339 35TH STREET,)	
LOS ALAMOS COUNTY, NEW MEXICO)	

**FINAL ORDER ON JOINT MOTION TO REMAND TO PLANNING AND ZONING
COMMISSION FOR REHEARING AND DECISION**

THIS MATTER came before the Los Alamos County Council (“Council”) on the parties’ *Joint Motion to Remand to Planning and Zoning Commission for Rehearing and Decision* filed January __, 2026 pursuant to Section 16-72(g)(5)(d)(5) of the County’s Code of Ordinances (“Code”).

NOW THEREFORE, having duly considered the record and arguments contained in the parties’ Joint Motion, the Council finds as follows:

1. Appellant, Jacoby and Heather Baker, are the owners of certain real and personal property at 2339 35th Street, Los Alamos County, New Mexico.
2. On August 8, 2025, Appellant submitted a Development Application requesting a variance to accommodate the installation of a carport on Appellant’s property.
3. During the properly noticed public hearing, the CDD staff and Appellant presented evidence and testimony that the variance application conformed to the decision criteria for approving a variance set forth in Section 16-74(g)(3) of the Code. No parties testified in opposition to the application. CDD staff recommended the Commission vote to approve Appellant’s variance application. A vote of Commissioners in attendance for the hearing resulted in a 3-2 vote in favor of approving Appellant’s application.
4. Section 16-72(f)(5)(b)(9) states that a minimum of four (4) affirmative votes of a majority of members present is required to approve an application. If the hearing closes without the deciding body reaching a decision the application is denied by operation of law. The Commission issued a written Order on November 13, 2025, stating that the application was denied

on the grounds that the four-member requirement had not been met and, consequently, a final decision had not been reached before the hearing closed.

5. The parties agree that the denial of Appellant's application was a consequence of the vacancies on the Commission and the absence of active members, which resulted in a denial of the application as a matter of law and not on the merits of the application.

6. The parties have presented information that the circumstances that led to the denial of Appellant's variance application have since changed, and it would likely resolve the issues underlying this appeal if the Commission had an opportunity to rehear Appellant's application and render a decision on the merits of the application.

IT IS HEREBY ORDERED that the *Joint Motion* of the parties is well-taken, and the Council remands Case Number VAR-2025-0014 to the Planning and Zoning Commission for rehearing and decision with the special instruction that the hearing take place at a meeting where at least SEVEN (7) members of the Planning and Zoning commission are present.

APPROVED THIS _____ DAY OF MARCH 2026.

BY: _____
Randall Ryti, Chair of the County Council
Incorporated County of Los Alamos