



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

DAMIAN CHIMENTI request(s) a special exception to Section 14-16-3-2(A)(4)(b): a VARIANCE of 5' to the required 5' setback for a proposed yard wall of 6' in height for all or a portion of Lot(s) 138B, VALLE ALTO ADDN zoned SU-2 C-1, located on 3909 12TH ST NW (G-14)

Special Exception No:..... **12ZHE-80259**
Project No: **Project# 1009400**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Decision: 09-28-12

On September 18, 2012 Damian Chimenti appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada, for a variance of 5' to the required 5' setback for a proposed yard wall of 6' in height at 3909 12th St NW.

SUMMARY:

1. Mr. Chimenti testified the exceptionality of the property is that his property line is setback 10' from the sidewalk, which in his opinion is a form of government action.
2. Mr. Chimenti testified that the variance would allow him to build the wall on the property line and be able to place vehicles behind it.
3. Mr. Chimenti testified that there would be a 10' landscape buffer that will be in the front and make the property look more appealing
4. Mr. Chimenti testified that he has a building permit submitted to building and safety and it shows a landscaping plan.
5. Mr. Chimenti testified that the request will not affect the surrounding landscape area.
6. Mr. Chimenti testified that the intent of the variance has been met.
7. Mr. Chimenti testified that he has owned the property for a few months.
8. The City Traffic Engineer did have an issue with the clear sight triangle at the site. Mr. Chimenti has since revised the plan and has the approval in the file from the traffic engineer.
9. There are no letters of opposition in the file, nor were there any adverse comments to this request at the hearing.
10. Candace Knight, who represents the Los Griegos Neighborhood Association, spoke in support of the variance request.
11. Ms. Knight testified that this development to the Los Griegos area is much needed and supports the design of the project.
12. Ms. Knight is a walker and biker and feels that this project makes the area aesthetically pleasing to the eye.

13. Ms. Knight stated that that the wall design would not hinder the clear line of sight, and would be safe for pedestrians and bikers.
14. The yellow signs were posted for the required time.

CONCLUSION:

Damian Chimenti has met the burden for a variance of 5' to the required 5' setback for a proposed yard wall at 3909 12th St NW.

DECISION: Approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on October 12, 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
Damian Chementi, P.O. Box 6653 87197
Candace Knight, 1858 Griegos Rd NW 87107
ZHE File