

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

EFREN ROSALES request(s) a special exception to Section 14-16-2-6(B)(14) of the South Broadway Sector Development Plan: a CONDITIONAL USE for a proposed 5' fence in the front yard setback area for all or a portion of Lot(s) 5, Block(s) 3, EASTERN ADDN FIRST EXTENSION SOUTH zoned SU-2 MR, located on 1721 WALTER ST SE (L-14)

Special Exception No:..... **12ZHE-80195**
Project No:..... **Project# 1009318**
Hearing Date: 08-21-12
Closing of Public Record: 08-21-12
Date of Decision: 09-06-12

On August 21 2012, Efren Rosales appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a conditional use to allow a proposed 5' fence in the front yard setback area at 1721 Walter St SE.

SUMMARY:

1. Mr. Rosales is requesting a conditional for a proposed 5' fence to be up to 5' in the front yard setback area.
2. Mr. Rosales testified that started to build a CMU wall without a permit.
3. Mr. Rosales is seeking to be allowed to proceed with the construction of the wall.
4. Mr. Rosales testified that his property has difference in elevations th t make it necessary to build the wall up to 5 feet in some areas.
5. Ms. Rosales testified that the proposed wall will meet the design standards for walls and fences set forth in the City of Albuquerque Zoning Code.
6. Ms. Rosales testified that this special exception request will not be injurious to the surrounding community, or damage any adjacent structures.
7. Mr. Rosales stated that he feels that the requested special exception will enhance the surrounding community.
8. Mr. Rosales has owned the property for 20 years.
9. There are no letters of opposition in the file, nor were there any opposition at the hearing.
10. The yellow signs were posted for the required time.
11. The Traffic Engineer does not have any concerns with the clear sight triangle issue.

FINDINGS: Mr. Rosales 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 with conditions.

CONDITION:

1. The applicant shall abide by the traffic engineer's clear sight triangle issue. There shall be no obstructions to the clear sight triangle.
2. Applicant must obtain a wall permit.

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:

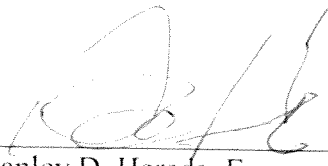
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Efren Rosales, 1610 John St SE 87102
ZHE File