

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

ANDREW LIEUWEN request(s) a special exception to Section 14-16-3-19(2)(a): a VARIANCE of 3' to the maximum 3' height for a proposed wall in the front yard setback area for all or a portion of Lot(s) 15, Block(s) 27, JOHN HILL zoned R-1, located on 1323 BRYN MAWR DR NE (J-16)

Special Exception No:..... **12ZHE-80192**
Project No:..... **Project# 1009307**
Hearing Date: 08-07-12
Closing of Public Record: 08-07-12
Date of Decision: 08-20-12

On August 7, 2012, Andrew Liewen appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada for a request of a variance of 3' to the maximum 3' height for a proposed wall in the front yard setback area at 1323 Bryn Mawr Dr NE.

SUMMARY:

1. Mr. Liewen is requesting a variance of 3' to the 3' height for a proposed wall in the front yard setback area at 1323 Bryn Mawr Dr NE.
2. Mr. Liewen testified that the proposed wall would be 6' in height, with the outer edge of the wall footings located 10 feet from the back of the sidewalk.
3. Mr. Liewen testified that the proposed wall is an essential element of a xeriscaped courtyard that has been designed by WaterWise Landscapes, Incorporated of Albuquerque, New Mexico.
4. The site plan and drawings were submitted with the application by Mr. Liewen.
5. Mr. Liewen testified that the parcel is exceptional due to the location of the City right of way on the parcel in relation to the orientation of his house and the design and implementation of the wall component of this project.
6. Mr. Liewen stated that the project was designed on the eastern portion of the parcel because this is the shaded side of the house during peak sunlight hours.
7. Mr. Liewen testified that he is seeking to create an outdoor living and dining space that would be protected from the wind and dust.
8. Mr. Liewen testified that the neighbors 3 lots to the north of his property received a variance a few years ago to build a 5' to 6' wall approximately 10.5' back from the sidewalk to create a similar space he is proposing.
9. Mr. Liewen testified that due to the location of the City right of way in relation to the proposed location of the wall component of the project and wall height regulations preclude the property owner from using the property in a reasonable manner.
10. Mr. Liewen testified that the granting of the proposed variance will not significantly interfere with the enjoyment of other land in the vicinity. The

- proposed wall will not interfere with any easements, nor will it interfere with any pedestrian use of the sidewalk in any way.
11. Mr. Lieuwen testified that this request would not interfere with the enjoyment of other land in the vicinity of the project, this project would be more than likely to enhance the neighbor's enjoyment of their property because of the aesthetic enhancement of the new landscaping on the outside wall would provide.
 12. The City of Albuquerque Traffic Engineer has no adverse comments to the clear sight triangle safety issue.
 13. There are no letters of opposition in the file.
 14. Lars Tomasson, attended the hearing to speak owns a house across the street opposes the request
 15. Mr. Tomasson testified that he feels that a 6' wall is excessive and does not like the square box look of the wall.
 16. Mr. Tomasson testified that he would not be opposed to a 5' wall with attractive features to the wall.
 17. The yellow signs were posted for the required time.

CONCLUSIONS: The burden has been met for a variance of 3' to the maximum 3' height for a proposed wall in the front yard setback area at 1323 Bryn Mawr Dr NE.

DECISION: Approved with conditions.

CONDITIONS:

1. The wall shall abide by the design guidelines in the City of Albuquerque Zoning Code for walls and fences.
2. The applicant shall abide by the traffic engineer's clear sight triangle issue. There shall be no obstructions to the clear sight triangle.

If you wish to appeal this decision, you may do so by 5:00 p.m., on September 3, 2012 in the manner described below:

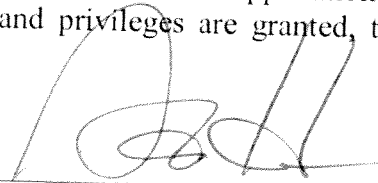
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Andrew Lieuwen, 1323 Bryn Mawr Dr NE 87106