

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

Santa Fe, New Mexico

August 13, 2020

1. 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 approximately 3:00 p.m. at the Santa Fe County Administrative Complex, 100 Catron Street, Santa Fe, New Mexico.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, this meeting was conducted on a platform for audio/video meetings.

Staff Present:

Vicki Lucero, Building & Development Services Manager
Miguel "Mike" Romero, Case Manager

2. **Approval of Agenda**

HEARING OFFICER RICHARD VIRTUE: Good afternoon. This is the monthly meeting of the Sustainable Land Development Code Hearing Officer. My name is Richard Virtue. I'm the Hearing Officer. We have one case on our published agenda today. I will ask if there are any changes to that.

VICKI LUCERO (Building & Development Services Manager): Hearing Officer Virtue, there are no changes to the agenda.

HEARING OFFICER VIRTUE: Thank you. It looks to me that we have some call-in users attending the meeting. I would at this time ask anyone who is attending the meeting who would like to testify in connection with the case to please identify yourself so that we can call on you at the appropriate time. Are there any persons who wish to testify other than the applicant?. Hearing none, we will turn to the case we have today.

SFC CLERK RECORDED 09/11/2020

3. **Public Hearings**

- A. **Jonathan and Natalie Severy, Applicants, Flynn Stewart-Severy, Agent, request a variance of Chapter 7, Section 7.17.9.3.1 (Height) of the Sustainable Land Development Code, to allow a second-story residential addition to exceed the 18 feet height requirement and allow the residence a height of 22 feet 7 inches. The second-story addition will be greater than 18 feet in height on slopes in excess of 15 percent. The site is within the Residential Fringe (RES-F) Zoning District. The property is located at 120 La Barbaria Road within Township 16 North, Range 10 East, Section 9. (Commission District 4), SDA-2.**

[Hearing Officer Virtue read the case caption as shown above and invited staff to provide the report.]

MIKE ROMERO (Case Manager): Thank you, Hearing Officer Virtue. The Applicants are the owners of the property as evidence by warranty deed recorded in the records of the Santa Fe County Clerk on January 26, 2018, as Instrument # 1845831. The property consists of 5.0 acres within the Residential Fringe Zoning District. The Applicants are requesting a variance of Chapter 7, Section 7.17.9.3.1, height, to allow a second-story addition to exceed the 18 foot height limitation.

The Applicants are proposing to construct an 882 square foot second-story addition to an existing 1,817 square foot single story residence. If the variance is approved, the total square footage of the residence will be 2,699 square feet. The existing single story residence was constructed with clerestory windows, which brings the height of the residence to 19 feet 8 inches. The architectural drawings illustrate that the proposed addition will bring the total height of the residence to 22 feet 7 inches. Staff has determined that the existing residence was constructed prior to the adoption of the Sustainable Land Development Code Ordinance 2016-9. However, staff has not been able to locate a permit for the residence, but did find that a permit was approved for a detached single car garage in 1997.

The proposed height of the addition will exceed the height limitation on slopes in excess of 15 percent. Chapter 7, Section 7.17.9.3.1 states, "The height of any structure located on land that has a natural slope of 15 percent or greater shall not exceed 18 feet. The distance between the highest point of the structure and the lowest point of the natural grade or finished cut shall not exceed 30 feet, unless the portion of the slope over 15 percent is incidental to the entire site"

The Applicant's architect and agent submitted architectural drawings that illustrate the proposed addition will not exceed the overall 30 foot height requirements. An administrative minor deviation of 10 percent would allow the residence to go up to 19 feet 9 inches.

Staff conducted a site visit and has determined that the proposed second-story addition would be partially visible from La Barbaria Road and the Applicants' driveway. During the site visit, staff observed three residential structures located on three separate adjacent properties that may potentially see the addition. Staff measured the distance from the residential structures to the Applicant's residence and approximated that the

furthest neighboring residence is 1,955 feet away. The distance from the other two neighboring residential structures is 455 feet and 520 feet away. All three of the residential structures in question are higher in elevation than that of the Applicant's residence and two of these homes appear to be two-story homes.

While driving to the Applicant's property, staff observed several two-story homes located within the area and off La Barbaria Road. Measurements were taken via the County's web mapping interface measuring tool. Staff believes that the existing residence is well screened by existing mature native vegetation, which includes significant trees that are at a minimum height of 20 to 30 feet. If removed, the Applicant's residence would not be well screened and be visible from La Barbaria Road and adjacent neighboring homes. The SLDC Chapter 7, Figure 7.6: Height of Structures in Steep Slope Areas requires that construction is designed in a manner that a structure step down or step up on the steep slope. Staff verified that the Applicants would not be able to construct an addition by stepping down or stepping up following the slope without the need for additional variances. If the Applicants were to construct an addition by stepping down, the Applicant would disturb 10 significant trees on slopes of 30 percent or greater and rock outcroppings. If the Applicant were to step up the addition, the Applicant would inherit the same issue by disturbing five significant trees on slopes of 30 percent or greater. These options would require the Applicants to request different variances.

The Applicants' agent states, "prior to requesting a height variance for this property, we first considered alternative methods for expansion of the existing home. Building outward was considered and rejected due to the following reasons:

- The existing home is completely surrounded by old growth spruce and pinyons that would be deemed significant by the current land use code, and as such, would also require that a variance be sought and obtained prior to construction. Removal of the trees will make the home more visible from the road. Currently, it is almost entirely protected from view.
- Excavation and development of a steep slope is incredibly costly and preliminary contractor estimates for pouring additional foundations generally result in a net budget increases of \$100,000. Building on top of existing walls and foundations is more economical.
- Any addition outward will result in further disturbance of existing steep slopes and vegetation. Excavated soil and boulders will need to be trucked off-site.
- Expanding outward would result in additional roof area and impervious surfaces. This type of development is typically deemed to be in contrast to the guidelines and preferences of the current land use code. By building up instead of out there will be not additional impervious area added to the residence."

The Applicants' agent further states, "Dr. Jonathan Severy, MD is an emergency room physician at Christus St. Vincent Regional Medical Center. He and his wife are concerned that he may expose their family to COVID-19. He has been isolating himself as best as possible. The proposed addition will permit each of his three children to have their own bedroom on the main level, and will allow Dr. Severy to self-isolate in the new loft as necessary."

The Applicants and Applicants' Agent has addressed the variance criteria and staff responded to the Applicants' statements.

Recommendation: The Applicants and their agent provided responses to the variance criteria. Staff recommends approval of a variance from the Sustainable Land Development Code Ordinance No. 2016-9 of Chapter 7, Section 7.17.9.3.1, Height, to allow a second-story addition to exceed 18 feet in height. Staff has determined that constructing a single-story residential addition to the Applicants existing residence would affect the surrounding terrain, significant trees, and rock outcroppings. Due to these topographical features the Applicants least impacting option is to construct vertically. By constructing vertically, the Applicants will help preserve the existing terrain, existing vegetation, prevent unnecessary scarring, and potential drainage issues. Staff believes that the residence is well screened by the existing vegetation and that by constructing a second-story addition would not cause a visual impact on adjacent properties. Staff's suggestion and recommendation is to allow the Applicants to construct a second-story addition that exceeds the 18 foot height requirement. However, the maximum height of the addition shall not exceed 22 feet 7 inches as indicated in the architectural drawings and proposal. If the Hearing Officer recommends approval of the variance, staff recommends the following conditions be imposed.

Staff requests the Hearing Officer memorialize findings of fact and conclusions of law in a written order. The Santa Fe County Planning Commission will be holding a public hearing on this matter on September 17, 2020. I stand for any questions.

HEARING OFFICER VIRTUE: Thank you, Mr. Romero. I see that there are six conditions recommended in the staff report and we will enter those conditions into the record.

Conditions:

1. The Applicants will be required to adhere to the approved building plans at the time of building permit.
2. The Applicants will be required to address the water harvesting requirements in Chapter 7 of the SLDC at the time of building permit submittal.
3. The Applicants shall comply with Chapter 7, Sustainable Design Standards.
4. The Applicants shall comply with Chapter 7, Section 7.17 Terrain Management.
5. The Applicants shall comply with Chapter 7, Section 7.17.10. Development at or above 7400 Feet.
6. The Applicants shall adhere to State, County, and Fire Prevention conditions of approval and requirements.

MR. ROMERO: Thank you, sir.

HEARING OFFICER VIRTUE: I have one question.

MR. ROMERO: Yes.

HEARING OFFICER VIRTUE: The proposed height of the structure as I understand it, is 19 feet 9 inches and with a minor deviation and your recommendation is that it shall not exceed 22 feet 7 inches in height; can you explain the difference in those two numbers?

MR. ROMERO: Hearing Officer, with a 10 percent minor deviation we're looking at the 18 foot requirement as what the code states which then would allow the 19 foot 8 inches. I believe, with that deviation and because the existing residence already exceeds the height of 18 feet because of the clerestory windows it's going to

bring that height up a few feet by 22 feet 7 inches. The Applicant will essentially be going vertical with a few feet, several inches higher than what's already existing for the building.

HEARING OFFICER VIRTUE: Okay, so that explains the need for the variance then, I take it.

MR. ROMERO: That is correct, sir, yes.

HEARING OFFICER VIRTUE: Thank you, Mr. Romero. With that I will turn to the Applicants' case and the Applicants' agent and anyone else who intends to speak in favor of the application to please identify yourself by name and address and then we'll have you sworn in. We'll start with the Applicant.

FLYNN STEWART-SEVERY: Yes, I called in. My name is Flynn Stewart-Severy. I am the Applicants' architect and representative here today.

HEARING OFFICER VIRTUE: Okay, and what's your address?

MR. STEWART-SEVERY: My physical address?

HEARING OFFICER VIRTUE: Yes.

MR. STEWART-SEVERY: My physical address of my architecture firm is 15 Kearns Road, Suite D, Snowmass Village, Colorado, 81615.

HEARING OFFICER VIRTUE: Is the Applicant present? Does the Applicant wish to testify?

MR. STEWART-SEVERY: I don't believe so.

HEARING OFFICER VIRTUE: Is there anyone else that wishes to testify in favor of the application? Okay, we'll have the Applicants' agent sworn in and then you may proceed with your testimony.

[Duly sworn, Flynn Stewart-Severy, testified as follows:]

MR. STEWART-SEVERY: I am the brother in-law of the Applicant, so it's the same spelling as the Applicants' last name.

HEARING OFFICER VIRTUE: So please proceed.

MR. STEWART-SEVERY: I have nothing further to add but I am happy to answer questions. The process that my brother in-law undertook about a year ago was to hire a local Santa Fe architect. That process pretty much unraveled as they began to get construction bids back and they began to look at the process to build an addition that sprawled outward and down the hill.

I am a licensed architect in the State of Colorado and I was hired – the correct phrase is volunteered to help them with that process. They are paying me but it's very much a friends and family rate. So we looked at building up. The home has three or four interior vaulted spaces that basically already felt like a two-story volume. So we're kind of cutting portions of the home in half to create an actual second story which is why the additional height is only about 3 feet in addition to the current roof line.

I think I've provided Mr. Romero with most of my comments and he incorporated them into the report. If there are questions, I am happy to answer them but I feel comfortable leaving it at that at the moment.

HEARING OFFICER VIRTUE: Okay, thank you. Just for the record, are you in agreement with the six conditions that the staff is recommending?

MR. STEWART-SEVERY: Yes, we are fine with the conditions.

HEARING OFFICER VIRTUE: Okay. With that unless there is someone else who is on the call that wants to make a statement or testify at this point and I'll give

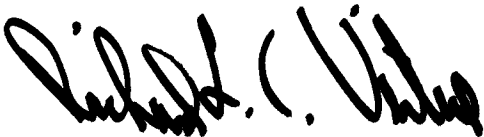
you an opportunity to do so now. Hearing none, we will close off the Applicants' portion of the case and I will ask if there's any public testimony.

Are there any members of the public who wish to testify regarding this case either generally or in opposition? Is there anybody that wants to testify if so please identify yourself? Hearing none, at this point I will close the hearing and I will submit a written recommendation regarding this case within 15 business days. The hearing is now closed, thank you very much.

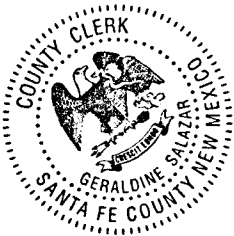
4. Adjournment

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

Approved by:




Richard L.C. Virtue, SLDC
Hearing Officer Santa Fe County



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

SLDC HEARING OFFICER M
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I Hereby Certify That This Instrument Was Filed for
Record On The 11TH Day Of September, 2020 at 10:22:14 AM
And Was Duly Recorded as Instrument # 1927571
Of The Records Of Santa Fe County

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

SFC CLERK RECORDED 09/11/2020