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

Special Exception Number: VA-2026-00139

Project Number: PR-2026-000167

Hearing Date: 10-20-2026

Closing of Public Record: 10-20-2026

Date of Decision: 11-04-2026

Case Description: Alexander Davis ("Owner") & Stephani Pimentel ("Applicant") request a Variance for view fencing above the allowed 3-foot Wall/Fence height in the front and side setback of the property for Lot 2, Block 10, Broadmoor Addition, located at 4207 Marquette Ave NE, zoned R-1 (K-17) § IDO 14-16-6-6(O), Table 5-7-2

On October 20, 2026, Alexander Davis ("**Owner**") & Stephani Pimentel ("**Applicant**") were scheduled to appear before the Zoning Hearing Examiner ("**ZHE**") requesting a Variance to opacity requirements for fencing above the allowed 3-foot Wall/Fence height on the front setback of the property for an existing 5-foot CMU block wall. ("Application") upon the real property located at 4207 Marquette Ave NE ("**Subject Property**"). Below are the ZHE's findings of fact and decision.

FINDINGS, VARIANCE TO OPAQUE FENCING:

1. Applicant is requesting a Variance to the 50-percent opacity requirement for view fencing above the allowed 3-foot Wall/Fence height in the front and side setback of the property for an existing 5-foot-tall Wall/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 not 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 as of September 24, 2026, pursuant to IDO Section 14-16-6-4(G).
5. The Application was forwarded to commenting agencies pursuant to IDO § 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).
    a. 9. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located at 4207 Marquette Ave NE in the R-1 zone district.
10. For low-density residential development, IDO § 14-16-5-7(D)(3)(a)2 allows a 5-foot wall less than 10 feet from the property line if a Permit – Wall or Fence – Major is approved, and view fencing is used for the portion of the wall above 3 feet. The existing 5-foot-tall wall/fence on the subject property fails to comply with the exceptions to the maximum wall height in Table 5-7-2 where the existing wall/fence is solid, not of at most 50% opacity.
11. Therefore, in addition to a Permit – Wall or Fence – Major, this application requires a Variance-ZHE approval pursuant to IDO §14-16-6-6(O).
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. The Application does not meet IDO § 14-16-6-6(O)(3)(a)(1). The purposes offered for the opaque wall are security, privacy, and a unified enclosure. Those purposes do not establish a special, non-self-imposed circumstance of this lot that causes an extraordinary hardship or practical difficulty from compliance with the upper-view-fencing requirement. The record reflects repair of a lower wall followed by a decision to increase its height; that choice does not itself establish a qualifying circumstance of the lot. The required causal connection between a lot-specific circumstance and the need for the requested opacity exception has not been established.
18. Regarding IDO § 14-16-6-6(O)(3)(a)(2), applicant asserts no adverse impacts would result, but Transportation objects that the wall violates clear sight triangle requirements and , as such, poses a safety risk. The neighborhood association also raises driveway-visibility concerns.
19. Regarding IDO § 14-16-6-6(O)(3)(a)(3), Applicant states that the variance would not cause significant adverse impacts, while the neighborhood association identifies potential neighboring-driveway and right-of-way effects. The ZHE does not find actual right-of-way encroachment or significant material adverse impacts from those unresolved descriptions alone and does not rely on this criterion as an independent ground of denial.
20. The Application does not meet IDO § 14-16-6-6(O)(3)(a)(4). The request retains a solid upper portion where the applicable taller-wall-Permit Major option requires visual transparency. At this entrance, Transportation specifically calls for transparency beside the driveway. Removing that function while retaining the fully opaque design would materially undermine the openness and surveillance function of the upper-fencing requirement and the streetscape and neighborhood-character purposes in IDO § 14-16-5-7(A).
21. The Application does not meet IDO § 14-16-6-6(O)(3)(a)(5). The stated privacy, security, and enclosure purposes do not establish why the entire requested opaque upper portion is the minimum relief needed to address a qualifying hardship or practical difficulty. The required view-fencing option provides a taller enclosure, and the showing does not establish why that option or a narrower exception would be inadequate. The existence of the completed wall does not establish minimum necessity.
22. Under IDO § 14-16-6-4(M)(1) and (2), approval requires a sound justification based on substantial evidence and satisfaction of all specific variance criteria. The Application's failure to satisfy all variance requirements results in denial of the Application.

DECISION:

DENIAL of Project #: PR-2026-000167, VA-2026-00139, a Variance for view fencing above the allowed 3-foot Wall/Fence height in the front and side setback of the property for Lot 2, Block 10, Broadmoor Addition, located at 4207 Marquette Ave NE.

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.



Robert Lucero, Esq.
Zoning Hearing Examiner

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("Owner") Alexander Davis
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ZHE File
Zoning Enforcement