



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

John Dacamara, Applicant, requests a Tall Wall Permit - Major for Lot 7, and a Variance of 3ft to the maximum 3ft wall height in the street side yard Block 7, Eastern Addition 1st Extension South, located at 1800 Broadway Boulevard SE, zoned MX-L

Special Exception No: **MZP-2025-00024**
Project No: PR-2025-020096
Hearing Date: 10-21-25
Closing of Public Record: 10-21-25
Date of Decision: 11-05-25

On October 21, 2025, John Dacamara, (“**Applicant**”) appeared before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Tall Wall Permit – Major, and a Variance of 3ft to the maximum 3ft wall height in the street side yard (“**Application**”), for the real property located at 1800 Broadway Boulevard SE (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Permit - Wall or Fence- Major, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) Section 14-16-6-6(H).
2. Applicant is requesting a Variance of 3 feet to the maximum 3ft wall height in the street side yard, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) Section 14-16-6-6(O).
3. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
4. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
5. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
6. The analyses and studies listed in IDO Section 14-16-6-4(H) are not required.
7. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
8. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
9. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
10. Applicant has sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
11. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
12. The Subject Property is located in MX-L zone.
13. 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).

14. 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).
15. IDO Section 14-16-6-6(H)(3) (Review and Decision Criteria for a Permit-Wall or Fence-Major) reads: “An application for a Permit – Wall or Fence - Major shall be approved if all of the following criteria are met.:
 - (a) *The wall is proposed on a lot that meets any of the following criteria:*
 1. *The lot is at least 1/2 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.*
 - (b) *The proposed wall would strengthen or reinforce the architectural character of the surrounding area.*
 - (c) *The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.*
 - (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.*
16. It appears that two of the six properties within the 330 ft in either direction along the side street yard have a fence above 3 feet. None of these fences are solid as Applicant requested. The 20% criterion is met.
17. The proposed fence is a solid industrial metal panel with curved iron spikes added to the top. It is a detriment to the historic character of the neighborhood and the surrounding architecture.
18. The fence would be injurious to the neighboring properties through its inappropriate design and removal of eyes on the street.

19. The fence does not meet IDO Section 14-16-6-6(H)(3)(d)(2), as it does not reflect the architectural character of the site or surrounding area.
20. The City Traffic Engineer submitted a report stating no objection.
21. Because the Application does not satisfy all requirements of IDO Section 14-16-6-6(H)(3), the request for tall wall permit major must be denied.
22. IDO Section 14-16-6-6(O)(3) (Review and Decision Criteria– Variance) 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 a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic 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 this IDO, the applicable zone district, or any applicable Overlay Zone.*
 5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*
23. Based on evidence, it appears that there are no 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, and such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards, as required by Section 14-16-6-6(O)(3)(a)(1). The Subject Property is located on a corner lot that appears similar to most other corner lots in the neighborhood. The lot shape, size, and dimensions are not significantly out of the ordinary in comparison with other similarly zoned properties in the vicinity.
24. Based on evidence, it appears the Variance will be contrary to the public safety, health and welfare of the community contrary to Section 14-16-6-6(O)(3)(a)(2). The fence design is inconsistent with the architectural character of the neighborhood. The spiked bars on top of the fence are inconsistent with the residential character of the property and neighboring properties.
25. Based on evidence, the Variance will cause significant adverse material impacts on surrounding properties in the vicinity contrary to Section 14-16-6-6(O)(3)(a)(3). The fence blocks views of the street, contrary to “eyes on the street” principles of public safety.
26. Based on evidence submitted by or on behalf of Applicant, the Variance will materially undermine the intent and purpose of the IDO or applicable zone district contrary to Section

- 14-16-6-6(O)(3)(a)(4). The wall is out of character with the residential uses of this mixed use zoned property.
27. 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(O)(3)(a)(5). Any smaller fence would be insufficient to provide for security and mitigation of light pollution from headlights.
 28. Because the Application fails to satisfy all requirements of IDO Section 14-16-6-6(O)(3), the requested variance must be denied.

DECISION:

DENIAL of the requested Tall Wall Permit – Major and Variance of 3ft to the maximum 3ft wall height in the street side yard.

APPEAL:

If you wish to appeal this decision, you must do so by November 20, 2025 pursuant to Section 14-16-6-4(U), 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 Notice of Decision does not constitute approval of plans for a building permit. If your Application is approved, bring this Notice of Decision with you when you apply for any related building permit or occupation tax number. Approval of a Conditional Use is void after two (2) years from date of approval if the rights and privileges granted thereby have not been executed or utilized. Approval of a Variance is void after one (1) year from date of approval if the rights and privileges granted thereby have not been executed or utilized.



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