



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

Beverly Gonzales requests a permit fence major in the front yard for Lot 12, Block 3, Katherine Nichole Addn, located at 7222 Cleghorn RD NW, zoned R-T [Section 14-16- 5-7(D)(1)]

Special Exception No: ..... **VA-2023-00353**  
Project No: ..... **Project#2023-009626**  
Hearing Date: ..... 3-19-24  
Closing of Public Record: ..... 3-19-24  
Date of Decision: ..... 04-03-24

On the 19<sup>th</sup> day of March, 2024, property owner Beverly Gonzales (“Applicant”) was scheduled to appear before the Zoning Hearing Examiner (“ZHE”) requesting a permit-wall or fence-major (“Application”) upon the real property located at 7222 Cleghorn Rd NW (“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(K)(3).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), Section 14-16-6-6(N)(3)(c) Variance for a Taller Front or Side Yard Wall reads: “*A variance application for a taller front or side yard wall shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:*”
  - (1) *The proposed wall would strengthen or reinforce the architectural character of the surrounding area;*
  - (2) *The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community;*
  - (3) *The wall is proposed on a lot that meets any of the following criteria:*
    - a. *The lot is at least ½ acre;*
    - b. *The lot fronts a street designated as a collector or above in the LRTS guide;*
    - c. *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 front yard.*
  - (4) *The design of the wall complies with any applicable standard in Section 14-16-5-7 (Walls and Fences), including, but not limited to Subsection 14-16-5-7(E)(2) (Articulation and alignment) and Subsection 14-16-5-7(E)(3) (Wall Design), and all of the following:*
    - a. *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.*

*b. The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.*

6. 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. 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 failed to appear and provide oral testimony at multiple ZHE hearings on the Application, and the ZHE is therefore issuing this Notification of Decision based on written evidence in the record.
9. The subject property is currently zoned R-T.
10. Ladera West is the affected Neighborhood Association.
11. Transportation issued a report objecting to the Application, stating that the solid opaque wall violates the Mini Clear Sight Triangle near the driveway and behind the sidewalk..
12. Because of this noncompliance with the Mini Clear Sight Triangle, the Application fails to establish that the proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community, as required by Section 14-16-6-6(N)(3)(c)(2).
13. Applicant failed to provide evidence of at least 20 percent of the properties within 330 feet of the lot where the wall or fence is being requested that have a wall or fence over 3 feet in the front yard as required by Section 14-16-6-6(N)(3)(c)(3)c.
14. Because the Application fails to satisfy the above-cited requirements, the Application must be denied.

DECISION:

DENIAL of a Permit-Wall or Fence-Major because it does not satisfy all requirements under Section 14-16-6-6(N)(3)(c).

APPEAL:

If you wish to appeal this decision, you must do so by April 18<sup>th</sup>, 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.

A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement



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

Beverly Gonzales requests a variance of 3 feet to the allowed 3 feet fence height in the front yard for Lot 12, Block 3, Katherine Nichole Addn, located at 7222 Cleghorn RD NW, zoned R-T [Section 14-16- 5-7(D)(1)]

Special Exception No: ..... **VA-2023-00344**  
Project No: ..... **Project#2023-009626**  
Hearing Date: ..... 3-19-24  
Closing of Public Record: ..... 3-19-24  
Date of Decision: ..... 04-03-24

On the 19<sup>th</sup> day of March, 2024, property owner Beverly Gonzales (“Applicant”) was scheduled to appear before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 feet to the allowed 3 feet fence height in the front yard (“Application”) upon the real property located at 7222 Cleghorn Rd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 feet to the allowed 3 feet fence height in the 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(K)(3).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), 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.”*

6. 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. 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 failed to appear and provide oral testimony at multiple ZHE hearings on the Application, and the ZHE is therefore issuing this Notification of Decision based on written evidence in the record.
9. Ladera West is the affected neighborhood association.
10. The subject property is currently zoned R-T.
11. Transportation issued a report objecting to the Application, stating that the solid opaque wall violates the Mini Clear Sight Triangle near the driveway and behind the sidewalk..
12. Because of this Mini Clear Sight Triangle violation, the Application fails to establish that the requested variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(O)(3)(a)(2).
13. Because of this Mini Clear Sight Triangle violation, the Application fails to establish that 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(O)(3)(a)(3).
15. Because of this Mini Clear Sight Triangle violation, the Application fails to establish that 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(O)(3)(a)(4).
16. The Application must be denied, because the Application fails to satisfy the above-cited requirements.

#### DECISION:

DENIAL of a variance of 3 feet to the allowed 3 feet fence, because it does not meet all of the requirements under Section 14-16-6-6(N)(3)(a).

#### APPEAL:

If you wish to appeal this decision, you must do so by April 18<sup>th</sup>, 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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