



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

Jeffrey and Jennifer Wilson request a variance of 3 ft to allow a 6 ft wall in the front yard for Lot 4, Block 4, Northern Addn, located at 1015 2ND ST NW, zoned MX-M [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2022-00212**
Project No: **Project#2022-007423**
Hearing Date: 09-20-22
Closing of Public Record: 09-20-22
Date of Decision: 10-05-22

On the 20th day of September, 2022, property owners Jeffrey and Jennifer Wilson (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to allow a 6 ft wall in the front yard (“Application”) upon the real property located at 1015 2ND ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 feet to allow a 6-foot wall in the front 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. Applicant appeared and gave evidence in support of the application.
6. The subject property is currently zoned MX-M.
7. All property owners within 100 feet and affected neighborhood association(s) were notified.
8. 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)(4).
9. The ZHE finds that the Applicant has authority to pursue this Application.
10. 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 confirmed in oral testimony and submitted evidence that, the Subject Property's unique orientation in relation to other properties and public improvements, and its preexisting improvements on lots with archaic platting create special circumstances giving rise to 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 reasonable use of the Subject Property that otherwise would be in compliance with the IDO.
11. 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 maintain the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM). The wall is 6-foot view fencing constructed of metal, which allows eyes on the street.
12. 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 by Applicant. According to photographs that were submitted showing the neighborhood, and existing fences, 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.
13. 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 confirmed in written submittals 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 useability of the site.
14. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant submitted evidence that any smaller variance would be ineffective to provide for the useability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL WITH CONDITION of a variance of 3 feet to allow a 6-foot wall in the front yard.

CONDITION:

The wall or fence must be view fencing as currently constructed or as otherwise meets the requirements for view fencing under the IDO.

APPEAL:

If you wish to appeal this decision, you must do so by October 20, 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

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ZHE File
Zoning Enforcement
Jeffrey and Jennifer Wilson, daswillis2@gmail.com



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NOTIFICATION OF DECISION

Jeffrey and Jennifer Wilson request a variance of 3 ft to allow for a 6 ft wall in the front yard for Lot 5, Block 4, Northern Addn, 1015 2ND ST NW, zoned MX-M [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2022-00213**
Project No: **Project#2022-007423**
Hearing Date: 09-20-22
Closing of Public Record: 09-20-22
Date of Decision: 10-05-22

On the 20th day of September, 2022, property owners Jeffrey and Jennifer Wilson (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to allow for a 6 ft wall in the front yard (“Application”) upon the real property located at 1015 2ND ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

1. Applicant is requesting a variance of 3 ft to allow for a 6 ft wall in the front 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. Applicant appeared and gave evidence in support of the application.

6. The subject property is currently zoned MX-M.
7. All property owners within 100 feet and affected neighborhood association(s) were notified.
8. 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)(4).
9. The ZHE finds that the Applicant has authority to pursue this Application.
10. 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 confirmed in oral testimony and submitted evidence that, the Subject Property’s unique orientation in relation to other properties and public improvements, and its preexisting improvements on lots with archaic platting create special circumstances giving rise to 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 reasonable use of the Subject Property that otherwise would be in compliance with the IDO.
11. 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 maintain the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM). The wall is 6-foot view fencing constructed of metal, which allows eyes on the street.
12. 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 by Applicant. According to photographs that were submitted showing the neighborhood, and existing fences, 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.
13. 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 confirmed in written submittals 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 useability of the site.
14. Based on evidence submitted by or on behalf of Applicant, 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). Specifically, Applicant submitted evidence that any smaller variance would be ineffective to provide for the useability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL WITH CONDITION of a variance of 3 feet to allow a 6-foot wall in the front yard.

CONDITION:

The wall or fence must be view fencing as currently constructed or as otherwise meets the requirements for view fencing under the IDO.

APPEAL:

If you wish to appeal this decision, you must do so by October 20, 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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Jeffrey and Jennifer Wilson request a variance of 3 ft to allow for a 6 ft wall in the front yard for Lot 3, Block 4, Northern Addn, located at 1019 2ND ST NW, zoned MX-M [Section 14-16-5-7(D)(1)]

Special Exception No:..... **VA-2022-00214**
Project No: **Project#2022-007423**
Hearing Date: 09-20-22
Closing of Public Record: 09-20-22
Date of Decision: 10-05-22

On the 20th day of September, 2022, property owners Jeffrey and Jennifer Wilson (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to allow for a 6 ft wall in the front yard (“Application”) upon the real property located at 1019 2ND ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to allow for a 6 ft wall in the front 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.*
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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. Applicant appeared and gave evidence in support of the application.
6. The subject property is currently zoned MX-M.
7. All property owners within 100 feet and affected neighborhood association(s) were notified.
8. 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)(4).
9. The ZHE finds that the Applicant has authority to pursue this Application.
10. 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 confirmed in oral testimony and submitted evidence that, the Subject Property's unique orientation in relation to other properties and public improvements, and its preexisting improvements on lots with archaic platting create special circumstances giving rise to 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 reasonable use of the Subject Property that otherwise would be in compliance with the IDO.
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15. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL WITH CONDITION of a variance of 3 feet to allow a 6-foot wall in the front yard.

CONDITION:

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