



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

Helen Bachicha requests a variance of 3 feet to the 3 feet maximum wall height for Lot 2-P1, Block 8, Las Marcadas 2, located at 4908 Sherry Ann RD NW, zoned R-1C [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2020-00239**
Project No: **Project#2020-004158**
Hearing Date: 10-20-20
Closing of Public Record: 10-20-20
Date of Decision: 11-04-20

On the 20th day of October, 2020, property owner Helen Bachicha (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 feet to the 3 feet maximum wall height (“Application”) upon the real property located at 4908 Sherry Ann RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the 3 ft maximum wall height.
2. 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).
3. The ZHE finds that the Applicant has authority to pursue this Application.
4. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that all of the above criteria are met under Section 14-16-6-4(N)(1).
5. All property owners within 100 feet and affected neighborhood association were notified of the application.
6. The subject property is currently zoned R1-C.
7. City Transportation issued a report stating that it does not object.
8. 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.

9. Applicant has not provided evidence sufficient to support a finding that criteria 14-16-6-6(N)(3)(c)(3) is met. Specifically, based on photographs, maps and oral evidence presented by Applicant: (a) the lot is smaller than 1/2 acre, (b) the lot does not front a street designated as a collector or above in the LRTS guide, and (c) less than 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. Because, this criteria has not been met, the application must be denied.

DECISION:

DENIAL of a variance of 3 feet to the 3 feet maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by November 19, 2020 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File

Zoning Enforcement

Helen Bachicha, bachichahelen@gmail.com

James & Diane Gray, james@gray.org

Noel Lopez, NL@lsplegal.com

Cynthia Arellano, ca@lsplegal.com

Marty Bachicha, mrbach@sandia.gov

Louis Martinez, 6101 Wildflower Pass NE, Rio Rancho, 87144