

Applicant requests a Special Exception under Section 2.16.050 G (Builder Error, Side Yard Setback) in an R-3/NCO zone.

This would permit the existence of a new single-family dwelling that was built encroaching 0.7 inches within 5 feet side yard setback.

The required side yard setback is 5' in the R-3/NCO (Residential/Neighborhood Conservancy Overlay) zone.

BACKGROUND

This property was previously reviewed and approved for the construction of a new single-family dwelling by the City Review Committee on May 18, 2009, as a requirement of the NCO zone overlay. The applicant is now requesting the Builder Error Special Exception for an encroachment of 8.4 (0.7) inches into the westerly side setback. Please see applicant's letter stating events that resulted in the encroachment.

CALCULATIONS

Required side yard setback = 5'

Requested side yard setback = 4.3'

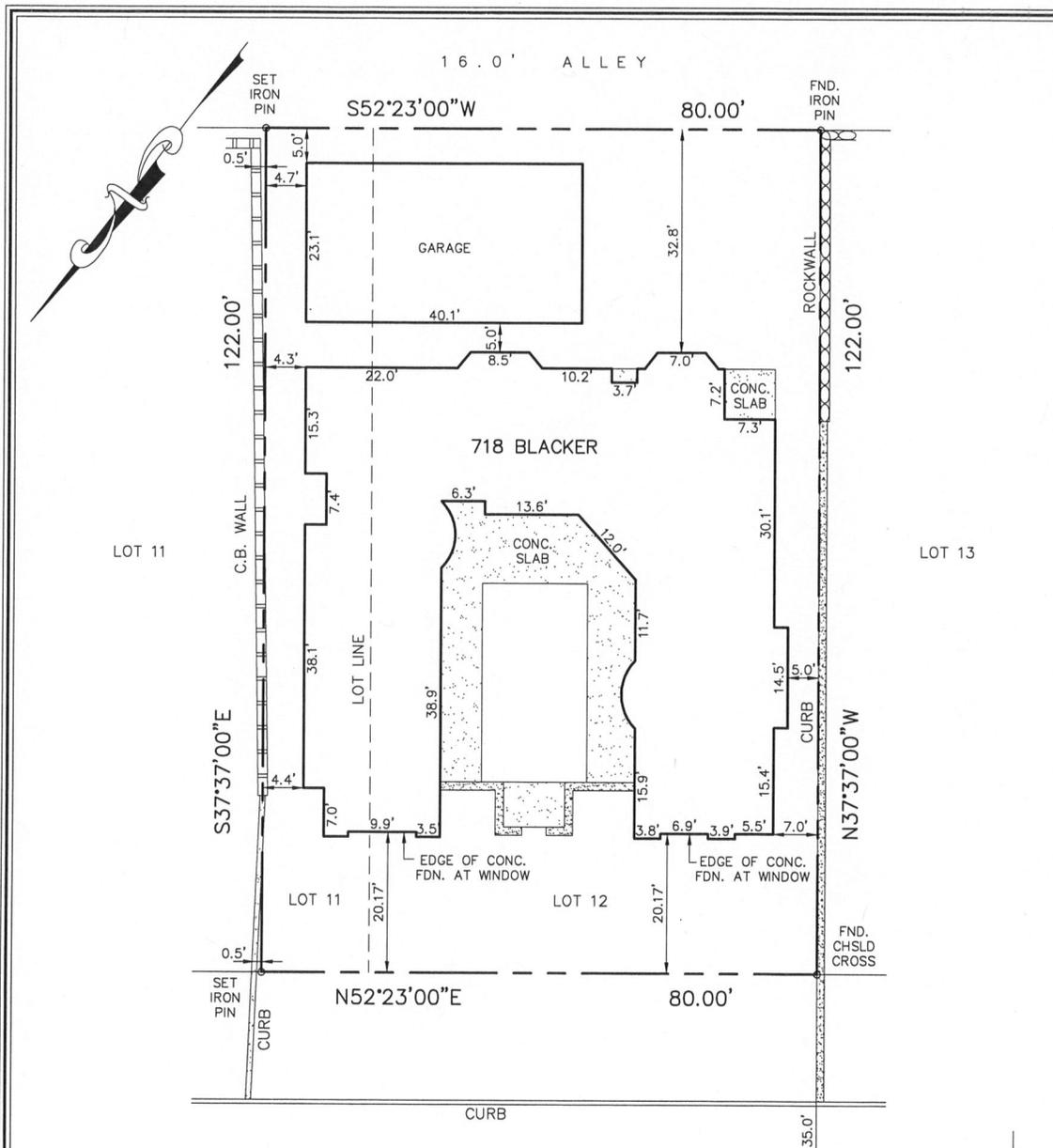
STAFF RECOMMENDATION

Staff recommends approval of the request 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."



This lot is not located in a flood hazard area as determined by the FIRM by U.S. Federal Emergency Management Agency National Federal flood Insurance Program.

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.

Manuel Calderon
 Manuel Calderon
 Registered Professional Land Surveyor No. 2564

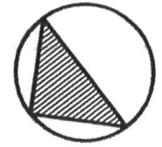
BEARING ORIENTATION AS PER PLAT OF RIM ROAD ADDITION 509-94 809-80

Book 7 Page 51 Job No. 909-38A

718 BLACKER AVENUE,
 LOT 12 AND THE WEST 13.0 FEET OF LOT 11,
 BLOCK 4, RIM ROAD ADDITION,
 CITY OF EL PASO,
 EL PASO COUNTY, TEXAS

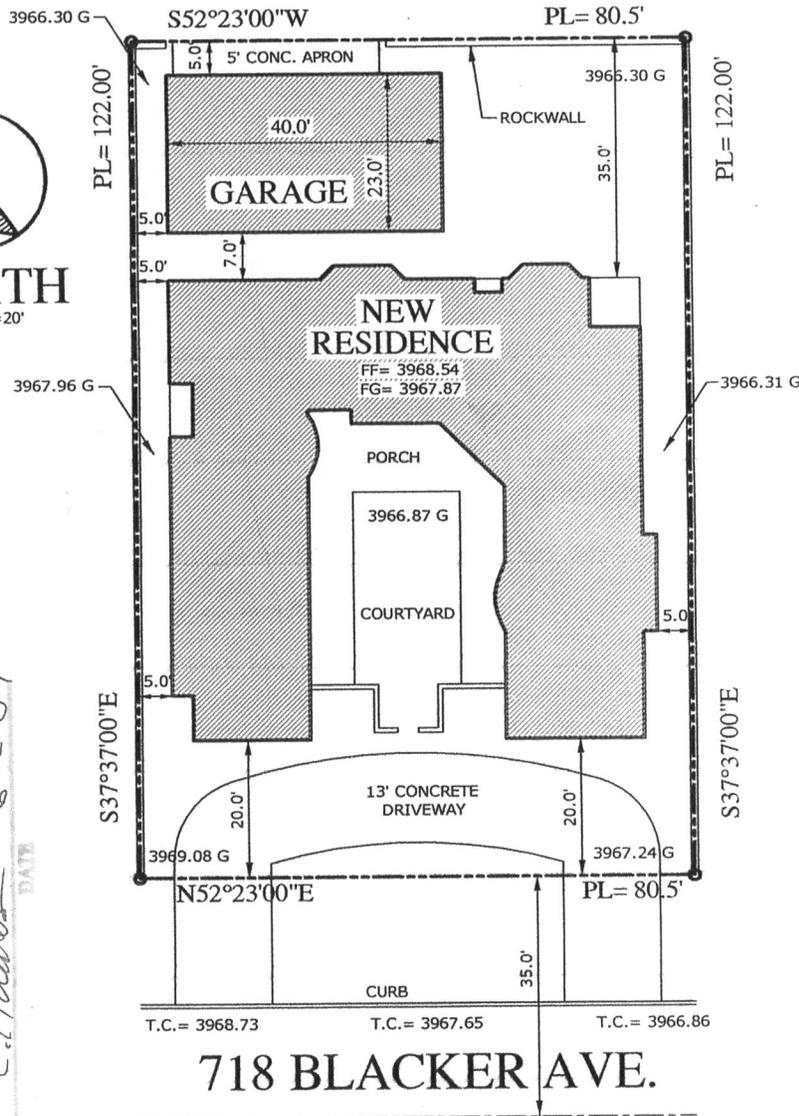
Field RP Office MC-C6 Date 09-10-09 Scale 1"=20'

CALDERON ENGINEERING
 CIVIL - STRUCTURAL
 3031 TRAWOOD DR.
 EL PASO, TEXAS 79936 (915) 855-7552



NORTH
SC:1"=20'

16' ALLEY



DEVELOPMENT SERVICES DEPARTMENT
 BUILDING PERMITS & INSPECTIONS DIVISION
 THIRD PARTY REVIEW
E. Amador 6-2-09
 DATE

R3 ncc
 ZONING SECTION
[Signature] 6/3/09

RIM ROAD ADDITION
BLOCK-4
 LOT-12 AND WEST 13.5' OF LOT 11

PALMS WEST
 ENTERPRISES, LLC

Palms West Enterprises, LLC.

Palms West Enterprises, LLC.
September 11, 2009
7250 Copper Queen
El Paso, TX 79915

builder error

In reference to the variance for 718 Blacker for the side set-back encroachment, I would like to try to offer an explanation of what happened. When the initial design process for the new home construction at 718 Blacker began myself (Clint Armstrong, Managing Member for Palms West) and Don Luciano (Property Owner) were under the understanding that he would be purchasing the following, Lot 4 Rim Road 12 and W 13.5 feet of lot 11. Since that time we have been under the understanding that the lot was 122 feet in depth and 80.5 feet in width, until recently when the neighbor Mr. Ryan questioned our side setbacks. That is when I met Bill Stern (Building Services and Inspection) at the property and we ran a string line to determine if the property truly was encroaching, at that time Mr. Stern and myself determined that the side setback was encroaching approximately 1 inch. Since that time Mr. Luciano and myself starting looking into the property boundaries along with Lone Star Title and found out that the W 13.5 feet was actually only W 13 feet. There had been an error on an older title policy and has since been corrected to show the W 13 feet. Till this day CAD still shows the property as W 13.5 feet. As such after finding out that I had made a mistake, as you can see with the attached survey we are not encroaching only 1 inch as previously thought but closer to 7 inches. As you can see there has been a lot of confusion regarding the actual dimensions of the lot. I greatly appreciate your consideration for the variance on the side set back encroachment.

Thank You,



Clint Armstrong

BUILDERS ERROR LOG

For a 12 Month Period

October 13, 2008 to October 12, 2009

MEETING DATE	CASE NUMBER	ADDRESS	CONTRACTOR
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	ZBA09-00028	11800 Holstein Drive	Eva Z. Melgar (homeowner)
9/14/2009	ZBA09-00033	79 Sierra Crest	Willis Homes
10/12/2009	ZBA09-00036	718 Blacker	Clint Armstrong, Palms West

