



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

Watchlist Menaul LLC requests a variance of 3ft to the 3ft maximum wall height for Lot 1, Block A, Snow Heights Addn, located at 8500 Menaul Blvd NE, zoned MX-M [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00371**
Project No: **Project#2019-002956**
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 Watchlist Menaul LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3ft to the 3ft maximum wall height (“Application”) upon the real property located at 8500 Menaul 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. Doug Martinez of Scott’s Fencing, agent for Watchlist Menaul, LLC, property owners, appeared and gave evidence in support of the application.
5. The address of the subject property is 8500 Menaul 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. Hoffmantown Neighborhood Association; North Eastern Association of Residents and District 7 Coalition of Neighborhood Associations are the affected neighborhood associations.
11. The neighborhood associations were notified by e-mail dated September 4, 2019.
12. An e-mail from Jo Martin, President NEAR Neighborhood Association, dated September 9, 2019, indicating the NEARNA has no problems, issue or concern on the request, was submitted in support of the Application.
13. A site plan, with detailed drawings, elevations and construction drawing were submitted in support of the Application.
14. The proposed fence will be constructed of ornamental wrought iron see through fencing and gates.
15. The subject lot is greater than ½ acre in size.
16. The business on the subject lot is a 4 story commercial office building, with multiple tenants.
17. The primary reason for the request is security for its tenants and their customers.
18. There are problems with property damages, auto theft and burglary, concerns for assaults on customers in their parking lot.
19. Transportation issued a report indicating Conditional Approval, as long as the clear sight triangle remains unblocked by any part of the fence.
20. No one appeared in opposition to the Application.
21. 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).
22. 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).
23. There is no evidence of adverse impacts on surrounding properties or infrastructure improvements in the vicinity.
24. 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).
25. The request will protect the quality and character of residential neighborhoods; 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.
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 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

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