



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

Michael Keefe requests a variance of 6 ft to the required placement of a 6 ft wall 6 ft inside the property line for Lot 86, Los Alamos Addn, located at 321 Sandia RD NW, zoned MX-T [Section 14-16-5-6(E)(2)(b)1a]

Special Exception No:..... **VA-2019-00159**
Project No: **Project# 2019-002281**
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 Michael Keefe (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the required placement of a 6 ft wall 6 ft inside the property line (“Application”) upon the real property located at 321 Sandia RD NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the required placement of a 6 ft wall 6 ft inside the property line.
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. The variance requested is from Section 14-16-5-6(E)(2), (*Development Next to a Low Density Residential Zone District*), specifically 5-6(E)(2)(b)1.a, which requires: “An opaque

wall, fence, or vegetative screen at least 6 feet tall shall be provided, ... at least 6 feet inside the property line”.

5. Roger Cinelli, agent for Michael Keefe, property owner appeared and gave evidence in support of the application.
6. A site plan with accompanying photographs of the subject site were submitted in support of the Application.
7. The Applicant conducted a pre-application meeting with the LAANA, and the report of that meeting and results of that meeting are reported in Findings for the ZHE Hearing in VA-2019-00119.
8. The subject property is currently zoned MX-T.
9. The site is located on the northeast corner of 4th St NW and Sandia Road NW.
10. The current primary residential building on subject property is uninhabitable, blighted and has become a public nuisance.
11. The owner of the property proposes to remove the blighted building and to construct eight townhouses on the site.
12. The project would consist of two 4 unit townhouses built in a northern New Mexico architectural style oriented north and south on the site.
13. These units would be affordable rentals with strict standards applied to renters.
14. The adjacent neighborhood to the east is an eclectic neighborhood consistently of a great variety of architectural styles, including Territorial, Missions, Pueblo and Ranch.
15. There is no emphasis on a single architectural style and the proposed project would complement and enhance the character of the neighborhood and surrounding area.
16. Access to the units will be via a 24 foot wide drive pad, situated parallel to the eastern property line of the project.
17. The property will not be subdivided and the units will occupy a single lot.
18. The adjacent neighborhood to the east is an eclectic neighborhood consistently of a great variety of architectural styles, including Territorial, Missions, Pueblo and Ranch.
19. Exceptional hardships are created by the physical characteristics of the subject property.
20. The subject lot is zoned MX-T and is adjacent to the R-A zoned Sandia Road neighborhood.
21. Subject property is a long narrow lot, with a unique subdivision pattern.
22. Its dimensions are approximately 230 feet along 4th St. and 135 feet on Sandia Road and is oriented north to south.
23. The adjacent property to the east, 315 Sandia Rd. NW, owner, Diane Bishop, is currently zoned R-A, and is a Protected lot.
24. IDO section 5-6(E)(2)(b)1a, requires that an opaque wall or vegetative screen at least 6 feet tall shall be erected 6 feet within the Regulated lot.
25. The existing current painted 6 foot wall is on the common property line, and is in disrepair.
26. Owner Diane Bishop has no objection and is agreeable to a 6 foot tall split block wall to replace the existing wall at the property line.
27. Owner Bishop supports the request for the variance.
28. A letter from John and Diane Bishop dated April 30, 2019, indicating their approval was submitted in support of the Application.
29. All e-mails, letters and testimony from persons in opposition have not addressed this request and no opposition was to the Application was submitted.
30. Exceptional hardships are created by the 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).

31. 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).
32. 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).
33. 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).
34. 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).
35. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
36. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 6 ft to the required placement of a 6 ft wall 6 ft inside the property line.

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
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Roger Cinelli, 2418 Manuel Torres Lane NW, 87107
Don Dudley, 302 Sandia NW, 87107
Dianne Bishop, 315 Sandia RD NW, 87107
Rosa Weiss, 305 Sandia RD NW, 87107
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