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SENATE BILL 312

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO ZONING; RESTRICTING APPEALS OF DECISIONS OF ZONING AND PLANNING AUTHORITIES TO PEOPLE WHO HAVE AN OWNERSHIP INTEREST IN THE REAL PROPERTY THAT IS THE SUBJECT OF THE DECISION OR A PROPERTY THAT IS ADJACENT TO THE PROPERTY THAT IS THE SUBJECT OF THE DECISION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-19-8 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-18-8, as amended) is amended to read:

"3-19-8. APPEAL.--~~[Any]~~ A person ~~[in interest]~~ dissatisfied with an order or determination of the planning commission, after review of the order or determination by the governing body of the municipality, may commence an appeal in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978; provided that if a specific real property

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1 is the subject of the order or determination, an appeal made
2 pursuant to this section shall be limited to an aggrieved
3 person who has an ownership interest in the real property that
4 is the subject of the order or determination or has an
5 ownership interest in a real property that is adjacent to the
6 property that is the subject of the order or determination."

7 SECTION 2. Section 3-21-4 NMSA 1978 (being Laws 1977,
8 Chapter 80, Section 3, as amended) is amended to read:

9 "3-21-4. EXTRATERRITORIAL ZONING ORDINANCE--ENFORCEMENT
10 AND ADMINISTRATION--APPEALS.--

11 A. A zoning ordinance adopted by a joint municipal-
12 county zoning authority shall be an ordinance of the
13 municipality and an ordinance of the county joining in the
14 agreement pursuant to Subsection A of Section 3-21-3 NMSA 1978
15 and may be enforced by appropriate procedures of either the
16 municipality or the county. The agreement entered into
17 pursuant to Subsection A of Section 3-21-3 NMSA 1978 may
18 specify whether the municipality or the county shall assume
19 primary enforcement responsibility.

20 B. The extraterritorial zoning commission shall
21 administer the zoning ordinance adopted by the joint municipal-
22 county zoning authority in the manner provided in Subsection C
23 of Section 3-21-7 NMSA 1978.

24 C. Appeals from the decisions of the
25 extraterritorial zoning commission shall be taken to the joint

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1 municipal-county zoning authority in the manner provided in
2 Section 3-21-8 NMSA 1978, and appeals from the decisions of the
3 joint municipal-county zoning authority shall be taken to the
4 district court in the manner provided in Section 39-3-1.1 NMSA
5 1978; provided that if a specific real property is the subject
6 of the decision, an appeal made pursuant to this section shall
7 be limited to an aggrieved person who has an ownership interest
8 in the real property that is the subject of the decision or has
9 an ownership interest in a real property that is adjacent to
10 the property that is the subject of the decision."

11 SECTION 3. Section 3-21-8 NMSA 1978 (being Laws 1965,
12 Chapter 300, Section 14-20-6, as amended) is amended to read:

13 "3-21-8. APPEALS TO ZONING AUTHORITY--GROUNDS--STAY OF
14 PROCEEDINGS.--

15 A. The zoning authority shall provide by resolution
16 the procedure to be followed in considering appeals allowed by
17 this section.

18 B. [~~Any~~] An aggrieved person or [~~any~~] an officer,
19 department, board or bureau of the zoning authority affected by
20 a decision of an administrative officer, commission or
21 committee in the enforcement of Sections 3-21-1 through 3-21-14
22 NMSA 1978 or ordinance, resolution, rule or regulation adopted
23 pursuant to these sections may appeal to the zoning authority;
24 provided that if a specific real property is the subject of the
25 decision, an appeal made pursuant to this section shall be

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1 limited to an aggrieved person who has an ownership interest in
2 the real property that is the subject of the decision or has an
3 ownership interest in a real property that is adjacent to the
4 property that is the subject of the decision. An appeal shall
5 stay all proceedings in furtherance of the action appealed
6 unless the officer, commission or committee from whom the
7 appeal is taken certifies that by reason of facts stated in the
8 certificate, a stay would cause imminent peril of life or
9 property. Upon certification, the proceedings shall not be
10 stayed except by order of district court after notice to the
11 official, commission or committee from whom the appeal is taken
12 and on due cause shown.

13 C. When an appeal alleges that there is error in
14 any order, requirement, decision or determination by an
15 administrative official, commission or committee in the
16 enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or
17 [~~any~~] an ordinance, resolution, rule or regulation adopted
18 pursuant to these sections, the zoning authority by a majority
19 vote of all its members may:

20 (1) authorize, in appropriate cases and
21 subject to appropriate conditions and safeguards, variances or
22 special exceptions from the terms of the zoning ordinance or
23 resolution:

24 (a) that are not contrary to the public
25 interest;

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1 (b) where, owing to special conditions,
2 a literal enforcement of the zoning ordinance will result in
3 unnecessary hardship;

4 (c) so that the spirit of the zoning
5 ordinance is observed and substantial justice done; and

6 (d) so that the goals and policies of
7 the comprehensive plan are implemented; or

8 (2) in conformity with Sections 3-21-1 through
9 3-21-14 NMSA 1978:

10 (a) reverse any order, requirement,
11 decision or determination of an administrative official,
12 commission or committee;

13 (b) decide in favor of the appellant; or

14 (c) make ~~[any change in any]~~ changes to
15 an order, requirement, decision or determination of an
16 administrative official, commission or committee."

17 SECTION 4. Section 3-21-9 NMSA 1978 (being Laws 1965,
18 Chapter 300, Section 14-20-7, as amended) is amended to read:

19 "3-21-9. ZONING--APPEAL.--A person aggrieved by a
20 decision of the zoning authority or any officer, department,
21 board or bureau of the zoning authority may appeal the decision
22 pursuant to the provisions of Section 39-3-1.1 NMSA 1978;
23 provided that if a specific real property is the subject of the
24 decision, an appeal made pursuant to this section shall be
25 limited to an aggrieved person who has an ownership interest in

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1 the real property that is the subject of the decision or has an
2 ownership interest in a real property that is adjacent to the
3 property that is the subject of the decision."

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