



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

Central NM USBC requests a variance of 2 ft to the maximum 3 ft wall height for Lot AB, Block 40, Valley View Addn, located at 125 Jackson ST NE, zoned MX-M [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00281**  
Project No: ..... **Project#2019-002795**  
Hearing Date: ..... 10-15-19  
Closing of Public Record: ..... 10-15-19  
Date of Decision: ..... 10-30-19

On the 15th day of October, 2019, Mark Van Meter, agent for property owner Central NM USBC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft to the 3 ft maximum wall height. (“Application”) upon the real property located at 125 Jackson ST NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 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. Mark Van Meter, agent for Central New Mexico US Bowling Congress, property owner appeared and gave evidence in support of the application.
5. The subject property is currently zoned MX-M.
6. The address of the subject property is 125 Jackson St. NE.

7. The proposed project is construction of a 5 foot fence to protect the subject business.
8. All property owners within 100 feet and affected neighborhood association were notified of the application.
9. Highland Business and Neighborhood Association, Inc. and District 6 Coalition of Neighborhood Associations are the affected neighborhood associations.
10. The affected neighborhood associations were notified by e-mail dated August 13, 2019.
11. No response nor request for meeting has been submitted.
12. Owner's business is a non-profit bowling association, which is the sole occupant of the primary building on the lot.
13. The proposed fence will be constructed of metal/wire or wrought iron or similar material, see through fencing along the front of the subject lot, and chain link fencing along the sides of the property.
14. There have been a high number of calls for service related to vandalism by trespassers, massive amount of trash and solid waste discarded on the property and multiple incidents involving transport of individuals to hospitals.
15. Staff and employees of the business have been threatened and harassed.
16. Customers to the business have felt intimidated and harassed by the various trespassers to the property.
17. A survey of the subject property and accompanying photographs of the subject property and primary building, and photos of trash, needles, vandalism, etc., were submitted in support of the Application.
18. There is a shopping center to the east of the subject property and other commercial uses to the north and south.
19. There are no residential uses adjacent to the subject property which might be adversely impacted by the Application.
20. Transportation issued a report indicating Conditional Approval, as the proposed fence will be constructed of chain link or see-through fencing and would not impact the clear sight triangle.
21. Any proposed wall design shall not violate the clear sight triangle as required by transportation.
22. The adverse material impact caused by the uncontrolled trespassing, vandalism, safety to employees of the subject business and customers have created special circumstances related to the subject property.
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 proposed project will help create an area of safety on the subject property, which will enhance and increase the feeling of safety and welfare to adjacent businesses and properties.
25. 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).
26. 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).
27. 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).

28. 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).
29. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
30. The Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(N)(3)(a) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a variance of 2 feet to the maximum 3 foot 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 November 14, 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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Stan Harada, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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