



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

J.R. & Sons Fencing, agent for Erik Yakley, requests a Variance of 3-feet to the allowed 3-foot wall height for all or a portion of Lot 26, Block G, Altura Addition, located at 3700 Hannett Ave. NE zoned R-1B. Special Exception No: **VA-2025-00175**
Project No:
Hearing Date: 01-20-26
Closing of Public Record: 01-20-26
Date of Decision: 02-04-26

On January 20, 2026, Aaliyah Leyba, agent for J.R. & Sons Fencing (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Variance of 3-feet to the maximum allowed 3-foot wall height in the front yard setback (**Application**) upon the real property located at 3700 Hannett Ave. NE. (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. This request is a Variance – ZHE to allow a proposed 6-foot wall within the front setback, for an approximately 0.17-acre subject site, legally described as Lot 26, Block G Altura Addition, located at 3700 Hannett Ave. NE, between Hermosa Dr. NE and Solano Dr. NE
2. The applicant is requesting a variance of 3-feet to the maximum allowed 3-foot wall height for a residential use in the front yard (IDO Table 5-7-1: Maximum Wall Height).
3. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
4. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
5. 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).
6. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
7. The analyses and studies listed in IDO Section 14-16-6-4(H) are not required.
8. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
9. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
10. 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). However, the evidence provided does not mention the variance request. Please see attachments page C.
11. 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).
12. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).

13. Upon the effective date of the Integrated Development Ordinance (IDO), the subject site is zoned R-1B (Residential – Single-Family Zone District).
14. Pursuant to IDO Section 14-16-5-7(D) Maximum Wall Height, the maximum height for a wall in the front yard setback is 3-feet.
15. Variance – ZHE approval is necessary in order to build a 6-foot wall in the front yard, pursuant to IDO Section 14-16-6-6(O).

The Subject Property is located in the MX-M 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.*
 2. *The Variance will not be materially contrary to the public safety, health, or welfare.*
 3. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 4. *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*
15. 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).
16. 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).
17. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, and 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, as required by Section 14-16-6-6(O)(3)(a)(1). The Subject Property is located at the corner of Hannett Ave and Hermosa Dr. This location which creates increased visibility and risk of trespass and security risks, given the large front yard and lengthy frontage along the curved front yard. The Subject Property also has an unusual shape, with a rounded front yard at the corner, reducing back to a point in a wedge. The preexisting structures are located far back on the lot, resulting in a large front yard and

extremely small backyard. These constitute special circumstances that create practical difficulties that would result from strict compliance with the minimum standards.

18. Based on evidence submitted by or on behalf of Applicant, the Variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(O)(3)(a)(2). The fence design is set back greater than 10 feet from the front property line and is unobstructive.
19. Based on evidence submitted by or on behalf of Applicant, the Variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(O)(3)(a)(3). The proposed fence is located entirely on the Subject Property, is setback substantially, and would appear to have no impact on surrounding properties of infrastructure.
20. Based on evidence submitted by or on behalf of Applicant, the Variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(O)(3)(a)(4). Applicant testified the proposed wall will be built in compliance with all IDO requirements.
21. Based on evidence submitted by or on behalf of Applicant, the Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(O)(3)(a)(5). Any smaller fence would be insufficient to provide for security and mitigation of special circumstances.
22. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Variance of 3ft. to the allowed 3 ft. wall height.

APPEAL:

If you wish to appeal this decision, you must do so by February 19, 2026 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.



Robert Lucero, Esq.

Zoning Hearing Examiner

cc: Brittany Love, Owner, 3700 Hannett Ave, NE, Albuquerque, NM 87110
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ZHE File
Zoning Enforcement