



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

Anzhelika Lytvynova requests a variance of 3ft to the 3ft maximum wall height for Lot 138A3, Valle Alto Addn, located at 1201 Aztec RD NW, zoned MX-L [Section 14-16-5-7-D]

Special Exception No:..... **VA-2020-00333**  
Project No: ..... **Project#2020-004499**  
Hearing Date: ..... 11-17-20  
Closing of Public Record: ..... 11-17-20  
Date of Decision: ..... 12-02-20

On the 17th day of November, 2020, property owner Anzhelika Lytvynova (“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 1201 Aztec RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3ft to the 3ft 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. 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. Applicant appeared in support of the Application.
5. The City Traffic Engineer submitted a report stating that the wall that is the subject of the Application violates the clear sight triangle. As such, the wall would be materially contrary to the public safety, health, or welfare.

6. Applicant should be allowed a deferral of one month to allow her to confer with the City Traffic Engineer regarding how, if at all, the wall may comply with applicable requirements.

DECISION:

DEFERRAL of the hearing on the Application to the ZHE hearing on December 15, 2020, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 2020 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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