



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

Minerva & Phillip Camp request a variance of 3 ft to the 3 ft maximum wall height in the street side yards Lot 30, Block 16, Perea Addn, located at 217 13th St NW, zoned R-1A [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2019-00249**
Project No: **Project#2019-002684**
Hearing Date: 09-17-19
Closing of Public Record: 09-17-19
Date of Decision: 10-02-19

On the 17th day of September, 2019, James Clark from Masterworks Architects, Inc., agent for property owner Minerva & Phillip Camp (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the 3 ft maximum wall height in the street side yards (“Application”) upon the real property located at 217 13th St NW (“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. James Clark from Masterworks Architects, Inc., agent for Miriam and Phillip Camp, property owners appeared and gave evidence in support of the application.
5. The address of the subject property is 217 13th St. NW
6. The subject property is currently zoned R-1A.
7. The subject property is within a Character Protection Overlay Zone: Section 14-16-3-(4)(D): ***DOWNTOWN NEIGHBORHOOD AREA:-CPO-3.***
8. The subject property is within a Historic Protection Overlay Zone: Section 14-16-3-5(H): ***FOURTH WARD: HPO-3.***
9. The proposed project is replacement of the existing 6-foot tall fence currently on the property.
10. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
11. Downtown Neighborhood Association is the affected neighborhood association.
12. The neighborhood association was notified of this Application by e-mail dated July 12, 2019.
13. No response nor request for meeting has been submitted.
14. A site plan, with detailed construction drawings, and accompanying photographs of the proposed fence design, were submitted in support of the Application.
15. The current existing fence is old, constructed of wood and is in a state of deterioration.
16. The current fence has the potential to become a safety hazard and a potential threat to public safety and welfare.
17. The proposed replacement fence will be constructed of metal/steel frames with wooden in-fill panels.
18. The proposed replacement fence will follow IDO guideline regulating walls and fence.
19. Alicia Clark, 138 Marquette Ave NW, appeared and gave evidence in response to the Application.
20. She had submitted a letter dated September 16, 2019 in opposition to the proposed project related to Agenda Item #14, a request for taller height to an accessory building in the side yard.
21. Her only opposition to the project was related to Agenda Item #14, and she stated she had no opposition to the request to replace the existing 6 foot tall fence,
22. Since the current fence is 6 feet tall, and the proposed replacement fence is to be the same height, she supports the replacement fence for the deteriorating fence.
23. Transportation initially issued a report indicating Not Allowed due to clear sight triangle obstruction, Applicant submitted an Amended site plan and reviewed with Ernest Romero, Sr. Engineer, CABQ Transportation Department.
24. An e-mail from Ernest Romero, Sr. Engineer, dated September 17, 2019, indicating Conditional Approval based upon the revised site plan, with the condition being that the wall be constructed per the revised plan and the final wall design shall not violate the clear sight triangle.
25. 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).
26. 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).
27. A proximity map (showing properties within 330 feet of the subject property), photographs of properties (with addresses) showing walls taller than 3 feet in front yard set-backs within

- 330 feet, in support of criteria required by Section 14-16-4-3(C)(3)c are submitted by Applicant .
28. 31 properties are shown on the map requiring 5 to show at least 20 percent, and Applicant submitted 5 photographs with addresses, showing 20 per cent.
 29. 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.
 30. 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).
 31. 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.

The final wall shall not violate the clear sight triangle as required by the City Transportation Department.

APPEAL:

If you wish to appeal this decision, you must do so by October 17, 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:

ZHE File

Zoning Enforcement

Minerva & Phillip Camp, 217 13th St NW, 87102

James Clark from Masterworks Architects, Inc., 516 Eleventh St NW, 87102

Alicia Clark, 1318 Marquette Ave NW, 87104