



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

Aces & Eights Development – Nicosha Schedlbauer requests a Variance of 9 ft to the required 15 ft Edge Buffer landscaping for Lot A, Block 0000, McMahon Commons, located at 99999 McMahon Blvd NW, Zoned MX-L [14-16-5-6(E) Table 5-6-4)

Special Exception No:..... **VA-2024-00073**  
Project No: ..... **Project#2024-010093**  
Hearing Date: ..... 04-16-24  
Closing of Public Record: .. 04-16-24  
Date of Decision: ..... 05-01-24

On the 16<sup>th</sup> day of April, 2024, property owner Aces & Eights Development – Nicosha Schedlbauer (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 9 ft to the required 15 ft edge buffer landscaping (“Application”) upon the real property located at 5115 Central Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 9 ft to the required 15 ft edge buffer landscaping.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on behalf on Applicant’s behalf regarding the Application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. The ZHE finds that the proper “Notice of Hearing” signage was] posted for the required time period as required by Section 14-16-6-4(K)(3).
6. The City of Albuquerque Integrated Development Ordinance (“IDO”), Section 14-16-6-6(O)(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 a single lot 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, physical characteristics, natural forces or government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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.”*

Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

7. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
8. Applicant appeared and gave evidence in support of the application.
9. The subject property is currently zoned MX-L
10. Based on evidence submitted by or on behalf of Applicant, it appears that 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). Specifically, Applicant testified and confirmed in written submittals that the Subject Property has a unique triangular shape, which creates a special circumstance for development on the land, therefore making it difficult to maintain strict compliance with the minimum standards.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that variance would include the landscape buffer because the Subject Property is located next to protected lots. Additionally, Applicant testified that they have received feedback from neighbors that McMahan is a dangerous street and Applicant states that the expanded development may aid in the safety of the street.
12. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that the Subject Property would still include the setback and buffer to mitigate impacts from the development of Subject Property.
13. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that the variance would promote “small scale neighborhood serving economic development opportunities”, in addition to maintaining the buffering and landscaping of the surrounding area and properties.
14. Based on evidence submitted by or on behalf of Applicant, 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). Applicant testified and confirmed in written submittals that the variance would utilize the unique shaped lot to achieve an “economic return to both the development and the community” and any lesser variance would not be workable.  
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 9 ft to the required 15 ft edge buffer landscaping.

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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Zoning Hearing Examiner

cc:

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Zoning Enforcement  
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CITY OF ALBUQUERQUE  
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ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Aces & Eights Development – Nicosha Schedlbauer requests a Variance of 41 ft to the required 50 ft separation from a protected lot for Lot A, Block 0000, McMahon Commons, located at 99999 McMahon Blvd NW, Zoned MX-L [14-16-5-6(E) Table 5-6-4)

Special Exception No:..... **VA-2024-00074**  
Project No: ..... **Project#2024-010093**  
Hearing Date: ..... 04-16-24  
Closing of Public Record: .. 04-16-24  
Date of Decision: ..... 05-01-24

On the 16<sup>th</sup> day of April, 2024, property owner Aces & Eights Development – Nicosha Schedlbauer (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 9 ft to the required 15 ft edge buffer landscaping (“Application”) upon the real property located at 5115 Central Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 41 ft to the required 50 ft separation from a protected lot.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on behalf on Applicant’s behalf regarding the Application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. The ZHE finds that the proper “Notice of Hearing” signage was] posted for the required time period as required by Section 14-16-6-4(K)(3).
6. The City of Albuquerque Integrated Development Ordinance (“IDO”), Section 14-16-6-6(O)(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 a single lot 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, physical characteristics, natural forces or government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic*

*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.”*

Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

7. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
8. Applicant appeared and gave evidence in support of the application.
9. The subject property is currently zoned MX-L
10. Based on evidence submitted by or on behalf of Applicant, it appears that 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). Specifically, Applicant testified and confirmed in written submittals that the Subject Property has a unique triangular shape, which creates a special circumstance for development on the land, therefore making it difficult to maintain strict compliance with the minimum standards.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that variance would include the landscape buffer because the Subject Property is located next to protected lots. Additionally, Applicant testified that they have received feedback from neighbors that McMahan is a dangerous street and Applicant states that the expanded development may aid in the safety of the street.
12. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that the Subject Property would still include the setback and buffer to mitigate impacts from the development of Subject Property.
13. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that the variance would promote “small scale neighborhood serving economic development opportunities”, in addition to maintaining the buffering and landscaping of the surrounding area and properties.

14. Based on evidence submitted by or on behalf of Applicant, 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). Applicant testified and confirmed in written submittals that the variance would utilize the unique shaped lot to achieve an “economic return to both the development and the community” and any lesser variance would not be workable.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a variance of 41 ft to the required 50 ft separation from a protected lot.

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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NOTIFICATION OF DECISION

Aces & Eights Development – Nicosha Schedlbauer requests a Variance of 3 ft to the required 6 ft opaque wall for visual screening for Lot A, Block 0000, McMahon Commons, located at 99999 McMahon Blvd NW, Zoned MX-L [14-16-5-6(E) Table 5-6-4)

Special Exception No:..... **VA-2024-00075**  
Project No: ..... **Project#2024-010093**  
Hearing Date: ..... 04-16-24  
Closing of Public Record: .. 04-16-24  
Date of Decision: ..... 05-01-24

On the 16<sup>th</sup> day of April, 2024, property owner Aces & Eights Development – Nicosha Schedlbauer (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 9 ft to the required 15 ft edge buffer landscaping (“Application”) upon the real property located at 5115 Central 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 required 6 ft opaque wall for visual screening.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. The ZHE finds that the proper “Notice of Hearing” signage was] posted for the required time period as required by Section 14-16-6-4(K)(3).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), Section 14-16-6-6(O)(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 a single lot 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, physical characteristics, natural forces or government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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.”*

Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

6. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
7. Applicant appeared and gave evidence in support of the application.
8. The subject property is currently zoned MX-L
9. Based on evidence submitted by or on behalf of Applicant, it appears that 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). Specifically, Applicant testified and confirmed in written submittals that the Subject Property has a unique triangular shape, which creates a special circumstance for development on the land, therefore making it difficult to maintain strict compliance with the minimum standards.
10. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that variance would include the landscape buffer because the Subject Property is located next to protected lots. Additionally, Applicant testified that they have received feedback from neighbors that McMahan is a dangerous street and Applicant states that the expanded development may aid in the safety of the street. There is a significant elevation change between the Subject Property and the adjacent property next to the visual screening. Applicant agreed to add a protective 3 foot wrought iron or other metal view fencing portion of the wall above the 3-foot opaque block portion of the to the wall in that area.
11. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that the Subject Property would still include the setback and buffer to mitigate impacts from the development of Subject Property.
12. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant testified and confirmed in written submittals that the variance would promote “small scale neighborhood serving economic



development opportunities”, in addition to maintaining the buffering and landscaping of the surrounding area and properties.

13. Based on evidence submitted by or on behalf of Applicant, 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). Applicant testified and confirmed in written submittals that the variance would utilize the unique shaped lot to achieve an “economic return to both the development and the community” and any lesser variance would not be workable.
14. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL WITH CONDITION of a variance of 3 ft to the required 6 ft opaque wall for visual screening.

CONDITIONS:

Applicant must construct and maintain a protective 3 foot wrought iron or other metal view fencing portion of the wall above the 3-foot opaque block portion of the to the wall.

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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