



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

Children's Grief Center of New Mexico (Agent, Jarrod Cline) requests a variance of 3 ft to the allowed 3ft fence for Lot 8, Block 5, Montgomery Heights, located at 4125 Carlisle Blvd NE, zoned MX-L [Section 14-16-5-7(D)(1)]

Special Exception No: **VA-2023-00118**
Project No: **Project#2023-008596**
Hearing Date: 06-20-23
Closing of Public Record: 06-20-23
Date of Decision: 07-05-23

On the 20th day of June, 2023, Jarrod Cline, agent for property owner Children's Grief Center of New Mexico ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 3 ft to the allowed 3ft fence ("Application") upon the real property located at 4125 Carlisle Blvd NE ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the allowed 3ft fence.
2. 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).
3. 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).
4. Applicant established that the proper "Notice of Hearing" signage was posted for the required time period.
5. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
6. The subject property is currently zoned MX-L.
7. The Applicant has authority to pursue this Application.
8. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(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.”

9. Applicant’s agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
10. Applicant has met the burden that there are special circumstances applicable to the Subject Property as the Subject Property is located adjacent to and AMAFCA arroyo and has a larger street frontage than other area lots, subjecting it to increased pedestrian and vehicular traffic.
11. Applicant met the burden that the proposal will not be contrary to public safety, health, and welfare of the community because the proposed fencing will remain on the applicant’s property and will enhance safety to the property owner and visitors.
12. Applicant met the burden that the variance will not cause significant adverse material impacts on surrounding properties and applicant states that the proposal will increase protection to surrounding properties and not cause any negative impact to traffic.
13. Applicant met the burden that the variance will not materially undermine the intent and purpose of the IDO or applicable zone district. Applicant’s proposal will allow a visible connection between Applicant’s property and adjacent property. Applicant states that its proposed variance will allow for vision through the fence.
14. Applicant met the burden and states that the proposal is the minimum measure to avoid extraordinary hardship or practical.
15. The City Traffic Engineering Division stated no objection.

DECISION:

APPROVAL of a variance of 3 ft to the allowed 3ft fence.

APPEAL:

If you wish to appeal this decision, you must do so by July 20, 2023 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

Cc: ZHE File
Zoning Enforcement
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