AGENDA

Administrative Review Board
City Council Chambers
800 Municipal Drive, Farmington, NM
June 6, 2019 at 6:00 p.m.

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Page</th>
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<tbody>
<tr>
<td>1</td>
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<tr>
<td>Call Meeting to Order</td>
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<td>2</td>
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<tr>
<td>Approval of the Agenda</td>
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<tr>
<td>Approval of the Minutes from the March 7, 2019 Meeting</td>
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<td>4</td>
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<tr>
<td>Petition No. ARB 19-40 – a request from Chad Waite, represented by Dennis Ivie, for a variance to allow for an additional accessory structure within the buildable footprint to be 1,104 sq. ft. (24’ x 46’) for property in the SF-7, Single-family Residential District, located at 634 W. Apache Street. (Helen Landaverde)</td>
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<td>Business from:</td>
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<td>Floor:</td>
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<td>Chairman:</td>
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<td>Members:</td>
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<tr>
<td>Staff:</td>
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<td>6</td>
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<td>Adjournment</td>
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</tbody>
</table>

All decisions of the Administrative Review Board are final unless appealed in writing to the City Clerk’s office within 15 days.

ATTENTION PERSONS WITH DISABILITIES:
The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend a meeting and need an auxiliary aid or service, please contact the City Clerk's office at 599-1101 or 599-1106, prior to the meeting so arrangements can be made.
ADMINISTRATIVE REVIEW BOARD
Petition ARB 19-40
Variance to allow accessory structures of more than the required 2,000 square feet in the buildable area of the property
634 W. Apache Street
June 6, 2019

DESCRIPTION OF PETITION
Petition No. ARB 19-40 is a request from Chad Waite, represented by Dennis Ivie for a variance to allow a second detached 24 foot by 46 foot garage (1,104 square feet) in the allowed buildable area of a 1.47 parcel of land located at 634 W. Apache Street. The property is legally described as:

Lot One (1), of the APACHE STREET SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, as shown on the plat of said Subdivision filed for record February 25, 2011.

Otherwise located at 634 W. Apache Street

GENERAL INFORMATION
Applicant...............Chad Waite
Property Owner...........Chad Waite
Location of Property .....634 W. Apache Street (R4009052)
Nature of Petition...........The applicant is requesting a variance to allow a second detached 24 foot by 46 foot garage (1,104 square feet) in the allowed buildable area of a 1.47 parcel of land.

Applicable Regulations...City of Farmington Unified Development Code (UDC): Section 2.5.2 B "Any accessory structure that is constructed within the allowed building footprint shall not exceed 2,000 square feet or 50 percent of the total gross floor area of the principal structure, whichever is greater; or exceed 20 feet in height."
And Section 2.5.2 F "No more than three accessory buildings shall be located on a single parcel in a residential district."

Zoning ......................SF-7 Single-family Residential
Existing Use ...............Residential
Surrounding Zoning/ ......North: SF-7, Single-family Residential District/vacant
Land Use
South: SF-7 & OP, Single-family Residential & Office Professional District/residential & Office
East: SF-7, Single-family Residential District/school
West: SF-7, Single-family Residential District/residential & arroyo

Public Notice...............Publication of Notice of this petition appeared in the Daily Times on Sunday, May 19, 2019. Property owners within 100 feet were sent notice by certified mail on Wednesday May 15, 2019. A sign was posted on the property on Friday, May 17, 2019.

Staff .......................Cynthia Lopez, Senior Planner
BACKGROUND
The applicant is requesting a variance to allow a second detached 24 foot by 46 foot garage (1,104 square feet) in the allowed buildable area of a 1.47 parcel of land located at 634 W. Apache Street. The petitioner has an existing detached garage of approximately 2,327 square feet, a shed of approximately 200 square feet and an outbuilding of approximately 616 square feet (3,143 square feet total). The principle structure (residence) is approximately 3,866 square feet (50% = 1,933 square feet). The petitioner intends to remove the 616 square foot outbuilding and the new garage will replace the outbuilding.

The setbacks in the SF-7 Single-family residential district are 25 feet from the front property line, 15 feet from the rear property line and 5 feet from the interior side yard property lines. The buildable area is the portion of the property inside the setback area. All of the structures are in the buildable area. The minimum lot area for the SF-7 zoning district is 7,000 square feet. This property is 1.47 acres (640,332 square feet), which if subdivided could accommodate nine (9) 7,000 square foot lots.

The Glade Arroyo runs along the west side of the property. There is a severe grade change (8 feet to 16 feet) between the front of the property where the residence/ existing detached garage are located and the area on the back half of the property. The existing garage height from the ground to the ridge is approximately 20 feet tall and it, along with the grade change, will shield the new garage from view.

The properties across Apache Street from the Glade Arroyo to Schwartz Avenue include eight (8) residences, ranging in property size from 0.17 acres to 0.2 acres (a total of 1.41 acres), plus a strip mall on 0.54 acres. The property to the east (owned by the petitioner) is 1.46 acres and is vacant. The Apache Elementary School is further to the east. The Farmington School District No. 5 owns the property to the north, which is part of the elementary school grounds. The Glade Arroyo to the west ranges from 81 to more than 95 feet across. There is a residential property west of the Glade Arroyo and it is 2.43 acres.

ISSUES
Engineering: Toni Sitta—599-1399

- I have no comments regarding the ARB request.
- Documents required for development within or adjacent to a floodplain that are associated with building/development design (elevation certificates, design standards/drawings, etc.) shall be completed and submitted to the City Floodplain Manager prior to the issuance of a building permit. All floodplain requirements, construction and documentation, shall be completed and submitted to the City Floodplain Manager prior to the issuance of a certificate of occupancy.
ANALYSIS

Variance Criteria – Section 8.12.4. UDC
A variance may be granted only where a literal enforcement of the Code provisions would result in unnecessary hardship for a particular property. In order to grant a variance, the ARB must make a positive finding of fact concerning each of the following or, if a positive finding of fact cannot be made that the ARB specifically describes the circumstance that would outweigh the strict requirement for a positive finding of fact and determine that the variance will not be a public detriment:

1. That special conditions and circumstances exist, which are peculiar to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same district; and, furthermore, that they are not self-imposed, self-created or otherwise the result of actions by the applicant.

The size and topography of this property are unique from other properties in the SF-7 Single-family Residential zoning districts, including the properties to the south. The minimum lot size for SF-7 is 7,000 square feet. However, this property is 1.47 acres (640,332 square feet), which could accommodate nine (9) 7,000 square foot lots. The petitioner’s property can accommodate several buildings and would still maintain a lesser density than the properties to the south. There is a severe grade change (8 feet to 16 feet) between the front of the property where the residence/existing detached garage are located and the area on the back half of the property. The existing garage height from the ground to the ridge is approximately 20 feet tall and it, along with the grade change, will shield the new garage from view.

This criterion IS met.

2. That a literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Code.

The SF-7 Single-family Residential District would allow for a single family home on each 7,000 square foot lot and up to three accessory structures of either 1,000 square feet or 2,000 square feet in total depending on the location of such accessory structures. For instance, the residential across Apache from the petitioner’s residence could have up to 24 structures on 1.41 acres of land, making for a higher density than is requested in this application. A residence and up to 5 accessory structures on 1.47 acres would allow this property owner to enjoy his property without overcrowding the property.

This criterion IS met.
3. The applicant demonstrates that the request is a minimum easing of the Code requirements, making possible the reasonable use of the land, building or structure.

The requested variance is a minimum easing of the UDC. The proposed garage will be located 60-70 feet behind the existing garage and 8-10 feet below the grade of the existing garage. The proposed garage will not be visible from Apache. The Glade Arroyo is well vegetated and will buffer the view of the proposed garage as well.

This criterion IS met.

4. That the granting of the variance is in harmony with the general interest, the general purpose and intent of the Code, and is not injurious to the neighborhood or otherwise detrimental to the public welfare.

The requested variance is in harmony with the general interest, the general purpose and intent of the Code. The intent of the density and dimensional standards of the Unified Development Code is to protect the welfare of the City's citizens from development that is too dense and to provide open space around structures. The additional space around structures provides a buffer in case of natural disasters, such as fire. A new garage structure that is at least 60-70 feet from any other structures on this property will meet the intent. If will not adversely affect the neighbors or neighborhood, as it will be located on the property so that it is not visible to the neighbors or Apache Street.

This criterion IS met.

5. That the proposed variance will not permit a use not otherwise allowed in the underlying district.

The granting of this variance will not allow a use not otherwise allowed in the SF-10 District.

This criterion IS met.

6. That no nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts has been or shall be considered grounds for the issuance of a variance.

No nonconforming uses, structures or buildings in the same district have been considered as grounds for this variance request.

This criterion IS met.
7. That the applicant would suffer an unnecessary hardship if the variance requested were denied.

The applicant would not suffer an unnecessary hardship if the variance request were denied. However, the approval of the request will provide a better quality of life for this applicant by allowing him to secure and protect his investments.

This criterion IS met.

CONCLUSION

The Community Development Department concludes that approval of ARB 19-40 is a minimum easing of the code, meets the intent of the code and is a property that has characteristics unique enough to allow for a second garage (accessory structure) of over the 2,000 square foot maximum without adversely affecting the neighbors or the neighborhood.

RECOMMENDATION

The Community Development Department recommends approval of Petition ARB 19-40 from Chad Waite, represented by Dennis Ivie for a variance to allow a second detached 24 foot by 46 foot garage (1,104 square feet) in the allowed buildable area of a 1.47 parcel of land located at 634 W. Apache Street, subject to:

- Meeting all floodplain requirements, construction and documentation, which shall be completed and submitted to the City Floodplain Manager prior to the issuance of a building permit or a certificate of occupancy; and,
- The removal of the 616 square foot outbuilding located below the hill behind the existing garage.
Existing Garage (Photo from San Juan County Assessor's Website)
Aerial View looking east to west
# PLANNING MEMO COMMENTS SUMMARY

**ARB 19-40 934 W. APACHE ST.**  
**Deadline: 5/15/19**

<table>
<thead>
<tr>
<th>City of Farmington Departments</th>
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<tbody>
<tr>
<td>CD</td>
<td>Director</td>
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<tr>
<td>CD</td>
<td>Addressing – Planning Division</td>
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<tr>
<td>CD</td>
<td>Chief Building Official – D. Childers</td>
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<td>CD</td>
<td>Long Range Planner</td>
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<td>CD</td>
<td>MPO</td>
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<td>CD</td>
<td>Oil &amp; Gas Inspector – L. Simms</td>
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<tr>
<td>CITY</td>
<td>City Manager’s Office – J. Baird</td>
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<tr>
<td>ELEC</td>
<td>Customer Care Manager – L. Richardson</td>
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<td>ELEC</td>
<td>Electrical Engineering – L Aligarbes</td>
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<td>ELEC</td>
<td>T &amp; D – R. Romero</td>
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<tr>
<td>FIRE</td>
<td>Fire Captain – K. Rix</td>
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<td>FIRE</td>
<td>Fire Marshall – B. Vega</td>
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<tr>
<td>LEGAL</td>
<td>City Attorney – J. Breakell</td>
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<tr>
<td>LEGAL</td>
<td>Deputy City Attorney – E. Wayne</td>
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<tr>
<td>POLICE</td>
<td>Code Compliance – M. Romero</td>
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<td>POLICE</td>
<td>Sergeant – P. Flores</td>
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<tr>
<td>PRCA</td>
<td>S. Reeves/ R. Crosby</td>
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<td>PRCA</td>
<td>ORII – C. Styron</td>
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<tr>
<td>PW</td>
<td>City Engineer – N. Westerling</td>
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<td>PW</td>
<td>Engineering – T. Sitta</td>
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<tr>
<td>PW</td>
<td>Streets Superintendent</td>
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<tr>
<td>PW</td>
<td>Traffic Engineer – I BlueEyes</td>
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<td>PW</td>
<td>Water/Waste Water – M. Tso</td>
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I have no comments regarding the ARB Request.

Documents required for development within or adjacent to a floodplain that are associated with building/development design (elevation certificates, design standards/drawings, etc) shall be completed and submitted to the City Floodplain Manager prior to the issuance of a building permit. All floodplain requirements, construction and documentation, shall be completed and submitted to the City Floodplain Manager prior to the issuance of a certificate of occupancy.
## Other Entities

<table>
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<tr>
<th>Entity</th>
<th>Contact</th>
<th>Notes</th>
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<tr>
<td>New Mexico Gas Company – R. Castillo</td>
<td></td>
<td>No comment</td>
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<tr>
<td>CenturyLink – D. Willato</td>
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<td>Enterprise Field Services</td>
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<td>Comcast Cable – M. Johnson</td>
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<td>CH2MILL OMI</td>
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<td>Surface Land Negotiator for BP – M. Venzara</td>
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<td>Farmington School District – C. Lyons</td>
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### PETITION APPLICATION

Incomplete applications will not be accepted.
Return completed application to:

Planning Division  
Community Development Department  
City of Farmington  
800 Municipal Drive  
Farmingon, NM 87401  
(505) 599-1317  
(505) 599-1299 (fax)

**PROJECT TYPE (Check Those Applicable)**

- [ ] Annexation and / or Zoning  
- [ ] Preliminary Plat  
- [x] Final Plan  
- [ ] Summary Plat  
- [ ] Special Use Permit  
- [ ] Variance (ARB)  
- [ ] Zone Change to _____ District  
- [ ] Temporary Use Permit  
- [ ] Proposed Length of Use:  
- [ ] Well site equipment modification

**INFORMATION**

**Applicant's Name:** Chad Waite  
**Project Location:** 634 W Apache St Farmington

**Address:** 634 W Apache  
**Existing Use:** Residential  
**E-Mail:** mmp@msn.com  
**Proposed Use:** Residential  
**Telephone:** 505-330-2610  
**Current Zoning:**  
**Relationship to Property Owner:** Same  
**Assessor's Parcel I.D. and/or Tax I.D. Number:**  
**Legal Description of Subject Property:**

Is Property subject to deed restrictions, covenants, or homeowners' association agreements?  
Yes [ ] No [ ]

**REPRESENTATIVE / CONTACT PERSON (if other than applicant)**

**Name:** Dennis Jui  
**E-Mail:** driveconsulting@gmail.com  
**Phone:** 505-320-1678  
**Address:** 2617 Taylor Dr. Farmington

**OWNERSHIP**

**PROPERTY OWNER (If identify General Partner, Managing Partner, Corporation President, Secretary, etc.):** Chad Waite  
**MORTGAGE HOLDERS (If any):** Citizens Bank  
**Phone:** 505-330-8616  
**Address:** 634 W Apache St Farmington

**OWNER CERTIFICATION**

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application. I am acting within the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Farmington or Planning and Zoning Commission to enter the premises described in this application. I understand applications will generally be reviewed by City Council at their first regular session following the P&Z review.

**Name:** Julie Waite  
**Owner's Signature:** Julie Waite  
**Address:** 634 W Apache St Farmington  
**Phone / Email:** 505-419-4241  
**mmp@msn.com**

**Received By:**  
**Date:** 5/7/19  
**Fee Received:** $70  
**Project File No.:** 466,19-10  
**Date of Hearing/Meeting:** 4/5/19

- [ ] Blue Line Copies of Plans  
- [ ] Ownership Report (subject and surrounding properties)  
- [ ] Legal Description  
- [ ] Detailed Statement of Proposed Use
JUSTIFICATION OF VARIANCE

A variance may be granted only where a literal enforcement of the Code provisions would result in unnecessary hardship for a particular property. In order to grant a variance, the ARB must make a positive finding of fact concerning each of the following or, if a positive finding of fact cannot be made that the ARB specifically describes the circumstance that would outweigh the strict requirement for a positive finding of fact and determine that the variance will not be a public detriment:

1. That special conditions and circumstances exist, which are peculiar to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same district; and, furthermore, that they are not self-imposed, self-created or otherwise the result of actions by the applicant. The site of the lot justifies having more auxiliary space in comparison. Buildings occupy the same space across the street from this lot. This variance would result in only four structures on this property.

2. That a literal interpretation of the provisions of the Code would deprive the applicant of a use commonly enjoyed by others in the same district under the terms of the Code. Without the proposed variance, the owner would be denied the ability to adequately protect his assets. The additional space would not impact the surrounding properties in an adverse way. In circumstances like this, the code places unreasonable restrictions on a property owner's ability by deducting space needed to have versus auxiliary space. It would cause impact on the right of way, making possible the reasonable use of the land, building or structure. The proposed structure will be set back behind main residence, and will set approximately 17 feet below street level, making it not even visible from the street.

3. That the granting of the variance is in harmony with the general interest, the general purpose and intent of the Code, and is not injurious to the neighborhood or otherwise detrimental to the public welfare. The topography of the lot, combined with the neighborhood features of the street, will make the building less visible. The street and separation from neighboring properties, the lot size also allows for more open space, with the proposed structure than surrounding lots. The proposed structure will in no way impinge on the neighborhood or public welfare.

4. That the proposed variance will not permit a use not otherwise allowed in the underlying district. Auxiliary structures are allowed by Code. We are simply asking for an increase in the allowable space in order to accommodate the owner's needs in protecting his assets.
JUSTIFICATION OF VARIANCE
(Continued)

6. That no non-conforming use of neighboring lands, structures or buildings in the same district
   and no permitted use of lands, structures or buildings in other districts has been or shall be
   considered grounds for the issuance of a variance.
   We are only asking for an
   increase in the allowable space, not something outside of the
   scope of our intentions. The density of the lot should be still
   less than that of the surrounding properties.

7. That the applicant would suffer an unnecessary hardship if the variance required were
   denied. Without the variance, the owner will be unable to
   adequately protect his valuable assets from the weather
   and other threats.

Signature of Petitioner: ________________________  Date: 5/7/19

Attach additional sheets if necessary or use the space below
I don't have enough space in my current garage for my cars side by side and dirt bikes, since I have 1.46 acres of land, I would like to put another garage/storage building for my toys and other things. I also own the lot next to me, and will have access to the proposed building. It will be below my house behind a hill, so no one from Apache Street or the houses across the street will be able to see it. Thank you for looking at my request.

(Signed)

[Signature]
(ARB) ADMINISTRATIVE REVIEW BOARD
NOTICE OF HEARING
Notice is hereby given that the following application has been filed with the Administrative Review Board of the City of Farmington.

Petition No. ARB 19-40- a request from Chad Waite for a variance to allow for an additional accessory structure within the buildable footprint to be 1,104 sq. ft. for property in the SF-7, Single-family Residential District, located at 634 W. Apache Street in the City of Farmington, San Juan County, New Mexico, as described below.

LEGAL DESCRIPTION:
Lot 1 of the Apache Street Subdivision, in the City of Farmington, San Juan County, New Mexico, as shown on the Plat of said Subdivision filed for record February 25, 2011. Otherwise located at 634 W. Apache Street.

A public hearing will be held before the Administrative Review Board of the City of Farmington on Thursday June 6, 2019, at 6:00 p.m. in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico to consider this variance request. All persons in interest are invited to attend said hearing and shall have an opportunity to be heard on why said application should be granted or denied.

Karen Walker
Administrative Assistant

NOTICE OF PUBLIC HEARING  
VARIANCE REQUEST  
PETITION NO. ARB 19-40

May 15, 2019

Dear Property Owner:

Notice is hereby given that an application has been filed with the Administrative Review Board of the City of Farmington, New Mexico, a request from Chad Waite for a variance to allow for an additional accessory structure within the buildable footprint to be 1,104 sq. ft. (24’ x 46’) for property in the SF-7, Single-family Residential District, located at 634 W. Apache Street, in the City of Farmington, San Juan County, New Mexico, as described below:

LEGAL DESCRIPTION
Lot 1 of the Apache Street Subdivision, in the City of Farmington, San Juan County, New Mexico, as shown on the Plat of said Subdivision filed for record February 25, 2011.
Otherwise located at 634 W. Apache Street

A public hearing will be held before the Administrative Review Board of the City of Farmington on Thursday, June 6, 2019 at 6:00 p.m., in the City Council Chambers at City Hall, 800 Municipal Drive, Farmington, New Mexico to consider this variance request. All persons of interest are invited to attend said hearing and shall have an opportunity to be heard on why said application should be granted or denied.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed change. You are invited to attend the hearing noted above or submit written comments prior to the meeting to the Community Development Department – Planning Division at 800 Municipal Drive, Farmington, New Mexico 87401. Please be advised that all submitted comments will become public record and that there is the possibility that any petition may be withdrawn before the hearing date.

If you have any questions or would like additional information regarding this notice or the petition, please contact Helen Landaverde at 505-599-1282 or hlandaverde@fmtn.org.

Sincerely,

Karen Walker  
Administrative Assistant
Names and Tax-Roll Addresses of Owners Within One Hundred (100) Feet (excluding roadways and easements) of the Following Described Property Referenced as TRACT 1:

Lot One (1), of the APACHE STREET SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, as shown on the Plat of said Subdivision filed for record February 25, 2011.

TRACT 1, 6 & 10
Chad A. Waite and Julie A. Waite
634 West Apache
Farmington, NM 87401

Lot 1, of the APACHE STREET SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, filed for record February 25, 2011.

Book 1532, page 18

AND

Lot 2, of the APACHE STREET SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, filed for record February 25, 2011.

AND

Book 1532, page 18

AND

Lot 33, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.

Book 1639, page 720

TRACT 2 & 4
City of Farmington
800 Municipal Drive
Farmington, NM 87401

That part of Section 9, Township 29 North, Range 13 West, N.M.P.M., in the City of Farmington, San Juan County, New Mexico.

Book 1345, page 929
Book 1345, page 506

AND

Tract A, of the APACHE SCHOOL SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, filed for record September 13, 1999.
TRACT 3  
Michael Waite and Frances L. Waite  
721 West Douglas  
Farmington, NM 87401  

Lot 2, of the WAITE SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, filed for record May 19, 2005.  
Book 1424, page 463

TRACT 5  
Board of Education School District No. 5  
P.O. Box 5850  
Farmington, NM 87499  

Lot 3, of the APACHE SCHOOL SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, filed for record September 13, 1999.  
Book 209, page 121

TRACT 7  
Robert E. Sherrill Jr. and Isabelle K. Montoya  
1203 East 33rd Street  
Farmington, NM 87401  

Lot 32, in Block 5, of the EL PASO VIEW SUBDIVISION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.  
Book 1639, page 754

TRACT 8  
Dale Wayne Gerber and Lori Lea Gerber  
c/o Brady E. Johnson and Lori A. Johnson  
P.O. Box 1705  
Farmington, NM 87499  

Lot 33, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.  
Book 1193, page 799  
Book 1582, page 1055  
Book 1625, page 177

TRACT 9  
Jack Ledbetter and Betty G. Ledbetter  
705 West Apache Street  
Farmington, NM 87401  

Lot 34, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.  
Book 1633, page 177

TRACT 11  
Amicus Investments, L.L.C.  
407 North Auburn  
Farmington, NM 87401  

Lot 36, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.  
Book 1545, page 902
TRACT 12
Bettina M. Moore
711 West Apache Street
Farmington, NM 87401

Lot 37, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.

Book 1271, page 137

TRACT 13
Freddie E. Wauneka and Jeanette Wauneka
713 West Apache Street
Farmington, NM 87401

Lot 38, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.

Book 802, page 456

TRACT 14
Lynn K. Christensen, Belva L. Christensen and Patricia J. Lowserback, Trustees
715 West Apache Street
Farmington, NM 87401

Lot 39, in Block 5, of the EL PASO VIEW ADDITION, in the City of Farmington, San Juan County, New Mexico, filed for record May 17, 1956.

Book 1014, page 469
Book 1005, page 306

TO: April 23, 2019, 4:30 p.m.

LIABILITY LIMITED TO THE AMOUNT PAID FOR THIS CERTIFICATE.

SAN JUAN COUNTY ABSTRACT & TITLE COMPANY

By: Lorraine Austin, Abstractor
The Administrative Review Board met in regular session on Thursday, May 9, 2019 at 6:00 p.m. in the City Council Chamber, 800 Municipal Drive, Farmington, New Mexico.

Members present

James Dennis
Jeff Johanson
Paul Martin
Oliver Roe

Members absent: None

Staff present: Francisco Alvarado
David Sypher
Karen Walker

Others addressing the Board: Ricky Wenzel

**Call to Order**
The meeting was called to order at 6:00 p.m. by Chair James Dennis and there being a quorum present the following proceedings were duly had and taken.

**Approval of the Agenda**
A motion was made by Board Member Roe and seconded by Board Member Johanson to approve the agenda. The motion passed unanimously by a vote of 4-0.

**Approval of the Minutes from the April 4, 2019 Regular Meetings**
Board Member Martin made a motion to approve the minutes of the April 4, 2019 regular meeting. The motion was seconded by Board Member Roe and passed unanimously by a vote of 4-0.

**Swearing in of Witnesses**
All parties that wished to speak on behalf of any agenda item were sworn in by Karen Walker.

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**Petition No. ARB 19-25**
Variance to allow for an additional curb cut of 26 feet in the SF-10, Single-family District 6403 Hillcrest Place

**Discussion of ARB No. 19-25 on May 9, 2019**
Associate Planner Francisco Alvarado presented the staff report for ARB 19-25, a request from Ricky Wenzel for a variance to allow an additional curb cut of 26-feet to access a two-car garage in the SF-10, Single Family District, for property located at 6403 Hillcrest Place.
San Juan County Tax Assessor’s records show that the size of the property is 0.773 acres. A variance to reduce the front yard setback from 30 feet to 20 feet was approved in 2018, ARB 18-28, to allow for the detached 2-car garage measuring 1,200 ft.², 30’ x 40’, on the property.

Currently, there is an existing driveway curb cut measuring approximately 53-feet. Additionally, the applicant has a 35-foot access to the property and off-street parking via Lola Lane. The property was built in 1959, prior to the 1969 zoning ordinance.

The proposed additional curb cut of 26-feet for the two-car garage would be two feet wider than the maximum width allowed. The combined width of the existing and proposed curb cuts would amount to 79-feet, exceeding the maximum width permitted by 47 feet. Pursuant to UDC (Unified Development Code) Section 5.3.3(C)(1), Pursuant to UDC Section 5.3.3(C)(1) ‘Maximum curb cut width, curb cuts for two-car garages shall not exceed 24 feet, and the maximum curb cut for any residential property shall not exceed 32 feet’.

The front yard property measures 125 feet. The proposed combined curb cut of 79 feet would be 63% of the required front yard, exceeding the permitted maximum of 50% for off-street parking as stated in UDC Section 5.2.6(2) which says ‘No more than 50% of the required front yard may be used for off-street parking or for a driveway providing access to a garage, carport or parking area located behind the front yard setback.’

Therefore, research shows that Petition ARB 19-25 does not meet the criteria in Section 8.12.4 of the UDC. Staff recommends denial of this request. Staff’s recommendation is to reduce the existing 53-foot curb cut to 24-feet and allowing for an additional 24-foot curb cut which would be in compliance with the UDC for 2-car garages. A safety harbor of a minimum of 5 feet would be required to separate both curb cuts. This would be in compliance with the UDC and would allow for legal non-conforming use.

Mr. Alvarado showed the Board a picture of where the initial proposed garage was to be placed in the original variance proposal and the proposed access when that variance was approved.

Board Member Roe asked why there was originally a 53-foot curb cut. Mr. Alvarado said it was allowed because the property was built in 1959, before the 1969 zoning ordinance.

David Sypher, Acting Community Development Director, explained the original proposed access to the new garage structure. Staff is suggesting reducing the existing 53-foot curb cut to 24-feet and allowing for an additional 24-foot curb cut to avoid adding to the legal non-conforming use. Applying different standards to different people causes problems when the City tries to enforce the UDC, he explained. Board Members discussed drainage, the alternative recommendation by staff, and the proposed request by the petitioner. Questions were raised as to whether the Board Members could approve an alternative recommendation of two 24-foot curb cuts that
were not part of the request by the petitioner. This would give a total of 48-feet of curb cut, yet the maximum allowed in the UDC is 32-feet. David Sypher suggested tabling the petition until the City’s legal department can determine if the ARB Board has the authority to approve an alternative recommendation. Board Member Martin questioned the 5-foot minimum separation between two driveways.

Mr. Alvarado said the 2020 Comprehensive Plan considers that a safe and efficient transportation system is essential to the city’s economic growth. It consists not only of an integrated system of roadways, but includes alternative modes of transportation. The Plan identifies the need to make streets more user-friendly with pedestrian facilities. Currently, there are no pedestrian facilities on Hillcrest Place.

Chair Dennis asked if the shop was built at the correct setback that was approved in the previous variance. Mr. Wenzel said code requires a 30-foot setback. The variance approved a 20-foot setback. He said he actually built the shop with a 25-foot setback.

Chair Dennis asked if access to the shop was addressed at the time of the setback variance. Mr. Wenzel said access was supposed to be from his circle driveway, but there is not enough room. Mr. Wenzel said his builder told him he needed a curb cut.

Mr. Sypher explained that when Mr. Wenzel applied for the shop, the application was not for a curb cut as the expectation was to use the existing curb cut for the circle driveway. Mr. Sypher said he would like to know if part of the 53-foot curb cut belongs to the neighbor. He said a 15-foot, 15-foot and 24-foot curb cut would be an advancement to City standards. The 53-foot curb cut is grandfathered in. He also said he would like to seek advice from the City’s legal department on permitted authority of the ARB Board to recommend an alternative suggestion. Mr. Sypher again asked that the petition be tabled.

Board Member Roe cautioned that Mr. Wenzel’s neighbor may have prescriptive rights to access his driveway from Mr. Wenzel’s property.

Board Member Martin made a motion to table Petition ARB 19-25 until the City has knowledge of the actual ownership of the current 53-foot curb cut.
Chair Dennis said he understands the City standards. The asphalt around the cul-de-sac, parking on the street, the lack of existing sidewalks, and a neighbor to the west using a common drive are conditions where a 24-foot curb cut would clean up the everything. Mr. Dennis said the ARB Board exists to give variances for things that are not correct. Allowing for another curb cut makes the area clean, usable, safe, and enhances the neighborhood. This is an existing condition with a lot of pavement. Mr. Dennis said he is not in conflict with what the petitioner is trying to do.

Board Member Martin withdrew his motion to table Petition ARB 19-25.

**Administrative Review Board Action of May 9, 2019**
A motion was made by Board Member Johanson and seconded by Board Member Dennis to **approve** Petition No. ARB 19-25, a request from Ricky Wenzel for a variance to allow an additional curb cut of 26-feet to access a two-car garage in the SF-10, Single Family District, for property located at 6403 Hillcrest Place.

**AYE:** Chair Dennis, Board Members Johanson, and Roe.  
**NAY:** Board Member Martin  
**ABSTAIN:** None  
**ABSENT:** None  

**APPROVED 3-1**

**Business from the Floor:** There was no business from the Floor.

**Business from the Chair:** There was no business from the Chair.

**Business from the Members:** There was no business from the Members.

**Business from Staff:** There was no business from Staff.

**Adjournment:** The May 9, 2019 meeting of the Administrative Review Board was adjourned at 6:49 p.m.