

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

CORDELIA AND RAMON LOPEZ request(s) a special exception to Section 14-16-2-6(B)(14): a CONDITIONAL USE for an existing wall to be up to 5' in the front yard setback area for all or a portion of Lot(s) 17, Block(s) 11, ZUNI ADDN zoned R-1, located on 7420 CUTLER AV NE (H-19)

Special Exception No:..... **12ZHE-80214**
Project No: **Project# 1009349**
Hearing Date: 08-21-12
Closing of Public Record: 08-21-12
Date of Decision: 09-06-12

On August 21 2012, Cordelia Lopez appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a conditional use to allow an existing wall to be up to 5' in the front yard setback area at 7420 Cutler Ave NE.

SUMMARY:

1. Ms Lopez is requesting a conditional for an existing wall to be up to 5' in the front yard setback area.
2. Mr. Lopez testified that she had a permit pulled many years ago and was advised that she could construct a wall 6' around the side and rear yard, but could only go up to 3 feet in the front yard setback area. This is the reason for the special exception request.
3. Ms. Lopez said that she received a violation letter from City Code Enforcement explaining the violation.
4. Ms. Lopez testified that she was misinformed by neighbors that she could build a three foot fence with wrought iron as long as you could see through the fence.
5. Ms. Lopez testified that she lives at 7420 Cutler Ave NE, and there is a middle school bus stop right in front of her house. After putting up the 2' to 3' wall/fence, a couple of student kicked the wall/fence and loosened the blocks in the wall/fence. Ms. Lopez and her family asked the kids to stop, but the problem persisted.
6. Ms. Lopez also testified that there is a stop sign in the front of the he house and on many occasions has people stop there and throw trash and debris in the yard. There were other occasions when there were people who may have been on drugs and threatened her family. This is a big safety concern, and Ms. Lopez feels they need protection from these potentially dangerous problems.
7. Ms. Lopez testified that people let their dogs come into her yard and make messes and not clean up after them.
8. Ms. Lopez testified that her neighbor to the west of her has thrown roots and trash over the wall. Ms. Lopez feels this is not right.
9. Ms. Lopez has owned the property for 28 years.

10. Ms. Lopez does not feel that this special exception request will not be injurious to the surrounding community, or damage any adjacent structures.
11. Ms. Lopez stated that she feels that the requested special exception will enhance the surrounding community.
12. There 9 signatures of opposition in the file. The opposition ranges from the wall/fence being an eyesore to it is against city regulations to build a wall/fence that high so close to the sidewalk. Patricia Dallo, next door neighbor testified that the Ms. Lopez never got a permit for the wall/fence.
13. Ms. Dallo also testified the wall/fence is very unsightly and looks like a prison.
14. Ms. Dallo testified that she would like it better without the wall/fence.
15. Ms. Lopez rebutted that she obtained a permit, and that Ms. Dallo complains about everything. Ms. Lopez stated that the traffic engineer commented that the wall is nice.
16. The yellow signs were posted for the required time.
17. The Traffic Engineer does not have any concerns with the clear sight triangle issue.

FINDINGS: Ms. Lopez has met the burden for a conditional use to allow a 5' wall/fence to be constructed in the front yard setback area. 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 September 21, 2012 in the manner described below:

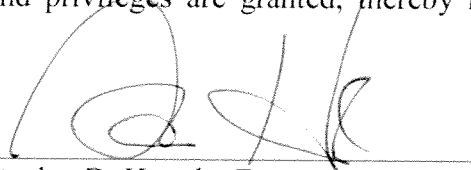
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Cordelia M. and Romano Lopez, 1420 Cutler NE 87110
Victor Tafoya, 2420 Mesilla NE 87110
Patricia Dalla, 7416 Cutler NE 87110
Rose M. Santiago, 7501 Cutler NE 87110
Laura T. Romero, 7521 Cutler NE 87110
Andrew Carrillo, 7448 Sky Ct NE 87110
Tomasita Sanchez, 2408 Mesila NE 87110
ZHE File