



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

Shai Shelhav, Above & Beyond Home Improvement, Agent for Congregation Albert Org. request for a variance to wall/fence height to install a 10 ft. steel post fence around the perimeter of the Congregation Albert Cemetery, remaining northeasterly portion of Tracts, Excluding portion out to Bernalillo County plot in the NW 1/4 Sec 27 T10n R3e, located at 700 Yale Blvd. SE, zoned NR-SU.

Special Exception No: **VA-2025-00160**
Project No:
Hearing Date: 11-18-25
Closing of Public Record: 11-18-25
Date of Decision: 12-03-25

On November 18, 2025, Shai Shelhav (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Variance for a 10 ft. high perimeter fence (“**Application**”) upon the real property located at 700 Yale Blvd. (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of wall height, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) Section 14-16-6-6(O).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
5. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
6. The analyses and studies listed in IDO Section 14-16-6-4(H) are not required.
7. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
8. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
9. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).

10. Applicant has sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
11. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
12. The Subject Property is located in the NR-SU zone
13. Therefore, tall wall on the Subject Property requires a Variance Approval pursuant to IDO Subsection 14-16-6-6(O).
14. IDO Section 14-16-6-6(O)(3)(a) (Review and Decision Criteria– Variance) reads: “An application for a Variance - ZHE shall be approved if it meets all of the following criteria:

1. *There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards.*

The subject site is unique in that it is situated within the Historic Fairview Memorial Cemetery. This portion of the cemetery is separate from the remaining part of the cemetery and is actively maintained. Placement within the historic cemetery which does not have security and is often open creates a security issue from trespass and vandalism.

2. *The Variance will not be materially contrary to the public safety, health, or welfare.*

The request is for a 10 ft high steel rod fence to be painted black. The location is within the grounds of the Fairview Cemetery and will not be counter to the public safety.

3. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*

The requested variance will not cause significant material impacts on the surrounding cemetery.

4. *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*

The added height for the perimeter fence will not undermine the intent of the IDO. There are no specific heights listed for the NR-SU zone and 10 ft, is permissible in other NR zones.

5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*

The height is not excessive for the location of the fence, and any smaller variance would allow trespassers to stand on vehicles and climb over the fence.

15. Applicant has provided a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
16. Applicant has shown compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
17. The City Traffic Engineer submitted a report stating no objection to the Application
18. The City Landmarks Commission submitted a report stating no objection to the Application, but stating a Certificate of Appropriateness should be obtained before work commences.
19. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
20. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).

DECISION:

APPROVAL of a Variance for a 10 ft. high perimeter fence.

APPEAL:

If you wish to appeal this decision, you must do so by December 18, 2025 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This Notice of Decision does not constitute approval of plans for a building permit. If your Application is approved, bring this Notice of Decision with you when you apply for any related building permit or occupation tax number. Approval of a Conditional Use is void after two (2) years from date of approval if the rights and privileges granted thereby have not been executed or utilized. Approval of a Variance is void after one (1) year from date of approval if the rights and privileges granted thereby have not been executed or utilized.



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Zoning Hearing Examiner

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ZHE File
Zoning Enforcement