

STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, December 6, 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
	Hugo Avila	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
	Pablo Garcia	Alternate
Absent:	Hiram A. Gutierrez	Member
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Hilda Tovar	Planner II
	Natalie Tovar	Planner I
	Jessica Puga	Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

EXECUTIVE SESSION:

- 4a) Consultation with City Attorney regarding pending litigation: Cause No. C-4698-23-M; Sharybak I, LLC v. The City of McAllen and McAllen Zoning Board of Adjustment and Appeals (Section 551.071, T.G.C.)

Mr. Benito Alonzo, Attorney on behalf of the Board stated the agenda item that was listed as 4a might be discussed in Executive Session pursuant to Section 551.071 of the Texas Local Government code. Should the Board wished to discuss this matter in Executive Session, Mr. Alonzo recommended a motion to that effect.

Vice-Chairperson Ann Tafel moved to recess to Executive Session. Rogelio Rodriguez seconded the motion. The Board voted unanimously to recess to Executive Session with five members present and voting.

The Board recessed at 4:31 p.m.

The Board reconvened at 4:45 p.m.

1. MINUTES:

- a) Minutes for the meeting held on November 15, 2023.

The minutes for the meeting held on November 15, 2023 and were approved. The motion to approve the minutes were made by Vice-Chairperson Ann Tafel. Mr. Rogelio Rodriguez

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 Jesus C. Muniz for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 8 feet into the 10 feet rear yard setback for a proposed metal carport measuring 21 feet by 18 feet, at Lot 2, Shady Oaks Subdivision Unit II, Hidalgo County, Texas; 6205 North 8th Street. **(ZBA2023-0099)**
- b) Request of Corando Trevino for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 16 feet into the 20 feet front yard setback for an existing metal carport measuring 25 feet by 16 feet, at Lot 11, Block 3, Colonia McAllen Unit No. 4 Subdivision, Hidalgo County, Texas; 2716 Toronto Avenue. **(ZBA2023-0100)**

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

Mr. Salvador Dominguez, applicant, 9803 Willow Crossing Place, Houston stated he was in favor of the special exception.

Vice-Chairperson Ann Tafel **moved** to approve the previously outlined special exceptions listed on the agenda as **2a** and **2b** as per staff's recommendation, limited to the submitted plans corresponding to each item. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to approve with five members present and voting.

- c) Request of Hector Rodriguez for the following Special Exception to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 1.33 feet into the 6 feet west side yard setback for a carport measuring 19.58 feet by 10 feet and, **2)** an encroachment of 13 feet into the 20 feet front yard setback for a carport measuring 19.58 feet by 10 feet, at Lot 99, Villa De Palmas Subdivision, Hidalgo County, Texas; 4104 Gardenia Avenue **(ZBA2023-0101)**

Ms. Moreno stated the applicant was requesting a Special Exception for an existing canvas cover carport that encroaches 13 feet into the 20 feet front yard setback and 1.33 feet into the 6 feet west side yard setback. The applicant was requesting the carport to remain for protection of the family's vehicles and protection for a family member (medical reasons) from adverse weather conditions.

The subject property was located along the north side of Gardenia Avenue between North 41st Street and North 42nd Street. The Lot had 50 feet of frontage along Gardenia Avenue and a depth of 90 feet for a total Lot size of 4,500 square feet. The property was zoned R-1 (single family residential) District. There was R-1 district in all directions.

Villa De Palmas Subdivision was recorded on September 22, 1999. The plat states a front yard setback of 20 feet. A stop work order was issued on October 24, 2023 for construction without a permit. A building permit application was submitted on October 24, 2023. A

special exception request application was submitted on October 27, 2023. On October 28, 2023 a citation was issued by the Building Permits and Inspection Department.

The applicant was requesting a Special Exception with encroachments into the front and side yard setbacks. The applicant would like the carport to remain in order to provide protection from adverse weather conditions both for a family member with a medical condition and for the family's vehicles.

There was an existing one-car garage with the home; however; it is narrow and the applicant states it hinders accessibility in and out of the family's vehicle.

The property owner stated that a contractor was hired for the construction of the carport, but subsequently learned that building permits were not obtained.

Front yard setbacks help keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

Special Exceptions are issued to and recorded for the present applicant/owner only. A change in ownership would require the new owner to apply for a Special Exception.

Measurements provided are without benefit of a survey.

During a site visit by Staff of this subdivision, only one other carport was observed at Lot 6, Villa de Palmas Subdivision. A review of Planning Department records did not reveal any application for building permits or Special Exceptions granted for the existing carport.

A 5 feet utility easement adjacent to the front property line runs concurrently with the front yard setback, however; the utility easement was not impacted by the proposed encroachment.

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 since approval may encourage other property owners to build similar structures in the front yard. If the Board approves the request, approval should be limited to the encroachments shown on the submitted site plan.

Board member Mujica asked staff there was only one carport on Lot 6 that was observed. Staff responded yes. They saw the one carport on Lot 6 but when they went on a second site visit, it had been removed. They checked for citations but there were none. Board member Mujica asked if there was an alley. Staff stated no.

Mr. Hector Rodriguez, the applicant stated the garage was small to get in and out so he had a carport built. He stated his wife had medical conditions and made it difficult to get into the car with the wheelchair during inclement weather. Chairperson Gutierrez asked the applicant when the carport was built. Mr. Rodriguez stated about a month and a half ago. Chairperson Gutierrez asked the applicant if the contractor mentioned anything about obtaining a permit. The applicant stated there was a miscommunication between him and the contractor to obtain the permit.

Board member Rodriguez asked him who was the contractor and the name of the company. The applicant stated his name was David Gutierrez. He said he works from San Antonio and sometimes comes to the Valley.

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 in favor of the special exception.

Mr. Celia Magana, 3318 N. 41st Lane. She is in favor of the carport even though she resides a little further from her neighbors. She had one built for a family member with a wheelchair. Ms. Magana stated it would make it difficult to transport a person from the vehicle into their home through the side of the garage. It becomes more complicated with different weather factors to do so.

Board member Lamela asked Ms. Magana if this would be a safety issue. She stated there could be a safety issue but if everything was in accordance perhaps gutters on the side so the neighbors would not have difficulty with the rain falling onto the carport.

Board member Avila asked Mr. Rodriguez if he could use the garage. Mr. Rodriguez stated he could use it when there was hail.

Following discussion, Mr. Hugo Avila moved to approve the special exception as per the site plan submitted. Mr. Alex Lamela seconded the motion. The Board voted to approve the special exception with four members present aye and one voting nay, Vice-Chairperson Ann Tafel.

3. FUTURE AGENDA ITEMS:

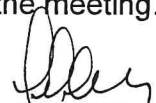
- a) 6205 North 8th Street

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