

# 11749 Riverstone

Zoning Board of Adjustment — December 8, 2025



**CASE NUMBER:** PZBA25-00040  
**CASE MANAGER:** Saul J. G. Pina, (915) 212-1604, PinaSJ@elpasotexas.gov  
**PROPERTY OWNER:** Susan Hernandez  
**REPRESENTATIVE:** Susan Hernandez  
**LOCATION:** 11749 Riverstone Drive (District 6)  
**ZONING:** R-5/c (Residential/conditions)  
**REQUEST:** Special Exception B (Two or More Nonconforming Lots)  
**PUBLIC INPUT:** Four (4) signatures in support, one (1) call in opposition, and one (1) call of inquiry as of December 2, 2025

**SUMMARY OF REQUEST:** Applicant requests a Special Exception under Section 2.16.050 B (Two or More Nonconforming Lots) to allow to legalize existing additions, encroaching into both the required side yard setbacks and rear yard setback in the R-5 (Residential) zone district.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL WITH CONDITIONS** of the special exception request. The conditions are as follows:

1. That the shade (A) be modified or removed from the left side yard setback to comply with zoning requirements per El Paso City Code.
2. That the shade (E) and storage shed located on the right-side yard setback be removed as indicated on the site plan.
3. That the canopy (B) and shade (C) located in the rear of the home be removed as indicated on the site plan.
4. That the rear addition be modified to not exceed 280 square feet and not to exceed a 17-foot rear setback.

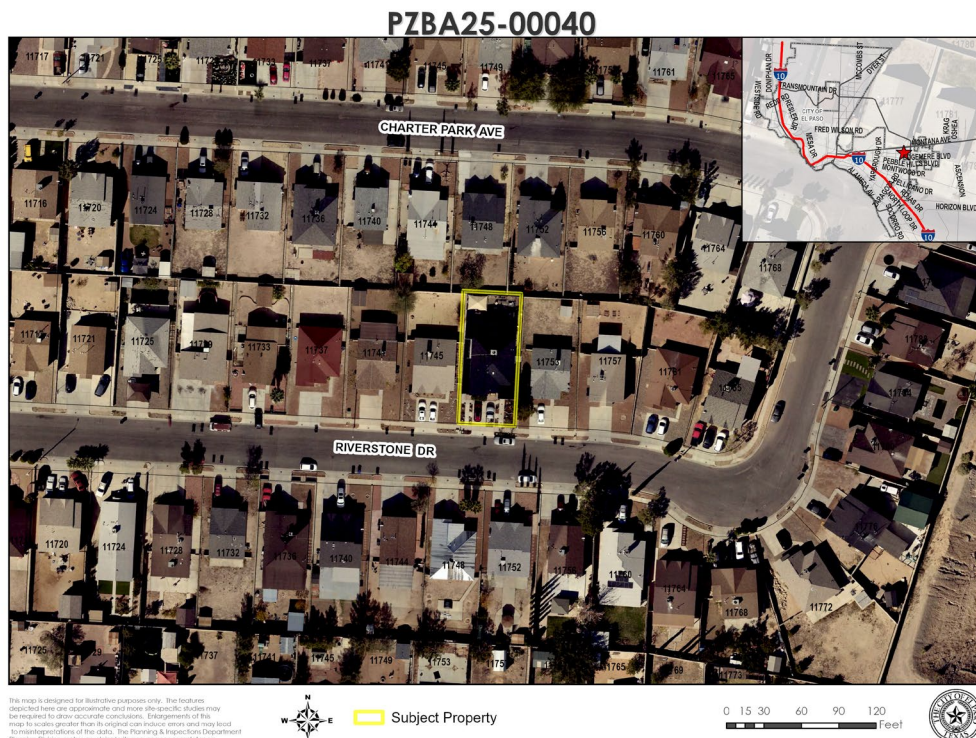


Figure A. Aerial of Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting a special exception to legalize existing addition structures encroaching into both side yard setbacks and rear yard setback, respectively. The structures and their encroachments under this request are listed below:

- Structure A (Left shade and storage shed): The 374 square foot attached shade encroaches 190 square feet into the 5-foot side yard setback and 282 square feet into the required 19-foot rear yard setback. The 60 square foot storage shed connected to the shade encroaches 30 square feet into the 5-foot side yard setback. To separate the shade from the canopy (Structure B), a 35 square foot portion will be removed.
- Structure B (Canopy): The 156 square feet structure is to be maintained without changes.
- Structure C (Shade): The 220 square feet structure encroaches 220 square feet into the required 19-foot rear yard setback. This structure shall be removed as indicated on the site plan.
- Structure D (Rear addition): The 448 square feet enclosed structure encroaches 323 square feet into the required 19-foot rear yard setback and 125 square feet into the 5-foot side yard setback. This structure is to be modified to meet exception requirements.
- Structure E (Right shade and storage shed): The 170 square foot attached structure encroaches 170 square feet into the 5-foot side yard setback. This structure shall be removed.

In summary, Structure D (Rear addition) will remain connected to the main dwelling. Structures A (Left shade), C (Shade), and E (Right shade) shall be modified or removed to comply with zoning requirements per El Paso City Code.

**BACKGROUND:** The minimum side yard setback is 5 feet in the R-5 (Residential) zoning district. The minimum front setback is 10 feet in the R-5 (Residential) zoning district. The required rear yard setback is 19 feet to meet the cumulative front and rear setback of 45 feet. The existing residence was built approximately in 1999, with the property owner residing since 2006. The structures were built without permits by the property owner, with construction starting around 2010. A code violation case has been active since July of this year.

Aerial photographs show that other nearby properties also encroach into their respective rear and side setbacks, with encroachments larger than those on the subject property. The following properties on Riverstone Drive have both open and enclosed structures that are nonconforming with current zoning requirements and were constructed without permits:

- 11712 Riverstone Drive: An attached addition that encroaches 281.62 square feet into the required 20-foot rear yard setback.
- 11776 Riverstone Drive: An attached accessory structure that encroaches 457.72 square feet into the required 20-foot rear yard setback.
- 3529 Riverstone Drive: An attached accessory structure and addition that encroaches 155.38 square feet into the 5-foot side yard setback.
- 3537 Riverstone Drive: An enclosed addition that encroaches 206.29 square feet into the 5-foot side yard setback.
- 3549 Riverstone Drive: An enclosed addition that encroaches 125.10 square feet into the 5-foot side yard setback.

| SETBACKS                | REQUIRED SETBACK | REQUESTED SETBACK |
|-------------------------|------------------|-------------------|
| Front                   | 26 feet          | No Change         |
| Rear                    | 19 feet          | 0 feet            |
| Cumulative Front & Rear | 45 feet          | 26 feet           |
| Side (East)             | 5 feet           | 0 feet            |
| Side (West)             | 5 feet           | 0 feet            |
| 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 11704 and 11776 Riverstone Drive have non-conforming structures encroaching into the rear yard, while 3529, 3537, and 3549 Riverstone Drive have non-conforming structures encroaching into both side yard setbacks. |
| 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. The properties at 11712, 11776, 3539, 3537, and 3549 Riverstone Drive have attached accessory structures and additions that do not conform to applicable zoning requirements and encroach into the rear and side yard setbacks.   |
| 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 used in determining the nonconforming lot restrictions of this special exception. | Yes. Only applicable lots are being considered.  |

**PUBLIC COMMENT:** Public notice was sent on November 24, 2025 to all property owners within 300 feet of subject property. The Planning Division received four (4) signatures in support, one (1) call in opposition, and one (1) call of inquiry to the special exception request. The opposition call cited concerns about property damage resulting from stormwater gutter leakage.

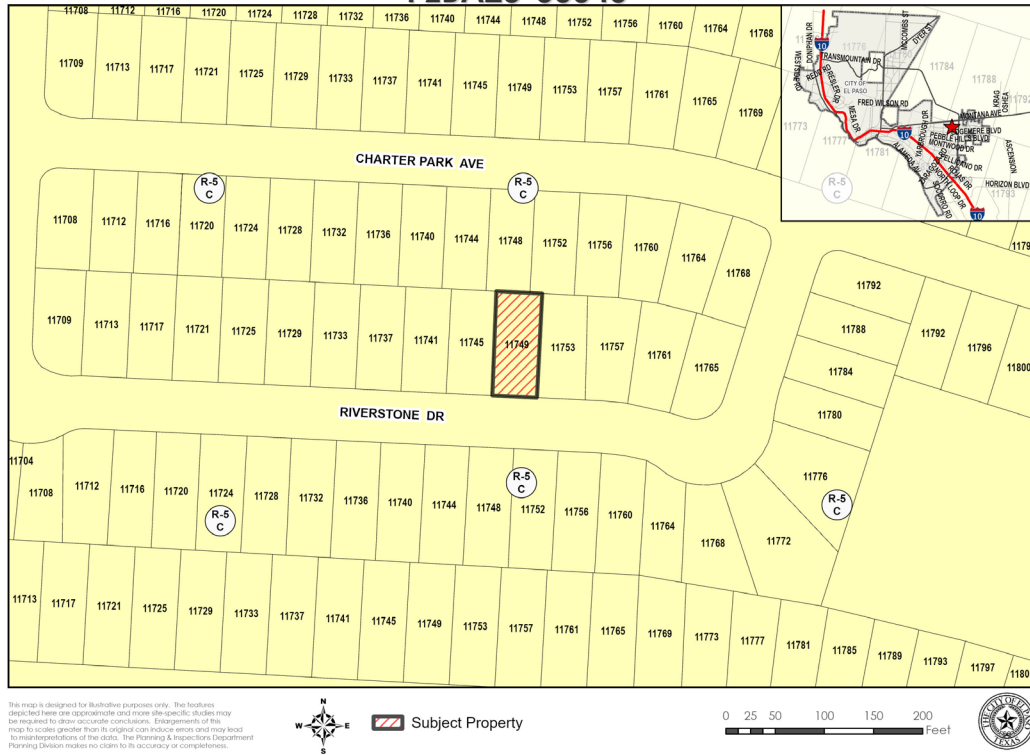
**ZONING BOARD OF ADJUSTMENT OPTIONS:**

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.
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. **(Staff Recommendation)**
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.

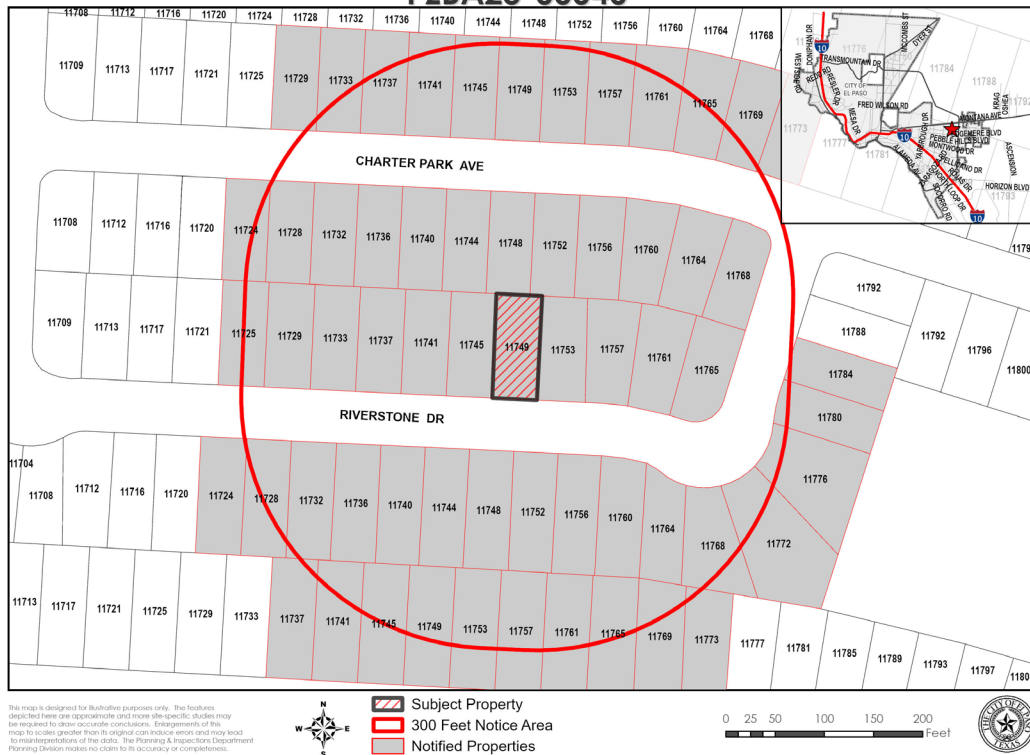
# ZONING MAP

PZBA25-00040

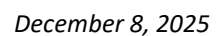


# NEIGHBORHOOD NOTIFICATION MAP

PZBA25-00040

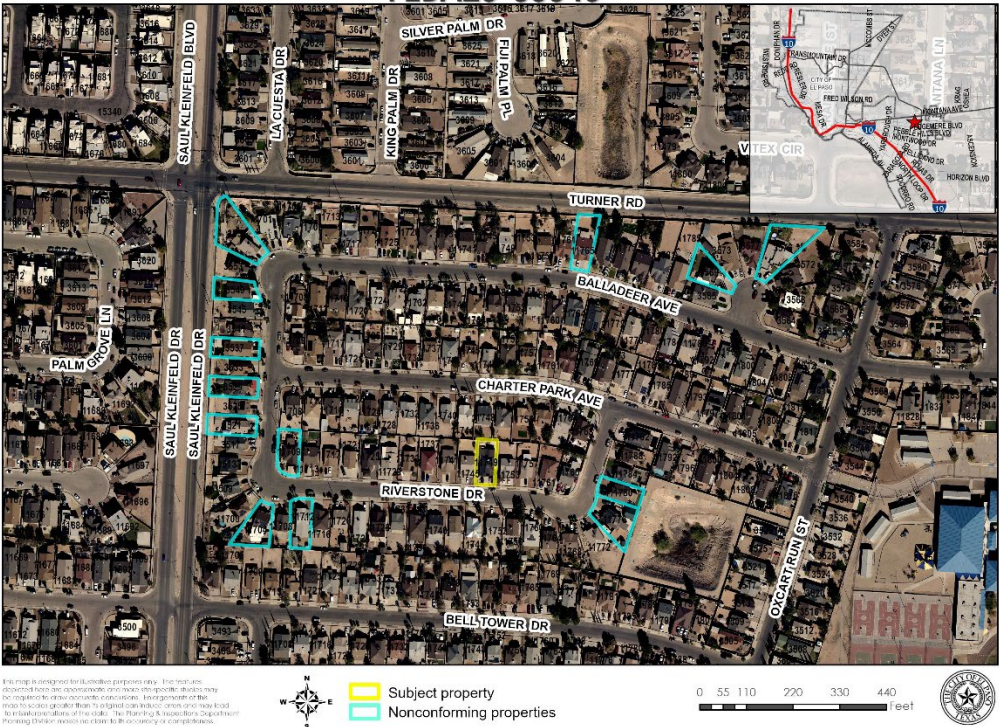


Site Development Plan  
11749 Riverstone Drive



# NONCONFORMING LOTS

PZBA25-00040



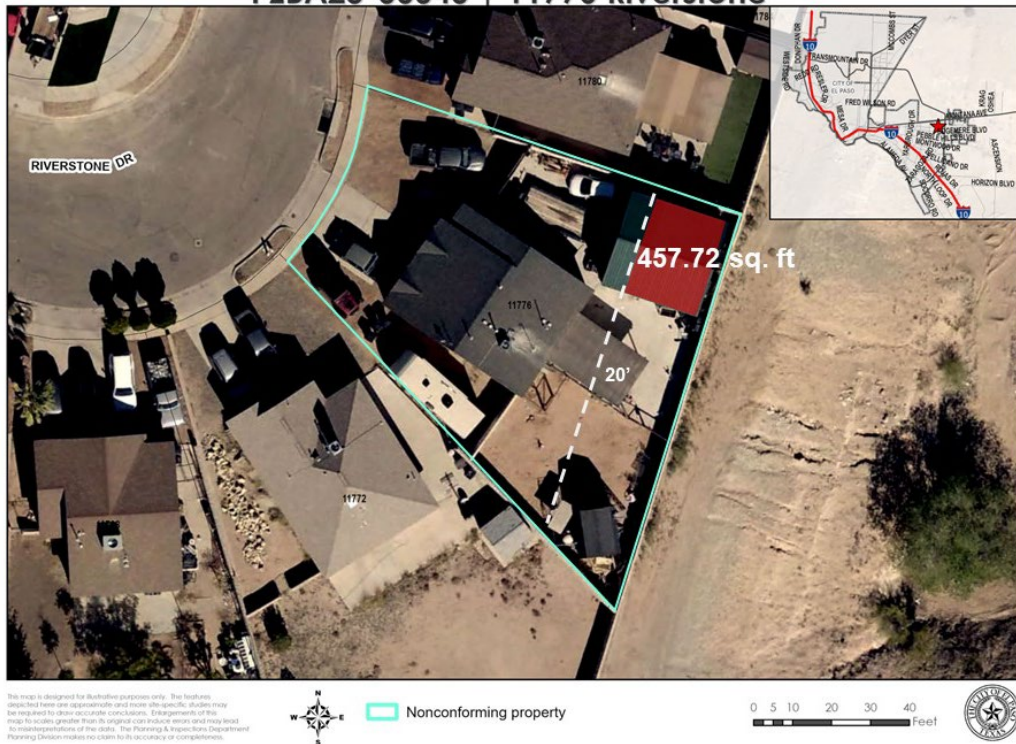
# NONCONFORMING LOT 1 (REAR)

PZBA25-00040 | 11712 Riverstone



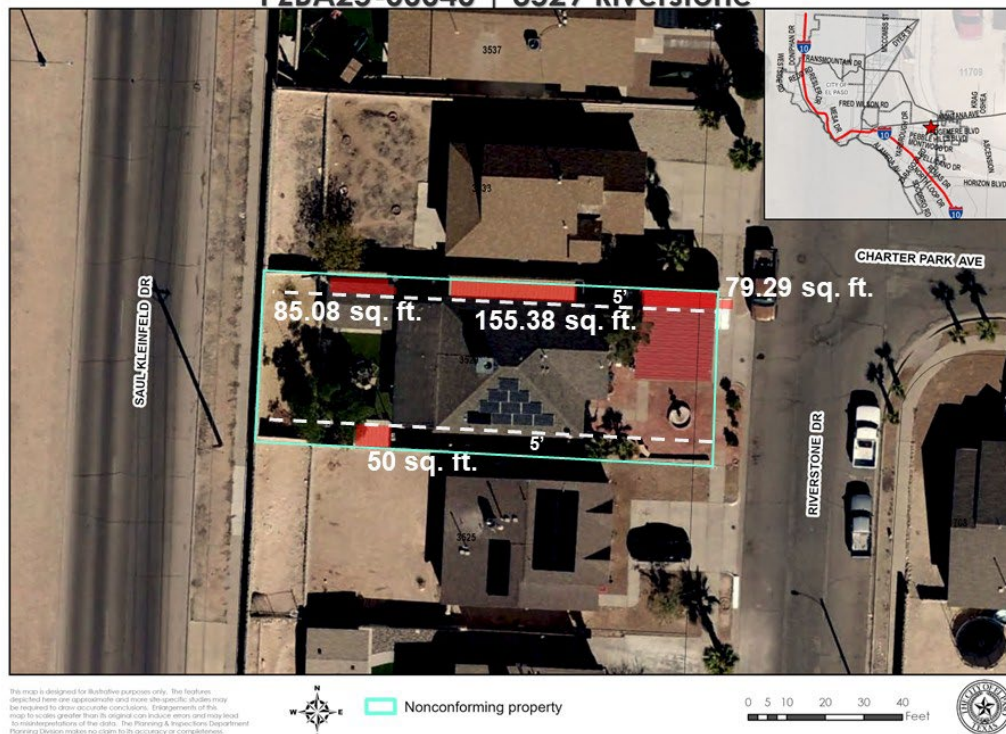
## NONCONFORMING LOT 2 (REAR)

PZBA25-00040 | 11776 Riverstone



## NONCONFORMING LOT 3 (SIDE)

PZBA25-00040 | 3529 Riverstone



## NONCONFORMING LOT 4 (SIDE)

PZBA25-00040 | 3537 Riverstone



## NONCONFORMING LOT 5 (SIDE)

PZBA25-00040 | 3549 Riverstone



## PUBLIC INPUT

### **Dear Members of the Zoning Board of Appeals: Addition to the home**

This correspondence constitutes a formal petition for a zoning variance concerning the structure constructed at our property located at 11749 Riverstone Drive, El Paso, Texas 79936. We are the lawful owners of the subject property. Our intent in commissioning the work was to enhance the safety, accessibility, and functionality of our residence for the benefit of our growing family and elderly relatives. At all times, we intended to comply fully with applicable zoning ordinances and building codes.

We engaged an individual, Jorge Martinez, who represented himself as a duly licensed and bonded contractor. Mr. Martinez explicitly assured us that all required permits and plans would be secured prior to and during construction. In reliance on these representations, we remitted \$25,000 in good faith to cover the cost of permits, plans, materials, and labor. We also paid him for the preparation of building plans, yet we never received a copy of those plans. Further, despite signing a contract, we were never provided with a copy of that contract or with any receipts for the monies paid. Mr. Martinez would appear only sporadically to perform work, each time assuring us he would provide the documents at his next visit. This continued until he abruptly ceased contact altogether and disappeared.

While initial work commenced and materials were delivered, repeated requests for permit documentation, receipts, and plans were met with delay or avoidance. Approximately 85% percent of the construction was completed before Mr. Martinez ceased all communication. Subsequent attempts to contact him have failed, as his telephone has been disconnected. His actions have left us with an unpermitted structure through no fault of our own.

The structure, as it stands, poses no threat to public health, safety, or welfare; it does not obstruct neighboring properties' views, nor does it interfere with their lawful use and enjoyment. On the contrary, the addition was designed to enhance the value and appearance of our home and surrounding neighborhood. We have obtained letters from adjoining property owners/residents confirming their full support for the variance requested.

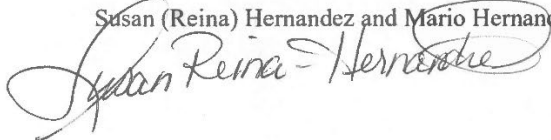
In light of the substantial financial investment already made, and given that the construction was undertaken in reliance on the contractor's assurances, we respectfully request that the Board allow the structure to remain in its current form, subject only to any minor modifications necessary for compliance. Demolition or removal would cause undue financial hardship and irreparable loss of the resources we have committed in good faith.

Accordingly, we request that the Board grant a variance permitting the existing structure to remain in place and be brought into compliance under the conditions you deem appropriate.

We remain committed to cooperating fully with all municipal requirements to resolve this matter lawfully and expediently.

Respectfully submitted,

Susan (Reina) Hernandez and Mario Hernandez

A handwritten signature in cursive script, appearing to read "Susan Reina Hernandez", written over a horizontal line.

To:

Zoning Board of Adjustment  
Planning and Inspections Department  
City of El Paso, Texas

Subject: Variance Request for Existing Side Porch at 11749 Riverstone Drive, El Paso, Texas 79936

Dear Members of the Zoning Board of Adjustment,

I respectfully submit this variance application under Section 2.16.030 of the El Paso City Code, seeking relief from the side setback requirement for an existing side porch at my property located at 11749 Riverstone Drive, El Paso, Texas 77936.

### **Property & Structure Background**

- The side porch has been part of the residence since approximately [2001, 21 years ago]. It predates current setback regulations and has been maintained without issue, complaint, or visible impact on adjacent properties.
- The porch has no structural changes planned; this request is solely to allow the existing structure to remain.

**Request Summary:** I am requesting a variance to reduce the side yard setback requirement for this existing porch so that it may remain as is.

### **Justification Based on El Paso Criteria (Section 2.16.030)**

- Unique Circumstances-The porch was constructed long before current zoning standards and is not a result of new development. Its long-standing presence in the community without complaint represents a unique historical circumstance.
- Undue Hardship from Literal Enforcement-Enforcing the current setback by removing or altering the porch imposes significant financial hardship and undermines the longstanding stability of the neighborhood. Removing a decades-old structure that has functioned safely serves no practical benefit to the public.
- Alignment with Public Interest & Ordinance Spirit-The porch causes no adverse impact: no blockage of views, no interference with neighboring properties, and no detriment to safety or welfare. In fact, it contributes to the architectural character of the area. Granting the variance allows justice and equitable treatment, in line with the spirit of City Code Section 2.16.030.

### **Supporting Documents Submitted with Application**

In accordance with submission requirements, the following are included as part of my application package:

- Notarized and completed ZBA application form.
- Fee payment.
- Zoning map sheet with property outlined in red.
- Generalized plot plan showing the porch location, property lines, setbacks, and surrounding structures.
- Photographs of the existing porch.
- Neighborhood letters of support are attached.

### **Conclusion**

Given the unique circumstances, the hardship that removal would impose, and the lack of negative impact, I respectfully request that the Board grant this variance to allow the side porch to remain in its existing location.

Thank you for your time and consideration. I am prepared to appear at the hearing and answer any questions. Please contact me at 915 777-4212 or email [susannasgrowth@gmail.com](mailto:susannasgrowth@gmail.com) if you require further information.

Sincerely,

Susan Reina-Hernandez  
11749 Riverstone Drive,  
El Paso, Texas 79936  
Phone: 915 777-4212  
Email: [susannasgrowth@gmail.com](mailto:susannasgrowth@gmail.com)

**BEFORE THE ZONING BOARD OF APPEALS**

CITY OF EL PASO, TEXAS

IN RE: Petition for Variance

Property Address: 11749 Riverstone Drive, El Paso, TX 79936

**PETITION FOR VARIANCE FOR ADDITION**

TO THE HONORABLE MEMBERS OF THE ZONING BOARD OF APPEALS:

COME NOW, Susan (Reina) Hernandez and Mario Hernandez, lawful owners of the property located at 11749 Riverstone Drive, El Paso, Texas 79936. We respectfully submit this Petition for Variance, and in support thereof would show the Board as follows:

1. **Property Ownership.** Petitioners are the lawful owners of the subject property located at 11749 Riverstone Drive, El Paso, Texas 79936.
2. **Purpose of Addition.** Petitioners commissioned the construction of an addition to enhance the safety, accessibility, and functionality of the residence for the benefit of their growing family and elderly relatives.
3. **Engagement of Contractor.** Petitioners engaged an individual, Jorge Martinez, who represented himself as a duly licensed and bonded contractor. Mr. Martinez expressly assured Petitioners that all required permits and plans would be secured.
4. **Payment Made.** In reliance upon these assurances, Petitioners remitted more than \$25,000 for permits, plans, materials, and labor, and separately compensated Mr. Martinez for preparation of building plans.
5. **Failure to Provide Documentation.** Despite repeated requests, Petitioners never received copies of the signed contract, building plans, or receipts for monies paid. Mr. Martinez repeatedly promised delivery of such documents but failed to provide them.
6. **Abandonment of Project.** Mr. Martinez performed work only sporadically, each time delaying or avoiding production of the required documentation, until ultimately ceasing all communication. His telephone has since been disconnected.
7. **Status of Construction.** Approximately eighty-five percent (75%-80%) of the addition was completed before abandonment, leaving Petitioners with an unpermitted structure through no fault of their own.
8. **Impact on Community.** The structure, as built, poses no threat to public health, safety, or welfare. It does not obstruct views or interfere with neighboring properties. On the contrary, the addition improves both the appearance and value of the Petitioners' residence and surrounding neighborhood.

9. **Neighbor Support.** Petitioners have obtained written confirmation of support from adjoining property owners and residents, attesting that they have no objection to the addition and are in favor of the requested variance.

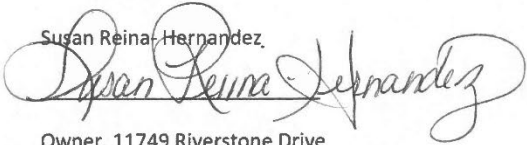
10. **Hardship.** Requiring demolition or removal of the structure would cause Petitioners extreme financial hardship and irreparable loss, given the substantial investment already made in good faith reliance upon Mr. Martinez's representations.

11. **Neighbor Support Letter for Zoning Variance Request attached.**

**PRAYER:** WHEREFORE, PREMISES CONSIDERED, Petitioners respectfully request that this Board grant a variance permitting the existing addition to remain in place, subject only to such conditions or modifications as the Board deems appropriate to bring the structure into compliance with applicable codes and regulations.

Respectfully submitted,

Susan Reina Hernandez

A handwritten signature in cursive script, reading "Susan Reina Hernandez", written over a horizontal line.

Owner, 11749 Riverstone Drive

El Paso, Texas 79936

Date: 8/19/25

Mr. and Mrs. Hernandez  
11749 Riverstone Drive  
El Paso, Texas, 79936  
915 777-4212  
susannasgrowth@gmail.com

Date: 8/7/25

To: Zoning Board of Appeals  
Address: 811 Texas Ave, El Paso, TX 79901  
Phone: (915) 212-0104

**Subject: Neighbor Support Letter for Zoning Variance Request – 11749  
Riverstone Drive, El Paso, Texas 79936**

Dear Zoning Board of Appeals,

We, the undersigned neighbors of the property located at: **11749 Riverstone Drive, El Paso, Texas 79936** are writing to express our full support for the request made by the property owner, Susan and Mario Hernandez, regarding a proposed zoning variance for the construction of three front wooden and metal shading, left side Steele shading, Canopy 13x12 in the back yard, backyard and side yard fence, mesh and wood canopy on the right side of the house, and the addition to the right side and rear of the house. All of which may involve a minor encroachment on the existing utility easement (ESMT).

We understand that this request involves a zoning variance and a potential encroachment on a designated easement area. We hereby affirm the following:

- We have been fully informed of the proposed additions and improvements;
- We have no objections to the variance request, zoning designation, or the minor encroachment on the easement (ESMT);
- We do not believe these additions pose any risk, hazard, or inconvenience to our property or the neighborhood; and
- We support the granting of the requested zoning variance and understand the improvements are being made responsibly and with consideration to the community.

We respectfully ask that the Zoning Board of Appeals take our support into account when reviewing this request. It is our belief that this improvement is in harmony with the surrounding properties and will not negatively impact the character or safety of the neighborhood.

Sincerely,  
(Neighbor Signatures)

1 of 2

Neighbor 1 Left Side  
Name: Thelma Muller  
Address: 11745 Riverstone Dr 79936  
Signature: Thelma Muller  
Date: 8/5/25

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Neighbor 2 Right Side  
Name: Erin Salas  
Address: 11753 Riverstone Dr 79936  
Signature: Erin Salas  
Date: 8/8/25

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Neighbor 3 Rear Yard  
Name: Ricardo Hernandez  
Address: 11752 Charter Park 79936  
Signature: Ricky  
Date: 08/08/2025

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Neighbor 4 Rear yard  
Name: Thelma Ponce  
Address: 11748 Charter Park 79936  
Signature: Thelma Ponce  
Date: 08/19/2025

2 of 2

Neighbor Support Letter for Zoning Variance

Re: Zoning Appeal for [Your Address]

To Whom It May Concern,

I/We, the undersigned, am/are the property owner(s) and/or resident(s) of the neighboring property located at:

Address: 11753 Riverstone Dr 79936

I/We understand that the property owner at:

11749 Riverstone Drive, El Paso, TX 79936 is requesting a zoning variance and/or appeal regarding an existing [easement encroachment / structure / porch / addition] that is located at or near the [front / rear / side] property line and may encroach into the required easement or setback area.

After being informed of the details of the variance request, I/We hereby affirm that:

- I/We have no objection to the presence or continuation of the described structure or encroachment.
- I/We support the property owner's request for a zoning variance or appeal as described above.

Printed Name: Erin Salas

Signature: Erin Salas

Date: 8/8/25

Neighbor Support Letter for Zoning Variance

Re: Zoning Appeal for [Your Address]

To Whom It May Concern,

I/We, the undersigned, am/are the property owner(s) and/or resident(s) of the neighboring property located at:

Address: 11752 Charter Park

I/We understand that the property owner at:

11749 Riverstone Drive, El Paso, TX 79936 is requesting a zoning variance and/or appeal regarding an existing [easement encroachment / structure / porch / addition] that is located at or near the [front / rear / side] property line and may encroach into the required easement or setback area.

After being informed of the details of the variance request, I/We hereby affirm that:

- I/We have no objection to the presence or continuation of the described structure or encroachment.
- I/We support the property owner's request for a zoning variance or appeal as described above.

Printed Name: Ricardo Hernandez

Signature: RH

Date: 08/08/2025

Neighbor Support Letter for Zoning Variance

Re: Zoning Appeal for [Your Address]

To Whom It May Concern,

I/We, the undersigned, am/are the property owner(s) and/or resident(s) of the neighboring property located at:

Address: 11748 Charter Park

I/We understand that the property owner at:

11749 Riverstone Drive, El Paso, TX 79936 is requesting a zoning variance and/or appeal regarding an existing [easement encroachment / structure / porch / addition] that is located at or near the [front / rear / side] property line and may encroach into the required easement or setback area.

After being informed of the details of the variance request, I/We hereby affirm that:

- I/We have no objection to the presence or continuation of the described structure or encroachment.
- I/We support the property owner's request for a zoning variance or appeal as described above.

Printed Name: Janet Ponce

Signature: Janet Ponce

Date: 08/9/25