

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, August 19, 2026, 2026 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Hugo Avila	Vice-Chairperson
	Hiram Gutierrez	Member
	Daniel Santos	Member
	Ivan Garcia	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
	Francisco Davila	Alternate
Absent:	Erick Diaz	Alternate
Staff Present:	Norma Borrego	Assistant City Attorney I
	Omar Sotelo	Planning Director
	Kaveh Forghanparast	Senior Planner
	Mia Fuentes	Planner I
	Jessica Puga	Technician II
	Valerie Ramos	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for meeting held on August 5, 2026.**

The minutes for the meeting held on August 5, 2026. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with four members present and voting.

2. PUBLIC HEARINGS:

- a) Request of Fan Zhou, for a variance to allow an existing tree house encroaching 6 feet into the 6-foot side setback on Lot 95 of The Gardens at Trinity Oaks Subdivision, Hidalgo County, Texas; 3208 Hondo Avenue (ZBA2026-0030)**

Ms. Ramirez stated the applicant was requesting a variance to allow an existing tree house on the subject property. The variance request is to allow 6-foot encroachment into the required 6-foot side setback.

The subject property was located on the north side of Hondo Avenue, east of North 32nd Lane. The surrounding land use includes single-family residences.

The Gardens at Trinity Oaks Subdivision was recorded on February 26, 2006. The home was built in 2016 and an addition to the house was done in 2018 (family room).

The recorded plat requires a 6-foot side yard setback. The purpose of this request is to allow an existing tree house that was built in 2024 as per the applicant.

As per Section 138-372(b)(1)(2), the Zoning Board of Adjustment may grant a special exception to the minimum setback requirements for a tree house when, in the opinion of the board:

- (1) There are no safety concerns regarding the location of the tree house; and
- (2) The tree house will not have a detrimental impact on surrounding properties.

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

Staff recommended disapproval of the special exception due to noncompliance with plat note requirements.

Vice-Chairperson Gutierrez asked staff if this item could be changed from a variance to special request for the record. Staff stated yes.

Mr. Fan Zhou, 3208 Hondo Avenue, McAllen, Texas 78504. He stated he would like the Board to approve continue the existence of the tree house that built in April 2024. He stated he was not aware that he needed a permit. It was built sturdy to withstand all kinds of weather. Mr. Zhou built the tree house himself.

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 Special Exception.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Variance request. There was one to speak in opposition of the Special Exception.

Mr. David Garcia, 3216 Hondo Avenue, Mr. Zhou's neighbor. He stated as a retired contractor it was against City code and also a fire hazard. It was also an invasion of privacy because it could look over his fence. He stated it was facing the street in line with his garage.

Chairperson Gutierrez explained to Mr. Zhou for a treehouse a special exception can be granted. But he informed him that he was encroaching into the 6-foot side setback. The new regulations for the City establish a minimum 5 feet because of a fire hazard. Mr. Zhou stated he figured it was his neighbor because no one else had ever complained about it. It been there for two years. He stated during the construction of the treehouse Mr. Garcia never once questioned or complained.

Board member Diaz asked the applicant how difficult would it be to relocate. Mr. Zhou stated there was no other trees in the backyard and it was small. Board member Diaz asked if it was cemented into the ground. Mr. Zhou stated there was a tree there and reinforced by the fence that was in the front and in the back.

Mr. David Guerra, 423 Nightingale Avenue, a real estate agent on behalf of Mr. Garcia. At this time, he showed pictures to the Board on how it was impacting on the visibility of his house.

Board member Santos stated the location of the structure is difficult. But there are proper procedures to follow. There are safety concerns with fire. There was not a lot of space

between your house and the neighbor's house. Those were two of Mr. Santos' factors.

Board member Hiram Gutierrez stated he commended Mr. Zhou what he's done for his children but at the same time it was against the regulations specifically for that reason.

Board member Santos asked staff regarding the disapproval on the 6-foot setback, was it fair to say that the city was taking into consideration this section with the two-prong test that they weighed that and that the City's opinion that it does not meet that two-prong test. It was section 138-372(b)(1)(2) or as a 6-foot setback.

Mr. Forghanparast stated since it was advertised as a variance staff was recommending disapproval. But if it qualifies for those two options, the Board could approve it as the special exception. One of the reasons for side setbacks was for the fire hazard.

Director Sotelo stated on this the setback was part of plat note so the plat note always supersedes the ordinance. Even though it has a five foot the plat note still has 6 feet.

Following discussion, Mr. Hiram Gutierrez moved to follow staff's recommendation and disapprove the Special Exception. Mr. Daniel Santos seconded the motion. The Board voted two members voting nay and three members voting aye to disapprove, Mr. Alex Lamela, Mr. Erick Diaz and Chairperson Jose Gutierrez.

- b) Request of Jose Luis Garcia, for a special exception to allow an encroachment of 4' into the 6' side setback and 10' into the 20' front yard setback on Lot 18 of the Kerria Crossing Subdivision, Hidalgo County, Texas; 4104 Kerria Avenue (ZBA2026-0031)

Ms. Ramirez stated the applicant was requesting a special exception to allow a 4-foot encroachment into the required 6-foot side yard setback and a 10-foot encroachment into the required 20-foot front yard setback for a carport.

The subject property was located on the north side of Kerria Avenue, west of North 41st Lane. The surrounding land use includes single family residences.

Kerria Crossing Subdivision was recorded on July 28, 1999. No prior variance requests have been submitted for the property.

The existing carport measures 20-foot by 20-foot and encroaches 10-feet into the existing utility easement. The applicant has indicated that he is willing to reduce the carport size 10-feet by 20-feet to avoid encroaching into the easement; however, due to declining health and associated financial constraints, he is unable to afford the additional costs required to modify the existing structure at the moment.

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

Staff recommended disapproval of the special exception due to noncompliance with plat note requirements.

Mr. Jose Garcia, 4104 Kerria Avenue, McAllen, Texas 78501. He stated that he and his wife always wanted a carport but could not afford it. Both he and his wife are disabled. He stated a contractor came by and showed him a picture of a carport that he builds and decided to have it built. Mr. Garcia stated there were three other carports in the neighborhood so he

thought it was alright to have one too. He stated the contractor came by to build it while Mr. Garcia was in the hospital. The day he came home a city official came to his house asking for permits. He told the city official the contractor did not mention anything about a permit. He was not aware that he needed a permit. Chairperson Gutierrez asked when was the carport built. Mr. Garcia stated May 2026. Chairperson Gutierrez mentioned to the applicant that he was encroaching 4 feet into the 6-foot side setback. There was no 5 feet between this structure and the end of your property which was according to the regulations of the City a must. He was encroaching 2 feet of what would be allowed to the applicant. Mr. Garcia stated he was going to cut it back 10 and half feet but did not have the income to do it. He had financial issues. He stated it was less expensive to remove the carport than to reduce it and pay the labor to remove it.

Chairperson Gutierrez asked staff if it was a 30-foot structure on the front. Staff stated it was 20 feet by 20 feet. When the applicant came in, they explained that there was a 10-foot utility easement in the front. He submitted a site plan showing only encroachments into the front setback not to the easements. He was proposing to reduce it back that's why staff advertised it as 10 foot encroachment into the 20 front foot setback. But since the applicant's financial issues he cannot reduce it back. Chairperson Gutierrez asked staff what are the measurements of the structure currently. Staff stated 20 feet by 20 feet. It is encroaching 20 feet into the front 20-foot setback.

Board member Diaz asked how does that affect the advertisement. Staff stated it would be a legal question.

City Attorney Stevenson stated one option was the Board had the authority to build up to approve up to the 10 feet the applicant already indicated he was not willing to reduce it. Or other option was to have the applicant to reapply and re-notice knowing what the true intentions are unless the applicant will inform the Board today.

Board member Diaz asked the applicant if he has spoken with the contractor. He stated it shouldn't be difficult to shorten the carport. Mr. Garcia stated no he hadn't spoken to him.

Chairperson Gutierrez asked the applicant if he would be willing to tabling the item and discuss with staff as to what can be done.

Board member Santos stated the city made a recommendation based on what he told staff he was inclined to do by reducing it back which is what they could consider today. They were giving him an opportunity to resolve the issue and find out what the cost would be to reducing it.

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

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

Following discussion, Mr. Erick Diaz moved to go table the item. Mr. Alex Lamela seconded the motion. The Board voted to table the item with five members present and voting.

- c) Request of Josefina Rangel, for a special exception to allow an encroachment of 20' into the 20' front setback for a carport on Lot 90 of Harvey Terrace UT 2 PH I & 2 Subdivision, Hidalgo County, Texas; 2808 North 26th Street (ZBA2026-

0032)

Ms. Ramirez stated the applicant was requesting a special exception to allow a 20-foot encroachment into the required 20-foot front yard setback for a proposed 20-foot by 11-foot carport.

The subject property was located between Daffodil Avenue and Harvey Drive, east of North 24th Street. The surrounding land use includes single-family residences.

Harvey Terrace UT 2 PH 1 & 2 Subdivision was recorded on July 17, 1998. No other requests have been made for the subject property.

The purpose of this request was to allow the build of a 20-foot-by-20-foot carport. The applicant states that the carport is intended to provide the vehicle owner, who is elderly, with protection from the sun and rain.

The recorded plat requires 20-foot minimum front yard setback.

Staff's research did reveal five other properties which were approved by the board for carports in this subdivision.

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

Staff recommended disapproval of the special exception due to non-compliance with plat note requirements.

Chairperson Gutierrez asked staff the reason for the disapproval was because of the plat requirements. Staff stated there were five other applicants that had been approved in the previous years in this subdivision.

Ms. Sandra Rangel, 2808 North 26th Street. She was the daughter and was representing her mother, Josefina Rangel. She stated her mother, who is 85 years old would like to have a carport to protect her two vehicles. Her vehicles had been damaged from previous bad weather. Staff stated the picture shown on the T.V. monitor was AI done and did not exist yet.

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

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

Following discussion, Mr. Erick Diaz moved to go against staff's recommendation and approve the Special Exception. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve with five members present and voting.

d) Request of Jorge Sanchez, for a variance to the minimum lot area for a duplex on Lot 5 Blk 1 of South McAllen Subdivision, Hidalgo County, Texas; 809 South Bicentennial Boulevard (ZBA2026-0033)

Ms. Ramirez stated the applicant was requesting a variance to allow the construction of a duplex on a 2,375 sq. ft. lot.

The subject property was located along South Bicentennial Boulevard, south of Houston Avenue. The surrounding land uses consist primarily of single-family residences and townhomes. The subject property is currently vacant and is zoned within the City-Core Downtown (CC-DT-UDC) zoning district.

South McAllen Addition Subdivision was recorded on June 16, 1928. A permit was issued in July 2016 for the demolition of an exterior restroom associated with a condemned structure. Additionally, a moving permit was requested in May 2024 to relocate the existing residential structure.

The applicant was requesting a variance to allow the construction of a duplex on a 2,375 sq. ft. lot. Although a duplex is permitted within the CC-DT (City Core–Downtown) District, the subject property is less than the required 4,000-square-foot minimum lot area established in the Unified Development Code (UDC), Section 2.3.3.

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

Staff recommended disapproval of the variance request due to noncompliance with UDC requirements.

Mr. Jorge Sanchez, 809 Bicentennial Boulevard. He stated he started a project a year ago trying to build a duplex for short term rentals. Buying the lot contingent to being able to building a duplex he called the Planning Department before closing on the lot. There were able to build a duplex with the exception of the 4.000 square footage lot. He stated that was omitted when it was presented to him so he closed on the lot and until her submitted the permit that was when he was informed it was not allowed. He's met with all the requirements.

Chairperson Gutierrez asked staff if the use of the land in this area was for a single-family construction or a multi-family construction. Staff stated it was multifamily the only thing was as long as it meets the square footage a duplex would be allowed. If not, you could have single-family, multifamily or commercial.

Mr. Forghanparast stated the city core downtown district that was adopted a months ago by the City Commission. It allowed multiple uses such as single family, multifamily, or commercial. The only thing that based on the lot size it allowed different number of units.

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 one to speak in opposition of the Variance request.

Following discussion, Mr. Erick Diaz moved to go against staff's recommendation and approve the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to approve with five members present and voting.

- e) Request of Socorro Hinojosa, for a special exception to allow an encroachment of 20' into the 20' front setback for a carport on Lot 31 of the Arrowhead PH 1 Subdivision, Hidalgo County, Texas; 3705 Whitewing Avenue (ZBA2026-0034)

Ms. Ramirez stated the applicant was requesting a special exception to allow a 20-foot encroachment into the required 20-foot front yard setback for a proposed 20-foot-by-20-foot carport.

The subject property was located along the south side of Whitewing Avenue, west of North Ware Road. The surrounding land use includes single-family residences and vacant land.

Arrowhead Phase I Subdivision was recorded on March 9, 1981. No other requests have been made for the subject property.

The purpose of this request was to allow the build of a 20-foot by 11-foot carport. They need protection for the natural elements to be able to protect their vehicles.

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

Staff recommended disapproval of the special exception due to noncompliance with plat note requirements.

Board member Gutierrez asked if there were other similar carports built in the neighborhood that were approved. Staff stated there were none that were recorded as approved. There were several but none that came in to obtain a permit.

Mr. Madoqueo Hinojosa, 3705 Whitewing Avenue, son of Socorro Hinojosa. He stated he was in favor to have a carport for the safety of his mother.

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

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

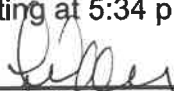
Following discussion, Mr. Alex Lamela moved to go against staff's recommendation and approve the Special Exception. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve with five members present and voting.

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Chairperson Jose Gutierrez moved to adjourn the meeting at 5:34 p.m.



Carmen White, Administrative Assistant



Chairperson Jose Gutierrez