

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

AUDREY WINGER request(s) a special exception to Section 14-16-3-19(A)(2)(9): a VARIANCE of 3' to the 3' maximum allowed height for a 6' wall in the front yard setback area for all or a portion of Lot(s) 23, Block(s) 34, SNOW HEIGHTS zoned R-1, located on 9715 APACHE AVE NE (H-20)

Special Exception No:..... **12ZHE-80228**
Project No: **Project# 1009373**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Decision: 10-01-12

On September 18, 2012, Audrey Winger appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a variance of 3' to the maximum allowed height for a 6' wall in the front yard setback area at 9715 Apache Ave NE.

SUMMARY:

1. Ms. Winger is requesting a variance to allow a 6' fence in the front yard setback area for safety and privacy for her family.
2. Ms. Winger testified that her property is exceptional because the lot is pie shaped and has a large side yard.
3. Ms. Winger testified that they are looking to maximize the use of the property because of the odd shaped of the lot.
4. Ms. Winger testified that the property is much different than the other lots in the vicinity.
5. Ms. Winger testified the fence will not be injurious to the surrounding community, or damage any adjacent structures.
6. Ms. Winger stated that she feels that the requested special exception will enhance the surrounding community.
7. There are no opposition letters in the file.
8. The yellow signs were posted for the required time.
9. The Traffic Engineer does not have any concerns with the clear sight triangle issue.

FINDINGS: Ms. Winger have met the burden for a variance of 3' to the maximum allowed height for a 6' wall in the front yard setback area at 9715 Apache Ave NE.

The property does not appear to show any evidence of being injurious to the surrounding community, nor will it damage any adjacent properties in the area.

DECISION: Approved

If you wish to appeal this decision, you may do so by 5:00 p.m., on October 15, 2012 in the manner described below:

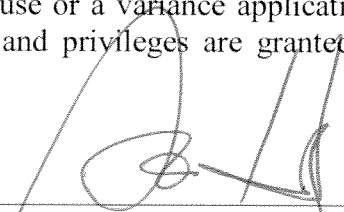
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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.



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
Audrey Winger, 9715 Apache NE 87112
ZHE File