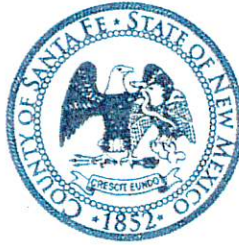


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

CASE NO. V 17-5220
Ted and Barbara Seeley, Applicants

ORDER

THIS MATTER came before the Santa Fe County Planning Commission (Commission) for hearing on October 19, 2017, on the Application of Ted and Barbara Seeley, Applicants, to request a variance of Chapter 7.11, Table 7-13, Road Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width with occasional pull-outs for traffic, to allow an easement of less than 38', and to allow the roadway to exceed a 9% grade in order to allow the issuance of a development permit.

The Planning Commission, having reviewed the application, staff reports, the Hearing Officer's recommended decision, and having conducted a public hearing on the application, finds that the application is well-taken and should be approved and makes the following findings of fact and conclusion of law:

1. The Applicant appeared before the Sustainable Land Development Code Hearing Officer (Hearing Officer) on September 28, 2017.
2. The Hearing Officer Recommended approval of a Variance of Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width and to allow the roadway to exceed a 9% grade.

3. Prior to the hearing before the Commission, notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on June 7, 2017. Additionally, notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on June 7, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing in contained in the record.
4. At the public hearing before the Commission, staff recommended that the Commission deny the Applicant's Variance requests.
5. The Commission hereby adopts in its entirety the Hearing Officer's Recommended Decision and Order (Recommended Decision and Order) attached hereto as Exhibit A, and all provisions set forth in the Recommended Decision and Order are incorporated by reference as though fully set forth herein; and
6. The requested variance of Chapter 7, Section 7.11 Road Design Standards, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width and to allow the roadway to exceed a 9% grade is approved.

IT IS SO ORDERED.

This Order was adopted by the Commission on this ____ day of _____, 2017.

THE SANTA FE COUNTY PLANNING COMMISSION

Filandro Anaya, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

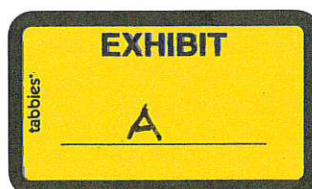
_____
for Rachel Brown, Interim County Attorney

Sustainable Land Development Code
Hearing Officer Meeting
September 28, 2017
CASE NO. V17-5220
Ted and Barbara Seeley, Applicants

RECOMMENDED DECISION AND ORDER

THIS MATTER came before the Sustainable Land Development Code Hearing Officer for hearing on September 28, 2017, on the application of Ted and Barbara Seeley, (Applicants) for a Variance of the Sustainable Land Development Code (SLDC). The Applicants seek a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width with occasional pullouts for traffic, to allow an easement of less than 38', and to allow the roadway to exceed a 9% grade to allow the issuance of a development permit. The property is located at 57 Don Filomeno Road within Section 36, Township 19 North, Range 9 East (Commission District 1) (SDA-2). The Hearing Officer, having reviewed the application, staff reports, and having conducted a public hearing on the request, finds that the application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On July 28, 2017, the Applicants submitted their application for a variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width with occasional pullouts for traffic, to allow an easement of less than 38', and to allow the roadway to exceed a 9% grade to allow for the issuance of a development permit. The Applicants intend to construct a 1,126 square foot addition to the existing residence on the Property, consisting of a two-story new master bedroom



and closet with an additional bedroom on the second floor, along with a portal to an existing studio.

2. As required by the SLDC, the Applicant presented the application to the Technical Advisory Committee (TAC) on July 6, 2017, at the regular scheduled monthly meeting, which satisfied the requirements set forth in Chapter 4, Section 4.4.4.3 Pre-application TAC Meeting and Table 4-1.

3. Notice requirements of the SLDC were met pursuant to Chapter 4, Section 4.6.3., General Notice of Application Requiring a Public Hearing. In advance of the hearing on the application, the Applicant provided an affidavit of posting of notice of the hearing, confirming that public notice posting regarding the application was made for fifteen days on the Property, beginning on June 7, 2017. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on June 7, 2017, as evidenced by a copy of that legal notice contained in the record. Notice of the hearing was sent to owners of land within 500' of the subject Property and a list of persons sent a mailing is contained in the record.

4. The following SLDC provisions are applicable to this case:

A. Chapter 7, Section 7.11.11.5. Standards for Residential Development.

Residential development may reduce the road easement width for off-site and on-site roads to no less than 20 feet if adequate drainage control is provided and may allow the surface to be hardpacked dirt with compaction of 95% of the maximum density.

B. Chapter 7, Table 7-13 Rural Road Classification and Design Standards (SDA-2 and SDA-3).

C. Chapter 4, Section 4.9.7.1, Variances, Purpose, states:

The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the

property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

D. Chapter 4, Section 4.9.7.4, Variance Review criteria states:

A variance may be granted by only a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based on the following criteria:

1. where the request is not contrary to the public interest;
2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

E. Chapter 4, Section 4.9.7.5 Variance Conditions of approval states:

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare of property owners and area residents.
2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.
3. All approved variances automatically expire within one year of the date of approval, unless the Applicant files a plat implementing the variance or substantial construction of the building or structure authorized by the variance occurs within that time.

7. The Applicant and Staff have addressed the variance criteria as follows:

- a. *Where the request is not contrary to the public interest.*

- i. The Applicants stated that the addition of the bedroom and closet is not contrary to the public interest.

ii. Staff stated that bringing Don Filomeno Road into compliance with Chapter 7, Section 7.11.11.5 would require unsightly cut and fill areas to widen the road and reduce the grade as well as unsightly scarring along the landscape.

b. *Where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner.*

i. The Applicants stated that the road and community predate the SLDC standards. The key issue is accessibility of large emergency vehicles, which would not be significantly impacted by Applicants adding a bedroom and closet.

ii. Staff noted that Don Filomeno Road was constructed pre-code and there is no additional area for widening on the majority of the road nor is there additional area for reducing the grade throughout.

c. *So that the spirit of the SLDC is observed and substantial justice is done.*

i. The Applicants stated that the addition of the proposed bedroom closet will have minimal impact on the property while allowing Applicants to make a normal and typical use of their property, which is consistent with the spirit of the SLDC.

ii. Staff stated that upgrading Don Filomeno Road would have major adverse environmental impacts, creating unsightly cut and fill areas as well as scarring.


8. At the public hearing, no one spoke in opposition to the application.

9. Based on the application and the evidence and testimony presented at the public hearing as described herein, the Hearing Officer finds there is sufficient evidence of extraordinary and exceptional conditions that would result in undue hardship to the Applicant

from a strict application of the Code and that the Applicant has met the variance criteria of the SLDC.

WHEREFORE, the Hearing Officer, based on the evidence presented, recommends approval of a Variance of Chapter 7, Table 7-13: Rural Road Classification and Design Standards (SDA-2 and SDA-3) to allow a roadway to be less than 20' in width with occasional pullouts for traffic, to allow an easement of less than 38', and to allow the roadway to exceed a 9% grade to allow the issuance of a development permit.

Respectfully submitted,



Nancy R. Long
Hearing Officer

Date: 10-12-17

