

Applicants request a Special Exception under Section 2.16.050 L (15 years or more, Side yard setback) and a Variance from Section 20.12.040 (Yards, Side yard setback) in an R-3 zone.

This would permit the existence of a 5' by 20' structure that encroaches 5' into the northerly side yard setback in an R-4 zone.

The required side yard setback is 5 feet in an R-3 (Light Density Residential) zone.

BACKGROUND

At the November 10, 2008 meeting, the ZBA postponed this request to the December 8, 2008 meeting to allow the applicant to find proof that the 5' by 20' storage area existed prior to his purchase of the house in 1989. The applicant has now requested withdrawal of his case. Please see his letter to the ZBA.

The applicant was cited in 2006 and again in 2008 for building an enclosed storage in his side yard without permit. The applicants are requesting to keep the 5' by 20' attached structure that is located to within 0' of the northerly side property line. The applicants are requesting the Special Exception for a portion of the existing structure that they claim was there when they purchased the house in 1989. The 1986 aerial shows a very small white object at the corner of the house, projecting slightly into the front, which could be a roof or a concrete slab. The 1996 aerial is not clear but appears to show the same small roofed area at the corner of the house plus the addition of driveway area. The 2003, 2006 and 2007 aerials show a roofed structure that continues at the front roofline of the house and appears to be the existing 5' by 20' structure located to within 0' of the side property line.

The applicants are requesting a Variance to keep the 5' by 20' structure. There are no topographic or special conditions inherent in the lot that prevent reasonable use of the lot. The condition of the structure located to 0' of the side property line is self-imposed by the applicant.

CALCULATIONS

Required side yard setback = 5'

Requested side yard setback = 0'

STAFF RECOMMENDATION

Staff recommends denial of the request for the Special Exception because the applicant has not proved that the structure existed prior to his purchase of the house in 1989.

Staff recommends denial of the Variance as the Variance is not due to special conditions inherent to the property itself. Literal enforcement of the ordinance would not create an unnecessary hardship as defined in Section 20.02.1128 of the El Paso City Code which states "*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.*"

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

"Permit the encroachment into the required yard setbacks for structures; provided, however, that the applicant can prove the following conditions:

1. The encroachment into the required yard setback has been in existence for more than fifteen years; and,
2. Neither the applicant nor current property owner is responsible for the construction of the encroachment; and,
3. Neither the applicant nor the current property owner owned the property at the time the encroaching structure was constructed or built; and,
4. The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback; and,
5. The encroachment does not violate any other provision of the Municipal Code."

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?

El Paso, TX 11/28/08

To: City of El Paso Texas

Zoning Board Of Adjustment

Case: ZONO8-00087

Applicant: Joe and Mary De Angelis

1409 Pinteroesco Dr.

El Paso, TX 79935-3701

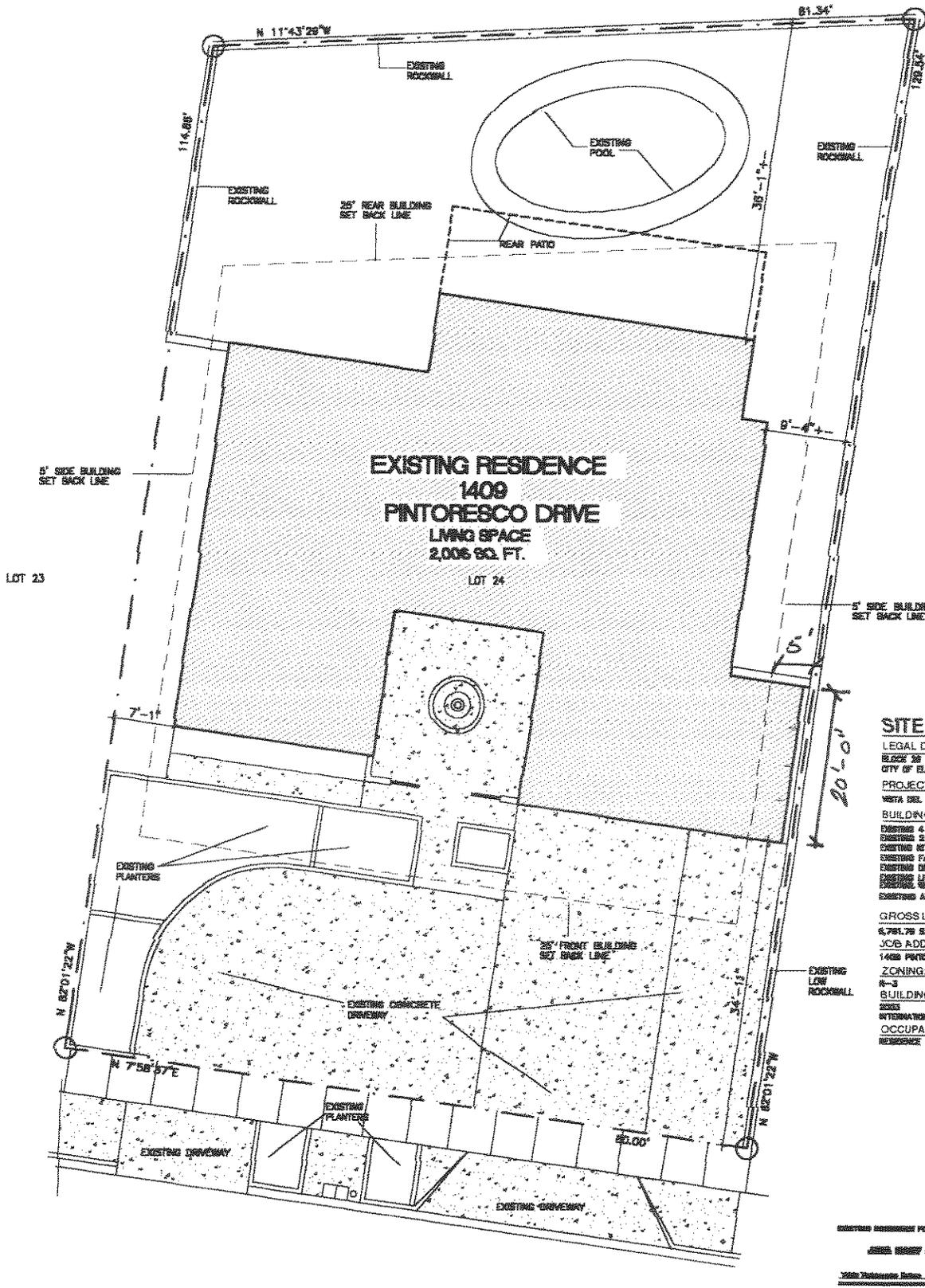
Dear Sir,

I the applicant Joe and Mary De Angelis are withdrawing this case from the zoning Board of Adjustment city of El Paso, TX.

Sincerely Joe De Angelis

Joe De Angelis

DEC 01 2008



EXISTING RESIDENCE
1409
PINTORESICO DRIVE
 LIVING SPACE
 2,006 SQ. FT.

SITE DATA

LEGAL DESCRIPTION:
 BLOCK 28 VISTA DEL SOL LOT 24
 CITY OF EL PASO, EL PASO COUNTY TEXAS

PROJECT LOCATION:
 VISTA DEL SOL SUBDIVISION #2

BUILDING DESCRIPTION:
 EXISTING 4 BEDROOM RESIDENTIAL HOME
 EXISTING 2 BATHS
 EXISTING KITCHEN
 EXISTING FAMILY ROOM
 EXISTING DINING ROOM
 EXISTING LIVING ROOM
 EXISTING 1/2 BATH
 EXISTING ATTACHED DOUBLE GARAGE AND STORAGE

GROSS LAND AREA:
 6,761.79 SF. OR 0.1541 ACRES

JOB ADDRESS:
 1409 PINTORESICO DRIVE

ZONING:
 R-1

BUILDING CODE:
 2003

INTERNATIONAL RESIDENTIAL BUILDING CODE

OCCUPANCY:
 RESIDENCE DWELLING

1409 PINTOTRESICO DRIVE
 (60' R.O.W.)



SITE PLAN

SCALE: 1/8" = 1'-0"

REGISTERED PROFESSIONAL ENGINEER

JAMES HEWITT AND ASSOCIATES

2000 Westwood Drive, El Paso, Texas 79902

PROJECT TITLE

SITE PLAN

MASTER PLAN

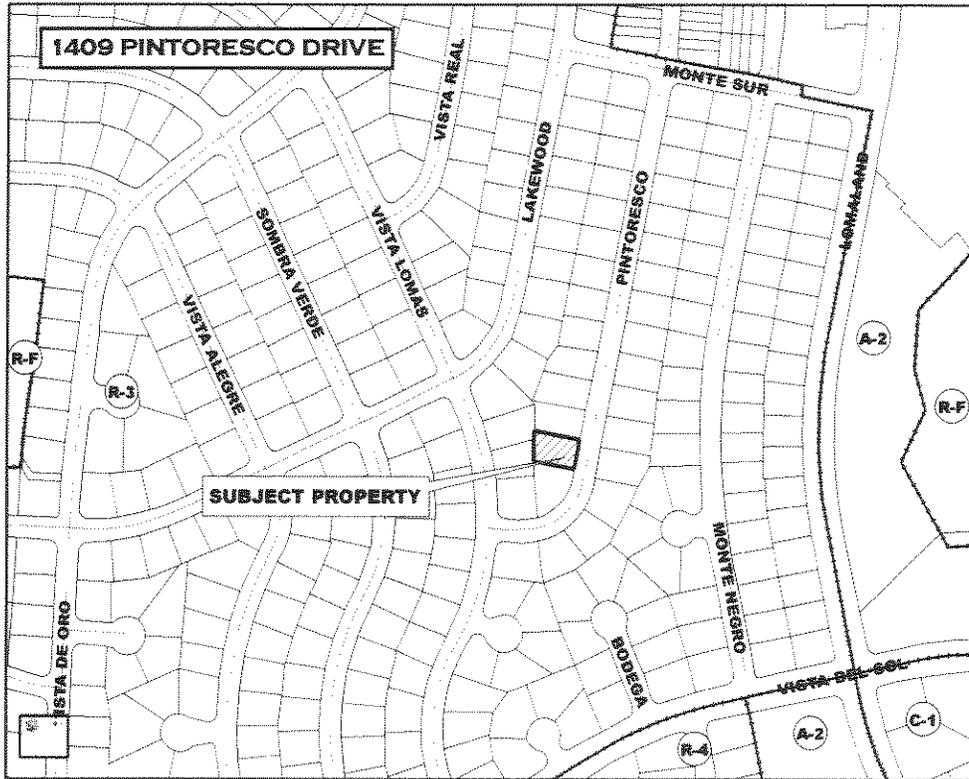
DATE: _____

BY: _____

FOR: _____

C-10

ZONING MAP



NOTIFICATION MAP

