



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

Albuquerque VOA / EHI dba Mesa Hills Apts requests a variance of 3 ft to the 3 ft max wall height for Lot 31, Block 31, Mesa Del Norte, located at 1000 Louisiana Blvd NE, zoned R-MH [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00023**  
Project No: ..... **Project# 2019-001965**  
Hearing Date: ..... 03-19-19  
Closing of Public Record: ..... 03-19-19  
Date of Decision: ..... 04-03-19

On the 19th day of March, 2019, property owner Albuquerque VOA / EHI dba Mesa Hills Apartments (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the 3 ft max wall height (“Application”) upon the real property located at 1000 Louisiana Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the 3 ft max wall height.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) reads: “... an application for a Variance-ZHE shall be approved if it meets all of the following criteria:
  - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
  - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
  - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
  - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
  - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
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 14-16-6-4(N)(1).
4. All property owners within 100 feet and affected neighborhood association were notified of the application.
5. The subject property is currently zoned R-MH.

6. Mark Twain Neighborhood Association and Jerry Cline Park Neighborhood Association are the affected Neighborhood Association.
7. Ellen Rainford, agent and manager for Corona Moya Raul, Jr, owner appeared and gave evidence in support of the application.
8. The subject property is the Mesa Hills Apartments.
9. This is a low income senior housing center.
10. The subject property is located on Louisiana Blvd. NE.
11. Adjacent commercial properties currently have 6 foot walls and fences.
12. The subject property is currently open, which has encouraged large numbers of transients to cut across the property to access Louisiana Blvd.
13. A significant number of the residents of the apartment have been robbed and assaulted.
14. Homeless people attempt to camp out on the subject property.
15. The proposed wall would be constructed of wrought iron see through design on the front section of the fence, and cedar post and pickets on the rear of the property.
16. The proposed fence will have an electric entrance and 2 key card access entrances for residents.
17. Linda Conner, a resident of the apartment, appeared and gave evidence in support of the proposed fence.
18. She has been a resident for over a year, and has a job that makes her come home in the dark.
19. A fence would provide her with safety and a greater sense of security.
20. Gary Thompson, a resident of the apartment, appeared and gave evidence in support of the proposed fence.
21. He is a retired security officer, and has lived in the apartments for a long time.
22. A taller fence would provide greater safety for older and more vulnerable residents of the apartment.
23. He bases his opinion on his years of experience as a security guard,
24. Eric Smith, a resident of the apartments, has lived there for 10 years.
25. He has had two of his vehicles vandalized.
26. He has recently assisted residence victims of crime.
27. Adjacent apartment complexes to the north, southwest and west all have 6 foot security fences.
28. Transportation initially issued a report indicating the proposed fence was not allowed.
29. Applicant met with Ernest Armijo, Senior Engineer for Transportation Dept., and modified the design to change the fencing on the north end of the property to wrought iron fencing.
30. This modification will allow for line of sight views at each corner.
31. Based on this change, Transportation now recommends Conditional Approval, as long as clear sight triangles are not obstructed.
32. Any proposed wall design shall not violate the clear sight triangle as required by transportation.
33. There are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1).
34. The Variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2).

35. The Variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3).
36. The Variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4).
37. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5).
38. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-6(K)(3).
39. 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 3 ft to the 3 ft max wall height.

CONDITIONS:

The design of the fence shall comply with any applicable design standards in Sections 14-16-5-7 (Walls and Fences); 7-7(E)(2) (Articulation and Alignment); 5-7(E)(3) (Wall Design) .

APPEAL

If you wish to appeal this decision, you must do so by April 18, 2019 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.

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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Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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