

**Applicant requests Special Exceptions under Section 2.16.050 C (Rear Yard) and Section 2.16.050 G (Builder Error, Front Yard) in an R-3/sp zone.**

This would permit a 21' by 10' enclosure of a balcony of which a 21' by 5' portion is proposed to encroach 5' into the required rear yard setback. This would also permit the existence of a residence that was built encroaching 8.4 inches into the required front yard setback.

The required rear yard setback is 25' and the required front yard setback is 20' in this R-3/sp (Light Density Residential/Special Permit) zone.

**BACKGROUND**

The applicant is proposing to enclose a balcony and is requesting the Special Exception to encroach into the required rear yard setback. Also, the applicant is requesting the Builder Error Special Exception. A survey shows that the house was built encroaching 8.4 inches into the required front yard setback, and the applicant is requesting to legalize the front yard setback of 19.3'. There is a Special Permit granted to the property, SP98-18, that permitted a 20' front setback and a 25' rear yard setback in the R-3 zone.

**CALCULATIONS**

Required rear yard setback = 25'

Requested rear yard setback = 20'

Required front yard setback = 20'

Requested front yard setback = 19.3'

**STAFF RECOMMENDATION**

Staff recommends approval of the requests as they meet the requirements for the Special Exceptions C and G.

The Zoning Board of Adjustment is empowered under Section 2.16.050 C to:

"Permit an extension of a single-family residential structure into the required rear yard, which shall be measured to the rear property line, not to the centerline of the alley, if one exists; provided, however, that:

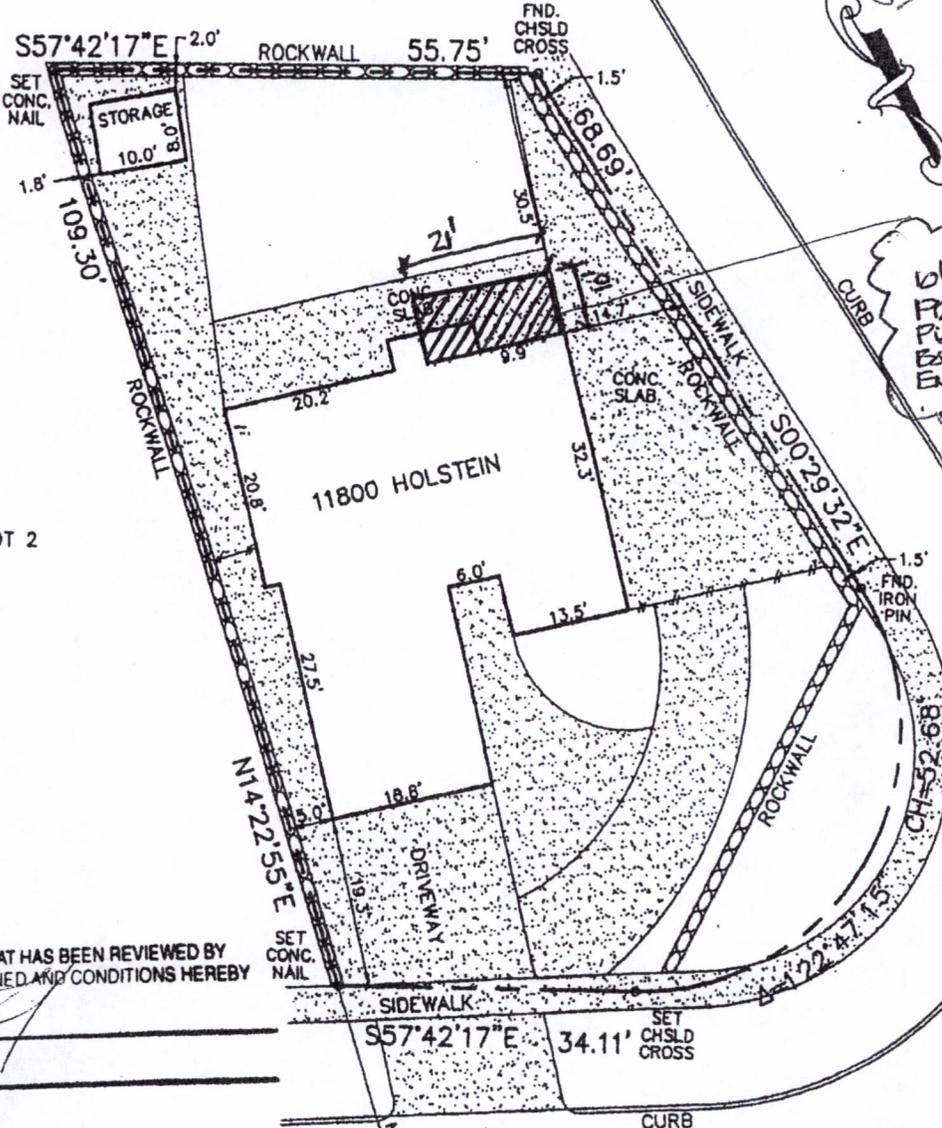
1. The residence has been in existence and owner occupied for one continuous year, and has a valid certificate of occupancy; and,
2. The total of all extensions granted shall not project into the required rear yard for a depth in excess of three-fifths of the required yard, except that a minimum ten foot rear yard setback shall be required; and,
3. The total width of all extensions granted shall not exceed one-third of the average width of the site; and,
4. The minimum side and side street yards shall not be reduced; and,
5. The total floor area of all detached accessory structure(s) existing or later constructed on the site shall not exceed one hundred eighty square feet; and,
6. Unless otherwise provided in this section, all remaining areas of the required rear yard shall be permanent open space; and,
7. The extension shall not permit the creation of an additional dwelling unit."

The Zoning Board of Adjustment is empowered under Section 2.16.050 G to:

"Permit the encroachment of the principal building or structure into the required yard setbacks in all districts, caused by an error in construction; provided, however, that:

1. The permitted encroachment into any front yard setback shall not exceed ten percent of the required setback, or one foot whichever is greater; and,
2. The permitted encroachment into any side yard or side street yard setback shall not exceed ten percent of the required setback or one foot whichever is greater; and,
3. The permitted encroachment into any rear yard setback shall not exceed fifteen percent of the required setback or one foot whichever is greater; and,
4. The owner shall demonstrate through testimony or documentation that the error causing the encroachment was inadvertent and not intentional; and,
5. The number of properties requesting encroachment permission under this section which involve the same builder, contractor, or owner shall not exceed three in any twelve-month period."

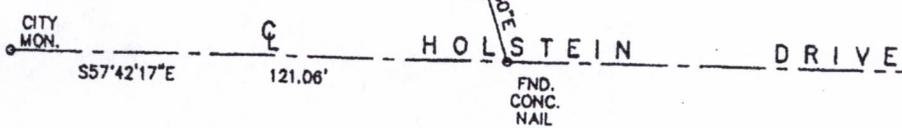
LOT 3



10'x21'  
PROPOSED  
PLANS FOR  
BALCONY  
ENCLOSURE

THE SURVEY PLAT HAS BEEN REVIEWED BY THE UNDERSIGNED AND CONDITIONS HEREBY NOTED

THIS SURVEY PLAT HAS BEEN REVIEWED BY THE UNDERSIGNED AND CONDITIONS HEREBY NOTED



BEARING ORIENTATION AS PER PLAT OF STONE RIDGE UNIT 1

**BUILDERS ERROR LOG**

For a 12 Month Period

July 28, 2008 to August 10, 2009

<b>MEETING DATE</b>	<b>CASE NUMBER</b>	<b>ADDRESS</b>	<b>CONTRACTOR</b>
7/28/2008	ZBA08-00060	14257 Tierra Bronze Drive	Xavier Homes, Inc.
10/13/2008	ZBA08-00081	14344 Pacific Point Drive	Classic American Homes
11/10/2008	ZBA08-00083	14268 Patriot Point Drive	Classic American Homes
01/12/2009	ZBA08-00095	4036 Tuscan Rose Lane	Classic American Homes
02/23/2009	ZBA09-00006	6259 Franklin Dove Drive	Javier Cuevas (Homeowner)
03/09/2009	ZBA09-00008	3436 Scarlet Point Drive	Zia Homes, Inc.
5/04/2009	ZBA09-00016	1136 Calle Del Sur Drive	Winton & Associates, Inc.
8/10/2009	ZBA09-00027	5349 Jack Marcus Drive	Keystone Residences/Prime Prospects
8/10/2009	ZBA-09-00028	11800 Holstein Drive	Eva Z. Melgar (homeowner)

