

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, July 23, 2025 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
	Erick Diaz	Alternate

Staff Present:	Michelle Rivera	Assistant City Manager
	Norma Borrego	Assistant City Attorney I
	Omar Sotelo	Planning Director
	Kaveh Forghanparast	Senior Planner
	Johanna Maldonado	Senior Planner
	Hilda Tovar	Planner II
	Edson Lara	Planner II
	Nicolas Lopez	Planner II
	Porfirio Hernandez	Planner I
	Jessica Puga	Technician II
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on June 18, 2025.

The minutes for the meeting held on June 18, 2025. The motion to approve the minutes were made by Vice-Chairperson Hugo Avila. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting

- b) Minutes for the meeting held on July 9, 2025 will be submitted at the next meeting.

2. PUBLIC HEARINGS:

- a) Request of David J. Puente for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 10-foot rear yard setback for a proposed carport that measures 17 feet by 21 feet at Lot 23A, Lots 15A Thru 32A, Block 5 Trenton Park Estates Subdivision Phase I, Amended, Hidalgo County, Texas; 7432 North 20th Street. **(ZBA2025-0031)**

Ms. Tovar stated the applicant was requesting a special exception for an encroachment into the rear yard setback for a proposed 357 square foot metal carport that measures 17 feet by 21 feet. According to the applicant, the carport is to be built to protect his vehicles from the weather elements.

The subject property is located along the northeast side of North 20th Street and it is zoned R-1 (Single-Family Residential) District. The surrounding land use is single family residential in all directions.

Lots 15A thru 32A, Block 5, Trenton Park Estates Subdivision Phase I, Amended was recorded on February 2, 1988 and the plat specifies a 10-foot rear yard setback. There was a 5-foot utility easement that run along the rear of the property. A building permit has not been submitted yet.

The applicant is requesting a special exception to allow an encroachment of 5 feet into the 10-foot rear yard setback for a proposed carport that measures 17 feet by 21 feet. There is an existing two-car garage that is part of the residence, which has access from the alley on the rear of the property. The garage is already being used to park vehicles but the carport will provide additional space to park more vehicles and protect them from excessive heat and weather conditions. The proposed carport will be built over the existing driveway.

A review of Planning Department records revealed one special exception granted within this subdivision for an encroachment into the side yard setback for a carport.

The proposed carport does not appear to encroach into the 5-foot utility easement; however, measurements provided are without benefit of a survey.

Special exceptions are issued to an individual and recorded; however, if a new owner purchases the home they will have to apply as the new owner.

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

Mr. David Puente, 7432 North 20th Street. He stated he was thinking about getting a third vehicle. He stated he had a garage in which he keeps two other vehicles inside. He wanted to build a carport to protect his new vehicle from inclement weather.

Staff recommended approval of the special exception request. If the request is approved, it should be limited to the encroachment shown on the submitted site plan.

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 approve the Special Exception. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- b) Request of Della Robles on behalf of Guzman Construction LLC for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25-foot rear yard setback for a proposed storage shed and 6 feet into the 25-foot rear yard setback for a proposed pool at Lot 285, La Floresta Subdivision Phase II, Hidalgo County, Texas; 9301 North 22nd Lane. **(ZBA2025-0035)**

Ms. Tovar stated the applicant was requesting a variance to allow an encroachment of 15 feet into the 25-foot rear yard setback for a proposed storage shed and 6 feet into the 25-foot rear yard setback for a proposed pool.

The property is a double fronting lot located on the west side of North 22nd Lane, with one frontage on North 22nd Lane and the rear of the property fronting North 23rd Street. The property is zoned R-1 (Single-Family Residential-OC) District. The adjacent zoning is R-1 (Single-Family Residential-OC) District in all directions except to the west across North 23rd Street, which is C-3 (General business-OC) District.

La Floresta Subdivision was officially recorded on July 8, 2016. The plat specifies a 25-foot rear yard setback and a 10-foot utility easement for all double fronting lots including the subject property. A building permit for the existing residence was submitted on November 26th, 2024, however, a building permit for the proposed storage shed and pool have not been submitted yet. The variance request was submitted on June 18, 2025.

The applicant stated that the proposed shed will be used strictly for non-commercial residential purposes, including the storage of lawn equipment, tools, household items, and other personal belongings. In addition, the applicant is stated that the swimming pool will likewise be used solely for personal, non-commercial recreation.

According to the submitted site plan, both the shed and the pool will respect the 10-foot utility easement. The shed is proposed to match the appearance of the primary residence.

At the time of recording the plat, the Zoning Ordinance required the front setback for the front and rear side of double fronting lots; however, the City amended Section 136-367 of the Zoning Ordinance in 2021 to the following: "Where lots have double frontage, running through from one street to another, a required front yard shall be provided on one street only."

A review of Planning Department records revealed two variances granted within this subdivision for encroachments into the 25-foot rear yard setback.

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

Staff recommended approval of the variance request since it complies with section 136-367 (b) of the Zoning Ordinance.

Ms. Della Robles, 9301 North 22nd Lane. She stated they currently own another home in McAllen and they built a new home. They have a storage shed and would like to move it to their new home. She stated their involved with the Boys and Girls Club and they store the football gear and his tools

Board member Mujica stated he saw more space in between where she was proposing to put the shed and driveway. Was there a reason why it was not closer to the driveway as to

where she has it now? She stated they have their garage in the back and needed to that space. They were thinking about expanding the driveway a little more to the shed so they can back up from the garage. They live in a cul-de-sac and instead of parking along the street, they decided to make their driveway very long and do their garage towards the back.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Variance request. There was 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.

Following discussion, Mr. Hiram Gutierrez **moved** to approve the Variance request against staff's recommendation. Mr. Daniel Santos seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- c) Request of Nathan Chamberlain, on behalf of AEP Texas Inc. for a variance to the City of McAllen Zoning Ordinance to allow 36.30 feet instead of the minimum 50-foot lot width requirement for a 4.899-acre tract of land out of Lot 338, John H. Shary Subdivision, Hidalgo County, Texas; 4612 Buddy Owens Boulevard. **(ZBA2025-0034)**

Ms. Tovar stated the applicant was requesting a variance to allow 36.30 feet instead of the 50-foot lot width requirement for a proposed electrical substation.

The property is located on the north side of Buddy Owens Boulevard, with only one frontage. The property is zoned R-1 (Single-Family Residential-OC) District on the south side, C-4 (Commercial Industrial-OC) District on the east side and A-O (Agricultural and Open Space-OC) District to the north. The adjacent zoning is R-1 (Single-Family Residential-OC) District to the west, north and northeast, and is C-4 (Commercial Industrial-OC) District to the east and southeast. There is also C-3 (General Business-OC) District to the south across Buddy Owens Boulevard.

The property is currently vacant and it is under review for a proposed subdivision under the name of "Buddy Owens Station Subdivision".

A Conditional Use Permit for an electrical substation is currently under review. The variance request was submitted on June 17, 2025.

The applicant is requesting a variance to allow 36.30 feet instead of the 50-foot lot width requirement. The minimum width of a building site shall be 50 feet of frontage on a public street, as per section 138-356 of the Zoning Ordinance.

The property has only one frontage access from Buddy Owens Boulevard. The applicant states that the electrical substation will be unoccupied and will have very low traffic from the street.

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

Staff recommended approval of the variance request due to the anomaly of the lot and the reduced width of the frontage.

Mr. Nathan Chamberlain, San Antonio, TX. He stated they were going to put a 24-foot driveway and only to be used a few times a year for maintenance. They will be an initial construction period and after it will not be used as much.

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.

Ms. Lupita Valentin, 4601 North 47th Street. She stated she was in opposition of the Variance request. She stated they wanted to build the substation adjacent to the neighborhood. She stated the applicant was asking to get 36.30 feet instead of the minimum of 50 feet. She was concern with safety issues of the substation exploding. Ms. Valentin stated that the applicant needed a transitional line. She passed through two substations and none of them was anywhere near transitional line.

Mr. Eric Valentin, 4601 North 47th Street. He stated he was in opposition of the Variance request. He stated he had concerns of the health and safety of a substation being built next to our neighborhood. He went onto to say that these substations cause noise pollution and cause a multitude of mental issues. Also, that a substation that could explode. He stated that it could lower property value.

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

Following discussion, Mr. Hugo Avila **moved** to approve the Variance request as per staff's recommendation. Mr. Ivan Garcia seconded the motion. The Board voted to approve the Variance request with four members voting aye and one nay, Chairperson Jose Gutierrez.

d) Request of Antonio Davila, on behalf of Villa Homes RGV LLC, for a variance request to the City of McAllen Zoning ordinance to allow an encroachment of 6 inches into the 6-foot west side yard setback for an existing house at Lot 35, Block I, Eldorado at Thousand Oaks I, II, III Subdivision, Hidalgo County, Texas; 4001 Whetstone Avenue. **(ZBA2025-0036)**

Mr. Lopez stated the applicant was requesting a variance to allow an encroachment of 6 inches into the 6 foot west side yard setback for an existing home on the property.

The property was located on the south side of Whetstone Avenue, approximately 275 feet east of 41st Lane. Adjacent properties are zoned R-1 (Single-Family Residential – OC) District in all directions.

Eldorado at Thousand Oaks I, II, III Subdivision was recorded on July 20, 2023 with a plat note that specifies a 6 foot side yard setback for interior lots. Building permit application for the existing house was submitted on March 10, 2025 and was issued on June 13, 2025. During construction, it was determined that the home encroaches 6 inches into the west side yard setback. Variance application was submitted on July 23, 2025.

The applicant has stated that the existing house was built in compliance to the required setback, according to the existing pins on the corners of the subject property. During inspection, applicant discovered that the pin on the northwest corner of the property was either incorrectly positioned or had been moved, resulting in the home encroaching 6 inches into the mandated 6-foot side yard setback on the west side. To address this encroachment, the applicant is requesting a variance. The recorded plat does not depict any easement on the east or west side of the subject property.

Approval of the request will allow the building permit to be finalized.

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

Staff recommended approval of the variance request. If the request is approved, it should be limited to the encroachments shown on the submitted site plan.

Chairman Gutierrez asked to staff that the new ordinance established 5 feet side setback instead of the 6 feet. Planning Director Sotelo stated the plat notes would supersede the ordinance. If the plat notes stated 6 feet then it would be 6 feet.

Board member Mujica asked if the final inspection part of the final permitting process. Staff stated yes.

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.

Mr. Emiglio Villanueva, CEO of Villa Homes. He stated when they went to obtain a building permit for a home on the next lot that is when they found out that the measurements were off 6 inches. They contacted the engineer that did the development. They indicted that perhaps the companies that were running lines for phone or cable they must have moved them. The engineer informed them that they would correct it and ended up with 6 inches more.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Variance request. There was someone else to speak in favor of the Variance request.

Mr. Antonio Davila, Operations Manager for Villa Homes. He stated he did an extensive background check before going to the property, which is when they found out about the 6 inches off. He then called Headley Quintanilla engineers in which they took the proper steps to go and check out the property three times to see the error. The pins had been removed.

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.

Following discussion, Vice-Chairperson Hugo Avila moved to approve the Variance requests. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- e) Request of Casey Swenson, for a variance request to the City of McAllen Zoning Ordinance to allow encroachment of 2.5 feet into the 6-foot east side yard setback for an existing garage located in the rear of Lot 3, Block 4, Hackberry Place subdivision,

Hidalgo County, Texas; 813 Ivy Avenue. (ZBA2025-0033)

Mr. Lopez stated the applicant was requesting a variance to allow an encroachment of 2.5 feet into the 6 foot side setback for a proposed garage being built on the south side of the lot.

The property is located on the south side of Ivy Avenue, approximately 140 feet east of North 9th Street. Property is zoned R-1 (Single-Family Residential-OC) District. All the adjacent properties are zoned R-1 (OC) District as well.

Hackberry Subdivision was recorded in 1937. There is an existing residence on the property. On May 16, 1990, The Zoning Board of Adjustments granted a variance for a garage, reducing the rear setback from 10 feet to 5 feet. In February 2025, the applicant demolished said structure from 1990 and began construction of a new garage (secondary structure) on the south side of the property without obtaining a building permit. As a result, the City issued a citation and a stop work order on February 27, 2025. During inspection of property, staff noted a carport structure attached to the existing home that was found to cross the shared property line between Lots 3 and 4. The applicant agreed to remove the carport that crossed property lines between east side of Lot 3 and west side of Lot 4. Applicant is requesting a variance for the partially constructed garage that encroaches 2.5 feet on the east side of lot 3.

Section 138-356 of the Zoning Ordinance requires a 6-foot side yard setback. Staff has not received any phone calls, emails, or letters in opposition to the variance request. During a site visit to the vicinity of the subject property, it was observed that there are a multiple structures that likely encroach setbacks, along with several existing developments spanning multiple lots within Blocks 3 and 4 of Hackberry Place Subdivision.

Staff recommended disapproval of the variance request as there was sufficient yard space for applicant to develop without encroachment of setbacks.

Chairperson Gutierrez asked staff if the applicant discussed any possible changes to comply with City ordinances. Staff stated when the inspectors went out to the residence the concrete was halfway finished and they issued a Stop Work Order.

Board member Gutierrez asked staff if the structure a carport or a garage. Staff stated when the inspectors went it currently showed it was over the property lines between Lots 3 and 4. He stated Mr. Swanson owns both lots. Mr. Forghanparast, Senior Planner stated the request was not for carport. The applicant proposed to remove the carport. The request was for only the garage in the back, which it was under construction already. They received the citation because there was no permit obtained and it encroached in the setbacks. The applicant informed staff that a while back, there was another structure, which was demolished, and they wanted to use the existing concrete slab to build over it. They were informed that whenever a non-conforming structure was removed, it needed in compliance with the new code.

Mr. Casey Swenson, 408 South Rose Ellen Boulevard. He stated he did have more room on the west side but the way the house sits and the existing driveway already going to the back where the previous garage was, he moved it 12 inches to the east only to get a large vehicle in and out.

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

Mr. B. Ramirez, tenant and Mr. Casey was his landlord. He stated he was in favor of the request and that he has been complying with every request they have ever asked.

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.

Following discussion, Mr. Hiram Gutierrez moved to approve the Variance request against staff's recommendation. Mr. Daniel Santos seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- f) Request of Humberto Salinas for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing carport at Lot 13, Block 1, McAllen Heights Subdivision, Hidalgo County, Texas; 821 South 26th ½ Street. **(ZBA2025-0017) (TABLED: 06/04/2025) (REMAIN TABLED: 06/18/2025, 07/09/2025)**

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

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing metal carport used for protection of their vehicles from severe weather.

The subject property is located at the northeast corner of Ithaca Avenue and South 26 ½ Street. The subject property has an area of 4,500 square feet. The property is zoned R-1 (Single-Family Residential-OC) District. The adjacent zoning is R-1 (Single-Family Residential-OC) District in all directions.

McAllen Heights Subdivision was officially recorded on January 23, 1959. The applicant received a notice of violation related to electrical work performed on the existing carport. Subsequently, the permit for the electrical work was properly obtained and approved, the review process revealed that the carport had been constructed without a permit and encroaches into the front yard setback. A building permit for the existing metal carport was submitted on February 11, 2025. The applicant applied on April 30, 2025 for a special exception to address the encroachment.

The applicant is requesting the special exception for an existing metal carport measuring 14.2 feet x 41.6 feet with a total of 591 square feet, which exceeds the 400 square foot size not allowed by ordinance. The carport currently encroaches 20.0 feet into the front yard setback and upon conducting a site inspection, staff identified that the carport extends covering nearly the entire required five-foot setback along the north side. The applicant is not proposing to reduce the square footage of the carport to comply with the size requirement established by ordinance. Applicant states the structure provides necessary shade and protection for his vehicles from severe weather conditions.

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

Staff recommended disapproval of the special exception request.

At the meeting of June 4, 2025, item was tabled to give applicant time to discuss with the Planning dept. to propose to reduce carport square footage.

Applicant request for the item to be tabled to the next ZBOA meeting of July 9, 2025. The item was tabled on July 9 due to the applicant's absence and is scheduled to be heard on July 23, 2025.

Mr. Humberto Salinas, 821 South 26th Street. He was not aware of obtaining permit when he built the carport 15 years ago. It cost him \$8500.00 to build. He stated they needed the access to get and out of the vehicle for their wheelchairs and for protection from inclement weather. Chairperson Gutierrez asked the applicant if he was aware that the existing carport exceeds the 400 square feet. Mr. Salinas stated he was not aware of the square footage. He stated he had lights under the carport and replaced them with four feet bars and ran wire to do it professionally to connect with the house.

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.

Following discussion, Vice-Chairperson Hugo Avila **moved** to go against staff's recommendation and approve the Special Exception up to 400 square feet. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- g) Request of Gerardo Morales for a variance request to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 18-foot rear yard setback for a hot tub with a pergola at Lot 65, Spanish Oaks @ Frontera Subdivision, Hidalgo County, Texas; 705 Grambling Avenue. (ZBA2025-0021) (TABLED: 06/04/2025) (REMAIN TABLED: 06/18/2025, 07/09/2025)**

Vice-Chairperson Hugo Avila made motion 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.

Mr. Lara stated the applicant was requesting a variance for an encroachment of 18 feet into the 18-foot rear yard setback for pergola measuring 10 feet by 10 feet. The property owner is proposing a pergola to cover a therapeutic hot tub.

The subject property was located south of Grambling Avenue, second lot east of North 8th street, at Spanish Oaks @ Frontera Subdivision. The property is zoned R-1 (Single-Family Residential -OC) District. Adjacent zoning is R-1 (Single-Family Residential -OC) District to the east, north and west. Adjacent zoning the south is C-3(General Business -OC) District. Surrounding land uses are single-family residences and vacant land.

Spanish Oaks @ Frontera Subdivision was recorded on May 08, 2018. The rear-building setback is 18 feet as per plat. A citation was issued September 28, 2023 for a construction at southeast section of the lot without a permit and inspection. Subsequently the applicant

applied for a variance on November 10, 2023. The Zoning Board of Adjustments (ZBOA) denied the request at the meeting on January 11, 2024. A building permit for the pergola was submitted August 11, 2023. The proposed location for the pergola as part of this variance request is located adjacent to the rear driveway with a rear 18 feet encroachment.

The request is for a variance to allow an encroachment of 18 feet into the 18 feet rear-building setback to allow the placement of a 10 x 10 feet pergola. The applicant is applying for second time for a variance, stating that he wanted to protect a therapeutic hot tub that is in his rear yard.

Previous analysis staff had concluded relocation of pergola would minimize the invasion into the rear-building setback and the elimination of side setback encroachment.

There have been no calls or emails received in opposition of the variance request.

Review from Planning Department records does not show any variance previously granted to this lot.

Staff recommended disapproval of the variance since pergola in being placed on the 18 feet rear-building setback.

Board member Garcia asked staff if the pergola was a permanent structure. Staff stated yes.

Board member Mujica asked if this item came before the Board before and was denied. Staff stated yes. The pergola was on the southeast side rear part of the lot. It was moved a little more towards the driveway.

Mr. Gerardo Moroles, 705 Grambling Avenue. He stated the pergola was on the east side. He stated City staff to take it down so he did and to put it where he was told informed him. He then was cited. The hot tub was next to the cinder block wall and there was nothing on the other side.

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.

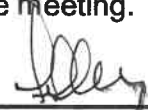
Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Variance request. There was no one to speak in opposition of the Variance request.

Following discussion, Mr. Hiram Gutierrez moved to approve the Variance request. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve the Variance request with four members voting and one nay, Chairperson Jose Gutierrez.

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