

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, June 17, 2026 at 4:33 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Hiram Gutierrez	Member
	Erick Diaz	Alternate
	Juan Mujica	Alternate
Absent:	Hugo Avila	Vice-Chairperson
	Daniel Santos	Member
	Ivan Garcia	Member
	Alex Lamela	Alternate
	Francisco Davila	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 June 3, 2026.

The minutes for the meeting held on June 3, 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 Leo Aurelio Palacios, for a variance to encroach 15 feet into the 25-foot rear setback for a proposed swimming pool, at Lot 3, Antigua Subdivision, Hidalgo County, Texas; 3100 Zenaida Avenue. **(ZBA2026-0022)**

Mr. Del Bosque stated the applicant was requesting a variance to encroach 15 feet into the 25-foot rear setback for a proposed swimming pool.

The subject property was located along the Northside of Zenaida Avenue, west of North 29th Street. The surrounding land uses include single-family residences and vacant land.

Antigua Subdivision was recorded on July 6, 2006. According to the plat notes, lots along Trenton Road are considered double fronting and require a minimum setback of 25 feet. A building permit for the construction of a single-family residence was issued on April 23, 2026. As per the submitted site plan, the home is not encroaching into the 25-foot rear setback. The variance request was submitted on April 22, 2026. A previous variance request for Lot 2 of Antigua Subdivision, to encroach 10 feet into the 25-foot rear setback, was approved on October 7, 2020.

The proposed encroachment will comply with the 10-foot rear setback requirement that is consistent for all other 15 lots not along Trenton Road and is the general constraint in this zoning district. This request would not be the first lot in this subdivision to be granted a variance to the rear setback requirement as previously mentioned.

As per Section 6.4.1.F. of the UDC, the Zoning Board of Adjustment shall not approve a variance unless it finds that:

- a. The variance is not contrary to the public interest;
- b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
- c. The spirit of the varied provision is observed and substantial justice is done.

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

Staff recommended approval of the variance request.

Mr. Leo Aurelio Palacios, IV, 7025 North 5th Street, McAllen, Texas. He stated they were currently in to early stages in the building process trying to get a pool built in the rear of the property. Based on the plans and the size of the pool and the size of the lot, they were requesting that 10-foot variance with the setback.

Chairperson Gutierrez mentioned to the applicant that had to be five members present in order to have a full complete Board and there were four members present. He asked the applicant if he would like to continue or wait for a full Board at the next meeting to make the final decision. Mr. Palacios said he would like to continue.

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.

Mr. Hiram Gutierrez **moved** to go with staff's recommendation approve the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to approve the Variance request with four members present and voting.

- b) Request of David Hernandez, for a variance to encroach 25 feet into the 35-foot rear setback for a proposed addition to an existing gazebo, at Lot 170, Northridge Park Phase IV Subdivision, Hidalgo County, Texas; 216 East Verdin Avenue. (ZBA2026-0023)**

Mr. Del Bosque stated the applicant was requesting a variance to encroach 25 feet into the 35-foot rear setback for a proposed addition to an existing gazebo.

The subject property was located along the south side of East Verdin Avenue, west of North Cynthia Street. The surrounding land uses include single-family residences, commercial uses, and vacant land.

Northridge Park Phase IV Subdivision was recorded on September 20, 1994. According to the plat notes, only lots backing up to the railroad have a 35-foot rear setback. Staff's research did not reveal any records of variances being granted for this subdivision. A building permit for the extension of an existing gazebo was applied for on April 16, 2026; however, was rejected, pending the variance request. Staff's research also did not reveal any records of building permits being issued for the existing gazebo. The variance request was submitted on April 28, 2026.

The proposed encroachment will comply with the 10-foot rear setback requirement that is consistent for all other lots. A 10-foot rear setback is also standard for this zoning district.

As per Section 6.4.1.F. of the UDC, the Zoning Board of Adjustment shall not approve a variance unless it finds that:

- a. The variance is not contrary to the public interest;
- b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
- c. The spirit of the varied provision is observed and substantial justice is done.

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

Staff recommended approval of the variance request.

Mr. David Hernandez, 216 East Verdin Avenue, McAllen, Texas 78504. He stated the old McAllen homes had little gazebos. They made plans to expand it 20 feet north along the fence line. They were unaware of encroaching into any setbacks. They have been in the house since 2020 so the City came out and informed them before they start anything they needed to comply and go with the zoning restrictions. .

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.

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

- c) Request of Ricardo Daniel Martinez on behalf of Habitat Development Group, for a variance to allow 3-foot side setbacks on the west, for Lots 3, 7, 12, 17, 32, and 36, Habitat at Ware Phase I Subdivision, Hidalgo County, Texas; 3709, 3717, 3807, 3819, 4009, and 4017 Jay Avenue. **(ZBA2026-0024)**

Mr. Del Bosque stated the applicant requested the item to be tabled.

Mr. Erick Diaz moved to go to table the item. Mr. Hiram Gutierrez seconded the motion. The Board voted to table the item with four members present and voting.

- d) Request of Rio Delta Engineering on behalf of Hollywood Development & Construction, LLC, for a variance to allow a lot width of 42.50 feet instead of the minimum 45 feet required for proposed Lot 2 of Imperio Estates Phase II Subdivision, at a 8.86-acre tract of land out of Lot 47, La Lomita Irrigation & Construction Company's Subdivision, Hidalgo County, Texas; 8600 North 29th Street. (ZBA2026-0025)

Ms. Fuentes stated the applicant was requesting a variance to the minimum lot width requirement for Lot 2 in the proposed Imperio Estates Phase II Subdivision.

The subject property was located along the east side of North 29th Street, between Indian Hill Avenue and Grayson Avenue and is zoned R-1 (Low Density Residential-UDC) District.

Imperio Estates Phase II was approved in preliminary form on March 3, 2026 by the Planning and Zoning Commission subject to conditions. An application for the variance request was submitted on April 30, 2026.

Section 2.2.2. of the Unified Development Code requires a minimum width of 45 feet and lot area of 5,000 square feet. Lot 2 of proposed Imperio Estates Phase II is proposed to have a lot width of 42.5 feet and lot area of 5,937 square feet. The applicant stated that there are existing structures to the east that limits the ability of complying with the ordinance. If the number of lots is reduced by one, all lots would comply with minimum requirements.

Section 6.4.1 of the UDC states that the Zoning Board of Adjustment shall not approve a variance unless it finds that:

- a. The variance is not contrary to the public interest;
- b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
- c. The spirit of the varied provision is observed and substantial justice is done.

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

Staff recommended disapproval of the variance request.

Mr. Edwin Pena, Rio Delta Engineering, 921 South 10th Street, Edinburg, Texas. He stated that this request was not reducing any setbacks. They were planning to comply with all the setbacks and all City's standards. The only consideration that they were requesting was for the lot frontage. There was an existing house on Lot 3. After providing enough room for the house and the setbacks, they did not have enough room on Lots 1 and 2 to comply with the minimum frontage of the lot. They would provide the site plan from the developer, which was also the homebuilder for the subdivision, complying with all the setbacks, the size of the house, and the City's requirements.

Chairperson Gutierrez stated to the applicant there were only four Board members present and there should be five. If one of the members votes against their petition, it would be denied. Being five Board members, one could vote against it and still be approved. He gave the applicant the option to table the item until the next meeting when they a full Board present.

Mr. Pena stated he would like to proceed with the case with four Board members present.

Board member Diaz mentioned that on Lot 1 they had 47.5 feet, was there any way to move that lot line a little to gain more space into the 42-foot request. Mr. Pena stated they would need three more feet on Lot 3 to comply with the lot frontage. They could move the lot line it but they still will not have enough.

Mr. Forghanparast stated they are complying with the lot size the only issue was that they wanted to have Lot 1 and Lot 2 separate. On the south side, Lot 37 was a larger lot. If they combined Lot 1 and Lot 2 into one lot, then they would not have issue with the requirement but want to keep them separate.

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.

Ms. Ana Garcia, on behalf of Hollywood Development, 2201 West Dove Avenue, McAllen, Texas. She state they were the developers and builders. She stated they did comply with the square footage, which was 5,900, but they did not comply with the width. They proposed the house, which was going to comply with the setbacks, driveway to provide four vehicles.

Board member Gutierrez asked Ms. Garcia if Lots 1 and 2 could essentially combined and be similar to Lot 37 and a similar size house could be built there. Ms. Garcia stated on Lot 37 there was an existing house. They purchased that land with five existing homes. The two homes had to be torn down because they were not in good conditions but kept the other three. Someone was living there as the original owners and did not want to move out. The other two houses were good enough for them to salvage and fix.

Board member Diaz asked what happened on Lots 8, 28, and 29. She stated they had a gas line crossing on both of them. They were trying to work so they can build something because they cannot cross the gas line; they needed a 50' easement.

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.

Chairperson Gutierrez asked staff what was the reason for limiting the 45-foot frontage. Mr. Forghanparast stated there were multiple types of zones inside the City in the new UDC. They have the low-density residential which is this type of development. There is also medium-density and high-density. With the low-density, it should be lower by the water laws and the 5,000 square feet was needed to keep the density lower. When you to the R-2 and R-3 zones which was medium and high density, they can have smaller lots.

Mr. Erick Diaz moved to go against staff's recommendation and approve the Variance request. Mr. Alex Lamela seconded the motion.

Chairperson Gutierrez stated there has to be the four members present to go with the motion otherwise it would be disapproved.

Board member Diaz asked if there was an opportunity for the applicant to table the item and wait for a full Board.

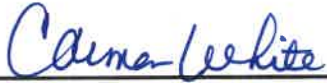
Ms. Garcia requested to table the item until the next meeting.

Board member Diaz withdrew his motion.

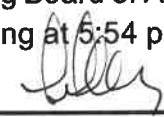
Mr. Erick Diaz moved to go to table the item until next meeting. Mr. Alex Lamela seconded the motion. The Board voted to table the item with four members present and voting.

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 5:54 p.m.



Carmen White, Administrative Assistant



Chairperson Jose Gutierrez