

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
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ZONING HEARING EXAMINER
NOTICE OF DECISION

Special Exception Number: VA-2026-00129

Project Number: PR-2026-000157

Hearing Date: 09-15-26

Closing of Public Record: 09-15-26

Date of Decision: 09-30-26

Case Description: Steve Dettmer (Owner) requests a Variance to the side rear setback for 2 Rancho Guadalupe (Replat of Tracts 1B,30,31,32,33,114A,114B1,113,114B3 & Westerly Portion of TR 1 MRGCD Property Maps 31 & 32) Continuous, located at 1508 Douglas Macarthur Dr NW, zoned R-A (F-14) IDO §14-16-5-11(C)(4)(e)

On September 15, 2026, Steve Dettmer (“Applicant”) was scheduled to appear before the Zoning Hearing Examiner (the “ZHE”) requesting a Variance of 5 feet to the width of the rear or side yard passage (“Application”) upon the real property located at 1508 Douglas Macarthur Drive NW (the “Subject Property”). Below are the ZHE’s findings of fact and decision.

FINDINGS:

1. Applicant requests a rear- and side-yard Variance under IDO § 14-16-5-11(C)(4)(e) and § 14-16-6-6(O) for the existing approximately 900-square-foot prefabricated metal storage shed on the Subject Property. (Application; Special Exception Referral Sheet; Applicant’s written justification; Exhibit B; Applicant testimony.)
2. The Subject Property is Lot 2, Rancho Guadalupe (Replat of Tracts 1B, 30, 31, 32, 33, 114A, 114B1, 113, 114B3 & Westerly Portion of Tract 1, MRGCD Property Maps 31 & 32), is located at 1508 Douglas MacArthur Dr NW, and is zoned R-A. (Application; Integrated Land Records information attached to the application materials.)
3. The Special Exception Referral Sheet identifies Steven Dettmer and Doris Sandoval-Dettmer as the property owners and lists the agent as “Same As Above.” Steve Dettmer filed and

appeared as the Applicant, and no separate non-owner agent appeared. The Application and Applicant's testimony establish Applicant's authority to pursue the Application pursuant to IDO § 14-16-6-4(D). (Special Exception Referral Sheet; Applicant testimony.)

4. The Planning Director's designee determined the Application complete on August 3, 2026, pursuant to IDO § 14-16-6-4(G). (Special Exception Referral Sheet.)
5. The Application was referred to commenting agencies pursuant to IDO § 14-16-6-4(I). The Transportation review submitted no comments, and the External Reviewer and Historic Preservation reviews were approved. The zoning map identifies the property immediately north of the Subject Property as NR-PO-A, not NR-PO-B or City-managed NR-PO-C Major Public Open Space; therefore, the referral in IDO § 14-16-6-6(O)(2)(c) was not required. (Agency comments; staff report and zoning map.)
6. The application record contains neighborhood-association email notice, mailed property-owner notice, and posted-sign notice materials. The general public-notice form states a September 17, 2026 hearing date and identifies IDO § 14-16-5-1(C)(4)(b), although the Application was accepted and heard on September 15, 2026 under IDO § 14-16-5-11(C)(4)(e). The same form identifies the request as a setback variance, and Applicant testified that notice of the September 15, 2026 hearing was timely and correctly provided. Substantial evidence in the record demonstrates that the content and methods of notice satisfied IDO § 14-16-6-4(J)(1) through (4), and the ZHE finds that the inconsistent date and subsection on the form were clerical discrepancies that did not prevent fair notice of the Application. (Public-notice form; neighborhood-association email, property-owner mailing, and posted-sign notice documents; Applicant testimony.)
7. IDO § 14-16-5-11(C)(4)(d) provides that, unless otherwise specified in the IDO, an accessory building has no required setback from a lot line. IDO § 14-16-5-11(C)(4)(e), however, prohibits an accessory building from extending across the width of a rear or side yard unless a passage of at least 5 feet is provided at some point along the width. The accepted Special Exception Referral Sheet cites subsection (e) and describes the request as a variance to the side and rear setback. Applicant's written justification and neighborhood notice describe the request as setback relief for the existing shed, and Exhibit B depicts clearances of less than 5 feet along the rear and side property lines. Applicant's testimony confirmed that the requested relief is limited to the shed's existing rear- and side-yard placement. The Application therefore requires a Variance – ZHE from the rear- and side-yard placement standard in IDO § 14-16-5-11(C)(4)(e), pursuant to IDO § 14-16-6-6(O). (Special Exception Referral Sheet; Applicant's written justification and neighborhood notice; Exhibit B; Applicant testimony.)
8. The shed is detached from and smaller than the primary residence, is used for storage incidental to the residential use, and is intended for the use of the residents and their invited guests. It is therefore an "Accessory Building" and an accessory use to a primary residential use under the IDO definition and IDO § 14-16-4-3(F)(18). (Application narrative and photographs; Applicant testimony.)
9. The primary residential use and residence were established before the accessory use and shed. The record includes evidence of the existing primary residence, satisfying IDO § 14-16-4-3(F)(1)(c) and (d). (Application materials, site photographs, Integrated Land Records information, and Applicant testimony.)

10. The shed is not located in a required front setback, and substantial evidence establishes that the combined area of accessory buildings does not exceed 25 percent of the combined area of the side and rear yards, as required by IDO § 14-16-5-11(C)(4)(a). (Site plan and photographs; Applicant testimony.)
11. The shed does not exceed the height of the primary residence and does not violate an applicable height limitation in IDO § 14-16-5-10, satisfying IDO § 14-16-5-11(C)(4)(b). (Application photographs; Applicant testimony.)
12. The corner-lot circumstance described in IDO § 14-16-5-11(C)(4)(c) does not apply. The shed is detached and is not connected to the principal building by a roof, so IDO § 14-16-5-11(C)(4)(f) does not apply. (Site plan, photographs, and Applicant testimony.)
13. The evidence does not establish final compliance of the existing shed or associated electrical work with the technical codes referenced in IDO § 14-16-5-11(C)(4)(g), or with the Fire Code setback requirement preserved by IDO § 14-16-5-1(B)(4). Those matters do not supply the dimensional relief requested and are addressed by Conditions 2 and 3. (Application materials; Applicant testimony; Opposition letter of Terry Brunner dated September 9, 2026, pp. 1 and 3-4.)
14. Under IDO § 14-16-6-4(M)(1), the decision-maker may approve an application only if the Applicant's justification is sound based on substantial evidence. Applicant's written justification, site plan, photographs, and hearing testimony provide a sound and substantial evidentiary basis for approval subject to the conditions below.
15. Under IDO § 14-16-6-4(M)(2), an application governed by specific review and decision criteria may be approved only if those criteria are met. Findings 21 through 25 below establish compliance with each criterion in IDO § 14-16-6-6(O)(3)(a).
16. IDO § 14-16-6-4(M)(3) applies only where the IDO does not list additional or more specific criteria. Because IDO § 14-16-6-6(O)(3)(a) supplies specific criteria for this Variance, IDO § 14-16-6-4(M)(3) is not independently applicable.
17. The opposition letter alleges that the shed was constructed with unpermitted electrical work and presents photographs depicting exterior wiring or conduit and the later covering of that work. IDO § 14-16-6-4(M)(4)(a) permits, but does not require, denial when an applicant has not complied with applicable law. The ZHE exercises that discretion by requiring, through Conditions 2 and 3, all necessary permits, corrections, inspections, and demonstrated clearances before the shed may continue to be used in reliance on this Variance. This decision does not approve or legalize unpermitted construction or electrical work. (Opposition letter of Terry Brunner dated September 9, 2026, pp. 1 and 3-4; Applicant testimony; Conditions 2 and 3.)
18. **IDO § 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."*
19. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO § 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 § 14-16-6-4(E)(4).
 21. The criterion in IDO § 14-16-6-6(O)(3)(a)(1) is met. The application site materials and Applicant's testimony establish that this single lot has an elongated, irregular configuration and an angled property line, together with an existing residence and fixed access, driveway, parking, and other improvements that constrain placement of an accessory storage building while complying with the cited rear- and side-yard placement standard. Mr. Brunner's opposition letter and photographs show that trees were removed when the shed was installed, and the ZHE therefore does not treat preservation of those removable trees as a special circumstance. The opposition letter's annotated Improvement Location Report identifies colored areas as possible alternatives, but it does not show proposed shed footprints, dimensioned clearances demonstrating compliance with IDO § 14-16-5-11(C)(4)(e), access effects, or the feasibility of placing the approximately 900-square-foot shed in those areas; the document also states on its face that it is not a survey for use by a property owner. Applicant's testimony concerning the lot configuration and fixed improvements establishes practical difficulties resulting from strict compliance that are not created merely by the selected landscaping. (Application site sketch and Improvement Location Report; application photographs and written justification; Opposition letter of Terry Brunner dated September 9, 2026, pp. 1-3 and 5; Applicant testimony.)
 22. The criterion in IDO § 14-16-6-6(O)(3)(a)(2) is met, subject to Conditions 2 and 3. The application materials and testimony establish that the shed is a pre-engineered metal building on a concrete foundation, is located on the Subject Property, and does not obstruct a street, sidewalk, or identified emergency-access route. The Transportation review submitted no comments. Mr. Brunner's letter alleges unpermitted and improperly insulated electrical work and a resulting fire risk; the accompanying photographs depict the exterior condition of the shed, wiring or conduit, and the later covering of that work. These safety concerns are addressed by prohibiting continued use in reliance on the Variance until all necessary permits, corrections, inspections, and applicable clearances have been completed as required by Conditions 2 and 3. The Variance as conditioned will not be materially contrary to public safety, health, or welfare. (Application materials and photographs; agency comments; Opposition letter of Terry Brunner dated September 9, 2026, pp. 1 and 3-4; Applicant testimony.)
 23. The criterion in IDO § 14-16-6-6(O)(3)(a)(3) is met, subject to the conditions below. Mr. Brunner's opposition letter states that the shed obstructs views from the first and second floors and reduces enjoyment of the adjoining property, and a photograph taken from that property shows the upper portion of the shed visible above the block wall. The application

site plan, photographs, and testimony establish that the shed is entirely on the Subject Property, is accessory to the existing residence, and is screened at its lower portion by the block wall. Substantial evidence in the record also demonstrates that the Variance will not cause a significant material adverse impact on streets, utilities, drainage facilities, or other infrastructure. Considering the documented extent of the view effect, the existing wall screening, and the residential accessory use, the ZHE finds that the effect shown does not rise to a significant material adverse impact under IDO § 14-16-6-6(O)(3)(a)(3). The electrical and fire-safety concerns are separately addressed by Conditions 2 and 3.

(Application site plan and photographs; Opposition letter of Terry Brunner dated September 9, 2026, pp. 1 and 4; Applicant testimony.)

24. The criterion in IDO § 14-16-6-6(O)(3)(a)(4) is met. Substantial evidence in the record demonstrates that the shed is used for storage customarily incidental to the existing residence. The application zoning information and hearing testimony establish that no applicable Overlay Zone standard is affected. Limiting the approval to the existing building, footprint, location, and rear- and side-yard placement shown on the accepted final permit plan, and requiring technical-code compliance, prevents the Variance from materially undermining the IDO or the R-A zone district. (Application materials and zoning information; Applicant testimony; Conditions 1 through 4.)
25. The criterion in IDO § 14-16-6-6(O)(3)(a)(5) is met, subject to Conditions 1 and 3. The opposition letter's annotated Improvement Location Report identifies colored areas as possible alternative locations. As described in Finding 21, those annotations do not depict a dimensioned proposed shed footprint, clearances demonstrating compliance with IDO § 14-16-5-11(C)(4)(e), or access effects. The application site materials and Applicant's testimony establish the constraints created by the irregular lot configuration and fixed improvements. The approval is limited to the existing shed in substantially the same size, footprint, and location shown in the record and to the precise rear- and side-yard placement documented on the final permit plan; it does not authorize enlargement, relocation closer to a property line or building, or any additional dimensional relief. The relief approved is therefore the minimum necessary to address the established practical difficulties. (Application site sketch, Exhibit B, and Improvement Location Report; Opposition letter of Terry Brunner dated September 9, 2026, p. 5; Applicant testimony.)
26. Condition 1 is supported by Findings 7, 21, 23, 24, and 25 and is necessary to confine the Variance to the existing shed and the minimum dimensional relief established by the record.
27. Condition 2 is supported by Findings 13, 17, 22, 23, and 24 and is necessary because the record does not establish final compliance with building, electrical, fire, and other technical-code requirements.
28. Condition 3 is supported by Findings 7, 13, 22, and 25 and is necessary to document the precise rear and side property-line distances and applicable safety clearances before the Variance is utilized.
29. Condition 4 is supported by Findings 23 through 25 and is necessary to prevent this approval from authorizing a future replacement, reconstruction, relocation, or material expansion beyond the minimum relief established in this record.

DECISION:

APPROVAL WITH CONDITIONS of the requested rear- and side-yard Variance under IDO § 14-16-5-11(C)(4)(e) for the existing accessory building on Lot 2, Rancho Guadalupe, located at 1508 Douglas MacArthur Dr NW.

CONDITIONS OF APPROVAL:

1. This approval is limited to the existing prefabricated metal storage shed in substantially the same size, footprint, and location shown in Exhibit B and in the final dimensioned permit plan. The shed shall not be enlarged, moved closer to any property line or building, or altered to increase the rear- or side-yard placement relief approved by this decision without any additional approval required by the IDO.
2. Before the shed may continue to be used in reliance on this Variance, Applicant shall obtain all required building and electrical permits and shall complete all corrections and inspections required by Building Safety, the Fire Marshal, or any other authority having jurisdiction. No electrical installation serving the shed may be energized or used until the authority having jurisdiction authorizes that use. This Variance does not approve or legalize unpermitted construction or electrical work.
3. The final permit plan shall identify the exact distances between the shed, the rear and side property lines, walls, and the primary residence. The Variance is limited to the rear- and side-yard placement shown on that accepted final plan, and all applicable Fire Code clearances remain required.
4. Any replacement, reconstruction, relocation, or material expansion of the shed shall comply with the IDO in effect at that time unless separately approved through the applicable procedure.

APPEAL:

If you wish to appeal this decision, you must do so by October 15, 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.



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ZHE File; Zoning Enforcement

