

**MINUTES
ADMINISTRATIVE REVIEW BOARD
April 4, 2019 – 6:00 P.M.**

The Administrative Review Board met in regular session on Thursday, April 4, 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
Derrick Childers
Helen Landaverde
David Sypher
Karen Walker

Others addressing the Board: Simon Alvarez
Le Na Amburn

Call to Order

The meeting was called to order at 6:02 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 Johanson and seconded by Board Member Dennis to approve the agenda. The motion passed unanimously by a vote of 4-0.

Approval of the Minutes from the March 7, 2019 Regular Meetings

Board Member Johanson made a motion to approve the minutes of the March 7, 2019 regular meeting. The motion was seconded by Board Member Roe and passed unanimously by a vote of 4-0.

Approval of the Open Meetings Resolution

A motion was made by Board Member Johanson and seconded by Board Member Roe to approve the Open Meetings Resolution for 2019 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.

Petition No. ARB 19-17

Variance to allow for an existing building to encroach into the required rear yard & interior side yard setbacks, and to allow a second story addition with a zero-foot interior side yard setbacks.

Discussion of ARB No. 19-17 on April 4, 2019

Associate Planner Helen Landaverde presented the staff report for ARB 19-17, a request from Simon Alvarez to reduce the rear yard setback from 25-feet to 0-feet, to reduce the interior side yard from 8-feet to 0-feet, and to allow a second story addition for a bedroom and porch with a 0-foot interior side yard setback for the existing building in the MF-L, Multifamily Low Density District for property located at 943 Schofield Lane.

Original construction for the single family home was completed in 1955, prior to the 1969 and 2002 building code. Additional alterations to the home were also made prior to that time and completed in 1999.

Ms. Landaverde said ARB 19-17 meets the variance criteria listed in section 8.12.4 of the UDC, Unified Development Code. Community Development recommends approval.

Chair Dennis asked if the footprint of the home will be changed and if the original home was built with 0-foot setbacks. Ms. Landaverde said the footprint will not change and confirmed that the home appears to have been built with 0-foot setbacks.

Derrick Childers, Chief Building Inspector, discussed issues that would have to be met concerning the fire code due to the setbacks.

Simon Alvarez, 943 Schofield Lane, said he is trying to remodel the inside and outside of his house.

Administrative Review Board Action of April 4, 2019

A motion was made by Board Member Martin and seconded by Board Member Johanson to **approve** Petition No. ARB 19-17, a request from Simon Alvarez to reduce the rear yard setback from 25-feet to 0-feet, to reduce the interior side yard from 8-feet to 0-feet, and to allow a second story addition with a 0-foot interior side yard setback for the existing building in the MF-L, Multifamily Low Density District for property located at 943 Schofield Lane.

AYE: Chair Dennis, Board Members Johanson, Martin, and Roe.

NAY: None

ABSTAIN: None

ABSENT: None

APPROVED 4-0

Petition No. ARB 19-19

Variance to allow four duplexes and accessory structures to encroach into the rear, side, and front yard setbacks for an existing building

Board Member Martin declared a conflict of interest and recused himself. Mr. Martin acted as the representative for Sakura Engineering for this petition.

Discussion of ARB No. 19-19 on April 4, 2019

Associate Planner Helen Landaverde presented the staff report for ARB 19-19, a request from Scott Bird, represented by Sakura Engineering to reduce the rear yard setback from 25-feet to 0-feet, to reduce the interior side yard setback from 8-feet to 0-feet, and to reduce the front yard setback from 20-feet to 0-feet, for the existing building in the MF-M, Multifamily Medium Density District for property located at 241 N. Schwartz Avenue.

The original construction for a single family home and four duplexes was completed in 1965, which predates the 1969 Development Code. The 1969 Development Code has the same setback requirements as the current UDC, Unified Development Code.

The petitioner is proposing to do a lot split; however, the existing structures do not meet the required setbacks in the MF-M District. The variance request is for buildings A-G, as shown in Figure 2 of the ARB April 4, 2019 Agenda Book.

The Chief Building Official, Derrick Childers, commented that the open area between the two carports will need to be addressed prior to a lot split to meet the requirement of the IRC.

This petition does not meet criteria 1 and 7 in section 8.12.4 of the UDC. The Community Development Department recommends denial of this petition; however, the ARB Board has authority to determine whether criteria 1 and 7 are met and has final authority on the approval or denial of this petition.

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 property, developed in 1964, has remained composed of one single family home along with four duplexes. This petition anticipates a lot split, through summary plat. That is why the variance in some areas of the property do not currently have a property line. The desire to have a lot split and a variance that anticipates the split, speaks to how this petition is self-imposed, and/or self-created.

An approvable scenario would be if the lot line was imposed by a court ruling, or something the petitioner has no control over.

This criterion **is not met.**

7. That the applicant would suffer an unnecessary hardship if the variance requested were denied.

The applicant has a self-imposed situation that a variance to UDC regulations would resolve. If the lot remained in its current state, land uses and lot configurations could remain and no unnecessary hardship would exist.

An example of when an unnecessary hardship would occur is if the denial of a variance would prohibit the petitioner from building a single family or four duplex residences.

This criterion **is not met.**

Board Member Johanson asked what the options were for the petitioner to meet the code. Derrick Childers said the intention is to stop conflagration between the two carports if a fire should happen so that the fire did not spread as quickly to other buildings. The options are to tear one of the carports down or to build a 1-hour fire wall to prevent flames from spreading sideways. Mr. Childers said he has discussed the issue with Sakura Engineering and Sakura is proposing to build two 1-hour walls, one on each carport. The recommendation is to prevent the rapid spread of fire.

Paul Martin, Sakura Engineering, 125 W. Main Street, said the residences have been there for a long time. The 4 brick duplexes were built before the metal carports were built. Mr. Martin said he is working with the building department to design two 1-hour fire walls between the two carports. He said the owner of the remaining units understands what needs to be done if changes are made in the future. Mr. Martin said there is approximately 18" between these two carports. Chair Dennis asked if there would be room to clean the area between the fire walls. Mr. Martin said there will be a 2-3" gap at the bottom of the fire walls.

Le Na Amburn, 241 N. Schwartz, Apt. 4B, presented pictures showing the carports. She said she has no problems with the lot split or the variances.

Paul Martin reminded the Board that they were only approving the variance to the setbacks. He said the variance was for the entire property at 241 N. Schwartz so that a variance would not be necessary again.

Board Member Roe questioned criteria 7 as to whether the applicant would suffer an unnecessary hardship if the petition were denied. Ms. Landaverde said the lot split is self-created and is not considered a hardship. Ms. Landaverde suggested making a variance recommendation for the existing structures and not to the setbacks for the entire property so if the structures were ever removed, the property could come into compliance.

Chair Dennis asked what would happen if the carports were torn down. Derrick Childers said the only life safety issue is between the two carports. Even without the lot split, the carports would not meet conformity.

Chair Dennis asked if approval of this petition will set a precedence. Mr. Childers said it would not set a precedence. This is a reasonable solution whether the property is split or not.

Administrative Review Board Action of April 4, 2019

A motion was made by Board Member Roe and seconded by Board Member Johanson to **approve** Petition No. ARB 19-19, a request from Scott Bird, represented by Sakura Engineering to reduce the rear yard setback from 25-feet to 0-feet, to reduce the interior side yard setback from 8-feet to 0-feet, and to reduce the front yard setback from 20-feet to 0-feet for the existing building in the MF-M, Multifamily Medium Density District for property located at 241 N. Schwartz Avenue.

AYE: Chair Dennis, Board Members Johanson, and Roe.

NAY: None

ABSTAIN: Board Member Martin

ABSENT: None

APPROVED 3-0

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: David Sypher introduced Francisco Alvarado, the new Associate Planner for Community Development.

Adjournment: The April 4, 2019 meeting of the Administrative Review Board was adjourned at 6:51 p.m.


James Dennis-Chair


Karen Walker-Administrative Assistant