



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

STEVE AND KAREN ARMSTRONG requests a special exception to Section 14-16-3-19(A)(2)(a) : a VARIANCE of 3' 6" to the maximum 3' height to allow and existing fence in the front yard setback area for all or a portion of Lot 21, Block 5, MESA ARRIBA zoned R-1, located on 9813 MESA ARRIBA AVE NE (G-21)

Special Exception No:..... **15ZHE-80145**
Project No:..... **Project# 1010467**
Hearing Date:..... 06-16-15
Closing of Public Record:..... 06-16-15
Date of Decision: 06-29-15

On the 16th day of June, 2015 (hereinafter “**Hearing**”) STEVE AND KAREN ARMSTRONG (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Variance of 3' 6" to the maximum 3' height to allow and existing fence in the front yard setback area (hereinafter “**Application**”) upon the real property located at 9813 MESA ARRIBA AVE NE (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Variance of 3' 6" to the maximum 3' height to allow and existing fence in the front yard setback area.
2. The ZHE received testimony from the Applicant and a few interested parties (including Ms. Louise Miller, the neighbor immediately adjacent to the Subject Property). It became obvious to the ZHE that Ms. Miller and the Applicant have a long history of disputes regarding the improvements and landscaping located on their neighboring properties. The ZHE also made note of the “covenants” that purport to encumber the Subject Property, that speak to the height and location of “Side Yard Walls”.
3. The ZHE decided to “continue” this case to the JULY ZHE HEARING to provide time for the Applicant and the neighbor, Ms. Miller, to meet and discuss the design of the fence (pursuant to our Land Use Facilitation Program) and to review the “Covenants”.
4. The goal of the “Continuance” is to provide the Applicant and neighbor time to hopefully resolve some differences and reach a consensus on the location and design of the fence (existing). If no consensus is reached the ZHE will render a decision after the July ZHE Hearing.
5. NOTE: The City of Albuquerque Traffic Engineer indicated that a portion of the existing fence would need to be reduced to accommodate the safety of the clear sight triangle regulations (see ZHE file).

DECISION:

CONTINUANCE to the JULY ZHE HEARING of a VARIANCE of 3' 6" to the maximum 3' height to allow and existing fence in the front yard setback area.

If you wish to appeal this decision, you may do so in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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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