



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

Ryan Gunter requests a Wall Permit -	Special Exception No: ....	<b>VA-2024-00040</b>
Major for Lot 2, Block 38, Snow Heights	Project No: .....	<b>PR-2024-010011</b>
Addn, located at 9604 Euclid Ave NE,	Hearing Date:.....	4-16-24
zoned R-1B [14-16-5-7(D)(3) Table 5-7-2]	Closing of Public Record:	4-16-24
	Date of Decision: .....	5-01-24

On the 16<sup>th</sup> day of April, 2024, property owner Ryan Gunter (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit-wall or fence-major (“Application”) upon the real property located at 9604 Euclid Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a Permit-Wall or Fence-Major.
2. The City of Albuquerque Integrated Development Ordinance Section 14-16-6-6(N)(3)(c) Variance for a Taller Front or Side Yard Wall reads: “A *variance application for a taller front or side yard wall shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:*
  - (1) *The proposed wall would strengthen or reinforce the architectural character of the surrounding area;*
  - (2) *The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community;*
  - (3) *The wall is proposed on a lot that meets any of the following criteria:*
    - a. *The lot is at least ½ acre;*
    - b. *The lot fronts a street designated as a collector or above in the LRTS guide;*
    - c. *At least 20 percent of the properties within 330 feet of the lot where the wall or fence is being requested have a wall or fence over 3 feet in the front yard.*
  - (4) *The design of the wall complies with any applicable standard in Section 14-16-5-7 (Walls and Fences), including, but not limited to Subsection 14-16-5-7(E)(2) (Articulation and alignment) and Subsection 14-16-5-7(E)(3) (Wall Design), and all of the following:*
    - a. *The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house.*
    - b. *The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.*

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. All property owners within 100 feet and affected neighborhood association were notified of the application.
5. Applicant appeared and provided evidence at the April 2024 ZHE hearing on the Application. However, questions remain regarding certain IDO criteria.
6. The ZHE hearing on the Application should be continued to allow Applicant and members of the public to supplement the record with evidence and justification regarding the Application.

DECISION:

DEFERRAL of the ZHE hearing on the application to the May 21, 2024 ZHE hearing, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by May 16, 2024 pursuant to Section 14-16-6-4(V), 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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CITY OF ALBUQUERQUE  
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ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Ryan Gunter requests a Variance of 3 ft to the allowed 3ft fence in front and side yard for Lot 2, Block 38, Snow Heights Addn, located at 9604 Euclid Ave NE, zoned R-1B [4-16-5-7(D)(l) Table 5-7-1]	Special Exception No: ....	<b>VA-2024-00041</b>
	Project No: .....	<b>PR-2024-010011</b>
	Hearing Date: .....	4-16-24
	Closing of Public Record: .....	4-16-24
	Date of Decision: .....	5-01-24

On the 16<sup>th</sup> day of April, 2024, property owner Ryan Gunter (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the allowed 3ft fence in front and side yard (“Application”) upon the real property located at 9604 Euclid Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the allowed 3ft fence in front and side yard.
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.”*
7. 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).
8. All property owners within 100 feet and affected neighborhood association were notified of the application.
9. Applicant appeared and provided evidence at the April 2024 ZHE hearing on the Application. However, questions remain regarding certain IDO criteria.

10. The ZHE hearing on the Application should be continued to allow Applicant and members of the public to supplement the record with evidence and justification regarding the Application.

DECISION:

DEFERRAL of the ZHE hearing on the application to the May 21, 2024 ZHE hearing, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by May 16, 2024 pursuant to Section 14-16-6-4(V), 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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