

# 3124 Federal

Zoning Board of Adjustment — April 7, 2025



**CASE NUMBER:** PZBA25-00005  
**CASE MANAGER:** Jose Beltran, (915) 212-1607, [BeltranJV@elpasotexas.gov](mailto:BeltranJV@elpasotexas.gov)  
**PROPERTY OWNER:** Hosanna A. and Luis P. Gallegos  
**REPRESENTATIVE:** Hosanna A. and Luis P. Gallegos  
**LOCATION:** 3124 Federal Ave. (District 2)  
**ZONING:** R-3/H (Residential/Historic)  
**REQUEST:** Special Exception B (Two or More Nonconforming Lots) and Special Exception K (In Existence 15 Years or More)  
**PUBLIC INPUT:** None received as of April 3, 2025

**SUMMARY OF REQUEST:** Applicant requests a Special Exception under Section 2.16.050 B (Two or More Nonconforming Lots) and Section 2.16.050 K (In Existence 15 Years or More) to allow to legalize an existing porch, pergola and garage in an R-3/H (Residential/Historic) zone district.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the special exception requests as the requested encroachments are less than the encroachments into that setback already present on at least two other neighboring properties and have existed for at least 15 years.



Figure A. Aerial of Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting a special exception to allow to legalize the construction of an existing porch, pergola, and garage structure which extend 18 feet into the required 20-foot rear yard setback for 430.28 square feet of total encroachment. Additionally, the applicant is requesting a special exception to allow to legalize an existing garage structure, which extends 4.4 feet into the required 5-foot side yard setback for 137 square feet of total encroachment. The encroachment of the existing garage has existed since at least 1956 based on the 1956 Sanborn Map.

**BACKGROUND:** The minimum and required rear setback is 20 feet in the R-3/H (Residential/Historic) zone district. The required front setback for the subject property is 30 feet to meet the cumulative front and rear setback of 50 feet in the R-3/H (Residential/Historic) zone district. The required side yard setback is 5 feet in the R-3/H (Residential/Historic) zone district. Aerial photographs indicate that five (5) nearby properties also encroach into their respective setbacks, with encroachments into the rear yard equal to or larger than those on the subject property. These properties are located at 3115 Federal Avenue (892.27 square feet rear yard encroachment), 3121 Federal Avenue (655.89 square feet rear yard encroachment), 3131 Copper Avenue (451.57 rear yard encroachment), 3117 Copper Avenue (723.28 square feet rear yard encroachment) and 3101 Copper Avenue (870.32 square feet rear yard encroachment).

Based on Central Appraisal District records, the single-family dwelling was built in 1921, with the current owner not responsible for the side yard setback encroachment. The current owner, however, is responsible for the encroachments of the rear porch and pergola, which were built in 2024. Additionally, the porch encroachment of the front yard setback is permitted per Section 20.12.040 – Yards of the City of El Paso Code.

SETBACKS	REQUIRED SETBACK	REQUESTED SETBACK
Front	30 feet	No Change
Rear	<b>20 feet</b>	<b>2 feet</b>
Cumulative Front & Rear	<b>50 feet</b>	<b>32 feet</b>
Side (West)	<b>5 feet</b>	<b>0.6 feet</b>
Side (East)	5 feet	No Change
Cumulative Side	N/A	N/A

**COMPLIANCE WITH SPECIAL EXCEPTION 2.16.050.B CRITERIA**

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

*Permit the modification of setback requirements as the board deems necessary to secure an appropriate development of a lot, provided the following criteria is met:*

Criteria	Does the Request Comply?
1. The lot is in a legally recorded and developed subdivision of at least ten years;	Yes. The lot is within a legally recorded subdivision of at least ten years.
2. There are two or more lots that do not conform to Title 20 located within the same block on the same side of the street or within the block directly across and abutting the street;	Yes. Through aerial photos and site visits, it was established that five (5) houses on the same block and abutting street extend twenty feet (20') into their rear setback.
3. The modifications are in the same nature as the existing nonconforming lots and do not permit construction less conforming than the least conforming of the nonconforming lots;	Yes. There are five (5) houses on the same block and abutting street that encroach into the required 20-foot rear yard setback and are located at 3115 and 3121 Federal Avenue, 3101, 3117, and 3131 Copper Avenue.
4. If the subject lot is located at the intersection of two streets (a corner lot), then nonconforming lots within the same block on the same side of either intersecting street or directly across and abutting either intersecting street, but not lots located diagonally from the subject lot, may be	Yes. Only applicable lots are being considered.

used in determining the nonconforming lot restrictions of this special exception.	
<b>COMPLIANCE WITH SPECIAL EXCEPTION 2.16.050.K CRITERIA</b> The Zoning Board of Adjustment is empowered under Section 2.16.050.K to: <i>Permit the encroachment into the required yard setbacks for structures; provided, however, that the applicant can prove the following conditions:</i>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
1. The encroachment into the required yard setback has been in existence for more than fifteen years;	Yes. The encroachment has been in existence for more than fifteen years.
2. Neither the applicant nor current property owner is responsible for the construction of the encroachment;	Yes. Neither the applicant nor owner were responsible for the construction of the encroachment.
3. Neither the applicant nor the current property owner owned the property at the time the encroaching structure was constructed or built;	Yes. Neither the applicant nor the owner owned the property at the time.
4. The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback;	Not applicable. Encroachment is not into the front yard setback.
5. The encroachment does not violate any other provision of the El Paso City Code.	Yes. The encroachment does not violate any other provision of the El Paso City Code.

**PUBLIC COMMENT:** Public notice was sent on February 27, 2025 to all property owners within 300 feet of subject property. The Planning Division has not received any communications in support or opposition to the special exception request.

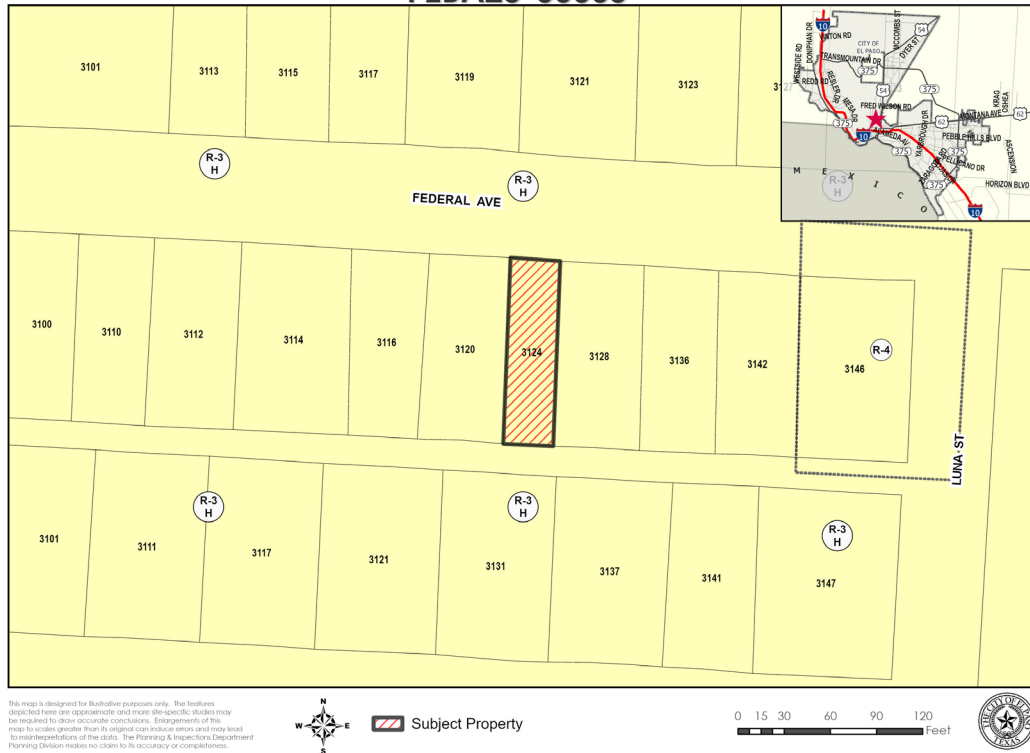
#### **ZONING BOARD OF ADJUSTMENT OPTIONS:**

The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The Zoning Board of Adjustment (ZBA) has the authority to grant a special exception to the zoning code only as provided in El Paso City Code Titles 2 and 20. In evaluating the request, the ZBA may take any of the following actions:

1. **Approval** of the special exception request, finding that the request is in in harmony with the spirit and purposes of Titles 2 and 20, including the preservation of the essential character of the district in which the property is located, that the public convenience and welfare will be substantially served, and that the use of neighboring property will not be substantially injured. **(Staff Recommendation)**
2. **Approval with Modifications** of the special exception request to bring the request into conformance as provided in El Paso City Code Titles 2 and 20 as the board deems appropriate.
3. **Denial** of the special exception request, finding that the request does not conform to the review criteria as provided in El Paso City Code Titles 2 and 20.

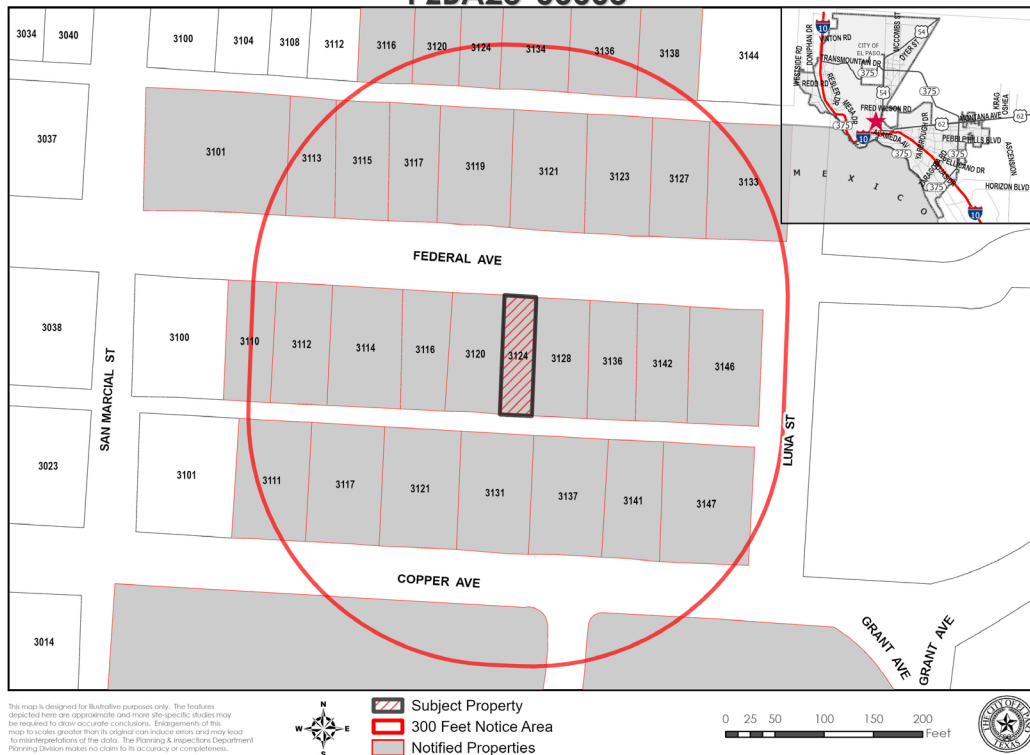
# ZONING MAP

PZBA25-00005



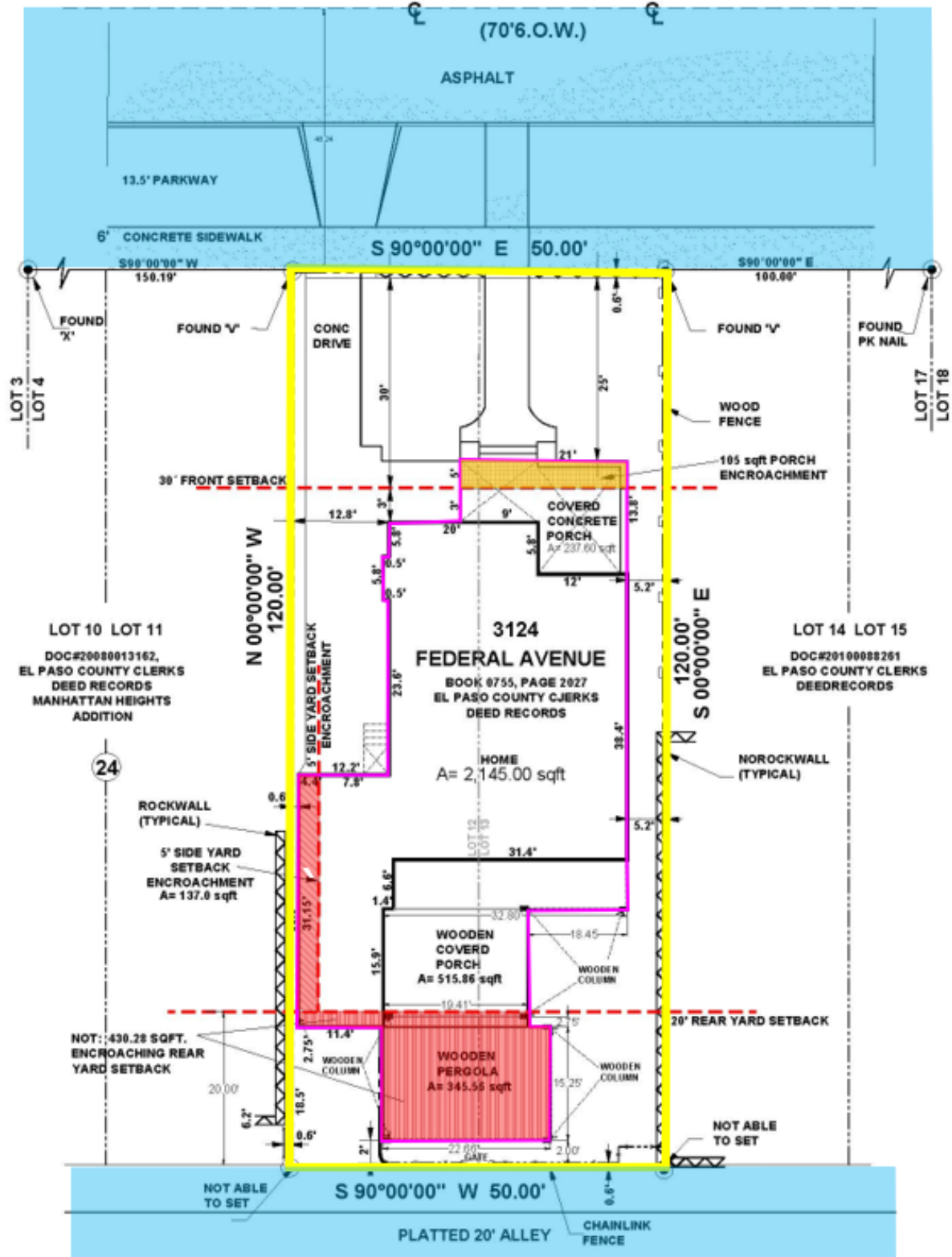
# NEIGHBORHOOD NOTIFICATION MAP

PZBA25-00005





# SITE PLAN FEDERAL AVENUE



NONCONFORMING LOTS

PZBA25-00005





## NONCONFORMING LOT 1 (3115 Federal Avenue)

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## NONCONFORMING LOT 2 (3121 Federal Avenue)

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## NONCONFORMING LOT 3 (3131 Copper Avenue)

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## NONCONFORMING LOT 4 (3117 Copper Avenue)

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# NONCONFORMING LOT 5 (3101 Copper Avenue)

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# 2009 Aerial (Exception K)

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This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Filings of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



Subject Property

0 5 10 20 30 40 Feet

