

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

Case #2016-46

102 Montoya Circle Escarpment Variance

Owner's Name – Robin K. Laughlin

Agent's Name – JenkinsGavin Design and Development

THIS MATTER came before the Planning Commission (Commission) for hearing on June 2, 2016 upon the application (Application) of JenkinsGavin Design and Development, as agent for Robin K. Laughlin (Applicant).

The Applicant seeks a variance from the requirements of Santa Fe City Code (SFCC) §14-5.6(D) to permit construction of a four-foot-high coyote fence (Fence) within the Ridgetop Subdistrict (Ridgetop) of the Escarpment Overlay District (Escarpment) on a .13± acre parcel of land located at 102 Montoya Circle (Property). The Property is zoned R-21 (Residential – 21 dwelling units/acre) and is located within the Historic Review District.

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 members of the public interested in the matter.
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, subject to such conditions as in the Commission's judgment will assure substantially the objectives of the standards or requirements so varied or modified.
4. Pursuant to SFCC §14-3.1(F)(2)(a)(vii) an Early Neighborhood Notification (ENN) meeting is not required for variances requesting construction of an individual single-family dwelling and appurtenant accessory structures.
5. The Fence is an appurtenant accessory structure and an ENN meeting is not required.
6. 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).
7. 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) together with a recommendation that the Commission approve the variance, subject to the conditions set out in the Staff Report (the Conditions).

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 Applicant's request for a variance from the requirements of SFCC §14-5.6(D) that (a) special circumstances exist, in that the Property is a legal nonconforming lot created in 2001 prior to the adoption in 2006 of the Ordinance; (b) the special circumstances make it infeasible to develop the Property in compliance with the Ordinance, in that the entire Property is located within the Ridgetop and the Ordinance prohibits development in the Ridgetop; (c) the intensity of development will not exceed that which is allowed on other properties in the vicinity that are subject to the Ordinance, in that other properties in the Escarpment in the vicinity of the Property are improved with fences and walls between approximately four and six feet in height; (d) the variance is the minimum variance that will make possible the reasonable use of the Property, in that without the variance the Fence could not be constructed at all, even where it is required under the SFCC as a safety measure; and (e) the variance is not contrary to the public interest, in that the Fence will be located on the Property and designed to comply with all other applicable requirements of the Ordinance so as to minimize visual impact in accordance with the Ordinance's purpose and intent.
9. 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 extraordinary hardship will result from compliance with such requirements, in that without the variance the Fence could not be constructed at all, even where it is required under the SFCC as a safety measure and although other properties in the Escarpment in the vicinity of the Property are improved with fences and walls between approximately four and six feet in height.

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 JULY 2016 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:

That the variance is approved as applied for, subject to the Conditions.

Vince Kadlubek
Chair

Date:

[REMAINING SIGNATURES APPEAR ON FOLLOWING PAGE]

FILED:

Yolanda Y. Vigil
City Clerk

Date:

APPROVED AS TO FORM:

Zachary Shandler
Assistant City Attorney

Date: