

I Hereby Certify That This Instrument Was Filed for
Record On The 23RD Day Of April, 2012 at 11:09:39 AM
And Was Duly Recorded as Instrument # 1666989
Of The Records Of Santa Fe County

Deputy Marcella [Signature] Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM



MINUTES OF THE
SANTA FE COUNTY

DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

March 15, 2012

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Maria DeAnda, on the above-cited date at approximately 4:05 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

- Maria DeAnda, Chair
- Juan José Gonzales, Vice Chair
- Phil Anaya
- Dan Drobnis
- Frank Katz
- Sef Valdez

Member(s) Excused:

- Susan Martin

Staff Present:

- Wayne Dalton, Building & Development Services Manager
- Jose Larrañaga, Development Review Specialist
- Rachel Brown, Deputy County Attorney

IV. APPROVAL OF AGENDA

Wayne Dalton announced Case #Z 08-5440 under Old Business has been withdrawn. Item B under New Business, Case #MIS 12-5010 has been tabled. He also asked that item C, Case #APP 12-5040 be moved to the top of the agenda.

Chair DeAnda moved to approve the agenda as amended. Her motion was seconded by Member Anaya and the motion carried unanimously.

REC. CLERK RECORDED 04/23/2012

V. APPROVAL OF MINUTES: February 16, 2012

Chair DeAnda moved to approve the February minutes as submitted. Member Gonzales seconded and the motion passed by unanimous voice vote with Member Anaya abstaining.

- VII. C. CDRC CASE # APP 12-5040 (William Frederick Wagner) Appeal. The Homeowners/Landowners Of La Barbaria Trail, Appellants, (The Egolf Law Firm LLC.), Brian Egolf, Agent, Request an Appeal of the Land Use Administrator's Decision to Approve a Small Lot Family Transfer Land Division (Case # 11-3090 William Frederick Wagner) Of 31.824 Acres into Two Lots; One Lot Consisting of 20.990 Acres and One Lot Consisting of 10.834 Acres. The Subject Property Is Located At 45 La Barbaria Trail, Within Section 9, Township 16 North, Range 10 East, (Commission District 4). Wayne Dalton, Case Manager**

Mr. Dalton said new material regarding this case has arisen and he has not had the opportunity to review the new issues. The appellant is willing to waive the right to be heard within 60 days.

Brian Egolf, attorney for the appellants, stated they are willing to be heard at the next meeting thereby waived their right to be heard within 60 days.

Member Drobnis asked if there was anyone else wishing to be heard.

Joseph Karnes, counsel for the applicant, stated they consent to the continuation until April 19th.

- VII. A. CDRC CASE # V 11-5400 Jenny Cocq Variance. Jenny Cocq, Applicant, Matthew McQueen, (Attorney At Law), Agent, request a variance of Article III, §10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres. The property is located at 131 County Road 84, in the vicinity of Jacona, within Section 12, Township 19 North, Range 8 East, (Commission District1)**

Mr. Dalton read the caption and gave the staff report as follows:

“The Applicant requests a variance of Article III, § 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 0.79 acres. There are currently four dwelling units on the property. The structures consist of a main residence, a studio and a garage. The studio has been converted into a dwelling with a kitchen and bathroom facilities. The garage which was permitted on May 2, 1994 has been converted into two dwelling units both having kitchen and bath facilities.”

Mr. Dalton clarified that on his site visit last week he noted that the 1994 permitted structure has one kitchen but has the capability of having two dwelling units.

“On October 10, 2011, Code Enforcement received a complaint on the subject property stating the property owner was exceeding density on the property. On October 18, 2011, Code Enforcement conducted an inspection and observed multiple dwelling units on the property. Code Enforcement then issued a Notice of Violation to the property owner for exceeding density.

“The Applicant states as a result of the lack of experience and some bad advice, the Applicant was encouraged to convert the two accessory structures into dwelling units. The Applicant now understands and acknowledges that this was in error. The Applicant proposes to remove the kitchen facilities from the studio and bring it into compliance for its original purpose as a working artist studio/office. The Applicant also proposes to convert the two dwelling units within the garage into a single dwelling unit for a total of two dwelling units on the property.

“The property is located within the traditional community of Jacona. Lot size per code is .75-acre per dwelling unit. The two proposed units exceed the number of units allowed on the subject property.”

Mr. Dalton stated staff recommends denial of a variance from Article III, §10, Lot Size Requirements, of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant’s request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office.
2. The Applicant must obtain a development permit from the Building and Development Services Department for the second dwelling unit and the studio.
3. Prior to submitting for a Development Permit, an inspection must be conducted to ensure the additional kitchen facilities have been removed. This will consist of core filling drainpipes and capping all gas lines. Code Enforcement must be present at that time.
4. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with Development Permit Application.
5. The placement of additional dwelling units on the property is prohibited.
6. The Applicant shall comply with all Fire Prevention Division requirements.
7. No more than two electric meters shall be allowed on the property. Additional electric meters must be removed from property.

Matthew McQueen, agent for the applicant, said they were present seeking to correct an honest mistake. He said his client acknowledges she is currently not in compliance and would like to come into compliance without abandoning all of the

investment made into the property. He distributed letters of support from the neighbors.
[Exhibit 1]

Chair DeAnda asked for clarification on when the conversions were made. Mr. McQueen stated the house itself is around 200 years old and that is not in question. A studio was permitted and over time amenities were added. The other structure was originally permitted as a garage and that was also improved over time, perhaps in the year 2000. He said the permits were taken out in 1994.

Mr. McQueen said the variance is being requested to allow the garage building to be converted into one separate habitable unit.

Mr. Dalton referred to the packet to illustrate which building was permitted as a garage and which as a studio.

Member Anaya asked how much money had been invested in the conversions. Mr. McQueen said over time, probably \$60,000.

Member Anaya asked what the penalty for unpermitted construction was and Mr. Dalton said there is no fine per se. A person found to be in violation is given a certain amount of time to correct it. Upon further failure to comply they will be cited in magistrate court and the judge can assess fines. He explained that in this case there was a complaint, after which the applicant came into the County and was told she needed a variance.

Member Drobnis asked if this was a case of unusual topography. Mr. McQueen said it was not, it was a mistake made in good faith

Member Gonzales asked if the septic system was permitted and Mr. Dalton answered not at this point, however, they are working with NMED and they will have to submit the permit when it is granted. Fire Marshal inspection will be done at the time a permit for the conversion of the garage into a dwelling unit is issued. Additionally, he found no permit for the straw bale studio, so they would have to find that permit or take out an accessory structure permit on it.

Member Gonzales asked how the County deals with after-the-fact permit. Mr. Dalton said the same submittals are required as for a new structure.

Member Gonzales asked if there was a well on the property and Mr. Dalton said there was, and he did not think there were previous water restrictions. Member Gonzales asked how many neighbors there were in the area. Mr. Dalton said it is a traditional community so there are numerous neighbors. He referred to the aerial photograph and noted he received five certified mailing receipts for neighbors within 100 feet.

Mr. McQueen clarified that if the variance is granted the applicant will have to return for permits and will address water, septic and fire. Those permits cannot be granted prior to the granting of the variance. He noted there are five different owners within 500

feet although there are more than five abutting lots; some of the lots have the same owner. Mr. McQueen characterized the search for original documents as a "historical treasure hunt."

Chair DeAnda asked when Ms. Cocq purchased the property. Mr. McQueen said 1992.

A discussion ensued regarding the aerial photograph and how many residences were in place on the various properties. Mr. Dalton speculated they could be legal non-conforming, accessory structures or they could be unpermitted construction.

Mr. McQueen showed the CID permit for the studio. Mr. Dalton said the studio permit does in fact have a County stamp issued May 19, 1994.

Discussing the plans for remediation, Mr. McQueen said his client plans to take the kitchen out of the studio but would like to keep the stainless steel sink for artist's use.

The case was opened to the public and Mary Louise Williams was placed under oath. She said she has been a neighbor of Ms. Cocq for 23 years. She said Ms. Cocq originally moved in a young bride from Germany. Her husband worked an LANL. He was the one that made the building decisions. After the divorce Ms. Cocq was left to fend for herself as an artist. In her time in the area Ms. Cocq has become very much a part of the community in addition to becoming a US citizen. Any omissions that may have occurred were due to not understanding complex issues and there was no intent other than to make herself self-sufficient.

There was no one else wishing to speak and the public hearing was closed.

Member Katz asked when the divorce occurred and Mr. McQueen replied it was in 2008.

Member Gonzales commended staff for their work on this difficult case. Citing the compelling arguments and overwhelming community support he moved to grant the variance with staff conditions. Member Valdez seconded.

Chair DeAnda asked whether water conservation measures could be imposed. Mr. McQueen said they are working to track down well documents. Mr. Dalton said there is a quarter acre-foot restriction and within the water restrictions recorded with the County Clerk conservation measures such as low-flow toilets and rain barrels are specified.

The motion passed by majority 4-2 voice vote with Members Anaya, Gonzales, and Valdez and Chair DeAnda voting in favor and Members Drobnis and Katz voting against.

Mr. Dalton said the case will go to the BCC.

VIII. PETITIONS FROM THE FLOOR

None were offered.

IX. COMMUNICATIONS FROM THE COMMITTEE

Members Valdez and Katz announced they would not be present for the next meeting.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XI. COMMUNICATIONS FROM STAFF

Mr. Dalton apologized for the confusion regarding the appeal. The next meeting was scheduled for April 19, 2012.

XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair DeAnda declared this meeting adjourned at approximately 4:55 p.m.

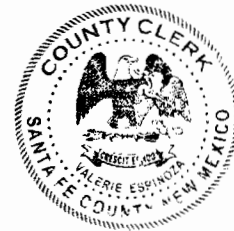
Approved by:

Maria DeAnda

Maria DeAnda, Chair
CDRC

ATTEST TO:

COUNTY CLERK



Before me, this ____ day of _____, 2012.

My Commission Expires:

Notary Public

Submitted by:

Debbie Doyle
Debbie Doyle, Wordswork

SFC CLERK RECORDED 04/23/2012

135 County Road 84
Santa Fe, N.M. 87506
15 March 2012

County Development Review Committee
% Wayne Dalton, Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Avenue
Santa Fe, NM 87501

Re: CDRC Case #V 11-5400, Variance Application for Ms. Jenny Cocq,
131 County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico

To Whom It May Concern:

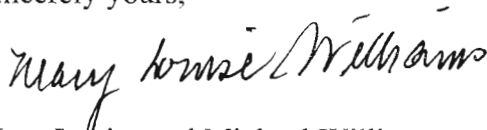
As a friend and neighbor of Ms. Jenny Cocq in Jacona, New Mexico, for some twenty-five years, I am indeed familiar with her application for a variance on her property at 131 County Road 84. I very much support her request for a variance allowing her to have two dwelling units on her property. My support for her variance is based on sound and rational reasons.

She has taken innumerable steps over time and expended much money to become a citizen of the United States. In so doing she has expressed a deep love for and desire to be a citizen of this nation and to live in her home in Jacona which she has herself physically labored on. However, with aging parents and a grandmother over 90 years of age in Germany, she must travel back and forth. In addition, a divorce that left her with a diminished income, mostly based on her work as an artist, the extra dwelling on her property will help mitigate the financial strain in addition to having someone on the property when she must leave.

She has built appropriate fences to provide privacy for all of us, and she has always been very sensitive to and respectful of those who live around her. This variance does nothing but good for all, even though she unknowingly violated the law in fact but certainly not by intention.

I urge you to grant the variance.

Sincerely yours,



Mary Louise and Michael Williams
135 County Road 84
Santa Fe, New Mexico 87506
505-455-7221

County Development Review Committee
c/o Wayne Dalton, Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Avenue
Santa Fe, NM 87501

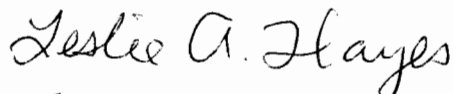
Re: CDRC Case # V 11-5400; Variance Application for Ms. Jenny Cocq, 131
County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico

To Whom it May Concern:

I live across the street from Ms. Jenny Cocq in Jacona, New Mexico. I understand she needs a variance on her property at 131 County Road 84. I support her request to have two dwelling units on the property.

Thank you.

Sincerely,



Leslie Hayes
132-A County Rd 84
Santa Fe, NM 87506

County Development Review Committee
% Wayne Dalton, Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Avenue
Santa Fe, NM 87501

*Re: CDRC Case # V 11-5400; Variance Application for Ms. Jenny Cocq,
131 County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico*

To Whom it May Concern:

I am a neighbor of Ms. Yenny Cocq in Jacona, New Mexico. I am familiar with her application for a variance on her property at 131 County Road 84, and I support her request to allow two dwelling units on the property.

Thank you.

Sincerely,

Jack Warford *Sue Warford*

Sue and Jack Warford

*12 Jennings Ct.
Santa Fe, NM 87506*

March 12, 2012

SFC CLERK RECORDED 04/23/2012

County Development Review Committee
c/o Wayne Dalton, Building and Development Supervisor
Santa Fe County Planning and Development Division
107 Grant Avenue
Santa Fe, NM 87501

Re: CDRC Case # V 11-5400; Variance Application for Ms. Jenny Cocq. 131 County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico

To Whom it May Concern:

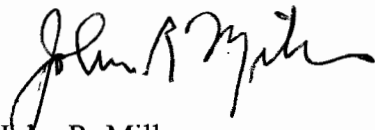
I am a neighbor of Ms. Yenny Cocq in Jacona, New Mexico. I am familiar with her application for a variance on her property at 131 County Road 84.

There is the letter of the law, and there is the spirit of the law. Together they fulfill the truest intentions of the community. I urge both be considered in the case of Ms. Yenny Cocq and the development of her property at 131 County Road 84.

As property owner and resident of Jacona for 23 years Ms. Cocq represents the best of what Santa Fe County wants to preserve of its heritage. Ms. Cocq utilized both her gifted talents as an artist and her love and respect for northern New Mexico's style and substance – in the property she cared for and in the community she raised her children.

Codes exist for reasons; safety and sanitation, health and well-being; and they exist for the preservation of a community, its values, and its heritage. May all be thoughtfully considered in the decisions that follow.

With Grateful Respect,



John R. Miller
131 County Rd 84
Santa Fe, NM 87506

SFC CLERK RECORDED 04/23/2012

March 11 2012

Letter to the:

County Development Review Committee
c/o Wayne Dalton, Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Ave.
Santa Fe NM 87501

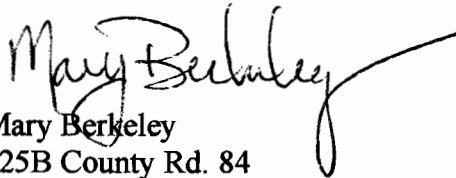
Re: CDRC Case# V 11-5400; Variance Application for Ms. Jenny Cocq, 131 County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico

Dear Sir:

I am a neighbor of Jenny Cocq in Jacona, New Mexico. I understand she is applying for a variance for two dwelling units on her property at 131 County Rd. 84 which she has fully explained to me.

I feel certain that it will be a good addition to her property and as a neighbor I'm in full support of her doing so.

Sincerely,



Mary Berkeley
125B County Rd. 84
Santa Fe NM 87506

SFC CLERK RECORDED 04/23/2012

JAMES DOMINIC
11 W. GUTIERREZ #3224
SANTA FE, NEW MEXICO 87506

March 12, 2012

County Development Review Committee
Wayne Dalton, Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Avenue
Santa Fe, NM 87501

Re: CDRC Case # V 11-5400; Variance Application for Ms. Jenny Cocq,
131 County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico

To Whom it May Concern:

I am a neighbor of Ms. Jenny Cocq in Jacona, New Mexico. I am familiar with her application for a variance on her property at 131 County Road 84, and I support her request to allow two dwelling units on the property.

Thank you.

Sincerely,



James Dominic
23 Jacona Road
Santa Fe, NM 87506

REC'D CLERK RECORDED 04/23/2012

County Development Review Committee
% Wayne Dalton, Building & Development Supervisor
Santa Fe County Planning & Development Division
102 Grant Avenue
Santa Fe, NM 87501

Re: CDRC Case # V 11-5400; Variance Application for Ms. Jenny Cocq, 131
County Road 84, Vicinity of Jacona, Santa Fe County, New Mexico

To Whom it May Concern:

I am a neighbor of Ms. Jenny Cocq in Jacona, New Mexico. I am familiar with her application for a variance on her property at 131 County Road 84, and I support her request to allow two dwelling units on the property.

Thank you.

Sincerely,

Ninni Reeves / Bridget Brown
135 County Rd 84
Santa Fe, NM 87506



SFC CLERK RECORDED 04/23/2012