CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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ZONING HEARING EXAMINER
NOTICE OF DECISION

Special Exception Number: VA-2026- 00147

Project Number: PR-2026-000160

Hearing Date: October 20, 2026

Closing of Public Record: October 20, 2026

Date of Decision: November 4, 2026

Case Description: Todd Strickland, 2500 Jefferson LLC (Owner) & Ryan Bogue (Applicant) request a Variance of 5 feet to the required 5-foot setback, for Lot 13B, Block 3, Chavez – Tomoteo Addition, located at 2500 Jefferson St NE, zoned NR-C (H-17) IDO Section 14-16-5-7(D)(3)(a)(2)

On October 20, 2026, Todd Strickland ("Applicant") was scheduled to appear before the Zoning Hearing Examiner ("ZHE") requesting a Variance of 5 feet to the required 5-foot setback for a fence taller than 3 feet in an NR-C zone district ("Application") upon the real property located at 2500 Jefferson St NE ("Subject Property"). Below are the ZHE's findings of fact and decision.

FINDINGS:

1. Applicant is requesting a Variance of 5 feet to the required 5-foot setback for a fence taller than 3 feet in an NR-C zone district, 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 Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
6. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).

7. According to the Office of Neighborhood Coordination, no listed neighborhood associations within 660 feet of the Subject Property were identified as requiring notice pursuant to IDO Section 14-16-6-4(J)(2).
8. Applicant has provided evidence that they 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).
9. Applicant has provided evidence that they posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
10. The Subject Property is located in an NR-C zone district, in which the maximum wall height in any front or street side yard is 6 feet if the wall is set back at least 5 feet from the property line and if view fencing that is at most 50 percent opaque to perpendicular view is used for portions of a wall above 3 feet. The applicable dimensional standard is IDO Section 14-16-5-7(D)(3)(d), rather than the low-density residential provision cited in the case description.
11. The Applicant is requesting to place the wall on the property line of the subject site due to constraints posed by the existing lot configuration.
12. Therefore, a Variance of 5 feet to the required 5-foot setback on the Subject Property requires a Variance - ZHE Approval pursuant to IDO Subsection 14-16-6-6(O).
13. 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."*
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. In order to be approved, the Application must also meet the general review and decision criteria in IDO Subsection 14-16-6-4(M).
17. Applicant appeared at the October 20, 2026 ZHE hearing on the Application and gave evidence in support of the Application.

18. Based on evidence submitted by or on behalf of Applicant, substantial evidence in the record demonstrates 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 district and vicinity, resulting in practical difficulties from strict compliance with the required setback, as required by IDO Section 14-16-6-6(O)(3)(a)(1). The approximately 0.3666-acre commercial corner parcel is already developed with buildings, paved circulation, a driveway, and a gate approach. The Applicant's justification and site plan establish that moving the fence inward 5 feet would interfere with vehicle circulation and the functional use of that existing configuration. The finding rests on these combined existing physical constraints, rather than corner-lot status or a preferred fence design alone. This criterion is met.
19. Based on evidence submitted by or on behalf of Applicant, substantial evidence in the record demonstrates that the Variance, as conditioned, will not be materially contrary to the public safety, health, or welfare, as required by IDO Section 14-16-6-6(O)(3)(a)(2). The open ornamental design preserves visibility and natural surveillance. The gate plan provides for a slide gate open during business hours, a Knox Box, and exit and safety loops. The Transportation engineer stated no objection, and the case record identifies preservation of the corner clear sight triangle. Limiting the fence to 6 feet and requiring view fencing above 3 feet preserve the height and visibility protections supporting this finding. This criterion is met with the conditions below.
20. Based on evidence submitted by or on behalf of Applicant, substantial evidence in the record demonstrates that the Variance, as conditioned, does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity, as required by IDO Section 14-16-6-6(O)(3)(a)(3). The Applicant's justification describes fencing on the surveyed perimeter, with posts within the Subject Property, and no expansion of the existing use, floor area, traffic generation, or infrastructure demand. The open design preserves visibility and light. This finding does not determine that all utility or easement clearances have been independently verified or authorize any encroachment prohibited by IDO Section 14-16-5-7(C)(2). This criterion is met with the conditions below.
21. Based on evidence submitted by or on behalf of Applicant, substantial evidence in the record demonstrates that the Variance, as conditioned, will not materially undermine the intent and purpose of the IDO, the applicable zone district, or any applicable Overlay Zone, as required by IDO Section 14-16-6-6(O)(3)(a)(4). Property-line placement accommodates the existing developed site and circulation. A maximum height of 6 feet, with view fencing above 3 feet, retains visibility and an open streetscape consistent with the purposes of IDO Section 14-16-5-7(A) and the NR-C wall standard in Section 14-16-5-7(D)(3)(d). The record identifies no applicable Overlay Zone. This criterion is met with the conditions below.
22. Based on evidence submitted by or on behalf of Applicant, substantial evidence in the record demonstrates that the Variance approved is the minimum necessary to avoid practical difficulties, as required by IDO Section 14-16-6-6(O)(3)(a)(5). The Applicant's justification and site plan show that property-line placement preserves the existing paved circulation, driveway operation, and gate approach that an inward shift would interfere with. Relief is limited to the proposed perimeter alignment and does

not authorize additional height or relief from transparency requirements. This criterion is met.

23. The Transportation engineer stated no objection to the fence, as documented in the record.
24. The height and view-fencing conditions below are necessary to preserve the safety, visibility, and streetscape characteristics supporting the approval findings. IDO Section 14-16-5-7(D)(3)(d) requires view fencing no more than 50 percent opaque to perpendicular view above 3 feet. The proposed open ornamental steel design supports compliance with the material and distributed-opening standards in IDO Sections 14-16-5-7(E)(1)(b) and 14-16-5-7(E)(3)(a). No precise opacity percentage is adopted because the written materials differ as to clear versus on-center picket spacing. The additional over-height articulation requirements of Section 14-16-5-7(E)(2) do not apply to the conditioned 6-foot design solely because setback relief is granted. The approval does not waive applicable location, access, easement, or right-of-way requirements in Section 14-16-5-7(C).
25. The conditioned Application provides a sound justification based on substantial evidence and meets all five specific variance criteria, satisfying IDO Sections 14-16-6-4(M)(1) and (2).

DECISION:

APPROVAL WITH CONDITIONS of a Variance of 5 feet to the required 5-foot setback from the property line for a fence taller than 3 feet in an NR-C zone district upon the real property located at 2500 Jefferson St NE. This approval is limited to the proposed fence alignment at a maximum height of 6 feet and does not authorize the 8-foot height denied in VA-2026-00146.

CONDITIONS:

1. The wall/fence shall not exceed 6 feet in height.

2. All portions of the wall/fence exceeding 3 feet in height shall be view fencing no more than 50 percent opaque to perpendicular view, consistent with IDO Section 14-16-5-7(D)(3)(d).

APPEAL:

If you wish to appeal this decision, you must do so by November 19, 2026pursuant 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