CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 2nd Floor, Albuquerque, NM 87102
PO Box 1293, Albuquerque, NM 87103
Office (505) 924-3860

ZONING HEARING EXAMINER
NOTICE OF DECISION

Special Exception Number: VA-2026-000131

Project Number: PR-2026-000156

Hearing Date: 20 October 2026

Closing of Public Record: 20 October 2026

Date of Decision: 04 November 2026

Case Description: Maria L Gallegos (Owner) requests a Variance for Lot 2, Block 0000, MADRID-ZAMORA REDIVISION, located at 215 Montoya Rd NW, zoned R-1 (J-12) IDO β 14-16-5-7 (D)(1)

On 20 October 2026, Maria L. Gallegos ("Applicant") was scheduled to appear before the Zoning Hearing Examiner ("ZHE") requesting a Variance of 3 feet to the maximum wall height of 3 feet for a wall/fence located in a front or street side property line ("Application") upon the real property located at 215 Montoya Road NW ("Subject Property"). Below are the ZHE's findings of fact and decision.

FINDINGS, VARIANCE TO MAXIMUM WALL HEIGHT:

1. Applicant is requesting a Variance of 3 feet to the maximum wall height of 3 feet for a wall/fence located in a front or street side property line, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("IDO") § 14-16-6-6(O).
2. Applicant has authority to pursue this Application, pursuant to IDO § 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 13 August 2026, pursuant to IDO § 14-16-6-4(G).
5. The analyses and studies listed in IDO § 14-16-6-4(H) were not required.
6. The Application was referred to commenting agencies pursuant to IDO § 14-16-6-4(I).
7. The content of the notice of the Application satisfies IDO § 14-16-6-4(J)(1).
8. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for Neighborhood Associations within 660 feet as required by IDO § 14-16-6-4(J)(2).

9. Applicant has sent mailed notice to all property owners within 100 feet of the subject property as required by IDO § 14-16-6-4(J)(3).
10. Applicant has posted sign notice(s) as required by IDO § 14-16-6-4(J)(4).
11. The Subject Property is located in an R-1 zone district.
12. IDO β 14-16-5-7)D)(1), Table 5-7-1, limits the height in the front and street side yard to 3 feet in Residential zone districts.
13. 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.
14. Walls taller than 5 feet less than 10 feet from the property line also require a Variance – ZHE pursuant to IDO § 14-16-6-6(O).
15. Therefore, a 6-foot wall at the front lot line composed of wrought iron on the Subject Property requires a Variance of 3 feet to the maximum wall height of 3 feet for a wall/fence located in a front or street side property line to be reviewed and decided by the ZHE pursuant to IDO § 14-16-6-6(O).
16. IDO § 14-16-6-6(O)(3)(a) (Review and Decision Criteria) 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."*
17. 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).
18. 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).
19. Applicant appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
20. 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). Unlike interior residential lots in the same zone district, the Subject Property is located with its side yard abutting the MRGCD drainage channel, an area regularly trafficked by unhoused persons and potential trespassers onto the Subject Property. The continuous conditions create elevated safety risks, excessive noise, and reduced privacy that are not experienced by similarly zoned properties located on local or residential streets. These circumstances are not self-imposed, but rather are the result of the property's location. Strict application of the standard three-foot front wall height limitation creates a practical difficulty by preventing the installation of an effective safety barrier necessary for the reasonable use and enjoyment of the property.

21. 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). The fence design is attractive and in line with the architectural character of the neighborhood, and will enhance public safety by providing a physical barrier between the residence and the MRGCD channel, protecting children, pedestrians, and animals. The wall will be constructed consistent with IDO requirements, and will not obstruct visibility for motorists or pedestrians.
22. 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 proposed wall will be constructed entirely on private property, and will not encroach into public right-of-way or interfere with existing or planned infrastructure. The design and materials will be compatible with the surrounding area and will not negatively affect drainage, access, or utilities.
23. 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). Applicant testified the proposed wall will be built in compliance with all IDO requirements.
24. 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). Any smaller fence would be insufficient to provide for security and mitigation of negative circumstances.
25. The City Traffic Engineer stated no objection to the Application.

DECISION:

APPROVAL of a Variance of 3 feet to the maximum wall height of 3 feet for Lot 2, Block 0000, Madrid-Zamora Redivision, located at 215 Montoya Road NW.

APPEAL:

If you wish to appeal this decision, you must do so by 19 November 2026. Pursuant to IDO § 14-16-6-4-(U), you must demonstrate that you have legal standing to file an appeal.

PERIOD OF VALIDITY:

Approval of a Variance is valid for one (1) year from date of approval.

OTHER REQUIREMENTS:

THIS NOTICE OF DECISION DOES NOT CONSTITUTE APPROVAL OF PLANS FOR A BUILDING PERMIT.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. If your Application is approved, submit this Notice of Decision when you apply for any related building permit or other necessary permit.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: Applicant – Maria L. Gallengos, casa.luciag@gmail.com
ZHE File
Zoning Enforcement