

11313 Ardelle

Zoning Board of Adjustment — September 16, 2024



CASE NUMBER: PZBA24-00056
CASE MANAGER: Andrew Salloum, (915) 212-1603, SalloumAM@elpasotexas.gov
PROPERTY OWNER: Kid Motors
REPRESENTATIVE: Denise Vedder
LOCATION: 11313 Ardelle Ave. (District 6)
ZONING: R-4/c (Residential/conditions)
REQUEST: Special Exception G (Builder Error)
PUBLIC INPUT: None received as of September 10, 2024

SUMMARY OF REQUEST: Applicant requests a Special Exception under Section 2.16.050 G (Builder Error) for a front and rear yard setbacks encroachment to legalize an existing portion of the structure in an R-4 (Residential) zone district.

SUMMARY OF STAFF'S RECOMMENDATION: Pending.

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This map is designed for illustrative purposes only. The features depicted herein 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 25 50 100 150 200 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 portion of the structure, of which extends 1.76 feet into the front yard setback of which 147.60 square feet encroach into the front yard setback. Additionally, an existing portion of structure, of which extends 1.49 feet into the rear yard setback of which 221.66 square feet encroach into the rear yard setback.

BACKGROUND: The minimum rear yard setback is 25 feet in the R-4 (Residential) zone district. The required rear yard setback for the subject property is 23.50 feet to meet the cumulative front and rear yard setback of 45 feet in the R-4 (Residential) zone district.

Per Section 20.12.040 - Yards in the City Code, open, unenclosed porches that do not exceed one hundred eighty square feet in area may extend twelve feet into a required rear yard. The existing porch area is to be decreased to comply.

The Building Company is Innovated Custom Homes LLC; the contractor is ZTEX Construction; the owner is Kid Motors Inc. 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 single-family dwelling is currently under construction. The final inspection for the structure is pending due to the builder error.

| SETBACKS | REQUIRED SETBACK | REQUESTED SETBACK |
|-------------------------|------------------|-------------------|
| Front | 21.5 feet | 19.74 feet |
| Rear | 23.5 feet | 15.92 feet |
| Cumulative Front & Rear | 45 feet | 35.66 feet |
| Side (Left) | 5 feet | No Change |
| Side (Right) | 5 feet | No Change |
| Cumulative Side | N/A | N/A |

CALCULATIONS:

| | TOTAL | CALCULATION |
|--------------------------------|-------------------------------|--|
| Maximum Permitted Encroachment | 2.2 feet And 3.53 feet | Greater of 1' or 2.2' (10% of 21.5' required front yard setback) and Greater of 1' or 3.53' (15% of 23.5' required rear yard setback) |
| Requested Encroachment | 1.76 foot And 1.49 feet | |

| COMPLIANCE WITH SPECIAL EXCEPTION 2.16.050.G CRITERIA | |
|---|---|
| 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; | Yes. The request is for 1.76 feet out of the required 21.5 feet, which is less than ten percent (10%)/one foot (1') of the required 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; | No. Encroachment is not into the side or side street yard setback. |

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|---|--|
| 3. The permitted encroachment into any rear yard setback shall not exceed fifteen percent of the required setback or one foot whichever is greater; | Yes. The request is for 1.49 feet out of the required 23.5 feet, which is less than fifteen percent (15%)/one foot (1') of the required 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 owner shall not exceed three in any twelve-month period. | 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. |

PUBLIC COMMENT: Public notice was sent on September 6, 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.

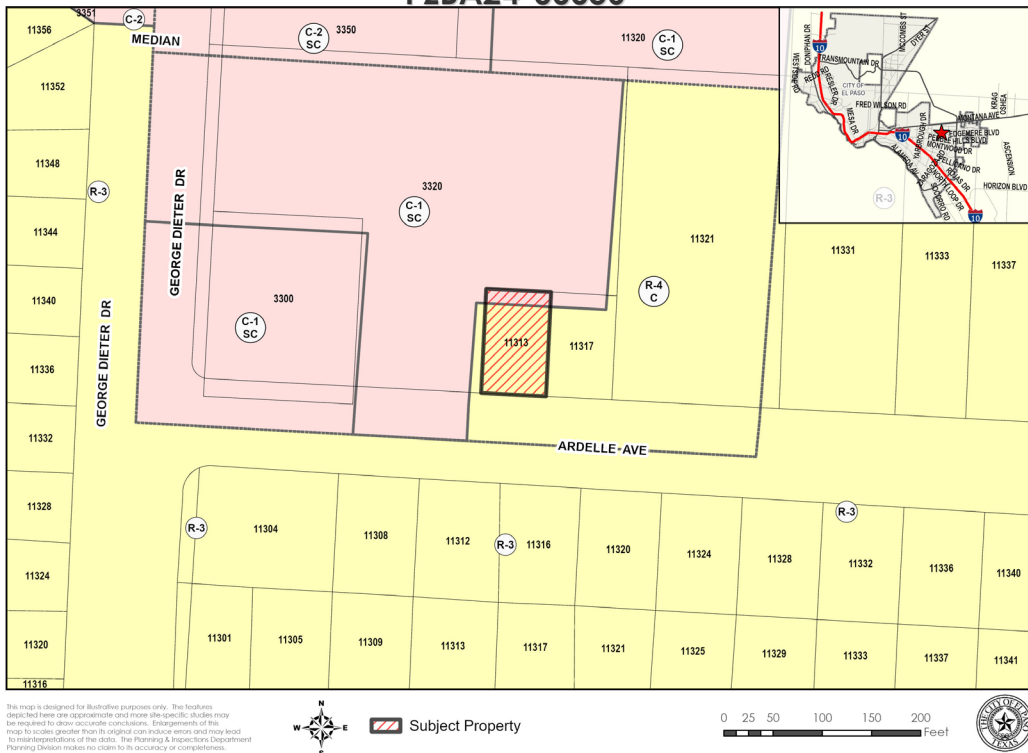
ZONING BOARD OF ADJUSTMENT OPTIONS:

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.

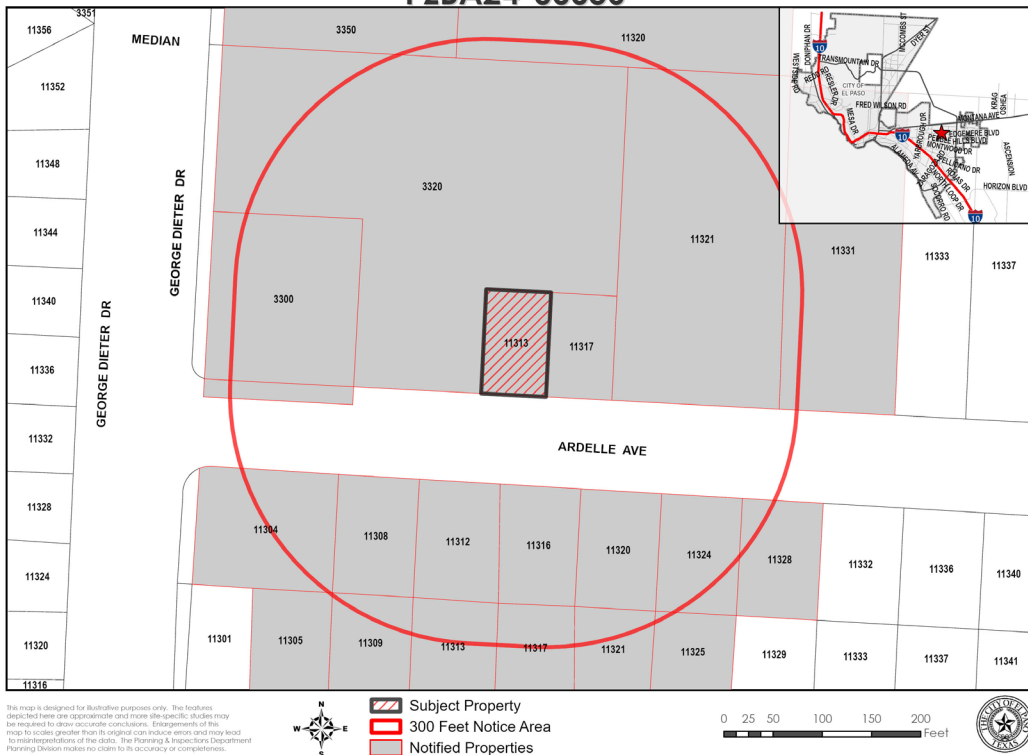
ZONING MAP

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NEIGHBORHOOD NOTIFICATION MAP

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SITE PLAN

