

City of Santa Fe
Planning Commission
Findings of Fact and Conclusions of Law

Case #2016-17

195 Brownell Howland Road Escarpment Variance

Owner's Name- Anne Thompson Davenport

Agent's Name – Thomas Lechner

THIS MATTER came before the Planning Commission (Commission) for hearing on April 7, 2016, upon the application (Application) of Thomas Lechner as agent for Anne Thompson Davenport (Applicant).

The Applicant seek a variance from the requirements of Santa Fe City Code (SFCC) §14-5.6(D) to allow an addition to an attached garage within the Ridgetop Subdistrict (Ridgetop) of the Escarpment Overlay District (Escarpment). The Applicant proposes to build a 300 square foot addition to the east side of the 4,112 square foot footprint of an existing house to create an attached accessory dwelling unit (guest house). The property is on 5.08 acres of land at 195 Brownell Howland Road (Property). The subject property was subdivided in 2009 (lot split). As SFCC §14-5.6(D) prohibits development in the Ridgetop on lots subdivided or resubdivided after February 26, 1992, the 2009 subdivision necessitates the need for a Variance to allow development within the Ridgetop on the subject property.

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

1. The Commission heard reports from staff and received testimony and evidence from the Applicant and there were no members of the public that offered public comment.
2. SFCC §14-2.3(C)(5)(a) authorizes the Commission to review and grant or deny requests for variances from the SFCC §14-5.6 in compliance with SFCC §14-3.16.
3. SFCC §14-5.6(K) authorizes the Commission to vary the requirements of the Ordinance so that substantial justice may be done and the public interest secured where the Commission finds that strict compliance with those requirements may result in extraordinary hardship.
4. Pursuant to SFCC §14-3.1(F)(2)(a)(vii) an Early Neighborhood Notification meeting is not required for variances requesting construction of an individual single-family dwelling and appurtenant accessory structures.
5. SFCC §14-3.16(B) authorizes the Commission to approve, approve with conditions or deny the variance based on the Application, input received at the public hearing and the approval criteria set forth in SFCC §14-3.16(C).
6. City Land Use Department staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Commission with a written report of its findings (Staff Report) and Conditions together with a recommendation that the Commission approve the variance.

7. The information contained in the Staff Report and the testimony and evidence presented at the hearing is sufficient to establish with respect to the Applicant's request for a variance from the requirements of SFCC §14-5.6(D) that pursuant to §14-3.16(C):
 - (a) special circumstances exist as unique physical characteristics do exist that distinguish the land from others in the vicinity that are subject to the escarpment overlay district.
 - a. The residence was designed by John Gaw Meem in 1958, which was before the Escarpment Overlay Zone was created.
 - b. Requiring the structure to be built outside of the Ridgetop boundary would change the character of the house and destroy the surrounding landscape.
 - (b) the special circumstances make it infeasible to develop the Property in compliance with the Ordinance since:
 - a. The Applicant wants to place the structure in the Ridgetop boundary because placing the structure outside of the Ridgetop boundary would change the character of the house, destroy existing natural vegetation and would require grading on steeper portions of the site.
 - (c) the intensity of development will not exceed that which is allowed on other properties in the vicinity that are subject to the Ordinance as:
 - a. The amount of development on the site, including the house, and would continue to be, one of the smallest in the surrounding neighborhood.
 - b. The footprints of the development on other lots around the subject lot range from 4,800 to 9,300 square feet.
 - c. The proposed footprint would be 4,412 square feet.
 - d. This data was taken by analyzing nine homes located adjacent to, or within 2 lots, of the subject property and most are either partially or completely within the Ridgetop Subdistrict.
 - e. The proposed 4,412 square foot footprint would be less than the median footprint size of 5,970 square feet.
 - (d) the variance is the minimum variance:
 - a. The Applicant has taken steps to reduce impacts by asking for a small addition.
 - b. The size of the structure is consistent with adjacent structures and is consistent with the General Plan.
 - (e) the variance is not contrary to the public interest, in that the proposed addition will be sited in a manner to meet the purpose and intent of the Escarpment regulations by minimizing visual impact.
8. The information contained in the Staff Report and the testimony and evidence presented at the hearing is sufficient to establish with respect to the Applicants' request for a variance from the requirements of SFCC §14-5.6(D) that extraordinary hardship will result from compliance with such requirements, in that without the variance the Property could not be developed to an intensity similar to adjacent properties.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

1. The Commission has the power and authority under the Code to review and approve the Applicant's request for a variance.
2. The Applicant has met the criteria for a variance set forth in SFCC §14-3.16(C) and §14-5.6(K).

WHEREFORE, IT IS ORDERED ON THE _____ OF _____ 2016 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

That the variance is approved as applied for.

Vince Kadlubek
Chair

Date:

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Zachary Shandler
Assistant City Attorney

Date: