

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 15-5140
Sign Variance
Vernon DeAuero, Applicant
Alberto Alcocer, Agent

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for hearing on November 10, 2015, on the Application of Vernon DeAgüero (Applicants) for a variance of Article VIII, § 7.15, Prohibited Signs, of the Santa Fe County Land Development Code, Ordinance No. 1996-10 (Code) to allow an existing, unpermitted 96 square-foot sign advertising an off-site business on 2.21 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken, and should be granted subject to conditions, and makes the following findings of fact and conclusions of law:

1. The Applicants requested a variance of Article VIII, § 7.15, Prohibited Signs, of the Code to allow an existing, unpermitted 96 square-foot sign advertising an off-site business on 2.21 acres.
2. The property is located at 267 Rabbit Road, within Section 10, Township 16 North, Range 9 East (Commission District 4).
3. The Applicant acquired the real property by warranty deed recorded on the 24th day of May, 2007 as instrument #148619, in the records of the Santa Fe County Clerk.

4. On November 11, 2014, a Notice of Violation was issued to the Applicant for an illegal commercial advertisement sign posted on the property. A Final Notice of Violation was issued on January 9, 2015. On June 18, 2015, the Applicant applied for a Sign Variance through the Growth Management Department.

5. The property contains a single family residence and the property is located within a residential area.

6. Notice requirements were met as per Article II § 2.4.2, of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one days on the property, beginning on July 30, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on July 30, 2015, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners.

7. The applicable requirements under the Santa Fe County Land Development Code, Santa Fe County Ordinance No. 1996-10, (Code) which governs this application are:

- a) Article VIII, § 7.15.a, Off-site advertising or billboards, of the Code states: The advertising on any sign shall pertain only to a business, industry or activity conducted on or within the premises on which such sign is erected or maintained.
- b) Article II, § 3, Variances, of the Code states:
Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code upon adequate proof that compliance with a Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.

- c) Article II, § 3.1 concludes that “[i]n no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.”
- d) Article II, §3.2 states, “[i]n no case shall any variation or modification be more than a minimum easing of the requirements.”

8. The Applicant’s Agent asserted that a variance is needed in order to allow a sign which has benefitted his business and improved the property which it is located on.

9. At the public hearing before the BCC on November 10, 2015, staff recommended denial of the Application, and suggested the following conditions if approval were granted:

- a) The Applicant shall reduce the sign to 70 square feet which is the maximum size allowed for commercial use.
- b) The Applicant must obtain a development permit from the Building and Development Services Division for the sign (As per Article VIII, § 3).
- c) The placement of additional signs is prohibited on the property (As per Article VIII, § 7).
- d) The Applicant must apply for a sign permit from NMDOT within thirty days from the recording of the Final Order.
- e) The Applicant must obtain a sign permit from NMDOT and provide a copy of the approved permit to the Building and Development Services Division prior to being issued a County sign permit within five days upon receiving a determination from NMDOT.

10. In support of the Application, the Applicant’s Agent stated that he is in agreement with the conditions.

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

12. The Applicant's Agent stated that compliance with the Code would exact a hardship because of the money invested into the sign and the impact it could have on his business.

13. Granting this variance request will not result in conditions injurious to health or safety, it will not nullify the purpose of the Code, and it is a minimal easing of the Code.

WHEREFORE the Board of County Commissioners for the County of Santa Fe hereby approves the variance of Ordinance No. 1996-10, Article VIII, § 7.15 to allow a sign advertising an off-site business on 2.21-acres subject to the staff conditions set forth in paragraph 9. The motion to approve the variance passed by a 4-1 vote, with Commissioners Anaya, Chavez, Roybal and Stefanics voting in favor of the motion and Commissioner Holian voting against the motion.

IT IS SO ORDERED

This Order was approved by the Board of County Commissioners for the County of Santa Fe on this ____ day of _____, 2016.

By: _____

Miguel Chavez, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

