

# 12761 Persistence

Zoning Board of Adjustment — March 24, 2025



**CASE NUMBER:** PZBA25-00002  
**CASE MANAGER:** Jose Beltran, (915) 212-1607, BeltranJV@elpasotexas.gov  
**PROPERTY OWNER:** El Paso Property Investors LLC  
**REPRESENTATIVE:** CAD Consulting Co.  
**LOCATION:** 12761 Persistence Ave. (District 6)  
**ZONING:** R-3A (Residential)  
**REQUEST:** Special Exception G (Builder Error)  
**PUBLIC INPUT:** None received as of March 20, 2025

**SUMMARY OF REQUEST:** Applicant requests a Special Exception under Section 2.16.050 G (Builder Error) for a side yard setback encroachment to legalize an existing single-family dwelling in an R-3A (Residential) zone district.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the special exception request as the requested encroachment is less than the maximum encroachment permitted.

## PZBA25-00002



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. Enlargements 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 10 20 40 60 80 Feet



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 single-family dwelling, of which 0.7 feet extends into the side yard setback for a total encroachment area of 43.62 square feet.

**BACKGROUND:** The minimum side setback is 5 feet in the R-3A (Residential) zone district. According to Central Appraisal District records, the single-family dwelling was built in 2024.

The Building Company is Blackstone Homes LLC; the contractor is Blackstone Homes LLC; the owner is El Paso Property Investors LLC. This request for builder error is the building company’s first request in the last 12 months, the contractor’s first request in the last 12 months, and the owner’s first request in the last 12 months. The owner has stated that the error causing the encroachment was inadvertent and not intentional. The owner of the subject property has stated that the error which resulted in the encroachment was inadvertent and unintentional.

The final inspection of the single-family dwelling is pending due to the builder error.

SETBACKS	REQUIRED SETBACK	REQUESTED SETBACK
Front	20 feet	No Change
Rear	25 feet	No Change
Cumulative Front & Rear	45 feet	No Change
Side (Left)	5 feet	4.3 feet
Side (Right)	5 feet	No Change
Cumulative Side	N/A	N/A

**CALCULATIONS:**

	TOTAL	CALCULATION
Maximum Permitted Encroachment	1 foot	Greater of 1’ or 0.5’ (10% of 5’ required side yard setback)
Requested Encroachment	0.7 feet	

<b>COMPLIANCE WITH SPECIAL EXCEPTION 2.16.050.G CRITERIA</b>	
The Zoning Board of Adjustment is empowered under Section 2.16.050.G to: <i>Permit the encroachment of the principal building or structure into the required yard setbacks in all districts, caused by an error in construction, provided the following criteria is met:</i>	
Criteria	Does the Request Comply?
1. The permitted encroachment into any front yard setback shall not exceed ten percent of the required setback, or one foot whichever is greater;	No. The encroachment is not into the front yard setback.
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;	Yes. The request is for 0.7 feet out of the required 5 feet, which is less than one foot (1’) of the required side yard setback.
3. The permitted encroachment into any rear yard setback shall not exceed fifteen percent of the required setback or one foot whichever is greater;	No. The encroachment is not into the rear yard setback.
4. The owner shall demonstrate through testimony or documentation that the error causing the encroachment was inadvertent and not intentional;	Yes. The owner has stated that the error causing the encroachment was inadvertent and not intentional.
5. The number of properties requesting encroachment permission under this section which involve the same builder, contractor, or	Yes. The request is the first for the builder, the first for the contractor, and the first for the owner in a twelve-month period.

owner shall not exceed three in any twelve-month period.	
--	--

**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.

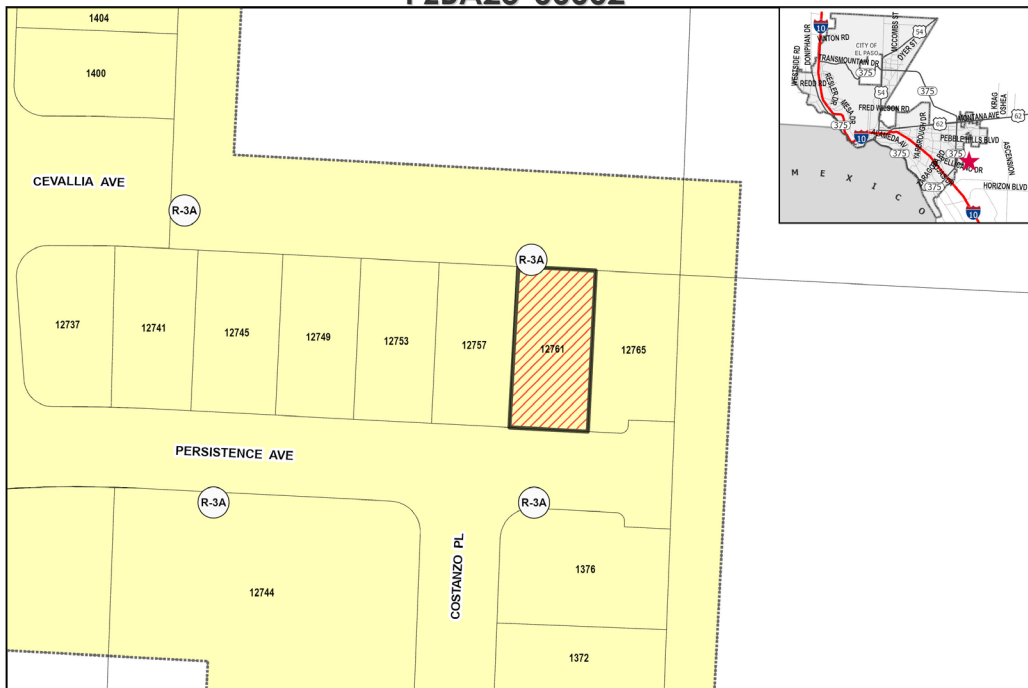
**ZONING BOARD OF ADJUSTMENT OPTIONS:**

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

PZBA25-00002



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. Enlargements 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.



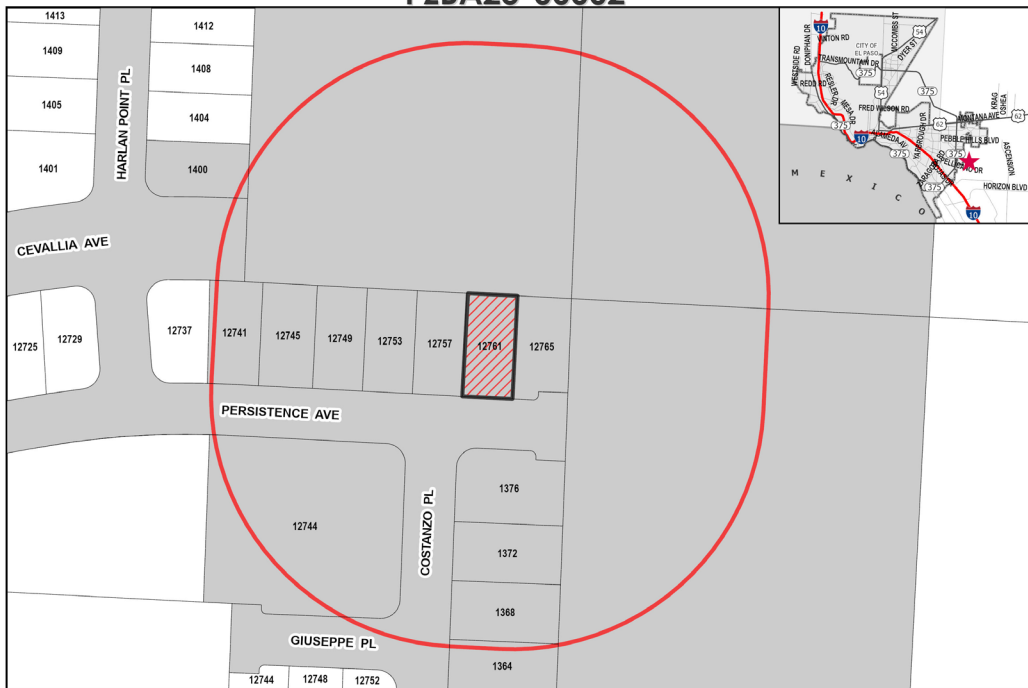
Subject Property

0 15 30 60 90 120 Feet



# NEIGHBORHOOD NOTIFICATION MAP

PZBA25-00002



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. Enlargements 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  
300 Feet Notice Area  
Notified Properties

0 25 50 100 150 200 Feet



# SITE PLAN

