



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

Kevin Evans, AGENT for, Joseph Matarese, Sarah Bernhard, requests a Variance of 2 ft to the 6 ft requirement for a front courtyard wall for Lot 24, Block 38, University Heights Addition, located at 301 Bryn Mawr Dr. SE

Special Exception No: **VA-2025-00142**
Project No: **PR-2025-020105**
Hearing Date: 10-21-25
Closing of Public Record: 10-21-25
Date of Decision: 11-05-25

On October 21, 2025, Kevin Evans, (“AGENT”) appeared before the Zoning Hearing Examiner (the “ZHE”) requesting a Variance of 2 ft to the 6 ft requirement for a front courtyard wall (“Application”) upon the real property located at 301 Bryn Mawr Dr. SE (the “Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 5 feet to the minimum 10-foot side setback, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) Section 14-16-6-6 (O).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
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 not required to be 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 the University Heights Addition and is zoned R-1.
13. Therefore, a 5ft side variance for construction above the existing building on the Subject Property requires a Variance Approval pursuant to IDO Subsection 14-16-6-6(O).

14. IDO Section 14-16-6-6(O)(3)(a) (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.*
15. Although Applicant established that the Subject Property has special circumstances with regard to Applicant’s companion request for a side setback variance, it is unclear how these special circumstances create extraordinary hardships or practical difficulties regarding the proposed courtyard wall.
16. Applicant should be allowed additional opportunity to establish what special circumstances exist regarding the courtyard wall (which may be the same or different than the companion setback variance application) and to supplement the record with pertinent evidence in that regard.

DECISION:

DEFERRAL of the ZHE hearing on the Application to the November 18, 2025, ZHE hearing, beginning at 9:00 a.m.

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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: Kevin Evans, kevin@annexgeneralcontracting.com
Sarah Bernhard, sarahbernhard@outlook.com
ZHE File
Zoning Enforcement