

**MINUTES
ADMINISTRATIVE REVIEW BOARD
May 9, 2019 – 6:00 P.M.**

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.

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 a sidewalk would be required along the curb. Mr. Sypher said that would be the ideal situation, but was not required in this situation.

Ricky Wenzel, 6403 Hillcrest Place, said he declines the alternative recommendation by staff. He would like to go forward with his request. He said he was unaware of a curb cut permit. Mr. Wenzel said his neighbor uses part of the 53-foot curb cut to access his driveway. To put in a 24-foot curb cut in front of his house would block access for his neighbor and would block access for his circle driveway. Currently, he said, there is no issue with parking on the street. A curb would cause problems. Mr. Wenzel said there are no drainage issues as the property slopes down. He said there are no sidewalks in the entire cul-de-sac. Mr. Wenzel said he needs 15 feet on part of the circle and 15 feet on the other side to have access for the neighbor, access to his home, and access to his shop. He said he built a nice shop to try to make it nice for the neighborhood and is just trying to get access to the building.

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.


James Dennis-Chair


Karen Walker-Administrative Assistant

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