



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

Lucasa Properties, LLC (Agent, Michelle Negrette) request a variance of 3 ft to the allowed 3 ft wall height to allow a 6 ft solid wall for Lot 21A, Block 32, Ridgecrest Addn, located at 1410 Truman SE, zoned MX-M [Section 14-16-5-7(D)(1)]

Special Exception No: **VA-2023-00152**
Project No: **Project#2023-008766**
Hearing Date: 07-18-23
Closing of Public Record: 07-18-23
Date of Decision: 08-02-23

On the 18th day of July, 2023, Michelle Negrette, agent for property owner Lucasa Properties, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 ft to the allowed 3 ft wall height to allow a 6 ft solid wall (“Application”) upon the real property located at 1410 Truman SE (“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 3 ft wall height to allow a 6 ft solid wall.
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-M.
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 near the very busy intersection of San Mateo and Gibson, and is the only residential property on its block, which create the need for the taller wall for security and safety. These special circumstances of the property create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, and practical difficulties result from strict compliance with the minimum standards.
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.
 - a. A representative of the Parkland Hills Neighborhood Association submitted correspondence to Applicant expressing concerns and questions regarding the Application. In response to this letter, Applicant agreed to revise the Application to request a 6-foot wall, having a three-foot solid base with three feet of view fencing on top, consistent with renderings submitted on the record.
12. Applicant met the burden that the variance will not cause significant adverse material impacts on surrounding properties. The proposal will increase protection to the Subject Property and 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, because it will be constructed in conformance with IDO requirements once the requested variance is granted.
14. Applicant met the burden and states that the proposal is the minimum measure to avoid extraordinary hardship or practical. Any shorter wall would not be inadequate.
15. The City Traffic Engineering Division stated no objection.

DECISION:

APPROVAL WITH CONDITION of a variance of 3 ft to the allowed 3 ft wall height to allow a 6 ft wall.

CONDITION:

The approved wall must not exceed 6-feet in height, having a three-foot solid base with three feet of view fencing on top.

APPEAL:

If you wish to appeal this decision, you must do so by August 17, 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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