

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

CAROLE MONTGOMERY request(s) a special exception to Section 14-16-2-6(B)(14): a CONDITIONAL USE to allow a proposed 5' wall in the front yard setback area for all or a portion of Lot(s) 342A3B, MRGCD MAP 38 zoned R-1, located on 408 ATRISCO DR NW (J-12)

Special Exception No:..... **12ZHE-80206**
Project No: **Project# 1009339**
Hearing Date: 08-21-12
Closing of Public Record: 08-21-12
Date of Decision: 09-06-12

On August 21 2012, Carol Montgomery appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a conditional use to allow a proposed 5' wall in the front yard setback area at 408 Atrisco Dr NW.

SUMMARY:

1. Ms Montgomery is requesting a conditional for a proposed 5' wall to be up to 5' in the front yard setback area.
2. Ms. Montgomery testified that she would like to construct a wall for privacy and protection. People throw trash and debris in the property due to the commercial land across her property on Atrisco. There is a large grocery store across from her (Pro Market Ranch) that creates plenty of foot traffic by her property, as well as Central Avenue being in close proximity.
3. Ms. Montgomery testified that the proposed visually attractive wall will be constructed of natural adobe brick with railroad inserts at approximate 6 foot intervals. There will be 3 openings installed at random points in the wall.
4. Ms. Montgomery testified that the proposed wall will meet the design standards for walls and fences set forth in the City of Albuquerque Zoning Code.
5. Ms. Montgomery testified that this special exception request will not be injurious to the surrounding community, or damage any adjacent structures.
6. Ms. Montgomery stated that she feels that the requested special exception will enhance the surrounding community.
7. Ms. Montgomery has owned the property for 1 year.
8. The yellow signs were posted for the required time.
9. The Traffic Engineer does not have any concerns with the clear sight triangle issue.

FINDINGS: Ms. Montgomery 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:

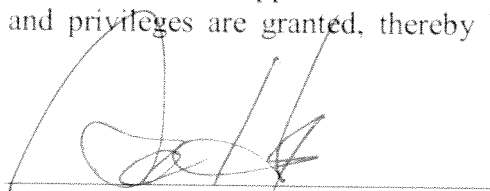
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Carole Montgomery, 408 Atrisco Dr NW 87105
ZHE File