

STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, April 17, 2024 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Hugo Avila	Member
	Hiram A. Gutierrez	Member
	Alex Lamela	Alternate
	Pablo Garcia	Alternate
Absent:	Rogelio Rodriguez	Member
	Juan Mujica	Alternate
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Samuel Nunez	Senior Planner
	Hilda Tovar	Planner II
	Edson Lara	Planner II
	Natalie Moreno	Planner I
	Jessica Puga	Technician I
	Victor Grey	Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on April 3, 2024.

The minutes for the meeting held on April 3, 2024 were approved. The motion to approve the minutes were made by Mr. Alex Lamela. Vice-Chairperson Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) Request of Juan Roberto Moreno on behalf of Ricardo Rendon for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 7 feet into the 10 feet rear yard setback and **2)** 2 feet distance to the main building instead of the required 5 feet distance for a proposed palapa measuring 30 feet by 22 feet, at Lot 42, Candleflower Subdivision No. 2, Hidalgo County, Texas; 1925 Lark Avenue. **(ZBA2024-0009) (TABLED: 04/03/2024)**

Mr. Hugo Avila moved to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted to table the Variance request with five members present and voting.

Ms. Tovar stated the applicant was requesting two variances to allow an encroachment of 7 feet into the 10 foot rear yard setback and 2 feet distance to the main building instead of the required 5 feet distance for a proposed palapa measuring 30 feet by 22 feet.

The subject property was located on the south side of Lark Avenue in between Lark Boulevard and Martin Avenue. Property has a frontage of 60 feet along Lark Avenue and a depth of 107 feet. The property was zoned R-1 (single family residential) District. There are single-family residences in all directions.

Candleflower Subdivision No.2 was recorded on April 12, 1982. The plat indicates a 10 foot rear yard setback and 6 feet side yard setback on both sides for the subdivision. The house was built in 1990. A building permit application was submitted on December 2023, for the proposed palapa and approved on January 2024. However, the project was not built to comply with permit conditions and failed inspections by the Building Department. On March 6, 2024, a variance application was submitted to resolve the encroachment of 7 feet into the 10 foot rear yard setback.

The applicant is requesting a variance to allow an encroachment of 7 feet into the 10 foot rear yard setback and 2 feet distance to the main building instead of the required 5 feet distance for a proposed palapa measuring 30 feet by 22 feet.

Applicant states that the palapa was approved with a building permit application. According to the site plan submitted, the proposed structure size is a total of 660 square feet. The palapa will be made out of concrete and it will include a kitchen, a restroom and a chimney. Initially, the site plan submitted for the building permit application did not show an encroachment into the setbacks. However, the rear yard setback was measured from the curb instead of the property line. In addition, site visit revealed that there is no distance between the main structure and the proposed patio.

During the site visit, staff did not notice any other encroachments or similar structures along the front or rear yards within Candleflower Subdivision No.2. In addition, a review of the Planning Department records did not reveal any other similar variances or special exceptions approved in this area.

Variances are issued to the property and remain as a condition for future owners and new constructions.

Measurements provided are without benefit of a survey.

Staff had not received any phone calls, emails, or letters in opposition to the variance request.

At the last meeting on April 3, 2024, the item was tabled by the board.

The building permit conditions and construction plans that previously approved by staff were requested by the board in order to further discuss the variance requests. The applicant would also have the opportunity to provide additional pictures of the proposed palapa.

Staff recommended disapproval of the variance requests.

Board member Avila asked staff if the first site plan submitted was part of the building permit. Staff responded yes. Board member Avila asked on the other plans submitted did they exceed the 660 square feet that noted on the building permit. Staff was not certain.

Board member Gutierrez asked if the original site plan included restroom. Staff stated it did include a restroom. It was noted on the floor plan of the palapa not the site plan. It also came with a plumbing and foundation plan.

Mr. Juan Roberto Moreno, the applicant stated when they originally submitted all the floor plan, the site plan was squared. Perhaps in a miscommunication, the contractor failed to put the square in the front. When the inspector came, he mentioned it was not on the site plan and that he could not approve the inspection because of the 50 feet that was missing on the square entrance of the palapa.

Board member Avila mentioned when looking at the foundation layout it looked like the concrete was going to be up to the existing residence. Mr. Moreno stated the reason for having it connected to the house foundation was that since there was a 3 foot section to avoid having mud that would accumulate.

Vice-Chairperson Tafel asked the applicant if he submitted a new site plan to indicate the change from the original one. Mr. Moreno stated he was not aware that he had to resubmit another site plan. He took it upon himself to add that section of concrete. He had no intentions of connecting the two buildings. Vice-Chairperson Tafel explained to the applicant that the variance ran with the land and that the next owner could build something else.

Board member Avila asked staff when the applicant applied for this permit he was given it with the understanding that he was going to be two feet versus the five feet. Staff stated yes. Planning Director Garcia stated one of the things the Board may consider was the cost for a certain variance to move the structure in order to correct it, was the structure more than itself then that would be considered to approve it.

Chairperson Jose Gutierrez asked if there was anyone else present in favor of the Variance request. There was no one in favor of the Variance request.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the Variance request. There was no one in opposition of the Variance request.

Mr. Moreno stated he had five letters from neighbors in favor of his Variance request.

There was discussion amongst the Board members.

Mr. Moreno stated he did not intend to enclose the structure. He proceeded to read from a variance request letter, in which he wrote for the Board members.

Mr. Moreno stated that he spoke with his contractor that if it was not get approved at seven feet that he could get four feet and he separate the five feet from the house structure. Chairperson Gutierrez mentioned to the applicant that would make the request to have the item tabled in order to speak with staff, modify the original plan, and bring it back before the Board for reevaluation.

Mr. Moreno stated he would like to table the item until the next meeting.

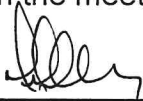
Following discussion, Mr. Alex Lamela **moved** to table the item to allow the applicant an opportunity to consider modification of the Variance request. Mr. Hugo Avila seconded the motion. The Board voted to table the Variance request with five members present and voting.

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Chairperson Jose Gutierrez **moved** to adjourn the meeting.



Carmen White, Administrative Assistant



Chairperson Jose Gutierrez