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AN ACT

RELATING TO COUNTY OR MUNICIPAL ZONING; PROVIDING A ZONING
AUTHORITY WITH THE AUTHORITY TO APPROVE SPECIAL EXCEPTIONS
DURING THE APPEALS PROCESS.

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

Section 1. Section 3-21-8 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-20-6, as amended) is amended to read:

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

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

B. Any aggrieved person or any officer,
department, board or bureau of the zoning authority affected
by a decision of an administrative officer, commission or
committee in the enforcement of Sections 3-21-1 through
3-21-14 NMSA 1978 or ordinance, resolution, rule or
regulation adopted pursuant to these sections may appeal to
the zoning authority. An appeal shall stay all proceedings
in furtherance of the action appealed unless the officer,
commission or committee from whom the appeal is taken
certifies that by reason of facts stated in the certificate,
a stay would cause imminent peril of life or property. Upon
certification, the proceedings shall not be stayed except by

1 order of district court after notice to the official,
2 commission or committee from whom the appeal is taken and on
3 due cause shown.

4 C. When an appeal alleges that there is error in
5 any order, requirement, decision or determination by an
6 administrative official, commission or committee in the
7 enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or
8 any ordinance, resolution, rule or regulation adopted
9 pursuant to these sections, the zoning authority by a
10 majority vote of all its members may:

11 (1) authorize, in appropriate cases and
12 subject to appropriate conditions and safeguards, variances
13 or special exceptions from the terms of the zoning ordinance
14 or resolution:

15 (a) that are not contrary
16 to the public interest;

17 (b) where, owing to special conditions,
18 a literal enforcement of the zoning ordinance will result in
19 unnecessary hardship;

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

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

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

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

(b) decide in favor of the appellant;
or

(c) make any change in any order,
requirement, decision or determination of an administrative
official, commission or committee."