

STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, October 18, 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
	Alex Lamela	Alternate
	Pablo Garcia	Alternate
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Hilda Tovar	Planner II
	Samantha Trevino	Planner I
	Porfirio Hernandez	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 October 4, 2023.

The minutes for the meeting held on October 4, 2023 and were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Mr. Hiram Gutierrez 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 Ron Adkins for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 9 feet into the 10 feet rear yard setback for an existing carport measuring 17 feet by 16 feet 2 inches at Lot 16, Block 8, Milmor Subdivision, Hidalgo County, Texas;1106 North 15th Street. **(ZBA2023-0090)**
- c) Request of Maria S. Herrera for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 26 feet into the 30 foot front yard setback for a proposed canopy measuring 15 feet by 26 feet at Lot 1-B Block 3, Altamira Subdivision, Hidalgo County, Texas; 6 South 26th Street. **(ZBA2023-0092)**

- d) Request of Maria Saldaña for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 12 feet into the 20 foot front yard setback for a proposed carport measuring 23 feet by 16 feet at Lot 11, Los Encinos Unit 2 Subdivision, Hidalgo County, Texas; 3036 Olga Avenue. **(ZBA2023-0091)**

- e) Request of Ana G. Hinojosa de Soto on behalf of Leopoldo Hinojosa for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet 8 inches into the 10 feet rear yard setback for an existing metal carport measuring 16 feet by 18 feet, at Lot 116, Arrowhead Phase 2 Subdivision, Hidalgo County, Texas; 2820 North 39th Street. **(ZBA2023-0095)**

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

Mr. Hugo Avila moved to approve the previously outlined special exceptions listed on the agenda as **2a, 2c, 2d and 2e** as per staff's recommendation, limited to the submitted plans corresponding to each item. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to approve with five members present and voting.

- b) Request of Friaco Cardenas for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 12.7 feet into the 25 feet rear yard setback for an existing porch measuring 16.8 feet by 34 feet at Lot 42, Taylor Crossing Subdivision, Hidalgo County, Texas; 6001 North 51st Street. **(ZBA2023-0094)**

Ms. Trevino stated the applicant was requesting to encroach 12.7 feet into the 25 feet rear yard setback for an existing patio that they use for protection from the sun for their pets, grandkids, and plants.

The subject property was located on the west side of North 51st Street and east of North Taylor Road and is Zoned R-1 (single-family residential) District. There is R-1 District to the North and East, and A-O (agricultural and open space) District to the South.

Taylor Crossing Subdivision was recorded January 6, 2010. The plat states a 25-foot rear yard setback for double fronting Lots. A non-compliance notice was issued August 25, 2023 for construction of a patio without a permit. A building permit application was submitted September 11, 2023. A variance application was submitted September 15, 2023.

The applicant was currently encroaching into the 25-foot rear yard setback and 10-foot rear yard utility easement. He is proposing to move the patio to clear the 10-foot utility easement and will only be encroaching into the 25-foot rear yard setback. The applicant provided a letter confirming the changes that will be made if the request was approved. Staff has not received any phone calls, emails, or letters in opposition to the variance request.

Staff was recommending approval of the variance request since the double fronting lot requirement no longer applied.

Vice-Chairperson Tafel asked staff what type of material was the patio made of and if it could be moved. Ms. Trevino stated they were going to move the posts over so that it would be over to the 25-foot setback. They were going to take half of it and move it over along the house in the back to make it look longer.

Ms. Trevino stated they were going to clear the 10-foot utility easement. The rear yard setback was still 25 feet.

Mr. Friaco Cardenas, the applicant stated he wanted to have half of the patio built longer along the house towards the back instead of towards the street. Chairperson Gutierrez explained to the applicant the meaning of the variance stating that anything could be built there should he decide to sell the house it goes with the land.

Board member Mujica asked applicant if his intentions was to demolish the existing structure and construct it within the setbacks to comply. Mr. Cardenas responded yes.

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

Vice-Chairperson Tafel asked the applicant if there was going to be a cover over the patio. Mr. Cardenas stated yes, it was going to be a metal roof.

Following discussion, Mr. Hiram Gutierrez moved to approve the variance request. Mr. Hugo Avila seconded the motion. The Board voted unanimously to approve the variance request with five members present and voting.

- f) Request of Ariel Olivares on behalf of Eduardo C. Longoria for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 14 feet into the 20 feet front yard setback for an existing metal carport measuring 15 feet by 20 feet, at Lot 1, The Rocks Subdivision, Hidalgo County, Texas; 8218 North 23rd Lane. (ZBA2023-0093)

Ms. Tovar stated the applicant was requesting a special exception to encroach 14 feet into the 20 feet front yard setback for an existing carport measuring 15 feet by 20 feet to shield from elements such as extreme heat, rain, wind, hail and standing water on the street.

The subject property was located along the East side of North 23rd Street intersection with Emory Avenue. The lot had 67.60 feet of frontage and 145 feet of depth for a total of 9,228 square feet. The property is zoned R-1 (Single family residential) District. The surrounding zones include R-1 (single-family residential) all around.

The Rocks subdivisions was recorded on May 26, 1998. The plat shows a 20 feet front yard setback for the subdivision. The house was built in the year of 2000 with a two-car garage. A stop work order was issued on June 6, 2023 for building a carport without a permit. A building permit application to enclose garage was submitted in March 10 2000. However, permit application was not finalized. Building permit application was renewed in September 28, 2023. An application for a building permit for the existing carport was submitted in June 14, 2023. On September 14, 2023, the applicant applied for a special exception to encroach 14 feet into a 20 feet front yard setback.

The applicant is requesting a special exception to encroach 14 feet into the 20 feet front yard setback for an existing carport measuring 15 feet by 20 feet to shield from elements

such as extreme heat, rain, wind, hail and standing water on the street.

Existing carport was built without a building permit. Site visit by staff revealed that the existing carport was encroaching into the front 5 feet utility easement and the 6 feet side setback. Applicant was proposing to reduce the size of the carport to comply with the setback requirements.

Property was built with a garage. According to the applicant, the previous owners enclosed the garage without a building permit approval. Building permit application was renewed and approved on September 28, 2023.

Staff site visit revealed that one carport was built in the same subdivision at Lot 2. An application for 5 feet utility easement abandonment located in the front of the property was submitted in December 7, 2023. Application was still under review.

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.

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

Staff was recommending disapproval of the special exception due to being non-characteristic of the neighborhood.

Mr. Ariel Olivares, representing brother-in-law, Eduardo Longoria. He stated when this house was built originally was a model home office for the subdivision and never as a garage. It had been enclosed and used as a sales office. He stated the person who applied for the permit to build that house did not get a final inspection done to get the enclosure. Mr. Longoria had been there for 16 years and the house was built 23 years ago. Mr. Olivares stated that after Mr. Longoria received a citation they went ahead, reapplied, and renewed the application permit to get a final inspection. Inspections went out, did the final inspection in which all went through. Mr. Olivares stated that Mr. Longoria had a carport built not knowing he needed a building permit. The contractor started the process and installed four posts. That was when the City inspector came and stopped construction. He stated that they had applied for the special exception and looked at the easement in front and decided the proposed 20 feet by 20 feet the applicant was willing to reduce it to 15 feet by 20 feet so he would not be encroaching into any of the easements. The carport would help since they were an elderly couple with medical conditions and inclement weather. Mr. Olivares stated that someone had brought up the suggestion if the carport could be put somewhere else. He stated that 23rd was a very busy street and that The Rocks had a 12-foot concrete wall around the subdivision that was behind the applicant's house. They thought about putting it off Emory Avenue but the turn was too close.

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.

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 Gutierrez stated by recommending that if the applicant get with staff to see if he had other options of where to relocate the carport to the rear yard.

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

3. FUTURE AGENDA ITEMS:

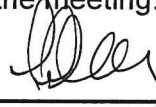
- a) 5001 Expressway 83

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