



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

Sean McCullough (Owner) & Michelle Negrette (Applicant) requests a Variance of 2 feet to the 6-foot maximum height requirement within the front setback for a barbed wire fence for Lot 1, A T & S F Railway Property 2A, B N & S F Railway CO, located at 2510 2nd St SW, zoned NR-GM (M-14) IDO Section(s): 14-16-6-6(O), 14-16-5-7(E)(1)(c)

Special Exception No: .... **VA-2026-00042**  
Project No: ..... None  
Hearing Date: ..... 05-19-26  
Closing of Public Record: 05-19-26  
Date of Decision: ..... 06-03-26

On May 19, 2026, Sean McCullough (“**Owner**”) & Michelle Negrette (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Variance of 2 feet to the 6-foot maximum Wall/Fence height requirement within the front setback of the property for a barbed wire fence (“**Application**”) located at 2510 2<sup>nd</sup> St SW. (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 2 feet to the 6-foot maximum height requirement within the front setback of the property for a barbed wire fence, 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 an 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, 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) were delivered.
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 a 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-GM zone district.
13. Therefore, a taller wall or fence on the Subject Property requires a variance 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 location of the subject property and pre-existing improvements create increased visibility and risk of trespass and security risks, which constitute special circumstances that create practical difficulties that would result from strict compliance with the minimum standards. Nearby

pedestrian corridors along railway and Rio Grande and canals increase itinerant foot traffic. An adjacent property as a railway stub that allows access from the railway right of way. All properties within approximately 1 mile of the Subject Property have tall, barbed wire fences within 5' of the property boundary. There are no sidewalks in the area and the Subject Property is located over 1 mile to the nearest cross street.

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 not inconsistent with other fences in the area or the character of the neighborhood, and barbed wire is high enough to mitigate against any potential risk.
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 fence provides for security and views of the street and traffic.
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 negative circumstances.
22. The City Traffic Engineer submitted a report stating no objection to the Application.

#### DECISION:

APPROVAL of a Variance of 2 feet to the 6-foot maximum height requirement

#### APPEAL:

If you wish to appeal this decision, you must do so by June 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.

**THIS NOTICE OF DECISION DOES NOT CONSTITUTE APPROVAL OF PLANS FOR A BUILDING PERMIT.**

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc: (Owner) Sean McCullough  
[mackrecovery1@gmail.com](mailto:mackrecovery1@gmail.com)  
PO BOX 50381 Albuquerque, NM 87181

(Applicant) Michelle Allison  
[stratadesign.nm@gmail.com](mailto:stratadesign.nm@gmail.com)  
711 Amherst Se Albuquerque, NM 87106

(Agent) Michelle Negrette  
[stratadesign.nm@gmail.com](mailto:stratadesign.nm@gmail.com)

ZHE File  
Zoning Enforcement