

**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 8, 2026 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

<b>Present:</b>	<b>Jose Gutierrez</b>	<b>Chairperson</b>
	<b>Hugo Avila</b>	<b>Vice-Chairperson</b>
	<b>Daniel Santos</b>	<b>Member</b>
	<b>Ivan Garcia</b>	<b>Member</b>
	<b>Alex Lamela</b>	<b>Alternate</b>
	<b>Erick Diaz</b>	<b>Alternate</b>

<b>Absent:</b>	<b>Hiram Gutierrez</b>	<b>Member</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
	<b>Francisco Davila</b>	<b>Alternate</b>

<b>Staff Present:</b>	<b>Norma Borrego</b>	<b>Assistant City Attorney I</b>
	<b>Omar Sotelo</b>	<b>Planning Director</b>
	<b>Porfirio Hernandez</b>	<b>Planner II</b>
	<b>Nancy Cruz</b>	<b>Planner I</b>
	<b>Jonathan Gutierrez</b>	<b>Technician II</b>
	<b>Carmen White</b>	<b>Administrative Assistant</b>

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

- a) Minutes for meeting held on March 18, 2026.

The minutes for the meeting held on March 18, 2026. The motion to approve the minutes were made by Vice-Chairperson Hugo Avila. Mr. Alex Lamela seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Pedro Ramirez Jr. for a variance to allow an encroachment of 5 feet into the 6-foot side yard setback for a metal patio, at Lot 20, Villa de Palmas Subdivision, Hidalgo County, Texas; 3337 North 42nd Street. **(ZBA2026-0013)**

Ms. Cruz stated the applicant was requesting a variance to allow an encroachment of 5 feet into the 6-foot side yard setback for an existing metal patio.

The subject property was located along North 42<sup>nd</sup> Street, south of Hibiscus Avenue and is zoned R-1 (Single-Family Residential-OC) District.

Villa de Palmas Subdivision was recorded on September 22, 1999. The home was built in 2000. A stop work order was issued on November 3, 2025 for building without a permit. A building permit for the metal structure was submitted by the applicant on February 2, 2026,

which was rejected due to an encroachment into the north side setback. An application for a variance was submitted on February 13, 2026.

The recorded plat requires a 6-foot side yard setback In accordance with Section 138-356 of the Zoning Ordinance The applicant states that the porch was constructed to provide weather protection and shade for his family and pets. The applicant also stated that he spoke to the neighbor in regards to the porch and indicated they were not affected by it.

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

Staff recommended disapproval of the variance request since it does not meet the setback requirement.

Board member Diaz asked staff if they had a chance to speak with the applicant about relocating the metal patio. Staff stated yes and the applicant was present.

Mr. Pedro Ramirez, 3337 North 42<sup>nd</sup> Street, McAllen. He stated considering it was a metal structure with concrete, he doesn't see moving the beams the variance that was required. Chairperson Gutierrez explained to the applicant that a variance goes with the land and with the owner. He also noticed there was a fan so now there was an electrical appliance that could have a short and start a fi.

Vice-Chairperson Avila asked to show the picture of where the edge of the house was the structure should be aligned with the house. He explained about the separation being fire is the main one. It has to protect him and the neighbors in case of a fire.

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

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

Vice-Chairperson Avila asked staff in the event the applicant was to move the columns to the 6-foot mark he could have a two-foot overhang and still comply with the side setback requirements. Staff stated yes.

Following discussion, Vice-Chairperson Hugo Avila moved to disapprove the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to table the Variance request with five members present and voting.

- b) Request of Joel M. Ramos for a variance, to allow an encroachment of 5 feet into the 10-foot rear yard setback for a proposed swimming pool, at Lot 80, La Floresta Subdivision Phase I, Hidalgo County, Texas; 1805 Rice Avenue. **(ZBA2026-0006)**  
**(TABLED: 03/18/2026)**

Vice-Chairperson Hugo Avila made a motion to remove the item from the table. Mr. Erick Diaz seconded the motion. The Board voted unanimously with five member present and voting.

Mr. Hernandez stated the applicant was requesting a variance to allow an encroachment of 5 feet into the 10-foot rear yard setback for a proposed swimming pool.

The subject property was located on the south side of Rice Avenue, west of North 18<sup>th</sup> Street and is zoned R-1 (Single-Family Residential-OC) District.

La Floresta Subdivision Phase I was recorded on September 5, 2008. An abandonment application was submitted on September 12, 2024. However, no approval was granted for the abandonment. Instead, a license agreement was entered and recorded on December 5, 2025 to allow the property owner to build a swimming pool within the utility easement.

The recorded plat required a 10-foot rear yard setback and shows a 10-foot utility easement along the rear lot line. The applicant states that he would like to create a "summer oasis" in the backyard while fully respecting all applicable building regulations. He is requesting a variance for a proposed swimming pool measuring 10 ft. by 20 ft.

Section 138-356 of the Zoning Ordinance and Section 2.2.2 of the Unified Development Code require minimum 10 ft. rear yard setback.

Staff's research did reveal six other variances for swimming pools granted within this subdivision for double fronting lots.

There had been one resident within the notification zone that is in opposition of the variance request.

Staff recommended disapproval of the variance request since it does not comply with the setback requirement.

Chairperson Gutierrez asked staff if the resident who was in opposition of the variance request who spoke with staff did he or she mention the basis for being against it. Staff stated the resident came into the office and told staff that he was against the request and they were in the 200-foot radius.

Board member asked staff who provides the License Agreement. Staff stated the legal department drafts up the License Agreement. It was for a utility easement.

Vice-Chairperson Avila asked staff if there was an alley. Staff stated no there was no alley.

Mr. Jose M. Ramos, 1805 Rice Avenue, McAllen, Texas. He stated on March 18, 2026 he received a call from Mr. Porfirio stating that it was disapproved so he tabled it so that he could be present. The pool was a fiberglass 10 x 20 the smallest pool you could put in the back yard. He stated he had been going through the process since March – April 2024. He stated if he was informed from the beginning of not encroaching on the setback he would have never gone through the process of obtaining a pool permit, license agreement and the cost of a variance request.

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

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

Planning Director Sotelo the License Agreement was just for the pool only. If they wanted to build a structure over the pool, they would have to reapply for a License Agreement and that could be denied.

Vice-Chairperson Avila made motion to go into Executive Session at 4:53 p.m. Mr. Alex Lamela seconded the motion. The Board voted unanimously with five members present and voting.

The Board reconvened from Executive Session at 5:02 p.m.

Being no discussion, Mr. Alex Lamela moved to go against staff's recommendation and approve the variance request with conditions pre-established. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve the Variance request with four members voting aye and one nay, Chairperson Jose Gutierrez.

- c) Request of David S. Valdez, on behalf of LOF Investments, for a variance, to allow an encroachment of 9.5 feet into the 15-foot front yard setback and 9.33 feet into the 10-foot corner setback for an existing metal carport at Lot 7, Block 48, North McAllen Subdivision, Hidalgo County, Texas; 220 North 11th Street. (ZBA2026-0008) (TABLED: 03/18/2026) (REMAIN TABLED: 04/08/2026)

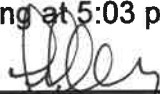
**This item was to remain tabled per the applicant.**

#### ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Chairperson Jose Gutierrez moved to adjourn the meeting at 5:03 p.m.



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Carmen White, Administrative Assistant



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Chairperson Jose Gutierrez