

**Applicant requests a Special Exception under Section 2.16.050 G (Builder Error, Rear Yard Setback) in an R-5 (Residential) zone.**

This would permit the existence of a new single-family dwelling that is located to within 24 feet of the rear property line.

The required cumulative front and rear yard setback total is 45 feet in the R-5 zone district.

**BACKGROUND**

The Zoning Board of Adjustment granted the applicant the Builder Error Special Exception on August 9, 2010, for an encroachment into the side yards. However, it is noted that the front and rear yard cumulative setback total of 45' is not met, with an encroachment of 1' into the rear yard. Saratoga Homes has submitted the enclosed letter stating that the error was unintentional. The Builder Error record will show as one builder error since it is for one property, 3170 Blue Dirt Circle.

**CALCULATIONS**

Required rear yard setback = 25'

Requested rear yard setback = 24'

**STAFF RECOMMENDATION**

Staff recommends approval as it meets the requirements of the Special Exception.

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."

12300 Montwood Drive  
El Paso, Texas 79928  
p. 915.855.1005  
f. 915.855.6375  
[mySaratogaHome.com](http://mySaratogaHome.com)

August 25, 2010

City of El Paso  
Eddie Garcia – City Planning Department

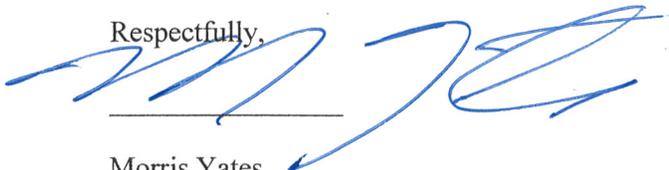
Mr. Garcia,

This letter is in reference to the property located at 3170 Blue Dirt Lot 24 Block 11 in Ventanas Unit. This House was set incorrectly. The rear setback is 24.0 ft. (see attached). This was caused by a construction error at the time the forms were set.

Unfortunately the error was not discovered until the time the improvement survey done by Conde Inc. on 6-21-2010. We have since verified the incorrect setback.

You will find that historically this is not a common occurrence with Saratoga Homes, Inc. in the last 20 years very few - ZBA requests due to setback. We ask that this be taken into consideration in allowing for a resolution to this unfortunate incident. If you have any questions you may contact me at (915) 855 – 1005. Thank you.

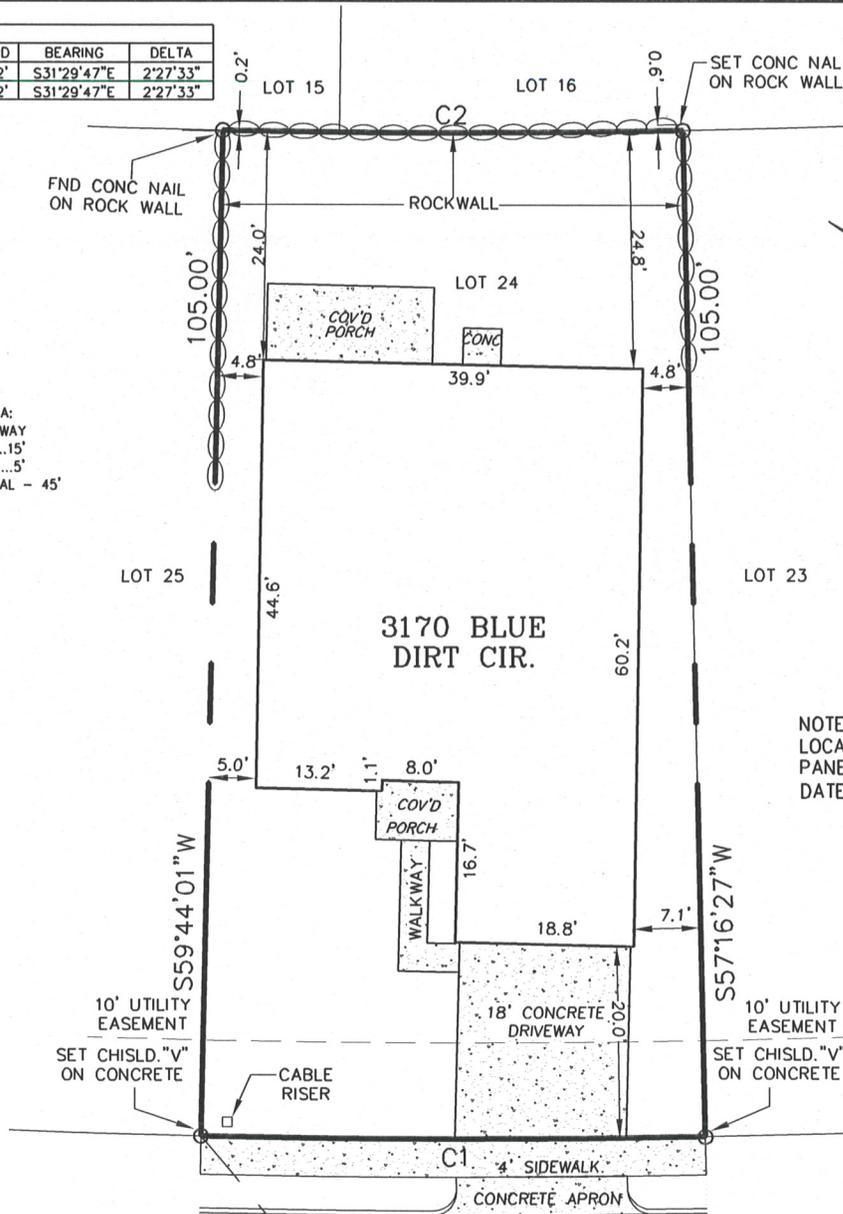
Respectfully,



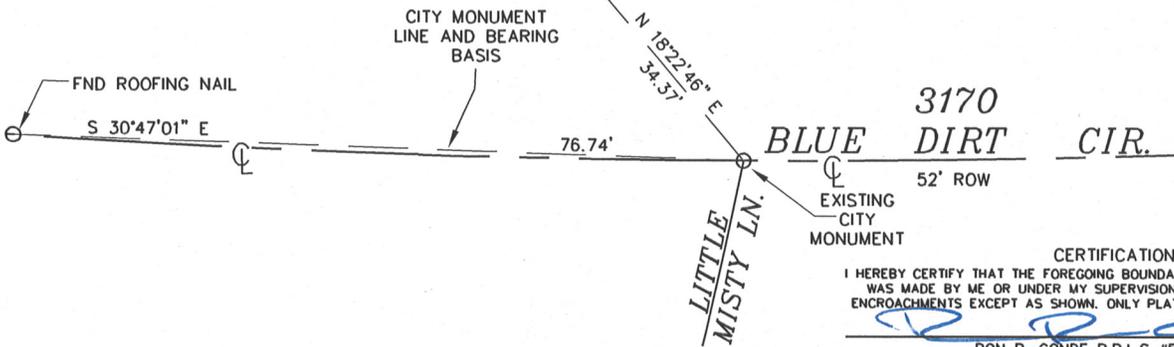
Morris Yates  
President  
Saratoga Homes

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	1233.08'	52.93'	26.47'	52.92'	S31°29'47"E	2°27'33"
C2	1128.08'	48.42'	24.21'	48.42'	S31°29'47"E	2°27'33"

NOTE:  
 MINIMUM YARD SETBACKS AS PER ZONE R-3A:  
 FRONT..... 15' WITH 20' DRIVEWAY  
 REAR..... 15'  
 SIDE..... 5'  
 \*MINIMUM CUMULATIVE FRONT AND REAR TOTAL - 45'



NOTE:  
 LOCATED IN ZONE X  
 PANEL # 480212-0175B  
 DATED SEPT. 04, 1991



CERTIFICATION  
 I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY AND IMPROVEMENT SURVEY  
 WAS MADE BY ME OR UNDER MY SUPERVISION AND THAT THERE ARE NO  
 ENCROACHMENTS EXCEPT AS SHOWN. ONLY PLATTED EASEMENTS ARE SHOWN.

RON R. CONDE R.P.L.S #5152



RECORDED FILE No. 20070102945 JOB #i610-54  
 DATE: JUNE 21, 2010 FIELD: D.G. OFFICE: F.R.  
 LOT 24, BLOCK 11,  
 VENTANAS UNIT ONE,  
 CITY OF EL PASO, EL PASO COUNTY, TEXAS  
 CONDE INC.  
 6080 SURETY, SUITE 100  
 EL PASO, TEXAS 79905  
 © COPYRIGHT 2010/CONDE INC.  
 ALL RIGHTS RESERVED

**BUILDER ERROR LOG**

For a 12 Month Period

August 10, 2009 to September 13, 2010

<b>MEETING DATE</b>	<b>CASE NUMBER</b>	<b>ADDRESS</b>	<b>CONTRACTOR</b>
8/10/2009	ZBA09-00027	5349 Jack Marcus Drive	Keystone Residences/Prime Prospects
8/10/2009	ZBA09-00028	11800 Holstein Drive	Eva Z. Melgar (homeowner)
10/12/2009	ZBA09-00036	718 Blacker	Clint Armstrong, Palms West
12/14/2009	ZBA09-00051	8036 Glendale Avenue	Gerardo Blanco/Luis Cardenas
01/11/2010	ZBA09-00057	3705 Tierra Isela Drive	Jesus Marquez, Rio Grande Homes
02/08/2010	ZBA10-00003	7336 Black Mesa Drive	New Horizon Builders, Inc.
6/14/2010	ZBA10-00020	14256 Tierra Yamila	Mountain Vista Builders
8/9/2010	ZBA10-00031 (Side Setbacks)	3170 Blue Dirt Circle	Saratoga Homes
9/13/2010	ZBA10-00041 (Rear Yard Setback)		

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SERVICE SOLUTIONS SUCCESS

ZONING BOARD OF ADJUSTMENT

August 9, 2010



Saratoga Homes  
3170 Blue Dirt Circle

Legal Description: Lot 24, Block 11, Ventanas Unit One, City of El Paso, El Paso County, Texas

**Case# ZBA10-00031:** The applicant requested a Special Exception under Section 2.16.050 G (Builder Error, Side Yard Setback) in an R-5 (Light Density Residential) zone district. This would permit the existence of a new single-family dwelling that is located to within 4.8 feet of the northerly and 4.8 feet of the southerly side yard setback. The required side yard setback is 5 feet in the R-5 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 August 9, 2010, **GRANTED** the Special Exception under Section 2.16.050 G (Builder Error, Side Yard Setback) in an R-5 zoning district.

The Board determined the request **Qualified** under the criteria of Section 2.16.050 G of the ordinance for the following reasons:

- The permitted encroachment into any front yard setback shall not exceed ten percent of the required setback, or one foot whichever is greater; and,
- 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,
- The permitted encroachment into any rear yard setback shall not exceed fifteen percent of the required setback or one foot whichever is greater; and,
- The owner shall demonstrate through testimony or documentation that the error causing the encroachment was inadvertent and not intentional; and,
- 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."

Filed for permanent record the 9th day of August 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 Development Services Department – Building Permits and Inspection Division.

Inspections will be made by the Building Permits and Inspections Division of the Development Services 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.

Development Services Department

Mathew S. McElroy – Deputy Director – Planning Division

2 Civic Center Plaza – 5<sup>th</sup> Floor · El Paso, Texas 79901 · (915) 541-4056 · Fax (915) 541-4725

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City Council

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Ann Morgan Lilly

District 2  
Susie Byrd

District 3  
Emma Acosta

District 4  
Carl L. Robinson

District 5  
Rachel Quintana

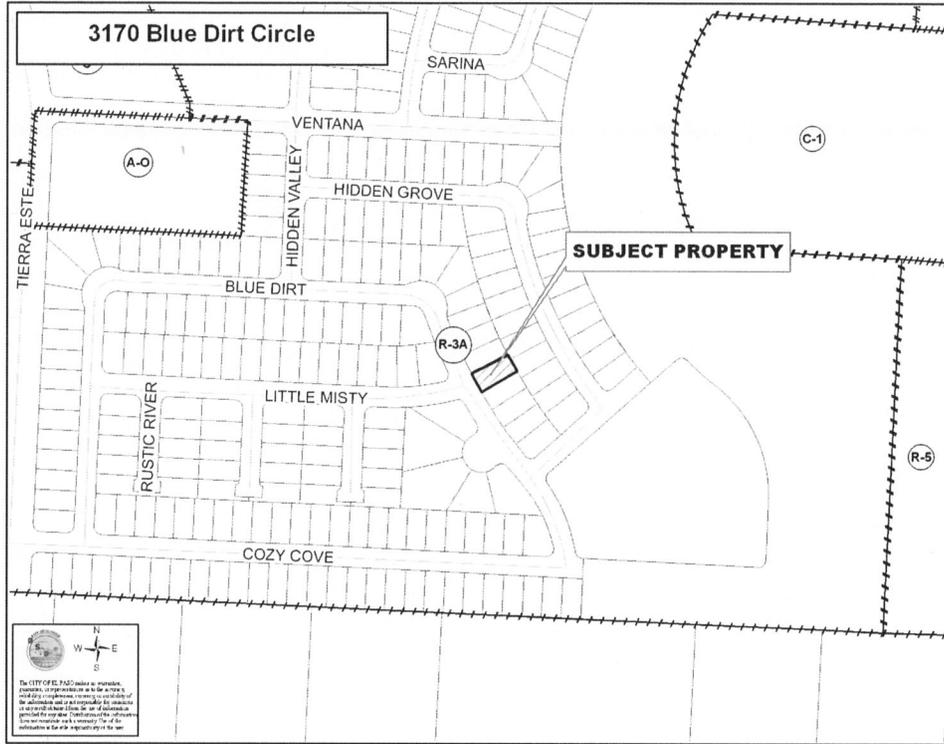
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Eddie Holguin Jr.

District 7  
Steve Ortega

District 8  
Beto O'Rourke

City Manager  
Joyce A. Wilson

# ZONING MAP



# NOTIFICATION MAP

