

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

RICHARD J. MOYA request(s) a special exception to Section 14-16-3-19(A)(1): a VARIANCE of 3' to the 3' wall height allowance for an existing 6' high wall in the front yard setback area on all or a portion of Lot(s) 1BA, Block(s) 14, PALISADES zoned R-1, located at 2426 VISTA GRANDE DR NW (H-11)

Special Exception No:..... **11ZHE-80063**
Project No: **Project# 1008729**
Hearing Date: 05-17-11
Closing of Public Record: 05-17-11
Date of Decision: 05-23-11

This matter was heard on May 17, 2011.

STATEMENT OF FACTS: The applicant, Richard Moya, requests a variance of 3' to the 3' wall height allowance for an existing 6' high wall. This matter was deferred from the April 19, 2011 hearing as the applicant failed to appear at that hearing. Mr. Moya testified that he owns and resides on this property.

On September 25, 2009, a variance for a 6' high wall in the front yard setback area was approved by this office. A condition placed on this approval was that the wall must be constructed of 3' of cinderblock and 3' of wrought on top of the cinderblock. This agreement was agreed upon by Mr. Moya and his neighbor Mr. Tucci. (See Exhibit A).

Based on all of the testimony and a review of the entire file and the recordings, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures. For reasons stated above, this request is approved.

DECISION: Approved with conditions.

CONDITIONS: Mr. Moya must comply with all agreements set forth in Exhibit A, dated February 23, 2011, which is attached.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 7, 2011 in the manner described below:

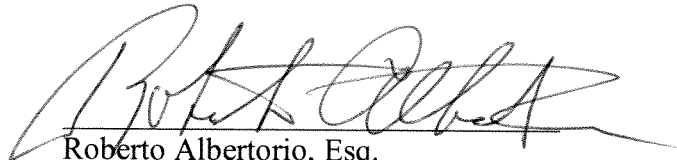
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Richard Moya, 2426 Vista Grande Drive NW, 87120
Jim Tucci, 2424 Vista Grande Drive NW, 87120
Dr. Joe Valles, Grande Heights NA

Wednesday, February 23rd, 2011

To: Richard Moya:

Tom Rojas, Deputy Zoning Hearing Examiner
Lucinda Montoya, Administrative Assistant to the Hearing Office

I wanted to see if it was still possible to move forward with a agreed upon compromise between Mr. Jim Tucci who resides at 2424 Vista Grande Drive NW and Mr. Richard Moya who resides at 2426 Vista Grande Drive NW. It seems that neither one of the parties mentioned above wish to have a 3' foot high wall along with the option of having an additional 3' feet of decorative rod iron. This above mentioned compromise was the suggestion of the West Bluff Neighborhood Association during the variance hearing last year in reference to application, Richard Moya #1007809.

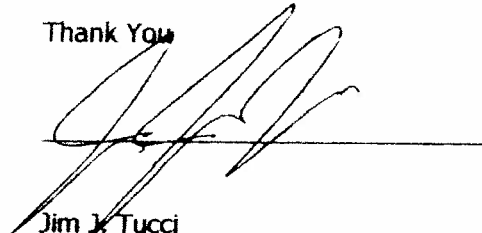
Mr. Moya has agreed to remove the top two rows on each end of his front, west facing wall (see attached photo's of agreed upon wall) to the condition prior to his construction on the wall, along with the top two rows of the first 20' of the north west corner of his side wall.

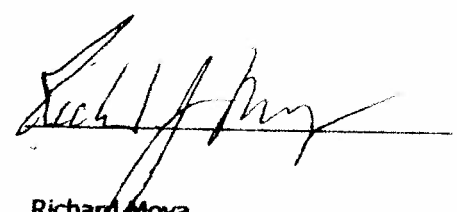
Mr. Moya has also agreed not plant any vegetation; trees etc., construct any permanent or temporary walls, or structures that would impede Mr. Tucci's views of the northeast and of the southeast. In return Mr. Tucci has agreed to keep the block wall at its 6' height on the remainder of the wall.

Should Mr. Moya in the future wish to raise the center section of the existing wall approx. 40' feet in length to a height from 6' to 8' feet I would not oppose the additional height as long as the proper permits are approved.

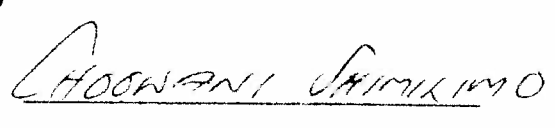
Should you have any questions please feel free to give me a call @ 505-839-7200.

Thank You

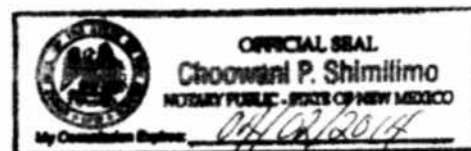

Jim J. Tucci
Wednesday, February 23rd, 2011


Richard Moya
Wednesday, February 23rd, 2011

Notary


Choo-wani Shimilimo

Wednesday, February 23rd, 2011



CC. Matthew A. Conrad Code Compliance Official
Paulette Mora Gonzales Zoning Enforcement Inspector

