

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

RIO OESTE HOMEOWNERS ASSOCIATION (ERIC SPECK, AGENT) request(s) a special exception to Section 14-16-3-3(4)(a)(1): a VARIANCE of 3' to the 3' maximum wall height to allow a proposed 6' wall for all or a portion of Lot(s) A, RIO OESTE zoned R-D, located on TRACT "A"/ EAST OF 4104 MONCLOA CT NW (E-12)

Special Exception No:..... **12ZHE-80153**
Project No: **Project# 1009258**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 5, 2012

On June 19, 2012, Interim Zoning Hearing Examiner, Stanley D. Harada heard Project# 1009258, 12ZHE-80153, a variance of 3' to the 3' maximum wall height for a proposed 6' wall for 4104 Mancloa Ct NW.

SUMMARY:

1. Sandra Tinlin, alternate agent for Rio Oeste Homeowners Association request a variance of 3' to the 3' maximum wall height to allow a 6' wall at Tract "A"/East of 4104 Moncloa Ct NW.
2. Ms. Tinlin testified that Tract "A" is an open space tract of land owned by the association and is dedicated for use a Public Drainage R/W and Public SAS easement. This tract of land is owned collectively by the Rio Oeste Homeowners through the Rio Oeste Homeowners Association.
3. Ms. Tinlin testified that Tract "A" is exceptional as compared with other land in the Rio Oeste Subdivision because of its irregular shape and contours. Ms Tinlin stated that most of the parcel is below street grade because the primary use is for a holding pond. It is not suitable for residential use.
4. Ms. Tinlin testified that zoning regulations, drainage use restrictions, and utility easements collectively provide a hardship because the land is not suitable for residential use.
5. The variance request of 3' to erect a 6' wrought iron fence is no more than necessary to overcome the unnecessary hardship
6. Ms. Tinlin testified that the variance will not significantly interfere with the enjoyment of other land in the vicinity. The variance will allow for a fence that will improve the enjoyment of portions of tract "A" not currently used as a drainage pond.
7. The variance is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest because it will allow for improved safety and security and increase the enjoyment of the unrestricted portions of tract "A".
8. There are no letters of opposition in the file.
9. The yellow signs were posted for the required time.

CONCLUSION: There is substantial evidence to support the application submitted, and it is therefore approved.

DECISION: Approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 20, 2012 in the manner described below:

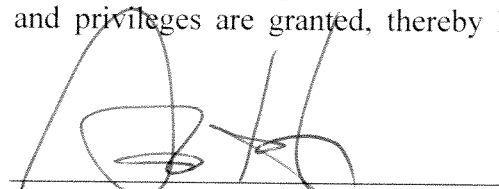
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

Rio Oeste Homeowners Association, PO Box 66295, 87193
Eric Speck, 4104 Zarzuela Ave NW, 87120