



**PUBLIC HEARING and SPECIAL MEETING**  
of the  
**BOARD OF ADJUSTMENT**  
**AGENDA**

**BOA PUBLIC HEARING**

THE TOWN OF MESILLA BOARD OF ADJUSTMENT, WILL HOLD A PUBLIC HEARING ON **TUESDAY, JULY 2, 2019 AT 10:00 A.M.** IN THE BOARD ROOM OF THE MESILLA TOWN HALL, 2231 AVENIDA DE MESILLA TO OBTAIN PUBLIC INPUT ON THE FOLLOWING:

**V19-002: Submitted by Chris Schaefer for Paul Miller; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)**

**V19-003: Submitted by Robert Reynolds, a request for a Variance to Chapter 18.35 (Historical Residential Zone) to allow the construction of a carport within the required side setbacks of three feet for a property at 2415 Calle de Parian. Zoned: Historical Residential (HR)**

**ADJOURNMENT OF THE PUBLIC HEARING**

**BOA SPECIAL MEETING**

THE TOWN OF MESILLA BOARD OF ADJUSTMENT, WILL HOLD A SPECIAL MEETING ON **TUESDAY, JULY 2, 2019 IMMEDIATELY AFTER THE PUBLIC HEARING** IN THE BOARD ROOM OF THE MESILLA TOWN HALL, 2231 AVENIDA DE MESILLA.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL AND DETERMINATION OF A QUORUM**

**BOARD OF ADJUSTMENT BUSINESS**

**Variance Decisions:**

**V19-002: Submitted by Chris Schaefer for Paul Miller; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)**

**V19-003: Submitted by Robert Reynolds, a request for a Variance to Chapter 18.35 (Historical Residential Zone) to allow the construction of a carport within the required side setbacks of three feet for a property at 2415 Calle de Parian. Zoned: Historical Residential (HR)**

**ADJOURNMENT OF THE MEETING**

**NOTICE**

If you need an accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us at 524-3262 at least 48 hours prior to the meeting.

Posted on 6/17/19 at the following locations: Town Hall - 2231 Avenida de Mesilla; Public Safety Building - 2670 Calle de Parian; Mesilla Community Center - 2251 Calle de Santiago; Shorty's Food Mart - 2290 Avenida de Mesilla; Ristramn Chile Co. - 2531 Avenida de Mesilla and the U.S. Post Office - 2253 Calle de Parian.

BOA PUBLIC HEARING  
JULY 2, 2019

CASE PRESENTATIONS

V19-002

V19-003

BOA PUBLIC HEARING

JULY 2, 2019

V19-002

PRESENTATION

**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
JULY 2, 2019  
CASE V19-002**

**V19-002: Submitted by Chris Schaefer; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)**

**DESCRIPTION OF REQUEST:**

The applicant occupies part of a commercial building located in the commercial area behind the subject property. Currently, there is no indication or signage along Avenida de Mesilla that this commercial area exists or that there are commercial operations in the area. (This area is considered the “Mercado”, or commercial, area of Mesilla.) According to the applicant, very few people who visit Mesilla are even aware that this area exists, so he would like to install what would be, in essence, a directional sign that will be located on the property that is at the entrance to the area and will list the businesses in the Mercado area. (Attached is a photo of the proposed property where the sign would be located.) The owner of the property is aware of this request, and has agreed to allow the sign on his property.

The proposed sign is shown in an attached diagram.

The following are the portions of the Sign Code that address Directory and Development Identification Signs.

**18.65.165 Directory signs.**

- A. A directory sign may be permitted for a building or development where there is more than one business or tenant. A directory sign may be a wall sign, projecting sign, or freestanding sign, provided the sign complies with all requirements for the type of sign.
- B. A directory sign shall be limited to 15 square feet in area for signs located in the Historical Commercial (H-C zone) zone and 25 square feet in area for signs located in the Commercial (C) zone.
- C. All directory signs shall be located on the premises where the businesses are located.**
- D. A directory sign may list all businesses or only the building or development name.
- E. Each business may have one individual sign in addition to the identification on the directory sign, in accordance with the sign regulations and all other laws and ordinances. [Ord. 2008-04 § 10]

**18.65.170 Development identification signs.**

- A development identification sign may be permitted at the entrance/exit to a commercial development to identify the development name and logo only.
- A. The structure of a development identification sign shall be no larger than 48 square feet in size, and have a height no higher than four feet.
  - B. The actual sign portion of the development identification sign shall not exceed 25 square feet for the Commercial (C) zone, or 15 square feet for the Historic Commercial (H-C) zone. Area of the actual sign shall be determined by measuring the extent of the painted sign or graphic horizontally and vertically and calculating the area. [Ord. 2003-05 § 5; prior code § 11-3-17]

This sign request was originally heard by the PZHAC on May 20, 2019. The PZHAC determined that the proposed sign could be considered a “Development Identification Sign” which is allowed by the Code. However it is actually more of a “Directory Sign” because of its content, which will actually list the businesses on other properties in the Mercado area. The PZHAC determined that the proposed sign is actually needed to promote the Mercado area and voted to recommend approval of the request to the BOT. The BOT determined that the proposed sign is a directory sign that is normally not allowed by the Code because the businesses to be listed are on different properties, therefore a variance is necessary before the proposed sign can be allowed.

**Consistency with the Code:**

The following sections of the Code apply specifically to this request:

**18.45.010 C – Commercial Zone Purpose.**

This zone is intended to provide for limited commercial enterprises. [Ord. 94-06 § 1; prior code § 11-2-11.2.A]

***The property is currently vacant, however the potential use of the property for any of the uses allowed in the C zone will not change as a result of this variance or the construction of a directory sign on the property. The variance will not result in any new uses being allowed on the property that are not currently allowed in the C zone.***

#### **18.85.040 Required showing for variance.**

Before any variance may be granted, it shall be shown:

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property.  
*The property is only one of only seven properties out of twenty-seven in the Mercado area that borders directly on Avenida de Mesilla. The applicant also does not believe that it is the intent of the Code to create a situation in which the Code unnecessarily limits the ability of a section of the Town to promote itself.*
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, and denied to the property in question.  
*Currently, only the seven properties that border Avenida de Mesilla can advertise their existence in the Mercado on Avenida de Mesilla, the other twenty properties in the Mercado not adjacent to Avenida de Mesilla are denied this right. This variance would allow these properties to have a sign along Avenida de Mesilla.*
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.  
*Allowing a directory sign for the Mercado area will not have any affects that are detrimental or injurious to the public welfare or to the well being of the Town. Actually, the results would probably be beneficial to the Town by increasing the potential for commercial properties in the Mercado that are not along Avenida de Mesilla to attract more customers, resulting in an increase of revenue to the Town.*
- D. A nonconforming use of neighboring lands or structures shall not be considered grounds for the issuance of a variance. [Ord. 94-06 § 1; prior code § 11-2-7.4]  
*This variance is not being requested because of any precedents set by any other lots, nor is it being requested to allow any special privileges to the applicant.*

*Additionally, the applicant believes that the strict interpretation of the Code would be inconsistent with the general purpose of the Code (see the attached letter from the applicant further explaining his rationale for the variance).*

#### **18.85.150 Setting hearings.**

All applications for variances, or special use permits as provided in this title, shall be set for public hearing by the planning commission or board of adjustment. The date of the first hearing shall be not less than 30 days nor more than 45 days from the time of filing the application. [Ord. 94-06 § 1; prior code § 11-2-9.5]

*The application was accepted by Staff as complete on May 28, 2019 (35 days prior to this hearing).*

#### **18.85.160 Notices.**

Notice of time and place of public hearings for variance or special use permit may be given by posting one sign in front of the property and posting additional signs at 300-foot intervals for large properties with 600 feet or more frontage. The posted notice shall contain the heading "Notice of Proposed Variance," "Special Permit" or "Notice of Proposed Special Permit," in letters at least one inch in height. The notice shall also contain information about the location of the property, the proposed use and the time and place at which the public hearing will be held. All owners of property located within 100 feet radius of the external boundaries of the property shall be notified by registered mail. [Ord. 94-06 § 1; prior code § 11-2-9.6]

*A sign meeting the requirements listed above was posted at the front of the property along Avenida de Mesilla. Additionally, there were ten separate property owners within 100 feet of the subject property (see attached notification map and letter) that were notified by Certified Mail of the variance request. (There have been no negative responses from any of the notified property owners.)*

#### **Impacts on the Surrounding Area:**

It does not appear that the requested variance will result in any changes to the eventual use of the property, nor will it result in any negative impacts to the surrounding area.

Of the ten different property owners notified because they own property within one hundred feet of the properties involved in this variance (as required by Code Section 18.85.160 – Notices), there have been no negative responses to the request.

**Required Findings (in addition to other possible Findings resulting from the Public Hearing):**

- **The Board of Adjustments (BOA) has jurisdiction to hear this request.**
- **Notification requirements of the MTC have been met.**
- **The requested variance to sign code should be allowed by the MTC.**
- **Approval of the requested variance will not be detrimental to the Town of Mesilla.**
- **The requirements of the MTC have been met with respect to granting variances.**
- **Granting the variance will be consistent with the MTC.**
- **Approval of the requested variance will not be detrimental to the Town of Mesilla.**

Attached is a resolution that may be used by the BOA if it is determined that the requested variance meets the requirements for approval. If the request does not meet the requirements listed, or there are issues or negative Findings brought up during the Public Hearing that negatively affect approval, then the request may be denied and a new resolution addressing any such new findings will be drafted.

### 18.85.010 Variances may be granted.



When practical difficulties and unnecessary hardships inherent with the land, or actions inconsistent with the general purpose of this title occur due to the strict interpretation and enforcement of any of its provisions, the board of adjustment, upon its own motion may, or upon the application of any interested person, shall initiate proceedings for consideration of a variance from the provisions of this title with conditions as may be necessary to assure that the purpose of this title will be observed, and that the health, safety, and welfare of the community be secured, and that substantial justice be done, not only to the applicant, but to the persons other than the applicant, who might be affected by such variance. [Ord. 94-06 § 1; prior code § 11-2-7.1]

### 18.85.020 Purpose of variance.



The sole purpose of any variance shall be the modification of the specific regulations of this title and to assure that no property because of unique circumstances shall be deprived of any rights that other properties have in the same vicinity and zone. Variances are administrative acts, and the authority to approve or disapprove a petition for a variance is vested in the board of adjustment. Self-imposed hardships shall not be justification for granting a variance. This section does not authorize the board of adjustment to permit any use prohibited by this title, nor to grant densities of use in excess of those specified. [Ord. 94-06 § 1; prior code § 11-2-7.2]

June 26, 2019

Town of Mesilla

Board of Adjustments

Nearly 30 years ago the Town of Mesilla designated a new commercial district within the Town's boundary's known as the Mercado de Mesilla. At that time the property was being developed by Mr. Ben Boldt and the vision promoted was one of a true public market place, a place where buyers and local sellers could come together drawn by attractive public areas including a park with a performance center. There would be ready access and resultant high visibility to the many businesses located within the development. This idea was sold not only to the Town of Mesilla which enthusiastically embraced the concept but to individual investors and land owners within the development.

This vision is no longer being pursued. With the death of Mr. Boldt more than 10 years ago, work on this vision of the Mercado, a flourishing market place that would inherently draw the public, has effectively died. Since then the Mercado de Mesilla has become a stagnate, hidden and unknown commercial area. Retail businesses have closed, new development has stalled and the vision for a vibrant commercial area has disappeared.

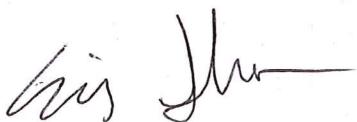
Not surprisingly, retail businesses within the Mercado de Mesilla that border Avenida de Mesilla and that enjoy high traffic visibility and signs to further announce and publicize their presence are thriving. The lack is not in the number of visitors to Mesilla, nor the interest in the area. The businesses that struggle to remain within the inner Mercado cite lack of public visibility and awareness as the number one reason for their plight and as a hindrance to further development in the area. (I personally have had 2 projects for development fail due to lack of available signage) This characteristic is unique to properties within the inner Mercado and does inherently restrict the abilities and rights of businesses to flourish as do others within the zone that borders Avenida de Mesilla.

Aside from those bordering Avenida de Mesilla (most pre-existing to the larger Mercado designation) businesses are unseen by the public, locked within what has become the deadlands of the Mesilla Mercado. But for lack of visibility and awareness to the public these businesses could flourish as their neighboring colleagues do.

We are asking the Board of Adjustment to redress the practical difficulty and unnecessary hardship facing businesses within the Mercado de Mesilla commercial district by allowing construction of a directory signage at the entrance to the Mercado de Mesilla on the corner of Avenida de Mesilla and Calle de Alvarez, property owned by Mr. Paul Miller. Mr. Miller himself submitted the application which was approved by the Planning and Zoning Commission, was denied by the Board of Trustees and sent to this Board for consideration that a variance be granted for the sign. Prior efforts have been made to redress this problem via other avenues. At the end of 2018 the Planning and Zoning Commission asked the Board of Trustees to undertake the process to revise the Town code regarding signs and a public hearing was held. Subsequent to this the Board of Trustees voted to review and revise the Town's Code regarding signs, however this effort stalled and no further action was taken.

In granting a variance from the Town of Mesilla Sign Code requested in this application the practical difficulty and inherent hardship of lack of business visibility to the general public currently enjoyed by neighboring properties within the Mercado that border Avenida de Mesilla will be corrected. No foreseeable impact will be made on the health, safety or welfare of the community. By allowing such a variance from the Sign Code the Board of Adjustments will insure that justice is done not only for the applicant but for other businesses within the Mercado de Mesilla.

Respectfully,

A handwritten signature in black ink, appearing to read "Chris Schaefer". The signature is written in a cursive style with a long horizontal stroke at the end.

Chris Schaefer



**BOARD OF ADJUSTMENTS RESOLUTION NO. 2019-02**

**A RESOLUTION RECOMMENDING TO THE BOARD OF TRUSTEES APPROVAL OF A VARIANCE PER ORDINANCE REGULATIONS OF THE MESILLA TOWN CODE.**

**WHEREAS**, the BOARD OF ADJUSTMENTS held a Public Hearing on March 26, 2019, to receive public input on a proposed Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned); and

**WHEREAS**, staff sent certified notifications of the Variance request to the property owners within 100 feet of the property; and

**WHEREAS**, staff posted an orange public notice sign for the Variance request on the property as required per MTC Section 18.85.160; and

**WHEREAS**, the BOARD OF ADJUSTMENTS took input from the public about the proposed Variance at a Public Hearing held July 2, 2019; and

**WHEREAS**, the applicant, Chris Schaefer, would like to install an off premises directory sign on the above listed property; and

**WHEREAS**, Section 18.65.165(C) of the MTC requires that all directory signs shall be located on the premises where the businesses are located; and

**WHEREAS**, the BOARD OF ADJUSTMENTS found that the strict interpretation of the Sign Code would not be in the best interest of the Town; and

**WHEREAS**, allowing the proposed directory sign will be beneficial to the Mercado area as well as to the Town; and

**WHEREAS**, the commercial use of the property, which is currently vacant, will not be changed; and

**WHEREAS**, the BOARD OF ADJUSTMENTS found that the proposed Variance is not detrimental to the Town of Mesilla;

**NOW THEREFORE, BE IT RESOLVED** by the BOARD OF ADJUSTMENTS for the Town of Mesilla that the recommendation is made to the Board of Trustees for approval of the requested Variance for an off premises directory sign to be installed on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla.

**PASSED, ADOPTED AND APPROVED** on this 2nd day of July, 2019.

\_\_\_\_\_  
Carlos Arzabal, Chairman  
TOWN OF MESILLA  
BOARD OF ADJUSTMENTS

**ATTEST:**

\_\_\_\_\_  
Larry Shannon  
Community Development Coordinator



DATE: June 19, 2019

Dear Property Owner:

In accordance with the Town of Mesilla regulations regarding variances, I am notifying you as, a neighboring property owner within 100 feet of the subject property, the Town of Mesilla Board of Adjustments will be holding a Public Hearing on:

**Tuesday July 2, 2019 at 10:00 AM**  
at: Town of Mesilla  
2231 Avenida de Mesilla  
Mesilla, NM 88046

**To obtain input on an application for a Variance (V19-002) to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)**

Anyone who is concerned with this matter may address the Board of Adjustments at the Public Hearing, or send a written response to:

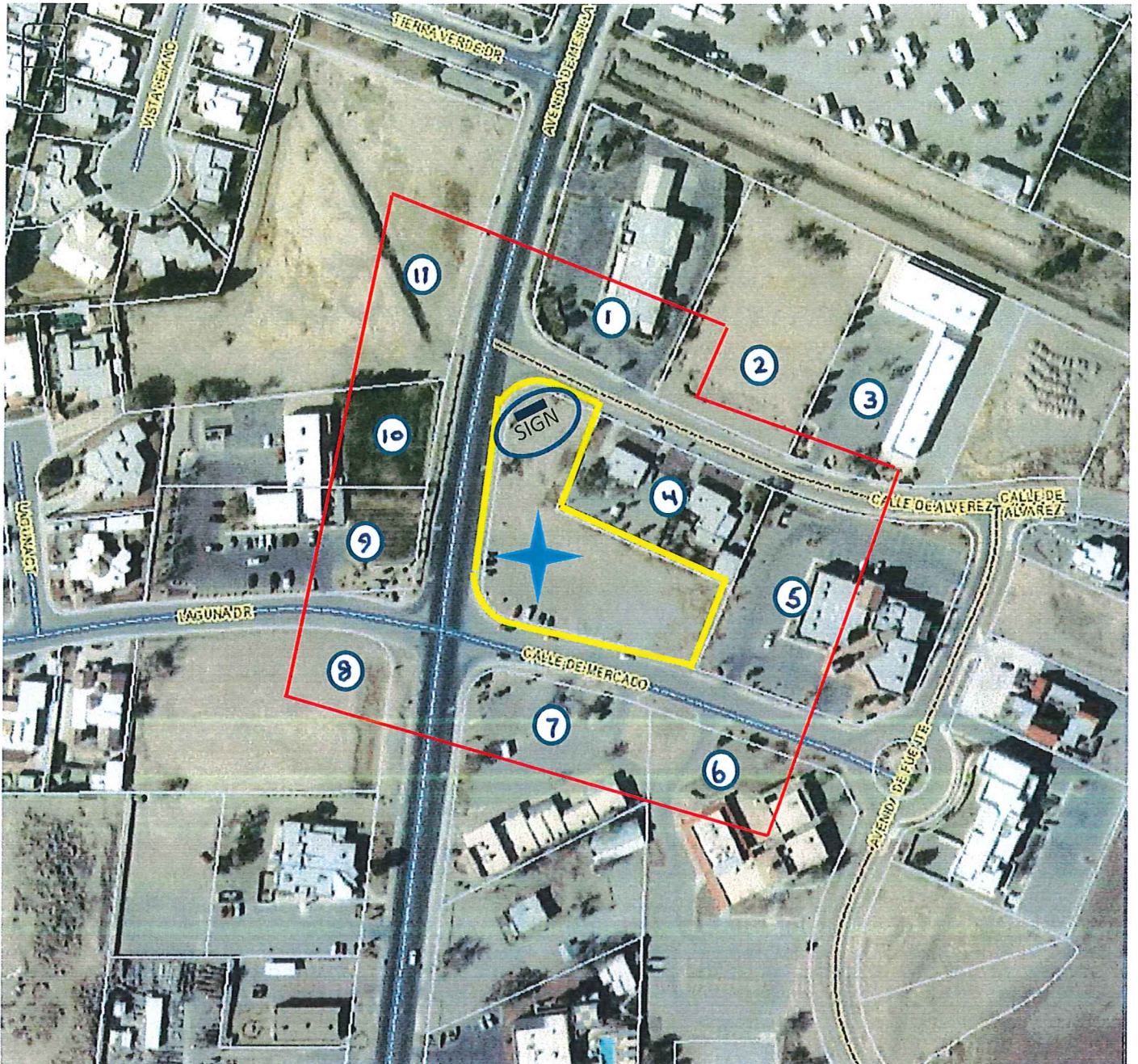
Town of Mesilla  
Community Development Department  
PO Box 10  
Mesilla, NM 88046.

Letters must be received before the Public Hearing. In addition to mailing the letter, a copy may be faxed to Larry Shannon at 575-541-6327 or e-mailed to [larrys@mesillanm.gov](mailto:larrys@mesillanm.gov) to ensure timely receipt.

Sincerely,

Larry Shannon  
Community Development Coordinator  
Town of Mesilla

# V19-002 NOTIFICATION MAP



Applicant: Paul D.G. Miller – PO Box 121, Hoosick, NY 12089-0121

## PROPERTY OWNERS (within 100 feet):

1. First American Bank, 303 West Main, Artesia, NM 88211-7526
2. Leavitt Group Southwest LLC, PO Drawer V, Mesilla, NM 88046
3. Unit Owners of Mesilla Mercado Professional Plaza Condominium Assn.,  
1680 Calle de Alvarez Ste B, Las Cruces, NM 88005
4. Dorianne J Kabo, PO Box 2065, Ruidoso, NM 88355
5. Binns LTD #2, 2700 E. Missouri Ste 1, Las Cruces, NM 88011
6. Hacienda Investments, 5140 Nizhoni Trail, Las Cruces, NM 88005
7. Mercado Venture LLC, PO Box 935, Mesilla Park, NM 88047
8. Bacchus Properties LLC, PO Box 1180, Deming, NM 88031
9. Hinsa Valley Corp., Attn: William A Walker JR., PO Box 2669, Las Cruces,  
NM 88004-2669
10. (Same as #9)
11. Michael Singer Investment, 825 Benham Street, Camden, CT 06514

BOA PUBLIC HEARING

JULY 2, 2019

V19-003

PRESENTATION

**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
JULY 2, 2019  
CASE V19-003**

**V19-003: Submitted by Robert Reynolds, a request for a Variance to Chapter 18.35 (Historical Residential Zone) to allow the construction of a carport within the required side setbacks of three feet for a property at 2415 Calle de Parian. Zoned: Historical Residential (HR)**

**DESCRIPTION OF REQUEST:**

**Staff Analysis:**

The applicant would like to construct a wood frame carport of a driveway located along the west property line of the property. The carport will be even with and attached to a two car garage that is part of the existing dwelling and was built on the property line. There is a rock wall that is built on the property line along the driveway. The applicant intends to build the carport on the inside of the rock wall. The carport will actually be out 1.5 feet from the property line. However, Section 18.35.060(B) of the MTC requires that all new construction be setback a minimum of three feet from the property line. The applicant would like a variance to this setback requirement due to the fact that a three foot setback would result in the west uprights of the carport being in the middle of the driveway and blocking one of the garage doors. According to the applicant, the edge of the carport needs to be even with the edge of the garage door.

The dwelling and the garage were built before the Town adopted the current setback requirements for the property. According to the applicant, the fact that there are now setback requirements creates a hardship that did not exist when the dwelling was built.

The dwelling is listed in the historical Register for the Town (see attached sheets). According to the Register, the dwelling was built in the 1950's and was not considered to have any historical or architectural significance to the area. Additionally, the register considered the dwellings architectural contribution to the area to be "negative". There appear to have been several changes to the dwelling that have taken place since the dwelling was included in the Register that have brought the appearance of the dwelling more in line with the appearance of other more historical dwellings in Mesilla. The proposed carport will be completed to complement this appearance and does not appear to be out of character with those changes and will not negatively affect the character of the dwelling or the area.

**Estimated Cost: @ \$2200.00**

**Consistency with the Code:**

The following sections of the Code apply specifically to this request:

**18.35.010 HR Zone Purpose.**

The purpose of this zone is to provide for the protection of those residential sections of the town that are worth preserving because of historical, cultural and aesthetic or architectural interest. All remodeling or new structures must be compatible with established architectural styles and design elements as outlined in the town's "Guidelines and Criteria for Preservation and Development" manual and approved by the commission and board of trustees. [Ord. 94-06 § 1; prior code § 11-2-11.4.A]

*The property is currently occupied by a site built residence that is in the Historical Register for the Town. Since the proposed carport will be built according to the "Guidelines and Criteria for Preservation and Development", the variance will not result in any new structures being allowed on the property that will be out of character with the overall historical character of the area.*

**18.35.060 Yards.**

Requires approval by commission.

- A. For all structures, side and rear yard must be at least seven feet unless structure meets UBC fire-resistive requirements.
- B. In addition to subsection (A) of this section, a minimum setback of three feet in all yards is required for all newly constructed buildings. [Ord. 2001-04 § 2; Ord. 94-06 § 1; prior code § 11-2-11.4.F]

*Since the setback requirements were created after the construction of the dwelling and the garage, this has created a hardship in that all new construction on the existing structures is severely limited.*

#### **18.85.040 Required showing for variance.**

Before any variance may be granted, it shall be shown:

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property.  
*The property is a small property. The garage was built according to the setback requirements that existed at the time, and made the most of the room on the property. The location of the proposed carport is based on the location of the existing garage, but because the setback requirements have changed, the carport cannot be built under the new requirements.*
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, and denied to the property in question.  
*There are numerous other properties in the area, especially along Calle de Parian, that have setbacks smaller than three feet. The requested setbacks would not be out of character with these properties.*
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.  
*Since there are already similar setbacks in the area that have been there historically, allowing this variance to setbacks would not necessarily be detrimental or injurious to the public welfare a directory sign for the Mercado area will not have any affects that are detrimental or injurious to the public welfare. However, due to the proximity of the proposed carport to the neighboring dwelling, there could be negative impacts to the neighboring property resulting from drainage or impacts to privacy.*
- D. A nonconforming use of neighboring lands or structures shall not be considered grounds for the issuance of a variance. [Ord. 94-06 § 1; prior code § 11-2-7.4]  
*According to the applicant, this variance is not being requested because of any precedents set by any other lots, nor is it being requested to allow any special privileges to the applicant.*

#### **18.85.150 Setting hearings.**

All applications for variances, or special use permits as provided in this title, shall be set for public hearing by the planning commission or board of adjustment. The date of the first hearing shall be not less than 30 days nor more than 45 days from the time of filing the application. [Ord. 94-06 § 1; prior code § 11-2-9.5]

*The application was accepted by Staff as complete on May 28, 2019 (33 days prior to this hearing).*

#### **18.85.160 Notices.**

Notice of time and place of public hearings for variance or special use permit may be given by posting one sign in front of the property and posting additional signs at 300-foot intervals for large properties with 600 feet or more frontage. The posted notice shall contain the heading "Notice of Proposed Variance," "Special Permit" or "Notice of Proposed Special Permit," in letters at least one inch in height. The notice shall also contain information about the location of the property, the proposed use and the time and place at which the public hearing will be held. All owners of property located within 100 feet radius of the external boundaries of the property shall be notified by registered mail. [Ord. 94-06 § 1; prior code § 11-2-9.6]

*A sign meeting the requirements listed above was posted at the front of the property at the intersection of Calle de Parian and Calle Tercera. Additionally, there were ten separate property owners within 100 feet of the subject property (see attached notification map and letter) that were notified by Certified Mail of the variance request. (There have been two negative responses from any of the notified property owners.)*

#### **Impacts on the Surrounding Area:**

Of the ten different property owners notified because they own property within one hundred feet of the properties involved in this variance (as required by Code Section 18.85.160 – Notices), there have been two negative responses to the request.

One of the negative responses was from the neighboring property owner to the west. The concern expressed was that the existing garage and wall actually encroached over the property line and were partly on the neighbor's property. According to the neighbor, the carport would result in an encroachment also. Additionally, the neighbor expressed concerns over the drainage of the carport onto his property or into the street adjacent to his property; as well the fact that the proximity of the carport to his dwelling could affect his privacy.

The second concern was expressed by the neighbor across Calle de Parian to the north, who is also a PZHAC Commissioner. Her concern was that allowing the carport to be built so close to the property line would create a sense of high density development in the area, which would be out of character with the area.

There were no other comments.

**Required Findings (in addition to other possible Findings resulting from the Public Hearing):**

- **The Board of Adjustments (BOA) has jurisdiction to hear this request.**
- **Notification requirements of the MTC have been met.**
- **The requested variance to setbacks should be allowed by the MTC.**
- **Approval of the requested variance will not be detrimental to the Town of Mesilla.**
- **The requirements of the MTC have been met with respect to granting variances.**
- **Granting the variance will be consistent with the MTC.**
- **Approval of the requested variance will not be detrimental to the Town of Mesilla.**

Attached is a resolution that may be used by the BOA if it is determined that the requested variance meets the requirements for approval. If the request does not meet the requirements listed, or there are issues or negative Findings brought up during the Public Hearing that negatively affect approval, then the request may be denied and a new resolution addressing any such new findings will be drafted.

**BOARD OF ADJUSTMENTS RESOLUTION NO. 2019-02**

**A RESOLUTION RECOMMENDING TO THE BOARD OF TRUSTEES APPROVAL OF A VARIANCE PER ORDINANCE REGULATIONS OF THE MESILLA TOWN CODE.**

**WHEREAS**, the BOARD OF ADJUSTMENTS held a Public Hearing on July 2, 2019, to receive public input on a proposed Variance to setbacks to allow a carport to be constructed less than three feet from a property line on a property at 2415 Calle de Parian in the Town of Mesilla, NM; and

**WHEREAS**, staff sent certified notifications of the Variance request to the property owners within 100 feet of the property; and

**WHEREAS**, staff posted an orange public notice sign for the Variance request on the property as required per MTC Section 18.85.160; and

**WHEREAS**, the BOARD OF ADJUSTMENTS took input from the public about the proposed Variance at a Public Hearing held July 2, 2019; and

**WHEREAS**, the applicant, Robert Reynolds, would like to install a carport within three feet of the property line on the above listed property; and

**WHEREAS**, Section 18.65.165(C) of the MTC requires that all directory signs shall be located on the premises where the businesses are located; and

**WHEREAS**, the BOARD OF ADJUSTMENTS found that the strict interpretation of the Sign Code would not be in the best interest of the Town; and

**WHEREAS**, allowing the proposed directory sign will be beneficial to the Mercado area as well as to the Town; and

**WHEREAS**, the commercial use of the property, which is currently vacant, will not be changed; and

**WHEREAS**, the BOARD OF ADJUSTMENTS found that the proposed Variance is not detrimental to the Town of Mesilla;

**NOW THEREFORE, BE IT RESOLVED** by the BOARD OF ADJUSTMENTS for the Town of Mesilla that the recommendation is made to the Board of Trustees for approval of the requested Variance for an off premises directory sign to be installed on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla.

**PASSED, ADOPTED AND APPROVED** on this 2nd day of July, 2019.

\_\_\_\_\_  
Carlos Arzabal, Chairman  
TOWN OF MESILLA  
BOARD OF ADJUSTMENTS

**ATTEST:**

\_\_\_\_\_  
Larry Shannon  
Community Development Coordinator





# Town of Mesilla, New Mexico

DATE: June 19, 2019

Dear Property Owner:

In accordance with the Town of Mesilla regulations regarding variances, I am notifying you as, a neighboring property owner within 100 feet of the subject property, the Town of Mesilla Board of Adjustments will be holding a Public Hearing on:

**Tuesday July 2, 2019 at 10:00 AM**

at: Town of Mesilla  
2231 Avenida de Mesilla  
Mesilla, NM 88046

**To obtain input on an application for a Variance (V19-003) to Chapter 18.35 (Historical Residential Zone) to allow the construction of a carport within the required side setbacks of three feet for a property at 2415 Calle de Parian. Zoned: Historical Residential (HR)**

Anyone who is concerned with this matter may address the Board of Adjustments at the Public Hearing, or send a written response to:

Town of Mesilla  
Community Development Department  
PO Box 10  
Mesilla, NM 88046.

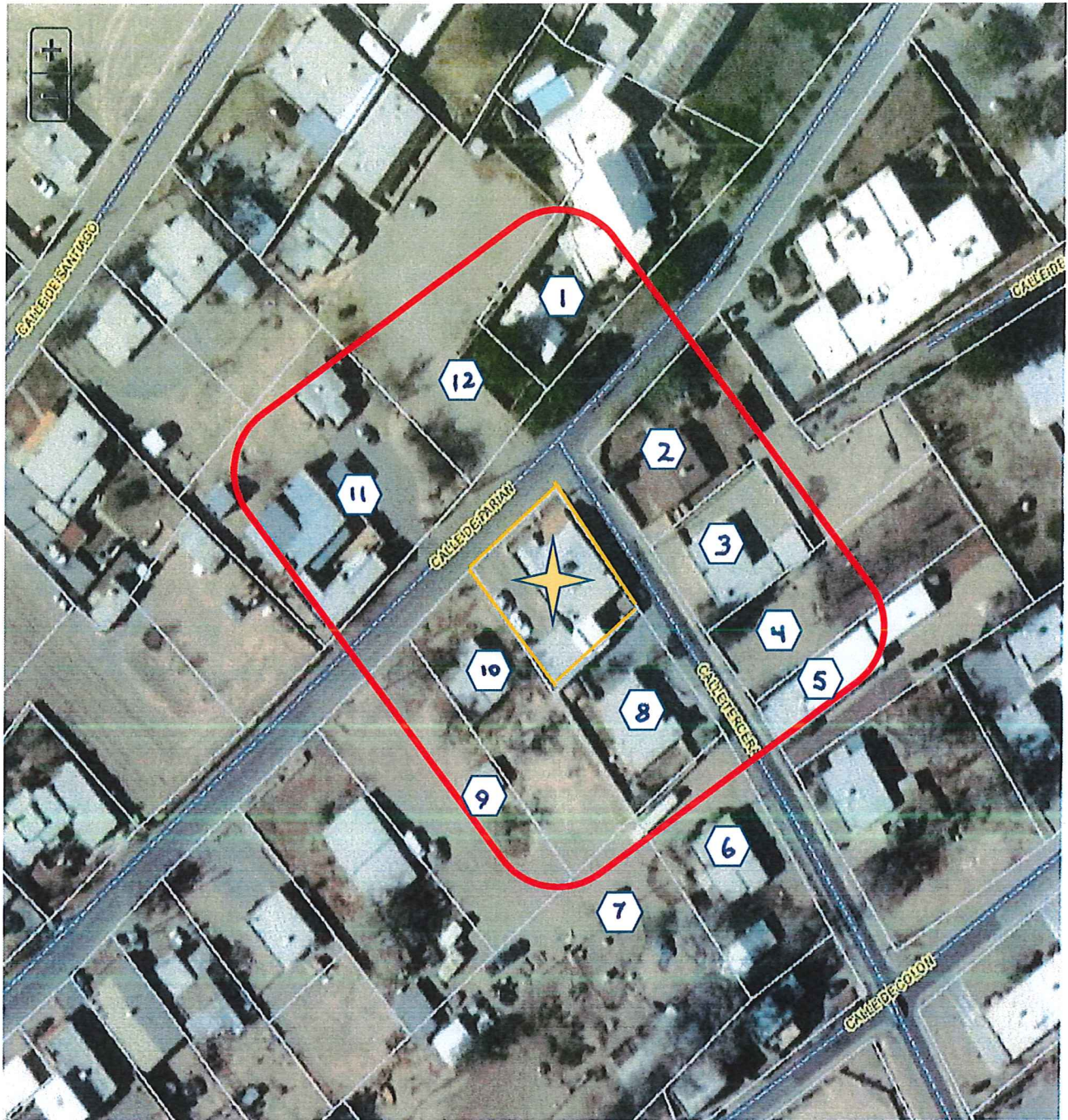
Letters must be received before the Public Hearing. In addition to mailing the letter, a copy may be faxed to Larry Shannon at 575-541-6327 or e-mailed to [larrys@mesillanm.gov](mailto:larrys@mesillanm.gov) to ensure timely receipt.

Sincerely,



Larry Shannon  
Community Development Coordinator  
Town of Mesilla

# V19-003 NOTIFICATION MAP



★ Applicant: Robert Reynolds – PO Box 1000, Mesilla, NM 88046-1000

## PROPERTY OWNERS (within 100 feet):

1. Lowell B. Catlett, PO Box 842, Mesilla, NM 88046
2. Robert Reynolds, PO Box 1000, Mesilla, NM 88046-1000
3. Veronica Salas, PO Box 445, Mesilla, NM 88046-0913
4. Natalia and Eduardo Lopez, PO Box 913, Mesilla NM 88046
5. Angelica Moreno & Pablo B Padilla, PO Box 602, Mesilla NM 88046-0602
6. Martha R Quesada, PO Box 72, Mesilla, NM 88046-0072
7. Raymond T & Joanna T Quesada, PO Box 72, Mesilla NM 88046-0072
8. Jesse & Lola Chavez, PO Box 178, Mesilla NM 88046-0178
9. Davie C Salas, PO Box 615, Mesilla NM 88046
10. Davie C Salas, PO Box 615, Mesilla NM 88046
11. Page Coleman, PO Box 1390, Mesilla, NM 88046
12. Casitas de Lucero, Inc., PO Box 25, Mesilla, NM 88046

BOA  
REGULAR MEETING  
JULY 2, 2019

CASE DECISIONS

V19-002

V19-003

BOA MEETING

JULY 2, 2019

BOA DECISION

VARIANCE V19-00&

**BOARD OF ADJUSTMENT  
ACTION FORM  
JULY 2, 2019  
CASE V19-002**

**(Decision to be based on information presented by Staff and input from the Public Hearing)**

**V19-002: Submitted by Chris Schaefer; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)**

**Staff Analysis:**

The proposed request was presented during the Public Hearing held earlier, as well as discussed during this meeting.

If it is determined that the proposed variance will be acceptable and will not result in negative impacts to the Town or the surrounding properties, the BOA should approve the request based on the Findings stated below.

If, on the other hand, it is determined that the proposed variance will not be acceptable, or will result in negative impacts to the Town or surrounding properties, and no other solution can be reached, then the BOA should either postpone the request further until the applicant can return with a proposal that meets the standards set forth by the BOA; or the BOA should deny the request based on the request not meeting any or all of the Findings as listed.

**Consistency with the Code:**

The BOA will need to determine that the proposed variance will be consistent with the Code for granting variances, as well as meeting the zoning requirements for this property.

**Findings:**

- The BOA has jurisdiction to review and approve this request.
- The BOA has determined that approval of the requested variance will meet the purpose of the Code.
- The BOA has determined that the proposed work meets all applicable Code requirements.

**BOA OPTIONS:**

1. Approve The variance as requested.
2. Approve the variance with conditions.
3. Reject the variance request.

**BOA ACTION:**

BOA MEETING

JULY 2, 2019

BOA DECISION

VARIANCE V19-003

**BOARD OF ADJUSTMENT  
ACTION FORM  
JULY 2, 2019  
CASE V19-002**

**(Decision to be based on information presented by Staff and input from the Public Hearing)**

**V19-002: Submitted by Chris Schaefer; a request for a Variance to Chapter 18.65 (Signs) of the Mesilla Town Code to allow an off premises directory sign on a commercial property at the SE corner of Calle de Alvarez and Avenida de Mesilla (address to be assigned). Zoned: General Commercial (C)**

**Staff Analysis:**

The proposed request was presented during the Public Hearing held earlier, as well as discussed during this meeting.

If it is determined that the proposed variance will be acceptable and will not result in negative impacts to the Town or the surrounding properties, the BOA should approve the request based on the Findings stated below.

If, on the other hand, it is determined that the proposed variance will not be acceptable, or will result in negative impacts to the Town or surrounding properties, and no other solution can be reached, then the BOA should either postpone the request further until the applicant can return with a proposal that meets the standards set forth by the BOA; or the BOA should deny the request based on the request not meeting any or all of the Findings as listed.

**Consistency with the Code:**

The BOA will need to determine that the proposed variance will be consistent with the Code for granting variances, as well as meeting the zoning requirements for this property.

**Findings:**

- The BOA has jurisdiction to review and approve this request.
- The BOA has determined that approval of the requested variance will meet the purpose of the Code.
- The BOA has determined that the proposed work meets all applicable Code requirements.

**BOA OPTIONS:**

1. Approve The variance as requested.
2. Approve the variance with conditions.
3. Reject the variance request.

**BOA ACTION:**