



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

David Barrett (Agent Abraham Alire) request a Permit for a Tall Wall - Major for Lot A, Block 1, Country Club Addn, located at 1114 Roma Ave NE, zoned R-1B [Section 14-16-5-7(D)(3) Table 5-7-2]

Special Exception No:..... **VA-2024-00256**  
Project No: ..... **PR-2024-010832**  
Hearing Date: ..... 10-15-24  
Closing of Public Record: .. 10-15-24  
Date of Decision: ..... 10-30-24

On the 15<sup>th</sup> day of October, 2024, Abraham Alire, agent for property owner David Barrett (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit-wall or fence-major (“Application”) upon the real property located at 1114 Roma Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a Permit-Wall or Fence-Major.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. 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(J)(4).
5. The City of Albuquerque Integrated Development Ordinance Section Integrated Development Ordinance (“IDO”) 14-16-6 6(H)(3) Permit-Wall or Fence-Major reads: “*An application for a Permit – Wall or Fence – Major for a wall in the front or street side yard of a lot with low-density residential development in or abutting any Residential zone district that meets the requirements in Subsection 14-16-5-7(D)(3)(g) (Exceptions to Maximum Wall Height) and Table 5-7-2 shall be approved if the following criteria are met:*  
6-6(H)(3)(a) *The wall is proposed on a lot that meets any of the following criteria:*
  1. *The lot is at least ½ acre.*
  2. *The lot fronts a street designated as a collector, arterial, or interstate highway.*
  3. *For a front yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential development with a front yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a front yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.*
  4. *For a street side yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential*

*development with a side yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a street side yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.*

- 6-6(H)(3)(b) *The proposed wall would strengthen or reinforce the architectural character of the surrounding area.*
- 6-6(H)(3)(c) *The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.*
- 6-6(H)(3)(d) *The design of the wall complies with any applicable standards in Section 14-16-5-7 (Walls and Fences), including but not limited to Subsection 14-16-5-7(E)(2) (Articulation and Alignment), Subsection 14-16-5-7(E)(3) (Wall Design), and both of the following criteria:*
1. *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.*
  2. *The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.*
6. 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).
7. 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).
8. Applicant appeared and gave evidence in support of the Application. Several community members appeared or submitted written correspondence opposing the Application, while a few community members appeared or submitted written correspondence in support of the Application.
9. Based on photographs, maps, and oral evidence presented by Applicant, it appears that the Application fails to satisfy the requirement of IDO Section 6-6(H)(3)(a). The Subject Property is not at least ½ acre in area, and it does not front a street designated as a collector, arterial, or interstate highway. Applicant submitted several photos of properties in the area of the Subject Property which purport to show walls over 3-feet in height in the front yard. However, none of the properties shown in the photos are located within 330 feet of the Subject Property. Therefore, the requirement that 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 applicable yard area is not satisfied.
10. Because all prongs of the IDO test must be satisfied and, as stated above, the Application failed to satisfy IDO Section 6-6(H)(3)(a), the Application must be denied. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the IDO test in this Notification of Decision.

DECISION:

DENIAL of a Permit-Wall or Fence-Major.

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 2024 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  
David Barrett, 1114 Roma Ave NE [davejbarrett@gmail.com](mailto:davejbarrett@gmail.com)

Ruth Koury PO BOX 4754, 87196  
Elizabeth Reed 1204 Marquette Place, 87106  
Peter Swift 613 Ridge Place, 87106  
Antoinette Pacheco 1412 Roma, 87102  
Heidi Brown 1603 Sigma Chi Road NE  
Merideth Paxton PO BOX 4831, 87196  
Patricia Willson 505 Dartmouth Drive SE, 87106  
Kyle Roth 612 Ridge Place NE, 87106  
Dan Newman 700 Encino Place NE, 87102  
Michael Brasher 216 Zena Lona St NE



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NOTIFICATION OF DECISION

David Barrett (Agent Abraham Alire) requests a Variance of 3ft to the required 3ft wall height in front yard for Lot A, Block 1, Country Club Addn, located at 1114 Roma Ave NE, zoned R-1B [Section 14-16-5-7(D)(1) Table 5-7-1]

Special Exception No:..... **VA-2024-00257**  
Project No: ..... **PR-2024-010832**  
Hearing Date: ..... 10-15-24  
Closing of Public Record: .. 10-15-24  
Date of Decision: ..... 10-30-24

On the 15<sup>th</sup> day of October, 2024, Abraham Alire, agent for property owner David Barrett (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3ft to the required 3ft wall height in front yard (“Application”) upon the real property located at 1114 Roma Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3ft to the required 3ft wall height in front yard.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. 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(J)(4).
5. 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).
6. 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).
7. Applicant appeared and gave evidence in support of the Application. Several community members appeared or submitted written correspondence opposing the Application, while a few community members appeared or submitted written correspondence in support of the Application.
8. The Application was accompanied by a companion application VA-2024-00256 (also listed under PR-2024-010832), which was an application for Permit – Wall or Fence – Major, and which companion application the ZHE denied pursuant to a notification of decision dated the same date as this notification of decision.
9. IDO Section 6-6(H)(1)(b) states that “[r]equests for walls taller than allowed as a Permit – Wall or Fence – Major **also** require a Variance.” The ZHE has interpreted the word “also” in IDO Section 6-6(H)(1)(b) to mean that a taller wall that what could be allowed under IDO section 5-7(D)(3)(a)(2) under a Permit – Wall or Fence – Major requires that the applicant obtain approval of both the Permit – Wall or Fence – Major and a variance for the wall. Applicant is requesting a wall taller than what would be allowed under a Permit – Wall or Fence – Major, because the existing wall, built without City approval, is a courtyard wall (not view fencing) located less than 10 feet from the lot line abutting the street. Therefore, to

remain, the proposed wall must obtain ZHE approval of **both** the requested Permit – Wall or Fence – Major and the requested variance.

10. As stated above in this notification of decision, the ZHE denied the companion application for Permit – Wall or Fence – Major. Consequently, pursuant to IDO Section 6-6(H)(1)(b), the ZHE must deny this Application for a variance.
11. Because all prongs of the IDO test must be satisfied and, as stated above, the Application failed to satisfy IDO Section 6-6(H)(1)(b), the Application must be denied. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the IDO test in this Notification of Decision.

DECISION:

DENIAL of a variance of 3ft to the required 3ft wall height in front yard.

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 2024 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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