

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

Santa Fe, New Mexico

September 13, 2018

SFC CLERK RECORDED 10/01/2018

I. Call to Order

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 Commission Chambers, Santa Fe, New Mexico.

Staff Present:

Vicki Lucero, Building & Development Services Manager
Cristella Valdez, Assistant County Attorney
Eric Ames, Assistant County Attorney
Jaome Blay, Fire Marshal

II. Approval of Agenda

HEARING OFFICER RICHARD VIRTUE: The first order is to determine whether we have any changes to the agenda.

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

HEARING OFFICER VIRTUE: Thank you. There being no changes we will proceed with the item that we have on the agenda today.

III. Public Hearings

- A. **SVAR 18-5170 Stewart Alsop Variance.** Stewart Alsop, Applicant, Barbra Felix, Agent, request a variance of Chapter 9.5.3.6, Table 9-5-5, of the Tesuque Community District Overlay Dimensional Standards TCD RES-C (Residential Community) to allow a residence to exceed 20' in height. The property is located at 54 Big Tesuque Canyon Road within, Section 32, Township 18 North, Range 10 East, (Commission District 1). SDA-2

[Exhibit 1: Letter from Margo Cutler, signed and dated 7/12/2018]

[The Hearing Officer read the case caption as shown above and requested that staff present the report.]

MS. LUCERO: Thank you, Hearing Officer Virtue, I will be presenting the report for this case.

The property consists of 5.01 acres and is in the Residential Community District within the Tesuque Community District Overlay. The maximum height allowed in the Tesuque Community District Overlay is 20 feet. The minimum lots size within the Residential Community is one acre per dwelling unit. Currently, there is an existing residence, barn, caretaker's residence, and swimming pool on the property. The applicant intends on demolishing the main residence, barn, and caretaker's house. The applicant intends on constructing a new main residence with a flat roof, two story, 6,266 square foot structure, a 1,398 square foot guest house, and a 325 square foot office/accessory structure. The height of the proposed two story main residence is 24 feet. The maximum height allowed is 20 feet within the residential community.

The applicant states they are requesting a height of 24 feet because it will allow us to avoid special construction techniques, such as additional steel framing which complicates plumbing and mechanical systems for the new house. Therefore, the Applicant is requesting a variance.

The applicant has addressed the variance criteria as set forth in Chapter 4, Section 4.9.7.4, of the SLDC and staff has also provided a response to the criteria.

Recommendation: The application is not in strict compliance with the SLDC. The applicant could obtain a permit to construct the residence to comply with requirements set forth in Chapter 9.5.3.6, Table 9-5-5, which allows for structures to be up to 20 feet in height. The applicant could also request a minor deviation of 10 percent to allow for a 22 foot maximum height per section 4.9.7.6 of the SLDC.

The applicant can have more homes on this tract, and this variance would set a precedent for future homes. The height requirements were established through and extensive community planning process. Therefore, staff recommends denial of the requested variance.

If the decision of the Hearing Officer is to recommend approval, staff recommends the imposition of the following conditions:

1. The development must comply with all other design standards of the SLDC and Chapter 9.5, the Tesuque Community District Overlay.
2. The development must comply with Fire Prevention requirements and conditions.

Staff requests 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 October 18, 2018.

Thank you, Hearing Officer Virtue. I stand for any questions.

HEARING OFFICER VIRTUE: Thank you, Ms. Lucero. I may have some questions for you later. I'd like to proceed to the applicant's presentation. And I will ask that we have all persons who wish to testify today stand and be sworn at this

time. That would be the applicant, the applicant's representative and anybody in the public that wants to testify in favor or in opposition please stand.

[The oath was administered to Barbara Felix, 1828 Cristobal Lane, Santa Fe and Justin Young, 3957 Agua Fria Street, Santa Fe.]

HEARING OFFICER VIRTUE: Please proceed.

BARBARA FELIX: Okay, thank you for your time. The property, as staff said, exist of a main house, a guest house, a pool area and there's actually a small cabin in the back which I think the staff is calling a barn and then there is a small storage shed. So there is actually four existing structures right now on the property. What we are proposing to do is take down the main house, take down the guest house, take down the shed and then take down the cabin and replace the main house with a two-story structure. This darker area would be the two-story area. Take down the guest house which is currently in this area and is actually right now a two-story building so it doesn't say that but it is a two-story building. Staff didn't get out to the site before this meeting, so we've got that scheduled. So replace the guest house with a guest house here at the top. Replace the cabin with another cabin which would be the accessory structure that Vicki talked about and then replace the pool as well.

In terms of whether the applicant – or whether there would be an ability to build future structures on the property, I understand it is a five-acre lot but the reality is there's the acequia that runs along here and this is 30 percent slope up to the top of the mountain, Santa Fe Forest here, this is the Tesuque Creek, and this is the property line so the actual buildable area within the five acres is very small. So the ability for the owner to split the lot in the future and actually come up with buildable lot areas is slim to none. So I don't actually see that happening in the future.

In terms of why we are asking for the variance, the SLDC does allow for a height of 24 feet and the Tesuque Overlay District is 20 feet and there is administrative approval for an extra 10 percent which would give us to the 22 feet. Prior to the SLDC being approved in 2017, we could actually build in the Tesuque Overlay to 24 feet. So we're really just asking to be able to do what we could have done two years ago.

We have the building elevations – you can see here, would tie into the grade. They are hard to see and probably easier to see in your packet. So let me actually have you look at your packet because I think that's probably a little easier. If you look at the photographs that are starting on NBA-10 – we actually went out prior to meeting with the neighbors and put out the neighbor request, and we put up 24-foot story poles at this location of the house, so this corner of the house and this corner of the house. And then we proceeded to walk down the driveway, out of the property along the fence. This is the last property at Big Tesuque Canyon so that trailhead that goes up the trail is right here. By the time we got to this part of the driveway you could not actually see the story pole. Not only could you not see the 24-foot height outside of the property, you actually couldn't see it within the property when you moved a certain distance away. So we definitely don't think this is a hardship to the public because the public will not be able to see the 24 feet.

I think that's all I have. So if you have questions, I would be happy to answer them.

HEARING OFFICER VIRTUE: I have a few questions. First is, how was the determination made that the public cannot see the house from any public area? I understand that you put the poles out and you took the photos but my question is who made that determination? Who walked the area around the property and made the determination you can't see the second story from the road or from any public area?

MS. FELIX: My team did. So we would be happy to put those story poles back up and have the County staff walk that with us when we meet with them on September 21st.

HEARING OFFICER VIRTUE: I was looking at the record of the public meeting and there was a member of the public that asked about that.

MS. FELIX: Correct.

HEARING OFFICER VIRTUE: And then there is a statement in the materials that that matter was resolved to the satisfaction of the public members present.

MS. FELIX: Correct.

HEARING OFFICER VIRTUE: Can you tell me, confirm that for me, please.

MS. FELIX: Sure. So when we met with the public the two members who came were actually from the community organizations and so we walked the property, had the poles in the place actually when they were there and, again, once we went down to this portion of this other property they could not see those poles. So, actually, Margo Cutler who is one of the community member organization leaders had written a separate letter that she submitted to the County. Vicki, do you have a copy of that? I have the draft. I don't have the signed copy from her. But I can give you this.

HEARING OFFICER VIRTUE: I didn't see it in the materials.

MS. FELIX: No, it wasn't in there. And I don't know if you know anything about Ms. Cutler, but Margo is an incredible neighbor and is very careful about watching what is going on as is Lynn Pickard.

HEARING OFFICER VIRTUE: Yes, let me just read this. Okay, that's what I was looking for. Can we have this entered – staff, have you received a copy? Have you seen this? Have you received a letter from Ms. Cutler?

MS. FELIX: I believe it was sent directly to Mr. Lovato which is why I don't have a signed copy of it.

MS. LUCERO: Hearing Officer Virtue, we are looking through the file and we don't seem to find that letter in the file. But what we can do is we can take a copy after the meeting and we'll make sure the recorder gets a copy as well for the record.

HEARING OFFICER VIRTUE: Okay.

MS. FELIX: Thank you.

HEARING OFFICER VIRTUE: We'll have the letter entered into the record if the staff cannot find it in their file.

I've got a question about the hardship aspect of the application. The application letter as I understand says that you're asking for the 24 feet because it allows the owner to avoid special construction techniques such as, additional steel framing which complicates plumbing and mechanical systems for the new house. Could you provide an explanation of exactly what's involved in special construction techniques and resulting problems.

MS. FELIX: Sure. One of the things that is happening on this property is that we're in kind of the perfect storm in terms of other requirements for the code. So the SLDC requires that the house be a minimum of one foot above the highest grade for the floodplain. So the highest grade for the floodplain is at 7,080. So by the time we get to 22 feet above that 7,080, we're at 7,092, no, that's not right, that's 12. Anyway, what's happening because we're at a minimum with the floor in terms of being a foot above the flood grade and then we are at a maximum above the highest natural grade, we're getting kind of smushed in there. And so what's happening is, in order to have, ideally we'll love to have the ceilings be 9 feet or 10 feet instead of 8 feet, which I understand we can do, but the owners would really like to have 9.5 to 10 feet ceilings. So what is happening is by the time we're ending up with the structure between the first and second floor we're ending up with about 12 inches if we have the 22 feet height. And because we've got structure and mechanical systems that are going through there, we're have to, if we stay at the 22 feet design a structural system that is steel which means that we're then having to kind of lower ceilings or raised floors in order to get duct work and/or electrical work around, over and through the steel. Whereas, if we go to a higher overall building height and we can get to closer to an 18 to 24 inches interstitial space between the first floor and the second floor, we can go back to standard trusses, wood trusses which means they have openings which means we can actually run the duct work through the trusses so we're not having to pay for the steel. And we're also having a much easier time getting the duct work in the building systems actually through the interstitial space. So it's one of those things that I can't tell you that that's a \$10,000 problem or a \$50,000 problems but it is one of those issues that it is just going to start adding cost and it's going to add a level of complexity that doesn't seem reasonable in a residence.

HEARING OFFICER VIRTUE: Okay, so if I understand you correctly, there's no technical problem with actually building it 22 feet. It is just that the cost involved in building would be higher than –

MS. FELIX: That is correct.

HEARING OFFICER VIRTUE: -- if you were able to go 24.

MS. FELIX: Correct.

HEARING OFFICER VIRTUE: Okay. That's all. Those are all the questions I have.

MS. FELIX: Okay. Thank you.

HEARING OFFICER VIRTUE: I don't have any questions for the staff unless the staff wants to make a response to the applicant's presentation.

MS. LUCERO: Hearing Officer Virtue, I think we're fine. We don't need to add anything at this point.

HEARING OFFICER VIRTUE: Okay, thank you. If there are no further comments, we will conclude the hearing and I will make a written recommendation within 15 days of today.

MS. LUCERO: Hearing Officer Virtue, this is a public hearing.

HEARING OFFICER VIRTUE: Oh, excuse me. Thank you.


Are there any members of the public who wish to speak at this time? [There were none] I will now close the hearing if there is nothing further.

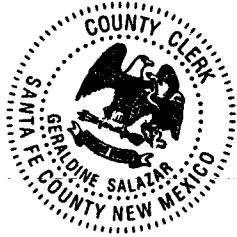
MS. LUCERO: I think that we're concluded.

HEARING OFFICER VIRTUE: Okay, thank you very much.

The Hearing Office adjourned this meeting at approximately 3:15 p.m.

Approved by: _____


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



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I Hereby Certify That This Instrument Was Filed for
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Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy E. Estrella County Clerk, Santa Fe, NM

Deputy Estrell
Martinez

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41 Big Tesuque Canyon

Santa Fe, NM 87506

Mr. John F. Lovato

Santa Fe County Land Use Department

102 Grant Avenue

Santa Fe, NM 87501

July 12, 2018

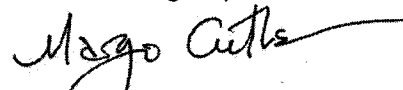
Dear Mr. Lovato,

On July 6, 2018 my neighbor Lynn Pickard and I attended a presentation about the request for a variance in height for the construction of a new main house to be built at 54 Big Tesuque Canyon. One of the owners, two members of the architectural firm and the general contractor made a very clear presentation about the need for the variance.

The site in question is in a heavily wooded area at the end of Big Tesuque Canyon Road where it cannot be seen by any of the adjoining neighbors. Lynn and I both appreciated the opportunity to meet with those involved and to be informed about the project.

We both felt that the request for a height limitation of 24 feet above grade for a part of the main residence was justified. We wanted to let you know that we have no objections and hope that Santa Fe County will grant the applicants' request.

With best regards,


Margo Cutler

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