



# Agenda

**BOARD OF ADJUSTMENT**  
**Tuesday, January 7, 2020 at 6:00 P.M.**  
**City Councilors' Conference Room**  
**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

- A. ROLL CALL**
- B. PLEDGE OF ALLEGIANCE**
- C. APPROVAL OF AGENDA**
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSION:**
  - MINUTES: December 3, 2019**
  - FINDINGS/CONCLUSIONS: None**
- E. OLD BUSINESS**
- F. NEW BUSINESS**

1. **Case #2019-1324. 76 East San Francisco Street Height Variance.** Architectural Alliance, Agent, for Peter Komis, Owner, requests a variance to Subsection 14-7.4(A) to build an elevator addition above the maximum allowable subdistrict height of thirty-six feet. The property is zoned BCD-PLA (Business Capitol District – Plaza/San Francisco Subdistrict). (Carlos Gemora, Case Manager, [cegemora@santafenm.gov](mailto:cegemora@santafenm.gov), 955-6670)

- G. STAFF COMMUNICATIONS**
- H. MATTERS FROM THE BOARD**
- I. ADJOURNMENT**

**NOTES:**

New Mexico law requires the following administrative procedures be followed by zoning boards conducting “quasi-judicial” hearings. In “quasi-judicial” hearing before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to cross-examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings. Persons with disabilities in need of accommodations, contact the City Clerk’s office at 955-6520, five (5) working days prior to meeting date.

**RECEIVED AT THE CITY CLERK’S OFFICE**

**DATE: December 12, 2019**

**TIME: 10:02 AM**

Board of Adjustment  
January 7, 2019

Item	Motion/Description	Page
Call to Order	Gary Friedman, Chair of the Board of Adjustment called the meeting to order at 6:04 p.m. in the City Councilor's Conference Room.	1
Roll Call	A quorum was established with roll call.	1
Approval of the Agenda	Ms. Winston moved to approve the agenda as amended with a second from Ms. Dearing which passed by voice vote.	1
Approval of the Minutes from December 3, 2019	Mr. Maahs moved to approve the minutes as corrected with a second from Ms. Winston which passed by voice vote	1
Approval of Findings/Conclusions None	None.	2
Old Business	None.	2
New Business: 1. Case #2019-1324 76 East San Francisco Street Height Variance. Architectural Alliance, Agent, for Peter Komis, Owner, requests a variance to Subsection 14-7.4 (A) to build an elevator additional above the maximum allowable sub district height of thirty six feet. The property is zoned BCD-PLA (Business Capitol District Plaza/San Francisco Subdistrict.)	Ms. Winston moved to approve the variance in Case # 2019-1324 to exceed the maximum allowable height of 36' feet as regulated by Table 14-7.4 (A) Table of Dimensional Requirements for Townscape Districts subject to staffs conditions of approval, with a second from Ms. Hawkins which passed by voice vote.  Ms. Winston moved to approve Findings of Fact and Conclusions of Law regarding Case #2019-1324 with a second from Ms. Dearing which passed by voice vote.	2-4
Matters from Staff		4
Matters from the Committee		4
Adjourn	With all business conducted for the Board of Adjustment, the meeting was adjourned at 6:36 p.m.	4

Board of Adjustment  
City Councilors' Conference Room  
200 Lincoln Ave. Santa Fe  
Tuesday January 7, 2019

**1. CALL TO ORDER**

Gary Friedman, Chair of the Board of Adjustment called the meeting to order at 6:04 p.m. in the City Councilor's Conference Room. A quorum was established with roll call.

**ROLL CALL**

**Present:**

Gary Friedman, Chair  
Rachel Winston, Vice Chair  
Donna Reynolds  
Doug Maahs  
Coleen Dearing  
Patricia Hawkins

**Absent:**

Daniel Werwath

**Staff and Others Present:**

Noah Berke, City Land Use  
Carlos Gemora, City Land Use  
Sally Paez, City Attorney's Office  
Linda Vigil, Stenographer

**2. PLEDGE OF ALLEGIANCE**

**NOTE:** All items in the packet for all agenda items were incorporated herewith by reference. The original packet is on file with the City Land Use Staff. Any additional attachments will be labeled as exhibits.

**3. APPROVAL OF AGENDA**

Chair Friedman would like the agenda amended since there is not a flag in the room to remove the Pledge of Allegiance.

**MOTION:** Ms. Winston moved to approve the agenda as amended with a second from Ms. Dearing which passed by voice vote.

**4. REVIEW AND APPROVAL OF MINUTES FROM December 3, 2019**

Corrections:

Page 2, Ms. ~~Wyant~~ Ms. Wynant in staff report.

**MOTION:** Mr. Maahs moved to approve the minutes as corrected with a second from Ms. Winston which passed by voice vote.

*Ms. Dearing abstains as she was not present.*

## **5. OLD BUSINESS**

None.

## **6. NEW BUSINESS**

1. **Case #2019-1324 76 East San Francisco Street Height Variance.**  
**Architectural Alliance, Agent, for Peter Komis, Owner, requests a variance to Subsection 14-7.4 (A) to build an elevator additional above the maximum allowable sub district height of thirty six feet. The property is zoned BCD-PLA (Business Capitol District Plaza/San Francisco Subdistrict.) (Carlos Gemora, Case Manager, [cegemora@santafenm.gov](mailto:cegemora@santafenm.gov), 955-6670)**

### *Staff Report:*

Mr. Gemora explained the application. The address is a multistory commercial building. The building like many in the area is non-conforming regarding height. The maximum allowable height is 36 feet, they would like to build an addition for an elevator to gain ADA access to the basement and building. The shaft would replace the stairwell. The background of the staff report there is a history of the case. The Historic Districts Review Board (HDRB) restricted the design to make sure the addition was located to the rear of the building. They denied the height allowance.

Mr. Gemora explained it was appealed to the Governing Body, they approved a reversal of the HDRB's decision. Staff believes they have met the variance criteria, they agree the lack of safe ADA access to the building constitutes a hardship. Staff agrees that alternative options have been explored, the reasonable use of the building is met.

Mr. Gemora states the main condition of approval that staff recommends is limited to what the Governing Body approved. Limiting height variance to 11 feet 11 inches above the existing parapets, and requires storage on the roof level.

### *Questions from the Board:*

None.

### *Applicant Report:*

Mr. Frank Herdman is here on behalf of the applicant. Staff has covered how the variance criteria has been met, all conditions will be met.

Mr. Eric Enfield of Architectural Alliance, Inc. states elevators are allowed to go up beyond the height of the parapet. There are photos that shows some elevators and stair towers as examples to allow for mechanical penthouse which is in the code.

Mr. Peter Komis is the owner of the building and manages the trust. He really needs it for safety and for those who need to service air conditioners etc.

Mr. Herdman explained the packet explained the photos in the packet starting on page 26. Mr. Herdman explained the wooden stairwell, there is roof access and you would need to place a step ladder which is dangerous.

### *Public Comment:*

Tara Block Archuleta (3010 Sandia Circle Santa Fe) is a resident and is currently VP of First National Bank, when looking at the building and inspecting for appraisal she wants to make sure there is easier access and hopes it will bring in more tourists. Part of the building has been vacant for ten years.

*Questions from the Board:*

Ms. Dearing understands they have to make two separate motions, one to approve the variance and one to approve the Findings of Fact and Conclusions of Law.

Ms. Reynolds asked why the HDRB denied it.

Mr. Herdman believes it was a fundamental misunderstanding. They believed the elevator would be visible to the plaza.

Mr. Enfield states they have been working on this for three years. City Land Use staff has been helpful.

Ms. Reynolds asked if the Governing Board granted them approval why they didn't also know they needed a variance.

Mr. Herdman states he believed if they had a special exception then you don't need a variance, staff disagreed so they elected to go through the process.

Ms. Reynolds asked if they had dropped their storage facility to 8 feet would it have been permitted.

Mr. Enfield clarified in the packet the photos, the HDRB denied it because it meant it wasn't just vertical transportation. The space is a necessary piece of the configuration of the tower by code, there needs to be a vestibule to protect the elevator from the elements.

Mr. Gemora states the HDRB denied the storage room for multiple reasons, the Governing Body overturned that item. When they initially started this case, they explained this was an addition and they are requiring the variance for anything over the 36 feet.

Ms. Reynolds asked why it is considered an addition.

Mr. Gemora explained his speculation is that the Governing Body didn't add it to be critical for vertical transportation, not to have additional storage.

Mr. Enfield that the purpose of the elevator was not only for access to the floors but to the roof for maintenance.

Mr. Maahs asked if the Board could determine if the wasted space could be used for storage. That is not allowed.

Mr. Gemora explained the Governing Body's Findings of Fact and Conclusions of Law states they could exceed it if there was not any storage space. Their conditions of approval also state they are allowed 11 feet 11 inches, they are proposing 11 feet 3 inches.

Ms. Reynolds asked if the photos at the end of the packet are to show other ones already there.

Mr. Herdman states as part of the presentation, the point was to show the rooftops are necessary and common all around downtown. That was the purpose.

**MOTION:** Ms. Winston moved to approve the variance in Case # 2019-1324 to exceed the maximum allowable height of 36' feet as regulated by Table 14-7.4 (A) Table of Dimensional Requirements for Townscape Districts subject to staffs conditions of approval, with a second from Ms. Hawkins which passed by voice vote.

**MOTION:** Ms. Winston moved to approve Findings of Fact and Conclusions of Law regarding Case #2019-1324 with a second from Ms. Dearing which passed by voice vote.

## **7. MATTERS FROM STAFF**

Mr. Berke reports there will not be a meeting next month, there are not any applications.

Ms. Hawkins thanked them for delivering the packets but would like them to ring the doorbell and not leave it at the door.

Mr. Maahs asked what the cut off time is to submit something for the March meeting. Mr. Berke explained it is January 20<sup>th</sup>.

## **8. MATTERS FROM THE COMMITTEE**

None.

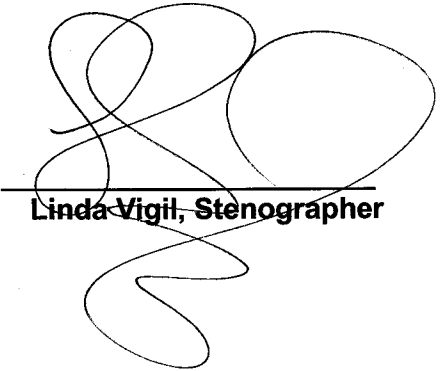
## **9. ADJOURN**

With all business conducted for the Board of Adjustment, the meeting was adjourned at 6:36 p.m.

## **SIGNATURES**

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**Gary Friedman, CHAIR**



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**Linda Vigil, Stenographer**