

**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 4, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

<b>Present:</b>	<b>Jose Gutierrez</b>	<b>Chairperson</b>
	<b>Ann Tafel</b>	<b>Vice-Chairperson</b>
	<b>Rogelio Rodriguez</b>	<b>Member</b>
	<b>Hiram A. Gutierrez</b>	<b>Member</b>
	<b>Hugo Avila</b>	<b>Member</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
	<b>Alex Lamela</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Benito Alonzo</b>	<b>Assistant City Attorney I</b>
	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Omar Sotelo</b>	<b>Senior Planner</b>
	<b>Natalie Moreno</b>	<b>Planner I</b>
	<b>Porfirio Hernandez</b>	<b>Planner I</b>
	<b>Jessica Puga</b>	<b>Technician I</b>
	<b>Carmen White</b>	<b>Administrative Assistant</b>

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

- a) Minutes for the meeting held on September 20, 2023.

The minutes for the meeting held on September 20, 2023 and were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Mr. Alex Lamela 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 Arnold Gonzalez Jr. for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 10 foot rear yard setback for a proposed carport measuring 18.5 feet by 17.5 feet at Lot 22, Shady Oaks Subdivision Unit 1, Hidalgo County, Texas; 704 Heron Avenue. (ZBA2023-0082)
- b) Request of Jesus Ruiz for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 foot front side yard setback for a proposed carport measuring 18 feet by 20 feet at Lot 127, Plantation Gap Phase 1 Subdivision, Hidalgo County, Texas; 4416 Sandpiper Avenue. (ZBA2023-0089)
- c) Request of Michael Perez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25 foot front yard setback for an existing carport measuring 15 feet by 19 feet at lot 149, Saddle Creek Unit 2,

Hidalgo County, Texas; 3404 Providence Avenue (ZBA2023-0088)

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, 2b and 2c** as per staff's recommendation, limited to the submitted plans corresponding to each item. Mr. Alex Lamela seconded the motion. The Board voted unanimously to approve with five members present and voting.

- d) Request of Norma Robledo for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 foot front yard setback for a proposed carport measuring 20 feet by 20 feet at Lot 50, Del Sol Phase I Subdivision, Hidalgo County, Texas; 4301 North 28<sup>th</sup> Street. (ZBA2023-0086)

Mr. Hernandez stated the applicant was requesting a Special Exception to encroach 15 feet into the 20 feet front yard setback for a proposed carport measuring 20 feet by 20 feet for protection from the sun, hail and severe heat for her vehicles and family as they go in and out of the house.

The subject property is located along the West side of North 28<sup>th</sup> Street intersecting with Quamasia Avenue. The lot has 66.25 feet of frontage and 94.00 feet of depth for a total of 6,228 square feet. The property is zoned R-1 (single family residential) District. The surrounding zones include R-1(single-family residential) all around.

Del Sol Phase I subdivision was recorded on November 6, 1998. The plat shows a 20-foot front yard setback for the subdivision. The house was built in 1999 without a garage. On August 18, 2023, the applicant applied for a Special Exception to encroach 15 feet into the 20 feet front yard setback.

The applicant was requesting Special Exception to allow an encroachment of 15 feet into the 20-foot front yard setback for a proposed carport measuring 20 feet by 20 feet for protection from the sun, hail and severe heat for her vehicles and family as they go in and out of the house.

Site visit by staff revealed 4 other carports in the area in which were built without a permit.

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.

Measurements provided are without benefit of a survey.

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

Ms. Norma Robledo, the applicant stated she was proposing to build a carport. She stated that with the inclement of the weather it had damaged her vehicle in the past. Ms. Robledo stated she had a tree but gave her problems. She wanted to comply with all setbacks.

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.

Board member Avila mentioned to staff that the applicant did not have a garage yet the neighbors had garages. Mr. Hernandez her house was the only house built without a garage.

Following discussion, Mr. Juan Mujica moved to approve the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

- e) Request of Jose Guadalupe Cantu for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 6 feet side yard setback for an existing metal carport measuring 21 feet by 24 feet at Lot 51, Alta Linda, Hidalgo County, Texas; 1909 South 39th Street. (ZBA2023-0079) (TABLED: 09/07/2023) (TABLED: 09/20/2023) WITHDRAWN

The applicant had withdrawn the item.

- f) Request of Alma Beraza for a Special Exception and Variance to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 4 feet into the 6 foot side yard setback for an existing metal carport measuring 19 feet by 21.6 feet, **2)** to allow an encroachment of 3.2 feet into the 10 foot rear yard setback for an existing patio measuring 25 feet by 25 feet and **3)** to allow an encroachment of 5 feet into the 6 foot side yard setback for a storage measuring 10 feet by 7 feet at Lot 83, Montebello Unit No. 3, Hidalgo County, Texas; 2108 North 32nd Street. (ZBA2023-0085) (TABLED: 09/20/2023)

Vice-Chairperson Ann Tafel moved to remove item from the table. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Moreno stated the applicant was requesting the special exception and variance for encroachments into the side yard and rear yard setback for an existing metal carport, patio and storage. The applicant stated the carport is for vehicle protection and the patio for gatherings.

The subject property was located along the East side of 32<sup>nd</sup> Street. The lot had 51 feet of frontage and 100 feet of depth for a total of 5,100 square feet. The property was zoned R-1 (single family residential) District. There was R-1 and R-3A (Apartments) District in all directions.

Montebello No.3 Subdivision was recorded on October 20, 1981. The plat shows a ten feet rear yard setback and a six feet side yard setback for the subdivision. On July 28, 2023, a non-compliance order was issued. On August 02, 2023, the applicant applied for a building permit. On August 18, 2023, the applicant applied for a special exception.

The applicant was requesting to keep the requests for a more comfortable experience. The applicant stated that it is nice to arrive home on a rainy day and be able to get out of vehicle without getting wet.

Applicant does have a one-car garage in the property, but vehicle is too large to fit, so she uses it as storage.

During site visit, staff revealed other structures in the rear that are encroaching into the rear yard and side yard setback. Applicant was willing to add those encroachments into this application (storage and patio).

Applicant stated that the storage would be removed at a later time.

Site visit by staff revealed ten other encroachments, which did not have permits.

Measurements provided are without benefit of a survey.

Staff did receive one letter in support of the request.

At the last meeting on September 20, 2023, the item was tabled by the board and applicant was given an opportunity to discuss with staff some options.

For the special exception (carport) the applicant was willing to cut back four feet from the side to comply with the city setbacks, therefore no special exception process would be required.

For the variance request (storage), the applicant will be demolishing; therefore, no variance for the storage will be required.

For the variance request, (patio) applicant is willing to proceed with the request due to being more difficult to cut back. The patio in the rear is only encroaching three feet two inches into the ten feet rear yard setback.

Staff is recommending disapproval of the variance request due to the structure being enclosed at a later time.

Chairperson Gutierrez asked staff on the comments made the Ms. Beraza regarding the modifications if staff had those in writing. Ms. Moreno stated yes on all three requests. The only request that was discussion was item F2 for the existing patio.

Ms. Alma Beraza, the applicant stated that adjustments could be made for the patio but was financially impossible. The patio had three poles and the frame was welded. They do have an alley with a lot of space. She stated the patio had been there 15 years and never had any problems with anyone. However, financially it was impossible.

Board member Mujica explained to Ms. Beraza that the variance ran with the land and anything could be built there and enclose it. The next new owner could build anything there as well.

Board member Mujica asked staff discussed with the applicant about the possibility of moving the patio 3 feet in and if it was a financial burden. Ms. Moreno stated yes. However, she was making modifications to the carport and the storage.

Board member Avila asked staff how long after an order is given do they need to comply. Planning Director Garcia stated the period had been recently been adjusted. They had 30

days to attempt to make any changes to comply. However, on a case-by-case basis something could be worked out.

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.

Following discussion, Vice-Chairperson Ann Tafel moved to disapprove the variance request. Mr. Alex Lamela seconded the motion. The Board voted unanimously to disapprove the variance request with five members present and voting.


**3. FUTURE AGENDA ITEMS:**

- a) 704 Heron Avenue
- b) 4301 North 28<sup>th</sup> Street
- c) 3404 Providence Avenue
- d) 4416 Sandpiper Avenue

**ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Chairperson Jose Gutierrez moved to adjourn the meeting.

  
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Carmen White, Administrative Assistant

  
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Chairperson Jose Gutierrez