

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

RITA MARTINEZ request(s) a special exception to Section 14-16-2-6(B)(14): a CONDITIONAL USE for an existing wall to be up to 6" in the front yard setback for all or a portion of Lot(s) 2, Block(s) 51, ALTAMONT ADDITION zoned R-1, located on 5904 WOODFORD DR NE (G-18)

Special Exception No:..... **12ZHE-80127**
Project No: **Project# 1009223**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-30-12

STATEMENT OF FACTS: The applicant, Rita Martinez, requests a conditional use to allow an existing wall to be up to 6" in the front yard setback area. Ms. Martinez testified that she has owned the property for 15 years. Ms. Martinez testified that she unwittingly built a wall in the front yard not knowing that she needed to get a permit. The wall is 5'7" and will meet the design standards of the City of Albuquerque Comprehensive City Zoning Code. The wall will be stucco color to match the residence. Ms. Martinez also testified that she will put landscaping in front of the wall. She provided photos of how the wall design with landscaping might look like. Ms. Martinez testified that she is a single mother who is in close proximity of a school. She has bedroom windows that face the street. Ms. Martinez testified that her residence has been burglarized in the past. Ms. Martinez stated that the wall is a form of safety and privacy for her and her family. For the reasons stated above, Ms. Martinez does not feel that this request will be injurious to the adjacent properties, the neighborhood, or the community. Ms. Martinez also does not feel that the surrounding structures will be significantly damaged. Ms. Martinez' son in law, Arthur Rembert testified in support of the request because he believes the wall is a great design for privacy and protection. Ms. Martinez' daughter Vanessa Zavala, testified that she supports the request for protection purposes. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow signs were posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, 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.

DECISION: Approved with conditions.

CONDITIONS: The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

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 14, 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.

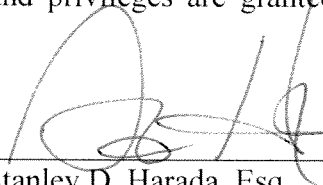
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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
Rita Martinez, 5904 Woodford Dr NE, 87110