



CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

John Sedillo requests a variance of 2 ft to the 3 ft wall height in the front and corner-side yard for Lot 13, 14, Block 53, University Heights Addn, located at 421 Carlisle Blvd SE, zoned R-1C [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2018-00146**  
Project No:..... **Project# 2018-001672**  
Hearing Date: ..... 11-20-18  
Closing of Public Record: ..... 11-20-18  
Date of Decision: ..... 12-05-18

On the 20th day of November, 2018, property owner John Sedillo (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft to the 3 ft wall height in the front and corner-side yard (“Application”) upon the real property located at 421 Carlisle Blvd SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 ft to the 3 ft wall height in the front and corner-side yard.
2. The City of Albuquerque Integrated Development Ordinance Section 14-16-6-6(N)(3)(c) Variance for a Taller Front or Side Yard Wall reads: “A *variance application for a taller front or side yard wall shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:*
  - (1) *The proposed wall would strengthen or reinforce the architectural character of the surrounding area;*
  - (2) *The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community;*
  - (3) *The wall is proposed on a lot that meets any of the following criteria:*
    - a. *The lot is at least ½ acre;*
    - b. *The lot fronts a street designated as a collector or above in the LRTS guide;*
    - c. *At least 20 percent of the properties within 330 feet of the lot where the wall or fence is being requested have a wall or fence over 3 feet in the front yard.*
  - (4) *The design of the wall complies with any applicable standard in Section 14-16-5-7 (Walls and Fences), including, but not limited to Subsection 14-16-5-7(E)(2) (Articulation and alignment) and Subsection 14-16-5-7(E)(3) (Wall Design), and all of the following:*
    - a. *The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house.*
    - b. *The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-14-6-4(F)(2).

4. All property owners within 100 feet and affected neighborhood association were notified of the application.
5. The subject property is currently zoned R-1C.
6. Nob Hill Neighborhood Association and Southeast Heights Neighborhood Association are the affected NAs.
7. John Sedillo, owner appeared and gave evidence in support of the application.
8. Many of adjacent properties have walls taller than 3 feet.
9. Applicant submitted photos of a number of adjacent properties with walls taller than 3 feet.
10. The subject property fronts a street which is an arterial in the LRTS guide.
11. The proposed wall would be placed at the 15 foot setback from the property lines.
12. Transportation reported conditional approval of the application, as long as Applicant does not build the block portion of the proposed wall where the design will impair the view above 3 feet within the clear site triangle.
13. Any proposed wall design shall not violate the clear sight triangle as required by transportation.
14. Gary Eyster, president of the Nob Hill NA, submitted a letter dated November 14, 2018 in opposition to the application.
15. The NA opposition is based on the principles of *Crime Prevention Through Environmental Designs*, which states; “walls over 3 feet high in front setbacks diminish historic character, damaging quality of life and property values.”
16. It states a wall over 5 feet high is injurious to the neighborhood.
17. Gary Eyster, president of the Nob Hill NA appeared in opposition to the application and expanded upon his letter.
18. The NA categorically opposes an approval of a variance to 5 feet, however, he stated that after discussions with the Applicant, both the applicant and the NA would compromise and accept approval of a wall to a height of 4 feet 3 inches.
19. This is based upon their understanding that this height would be permitted by Section 14-16-6-6(N)(3)(c)4a: that the wall “shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above the ground level at the centerline of the street in front of the house.”
20. Mr. Eyster stated the Nob Hill NA, would support the application if the height of 4 feet 3 inches was the limit.
21. Applicant stated he would accept that height limitation.
22. John Quinn Pate, President of the Southeast Heights NA, submitted a letter dated November 16, 2018 in opposition to the application.
23. The letter raises similar principles of eyes on the street preventing or deterring crime, which support their opposition.
24. The proposed wall would strengthen or reinforce the architectural character of the surrounding area as required by Section 14-16-6-6(N)(3)(c)(1).
25. The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community as required by Section 14-16-6-6(N)(3)(c)(2) following the stipulated compromise proposed by the Nob Hill NA and accepted by the Applicant.
26. The subject property is fronted by a street which is an arterial as found in the LSRT guide as required by Section 14-16-6-6(N)(3)(c)(3).

27. The design of the wall complies with any applicable standard in Section 14-16-5-7 (Walls and Fences) including, but not limited to Subsection 14-16-5-7(E)(2) (Articulation and alignment) and Subsection 14-16-5-7(E)(3) (Wall Design), and all of the following:
  - a. The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house.
  - b. The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.
28. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
29. The ZHE finds that the Applicant has authority to pursue this Application.

#### CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(N)(3)(c) of the Albuquerque Zoning Code are satisfied.

#### DECISION:

APPROVAL of a variance of 1 ft and 3 inches for a total of 4 feet 3 inches to the 3 ft wall height in the front and corner-side yard. The wall shall be constructed on the 15 feet setback area.

The design of the fence shall comply with the Specific-use standards for walls and fences, Section 14-16-5-7(A) through (E) and shall comply with Section 14-16-6-6(N)(3)(c)4 a and b..

If you wish to appeal this decision, you must do so by December 20, 2018 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department’s Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal must be filed with the Planning Department within 15 days after the decision. The appeal shall specifically state the section of the Integrated Development Ordinance, City regulation, or condition attached to a decision that has not been interpreted correctly, as required by Section 14-16-6-4(U)(3)(a)(3) of the Integrated Development Ordinance. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

Once an appeal is accepted by the Planning Department, it shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the Land Use Hearing Officer (LUHO) through the Clerk of the City Council.

The LUHO shall then schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties, pursuant to Section 14-16-6-4(U)(3)(d).

The Planning Department shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above; provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is **void after one year** from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
John Sedillo, 421 Carlisle Blvd SE, 87106  
Gary Eyster, 316 Amherst DR NE, 87106