

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS SPECIAL MEETING WEDNESDAY, MAY 25, 2022 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

At any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Zoning Board of Adjustment and Appeals under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.

CALL TO ORDER – Chairperson Sylvia Hinojosa

1. PUBLIC HEARINGS:

- a) Request of Elizabeth L. Garza for the following Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 10 feet South side yard setback for an existing single family home, at Lot 124, Vendome Subdivision Phase II, Hidalgo County, Texas; 13818 North 33rd Lane. **(ZBA2022-0024) (TABLED: 05/18/2022)**

ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE ZONING BOARD OF ADJUSTMENTS AND APPEALS MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

Memo

TO: Zoning Board of Adjustment & Appeals

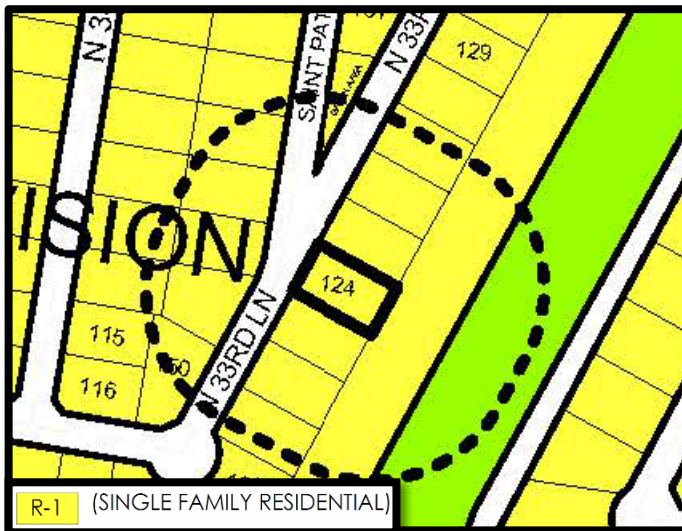
FROM: Planning Staff

DATE: May 20, 2022

SUBJECT: REQUEST OF ELIZABETH L. GARZA FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 4 FEET INTO THE 10 FEET SOUTH SIDE YARD SETBACK FOR AN EXISTING SINGLE FAMILY HOME, AT LOT 124, VENDOME SUBDIVISION PHASE II, HIDALGO COUNTY, TEXAS; 13818 NORTH 33RD LANE. (ZBA2022-0024) (TABLED 05/18/2022)

REASON FOR APPEAL:

The applicant is requesting to allow an existing single family residential structure with an encroachment of 4 feet into the 10 feet south side yard setback to remain.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the east side of North 33rd lane. The property has 74 feet. of frontage along North 33rd Lane and a depth of 125 feet for a lot size of 9,250 square feet. The subject property is zoned R-1 (single family residential) District. The surrounding land use is single-family residential, vacant land and Hidalgo Canal No. 1 Right of Way.

BACKGROUND AND HISTORY:

Vendome Subdivision Phase II was recorded on April 21, 2021. The original building permit application for the residential home was for Lot 126 however, a final survey of the construction revealed that the house was built on Lot 124 with an encroachment on the South side yard setback. A Certificate Of Occupancy was issued April 28, 2022 for a single family home.

ANALYSIS:

The variance request is to allow an encroachment of 4 feet into the 10 feet side yard setback for an existing single family home. The survey provided indicates the structure was built with an encroachment of 3.8 feet into the south side yard setback. A 10 feet drainage easement runs concurrently with the setback. According Engineering Department plans, a 24-inch drain line runs through the middle of the 10 feet drainage easement. Any damage to the line may impact the structured integrity of the home and stability of its foundation. The actual construction of the home is approximately 1.2 feet from the drain line.

Engineering Department staff has provided a recommendation of disapproval for the request and in the event the request is approved, they have requested a liability stipulation (see attached) be included with any document of approval to the property owner.

Staff has not received any phone calls or e-mails in regards to the variance requests.

Options the Board may consider:

- 1) Calculating the cost of demolition versus the cost of reconstruction of the building may be more than 50%. (cost of compliance may result in unnecessary hardship)
- 2) Relocation of the building to be in compliance may result in noncompliance with the North side yard setback. (compliance would result in the structure not being in compliance with another requirement)

RECOMMENDATION:

Staff recommends disapproval of the variance request since the request goes against the purpose and intent of the setback and utility easement more specifically to prevent construction inside setbacks and/or over utility easements. While the situation may be unique, the condition of the property is not unique since the construction could have been done outside of the setbacks. Unnecessary hardship is not present since compliance with the ordinance does not prevent the owner from using the property to build a single family home.

ZBOA MEETING ON MAY 18, 2022:

At the meeting of Zoning Board of Adjustments on May 18, 2022, the item was tabled by staff to discuss more details provided with applicant in regards of new information provided. Item will be heard at the special meeting on May 25, 2022.

ZBA-5/18/22

ZBA 2022-0024



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15th Street
McAllen, TX 78501
P. O. Box 220
McAllen, TX 78505-0220
(956) 681-1250
(956) 681-1279 (fax)

Project

Legal Description

Lot 124

Subdivision Name

Vendome ph II

Street Address

13818 N. 33rd Ln

Number of lots

1

Gross acres

Existing Zoning

Residential

Existing Land Use

Residential

Reason for Appeal (please use other side if necessary)

4 ft. encroachment into the 10ft side yard/drainage.

☒ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)

☐ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Elizabeth L. Garza

Phone (956) 605-8678

Address 1212 Lindberg St

E-mail elizabeth.louzada44@gmail.com

City Mission

State TX

Zip 78573

Owner

Name Elizabeth L. Garza

Phone (956) 605-8678

Address 1212 Lindberg St

E-mail elizabeth.louzada44@gmail.com

City Mission

State TX

Zip 78573

Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?

☐ Yes

☐ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)
OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature

Elizabeth L. Garza

Date

5/2/2022

Print Name

Elizabeth L. Garza

☐ Owner

☐ Authorized Agent

Office

Accepted by MR

Payment received by

Date

ENTERED

Rev 10/18

MAY 02 2022

Initial:

AG



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: (Please use an additional page if necessary to complete responses)

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

The drainage easment runs alongside the property line, we left a 6'-2" easment.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

We need the variance because the home has just been finished and having to demolish will a long & costly process.

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

the variance will not affect anybody else it is inside our property line

4. Describe special conditions that are unique to this applicant or property:

There were some mistakes on the subdivision plats we started thinking it was lot 124 but on final plot it was 124. the house is finished and we were ready to close for the owner to move in.

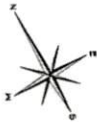
Reason for Appeal

Board Action

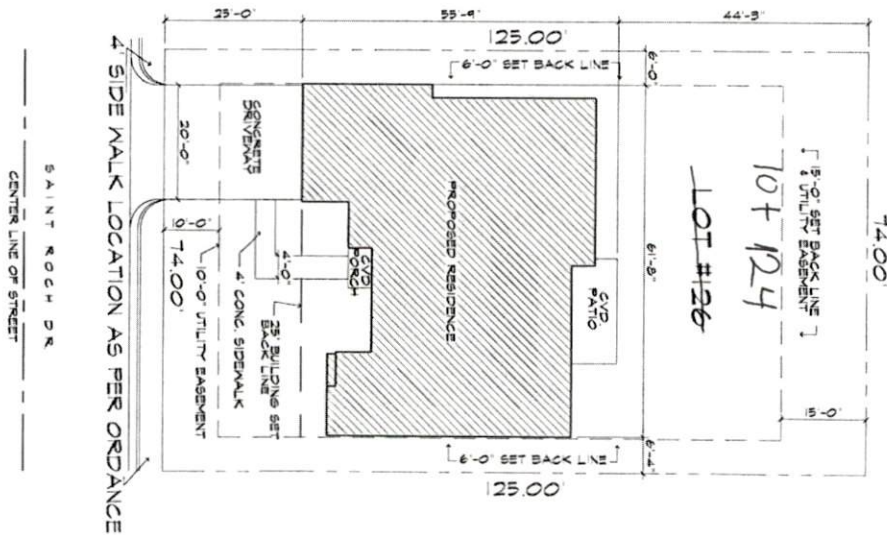
Chairman, Board of Adjustment
Signature

Date

- LEGAL DESCRIPTION

NORTH ARROW

① SITE PLAN
SCALE: 1"=10'-0"



5/2/22



TREASURE
BUILDERS LLC

PROJECT :

Garza Residence

DATE: 05-11-21

PLAN TS-55-20

PLAN #555-20
ENTERED

MAY 02 2022

Initial: CM

D DISTINCTIVE
DRAFTING & DESIGN L.L.C.

2312 S. EXPRESSWAY 83 SUITE # B
HARLINGEN, TX. 78552
OFFICE: (956) 425-7040
FAX: (956) 425-7714

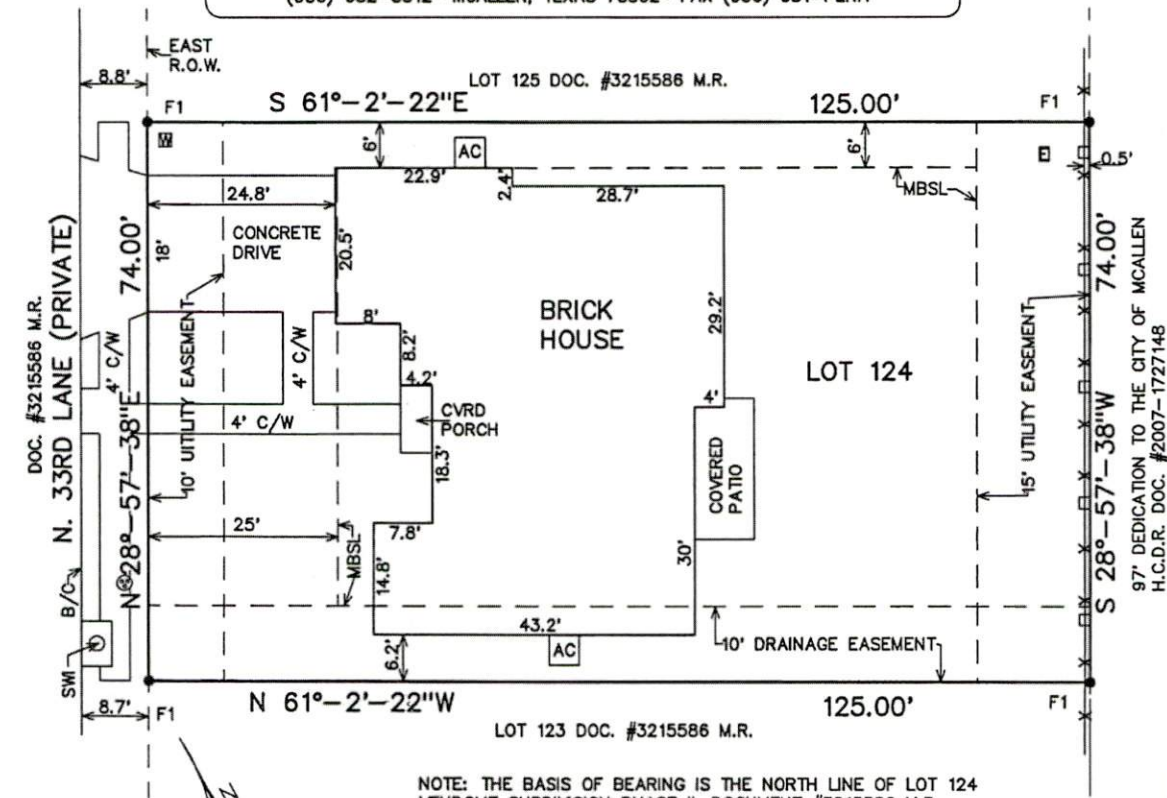
DISTINCTIVE DRAFTING & DESIGN HEREBY RESERVES ITS COMMON COPYRIGHT LAW & OTHER PROPERTY RIGHTS IN THESE PLANS & DESIGNS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY, WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION FROM DISTINCTIVE DRAFTING & DESIGN. DISTINCTIVE DRAFTING & DESIGN TAKES NO RESPONSIBILITY FOR THE CONSTRUCTION OF THE RESIDENCE OR BUILDING.

C-1

SHEET

PEÑA ENGINEERING

FIRM #10087200 • 1001 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA



NOTE: THE BASIS OF BEARING IS THE NORTH LINE OF LOT 124 VENDOME SUBDIVISION PHASE II, DOCUMENT #3215586 M.R.

LEGEND

- F1 - FOUND 1/2" IRON DIAMETER IRON ROD
- B/C - BACK OR CONCRETE CURB & GUTTER
- R.O.W. - RIGHT OF WAY
- MBSL - MINIMUM BUILDING SETBACK LINE
- SW - STORM WATER INLET
- W - WATER METER
- E - ELECTRICAL PEDESTAL
- C/W - CONCRETE WALK
- X-X-X - 6' IRON FENCE W/ CONC BLOCK PILLARS
- ⊙ - MANHOLE

NOTE:

- 1.) BLANKET FOR IRRIGATION LINES, PUMPS AND FACILITIES DOC. #583227 O.R.
- 2.) EASEMENTS, RULES, REGULATIONS AND RIGHTS IN FAVOR OF HIDALGO COUNTY IRRIGATION DISTRICT NO. 1.

BUYER'S NAME: John Mason Garza & Elizabeth Lima Louzada Garza

FLOOD ZONE: By GRAPHICAL PLOTTING Community Panel No. 480334 0325 D
Map Revised: June 6, 2000 LOMR May 17, 2001

- ☐ Zone "A" - This is to certify that this property is in a flood prone area.
- ☐ Zone "B" - This is to certify that this property is not in a flood prone area. However limits between the 100 year and 500 year flood are subject to flooding with average depths less than one foot.
- ☒ Zone "X" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown, © copyright 2022 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon, In conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this Survey. Survey valid only if print has original seal and signature.

ADDRESS: 13902 N. 33RD. LANE, McALLEN, TEXAS 78504
LEGAL DESCRIPTION: LOT 124, VENDOME SUBDIVISION, PHASE II (PRIVATE SUBDIVISION)
HIDALGO COUNTY, TEXAS,

ACCORDING TO THE MAP RECORDED IN DOCUMENT NUMBER 3215586
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Pablo Peña

02-14-2022
DATE

PABLO PEÑA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242

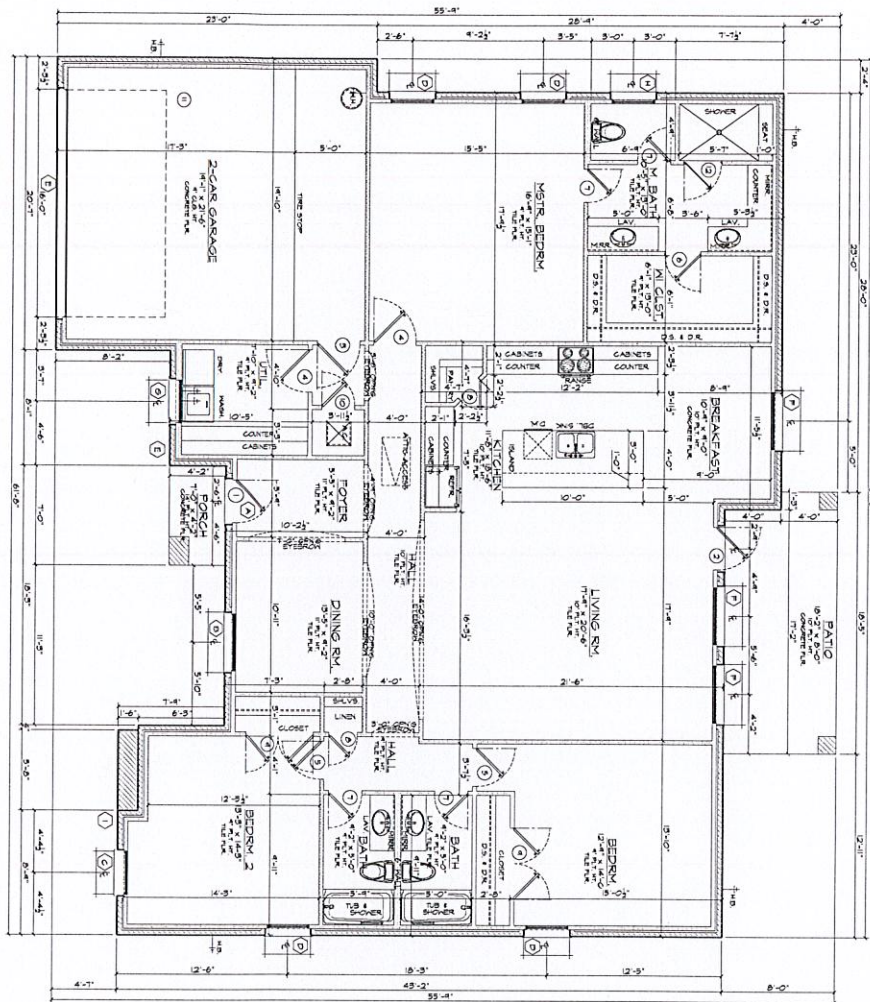


ENTERED

MAY 02 2022

Initial: *AM*





DOOR SCHEDULE		
SYN	DOOR	NOTES
1	3'-0" 6'-0" 1'-04"	ENTRANCE ENTRY DOOR
2	3'-0" 6'-0" 1'-04"	REAR DOOR
3	3'-0" 6'-0" 1'-04"	ENTRANCE DOOR
4	3'-0" 6'-0" 1'-04"	INTERIOR DOOR
5	3'-0" 6'-0" 1'-04"	INTERIOR DOOR
6	2'-6" 6'-0" 1'-04"	INTERIOR DOOR
7	2'-6" 6'-0" 1'-04"	INTERIOR DOOR
8	2'-6" 6'-0" 1'-04"	INTERIOR DOOR
9	2'-6" 6'-0" 1'-04"	DOOR, GLD. DOOR
10	2'-6" 6'-0" 1'-04"	GLD. DOOR
11	6'-0" 6'-0" 1'-04"	GLASS DOOR
12	2'-6" 3'-0"	SHOWER DOOR

WINDOWN SCHEDULE				
SYN	M	N	TYPE	NOTES
(A)	3:00 - 4:00	1	EXTENSION PLANE	DIVIDED LT
(B)	4:00 - 6:00	2	FIXED PLANE	DIVIDED LT
(C)	3:00 - 6:00	3	EXTENSION SINGLE HINGE	DIVIDED LT
(D)	3:00 - 3:30	4	SINGLE HINGE	EXTENSION
(E)	1:00 - 2:00	5	TRANSOM	EXTENSION
(F)	4:00 - 6:00	6	FIXED PLANE	DIVIDED LT
(G)	3:00 - 3:30	7	SINGLE HINGE	DIVIDED LT
(H)	1:00 - 1:30	8	SLEDER	DIVIDED LT
(I)	1:00 - 1:30	9	FIXED PLANE	DIVIDED LT

GENERAL NOTES:

A. THESE PLANS ARE INTENDED TO PROVIDE THE BASIC INFORMATION REQUIRED FOR THESE PLANS MUST BE VERIFIED AND CHECKED FOR COMPLETENESS BY THE GENERAL CONTRACTOR, ANY SUBCONTRACTOR, ENGINEER AND/OR DESIGNER. THE CONTRACTOR SHALL BE RESPONSIBLE TO THE OWNER BEFORE CONSTRUCTION WORK OR PERMITS ARE MADE.

B. FEDERAL, STATE COUNTY AND LOCAL CITY ORDINANCES AND BUILDING CODES TAKE PRECEDENCE OVER ANY PART OF THESE PLANS. IF ANY CONFLICT MUST BE ADVISED TO THE OWNER BEFORE ANY PERMITS OR CONSTRUCTION.

NOTES (UNLESS NOTED OTHERWISE (N/A))

01. 2" x 4" STUDS @ 16" O.C. W/ BRICK-EXTERIOR
02. 2" x 4" STUDS @ 16" O.C. INTERIOR
03. TOP OF EYE-BROW CASSED OPENINGS TO DC @ 8'-0" A.F.F.



TREASURE
BUILDERS LLC

SHEET
A-1

D **DISTINCTIVE**
DRAFTING & DESIGN L.L.C.

2312 S. EXPRESSWAY 83 SUITE # B
HARLINGEN, TX. 78552
OFFICE: (956) 425-7040
FAX: (956) 425-7714

PROJECT :

Garza Residence

DATE: 05-11-21

PLAN #555-20

DISTINCTIVE DRAFTING & DESIGN HEREBY RESERVES ITS COMMON COPYRIGHT LAW & OTHER PROPERTY RIGHTS IN THESE PLANS & DESIGNS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY, WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION FROM DISTINCTIVE DRAFTING & DESIGN. DISTINCTIVE DRAFTING & DESIGN TAKES NO RESPONSIBILITY FOR THE CONSTRUCTION OF THE RESIDENCE OR BUILDING.

13818 N 33rd Ln - UE Encroachment

Bilkis Olazaran <bolazaran@mcallen.net>

Mon 5/2/2022 10:18 AM

To: Marco Rivera <marco.rivera@mcallen.net>

Cc: Edgar Garcia <edgar.garcia@mcallen.net>; Mario Cruz <macruz@mcallen.net>

Marco,

Since this will be going before your board for consideration, we recommend disapproval. However, if the board decides to approve the encroachment, we recommend the following condition be included in the encroachment letter: ***The home owner, not the City of McAllen, will be responsible for any damages related to the operation and/or maintenance of any utility lines within the 10ft utility easement along the south property line.***

Please let me know when this item will be taken for consideration. Thanks!

Bilkis



ENTERED

MAY 02 2022

Initial: am

AFFIDAVIT OF FELIX HERNANDEZ

STATE OF TEXAS

§

§

COUNTY OF HIDALGO

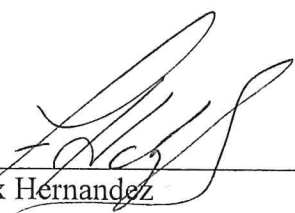
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Before me, the undersigned authority, on this day personally appeared affiant Felix Hernandez who proved to me to be the person whose name is subscribed to this Affidavit and who acknowledged to me that he executed the same, and after he was duly sworn, upon his oath, he deposed and said:

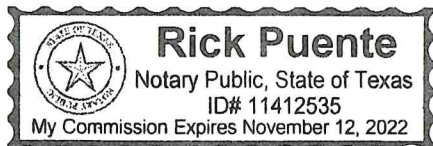
My name is Felix Hernandez. My address is 110 Becker St, Alamo, Texas 78516. I am over 18 years of age, of sound mind and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.


I am the sole managing member of Treasure Builders LLC. We built a residential home at 13818 N. 33rd Ln, McAllen, Texas (Lot 124 Vendome Phase 2). The structure was built on the drainage easement because of an issue with the lot number. Treasure Builders LLC will be responsible for any damages to the home in the future caused by any repairs or maintenance to the drainage line within the easement part of the property. Treasure Builders LLC will restore the home to the condition it existed prior to the repairs and/or maintenance. This guarantee of repairs shall only be valid while the original owner is owner of the home and shall be voided once ownership is transferred. Once ownership of the home is transferred to another party, Treasure Builders LLC shall no longer bear any responsibility for this issue.

If you should have any questions or need any additional information, please feel free to contact me at 956-821-9710.


Felix Hernandez

SWORN TO and SUBSCRIBED before me by Felix Hernandez on this 18th day of May 2022.




Notary Public in and for the State of Texas
My Commission Expires on
November 12, 2022.



¹ Rick Puente-Notary Public: PO Box 1514, San Juan, TX 78589 (956) 782-8425

Treasure Builders LLC

110 Becker St.

Alamo, Texas 78516

May 18, 2022

To whom it may concerned:

This is an estimated cost bring the construction located at 13818 N. 33rd Ln. in McAllen, Texas into compliance.

Demolition of brick and lumber wall on the south side of the home

Removing all of the south portion of the roof

Cutting and excavating the slab foundation along the south side of the home

Removing all plumbing pipe, vents and water lines on both bathrooms

Removing all ac ducts and vents

Removing all electrical wiring

Rebuilding and reconfiguring everything back to the compliance line will leave the home without 2 bathrooms and without 2 bedrooms.

Total cost \$125,000.00



Felix Hernandez





13818

**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0024**

 CITY OF MCALLEN PLANNING DEPT.
956-681-1250
WWW.MCALLE.NET

