

**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 4, 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
	Daniel Santos	Member
	Alex Lamela	Alternate
	Erick Diaz	Alternate

Absent:	Hiram Gutierrez	Member
	Ivan Garcia	Member
	Juan Mujica	Alternate
	Nancy Valenzuela	Alternate

Staff Present:	Norma Borrego	Assistant City Attorney I
	Omar Sotelo	Planning Director
	Samantha Trevino	Planner I
	Porfirio Hernandez	Planner I
	Nicolas Martinez	Planner II
	Jessica Puga	Technician II
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

a) Minutes for the meeting held on May 21, 2025.

The minutes for the meeting held on May 21, 2025. The motion to approve the minutes were made by Mr. Alex Lamela. Vice-Chairperson Hugo Avila seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) 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)**

Mr. Hernandez stated the applicant is 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 was 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 was 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.

Mr. Humberto Salinas, South 26th ½ Street. The applicant stated he had it built for protection of his three vehicles and for access for a wheelchair for himself and his wife. He had it built 13 years ago and never had a problem. Chairperson Gutierrez asked who built it. He had it subcontracted from friends who had a metal roofing company. Chairperson Gutierrez asked the applicant if he knew of the ordinance that the carport could not be larger than 400 square feet. Mr. Salinas stated he was not aware.

Board member Santos asked the applicant if there was no other garage. Mr. Salinas stated it was an open area. His vehicles were damaged from the hail.

Board member asked the applicant if there was a garage on this house. Mr. Salinas stated the house had an inside one car garage. As their family grew, they enclosed the garage for an extra room.

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.

Board member Diaz asked staff that the existing curb cut was more than 24 feet, which would be part of the yard; how did the City respond to it. Staff stated the Engineering Department looks into the curb cuts and the maximum was 24 feet.

Chairperson Gutierrez asked the applicant if he would be willing to table the item until the next meeting so that he could get with staff to discuss options in reducing the carport.

Following discussion, Mr. Alex Lamela moved to table the Special Exception until he next meeting. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to table the Special Exception with five members present and voting.

- b) Request of Jorge Guerra for a Variance to the City of McAllen Zoning Ordinance to not provide a masonry screen eight feet in height and instead provide an eight-foot cedar fence for the proposed Los Encinos on Taylor Subdivision at 20.01 Acres out of Lots 297 & 298, John H. Shary Subdivision, Hidalgo County, Texas; 3320 North Taylor Road. **(ZBA2025-0018)**

Mr. Hernandez stated the applicant was requesting a variance to not provide an eight-foot masonry screen along the property adjacent to R-1 (Single Family Residential-OC) District and instead provide an eight-foot cedar fence.

The subject property was located along the east side of North Taylor Road mid-block between Nolana Avenue and Daffodil Avenue. The property is zoned R-3A (Multifamily Residential Apartments-OC) District. The adjacent zoning is R-1 (Single Family Residential-OC) District to the east and southeast, R-4 (Mobile Home & Modular Home-OC) District to the south and A-O (Agricultural & Open Space-OC) District to the north. Surrounding land uses are single-family residences, vacant land and mobile homes.

A subdivision plat under the name of Los Encinos on Taylor Subdivision has been submitted to the Planning Department and approval in preliminary form was granted by the Planning and Zoning commission on December 17, 2024. An application for this variance request was submitted on May 1, 2025.

This request is to not provide an eight-foot buffer adjacent to an R-1 (single family residential) District. Section 110-49(a) - Landscape Buffers states a masonry screen eight feet in height shall be required where a commercial, industrial or multifamily use has a side or rear property line in common with a single-family use or zone. Where such use has 200 feet or less in common with any residential use or zone, the buffer shall be eight feet in height but may be cedar planks. This does not apply since the length adjacent to single family use is approximately 841 linear feet. Alternately, the applicant proposes an eight-foot cedar fence.

The applicant stated the proposed alternative ensures adequate screening, privacy, and separation from adjacent single-family homes through the use of an 8-foot cedar fence. This material offers a durable and visually appealing alternative to masonry, blending naturally with the residential surroundings while providing long-term resistance to warping, rot, and insect damage.

The Planning Department had not received any emails or phone calls in opposition of the variance request.

Staff recommended disapproval of the variance request since compliance with the ordinance would not create an unnecessary hardship.

Mr. Jose Baustista with BR Engineering and Jorge Guerra, 2507 South 41st Lane. Mr. Bautista stated they were proposing instead of an 8-foot high masonry wall with an 8-foot cedar fence. It will not have any conflict the privacy of the adjacent neighbors. The houses were not at the property line, they were about 50 feet from the property line. Beyond the southwest, there was a two acre lot there were proposing a road that would be part of the access for the subdivision. The road would be 40 foot wide and do not foresee any conflict

when it came to privacy with the neighbors.

Vice-Chairperson Avila asked the applicant when they sealed the drawings had they have the masonry wall. Mr. Bautista stated no and they had not sealed the drawings yet.

Board member Diaz asked the reason for not providing a masonry wall. Mr. Bautista stated the reason was for the cost.

Staff stated for the record when they have an R-3A and 4-A it does not require a masonry wall just a cedar fence but does require a 6 foot buffer.

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.

Mr. Ole Garcia, 3117 North 46th Street, representing the residents who reside on the east side. The east side that required the masonry fence. He stated the cedar fence did not look aesthetically pleasing and would not last longer than 10 years. The masonry wall would shield the residents who reside on the east side from car lights, blocks more noise from HVAC units, trash bins or traffic.

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

Mr. Ron Seeger, 4905 Carnation Avenue representing the residents as a Board member Director for Adobe Wells which was everything to the south. He stated he had pictures of fences around their area, which he presented to the Board. He stated on the southwest corner of Adobe Wells they put up a masonry wall and looked great.

Mr. Armando Diaz, 3617 North Bentsen Road. He stated they had 15 acres that was for ranch land. A wooden fence brought more trash flowing into the property and had to keep it away from the animals so they would not eat it. A masonry wall would be much better for them.

David Estes, 4901 Daffodil Avenue, was a resident of Adobe Wells. He stated he had two questions regarding the zoning ordinance. He stated on the new UDC it had the previous zoning districts and the new applicable zoning would be. Adobe Wells on the district map was zoned as R-4 but not on the new UDC. The second question was for the qualifications for design requirements for multifamily and materials used. Planning Director Sotelo responded that the new UDC did leave out the R-4 District however, now it will be an A-O zoned. For the 8-foot masonry that would be when it is an R-1 and the apartments.

Jorge Guerra, the applicant stated that they were going to provide Adobe Wells with a service of drainage. They would connect the one they have now with theirs at no cost to the Adobe Wells residents. Jose Bautista stated he was aware that Adobe Wells had problems with their lift stations (sanitary sewer) part of the process for them to develop was to construct a new sanitary sewer line.

Ms. Borrego, Legal, suggested that the Board table the request regarding the notice that was given to the surrounding residents concerning what the variance was actually about in

order to give better notice to the neighbors as far as what the Board was voting on. She stated the residents were under the impression that the entire subdivision called for a masonry wall. They attended the meeting in opposition that the entire subdivision be granted the variance of being able to have the cedar fence.

Chairperson Gutierrez stated that it was the equivalent of rewording the request that was currently being heard of as of today. Those that were opposing for the entire perimeter of the subdivision and not certain sections of the subdivision.

Following discussion, Mr. Daniel Santos moved to disapprove the Variance request until the next meeting. Mr. Alex Lamela seconded the motion. The Board voted to disapprove the Variance request with five members present and voting.

At this time, Board member Daniel Santos left the meeting.

- c) Request of Michael I. Phelps 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 4 & North 4ft of Lot 3, Block 2, Harvey Terrace Subdivision, Hidalgo County, Texas; 2828 North 28th ½ Street. (ZBA2025-0019)

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport used for protection of their vehicles from inclement weather.

The subject property was located at the southeast corner of North 28th ½ Street and Carnation Avenue. The subject property has an area of 8,295 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.

Harvey Terrace Subdivision was officially recorded on May 17, 1976. The subdivision plat indicates a front yard setback requirement of 20 feet. A Stop Work Order was issued on August 27, 2024, for the existing carport, which was constructed without the required building permit. A building permit for the existing metal carport was submitted on September 20, 2024, which was rejected by Planning due to the encroachment. A subsequent Stop Work Order was issued on April 4, 2025, due to the continued violation. A special exception request for the existing metal carport was submitted on May 1, 2025. A building permit was issued in 2017 for a carport built at the rear of the property.

The applicant was requesting the special exception for an existing metal carport measuring 28 feet x 20 feet with a total of 560 square feet, which exceeds the 400 square foot size not allowed by ordinance. The applicant was proposing to reduce the size of the carport to 20ft x 20ft to comply with the 400-square-foot maximum requirement. The carport currently encroaches 20 feet into the front yard setback. Applicant states the structure provides necessary shade and protection from extreme weather conditions for their vehicles and to keep the house cooler during the hot summer months.

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

Staff recommended disapproval of the special exception request

Chairperson Gutierrez asked staff if the applicant was aware that this exceeded the 400 square footage. Staff stated yes and that the applicant was proposing to reduce the size of the carport to accommodate the 400 square feet.

Vice-Chairperson Avila asked staff if the applicant had a garage. Staff stated yes.

Mr. Michael Phelps, 2828 North 28th ½ Street. He stated having a carport had its advantages. He stated that in 2012 the hail did damage to his roof and vehicles. In addition, it would protect against sun damage to his vehicles. It kept his house cooler with the carport being on that part of the house. Mr. Phelps informed the Board he had a diagram of his proposed reduction of the carport.

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

Mr. Saul Saenz, 2820 North 28th ½ Street. He stated that he was in favor of Mr. Phelps' carport.

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. Erick Diaz moved to go against staff's recommendation and approve the Special Exception within the 400 square footage. Mr. Alex Lamela seconded the motion. The Board voted to approve the Special Exception with four members present and voting.

- d) Request of Ma M. Hernandez Amaya for the following variance to the City of McAllen Zoning Ordinance: 1) to allow a 3500-square foot lot instead of the required 5600 square feet Lot area as required per section 138-356 of the zoning ordinance; 2) to allow a Lot fronting of 25 feet instead of the 50 feet minimum requirement; 3) to allow 3 ½ feet side yard setback instead of the required building setback for the side yards, at E ½ of Lot 7, Amended map of Lots 1 thru 8, inclusive, Block 4, College Addition Subdivision, Hidalgo County, Texas; 2505 Erie Avenue. (ZBA2025-0020)

Mr. Lara stated the applicant was requesting a variance for a Single-Family Residential lot not conforming to the standards of the table of height and yard requirement set on section 138-356 of the City of McAllen Ordinance. The subject lot does not comply with the minimum lot square footage, lot width and side setbacks. The property owner is proposing to build a Single-Family Residence.

The subject property was located along the south side of Erie Avenue, approximately 75 feet west of South 25th Street. The property is zoned R-2 (Single Family Residential) District. Adjacent zoning is R-1 (Single-Family Residential) District to the south, and R-2 (Duplex-Fourplex) District to the east, north and west.

College Addition Subdivision was filed for recorded in February 1959. On February 28, 2024, an application for demolition for a structure was submitted and approved on the property.

The lot was currently vacant, and the owner was proposing to build a single-family residence on the property. The variance is to allow, the construction of a residence in a lot having 25 feet frontage instead of the require 50 feet, on a lot with less than 5600 square feet, and 3 ½ side setbacks instead of the 6 feet side setbacks.

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

Following a site visit, staff observed three (3) lots with existing structures with similar dimensions, and two (2) additional vacant lot with similar dimensions. No application was submitted for any of the structures under similar circumstances.

Staff recommended approval of the variance request due to a previous existence of a residential home under the same lot dimension; variance will not alter the characteristic of the neighborhood.

Ms. Hernandez Amaya, 2505 Erie Avenue. She stated when she bought the property from an auction not aware of the measurements. She was informed that if it was subdivided after certain years since 1963, that she would qualify. But now the measurements of the side yard. She was proposing to build a single-family residence. She asked if in the event the variance request was the Board was able to give advice as to what to do regarding the property. Chairperson Gutierrez stated they could not give any advice or suggestions but with the City's departments, they would be able to help her.

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.

Following discussion, Vice-Chairperson Hugo Avila moved to go with staff's recommendation and approve the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to approve the Variance request with four members present and voting.

- e) 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)**

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 was 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 was 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.

Chairperson Gutierrez asked staff if it was discussed with the applicant about relocating the pergola. Staff stated previously during the first time he had applied.

Board member Avila asked if the hot tub was an above ground hot tub or permanent. Staff stated it could be moved.

Board member Diaz mentioned to staff that it was encroaching 18 feet into the 18-foot rear yard setback but the pergola only measures 10 feet by 10 feet. Staff stated the site plan that was provided showed different dimensions that from what staff saw on the site plan that was given when the house was built. Staff questioned that the measurements were not the same. However, as for the original building site plan that was given through construction you can see there was a space.

Mr. Gerardo Morales, 705 Grambling Avenue. He stated the pergola was built to the rear left. He took it down and rebuilt the pergola up against the block fence which not a problem because they have alleyway. Chairperson Gutierrez informed the applicant that the variance went with the land. Mr. Morales stated he was waiting to see what was going to happen to his neighbor's case for the pergola, which stands on a concrete slab. The applicant asked to table the variance request until the meeting of July 9, 2025.

Following discussion, Mr. Erick Diaz moved to table the Variance request until the next meeting. Mr. Alex Lamela seconded the motion. The Board voted to table the Variance request with four members present and voting.

- f) Request of Melden & Hunt on behalf of Maria A. Garcia for a variance for a Lot minimum front width requirement reduced to 30.56 feet to the City of McAllen Zoning Ordinance at 2.595 acre tract of land out of Lot 4, A.J. McColl's Addition to McAllen First Suburban Citrus Grove, and out of Lots 138A and 148A John H Shary Subdivision, Hidalgo County, Texas; 2900 South Bentsen Road. (ZBA2025-0022)

Mr. Lara stated the applicant was requesting a variance to the minimum lot frontage of 50 feet requirement set forth in section 138-356 of the City of McAllen Zoning Ordinance for the proposed Lot 1 of The Woodlands at Bentsen Subdivision.

The subject property was located west side of South Bentsen Road and to the west side of Neuhaus Drive. The lot has 30.56 feet unto South Bentsen Road. The property is zoned R-1 (Single Family Residential O-C) District. Adjacent zoning R-1 (single-family residential) District in all directions. Surrounding land uses are single-family residences and vacant land.

This property is an irregular lot that is going through a subdivision process. As part of the requirements of the City of McAllen ordinance, a minimum of 50 feet of frontage for a residential lot is required. The current irregular lot has a frontage length of 30.56 feet. The application for the especial exception was submitted to the Planning Department on May 7, 2025.

Through research, staff observed that the variance is required due to irregular perimeter of the lot. No other lots in the vicinity area are under the same circumstances of a reduced frontage.

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

Mr. Beto De La Garza, 1121 Nyssa Avenue. He was representing their client with Melden & Hunt, LLC. He stated they were working with their client for a 2.59-acre subdivision for a one lot single-family residence. They were requesting the variance because the property did not comply with the minimum 50 feet on the frontage along Bentsen Road. The lot was a flat shaped lot, very narrow and there were no streets that he could front and he only owned 30 feet along Bentsen Road. Chairperson Gutierrez asked the applicant if the property subdivided. Mr. De Le Garza stated that they were in the process of subdividing.

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.

Following discussion, Vice-Chairperson Hugo Avila moved to approve the Variance request until the next meeting. Mr. Alex Lamela seconded the motion. The Board voted to approve the Variance request 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.



Carmen White, Administrative Assistant



Chairperson Jose Gutierrez