

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 9, 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
	Eduardo Garza	Planner II
	Samantha Trevino	Planner I
	Jessica Puga	Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on July 27, 2023.

The minutes for the meeting held on July 27, 2023 were approved. The motion to approve the minutes were made by Vice-Chairperson Ann Tafel. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

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

2. PUBLIC HEARINGS:

- a) Request of Duncan Architects, LLC on behalf of Wendy Hovorka for variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 12 feet into the north 30 feet minimum building setback along East Jasmine Avenue for a proposed modular medical office building measuring 14 feet by 70 feet, and **2)** an encroachment of 20 feet into the north 30 feet minimum building setback along East Jasmine Avenue for a proposed metal canopy measuring 8 feet by 12.5 feet at Lot 6A, Block 2, Market Center Subdivision, Hidalgo County, Texas; 909 North Jackson Road. **(ZBA2023-0072)**

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

Mr. Hiram Gutierrez moved to approve the previously outlined variance requests listed on the agenda as **2a** as per staff’s recommendation, limited to the submitted plans corresponding to each item. Vice-Chairperson Ann Tafel seconded the motion. The Board

voted to approve with five members present and voting.

- b) Request of Sergio Linares for a special exception to the City of McAllen Zoning Ordinance to allow: 1) An encroachment of 20 feet into the 30 feet front yard setback and 2) an encroachment of 1 feet into the 6 feet west side yard setback for a proposed carport measuring 10 feet by 20 feet, at Lot 40, Olivarez Subdivision Unit No.1, Hidalgo County, Texas; 2520 Pecan Avenue. **(ZBA2023-0068)**

Ms. Trevino stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 30 feet front yard setback and an encroachment of 1 feet into the 6 foot side yard setback for a proposed carport to protect the applicants vehicles from the weather elements. The applicant has a one-car garage, but needs more space for the other vehicles.

The subject property was located north of Pecan Avenue between North 24th ½ Street and North 27th street. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

Olivarez subdivision Unit No. 1 was recorded October 10, 1964. A building permit application had not been submitted since the project is being proposed. The special exception application was submitted July 6, 2023.

The applicant was requesting the special exception in order to build a carport to protect their vehicles from the weather elements.

There were no utility easements along the front of the property.

Measurements provided are without benefit of a survey. Special exceptions are issued to and recorded for the present applicant/owner only. New property owners would need to apply for a new special exception request.

A review of Planning Department records did not reveal other special exceptions granted within the subdivision.

Site visit by staff revealed no other carport encroachments within the subdivision.

Relocation of the carport to the rear of the property may not be feasible since water runs through the rear of the property.

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 recommended disapproval of the request since it is not characteristic of the neighborhood.

Mr. Sergio Linares, the applicant stated he wanted to put a carport over his driveway but that the City did not allow from 28 feet from the property line to his house.

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However, it would be right at his garage door. If he uses his garage, he would not be able to open his car door while in the garage.

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.

Ms. Velma LeBeck, 2520 Pecan Avenue. She stated she had pictures of houses around the neighborhood that had carports. At this time, she showed the Board the pictures.

Ms. Trevino stated the radius when they send out notifications are not always in that subdivision, they may venture out to other subdivisions as well. She stated they wanted to put up a carport to protect their vehicles from the sun since they do not have any trees. They had no space in the back and the alley was full of potholes.

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

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

Board member Avila asked staff if there was a 30-foot setback. Ms. Trevino stated yes. She stated sometimes on the plat there would not be a plat note but will have the line and say 30 feet or line with existing.

Following discussion, Mr. Hugo Avila moved to approve the special exception. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the special exception with three members voting aye and three members voting nay, Chairperson Jose Gutierrez, Vice-Chairperson Ann Tafel and Mr. Rogelio Rodriguez. The special exception was disapproved.

- c) Request of Adan Longoria for a variance to the City of McAllen Zoning Ordinance to not provide one parking space beyond the front yard setback line for a garage enclosure, at Lot 23, Las Villas Del Rio Subdivision, Hidalgo County, Texas; 1903 South 48th Lane. (ZBA2023-0069)

Ms. Trevino stated the applicant was requesting to enclose their garage and turn it into an extra room for their growing family.

The subject property was located on a Cul-De-Sac off Sonora Avenue and South 48th Lane. The property was zoned R3-T (townhomes) District. The surrounding zones include R3-T (townhomes) to the west and south, C-3 (general business) in the rear and R-1 (single-family residential) to East.

Las Villas del Rio Subdivision was recorded April 12, 2016. A stop work order was issued May 20, 2023 for plumbing and remodeling work being done in the garage. A Building permit application was submitted May 22, 2023. The special exception application was submitted July 10, 2023.

The applicant was requesting to enclose their garage and turn it into a bedroom for their growing family. The request is to not provide one required garage space beyond the front yard setback line. According to the site plan submitted, the enclosed area is going to be

converted into a bedroom area. As per Sec. 138-394 (1) one off-street parking for single family uses shall be located beyond the front yard setback.

A review of Planning Department records did not reveal other variances granted within the subdivision.

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

Staff was recommending disapproval of the request since it is not characteristic of the neighborhood and hardship is not specified to the lot.

Board member Rodriguez asked staff if they were to add more driveway to eliminate that missing parking space. Ms. Trevino stated it would have to be located beyond the front yard setback.

Mr. Adan Longoria, the applicant stated he built a three-bedroom home not knowing that their family grew more with twins. At time, they did not want to buy a bigger house. He wanted to see about enclosing the garage for an extra bedroom.

Board member Rodriguez asked the applicant if the garage was for one or two vehicles. Mr. Longoria stated it was for two vehicles.

Board member Avila asked the applicant that they were planning to put a pool in the back. Mr. Longoria stated it was already built. Mr. Avila asked between the patio and the fence if there was any space to add a room. Mr. Longoria stated there was the garage, the patio and the pool. There was no room to expand.

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

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

Following discussion, Vice-Chairperson Ann Tafel moved to disapprove the variance request. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the variance request with five members present and voting.

- d) 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)**

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.

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

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

The applicant is 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 has not received any phone calls, emails, or letters in opposition to the special exception request.

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

Ms. Diana Alejos, the applicant stated she wanted to build a carport for the inclement weather to protect her vehicles. She stated they had a tree but was not enough shade to cover the vehicles. She also stated she had pictures of houses with carports in and around the subdivision. Ms. Alejos handed out pictures of her damaged vehicles.

Vice-Chairperson Ann Tafel asked staff if there were any utility easements in the front and side. Ms. Trevino stated there was none.

Chairperson Gutierrez mentioned to the applicant if the she needed to make modifications she could have the item tabled until the next meeting. Ms. Alejos agreed to have her item tabled.

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

- e) Request of Daniel Rosas for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet west side yard setback for a proposed carport measuring 10 feet by 48.67 feet, at Lot 6, Block 15, Hammond Addition Subdivision, Hidalgo County, Texas; 2021 Ebony Avenue. (ZBA2023-0071)

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Ms. Trevino stated the applicant was requesting a special exception for an encroachment of 6 feet into the 6-foot west side yard setback for a proposed carport that will allow vehicle protection from the natural weather elements.

The subject property was located along the South side of Ebony Avenue between 20th Street and 21st Street. The property had 50 feet of frontage along Ebony Avenue with a depth of 140 feet for a total area of 7,000 square feet. There was a single-family residence on the subject property as well as a rear living unit. The property was zoned R-2 (duplex-fourplex residential) District. Adjacent zoning was R-2 District in all directions

At the Zoning Board of Adjustments and Appeals meeting on April 20, 2022 the Board considered two requests. Approval was granted for a special exception request to allow an encroachment of 13 feet into the 20-foot front yard setback for a metal carport measuring 20 feet by 25 feet. A second request for an encroachment of 6 feet into the 6-foot side yard setback for a proposed carport measuring 10 feet by 64 feet was disapproved. A second application and site plan for a special exception request for an encroachment of 5 feet into the 6 foot side yard setback for a proposed metal carport measuring 9 feet by 64 feet was submitted one month later and involved a reduction of the encroachment into the side yard setback from the original first request; This request was also denied. The most recent special exception request was submitted July 11, 2023. A building permit had not been submitted.

The applicant was requesting a special exception for an encroachment of 6 feet into the 6-foot side yard setback for a carport that was measuring 10 feet by 48 feet 8 inches. The applicant stated that the carport had a gutter that will flow into their property and will not affect their neighbors.

The applicant also stated it is a unique situation due to having two living units in front of each other. Relocation of the carport was not feasible due to the second living area in the rear. Therefore, the carport would be facilitating both the front and the rear tenant's vehicles.

Measurements provided are without benefit of a survey.

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

There were no utility easements located on the property.

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.

A review of Planning Department records did not reveal other variances granted within the subdivision.

Site visit by staff revealed several similar encroachments within the subdivision with no building permits on file.

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

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Staff recommended disapproval of the special exception request of the proposed carport, due to the excessive size in length of the structure. However, if the Board approves the request it should be limited to the encroachments shown on the submitted site plan, and in compliance with 400 square foot maximum.

Mr. Daniel Rosas, the applicant stated verbally that he was proposing to reduce the carport by 80 feet to make it 400 square feet to be in compliance. He stated he wanted to receive an approval on the 6-foot encroachment into the 6-foot setback. It would be made of galvanized steel and would have a water gutter system. Mr. Rosas stated during the hailstorm in April his structure held up. He had two houses on the lot and he lived in the back. There was no entrance from the back so they have to use the one entrance in the front. He stated that Mujeres Unidas, which was next door, had no opposition to the special exception.

Board member Mujica asked the applicant if the unit in the rear encompass the full length from property line to property line. Mr. Rosas stated no. Mr. Mujica asked the applicant if he had space to park his vehicles. Mr. Rosas stated there was no space.

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 no one in opposition of the special exception.

Following discussion, Mr. Hugo Avila moved to approve the special exception subject to the compliance with the new City Ordinance. No one seconded the motion.

Vice-Chairperson Ann Tafel moved to disapprove the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove the special exception with four members voting aye and one nay. Mr. Hugo Avila.

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