

MINUTES OF THE
SANTA FE COUNTY
PLANNING COMMISSION

Santa Fe, New Mexico

September 17, 2020

1. A. This meeting of the Santa Fe County Planning Commission called to order by Chair Charlie Gonzales on the above-cited date at approximately 4:08 p.m.

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.

- B. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Charlie Gonzales, Chair
Frank Katz, Vice Chair
J. J. Gonzales
Steve Krenz
Fred Raznick

Member(s) Excused:

Leroy Lopez
Susan Martin

Staff Present:

Vicki Lucero, Building & Development Services Manager
Paul Kavanaugh, Building & Development Services Supervisor
Miguel "Mike" Romero, Development Review Specialist
Roger Prucino, Assistant County Attorney
Jaome Blay, Fire Marshal

2. **Approval of Agenda**

CHAIR C. GONZALES: Vicki, any amendments?

VICKI LUCERO (Building & Development Services Manager): Mr. Chair, as stated on the agenda, the two cases under Old Business, the Gerald Olsen Variance and the Mark and Jack Ellvinger Variances are postponed. We're waiting for them to address the comments and the additional information as requested by the

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Planning Commission at the last meeting. Other than that, Mr. Chair, there are no changes to the agenda.

MEMBER KATZ: Mr. Chair, I move to approve the agenda.

MEMBER KRENZ: I second.

The motion passed by unanimous [5-0] roll call vote.

3. Approval of Minutes: September 17, 2020

CHAIR C. GONZALES: Do I have discussion or a motion?

MEMBER KATZ: Move to approve the minutes.

MEMBER KRENZ: Second

CHAIR C. GONZALES: Okay, we have a motion and a second.

The motion passed by unanimous [5-0] roll call vote.

4. CONSENT CALENDAR: Final Orders

- A. **Case # 19-5140 Samuel Peters.** Samuel Peters, Applicant, Catherine Fletcher-Lerich, Agent, request a Conditional Use Permit to allow for an accessory dwelling in accordance with Chapter 9.5.5.1.1 (Accessory Dwelling Units) of the Tesuque Community Overlay District, and a variance of Chapter 10.4.2.2, (Size) to allow an Accessory Dwelling to be greater than 1,400 square feet. The property is within the Residential Fringe Zoning District within the Tesuque Community District Overlay. The property is 6.39 acres and located at 12A and 12B Arroyo Ancho within, Section 25, Township 18 North, Range 9 East, (Commission District 1). SDA-2 John Lovato, Case Manager. Conditional Use Permit Approved Unanimously 6-0. Variance Denied unanimously 6-0

CHAIR C. GONZALES: Do I have a motion?

MEMBER RAZNICK: I move that the final order be approved.

CHAIR C. GONZALES: All right. Do I get a second?

MEMBER KATZ: Second.

The motion passed by unanimous [5-0] roll call vote.

5. OLD BUSINESS

- A. **Case #18- 5180 Gerald Ohlsen Variance.** POSTPONED
B. **Mark and Jack Ellvinger Variances.** POSTPONED

6. NEW BUSINESS

- 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

MEMBER J.J. GONZALES: Mr. Chair.

CHAIR C. GONZALES: J.J., yes.

MEMBER J.J. GONZALES: I happen to know Dr. Severy. He took care of me in the emergency room when I hurt my arm, and I met him once or twice before, after that. So I wonder if the committee has any problems with me listening and sitting in on the case and making a fair and impartial decision. I'd ask the committee to see if it's okay.

CHAIR C. GONZALES: Did he put a gold arm on you? [laughter]

MEMBER J.J. GONZALES: No.

CHAIR C. GONZALES: I'm okay with it. Please let it be known for the record that the Commission is okay with what J.J. just said. Okay, please start.

MIKE ROMERO (Case Manager): Thank you, Mr. Chair. On August 13, 2020 the application was presented to the Sustainable Land Development Hearing Officer. The Hearing Officer supported the application based on the evidence and testimony presented at the public hearing. The Hearing Officer finds there is sufficient evidence of extraordinary and exceptional conditions of the property that would result in an undue hardship to the applicants from the strict application of the code, and that the applicants have met the variance criteria of the Sustainable Land Development Code, Ordinance 2016-9. The Hearing Officer recommended approval of a variance of Chapter 7, Section 7.17.9.3.1, Height, of the SLDC to allow a second story addition to exceed the 18-foot height limitation subject to staff's recommended conditions.

At the public hearing no one from the public spoke in favor or opposition of the application.

The applicants are the owners of the property as evidenced by warranty deed recorded in the records of the Santa Fe County Clerk on January 26, 2018, as Instrument # 1845831. The property consists of five 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

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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 applicants’ architect/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 applicants’ 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 applicants’ residence and two of these homes appear to be two-story homes.

While driving to the applicants’ property, staff observed several two-story homes located within the area 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 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 steep slopes. 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 applicants would disturb 10 significant trees on slopes of 30 percent or greater and rock outcroppings. If the applicants were to step up the addition, the applicants 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 instead of upward was considered and rejected due to the following reasons:

The existing home is completely surrounded by old growth spruce and piñons 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 increase 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.

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 decision of the Planning Commission is to recommend approval, staff recommends the imposition of the conditions listed below in accordance with the Hearing Officer’s recommendations. May I enter these into the record?

CHAIR C. GONZALES: Yes, you may.

MR. ROMERO: Mr. Chair, would you like for me to read the read the recommendations?

CHAIR C. GONZALES: Yes, please do.

[Mr. Romero read the conditions as follows:]

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.

This matter went before the Hearing Officer for a hearing on August 13, 2020. The Hearing Officer supported the application based on the evidence of testimony presented at the public hearing. The Hearing Officer finds there is sufficient evidence of extraordinary

and exception conditions of the property that would result in undue hardship to the applicants from the strict application of the code, and that the applicants have met the variance criteria of the SLDC. The Hearing Officer recommended approval of the variance of Chapter 7, Section 7.17.9.3.1, Height, of the SLDC to allow a second story to exceed the 18-foot height limitation subject to staff's recommended conditions. If the decision of the Planning Commission is to approve the application, staff recommends that the Planning Commission approve the application with staff's recommended conditions, make its own finding of fact and conclusion of law including findings of fact and conclusions of law to support each of the three variance criteria in Chapter 4, Section 4.9.7.4 of the SLDC.

I stand for any questions.

CHAIR C. GONZALES: Thank you, Miguel. Does the Commission have any questions of staff?

MEMBER KRENZ: I have a question.

CHAIR C. GONZALES: Please, Steve.

MEMBER KRENZ: I'm wondering about this additional fire apparatus turnaround. Is that also part of this petition?

MR. ROMERO: Mr. Chair, Member Krenz, the second element – the variance itself was reviewed by Fire and Fire gave their recommendation as part of the construction of that. The applicant or the applicant's agent did design the fire apparatus turnaround based off of the Santa Fe County Fire, and I think the agent can make more comments on that.

MEMBER KRENZ: My only question about this is that it appears that some of this is on 30 percent slope, and is there no variances needed for this to be installed?

MR. ROMERO: The existing fire apparatus, I'd have to go back to the site plan, but the existing apparatus – more or less it's already existing. What we did, myself and another staff member went out there and conducted a site visit. We didn't feel that any additional variances were required prior to the submittal of the application.

MEMBER KRENZ: Okay. Thank you.

CHAIR C. GONZALES: Thank you, Steve. Any other questions from the Commission?

MEMBER J.J. GONZALES: Mr. Chair.

CHAIR C. GONZALES: J.J.

MEMBER J.J. GONZALES: Yes. I had a couple of questions. At the last hearing, with the hearing officer, there were no comments from the public. Did you get any letters or anything in favor of or in opposition to this case to the Planning Commission?

MR. ROMERO: Mr. Chair, Committee Member Gonzales, no, sir, we didn't. There was no correspondence via email or letters that were sent in in opposition or in favor of the variance.

MEMBER J.J. GONZALES: Okay, thank you. That's all I had.

CHAIR C. GONZALES: Any other questions from the Commission? I have a question again. When you went out to the site, the existing driveway out there, as per the plans it looks like it exceeds 15 percent, but I know it's existing. How did it look to you?

MR. ROMERO: Myself and Paul Kavanaugh went out there and did the inspection and we had no issues with what was existing proposed for the application itself. The existing driveway looks well manicured. Everything looks to be well in place.

CHAIR C. GONZALES: Did you notice if there was a culvert underneath the driveway? A bar ditch?

MR. ROMERO: Mr. Chair, I didn't look for a culvert during our inspection. I don't know if Paul Kavanaugh noticed one but I didn't look for one.

CHAIR C. GONZALES: Okay. Thank you.

PAUL KAVANAUGH (Building & Development Supervisor): Mr. Chair, it did call out for a culvert down at the bottom of La Barbaria.

CHAIR C. GONZALES: Okay. You're on top of it. Thank you.

MR. KAVANAUGH: Thank you.

CHAIR C. GONZALES: Okay, if that's all the questions from the Commission. Is the applicant ready to make his presentation?

FLYNN STEWART-SEVERY: I am Flynn Stewart-Severy. The applicant's representative and also the brother-in-law of Dr. John Severy. I have not prepared a presentation today but I'm happy to answer any questions you may have. We looked at multiple designs for the home and my recommendation, both from economic, cost-effective and from an adherence to the land use code perspective was to build up. Due to the steep slope we didn't want to rip out trees, create erosion issues, have stormwater management problems, and ultimately, this is reducing impervious area in a pretty dangerous spot for erosion and terrain management.

CHAIR C. GONZALES: Okay. Is that it?

MR. STEWART-SEVERY: That's it. I'm happy to answer questions. The one thing I'd say is we think we're going to need a variance no matter what we way we build so I guess that would be a question to you is how you would like to see that variance issued on this property or if you don't think the property should be developed any further then obviously you could deny all our variances.

CHAIR C. GONZALES: Thank you. Does the Commission have any questions of the applicant?

MEMBER J.J. GONZALES: Mr. Chair.

CHAIR C. GONZALES: Yes, J.J.

MEMBER J.J. GONZALES: I don't have any questions. The thing is I read the Hearing Officer's report and he recommended we approve this variance. I saw the staff recommendations and saw that they recommended we approve this variance. And it seemed that according to all the people that reviewed this, it seemed that Dr. Severy is doing the right thing by asking for one variance, a height variance, which is a minimal easing of the code. It's not like they have to ask for six or seven variances, which makes it very difficult for us to consider. And I think that according to what I read, I think they've done their homework on this and hope that they can get this thing built the way they want to without any more disturbance.

I hope the Fire Marshal there looked at that and I hope that they can work with the applicant due to something for fire protection there. And that's about all I have on this one. I think they did a good job on that. Thank you very much.

CHAIR C. GONZALES: Thank you, J.J. Any other questions from the Commission to the applicant?

MEMBER KATZ: Mr. Chair.

CHAIR C. GONZALES: Frank.

MEMBER KATZ: I likewise think they did a very good job and there'll be minimal disturbance of the land around it, plus it's very little above the top of the house now, and with that I would move for approval of the application as submitted with the conditions that were read into the record.

CHAIR C. GONZALES: Okay, Frank. I still need to open this up for a public hearing.

MEMBER KATZ: Oh, I'm sorry.

CHAIR C. GONZALES: That's all right. This is a public hearing. Is there anybody out there that wants to speak on behalf of or against this project? Anybody out there? Seeing I don't see anybody wanting to speak I'm going to close the public hearing, and Frank, you have the mike again.

MEMBER KATZ: Okay, then I would move in this case to approve the application as submitted with the conditions specified.

MEMBER RAZNICK: Second.

CHAIR C. GONZALES: Okay. There's a motion and there's a second.

The motion passed by unanimous [5-0] roll call vote.

B. Possible Action on the Findings of Fact and Conclusions of Law for Case # 20-5060, Jonathan and Natalie Severy Variance

CHAIR C. GONZALES: Is there a motion on this?

MEMBER KRENZ: Mr. Chair, I move we approve the findings of fact and conclusions of law for this case.

CHAIR C. GONZALES: All right. Do we have a second?

MEMBER J.J. GONZALES: I second that.

The motion passed by unanimous [5-0] roll call vote.

7. Petitions from the Floor – None were offered.

8. Communications from the Committee

MEMBER RAZNICK: I have a question for Vicki.

CHAIR C. GONZALES: Okay.

MEMBER RAZNICK: Vicki, I understand that there is a project currently going through the County at Avenida Vista Grande and 285, the Agora. Are we going to be hearing that?

MS. LUCERO: Mr. Chair, Commission Member Raznick, are you referring to the medical center?

MEMBER RAZNICK: Yes.

MS. LUCERO: That project was actually a permitted use, so it receives an administrative approval. So it will not be coming before the Planning Commission.

MEMBER RAZNICK: And the second question is that I understand that a waterline is going to be coming through Eldorado to hook up parts of Cañoncito. Will that be coming down Avenida Vista Grande?

MS. LUCERO: Mr. Chair, Commission Member Raznick, I don't have those plans in front of me. I do not recall. But that project will be coming before the Planning Commission. At that point they will provide you with the plans and the locations of the line.

CHAIR C. GONZALES: Thank you, Fred. I'll continue with Communications from the Commission Members, I would just like to bring up something. I have spoken with Vicki and staff and I'm going to ask her to arrange to get somebody from the GIS to come talk to us or maybe give us a small presentation on the LIDAR, on the proposed topo that the County provides for the public. They recently did – or they're accepting it to be used for some of our projects and I'm curious to see how close that topo is.

MS. LUCERO: Mr. Chair, we will arrange for somebody from our GIS staff to do a presentation.

CHAIR C. GONZALES: I would prefer to get Erle but I know he's busy.

MS. LUCERO: We'll try to get Erle to do that.

CHAIR C. GONZALES: Okay. Any other comments on this?

9. **Communications from the Attorney** - None were presented

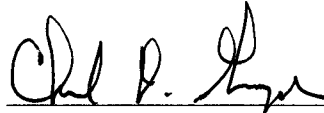
10. **Matters from Land Use Staff** - None were presented

11. **Next Planning Commission Meeting: October 15, 2020**

12. **Adjournment**

Upon motion by Commission Member Raznick and second by Commission Member Katz, Chair Gonzales declared this meeting adjourned at approximately 4:40.

Approved by:

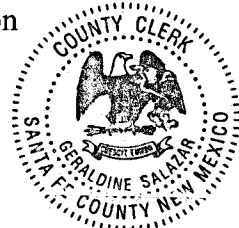


Charlie Gonzales, Chair
Planning Commission

10-15-20

ATTEST TO:


GERALDINE SALAZAR
SANTA FE COUNTY CLERK



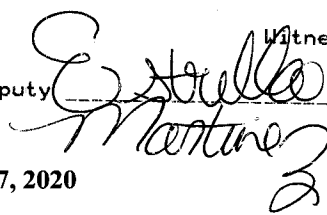
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

PLANNING COMMISSION MI
PAGES: 9

Submitted by:


Karen Farrell, Wordswork

I Hereby Certify That This Instrument Was Filed for
Record On The 21ST Day Of October, 2020 at 04:00:14 PM
And Was Duly Recorded as Instrument # 1931945
Of The Records Of Santa Fe County

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

Santa Fe County Planning Commission: September 17, 2020