

CITY OF ALBUQUERQUE LAND USE FACILITATION PROGRAM PROJECT MEETING REPORT

Project #: 1007393 / 08ZHE-80297

Property Description/Address: 1505 Escalante Avenue SW, being all or a portion of Lot 16, Block 23, Huning Castle Addition

Date Submitted: September 7, 2008

Submitted By: Diane Grover and Susan Clair

Meeting Date/Time: September 5, 2008, 6:30 P.M.

Meeting Location: Rio Grande Police Substation, corner of Central SW and Rio Grande Blvd.

Facilitator: Diane Grover

Co-facilitator: Susan Clair

Parties: Brian Lynn, Applicant
Huning Castle Neighborhood Association (HCNA)

Note: Individual names can be found at the end of this report.

Background/Meeting Summary:

Applicant Brian Lynn requests a variance of 1 ft.-8 in., to exceed the maximum, 3-ft. allowable wall height, for an existing 4-ft. perimeter wall at 1505 Escalante Avenue SW.

Mr. Lynn presented his reasons for building the stucco wall on the property of his residence at 1505 Escalante Avenue SW, which included previous occurrences of vandalism on his property and vehicles, attempt to reduce the view of his vehicles from the street, high levels of vehicular and pedestrian traffic on the block, and separation from multi-unit residences on an adjoining property.

He stated that the subject property did not appear to fit with the Southwestern aesthetics of the neighborhood until he constructed the wall. He presented letters from two nearby neighbors, supporting the design, aesthetic, and construction of the wall on his property.

He stressed that he does not wish to undermine the City or the HCNA's regulations, but he was not aware of the violation until he received a notice from the City, after the wall had been completed.

Neighbors in attendance, not speaking as an official voice of the HCNA, voiced their concerns about the height of the wall, as stated in the variance. Neighbors stated they had seen a "flurry" of high walls recently, and the HCNA zoning committee contacted the City to complain about them. They do not wish to see approval of this variance request because they are concerned that it could set an unwanted precedent.

In addition, they stated their concerns that the wall had been constructed within the defined setback area, although the issue of setback is not part of this variance request. They noted that compliance with setback restrictions is a higher priority to them than height.

Neighbors also expressed concerns that extended beyond the Applicant's wall. They were not satisfied that their complaints to the City had not been acted upon prior to the wall's completion, and that the setback issue is not included within this request for variance. They feel strongly that it is a waste of time and money to hold two separate hearings for the same property.

The applicant and attending neighbors shared information, but no firm resolutions were reached. While neighbors had several concerns that were not resolved within this meeting, all parties seemed willing to communicate openly. All expressed willingness to share information, if more becomes available.

Outcome:

Areas of Agreement:

- Applicant agrees that he does not want to undermine the City's or HCNA's regulations
- Applicant agrees to keep notice of variance application posted.
- Applicant and neighbor agree that it would be wise to address the height and setback issues at the same time.

Unresolved Issues, Interests and Concerns:

- Existing wall was constructed within setback area of subject property
- Setback of wall, which is also not in compliance, is not addressed in this application for variance and may not be heard at the ZHE's meeting on September 16, 2008 (historically, the HCNA has been very concerned with setbacks)
- Height of existing wall (less of a concern than the setback)
- Maintaining architectural integrity
- Keeping "unity of neighborhood"
- Timing and efficiency of the City's process for addressing citizen complaints
- Should HCNA take this [City's slowness to respond] as a lesson, to instead just knock on the door of a neighbor in violation

Key Points:

- All parties are willing to continue to share information, if more becomes available.
- All parties would like clarification and modification to City's process for responding to complaints

Meeting Specifics:

- 1) Zoning
 - a) HCNA regulations allow for 3-ft. maximum height on walls
 - b) Applicant is requesting variance of 1 ft.-8 in., to exceed the maximum, 3-ft allowable wall height on an existing 4-ft. wall
 - i) Prior to constructing the wall, Applicant's wife had called the City about height requirements but did not specify that it was for a front wall

- ii) Applicant used licensed contractor to build the wall
 - iii) Notice of variance is posted
 - iv) Applicant does not wish to undermine the City or the HCNA
 - v) Applicant assured neighbors that he did not ignore any complaints
 - vi) Applicant is somewhat familiar with some justifications for variance requests
 - (1) If lot is unusual
 - (2) If lot is a corner lot
 - (3) If wall blocks stop signs
 - (4) Rules about open areas in walls
 - vii) Applicant stated he was advised that, pertaining to this variance request, “the percentage of success I might have is relatively low”
- 2) Wall
- a) Applicant seeks a 1 ft.-8 in. variance on an existing 4-ft. wall
 - i) Existing wall exceeds maximum, 3-ft. allowable height
 - ii) Height of 4 ft.-8 in. would be on front side of subject property
 - b) Pilasters are a bit higher than the wall
- 3) Neighborhood support
- a) Applicant read letters from two neighbors supporting existing wall:
 - i) Thomas Lucero resides at corner of Escalante and Alcalde:
 - (1) occupation: architect
 - (2) existing wall “fits well” with neighborhood
 - ii) Deborah Christensen, 1506 Escalante Avenue SW, across from subject property:
 - (1) “many improvements since Lynns moved in”
 - (2) “no objection” to wall
 - (3) “very attractive wall”
 - (4) “wall has Southwest aesthetic”
 - (5) “does not obscure view of mountains”
 - (6) “small lanterns are not relevant” (limited to 25 watts)
 - b) Applicant has asked renters on adjoining property to ask the rental property owners for their opinion
 - c) Applicant is willing to ask other neighbors about the existing wall
- 4) History
- a) Applicant has resided at subject property for more than three years
 - b) Applicant stated that the front yard of his property “didn’t fit” with the neighborhood prior to construction of the existing wall
 - c) Garage on subject property was converted to living space, so Applicant wanted the wall to further shield vehicles from street view
 - d) Subdivided adjoining property
 - i) Lot to the east of subject property has been subdivided into eight units for condos or townhouses
 - ii) Applicant wanted to be shielded from multi-unit additions
- 5) Traffic on Escalante
- a) Vehicular
 - i) Heavy drive-through from Alcalde to Tingley Beach
 - ii) Many parked cars on the block, for nearby park
 - b) Pedestrian

- i) Many weekend nonresidents
 - ii) Unwelcomed visitors
 - iii) Once, at midnight, a person from the County Jail showed up at applicant's door asking for money
- 6) Vagrancy and crime
 - a) In last 1.5 years, both of applicant's vehicles have been vandalized
 - b) On one occasion, Applicant's Jeep was almost stolen
- 7) Neighbor concerns
 - a) Variance
 - i) Most neighbors in attendance do not want a variance
 - ii) Neighbors are concerned that this case might set a precedent
 - iii) Neighbors questioned whether applicant disregarded maximum height allowance when building his wall
 - b) Aesthetics
 - i) HCNA zoning committee called the city to complain, owing to a flurry of walls
 - ii) Side and front walls are different heights
 - iii) Aesthetics are important to neighbors
 - c) City's Process
 - i) Timing
 - (1) Committee of three HCNA members sent a letter to the City at the time of construction
 - (2) Committee had to keep calling the City, to get the City to respond – finally, they spoke with Matthew Conrad, Code Enforcement supervisor
 - (3) City sent to Applicant a notice of complaint from an anonymous caller
 - (4) Applicant received the letter from the City after the wall had been constructed
 - ii) Efficiency: setback issue should have been addressed along with height variance, to avoid waste of time and money

Comments:

- Attending neighbors are not speaking as official representatives of the HCNA, only as individuals. The HCNA board meeting is Wednesday, September 10, 2008. Members discuss this issue at that time

Action Plan:

- Case will proceed to the ZHE

Action Items:

- Report of this meeting will be sent to the ZHE.
- Facilitator will relay attendees' question about whether a setback variance will also be decided at the hearing on September 16, 2008 in the email that accompanies the report and request that Lucinda Montoya "reply all" in answer to that question
- Applicant will look to the ZHE for a decision on this matter
- Neighbors and applicant will submit comments and letters to ZHE

Application Hearing Details:

- 1) Hearing scheduled for Tuesday, September 16, 2008.
- 2) Hearing Details:
 - a) The Office of the Zoning Hearing Examiner conducts monthly quasi-judicial PUBLIC HEARINGS regarding Special Exceptions to the Zoning Code (Please refer to Section 14.16.4.2 of the Comprehensive City Zoning Code).
 - b) There are certain criteria that applicants must meet in order to obtain an approval of decision for their special exception request.
- 3) Hearing Process:
 - a) Comments from facilitated meetings will go into a report, which goes to the Hearing Examiner.
 - b) All interested parties may appear at the hearing and voice their opinions or submit written comment prior to the day of the public hearing.
 - c) The Zoning Hearing Examiner will render a determination of approval, approval with conditions, or denial within 15 days after the close of the public hearing.
 - d) The determination can be appealed to the Board of Appeals.

Any further questions or comments can be referred to

Lucinda Montoya
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Names & Addresses of Attendees:

Brian Lynn	applicant
Harvey Buchalter	HCNA
Clark Hardgrave	HCNA
Peggy Smith	HCNA
Kylene Wing	HCNA
Paul Mondragon	HCNA
Tom Mose	HCNA
Diane Souder	HCNA
Ab Potter	HCNA