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

Special Exception Number: VA-2026-00119

Project Number: None

Hearing Date: 10-20-26

Closing of Public Record: 10-20-26

Date of Decision: 11-04-26

Case Description: Sylvia Perea Trujillo ("**Owner**") requests a Variance to the allowed encroachment of 3 feet for a shade structure for Lot 9, Block C, Sunrise Terrace UNIT 6, located at 819 Tanager Dr SW, zoned R-1 (L 08) IDO Section 14-16-5-5(F)(2)(a)(3), 14-16-5-1(G), Table 5-1-4.

On October 20, 2026, Sylvia Perea Trujillo ("**Owner**") was scheduled to appear before the Zoning Hearing Examiner ("**ZHE**") requesting a Variance of 3 feet to the allowable 3-foot encroachment for a Shade Structure to be built into a side or rear setback of the property ("**Application**") upon the real property located at 819 Tanager Dr SW ("**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 3 feet to the allowed 3-foot encroachment for an existing Shade Structure on the side lot line of the property pursuant to the 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 not duly authorized an Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete as of August 28, 2026 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. 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).
8. 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).
9. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
10. The Subject Property is located at 819 Tanager Dr SW in the R-1 zone district. The existing accessory structure on the property does not meet the 3-foot allowable encroachment pursuant to IDO Section 14-16- 5-1(G) (Table 5-1-4), which states that a Shade Structure may be built into a required side or rear setback, but not closer than 3-feet from any lot line pursuant to the encroachment provision.
11. Therefore, this request necessitates approval for a Variance of an accessory structure to be situated on the side lot line of the Subject Property pursuant to IDO Subsection 14-16-6-6(O)(3).
12. *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."*

13. 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).
14. 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).
15. In order to be approved, the Application must also meet the general review and decision criteria in IDO Subsection 14-16-6-4(M).

16. Applicant appeared at the October 20, 2026 ZHE hearing on the Application and gave evidence in support of the Application.
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 pre-existing structures and conditions of the Subject Property create special circumstances under which practical difficulties 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). No safety, health or welfare concerns are implicated in the record.
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 variance requested does not impose upon neighboring properties, as all improvements are located on the Subject Property.
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). The development of the property is consistent with the IDO and the Application merely seeks to allow a reasonable residential use consistent with the purposes of the underlying zone district.
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). Applicant requests only the minimum required to accommodate the reasonable use of the Subject Property, because practical difficulties would result from any smaller variance.
22. The City Traffic Engineer and Historical Preservation staff submitted reports stating no objection to the Application.

DECISION:

APPROVAL of VA-2026-00119 of a Variance of 3 feet to the allowed 3-foot encroachment to place a Shade Structure on the side lot line of the subject property for Lot 9, Block C, Sunrise Terrace UNIT 6, located at 819 Tanager Dr SW.

APPEAL:

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



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Zoning Hearing Examiner

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ZHE File
Zoning Enforcement