



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

Homestead Development Group (Agent, Carl Garcia-ABQ Land Use Consulting, LLC) requests a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard for Lot AB, Block 20, Woodward – Hugh B, located at 500 Oak ST NE, zoned MX-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2022-00111**  
Project No: ..... **Project#2022-006958**  
Hearing Date: ..... 06-21-22  
Closing of Public Record: ..... 06-21-22  
Date of Decision: ..... 07-06-22

On the 21st day of June, 2022, Carl Garcia-ABQ Land Use Consulting, LLC, agent for property owner Homestead Development Group (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard (“Application”) upon the real property located at 500 Oak ST NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
  - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
  - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
  - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
  - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
  - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. A neighbor appeared and testified to concerns that the fence would be too tall and appear like a “prison fence”.
8. The subject property is currently zoned MX-T.
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its shape, size and location in relation to existing development, and the location of pre-existing infrastructure, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM). However, it appears that a wall or fence that protrudes outward or inward at the top could harm aesthetics and safety of the neighborhood.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
13. Applicant argued that the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). However, Agent also cited a study saying that fences or walls in the realm of 7 feet would be sufficient to exclude trespassers. The ZHE finds that a 6-foot high fence would be the minimum necessary to avoid extraordinary hardship or practical difficulties as required by

- Section 14-16-6-6(N)(3)(a)(5) and would be consistent with other fences and walls in the neighborhood, as shown in the evidence submitted by Applicant.
14. City Transportation submitted a report stating no objection.
  15. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
  16. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITIONS of a variance to the allowed 3 ft wall or fence on the street side yard.

CONDITIONS:

1. The wall must be no taller than 6 feet.
2. The top portion of any wrought iron or other vertical metal poles or elements must be vertical, only, not curve outward toward the street or inward toward the property.

APPEAL:

If you wish to appeal this decision, you must do so by July 21, 2022 pursuant to Section 14-16-6-4(V), 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Homestead Development Group (Agent, Carl Garcia-ABQ Land Use Consulting, LLC) requests a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard for Lot C, Block 20, Woodward – Hugh B, located at 500 Oak ST NE, zoned MX-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2022-00113**  
Project No: ..... **Project#2022-006958**  
Hearing Date: ..... 06-21-22  
Closing of Public Record: ..... 06-21-22  
Date of Decision: ..... 07-06-22

On the 21st day of June, 2022, Carl Garcia-ABQ Land Use Consulting, LLC, agent for property owner Homestead Development Group (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard (“Application”) upon the real property located at 500 Oak ST NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
  - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
  - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
  - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
  - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
  - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. A neighbor appeared and testified to concerns that the fence would be too tall and appear like a “prison fence”.
8. The subject property is currently zoned MX-T.
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its shape, size and location in relation to existing development, and the location of pre-existing infrastructure, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM). However, it appears that a wall or fence that protrudes outward or inward at the top could harm aesthetics and safety of the neighborhood.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
13. Applicant argued that the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). However, Agent also cited a study saying that fences or walls in the realm of 7 feet would be sufficient to exclude trespassers. The ZHE finds that a 6-foot high fence would be the minimum necessary to avoid extraordinary hardship or practical difficulties as required by

- Section 14-16-6-6(N)(3)(a)(5) and would be consistent with other fences and walls in the neighborhood, as shown in the evidence submitted by Applicant.
14. City Transportation submitted a report stating no objection.
  15. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
  16. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITIONS of a variance to the allowed 3 ft wall or fence on the street side yard.

CONDITIONS:

1. The wall must be no taller than 6 feet.
2. The wrought iron or other vertical metal poles or bars must be vertical, only, not curve out toward the street or in toward the property

APPEAL:

If you wish to appeal this decision, you must do so by July 21, 2022 pursuant to Section 14-16-6-4(V), 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Homestead Development Group (Agent, Carl Garcia-ABQ Land Use Consulting, LLC) requests a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard for Lot D, Block 20, Woodward – Hugh B, located at 500 Oak ST NE, zoned MX-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2022-00114**  
Project No: ..... **Project#2022-006958**  
Hearing Date: ..... 06-21-22  
Closing of Public Record: ..... 06-21-22  
Date of Decision: ..... 07-06-22

On the 21st day of June, 2022, Carl Garcia-ABQ Land Use Consulting, LLC, agent for property owner Homestead Development Group (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard (“Application”) upon the real property located at 500 Oak ST NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
  - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
  - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
  - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
  - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
  - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. A neighbor appeared and testified to concerns that the fence would be too tall and appear like a “prison fence”.
8. The subject property is currently zoned MX-T.
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its shape, size and location in relation to existing development, and the location of pre-existing infrastructure, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM). However, it appears that a wall or fence that protrudes outward or inward at the top could harm aesthetics and safety of the neighborhood.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
13. Applicant argued that the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). However, Agent also cited a study saying that fences or walls in the realm of 7 feet would be sufficient to exclude trespassers. The ZHE finds that a 6-foot high fence would be the minimum necessary to avoid extraordinary hardship or practical difficulties as required by



- Section 14-16-6-6(N)(3)(a)(5) and would be consistent with other fences and walls in the neighborhood, as shown in the evidence submitted by Applicant.
14. City Transportation submitted a report stating no objection.
  15. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
  16. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITIONS of a variance to the allowed 3 ft wall or fence on the street side yard.

CONDITIONS:

1. The wall must be no taller than 6 feet.
2. The wrought iron or other vertical metal poles or bars must be vertical, only, not curve out toward the street or in toward the property.

APPEAL:

If you wish to appeal this decision, you must do so by July 21, 2022 pursuant to Section 14-16-6-4(V), 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Homestead Development Group (Agent, Carl Garcia-ABQ Land Use Consulting, LLC) requests a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard for Lot VAC ORD 2-1967, Block 20, Woodward – Hugh B, located at 500 Oak ST NE, zoned MX-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2022-00115**  
Project No: ..... **Project#2022-006958**  
Hearing Date: ..... 06-21-22  
Closing of Public Record: ..... 06-21-22  
Date of Decision: ..... 07-06-22

On the 21st day of June, 2022, Carl Garcia-ABQ Land Use Consulting, LLC, agent for property owner Homestead Development Group (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard (“Application”) upon the real property located at 500 Oak ST NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 6 ft to the allowed 3 ft wall or fence on the street side yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
  - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
  - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
  - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
  - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
  - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and Applicant appeared and gave evidence in support of the Application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
7. A neighbor appeared and testified to concerns that the fence would be too tall and appear like a “prison fence”.
8. The subject property is currently zoned MX-T.
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its shape, size and location in relation to existing development, and the location of pre-existing infrastructure, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM). However, it appears that a wall or fence that protrudes outward or inward at the top could harm aesthetics and safety of the neighborhood.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
13. Applicant argued that the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). However, Agent also cited a study saying that fences or walls in the realm of 7 feet would be sufficient to exclude trespassers. The ZHE finds that a 6-foot high fence would be the minimum necessary to avoid extraordinary hardship or practical difficulties as required by

- Section 14-16-6-6(N)(3)(a)(5) and would be consistent with other fences and walls in the neighborhood, as shown in the evidence submitted by Applicant.
14. City Transportation submitted a report stating no objection.
  15. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
  16. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITIONS of a variance to the allowed 3 ft wall or fence on the street side yard.

CONDITIONS:

1. The wall must be no taller than 6 feet.
2. The wrought iron or other vertical metal poles or bars must be vertical, only, not curve out toward the street or in toward the property.

APPEAL:

If you wish to appeal this decision, you must do so by July 21, 2022 pursuant to Section 14-16-6-4(V), 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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Zoning Hearing Examiner

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