



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

Magdalena Solis requests a Variance from the 5-foot maximum height for view fencing for Lot 9, Block 30, Waggoman & Denison Addition, located at 432 General Chennault ST NE, zoned R-1

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|---------------------------|-----------------------|
| Special Exception No:     | <b>VA-2026-00078</b>  |
| Project No:               | <b>PR-2026-000084</b> |
| Hearing Date:             | <b>08-18-2026</b>     |
| Closing of Public Record: | <b>08-18-2026</b>     |
| Date of Decision:         | <b>09-02-2026</b>     |

On August 18, 2026, Magdalena Solis (“Applicant”) was scheduled to appear before the Zoning Hearing Examiner (the “ZHE”) requesting a Variance from the 5-foot maximum height for view fencing (“Application”) upon the real property located at 432 General Chennault ST NE (the “Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance from the 5-foot maximum height for view fencing 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 IDO Section 14-16-6-4(D).
3. Applicant was not required to offer any meeting to Indian Nations, Tribes, and Pueblos before filing the Application pursuant to IDO Section 14-16-6-4(B) and Table 6-1-1.
4. The Application was deemed complete and was set for a public hearing.
5. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I). The agency-comment exhibit reports that Transportation completed its review without comments and that Historic Preservation had no objection because the Subject Property is not historic.
6. The Subject Property is Lot 9, Block 30, Waggoman & Denison Addition, located at 432 General Chennault ST NE in the R-1 zone district.
7. Applicant’s signed variance justification requests 1 foot 3 inches above the 5-foot maximum height for a 6-foot-3-inch view fence. Photographs in the record show a white, open-grid metal fence along the front of the Subject Property, while the submitted site plan labels several posts at 7 feet 6 inches.
8. Table 5-7-2 allows view fencing at most 50 percent opaque to reach a maximum height of 5 feet when located less than 10 feet from the lot line abutting the street. A wall taller than allowed by Table 5-7-2 requires a Variance pursuant to IDO Sections 14-16-5-7(D)(1)(b), 14-16-6-6(H)(1)(b)2, and 14-16-6-6(O). The ZHE therefore has jurisdiction to decide the Application.
9. IDO Section 14-16-6-6(O)(3)(a) (Review and Decision Criteria - Variance - ZHE) 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.”*

10. 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).
11. 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).
12. The evidence does not establish the criterion in IDO Section 14-16-6-6(O)(3)(a)1. Applicant’s signed justification identifies the contractor’s failure to obtain a permit, planning and construction undertaken by Applicant’s former husband, Applicant’s resulting responsibility to correct the work, and personal security concerns. Those circumstances concern the construction and personal circumstances, not a special circumstance of this single lot arising from its size, shape, topography, location, surroundings, physical characteristics, natural forces, or uncompensated government action. The record also does not establish that strict compliance with the 5-foot maximum would substantially and unjustifiably limit reasonable use or economic return, or create a practical difficulty attributable to the lot.
13. The evidence establishes the criterion in IDO Section 14-16-6-6(O)(3)(a)2. Applicant’s signed justification states that the fence will not interfere with public access, traffic visibility, drainage, or neighboring properties. The open-grid fence shown in the record photographs and Transportation’s completed review without comments support a finding that the requested Variance would not be materially contrary to public safety, health, or welfare.
14. The evidence establishes the criterion in IDO Section 14-16-6-6(O)(3)(a)3. Applicant’s signed justification states that the fence will remain within the property boundaries and will not interfere with drainage, utilities, access, or public infrastructure. The record photographs show an open-grid design, and the agency-comment exhibit reports no Transportation comments and no Historic Preservation objection.
15. The evidence does not establish the criterion in IDO Section 14-16-6-6(O)(3)(a)4. Applicant states only that the request is minimal and maintains the overall intent of the zoning regulations. The record provides no analysis explaining how a fence exceeding the 5-foot maximum in Table 5-7-2 would avoid materially undermining the IDO’s wall-height standards, and the stated 6-foot-3-inch height is inconsistent with the site plan labels showing posts at 7 feet 6 inches.

16. The evidence does not establish the criterion in IDO Section 14-16-6-6(O)(3)(a)5. Applicant states that the fence is needed for security, privacy, property protection, and visual appeal, but provides no analysis showing why a fence complying with the 5-foot maximum would be inadequate or why 1 foot 3 inches of additional height is the minimum necessary. The conflicting 6-foot-3-inch description and 7-foot-6-inch post labels further prevent a finding that the requested Variance is the minimum necessary.
17. Because all criteria in IDO Section 14-16-6-6(O)(3)(a) must be met and the evidence does not establish Subsections (a)1, (a)4, or (a)5, Applicant has not carried the burden imposed by IDO Sections 14-16-6-4(E)(3)-(4).

DECISION:

DENIAL of a Variance.

APPEAL:

If you wish to appeal this decision, you must do so by September 17, 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.



Robert Lucero, Esq.,  
Zoning Hearing Examiner

cc: Magdalena Solis; ZHE File; Zoning Enforcement