

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

MARK A. STUART request(s) a special exception to Section 14-16-2-6(B)(14): a **CONDITIONAL USE** to allow an existing 5' wall in the front and side yard setback area for all or a portion of Lot(s) 1, Block(s) 9, **KNOB HEIGHTS ADDN REPLAT OF TR 9** zoned R-1, located on 901 AMHERST DR SE (L-16)

Special Exception No:..... **12ZHE-80237**
Project No: **Project# 1009382**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Decision: 10-03-12

On September 18, 2012 Mark A. Stuart appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada, for a conditional use an existing 5' high wall in the front yard setback area at 901 Amherst DR NE.

SUMMARY:

1. Mark Stuart requests a conditional use for an existing 5' high wall in the front yard setback area at 901 Amherst Dr NE.
2. Mr. Stuart testified that he would like to keep the fence up for safety reason for his family.
3. Mr. Stuart testified that since he has moved to Albuquerque 10 years ago, he has been violated 10 times by theft to his vehicle, his office, and most importantly his house almost 1 1/2 months ago.
4. Mr. Stuart testified that he lives on a corner lot and in addition to obvious security concerns.
5. Mr. Stuart testified that he often finds his landscaping on the street by people who disturb it.
6. Mr. Stuart testified the best way to protect his family is to erect a wall to keep property lines honored.
7. Mr. Stuart testified that his wall meets the design guidelines set forth in the Design Guidelines for walls and fences facing a public street in the City Zoning Code.
8. Mr. Stuart testified that this request will not be injurious to the adjacent property, the neighborhood or community, and the wall will not significantly be damaged by surrounding structures or activities.
9. There was a problem with the City Traffic Engineer's office pertaining to the clear sight triangle issue at the time of the hearing. The wall has since been modified to come into compliance with the clear sight triangle issue, and the Traffic Engineer has approved the request.
10. The yellow signs were posted for there required time.

CONCLUSION:

Mark Stuart has met the burden to allow a conditional use for an existing 5' wall in the front yard setback area at 901 Amherst Dr SE.

DECISION: Approved with a condition.

CONDITION:

1. Applicant must abide by the clear sight triangle issue, and shall not block the clear sight triangle with any objects.

If you wish to appeal this decision, you may do so by 5:00 p.m. on October 18, 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.

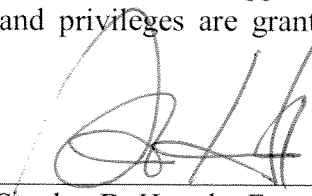
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of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

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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
Mark Stuart, 901 Amherst Dr SE 87106
ZHE File