



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

Michael Cadigan, **Agent** for Robert & Betsy Nemudrov, Applicants, requests a variance of 1.5 ft to the 3 ft maximum height front and street side fence height for Lot 5, Block F Buena Ventura RE, located at 430 Glorieta St NE, zoned R-1B [IDO Section 14-16-6-6(H)(3)]

Special Exception No: **MZP-2025-00008**
Project No:
Hearing Date:..... 10-21-25
Closing of Public Record: 10-21-25
Date of Decision: 11-05-25

On October 21, 2025, Michael Cadigan, “**Agent**” for Robert & Betsy Nemudrov, “**Applicants**”, requests a variance of 18” to the 3’ maximum height front and street side fence height for Lot 5, Block F Buena Ventura RE, located at 430 Glorieta St NE, the “**Subject Property**”. Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 1.5 feet to the 3-foot front yard fence height requirement, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) Section 14-16-6-6(O). Although the notice on the Application was styled as a variance, the justification letter submitted by Agent characterizes the Application as a Tall Wall Permit Major pursuant to IDO Subsection 14-16-6-6(H)(3), and the ZHE will consider the Application as such. Because a variance is generally understood to be a higher level of approval than a Tall Wall Permit Major, the ZHE finds that notice of the Application was sufficient.
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos, pursuant to IDO Section 14-16-6-4(B).
4. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The analyses and studies listed in IDO Section 14-16-6-4(H) were delivered.
6. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
7. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
8. 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).
9. 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).

10. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
11. The Subject Property is located in a R-1B zone district.
12. Therefore, a fence taller than 3 feet on the Subject Property requires a Permit-Wall or Fence-Major pursuant to IDO Subsection 14-16-6-6(H)(3).
13. IDO Section 14-16-6-6(H)(3) (Review and Decision Criteria for a Permit-Wall or Fence-Major) reads: “*An application for a Permit – Wall or Fence - Major shall be approved if all of the following criteria are met[:]*”
 - (a) *The wall is proposed on a lot that meets any of the following criteria:*
 1. *The lot is at least ½ acre.*
 2. *The lot fronts a street designated as a collector, arterial, or interstate highway.*
 3. *For a front yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential development with a front yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a front yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.*
 4. *For a street side yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential development with a side yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a street side yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.*
 - (b) *The proposed wall would strengthen or reinforce the architectural character of the surrounding area.*
 - (c) *The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.*
 - (d) *The design of the wall complies with any applicable standards in Section 14-16-5-7 (Walls and Fences), including but not limited to Subsection 14-16-5-7(E)(2) (Articulation and Alignment), Subsection 14-16-5-7(E)(3) (Wall Design), and both of the following criteria:*
 1. *The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house.*
 2. *The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.*
14. 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).
15. 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).
16. Agent appeared at the October 21, 2025, ZHE hearing on the Application and gave evidence in support of the Application.

17. Applicant constructed the existing black wire mech fence on the Subject Property without a permit, after having paid a contractor to obtain all permits and sontruct the fence.
18. The existing fence is located in the front yard (along Glorieta) and along the street side yard (Copper).
19. Although Agent points out that the term “fronts” is not defined in the IDO, the ZHE finds that the terms front yard and street side yard are defined by the IDO, and in this case the portion of the Subject Property along which Glorieta runs is the front yard, while the portion of the Subject Property along which Copper runs is the street side yard.
20. The Application must satisfy the criteria of IDO Section 14-16-6-6(H)(3) as to both the portion of the fence running along the front yard and the portion of the fence running along the street side yard.
21. Based on photographs, maps and oral evidence presented by Applicant and an opponent of the Application, it appears that less than 20 percent of the properties with low-density residential development with a front yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a front yard wall or fence over 3 feet. The Application does not otherwise satisfy the requirements of IDO Section 14-16-6-6(H)(3)(a) as to the front yard wall. Therefore the Application cannot be approved as to the front yard wall, and the front yard wall must be reduced to 3 feet in height.
22. However, as to the street side yard wall, Copper is a major collector and this satisfies the requirements of IDO Section 14-16-6-6(H)(3)(a).
23. Based on evidence presented by Applicant, the proposed wall would strengthen or reinforce the architectural character of the surrounding area. Although not identical to other walls in the vicinity, the proposed wall appears to be consistent with other walls in the neighborhood and with the architecture of improvements on the Subject Property.
24. Based on evidence presented by Applicant, the proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community. The wall does not block any clear sight triangle and it provides for eyes on the street. It appears to be entirely on the Subject Property.
25. Based on evidence presented by Applicant, the design of the wall complies with any applicable standard in Section 14-16-5-7 (Walls and Fences), including, but not limited to Subsection 14-16-5-7(E)(2) (Articulation and alignment) and Subsection 14-16-5-7(E)(3) (Wall Design), and all of the following: (1) The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house; and (2) The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area. Photos and drawings in the record establish compliance with this requirement.
26. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL WITH CONDITIONS of a Permit-Wall or Fence-Major.

CONDITIONS:

- A. The front yard wall (portion running along Glorieta) must not exceed 3-feet in height.
- B. The street side yard wall (portion running along Copper) may remain at 4 feet in height.

APPEAL:

If you wish to appeal this decision, you must do so by November 20, 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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ZHE File
Zoning Enforcement