

VIGIL, XAVIER I.

From: City of Santa Fe <noreply@santafenm-gov.com>
Sent: Sunday, September 27, 2026 8:51 PM
To: Governing Body Public Comment
Subject: New submission from your Governing Body Public Comment form

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Submitted on: Sunday, September 27, 2026 at 8:51pm

- First Name: Stefanie
- Last Name: Beninato
- Your Email Address: info@nmgo.com
- Your District: District 2
- Meeting Date: 9/30/26
- Section of Agenda you would like to comment on: Public Comment
- Your Comment: Comment on Appeal from HDRB decision at 515 Paseo de Peralta27 Sept 2026

Stefanie Beninato

Submittal in support of Appeal from HDRB decision on 515 Paseo de Peralta.

I am asking the Governing Body to deny the HDRB's decision on 515 Paseo de Peralta and uphold Mr Scoular's appeal for the following reasons;

1 Creation of subcommittee for help with redesign was arbitrary, capricious and not in keeping with the code.

The land use staff, particularly the head of land use, created a process that went outside the normal procedure and was arbitrary, capricious and appeared biased when she suggested to the HDRB that it appoint a subcommittee to meet with the applicant to discuss changing the design for resubmittal. In the many years I have observed the Board, no staff member has ever suggested such a subcommittee for any project, let alone a single family residential structure. The HDRB on its own will or as required by law suggest a subcommittee when the review is for a governmental building or structure such as the bridge near the Supreme Court building. The code provides for its application to governmental structures 14-5.2 A 2 and references state law. The creation of a subcommittee for all single-family residential resubmittals would greatly increase the HDRB's work and use of a subcommittee for some residential resubmittals but not all would lead to accusations of biased, arbitrary and capricious action. See 14-5.2 A 4 "Full responsibility for the design and development of structures is left to the applicant ; however, the file of previously approved applications shall be made available to the applicant"

The subcommittee created a conflict of interest or a potential conflict of interest by supporting a few changes in the design of the addition without addressing the height, the overwhelming nature

of the addition or that it had not met the criteria for an exception to the 50 percent rule for additions to significant or contributing structures. Once Board members become part of the design process, the applicant often assumes that the rest of the Board will approve the changes which is what happened. It should be noted that the two members of the subcommittee were the newest Board members: one has no architectural training or experience and the other keeps suggesting applying historic preservation rules from other jurisdictions.

2 Height of Addition No exception requested or granted

The addition is higher than allowed by code—an addition to a significant structure must be six inches lower than the highest point of the significant structure. 14-5.2D2e. Although the HDRB might have granted a height exception—the applicant did not apply for one and the absence of an exception request was not remedied in the applicant’s resubmittal in May 2026. The height exception has six criteria all of which the Applicant must conclusively prove.

The staff erred and the HDRB accepted this error by not applying the more restrictive height as required by code and instead seemingly applied the height for the underlying zoning code Ord 14-5.2 A

The staff erred and the HDRB accepted this error by measuring the height from the side street which is a cul de sac that only seems to serve 515 Paseo rather than measuring from Paseo which is the street frontage of the property

3 Four Ft Discretionary Height Addition

The staff erred and there was little discussion to support the Board’s approval of a 4 ft discretionary addition to height when the slope seems to run up hill. From my years of observation, the Board generally allows this discretionary height addition when the slope runs downhill and the higher part of the structure reads as one structure from all possible public points of view. This height exception for 515 Paseo does not make the addition read like a single story, and it is clear from the drawings since the garage is at surface level that it is not set down into the hill as the Applicant stated since the garage is at surface level.

4 Footprint--Addition Exceeds 50 percent rule and does not meet exception criteria

The Applicant has understated the percentage by which the addition exceeds the 50 percent rule by including parts of the building that were not original and that have been demolished with HDRB approval. The footprint of the original structure is 1580 sq ft—the addition could be up to 780 sf ft without an exception. The proposed addition is well over three times that size. 14-5.2 D 2 d. The size of the exception is unprecedented.

HDRB initially denied the application in Oct 2025 because the Applicant had not made the criteria to allow a 2500 plus sf addition when only a 780 sf addition would be allowed. It allowed the Applicant to redesign. When it came back to the HDRB after the subcommittee’s participation, the HDRB failed to address the criteria that had not been met. It was arbitrary, capricious and violated the law not to address the issue and not to make findings of fact to demonstrate how the applicant had conclusively proven the criteria. Instead it focused on the small changes to the design which did not include any reduction in the footprint.

The criteria for an exception to the footprint include: the applicant conclusively demonstrated that requested exceptions comply with all the criteria listed as follows: (Ord. No. 2023-27 § 1) 14-5/2 C 5 b

(i) Do not damage the character of the district; (ii) Are required to prevent a hardship to the applicant or an injury to the public welfare; and (iii) Strengthen the unique heterogeneous character of the City by providing a full range of design options to ensure that residents can continue to reside within the historic districts.

For (i) the applicant compared the significant structure to surrounding residential buildings and said they surrounding buildings were two-story. The Appellant's residence which was included in this generalization is not two story and the others may not be either---there is a slope in this area. The Applicant also discussed the potential proposal of the adjoining vacant lot which is zoned commercial. That was an apples to oranges comparison and such comparisons are not allowed by code. (Each structure is to be recognized as a physical record of its time, place, and use. Ord 14-52.C1a

(ii). There was no conclusive proof of hardship or preventing an injury to the public welfare: aging in place is a universal condition and cannot be considered a hardship—otherwise that criterion would be meaningless. Aging in place cannot be conclusively proven since one can die suddenly and sooner than desired/expected. The same goes for the hardship of needing more space for the potential of a possible caregiver while aging in place. It cannot be conclusively proven unless someone has a diagnosis now that such care will be needed within a specific time frame. One's personal opinion that the significant structure is not private enough to serve as a residence is completely unfounded. It was used as a residence for 100 years; it is set significantly back and up from Paseo de Peralta. The Applicant's desire to turn the significant structure into a place to entertain friends does not meet hardship (Plans call for 2 living rooms; a dining room; a study and an approximately 250 sf bar room.)

It does not prevent an injury to the public welfare—the suggestion that the Applicant could break up the addition into smaller separate buildings which some how would prevent harm to the public is problematic given the significant building's status could be endangered by placing structures too close to any of its facades and there is the problem of adequate setbacks and terrain. Fixing steps going to the significant structure that is well within the property boundaries protects the Applicant from liability to its invitees and guests but does not prevent a hardship to the public welfare as generally defined.

lii The Applicant (a couple) could easily reside in the 1580 significant structure with a 780 ft addition if they did not desire a multiple car garage, significant studio space, guest quarters and 1580 sf of entertainment space for friends or invitees.

I request the GB grant the Appeal and send the case back to the HDRB so it can review the application and apply the criteria for exceptions for height and for additions above the 50 percent rule as required and written.

Thank you

Stefanie Beninato