

**TRANSCRIPT OF THE  
SANTA FE COUNTY  
SLDC HEARING OFFICER MEETING**

**Santa Fe, New Mexico**

**December 12, 2019**

**I.** This meeting of the Santa Fe County Sustainable Land Development Code Hearing Officer meeting was called to order by Santa Fe County Hearing Officer Richard Virtue on the above-cited date at 3:00 p.m. at the Santa Fe County Administration Complex Main Conference Room, 100 Catron Street, Santa Fe, New Mexico.

**Staff Present:**

Vicki Lucero, Building & Services Manager  
Paul Kavanaugh, Building & Services Supervisor  
John Lovato, Development Review Specialist  
Cristella Valdez, Assistant County Attorney  
Jaome, Blay, Fire Marshal

**II. Approval of Agenda**

There were no changes to the published agenda.

**III. Public Hearings**

- A. Case #19-5240: Allan Rappaport, Applicant, requests a variance of Chapter 7, Section 7.3.3, Table 7-A, (Setbacks) of the Sustainable Land Development Code, to allow an accessory structure to be located 10 feet from the rear property boundary. The site is within the Residential Fringe Zoning District where the rear setback is 25 feet from the property boundary. The site is located at 84 Camino Amor within Township 18 North, Range 10 East, Section 20. (Commission District 1), SDA-2.**

Hearing Officer Virtue read the case caption as written above.

JOHN LOVATO (Case Manager): Thank you very much, Hearing Officer.

On November 6, 2019, the Applicant submitted the Application for a variance to allow a 600 square foot accessory structure to be 10 feet from the rear property boundary. The site is within the Residential Fringe Zoning District where the rear setback requirement is 25 feet from the property boundary. Currently, there is an existing 2,989 square foot residence on the property. The Current residence is approximately 60 feet

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from the rear property boundary and proposed garage is approximately 100 feet from the residence.

The Applicant states, "we purchased the house knowing we would be required to build a garage for our vehicle and significant storage needs as our new home had not been occupied year round and contained very little in the way of storage area." The Applicant states after they re-surveyed their property they found the only logical spot was a flat area near the home. They met with the Los Caminitos HOA Architectural Control Committee and sought a variance from the Committee and the variance was granted.

The Applicants further states, "we next learned that our purposed siting of the garage would require a variance from Santa Fe County and arranged to meet with the appropriate committee. Furthermore, we did not want our vehicles outdoors for the winter and prefer not to continue storage rental, and began to earnestly explore another building site. The alternative site posed difficulties with multiple standing trees, water lines, and possible height variances due to the topography of the land."

Los Caminitos HOA Architectural Committee has a restrictive 50 foot setback requirement and has reviewed the Applicant's site plan and preliminary design for the accessory structure. The committee had no issues and granted the Applicant a 10 foot setback.

The Applicant has addressed the variance criteria and staff has responded as contained in this report.

Recommendation: The variance request does not meet the requirements. However, there are terrain constraints, drainages, and disturbance of significant trees which could hinder any type of development elsewhere on the property, and the alternative site is a distance from the home. Therefore, staff recommends approval of the variance request as proposed.

If the Hearing Officer is to recommend approval of the variance, Staff recommends the following conditions be imposed. Hearing Officer Virtue, may I enter those conditions into the record?

HEARING OFFICER: You may, they will be entered in.

Conditions:

1. The Applicant shall not build any other structure within the required setback.
2. The Applicant shall comply with all Fire Preventions requirements.
  - a. An emergency vehicle turnaround shall be required for all structures that lie farther than 150' from the access road. The emergency vehicle turnaround shall meet all the requirements of the Santa Fe County Fire Code.
  - b. The owner shall comply with and maintain the requirements of the Santa Fe County Vegetation Management Plan regarding the proposed structure.
3. The height of the structure shall not exceed 18 feet.

MR. LOVATO: Thank you. Staff requests that the Hearing Officer memorialize findings of fact and conclusions of law in a written recommendation. The Santa Fe County Planning Commission will be holding a public hearing on this matter on January 16, 2020. Hearing Officer Virtue, I stand for any questions you may have.

HEARING OFFICER: Great, thank you. I have no questions at this point. I may have some later.

We'll now turn to the applicant and I would ask that the applicant and anybody who is going to speak on behalf of the applicant to please identify yourself by name and address and be sworn.

ALLAN RAPPAPORT: Yes, I am Allan Rappaport, the applicant, 84 Camino Amor in Tesuque, Los Caminitos Development. This is my colleague and builder Ted Stanley who also lives in Tesuque.

FRANCIS STANLEY: It's actually Francis Stanley. I'm called Ted but Francis is my name.

HEARING OFFICER: Okay, and will you give us your address for the record.

MR. STANLEY: Yes, it's 3 Old Coach Road, Tesuque.

HEARING OFFICER: Thank you.

MR. STANLEY: And that's Santa Fe, 87506.

[Allan Rappaport and Francis "Ted" Stanley were duly sworn.]

HEARING OFFICER: The applicant may proceed to present the application, thank you.

MR. RAPPAPORT: Do you want me to just generally describe the circumstances?

HEARING OFFICER: Yes, please do and whatever else you think would be appropriate to call our attention to.

MR. RAPPAPORT: Okay, so there was a logical spot to build this small garage that we need for our vehicles and for storage, a flat area. And when we had a survey done we realized that it would have to be closer to the property line than the setback requirements were. So we got an okay from the architectural control committee, Los Caminitos subdivision, and we were proceeding along those lines. Then when we talked to the County we realized that they had a 25 foot setback and our building would have to be within 10 feet, so we explored another area on the property that we thought may work to build a garage not far from the other location. The more we got into that, with additional surveys and slope analysis, we found it even more difficult. Aside from cutting down trees and moving a great amount of earth, we realized that the driveway in that area would have to be lowered to make the garage work which would involve building additional stairs to get to the house. On top of that, when we had a locator, when we hired a locator to identify where the power and water lines were, we realized that to make that site work it would locating the driveway right on top of or be on the already established electrical and water lines. At that point, with that many difficulties trying to use that site we abandoned it and gone back to the notion of a variance and we followed the various steps that were outlined to us to get to this point to present about getting a variance.

We contacted all the abutting property owners including the folks outside of the subdivision and everything has been approved by those people.

HEARING OFFICER: Thank you. Did you have a community meeting to discuss this? I didn't see anything in the staff report indicating that a meeting was held. I saw notices but I didn't see any notice of a meeting.

MR. LOVATO: Hearing Officer Virtue, a community meeting was not required. However, he did meet with the architectural control committee and got their approvals for what they are proposing.

HEARING OFFICER: Okay. But the notice to the surrounding property owners was given and –

MR. RAPPAPORT: Oh, yes.

HEARING OFFICER: -- no meeting.

MR. RAPPAPORT: No meeting other than with the architectural control committee of the subdivision.

HEARING OFFICER: Of the association?

MR. RAPPAPORT: Right, and with the only one property owner outside of the subdivision, I've met with those owners too and have a letter from them stating their approval of the variance.

HEARING OFFICER: Thank you for that. Do you have anything further?

MR. STANLEY: No I think that describes it.

HEARING OFFICER: Does the gentleman have anything to add?

MR. STANLEY: Not necessarily but the only thing I would add is that the other site that was evaluated was really the only other site the one that was described. There was terrain issues and it was steep. When you look at this – your parcel is what, 10 acres?

MR. RAPPAPORT: Ten acres, yes.

MR. STANLEY: And it's really – until you get all the way up at the top – there's really no proper way to address any kind of garage building and so these are really the only two sites that we looked at.

HEARING OFFICER: Okay, I do have a question about the alternate site. I heard your statements about the alterations to the house that would be required and that sort of thing, but can you give me a little bit more background on what exactly would, on the alternate site, would then cause a problem. The staff report says difficulties with multiple standing trees, water lines and possible height variances would be required; can you describe in some more detail what is involved?

MR. RAPPAPORT: Yes, it's an extremely sloped and hilly site to begin with. So there would be a huge amount of earth moving that would be required. Cutting down a lot of trees and we explored that to the extent of having that exact area surveyed with a separate survey and slope analysis. But then as we proceeded with all of that and again, like I said, the survey was done and there was even a plot plan with the proposed building on top of the site, the driveway at that point is sloped and would have to be lowered. So the last straw was kind of the notion that the driveway would have to be lowered which would mean building additional stairs up to the house. And on top of that, the power line and the water lines ran underground right in the area that has to be lower. So the chances would be, if we proceeded in that direction, we'd also have to move the incoming power line and water lines. Which the locator described as a bad idea, don't even go there, is what he said. That was kind of the last straw in the exploration of that site. And this was a months-and-months process.

So it was only after that months-and-months process that we went back to the idea of a variance because we were hoping to get a garage built before the winter which

obviously we didn't succeed in.

HEARING OFFICER: Thank you for that. Did the staff visit the site?

MR. LOVATO: Hearing Officer Virtue, I did visit the site.

HEARING OFFICER: Did you inspect the area that the applicant is talking about?

MR. LOVATO: Hearing Officer, I did inspect that area. There was significant trees. There was some 30 percent slopes that could be disturbed. I did not witness the actual lines or the location of the lines.

HEARING OFFICER: That's helpful, thank you. I had a question about the emergency vehicle turn around. I couldn't determine where that would be from the map. Can you, Fire Marshal, describe that please?

FIRE MARSHAL BLAY: Yes, Hearing Officer Virtue, and that is one of the notes in our review that a turnaround will have to be determined and installed in that area. Because if you look at Exhibit 9 the alternative placement of the garage, the turnaround is left in the way that it is supposed to be but if you look at Exhibit 8 and we look at the garage if installed needing that turnaround. So an alternative turnaround is going to have to be designed and installed in that area. Whether it is a hammerhead by extending this slightly – and we'll work with you. It doesn't have to be the full 7 feet the code requires but we would be able to turn around in that area because this driveway is pretty long.

MR. RAPPAPORT: Yeah, and does it have to do with the length of the driveway?

FIRE MARSHAL BLAY: Yes.

HEARING OFFICER: That's obviously why I couldn't identify the location because you hadn't determined that yet and you're going to work with the applicant.

FIRE MARSHAL BLAY: That's correct. The condition is that they will have to install a new turnaround.

HEARING OFFICER: Okay. You understand, Dr. Rappaport, that is a condition that you'll have to –

MR. RAPPAPORT: Yes, I do. I'm not sure exactly yet what that involves but it's okay. The rules in the past were that – well, one reason we came up with the 600 square foot design was that in the past that used to have some impact on the turnaround issue; is that true?

FIRE MARSHAL BLAY: No.

MR. RAPPAPORT: Oh, it never did. Okay.

FIRE MARSHAL BLAY: I cannot speak for the past but currently we are under a different code and ordinance.

MR. RAPPAPORT: So it doesn't make any difference how large the accessory building is? Okay. You can see that right down here there is a corner, the corner of the area that we were originally proposing the failed Plan A location. This corner cannot –

HEARING OFFICER: Excuse me, but can you identify what you're talking about?

MR. RAPPAPORT: This is Exhibit 9, the survey map, the small version of the survey map. There's a corner down there that is not extremely sloped like the rest

of that area is. I don't know if that would work in terms of formulating a turnaround. Do you see the corner I am speaking of? See, this area right there.

MR. STANLEY: This corner is more or less available for modification such that we could begin to address that – did you call it, a hammerhead?

FIRE MARSHAL BLAY: Uh huh, or a Y. So this area in here.

MR. RAPPAPORT: Yes, this area would not be difficult to clear and then this part of the driveway remains and I think it will make it a fairly large area.

FIRE MARSHAL BLAY: This is the stairway to the main –

MR. RAPPAPORT: Right, right, the stairway to the house.

FIRE MARSHAL BLAY: We can work something out but that doesn't really give us a way of turning around. We're talking about an apparatus that may be 30 to 35 feet long. Usually the alternatives are a hammerhead, like a T, or a Y but in this case we would need something that would extend –

MR. STANLEY: You need your truck/vehicle to come in here, go up toward the steps and then back out.

HEARING OFFICER: Excuse me. I think it might be best for you all to discuss this later.

MR. RAPPAPORT: Yeah, work on that later, I agree.

HEARING OFFICER: The rest of us, including the record aren't following what you're talking about and it's something that you just need to negotiate and workout. It will be filed later and as a condition you'll work that out.

MR. RAPPAPORT: Absolutely.

HEARING OFFICER: Does the applicant have anything further to present at this time?

MR. RAPPAPORT: No.

HEARING OFFICER: Is there anyone present who wishes to speak in opposition to the application? Seeing none, well, I'll just ask if there is anyone else present who would like to speak generally about the application? Seeing none, I will declare the public hearing portion of this meeting to be concluded and I will submit my written recommendation concerning the application in 15 business days. Thank you very much.

MR. RAPPAPORT: Thank you.

**IV. Adjournment**

Hearing Officer Virtue adjourned the hearing at approximately 3:20 p.m.

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STATE OF NEW MEXICO ) ss

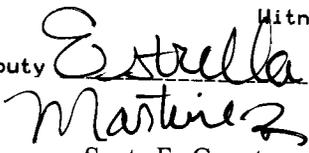
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Approved by:

I Hereby Certify That This Instrument Was Filed for  
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Richard L.C. Virtue, SLDC  
Hearing Officer Santa Fe County

Deputy   
Witness My Hand And Seal Of Office  
Geraldine Salazar  
County Clerk, Santa Fe, NM



Santa Fe County  
Hearing Officer: December 12, 2019