



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

KEITH RIELAGE request(s) a special exception to Section 14-16-2-6 (B)(14): A CONDITIONAL USE for a proposed 5' high wall in the front yard setback area for all or a portion of Lot(s) 16, Block(s) 66, PARKLAND HILLS ADDN zoned R-1, located on 4700 SOUTHERN AVE SE (L-17)

Special Exception No:..... **12ZHE-80107**
Project No: **Project# 1009210**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-30-12

STATEMENT OF FACTS: The applicant, Keith Rielage, requests a conditional use for a proposed 5' high wall in the front yard setback area. Jennifer Rielage testified at the hearing that she and her husband would like to construct the 5' high wall to protect two mulberry trees. The trees would be kept within the wall. The wall would be similar to other walls in the area. There is not a big enough space in the backyard area; therefore this request would enhance the usable open space area in the front of the property. The Rielages have owned the property for 5 years. Mrs. Reilage testified that the wall would provide much needed security and privacy. The wall will meet the design guidelines set forth in the City of Albuquerque Comprehensive Zoning Code. The wall would be similar to other walls in the area, and will have adequate landscaping in front of it. The wall will be stucco color to match the residence. Mrs. Reilage provided photos of wall designs that are similar to the design she envisions. John Marsh, the contractor for the Reilage's supports the requests. Mr. Marsh will pull all the necessary permits to construct the wall. Mrs. Reilage does not feel that this request will be injurious to the adjacent property, the neighborhood or the community. Mrs. Reilage spoke to the neighbors and they did not have any adverse comments to the request. There are no letters of opposition in the file, nor were there any opposition at the hearing. The yellow signs were posted. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

Based on all of the testimony and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures.

DECISION: Approved with conditions.

CONDITIONS: The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 14, 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
Keith and Jennifer Rielage, 4700 Southern Ave SE, 87106
Marsh Construction, PO Box 51684, 87181