

# ACC DESIGN GUIDELINE FOR SETBACKS/EASEMENTS

## REVISED 4/6/2022

*These guidelines are established to ensure that residences, outbuildings, walls, and other structures are placed on lots in accordance with the intent of the covenants to forever retain the open, natural character of Sandia Heights. They define setbacks for street frontage, side, and rear boundaries. Guidelines are provided for the process of reducing setbacks for lots that have insufficient buildable areas and that qualify for the granting of a variance, such as oddly shaped lots, lots with extensive physical impediments, and lots with unusual amounts of street frontage.*

*The guidelines provide general standards only and the ACC reserves the right to deviate from them, as it sees fit, as dictated by site-specific considerations.*

***Owners who expect to request a variance are strongly advised to hold a discussion with the ACC prior to the start of the design. This can help to expedite the review process and avoid costly redesigns.***

***Setback requirements are specified by Sandia Heights Unit Covenants and Bernalillo County Zoning Ordinances. In addition, a variety of restrictions and easements may be present on a property as defined by other governmental agencies such as AMAFCA (Albuquerque Metropolitan Arroyo Flood Control Authority) and US Forest Service. Owners seeking variances to restrictions must have approval from ALL entities involved. An ACC approval DOES NOT relieve the owner of complying with the mandates of the other agencies. Likewise, a variance granted by a governmental agency DOES NOT imply a variance by the ACC. Owners are encouraged to seek legal/professional help with compliance.***

### 1. SETBACKS

- a) Front setbacks shall be measured from all lot boundaries with frontage on public roadways and cul-de-sacs. Front setbacks shall be applied to both streets in the case of a corner lot, to the front and back boundaries of lots with front and back frontage on 2 streets, and to all street frontage in the case of lots where a single street forms a curve(s) around portions of the lot.
- b) Side and rear setbacks are measured from lot lines not fronting a street or cul-de-sac.
- c) Setbacks shall be measured perpendicular to the lot boundary and shall extend across the entire length of the boundary. Where two setbacks overlap, the larger setback takes precedence.
- d) Access features such as driveways, stairs, and walkways along with their related safety devices such as guardrails and railings, and grading features such as retaining walls that do not interfere with the visual continuity of the land are allowed uses in setback areas.
- e) Residences, outbuildings, walls (except required retaining walls), fences, trees, and any other structures are prohibited within the setback areas.

## 2. VARIANCE TO SETBACKS FOR LOTS WITH LIMITED BUILDING AREAS

- a) All provisions of this section shall apply only to lots where the requirements for the granting of a variance as defined in the latest revision of the ACC Procedures and Guidelines – *Variance to Covenant Restrictions* have been demonstrated.
- b) Reduction of setback distances will be considered on a case-by-case basis. The proposed design must conform to the boundaries of the buildable area in both orientation and form and make effective use of the space available. Designs that are driven primarily by objectives such as form and orientation to views but, as a result, make poor use of the available buildable area will not be granted a variance. In general, designs that use less than 75% of the buildable area will not be considered for a variance.
- c) Reduction of side and rear setback dimensions will generally not be considered where there is the potential for a less than 30-foot separation from structures on abutting properties. Consideration will be given to the reduction of side and back setbacks wherever they abut unbuildable areas on adjoining properties, to the extent that the reduction to the setback does not decrease the distance to the adjacent buildable area to less than 30 feet. Public lands, where development is prohibited, will be considered unbuildable for purposes of consideration and approval of side and rear setback variances.
- d) Front setback changes shall be applied equally to the entire boundary fronted by a street/cul-de-sac, whether formed by one or more streets.
- e) Where lot characteristics dictate a change to the front setback(s), first preference will be to change the point of reference for measurement from the front lot line(s) to the street(s) edge. In many cases this may be the only variance required.
- f) Front setback reductions in the range of 44-feet to 30-feet from the street edge will be granted as required to achieve parity with other houses in the particular unit. In general, front setbacks less than 30-feet from the edge of the street will not be granted.
- g) In extreme cases, where physical circumstances such as arroyos, flood plains, or other natural conditions prevent the construction of a minimum size house as defined by the covenants for the unit, front setbacks in the range of 2-feet to 15-feet will be considered. Visual impact on the streetscape and vehicular safety will be primary considerations in evaluating the requested variance.

## 3. DEFINITIONS

- a) Limited Area Lot: A lot that meets the requirements for the granting of a variance from setback requirements by virtue of insufficient buildable area to achieve parity.
- b) Buildable Area: The area of a lot excluding setback areas and areas that physically prevent development such as arroyos, extreme grades, and other physical impediments. Desirable visual features such as rock formations or plants that do not physically prevent construction will not be excluded from the buildable area.
- c) Parity: The condition in which a residence is comparable in size (square feet of heated area on one or two floors as allowed by covenants) and amenities (patios, portals, garages, etc.) to the other homes in the immediate area/unit.
- d) Covenant specified setbacks of less than 45 feet: Where the restrictive covenants specify 35-foot setbacks from the front property line, the guidelines specified in Section 2 herein apply for all requested front setbacks less than 35 feet.

## Governmental Agencies

Before any variance can be granted by the ACC against the unit covenants, a homeowner must first obtain an approved variance from Bernalillo County zoning department or other governmental agency. The homeowner is advised to first consult with the ACC before approaching Bernalillo County or another agency to ensure that if the homeowner obtains approval that the ACC will also approve of the variance, as approval by all governing bodies are required.

### Bernalillo County

Most of the units within Sandia heights Are zoned R-1 by Bernalillo County. The R-1 ordinances can be found at the following link:

[https://library.municode.com/nm/bernalillo\\_county/codes/code\\_of\\_ordinances?nodeId=BECOCO\\_APXAZO](https://library.municode.com/nm/bernalillo_county/codes/code_of_ordinances?nodeId=BECOCO_APXAZO)

The ordinance is complex and varies based on lot size, street frontage and should be consulted by the homeowner for their particular situation. However, the general rule from the ordinance is that setbacks for R-1 are 45-feet for the front setback and 15-feet for the rear and side setbacks.

Many of the units that border Tramway Blvd. between Simms Rd. on the south and Tramway Rd. to the north fall under special use permits issued by Bernalillo country. These permits often specify reductions in the setbacks when the areas were initially constructed. The homeowner should consult these special use permits. The Bernalillo Country website provides access to a GIS system that can be used to find the special use permits that govern a site:

<https://www.bernco.gov/planning/gis-overview/map-gallery/>

From the above website select "Advanced Data Viewer". Then under Layers, selected Zoning and Planning. Then select "Zoning Case History" to see the document numbers for the special use permits. SHHA has most of the "Approved Development Plans" available, please check with SHHA to gain access to the documents and plans referenced by the Bernalillo County GIS map.

### **Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA)**

Both AMAFCA and Bernalillo County stipulate easements on many lots within Sandia Heights. These easements can be viewed on the Bernalillo Country GIS System (See links above). The many arroyos within Sandia Heights are AMAFCA controlled areas. Variances against the easements will rarely be granted by AMAFCA, Bernalillo County or the ACC as they exist for safety from floods.

## **Federal Emergency Management Agency (FEMA)**

FEMA specifies many flood zone areas and easements within Sandia Heights. Variances from these will not be granted by the ACC.

## **US Forest Service**

The US Forest Service specifies some easements within Sandia Heights, primarily recreational paths.

## **Utility Services**

Most lots within Sandia Heights contain easements for utility services. Homeowners much check with the utilities to insure they do not violate any of the easements. Surveys and Improvement Location Reports (ILR) generally show these easements, but a homeowner should check with the utility companies prior to planning and construction to insure they do not encroach on these easements.

## Setbacks specified by Unit Covenants

Unit	Front Setback	Side Setback	Rear Setback	Bernalillo County Zoning	Notes
North 0	45	15	15	R-1	
North 1	45	15	15	R-1	
North 2	45	15	15	R-1	
North 3	45	15	15	R-1	
South 1	45	15	15	R-1	
South 2	45	15	15	R-1	
South 3	45	15	15	R-1	
South 4	45	15	15	R-1	
South 5	45	15	15	R-1	
South 6	45	15	15	R-1	
South 7	45	15	15	R-1, R-2,	
South 7	3	5	3		Grandfather clauses
Cedar Canyon					
South 8	45	15	15	R-1, R-2,	
South 8C	NS	NS	NS		<b>* NS=No Setback</b>
Quail Ridge					
South 9	45	15	15	R-1	
South 10	45	15	15	R-1	
South 11	45	15	15	R-1	
South 12	45	15	15	R-1	
South 14	45	15	15	R-1	
South 15	35	15	15	R-1	
South 16	45	25	25		10' for BBQ
South 17	35	15	15	R-1	
South 18	NS	NS	NS		5' BBQ
South 19	NS	NS	NS		5' BBQ
South 20	NS	NS	NS		
South 21	NS	NS	NS		
South 23	NS	NS	NS		See site development plan
South 24	NS	NS	NS		
South 25	NS	NS	NS		
South 26	NS	NS	NS		See site development plan
South 27	NS	NS	NS		
South 27B	NS	NS	NS		
South 27C	NS	NS	NS		
South 28	NS	NS	NS		
South 28B	NS	NS	NS		
South 28C	NS	NS	NS		
Hawks Landing	NS	NS	NS		
North Tramway Estates	NS	NS	NS		

## Resources

**Bernalillo County Ordinances**

**Appendix A – Zoning:**

**[https://library.municode.com/nm/bernalillo\\_county/codes/code\\_of\\_ordinances?nodeId=BECOCO\\_APXAZO](https://library.municode.com/nm/bernalillo_county/codes/code_of_ordinances?nodeId=BECOCO_APXAZO)**

**Zoning Maps: <https://www.bernco.gov/planning/gis-overview/>**

**Drainage resolution: <https://amafca.org/documents/Resolution%202020-11%20-%20Drainage%20Policy.pdf>**

**Fema Flood Zones:**

**<https://ipgr.maps.arcgis.com/apps/webappviewer/index.html?id=91c9917e30334f51b96bea052d68b40b>**