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 21, 2026, 2026 at 4:31 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	**Jose Gutierrez**	**Chairperson**
	Hiram Gutierrez	**Vice-Chairperson**
	Daniel Santos	**Member**
	Alex Lamela	**Member**
	Juan Mujica	**Alternate**
	Erick Diaz	**Alternate**
Absent:	**Ivan Garcia**	**Alternate**
	Francisco Davila	**Alternate**
Staff Present:	**Norma Borrego**	**Assistant City Attorney I**
	Omar Sotelo	**Planning Director**
	Kaveh Forghanparast	**Senior Planner**
	Porfirio Hernandez	**Planner II**
	Jessica Puga	**Technician II**
	Carmen White	**Administrative Assistant**

CALL TO ORDER –Chairperson Jose Gutierrez

1. **MINUTES:**

   a) Minutes for meeting held on October 7, 2026.

The minutes for the meeting held on October 7, 2026. The motion to approve the minutes were made by Vice-Chairperson Hiram Gutierrez. Mr. Juan Mujica seconded the motion, which carried unanimously with five members present and voting.

2. **PUBLIC HEARINGS:**

   a) Request of David Hovar for a variance to allow an encroachment of 1 ft. 2 in. into the required 6 ft. side setback and 2 ft. 11 in. into the required 10 ft. rear setback for a pool at Lot 31, Heritage Manor No. 2 Subdivision (Amended), Hidalgo County, Texas; 4501 North 5th Street. **(ZBA2026-0043)**

Mr. Hernandez stated the applicant was requesting a variance to permit the existing swimming pool to encroach 1 foot 2 inches into the required 6-foot side-yard setback and 2 feet 11 inches into the required 10-foot rear-yard setback.

The subject property is located at the northwest corner of Shasta Avenue and North 5th Street. The surrounding land uses include single-family residences and Townhomes.

Heritage Manor No. 2 Subdivision was recorded on April 7, 1982. The recorded plat establishes a 10-foot rear-yard setback and a 6-foot side-yard setback. A building permit application for the swimming pool was submitted on July 25, 2022. The permit was renewed

three times due to applicant issues between contractor and homeowner. The subsequent renewals were submitted with the homeowner as the new applicant for the pool permit. The permit was issued in compliance with requires setbacks; however, final approval remains pending due to outstanding comments from the Building Department regarding inspection for plumbing and electrical. The variance request was submitted on August 24, 2026, to address the pool's encroachments into the required setbacks as per survey provided.

As per the site plan provided, the applicant is requesting a variance to allow the existing swimming pool to encroach 1 foot 2 inches into the required 6-foot side-yard setback and 2 feet 11 inches into the required 10-foot rear-yard setback.

As per Section 6.4.1.F., 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.

Board member Mujica asked staff if there were any utilities on neither on these setbacks. Staff stated there were none.

Mr. David Hovar, 4501 North 5th Street, McAllen. He stated he was requesting the approval of the setback for the swimming pool. He stated they had issues with their contractor who pulled the original permit on their behalf. Flamingo Pools had done damage to other homeowners in the Valley. Mr. Hovar trusted that the contractor was following the requirements from the city which was not by no means done. They wanted to make sure they follow the City's requirements for their swimming pool project.

Board member Mujica asked the applicant when was this a new pool that was contracted recently. Mr. Hovar stated the construction started in 2022 and was completed in 2023. However, the contractor never called in for any inspections. They were not aware of the process of the construction requirements as a homeowner for a swimming pool. When they called in for the final inspection it had failed. They received a checklist of all the things that went wrong and now they were trying to clear it up. The pool is functioning fine since it was completed. The setback was only thing that needed to be addressed.

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 to the Variance request. There was no one to speak in opposition to the Variance request.

Following discussion, Mr. Hiram Gutierrez **moved** to approve the Variance request by staff. Mr. Alex Lamela seconded the motion. The Board voted to approve with five members present and voting.

b) Request of Michael D. Hovar for a variance to allow an encroachment of 7 ft. into the required 10 ft. side setback for a porch at 1.34 Acre tract of land out of the east portion of Lot 25, Wayne Court Subdivision Extended, Hidalgo County, Texas; 500 Harvey Drive. **(ZBA2026-0044)**

Mr. Hernandez stated the applicant was requesting a variance to permit a proposed porch to encroach 7 feet into the required 10-foot side yard setback.

The subject property was located at the northwest corner of Harvey Drive and North 4th Street. The surrounding land uses include single-family residences, a church and an elementary school.

Wayne Court Subdivision Extended was recorded on November 20, 1931. As per zoning ordinance on corner lots, there is a required 10-foot side yard setback adjacent to a street. The variance request was submitted on August 24, 2026 for the proposed porch.

As per the site plan provided, the applicant was requesting a variance to allow a proposed porch to encroach 7 feet into the required 10-foot side setback. The existing 7' x 11' brick patio was previously covered by a hip roof extending approximately 4' beyond the setback line. The proposed shed roof will restore weather protection to the patio and adjacent door while minimizing visual impacts from 4th Street due to its lower profile and location behind the existing brick fence.

As per Section 6.4.1.F., 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. Michael D. Hovar, 500 Harvey Avenue, the owner of this property. He wanted to restore the cover over the top of the patio. As an architect, he attempted to be very sensitive to what impact it would have visually. From the slides you cannot see it. It simply had two columns with a shed roof that covered an existing 7-foot by 11-foot brick patio. On the next slide they attempted to blend it in with existing or current remodeling the new roof comes just about to the top of the existing brick columns. He stated when you see it from the street it is essentially non-existent even when there was no planting. Currently over the last 20 years the fence had been covered with growing vines and flowering plants and you cannot see the side of the house. He stated he was requesting this to help complete the remodel, cover the porch over the existing area they're currently using and restore that function having a cover over an area that they will be occupying whether or not it's covered.

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

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

Following discussion, Mr. Alex Lamela **moved** to go against staff's recommendation and approve the Variance request. Mr. Juan Mujica seconded the motion. The Board voted to approve with five members present and voting.

c) Request of Frank Treviño for a variance to allow an encroachment of 3 ft. into the 10 ft. side setback for a room addition at Lot 23, Orangewood East Subdivision, Hidalgo County, Texas; 925 East Sundown Drive. **(ZBA2026-0041)**

The applicant withdrew his variance request.

d) Request of Martin Mendoza, on behalf of Casso Construction, L.L.C., for a variance to allow an encroachment of 3 ft. into the 25 ft. front setback for a porch at Lot 75, Idela Park Unit 2 Subdivision, Hidalgo County, Texas; 3024 Judith Avenue. **(ZBA2026-0042)**

Staff stated that the applicant did not need a variance. The item was withdrawn.

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 4:45 p.m.

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant