

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 23, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Rogelio Rodriguez	Member
	Hiram A. Gutierrez	Member
	Hugo Avila	Member
	Juan Mujica	Alternate
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Omar Sotelo	Senior Planner
	Natalie Moreno	Planner I
	Samantha Trevino	Planner I
	Jacob Salazar	Technician II
	Jessica Puga	Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on August 9, 2023.
- b) Minutes for the Workshop held on August 9, 2023.

The minutes for the meeting and Workshop held on August 9, 2023 and were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Vice-Chairperson Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

As per Chairperson Jose Gutierrez’s suggestion, the following items had been recommended for approval by staff. They are as follows:

2. PUBLIC HEARINGS:

- a) Request of Adelina Alexander for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport measuring 19.9 feet by 22.5 feet at Lot 43, Apollo Gardens Subdivision, Hidalgo County, Texas; 2001 Hibiscus Avenue. (ZBA2023-0047)
- b) Request of Omar Lopez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 22 feet into the 25-foot front yard setback for an existing metal carport measuring 20 feet by 20 at Lot 23, Casa Bonita Subdivision, Hidalgo County, Texas; 2504 Fir Avenue. (ZBA2023-0076)

Chairperson Jose Gutierrez asked if there was anyone present in opposition of these special exceptions. There was no one in opposition of these special exceptions.

Mr. Hiram Gutierrez moved to approve the previously outlined special exceptions listed on the agenda as **2a & 2b** as per staff's recommendation, limited to the submitted plans corresponding to each item. Mr. Hugo Avila seconded the motion. The Board voted unanimously to approve with five members present and voting.

- c) Request of Itzel Sanchez on behalf of Armando Sanchez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing metal carport with canvas cover measuring 16 feet by 27 feet at Lot 81, Cielo Vista Subdivision Phase 1, Hidalgo County, Texas; 3013 Ursula Avenue. **(ZBA2023-0077)**

Ms. Moreno stated the applicant requested the item to be tabled until the next meeting of September 7, 2023.

Vice-Chairperson Ann Tafel moved to table the special exception until the next meeting. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to table the special exception with five members present and voting.

- d) Request of Irma G. Presas de Hdz. for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet at Lot 14, Hunter's Cove Subdivision, Unit No. 2, Hidalgo County, Texas; 5416 North 35th Street. **(ZBA2023-0074)**

Ms. Trevino stated the applicant was requesting a special exception for an encroachment of 20 feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet that will be used to protect her vehicle from hail during inclement weather and for protection from the sun.

The property was located along the east side of North 35th Street just north of Bluebird Avenue. The lot has 50.0 feet of frontage and a depth of 102.0 feet for a lot size of 5,100 square feet. The property is zoned R-1 (single-family residential) District. There is R-1 district in all directions.

Hunter's Cove Subdivision, Unit No. 2 was recorded June 16, 2006. The plat showed a 25 feet front yard setback for the subdivision. A building permit has not been submitted. A special exception request application was submitted July 20, 2023.

The applicant was requesting a special exception in order to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet that will be used to protect her vehicle from hail during inclement weather and for protection from the sun.

During a site visit, staff noticed that there were two other carports within Hunter's Cove subdivision, Unit No. 2. A review of Building Inspections Department did reveal two building permits that were rejected within the subdivision. A review of Planning Department records did not reveal any special exception requests.

Special exceptions are issued to and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Measurements provided are without benefit of a survey.

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

Staff recommended disapproval of the special exception request due to no other special exceptions approved within the neighborhood.

Vice-Chairperson Tafel asked if there were any utility easements in this area. Ms. Trevino responded no.

Ms. Irma G. Presas de Hdz, the applicant stated this was the second time she attempted to build a carport but three years ago she was informed she could not because of the regulations. Afterwards, she noticed within her block her neighbors were putting up carports. Ms. Hdz decided to attempt again to get a building permit in which they sent her to the Planning Department. She stated she needed the carport to protect her vehicles from the inclement weather such as the two hailstorms, which damaged her vehicle.

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

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exception. There was one in opposition of the special exception.

Ms. Sonia Romero stated she has a house at 5409 North 35th Street. Her major concern was the people who had carports were fixing cars. Neighbors on that street were keeping up with their lawns and houses in maintaining the subdivision.

Chairperson Jose Gutierrez asked if there was anyone else present in opposition of the special exception. There was one else in opposition of the special exception.

Following discussion, Vice-Chairperson Ann Tafel moved to disapprove special exception until the next meeting. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to disapprove the special exception with five members present and voting.

- e) Request of Robert J. Worster for a Special Exception and Variance to the City of McAllen Zoning Ordinance to: **1)** allow an encroachment of 8 feet into the 10 feet rear yard setback and 4 feet into the 6 feet west side yard setback for and existing metal carport measuring 26 feet by 15 feet and **2)** to allow an encroachment of 8 feet into the 10 feet rear yard setback for an existing patio measuring 20 feet by 15 feet at Lot 10, Block 2, Heritage Manor, Hidalgo County, Texas; 325 Bluebird Avenue. **(ZBA2023-0075)**

Ms. Moreno stated the applicant was requesting a special exception and variance to 1. Allow an encroachment of 8 feet into the 10 feet rear yard setback and 4 feet into the 6 feet west side yard setback and encroaching of 8 feet into the 10 feet rear yard setback. Both requests are to provide shade, protect wooden custom deck, and have vehicle protection and to accommodate his mother in law with health issues.

The subject property was located on the south side of Bluebird Avenue. The Lot had 70 feet of frontage along Bluebird Avenue and a depth of 105.24 feet for a total of square

feet of 7, 366.80 feet. The property is zoned R-1 (single- family residential) District. There was R-1 district in all directions.

Heritage Manor Subdivision was recorded on August 6, 1979. The plat stated that there is a 10 feet rear setback. In 2011, there was a building permit that was abandoned for a carport, but was not routed to planning. A non-compliance order was issued on March 22, 2023 for a carport built without a permit. The applicant applied for a building permit July 19, 2023. A special exception and variance was submitted on July 21, 2023.

The applicant was requesting this Special Exception and Variance in order to keep his patio and carport.

Site visit by staff revealed 10 carports in the subdivision, which did not have permits.

During a site visit, staff noticed that the encroachment of the patio is about 6 feet into the 10 feet rear yard setback. Staff requested a new site plan showing the correct dimensions but the applicant did not provide.

Staff was not able to provide alternate solution to the existing issue since the applicant requested to proceed with the request as is.

Applicant does have a garage which he stated he uses for his antique vehicle.

Special exception are issued to and recorded for the present applicant/owner only. New property owners would be responsible to apply for a new special exception if requested.

Measurement provided are without benefit of a survey.

Staff did not receive any phone calls, email or letter in opposition to this special exception request.

Staff recommended disapproval for both Special Exception and Variance since there have been no other approved Variances or Special Exceptions requests in the neighborhood.

Chairperson Gutierrez asked staff when they see carports that were built without a permit what is the next step. Planning Director Garcia stated once staff confirms that these carports were built without a permit they are then referred to the Building Permits Department. Chairperson Gutierrez mentioned that staff had discussed with the applicant for an alternate solution and if there was any resolution. Ms. Moreno stated during staff's visit she spoke with the applicant stating that it looked like it was encroaching less into the patio side than the carport side. Chairperson Gutierrez asked staff which was the variance and which one was the special exception. Ms. Moreno stated the variance would be for the patio side.

Vice-Chairperson Tafel asked if there were any utility easements compromised. Ms. Moreno responded no.

Mr. Robert J. Worster, the applicant stated in 2011 he had a contractor build a rear patio cover and a rear carport at the back of his house. It was to cover three vehicles now covers

two vehicles. He stated he had a handicapped, elderly mother-in-law who resides with them. Part of his garage was for her personal belongings and a large electric wheelchair. He stated there had been no complaints from the neighbors.

Chairperson Gutierrez explained to the applicant the difference between a special exception and a variance.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception/variance request. There was no one in favor of the special exception/variance request.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exception/variance request. There was no one present in opposition of the special exception/variance request.

Following discussion, Mr. Hugo Avila moved to approve the special exception. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to approve the special exception with four members voting aye and one member, Mr. Rogelio Rodriguez voting nay.

Mr. Rogelio Rodriguez moved to disapprove the variance request. Vice-Chairperson Ann Tafel seconded the motion. The Board voted unanimously to disapprove the variance request with five members present and voting.

- f) Request of Mario & Diana Alejos for a special exception to the City of McAllen Zoning Ordinance to allow: **1) An encroachment of 20 feet into the 20 feet front yard setback and 2) an encroachment of 6 feet into the 6 feet south side yard setback for a detached proposed carport measuring 20 feet by 20 feet, at Lot 54, Montebello Subdivision Unit No. 2, Hidalgo County, Texas; 1808 North 32nd Street. (ZBA2023-0070) (TABLED: 08/09/2023)**

Vice-Chairperson Ann Tafel moved to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Trevino stated the applicant was requesting to encroach 20 feet into the 20-foot front yard setback and 6 feet into the 6-foot side yard setback for a proposed carport measuring 20 feet by 20 feet that will be used to protect his vehicles from the harsh weather elements.

The property is located on the East side of North 32nd Street, and North of Redwood Avenue. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

A building permit has not been submitted. The special exception application was submitted July 11, 2023.

The applicant was requesting to encroach 20 feet into the 20-foot front yard setback and 6 feet into the 6-foot side yard setback for a proposed carport that will be used to protect his vehicles from harsh weather. The applicant does not have a garage.

Site visit by staff revealed a two other carports in the area, but no building permits or special exceptions were found.

Measurements provided are without benefit of a survey.

Special exceptions are issued to and recorded for the present applicant/owner only. The new property owners would need to apply for a new special exception request.

At the meeting of June 26, 2023 City Commission approved Ordinance 138-371(g) in reference to the maximum square footage of 400 square feet allowed for a carport.

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

Staff was recommending disapproval of the special exception request since there have been no other approved carports in the subdivision, nor is it characteristic of the neighborhood.

At the Zoning Board of Adjustments and Appeals meeting of August 8, 2023 Mrs. Alejos the applicant, stated that she would like to make modifications to the proposed carport to have it placed farther away from the neighbor's property line. The Board voted to table the special exception request to allow the applicant time to consider reductions to the proposed encroachments.

Chairperson Gutierrez asked if the applicant had reached out to staff regarding making any modifications. Ms. Trevino stated the applicant submitted a new site plan. They were proposing to move the carport over three feet from the property line but the front encroachment will remain the same, which was 20 feet into the 20 feet.

Board member Mujica asked staff if there other carports in the neighborhood. Ms. Trevino stated there were two but could not find any building permits.

Vice-Chairperson Tafel asked staff if there was a garage or was there one. Ms. Trevino responded no. This subdivision did not have very many garages but was not a requirement at the time.

Ms. Diana Alejos, the applicant stated of going into the 6 feet they decided to move further to the left 3 feet. The carport would go the property line, which was 10 feet from the street.

Vice-Chairperson Tafel asked the applicant what materials they were proposing to use for the carport. Ms. Alejos stated they would be using metal studs with a metal roof with gutters.

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

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exceptions. There was no one in favor of the special exceptions.

Following discussion, Vice-Chairperson Ann Tafel moved to approve special exceptions #1 and #2. Mr. Hugo Avila seconded the motion. The Board voted to approve the special exceptions with four members voting aye and one member, Mr. Rogelio Rodriguez voting nay.

3. FUTURE AGENDA ITEMS:

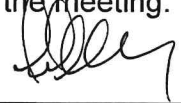
- a) 2001 Hibiscus Avenue
- b) 213 East Vine Avenue
- c) 5416 North 35th Street
- d) 325 Bluebird Avenue
- e) 2504 Fir Avenue
- f) 3013 Ursula Avenue

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