

4412 Loma de Brisas

Zoning Board of Adjustment — September 16, 2024



CASE NUMBER: PZBA24-00071
CASE MANAGER: Myrna Aguilar, (915) 212-1584, AguilarMP@elpasotexas.gov
PROPERTY OWNER: Pauline Fraser & Ron Cabrera
REPRESENTATIVE: Ron Cabrera
LOCATION: 4412 Loma de Brisas (District 4)
ZONING: R-3 (Residential)
REQUEST: Special Exception B (Two or More Nonconforming Lots)
PUBLIC INPUT: None received as of September 10, 2024

SUMMARY OF REQUEST: Applicant requests a Special Exception under Section 2.16.050 B (Two or More Nonconforming Lots) to allow to legalize an existing storage encroaching into their required 5-foot side yard setback and required 60-foot front setback for an accessory structure in an R-3 (Residential) zone district.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends **APPROVAL WITH A CONDITION** of the special exception request as the requested encroachment is less than or equal to the encroachments into that setback already present on at least two other neighboring properties. The condition is as follows:

In addition of obtaining permit for storage, an electrical permit must be obtained for electrical line running from property to storage unit.

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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 storage, which extends 5 feet into the required side yard setback for 80 square feet of total encroachment. It would also allow to keep the storage unit as built encroaching into the required 60 foot front yard setback for accessory structures.

BACKGROUND: The minimum side setback is 5 feet in the R-3 (Residential) zone district. Detached accessory structures are required to be at least 5 feet away from the main structure and comply with the required 60 feet front setback per El Paso City Code Section 20.10.030. Other nonconforming properties have been identified encroaching similarly on the side yard setback as well as not meeting the required 60-foot front setback for accessory structures at 4408 Loma de Brisas and 4416 Loma Hermosa.

SETBACKS	REQUIRED SETBACK	REQUESTED SETBACK
Front	25 feet 4 inches	No Change
Rear	27 feet 8 inches	No Change
Cumulative Front & Rear	50 feet	No Change
Side (East)	5 feet	0 feet
Side (West)	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: <i>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:</i>	
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 at least two properties on the same block extend to zero feet into the side yard setback and 60 foot front setback requirement for accessory structures.
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 two properties with structures built into the required five (5) feet side setback, at zero feet to the property line located at 4408 Loma de Brisas and 4416 Loma Hermosa. Neither one of the properties meet the 60 foot required front setback for accessory structures.
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 September 5, 2024 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.

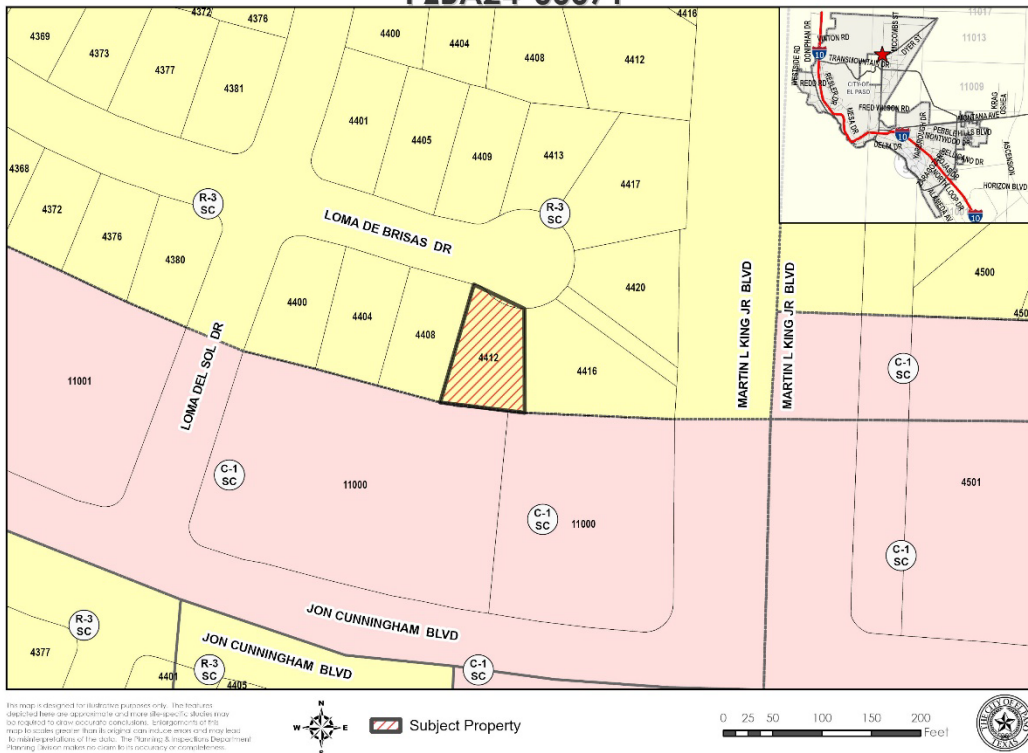
ZONING BOARD OF ADJUSTMENT OPTIONS:

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.
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.

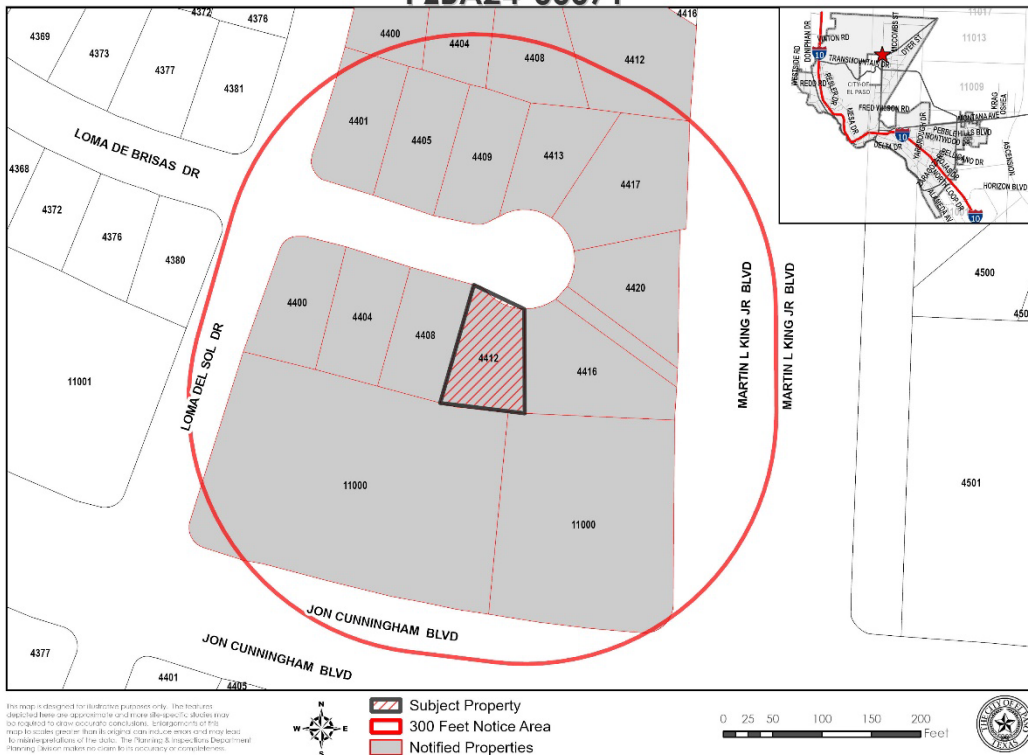
ZONING MAP

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NEIGHBORHOOD NOTIFICATION MAP

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NONCONFORMING LOTS

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This map is designed for illustrative purposes only. The boundaries depicted herein are approximate and do not constitute a legal description. It is recommended that you consult with a professional surveyor to obtain accurate boundary information. The Planning & Inspection Department reserves the right to make changes to this map without notice. Planning & Inspection makes no claim to its accuracy or completeness.



Subject Property

0 20 40 80 120 160 Feet



NONCONFORMING LOT 1

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Subject Property

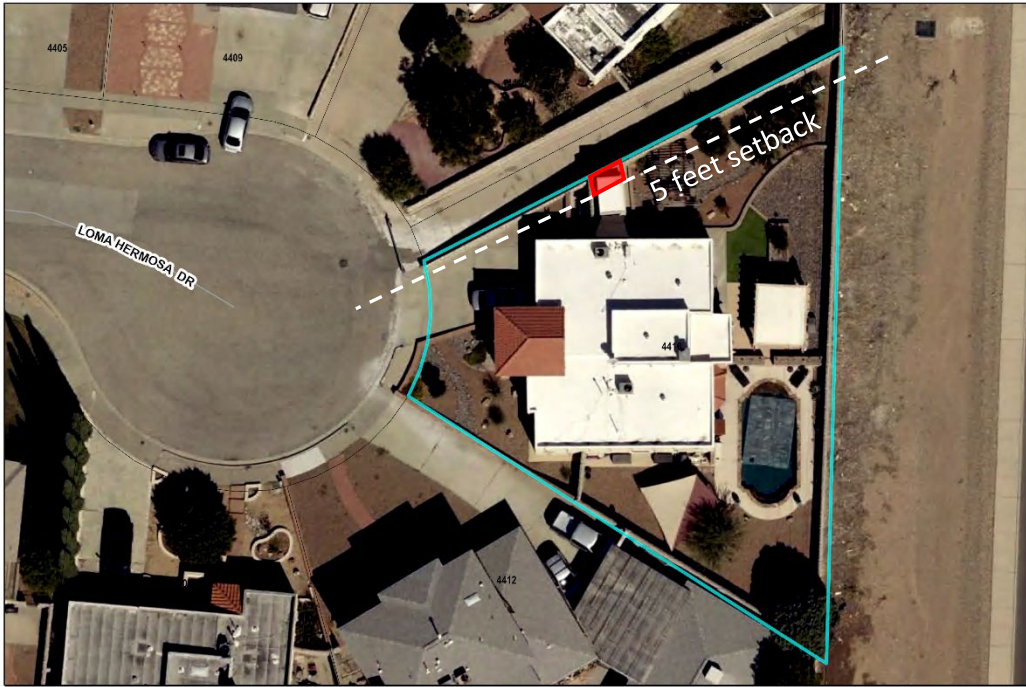
0 5 10 20 30 40 Feet



4408 Loma de Brisas

NONCONFORMING LOT 2

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This map is designed for illustrative purposes only. The features depicted herein are not guaranteed and more precise field studies may be required to derive accurate conclusions. Fragmentation of the map by scales greater than 1:8,000 may result in errors and may lead to misinterpretation of the data. The Planning & Inspection Department Planning Division makes no claim to the accuracy or completeness.



Subject Property



4416 Loma Hermosa