

**Applicant requests Reconsideration of a Variance (Yard Setbacks) under Section 2.16.030 in an R-4 (Residential) zone.**

The request is for reconsideration of a Variance from Title 20, Zoning, Section 20.12, Density and Dimensional Standards, Yard Setback Requirements.

**BACKGROUND**

The request is for reconsideration of a previously approved application (Case # ZBA10-00025) to the Zoning Board Adjustment for a Variance from the El Paso City Code, Title 20, Zoning, Section 20.12, Density and Dimensional Standards, Yard Setback Requirements, for a new residential structure at 1233 Galloway. The ZBA previously approved a 15' front setback along Galloway and a 7' rear setback along Morrow, with 5' and 41'9" side setbacks.

The applicant is requesting to encroach an additional 2'8" into the previously approved 15 feet front yard setback on Galloway in order to accommodate an entry portico. The applicant subsequently submitted plans for permit (RSP10-01390), but the plans failed for encroachment into the approved front setback. The designer/contractor has revised the permit set of plans and is requesting an additional encroachment

**STAFF RECOMMENDATION**

Staff recommends approval of a Variance due to the odd shape of the lot with a recommendation that the front setback along Galloway be 12'4" from the property line.

The Zoning Board of Adjustment is empowered under Section 2.16.030 to:

"Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done."

**The following questions should be carefully considered in order to grant a variance:**

1. Is the variance consistent with public interest?
2. Is the need for the variance due to special conditions?
3. Would a literal enforcement of the ordinance create an unnecessary hardship?
4. Would the spirit of the ordinance be observed and substantial justice done if the variance is approved?

**Definition of Unnecessary Hardship, Section 20.02.1128**

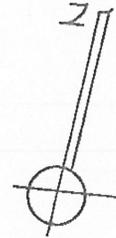
*"Unnecessary hardship" means a hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.*

## APPENDIX A: Findings – Variances

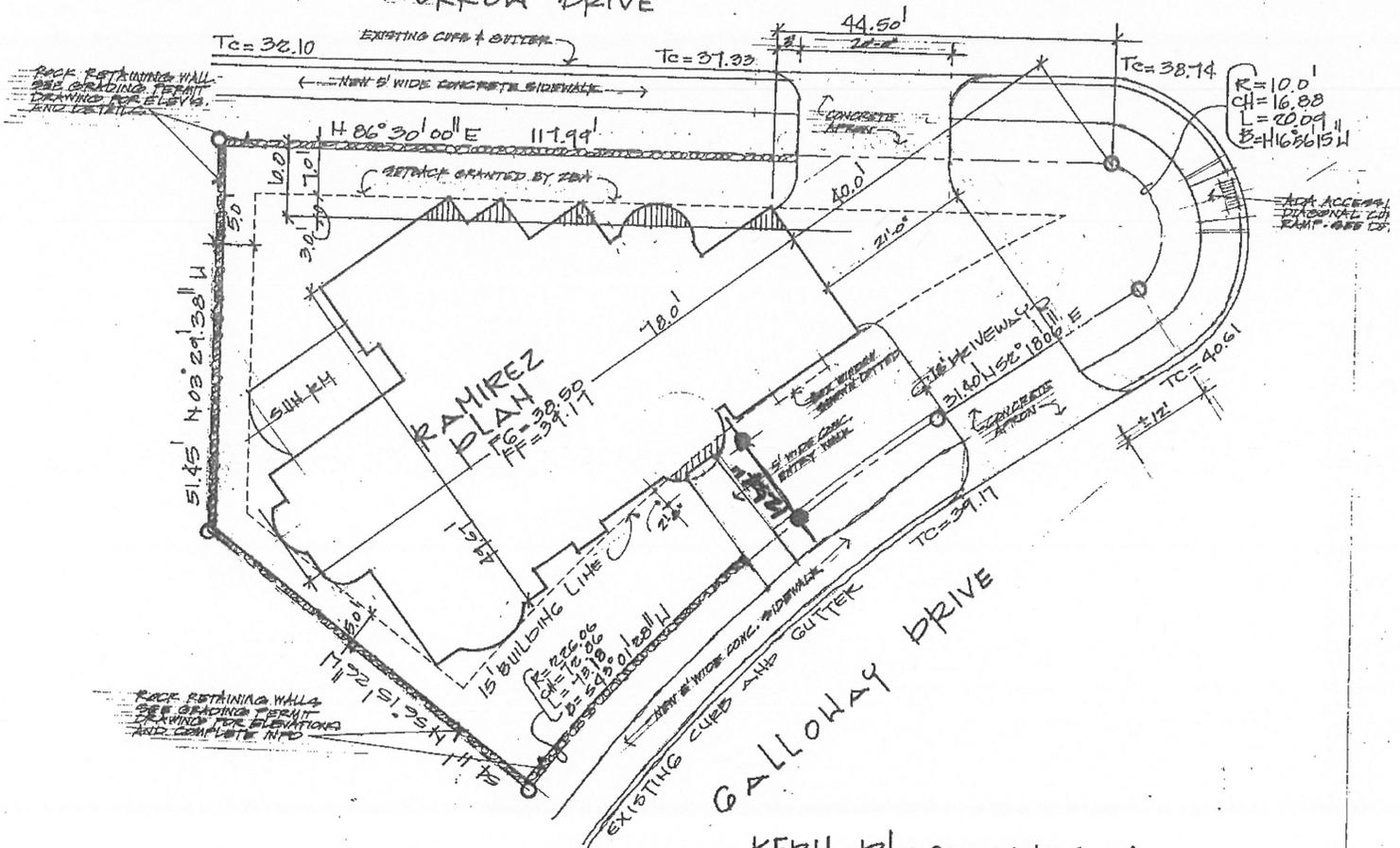
INQUIRY		FINDINGS
<p>Is the request for a variance owing to special condition inherent in the property itself?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p style="text-align: center;">↓</p>		The property is/has ... (e.g., odd-shaped, unusual topography, etc.)
<p>Is the condition one unique to the property requesting the variance?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p style="text-align: center;">↓</p>		The condition is unique to this property.
<p>Is the condition self-imposed or self-created?</p> <p>If yes, <b>STOP</b> If no, <b>PROCEED</b></p> <p style="text-align: center;">↓</p>		The condition necessitating the request was not created by the property owner.
<p>Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p style="text-align: center;">↓</p>		Strict enforcement of the zoning ordinance would impose a hardship above that suffered by the general public.
<p>Will the hardship prevent any reasonable use whatsoever?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p style="text-align: center;">↓</p>		Without the grant of the requested variance, the property owner would be deprived of the right to use his property. Financial considerations alone cannot satisfy this requirement.
<p>Would the grant of the variance be contrary to public interest?</p> <p>If yes, <b>STOP</b> If no, <b>CONTINUE</b></p> <p style="text-align: center;">↓</p>		
<p>Is the request within the spirit of the ordinance and does it further substantial justice?</p> <p>If yes, <b>CONTINUE</b> If no, <b>STOP</b></p> <p style="text-align: center;">↓</p>		

SITE PLAN

SC. 1" = 10.0'



MORROW DRIVE



KERN PLACE ADDITION  
 LOT-7 BLOCK (48)  
 CITY OF EL PASO - EL PASO COUNTY, TX.

PLOT PLAN - 1233 GALLOWAY

1" = 10'

THIS DRAWING IS FOR DIMENSIONAL INFORMATION AND LOCATION OF NEW RESIDENCE; SETBACK STANDARDS FROM ZBA, SIDEWALK & DRIVEWAY LOCATIONS, ADA COMPLIANCE, ETC.  
 FOR SITE INFORMATION (TERMINUS, ELEVATIONS, ETC) REFER TO GRADING PERMIT DRAWINGS & DETAILS.







ZONING BOARD OF ADJUSTMENT

September 13, 2010

Maria L. Ramirez

1235 (1233) Galloway Drive

Legal Description: Lot 7, Block 48, Kern Place, City of El Paso, El Paso County, Texas

**Case# ZBA10-00025:** The request is for a Variance from Title 20, Zoning, Section 20.12, Density and Dimensional Standards, Yard Setback Requirements. The required front and rear yard setback cumulative total is 45 feet; the required side street setback is 10 feet; and, the required side yard setback is 5 feet in the R-4 zone district.

The Zoning Board of Adjustment, acting under the authority vested in it by Article 211.008 of the Local Government Code of the State of Texas and by Chapter 2.16 of the El Paso City Code, after due public notice at an Open Public Meeting on September 13, 2010, **GRANTED** the Variance under Section 2.16.030 from the required yard setbacks in Section 20.12 in an R-4 zoning district.

The Board determined the request **Qualified** under the criteria of Section 2.16.030 of the ordinance for the following reasons:

- the variance is consistent with public interest
- the need for the variance due to special conditions of the parcel of land
- a literal enforcement of the ordinance would create an unnecessary hardship
- the spirit of the ordinance is observed and substantial justice is done if the variance is approved.

Filed for permanent record the 13th day of September 2010, in the office of the Zoning Board of Adjustment.

Linda Castle  
Senior Planner

**PLEASE NOTE:** Any privilege granted by this decision must be exercised within **12 months** of the date of this decision after obtaining the necessary building permits for the proposed construction at the Construction Management Division of the Engineering Department.

Inspections will be made by the Construction Management Division of the Engineering Department, and compliance with Board action will be noted in official Board records. This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

The decision of the Zoning Board of Adjustment may be appealed by a person aggrieved by this decision or by any officer, department, board, or bureau of the municipality by filing an action with the District Court for this county within **10 Days** after the date of the hearing.

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Carl L. Robinson

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District 6  
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District 7  
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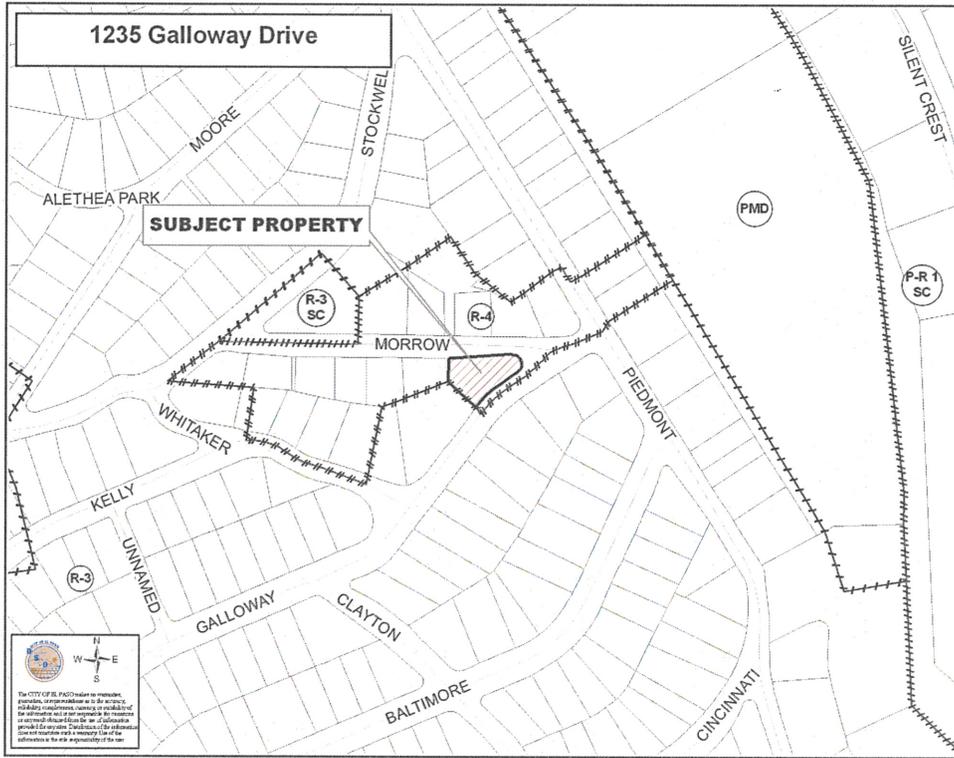
District 8  
Beto O'Rourke

City Manager  
Joyce A. Wilson





# ZONING MAP



# NOTIFICATION MAP

