



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

Marino Rodriguez Nunez requests a variance of 3 ft to the 3 ft maximum wall height for Lot 4-P1, Block 2, Sunset West Unit 3, located at 800 Suneast DR SW, zoned R-1B [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2019-00196**  
Project No: ..... **Project#2019-002489**  
Hearing Date: ..... 07-16-19  
Closing of Public Record: ..... 07-16-19  
Date of Decision: ..... 07-31-19

On the 16th day of July, 2019, property owner Marino Rodriguez Nunez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the 3 ft maximum wall height (“Application”) upon the real property located at 800 Suneast DR SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the 3 ft maximum wall height.
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. The address of the subject property is 800 Suneast Dr. SW.
6. The subject property is currently zoned R-1B.
7. South West Alliance of NAs (SWAN); Westside Coalition of NAs; South Valley Coalition of NAs; and Oeste HOA are the affected Neighborhood Associations.
8. Applicant notified the affected NAs by e-mail dated May 17, 2019.
9. There was no response, nor request for meeting as a result of the notification of the request.
10. Sonia Rivas Ramos, agent for Marino Rodriguez Nunez, owner appeared and gave evidence in support of the application.
11. The proposed wall would be constructed of cements block columns with metal rods on top.
12. Transportation initially issued a report indicating Conditional Approval based upon concerns regarding the design obstructing the clear sight triangle requirement.
13. Applicant met with the City Traffic Engineer and presented a modified site plan, which has been approved, based upon the changes.
14. The completed wall shall not have any portion which obstructs the required clear sight triangle.
15. Applicant submitted the proximity map, and accompanying photographs of properties, and addresses, that currently have with walls of fences greater than 3 feet in height in front yard setback areas.
16. No one appeared in opposition to the request.
17. The proposed wall would strengthen or reinforce the architectural character of the surrounding area as required by Section 14-16-6-6(N)(3)(c)(1).
18. The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community as required by Section 14-16-6-6(N)(3)(c)(2).
19. 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 as required by Section 14-16-6-6(N)(3)(c)(3)c.
20. 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).
21. The ZHE finds that the Applicant has authority to pursue this Application.

#### CONCLUSIONS OF LAW:

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

#### DECISION:

APPROVAL of a variance of 3 ft to the 3 ft maximum 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) and Section 14-16-6-6(N)(3)(c)4 a and b.

## APPEAL

If you wish to appeal this decision, you must do so by August 15, 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: Zoning Enforcement  
ZHE File  
Sonia Rivas Ramos, 800 Suneast DR SW, 87121