



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

Heights Church of Christ requests a variance of 3 ft to the 3 ft maximum wall height for Lot 33, Golden View Addn, located at 7801 Zuni RD SE, zoned MX-L [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00105**
Project No: **Project# 2019-002255**
Hearing Date: 05-21-19
Closing of Public Record: 05-21-19
Date of Decision: 06-05-19

On the 21st day of May, 2019, property owner Heights Church of Christ (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the 3 ft maximum wall height (“Application”) upon the real property located at 7801 Zuni RD SE (“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 maximum 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. Frank Soto, agent for Heights Church of Christ, property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.

6. Trumbull Village Neighborhood Association is the affected neighborhood association.
7. An e-mail from Joanne Landry, President of the Trumbull Village Neighborhood Association, dated March 6, 2019, indicating the TVNA has no problem with the request, was submitted in support of the Application.
8. The subject property is currently zoned MX-L.
9. The address of the subject property is 7801 Zuni Rd. SE.
10. The subject property is a church building.
11. A large number of transient take a short cut across the church property.
12. There are ongoing problems with trash, vandalism and crime as result of this passage of large numbers of individuals through the subject property.
13. There have been a number of incidents on the church parking lot involving church members being threatened and assaulted by transients and the homeless.
14. Homeless persons have started camping and sleeping on the church property.
15. Church members must constantly police the parking lot to remove discarded needles for the safety of members and their children.
16. The church is facing potential liability for these safety hazards.
17. The purpose of the requested wall will be to provide more safety and more security for church members.
18. A site plan and drawings were submitted in support of the Application.
19. The request will allow a 6 foot tall fence surrounding the church parking lot.
20. The fence would be constructed of wrought iron see through fencing.
21. Transportation issued a report indicating Conditional Approval of the request, the condition being any proposed wall design shall not violate the clear sight triangle as required by transportation.
22. No one appeared in opposition to the Application.
23. 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).
24. 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).
25. 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).
26. 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).
27. 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).
28. 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 Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 3 ft to the 3 ft maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by June 20, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Heights Church of Christ, 7801 Zuni RD SE, 87108