



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

Clinton Walker requests a variance of 2 ft to the 3 ft max wall height in the front yard for Lot 23, Block 52, Parkland Hills Addn, located at 5020 Pershing Ave SE, zoned R-1C [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00002**
Project No: **Project# 2019-001932**
Hearing Date: 03-19-19
Closing of Public Record: 03-19-19
Date of Decision: 04-03-19

On the 19th day of March, 2019, property owner Clinton Walker (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 2 ft to the 3 ft max wall height in the front yard (“Application”) upon the real property located at 5020 Pershing Ave SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 2 ft to the 3 ft max wall height in the front yard.
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 subject property is currently zoned R-1C.
6. Parkland Hills NA is the affected Neighborhood Association.
7. Applicant notified the affected NA's by e-mail dated December 19, 2018.
8. Clinton Walker, owner appeared and gave evidence in support of the application.
9. The owners purchased the subject property in 2007.
10. There have been a number of reported robberies, vandalism and assaults to adjacent neighbors and the applicants were the subject of a robbery in 2017.
11. There have been reported incidents of property and car damage in the surrounding neighborhood.
12. Transportation issued a report on the proposed design indicating not allowed.
13. Ernest Armijo, Senior Engineer in the Transportation Department, then met with Applicant, and reviewed his modified design, and then sent an e-mail dated February 4, 2019, indicating conditional approval, in support of the amended proposed plan for the wall.
14. Any proposed wall design shall not violate the clear sight triangle as required by transportation.
15. The amended proposed wall is located 11 feet from the front sidewalk line.
16. The subject property is located in an Airport Protection Overlay Zone.
17. An e-mail from Jim Hind, Deputy Director for ABQ Sunport, dated February 4, 2019, stating no opposition was submitted.in support of the application.
18. The proposed wall will be constructed of stucco covered solid poured concrete wall.
19. The use of stucco will match and enhance the architectural character of adjacent properties and the surrounding community.
20. The proposed wall would add value to the subject property and also enhance the value of the surrounding neighborhood.
21. The criteria within Section 14-16-6-6(N)(3)(c) are not satisfied, specifically Applicant has failed to satisfy Section 14-16-6-6(N)(3)(c)3c, since a percentage smaller than 20% of the properties within 330 feet of the subject address have existing walls greater than 3 feet in the front yard setback area.
22. 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).
23. 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 not satisfied.

DECISION:

Request of a variance of 2 ft to the 3 ft max wall height in the front yard is DENIED.

APPEAL

If you wish to appeal this decision, you must do so by April 18, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Clinton Walker, 5020 Pershing Ave SE, 87108