



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

Wilson Family LLC requests a variance of 3 ft to the maximum 3 ft wall height for Lot C, Lomas & Broadway Unit 2, located at 333 Lomas Blvd NE, zoned MX-M [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00339**  
Project No: ..... **Project#2019-002942**  
Hearing Date: ..... 11-19-19  
Closing of Public Record: ..... 11-19-19  
Date of Decision: ..... 12-04-19

On the 19th day of November, 2019, property owner Wilson Family LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the maximum 3 ft wall height (“Application”) upon the real property located at 333 Lomas Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 feet to 3 feet 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. Derek Archuleta of Arch + Plan Land Use Consultants, agent for Wilson Family LLC, property owners, appeared and gave evidence in support of the application.
5. The address of the subject property is 333 Lomas Blvd. NE.
6. The subject property is currently zoned MX-M.
7. The request is for a variance from Section 14-16-5-7(D)(1): **DEVELOPMENT STANDARDS; Walls and Fences; Table 5-7-1: Maximum Wall Height.**

8. The maximum wall height in a front or side yard in a MX-M zone district is 3 feet.
9. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
10. Santa Barbara Martineztown Neighborhood Association and Martineztown Work Group, and Citizens Information Committee of Martineztown are the affected neighborhood associations.
11. The neighborhood associations were notified by e-mail dated September 17, 2019.
12. No response nor request for meeting has been submitted.
13. The request is for a variance of 3 feet to the required 3 foot maximum wall height.
14. The proposed project is construction of a 6 foot high wrought iron fence along Lomas Blvd.
15. A site plan, with detailed drawings, elevations and construction drawing were submitted in support of the Application.
16. There are two businesses on the subject lot: the Wilson Family Trust and a surveying business.
17. The businesses on subject property have had a long history of criminal activity as a result of its location.
18. The lot is located across Lomas from a gas station/convenience station, fast food restaurant and major bus stop.
19. This has resulted in an extensive history of loitering, trespassing, vandalism and property damages.
20. This has encouraged loitering and panhandling on the Applicant property during business hours.
21. This has resulted in threats, harassment and nuisance to the business, its employees and customers to the business.
22. After hours, the subject property has become a gathering place of individuals seeking shelter and unlawful activity.
23. The proposed fence will be constructed of wrought iron in a see-through fencing design.
24. This will also allow visibility to adjacent properties which are suffering the same nuisance activity.
25. The project would replace an existing fence which is inadequate to provide the safety and security required by the nuisance problems currently affecting the subject business.
26. Transportation issued a report indication no opposition to the Application.
27. No one appeared in opposition to the Application.
28. 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).
29. 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).
30. There is no evidence of adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
31. 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).
32. The request will protect the quality and character of the surrounding neighborhood; provide for the efficient administration of land use and development regulations in the City; protect

the health, safety and welfare of the public; and ensure development in the City is consistent with the spirit and intent of the IDO.

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 will allow Applicants to avoid the extraordinary expense and practical hardship of continued nuisance and criminal activity on the subject property.
35. 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).
36. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
37. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 3 feet to the 3 foot maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by December 19, 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:

ZHE File  
Zoning Enforcement

Wilson Family LLC, 333 Lomas Blvd NE, 87102

Arch+Plan Land Use Consultants, PO BOX 25911, 87125