

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, APRIL 7, 2021 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR

Web: <https://zoom.us/join> or phone: (346) 248-7799

Meeting ID: 672 423 1883

At any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Zoning Board of Adjustment and Appeals under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.

#### CALL TO ORDER – Chairperson Erick Diaz

#### 1. MINUTES:

- a) Minutes for the meeting held on March 17, 2021

#### 2. PUBLIC HEARINGS:

- a) Request of Juan A. Valdivia for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 8 ft. into the 10 ft. rear yard setback for a proposed swimming pool measuring 16 ft. by 26 ft., at Lot 101, Rowland Addition No. 2 Subdivision, Hidalgo County, Texas; 912 South 25th ½ Street East. **(ZBA2021-0007)**
- b) Request of Michael C. Montalvo for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 3.6 ft. into the 25 ft. front yard setback for an existing single family residence, and **2)** an encroachment of 3.6 ft. into the 25 ft. front yard setback for a proposed residential addition, at Lot 19, Almon Estates Subdivision, Hidalgo County, Texas; 3012 Yellowhammer Avenue. **(ZBA2021-0006)**

#### 3. FUTURE AGENDA ITEMS

- a) 1625 Kennedy Avenue
- b) 620 South 17th Street
- c) 5501 North 8th Street

#### ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE PLANNING & ZONING COMMISSION MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.



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

**The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, March 17, 2021 at 4:30 p.m. in the City Commission Meeting Room with the following present:**

<b>Present:</b>	<b>Erick Diaz</b>	<b>Chairperson</b>
	<b>John Millin</b>	<b>Vice-Chairperson (via Zoom)</b>
	<b>Sylvia Hinojosa</b>	<b>Member</b>
	<b>Jose Gutierrez</b>	<b>Member</b>
	<b>Ann Tafel</b>	<b>Alternate</b>
	<b>Rebecca Millan</b>	<b>Alternate</b>
	<b>Rogelio Rodriguez</b>	<b>Alternate (via Zoom)</b>
<b>Absent:</b>	<b>Juan F. Jimenez</b>	<b>Member</b>
	<b>Hugo Avila</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Victor Flores</b>	<b>Assistant City Attorney</b>
	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Rodrigo Sanchez</b>	<b>Senior Planner</b>
	<b>Kaveh Forghanparast</b>	<b>Planner II</b>
	<b>Iris Alvarado</b>	<b>Planner I</b>
	<b>Mario Escamilla</b>	<b>Planner I</b>
	<b>Porfirio Hernandez</b>	<b>Planning Technician II</b>
	<b>Carmen White</b>	<b>Secretary</b>

**CALL TO ORDER – Chairperson Erick Diaz**

**1. MINUTES:**

- a)** Minutes for the meeting held on March 3, 2020.

The minutes for the meeting held on March 3, 2020 were approved. The motion to approve the minutes was made by Vice-Chairperson John Millin. Ms. Sylvia Hinojosa seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a)** Request of Potenciano and Madeline Garcia for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 7.67 ft. into the 10 ft. south corner side yard setback for an existing metal patio canopy cover measuring 12 ft. by 10 ft., **2)** an encroachment of 6.67 ft. into the 10 ft. south corner side yard setback for an existing metal carport measuring 30 ft. by 16 ft., **3)** an encroachment of 8.67 ft. into the 10 ft. rear yard setback for an existing metal carport measuring 30 ft. by 16 ft., and **4)** to not require a 5 ft. separation for an accessory building to the main building for an existing metal carport measuring 30 ft. by 16 ft., at Lot 1, The Gardens Subdivision, Hidalgo County, Texas; 7001 North 5<sup>th</sup> Street. **(ZBA2021-0003) (TABLED: 02/17/2021) (TABLED: 03/03/2021)**



Ms. Sylvia Hinojosa made a motion to remove the item from the table. Mr. Jose Gutierrez seconded the motion. The Board voted unanimously with five members present and voting.

Mr. Escamilla stated the applicants were requesting the following variances to allow: 1) an encroachment of 7.67 ft. into the 10 ft. south corner side yard setback for an existing metal patio canopy cover measuring 12 ft. by 10 ft., 2) an encroachment of 6.67 ft. into the 10 ft. south corner side yard setback for an existing metal carport measuring 30 ft. by 16 ft., 3) an encroachment of 8.67 ft. into the 10 ft. rear yard setback for an existing metal carport measuring 30 ft. by 16 ft., and 4) to not require a 5 ft. separation for an accessory building to the main building for an existing metal carport measuring 30 ft. by 16 ft. The applicant was requesting the variances in order to allow an existing patio canopy and carport to encroach into the corner side yard setbacks. The carport also encroaches into the rear yard set-back. The applicant for the building permit of the carport was unaware that a building permit was required for the construction.

The property was located on the northwest corner of the intersection of North 5<sup>th</sup> street and Robin Avenue. The corner lot has 60 ft. of frontage along North 5<sup>th</sup> Street and a depth of 96 ft. for a lot size of 5,760 sq. ft. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 District to the north and east, R-3T (multifamily residential townhouse) District to the south and A-0 (agricultural and open space) District to the west. The surrounding land uses include single-family residences and apartments.

The Gardens Subdivision was recorded on June 14, 1995. The plat specifies a 20 ft. front yard setback, 6 ft. side yard setbacks except for corner lots which shall be 10 ft., and a 10 ft. rear yard setback or to the easement line whichever is greater. The residential home was built in 2002 according to the Hidalgo County Appraisal District records. The existing patio canopy was built since the construction of the home. A stop work order was issued by Buildings and Inspections Department staff on September 17, 2020 for the construction of "a side patio and rear patio without permit". An application for a building permit for a carport and patio canopy was submitted to the Building Permits & Inspections Department on September 17, 2020. An application for variance requests for encroachments of an existing carport and canopy cover was submitted to the Planning Department on January 20, 2021.

The construction of the 12 ft. by 10 ft. existing patio canopy was of aluminum and steel tubing and was secured by bolts to an existing cement foundation. The patio canopy currently does not contain a roof cover. The canopy cover was removed for maintenance purposes and the intent was to re-install the canopy cover.

The construction of the 30 ft. by 16 ft. existing carport was of aluminum and steel tubing and is secured by bolts to an existing driveway. The carport also provides shade and allowed the property owners to pursue their hobbies.

Variance request #1 was to allow an encroachment of 7.67 ft. into the 10 ft. south corner side yard setback for an existing metal patio canopy measuring 12 ft. by 10 ft. The plat for the subdivision showed and specified a 5 ft. utility easement running concurrently with the 10 ft. corner side yard setback along the south property line. The applicant is requesting to allow the canopy to remain at this location since there is no available area for relocation that



would place it out of the setbacks.

Variance request #2 is to allow an encroachment of 6.67 ft. into the 10 ft. south corner side yard setback for an existing metal carport measuring 30 ft. by 16 ft. The plat for the subdivision shows and specifies a 5 ft. utility easement running concurrently with the 10 ft. corner side yard setback along the south property line. The encroachment could be reduced or eliminated by modifying the structure to be in compliance with the 10 ft. south corner side yard setback.

Variance request #3 is to allow an encroachment of 8.67 ft. into the 10 ft. rear yard setback for an existing metal carport measuring 30 ft. by 16 ft. The plat for the subdivision shows and specifies a 10 ft. utility easement running concurrently with the 10 ft. rear yard setback along the west property line. There was a two-car garage that was used for hobby purposes however; the carport accommodates the applicant's larger vehicles. There was an alley at the rear of the property that allows for access to the carport.

Variance request #4 was to not require a 5 ft. separation for an accessory building to the main building for an existing metal carport measuring 30 ft. by 16 ft. The applicant can attach the carport to the main building in order to achieve compliance. The applicant had been appraised of this option.

The applicant has also applied for an abandonment request, which is currently in process.

During a site visit, staff noticed similar encroachments in the area. A review of Planning Department records did not reveal any variances granted along this street.

Staff has not received any phone calls or emails in opposition to this variance request.

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF FEBRUARY 17, 2021:**

At the Zoning Board of Adjustment and Appeals, meeting of February 17, 2021 no one appeared in opposition of the variance requests. Mr. Potenciano Garcia Jr, the applicant, spoke in favor of the requests and stated that the 12 x 10-patio canopy was built in 2002. He was also unaware that a permit was needed for the construction of the structures. Mr. Garcia went on to state that the carport at the rear of the property was constructed to help with his wife's skin condition. Mr. Garcia informed the Board that he could attach the carport to the house and that would allow for withdrawal of variance request listed as number four on the legal notice caption. Chairman Erick Diaz and Board Member Jose Gutierrez expressed to the applicant the concern that the variances run with the land and anything could be built within the area of encroachment if the variances were approved. Following further discussion, Board Member John Millin made a motion to approve variances one, two and three subject to the abandonment of the easement, and limited to the footprint shown on the submitted site plan. Board Member Juan Jimenez seconded the motion. The vote for the motion was two ayes and two nays. The motion did not pass. After further discussion with the applicant, the Board voted to table the variance requests until the next meeting in order to allow time for staff to meet with the applicant regarding options for the patio canopy and carport.



Subsequent to the Zoning Board of Adjustments and Appeals meeting February 17, 2021, Staff met with the applicant and his representative(s) to help clarify the variance requests and discuss possible alternatives such as reducing the structural encroachments, easement abandonment and/or obtaining letters of agreement. The representative for the applicant also met with Building Inspections Staff to confirm their proposed manner of attaching the carport to the main structure will be satisfactory. The applicant will submit a revised site plan depicting their proposed reduction of encroachments.

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF MARCH 3, 2021:**

At the Zoning Board of Adjustment and Appeals, meeting of March 3, 2021 no one appeared in opposition of the variance requests. The variance requests were tabled at the meeting of February 17, 2021 in order to allow the applicant time to meet with staff and review options to reduce the structural encroachments. The applicant submitted a revised site plan where he proposed a 2.67 ft. reduction of encroachment for the 12 ft. x 10 ft. patio canopy and no changes to the metal carport (rear structure). Mr. Potenciano Garcia Jr., the applicant, spoke in favor of the requests Mr. Garcia went on to remind the Board that the carport at the rear of the property was constructed to limit sun exposure during recreational use, which helps with his wife's medical skin condition. He went on to state that no reductions had been proposed for the rear structure because they would like to preserve as much of shade area as possible. Mr. Victor Flores, Assistant City Attorney reminded the Board that they could vote separately on each different structure. Board member Ann Tafel expressed concern if the variance were approved they would go with the property, and in the future property owners may enclose the structure. Following the discussion regarding the new proposal, Chairman Erick Diaz expressed the boards concern regarding the rear structure and if the applicant would propose any reduction and reminded the applicant that the variance would go with the land. Chairman Diaz went on to inform the applicant of his options to vote on the requests or table the requests in order to clarify available options. After discussion, Mr. Garcia requested that the item be tabled in order to allow the applicant time to meet with staff regarding his options for the patio canopy and carport.

Subsequent to the Zoning Board of Adjustments and Appeals meeting March 3, 2021, Staff met with the applicant and his representative(s) at the subject property to help clarify the variance requests and discuss possible alternatives for reducing the structural encroachments. The applicant submitted a revised site plan depicting proposed reduction of encroachments of 2.67 ft. for the 12 ft. x 10 ft. patio canopy and a rear yard encroachment reduction of 2 ft. for the existing metal carport.

Dr. Potenciano Garcia approached the podium as Chairperson Diaz mentioned that the applicant had reduced the rear yard porch by 2 feet and reducing the side yard porch by 2.67 feet. Dr. Garcia stated yes as had proposed at the last meeting.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request. There was no one else in favor of the variance request.

Chairperson Diaz asked if there was anyone present or on Zoom in opposition of the variance request. There was no one in opposition of the variance request.



Following discussion, Ms. Ann Tafel **moved** to approve the variance request with the revised site plan. Ms. Sylvia Hinojosa seconded the motion. The Board voted unanimously to approve variance request with five members present and voting.

- b) Request of Enrique Reynoso for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 ft. into the 25 ft. rear yard setback for a proposed pool house with a covered terrace measuring 25.16 ft. by 29.16 ft., at Lot 33, Orangewood North Subdivision, Hidalgo County, Texas; 404 Grayson Avenue. (ZBA2021-0004)**

Ms. Alvarado stated the applicant was requesting a variance to allow a rear yard encroachment of 15 ft. into the 25 ft. rear yard setback for the proposed construction of a pool house with a covered terrace. The pool house and covered terrace required a variance for an encroachment into the rear yard setback.

The subject property had 120.42 ft. frontage on Grayson Avenue and Frontera Road, with a depth of 162.55 ft. for a lot size 19,574.27 sq. ft. The subject property was located 132 ft. west of North 4<sup>th</sup> Street in a private (gated) subdivision. The property was zoned R-1 (single family residential) District. The surrounding land uses included single-family residences and vacant lots.

The Orangewood North Subdivision was recorded on April 20, 2016. An application for a variance request was submitted on January 8, 2020 for an encroachment of 7 ft. into the 25 ft. rear yard setback for the construction of a single-family home. The request was approved at the Zoning Board of Adjustment and Appeals Meeting on February 5, 2020. A new application for a variance request was submitted on February 5, 2021 for the proposed pool house and covered terrace. The applicant was proposing to encroach 15 ft. into the 25 ft. rear yard setback. The issuance of a future building permit will depend on the outcome of this variance request.

A single-family home and accessory use are permitted in the R-1 District. Required setbacks and building separation must be met. The site plan submitted showed a proposed encroachment of 15 ft. The property was a “double fronting” lot. The Zoning Ordinance required the rear yard setback to be the same as the front setback for “double fronting” lots to separate the residential structure from the traffic and noise from roadways.

The plat for this subdivision indicated a 25 ft. rear yard setback for double fronting lots along Frontera Road (Lots 30-34). The applicant decided to pursue the option of the variance request in order to construct a proposed pool house with a covered terrace.

Access to the lot was limited to Grayson Avenue. An 8 ft. solid fence had been erected along the rear of the properties along Frontera Road, which served to mitigate traffic noise. Should the variance request be approved the applicant will have to apply for a building permit and comply with building and engineering requirements. There is a 10 ft. utility easement at the rear of the lot parallel to Frontera Road that would not be impacted by the proposed construction. The standard rear yard setback in the R-1 District was 10 ft.



In the past, the Board had approved variance requests in rear yards of double fronting lots for accessory uses, but not for living areas.

Staff had not received any phone calls from surrounding property owners in opposition to the variance request.

Staff recommended disapproval of the variance request.

Chairperson Diaz stated the applicant came a year ago before the Board for an approval of a house, a seven-foot encroachment the rear yard setback. Ms. Alvarado stated yes. Chairperson Diaz asked the pool house was not included. Ms. Alvarado stated no.

Board member Ann Tafel asked staff if the pool house had not connected to the house. Ms. Alvarado stated no.

Mr. Enrique Reynoso, the applicant stated as staff indicated it was not a safety concern. The perimeter of the property of the whole subdivision was an 8 ft. concrete wall on the north backside. He stated the Homeowners Association approved the pool house and had followed all City's guidelines including a building permit. It would not be living area but a pool house. He was also respecting the 10 ft. utility easement.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request. There was no one else in favor of the variance request.

Chairperson Diaz asked if there was anyone present or on Zoom in opposition of the variance request. There was no one in opposition of the variance request.

Ms. Sylvia Hinojosa **moved** to approve the variance request. Mr. Jose Gutierrez seconded the motion. The Board voted unanimously to approve variance request with five members present and voting.

- c) Request of Luis Muro, for the following variances to the City of McAllen Zoning Ordinance, Off-Street Parking and Loading Ordinance and Vegetation Ordinance:  
**1)** to allow issuance of a building permit in excess of 10% value for a non-conforming structure, **2)** to allow 11 parking spaced instead of the required 19 spaces, **3)** to not provide a landscape area with a tree within 50 ft. of any parking space and **4)** to not provide 50% of the required landscape area to be visible from the street fronting the property, at the South 28 ft. of Lot 6, all of 7 & 8 & all of Ash Avenue lying south of Lot 8, Block 54, North McAllen Subdivision, Hidalgo County, Texas; 110 North 16th Street. **(ZBA2021-0005)**

Mr. Camacho stated the applicant was requesting the variances in order to continue with the building permit for a second story office addition to an existing non-confirming structure. The applicant stated that there is not enough area to comply with parking and landscape at the time, let alone after the addition. Additionally, he mentions that the variances would not be detrimental to the public; it would only affect their employees since the location is not open to public and most of the employees work off-site. Moreover, the site was covered with pavement and it would have to be dismantled to provide landscaping; providing landscaping



will add unreasonable maneuverability for employees since construction materials are cumbersome.

The property was located on the east side of North 16<sup>th</sup> Street, 125 ft. north of US Business 83. The property has 193.6 ft. of frontage along North 16<sup>th</sup> Street; the property has a variety of depths since it is an irregular shaped lot, at the north side a depth of approximately 140 ft. and at the south side a depth of approximately 300 ft. for a tract size of 0.86 acre as per submitted site plan. The property is zoned C-3 (general business) District. The adjacent zoning is C-3 District to the north, east and south, and C-4 (commercial-industrial) District to the west. The surrounding land uses include Casa Kevin, Omega 99<sup>c</sup> Store, Retail Plaza, a parking lot and Western Park.

The recorded plat was North McAllen Subdivision. The original building permit was submitted on December 4, 2018 and has been renewed as non-permitted additions and stop work orders were being constructed and issued respectively. The City has been working with the applicant with improvements that have been added to the subject property. In the building permit approved on November 2019, the City treated office space with personal storage areas as “warehouse” and this reduced the number of parking spaces required for the offices from 10 parking spaces to 1 parking space. A front stone façade was also built on the existing office structure. However, this construction was encroaching into the ROW and the City issued out a License agreement for the encroachment into the ROW. The latest renewal was submitted on November 13, 2020 after another stop work order was issued; the renewal was to add a second floor to the existing office. 3 stop work orders have been issued for work without a permit for this specified location.

A variance application for the proposed 11 parking spaces instead of the required 19, landscape variances and issuance of a permit for excess of 10% value was received on February 12, 2021.

On April 15, 2020, at 101 North 16<sup>th</sup> Street, the Zoning Board of Adjustments & Appeals voted to grant a variance to allow 29 parking spaces instead of the required 42 parking spaces, a variance to the 10% landscape requirement and to not provide 50% of the required landscape area to be visible from the street fronting the property.

#### **Variance #1: Excess of 10% Value**

The variance request is to allow the issuance of a permit in excess of 10% value for a non-conforming structure. Appraisal District records shows that the existing structure was built in 1973, however the McAllen Growth from 1972 to 2019 GIS map, shows that the structure was already in place in 1972; original building permits were not found. The proposed addition of a second floor would be considered to be in excess of more than 10% since it's an addition of a whole second office, doubling the square footage. The height shown on elevation plan is at 6.87 ft., however a site visited revealed that the existing height is approximately 9 ft. The proposed height of the second floor, including the parapet is 22.5 ft.

The following Variances are specific to the highlighted region as shown on site plan

#### **Variance #2: Off-street Parking**

The variance request is to allow 11 parking spaces instead of the required 19 spaces.



Currently, the lot has a variety of buildings; the owner is planning to add a second floor to the existing building for office purposes. Based on the square footage of the proposed second floor, approximately 898 sq. ft., eight additional parking spaces are required. Section 138-395 (19) requires for an office building to have 4 parking spaces for up to 200 sq. ft. plus one parking space for each additional 200 sq. ft. A site visit revealed that there are no parking spaces on site. The site plan is proposing 11 parking spaces. Based on the number of parking spaces required, one accessible parking space with an eight feet wide aisle is required.

**Variance #3: Landscape Area with a Tree**

The variance request is to not provide a landscape area with a tree within 50 ft. of any parking space. As shown on the site plan, the applicant is proposing two six in caliper tree 10 ft. in height, these trees cover the proposed north and east parking locations, however there was no proposed tree for the south parking location. On the approved 2019 building permit, a signed landscape plan was submitted with a proposed tree at the same location as to where now the variance is being requested.

**Variance #4: 50% of the Required Landscape Area to be Visible from the Front**

The variance request is to not provide 50% of the required landscape area to be visible from the fronting street (North 16<sup>th</sup> St.). The required landscape area is 1,338.5 sq. ft. of which 669 sq. ft. are to be at the front. Total proposed landscape is 2,062.35 sq. ft.; however, most of the green area is inside the property. The submitted site plan showed that there is little to no landscape area within the property boundary.

The submitted front elevation rendering plan, shows landscape at the front of the property, however the landscaping shown shall not be counted towards landscape requirements as it is not within the property line. Approval of landscaping within the ROW will require an amended License Agreement; sidewalk must also comply with ADA requirements.

As per Engineering Department requirements on the current building permit:

1. Revised site plan is required.
2. With the addition of a second story, a roof plan depicting how the storm water runoff will flow is required.
3. Proposed balcony cannot overhang onto City of McAllen Right of Way.
4. It appears that work to the wall has already been initiated. As per License Agreement, 'the wall shall not be expanded enlarged or altered in any way without written approval.'

Currently there is a License Agreement for encroachment into the ROW; on the elevations plan submitted to building permits, it show an overhang for a canopy encroaching into the ROW, however, any additions or improvements to the License Agreement will have to be approved by the Engineering and Legal Department.

Planning Department had not received any calls in opposition to the requests.

Staff recommended disapproval of the variance requests.



Vice-Chairperson Millin asked staff how was the building not nonconforming. Mr. Camacho stated it was not nonconforming because it already existed. All additions were made outside of the building with no improvements. In addition, because they were adding a second story that was why it was not nonconforming. Vice-Chairperson Millin asked what were the ordinances that had been violated by the nonconforming structure. Mr. Camacho stated it was all the way up to the property line and to the side. They also built the front façade that was encroaching in to the Right-of-Way, which was taken care of by the Legal Department.

Board member Sylvia Hinojosa had concerns that it was C-3 and not C-1. Mr. Camacho stated currently there was no second floor in the office and that was what they were proposing and being reviewed. Board member Hinojosa stated with it targeted the parking factor and being C-3 there would be more people. Mr. Camacho stated even though it was C-3 it was for office purposes.

Mr. Victor Flores, Assistant City Attorney stated he had significant discussions with the Planning Department and reviewed the licensing agreement and application. Key factor being the triggering event being a nonconforming use. He stated the building was built before the 1973 Zoning Ordinances which if it had been built this structure at that point it would have been consideration for drainage and water detention because it was all pavement. In addition to the lot setbacks, this property would have not been nonconforming. There was a license agreement to rectify but now that they had increased and placed a second story on the original building, they would have to install proper parking and landscaping.

(Via Zoom) Ms. Kenda Chavez, 6804 North 1<sup>st</sup> Street, representative for the applicant. She stated they were proposing to add a second story to the existing office. She stated it was small with one office, a reception area with a desk, and 2 bathrooms. They had a small Planning room but was not big enough to have meetings. They wanted to build up and add 3 additional offices, another bathroom and two other rooms. The current office was under 900 square feet and wanted to add an additional 890 square feet. They have one full time employee and the two part time employees. All other employees work off site. The building and area around it would most likely used for construction as to how they were going to build it. She stated since Mr. Muro's owned it had always been asphalt and no landscaping.

Chairperson Diaz asked the applicant if they built the wood shop and the storage building in the last 5 years. Ms. Chavez stated yes. Chairperson Diaz asked before the wood shop there was plenty of parking on the property. Ms. Chavez stated yes. She stated that there would be four offices and even they had and the office being very small would accommodate needing 19 parking spaces.

Chairperson Diaz asked staff the 19 parking spaces were because of the office space they were building or because also of the warehouse space. Mr. Camacho stated it was wooden shop, considered as a warehouse, which was 2,000 square feet. For each 2,000 square feet you need one parking space. For the current office space, they calculated to have nine parking spaces. In addition, for the existing storage building that is when the City tried to help the applicant by treating those storage buildings as warehouse facilities.



Vice-Chairperson Millin asked staff if there was option give to the applicant in getting a parking agreement for parking south of the property and some to the east. Mr. Camacho stated the property ran from 16<sup>th</sup> Street to a small sliver of parking all the way to 15<sup>th</sup> Street. Some spaces belong to Mr. Muro and the Planning Department helped the applicant by calculating the required landscaping and parking for the specific site. The parking spaces were being occupied by the existing restaurants. Vice-Chairperson Millin asked on the aerial numbered four, were those parking spaces being occupied. Mr. Camacho stated before they proceed with the parking variance staff offered to get a parking agreement with the front parking which now was the 99-cent store, who recently got a variance for parking spaces. The retail plaza north of Beech Avenue had limited parking. Vice-Chairperson asked staff how many parking spaces were they short. Mr. Camacho stated eight parking spaces.

Chairperson Diaz asked the applicant if she had a chance to through the parking agreement procedure and find a couple more throughout the area. Ms. Chavez stated the businesses directly around technically have enough parking for their structure for less what they have because they were older properties. They would have to go quite a bit outside their area. The restaurant parking was used during the daytime and were usually take out.

Board member Mr. Jose Gutierrez asked if the property owner decided to sell and the different owner had a different use for it, granting the variance for parking spaces what happens if it becomes regular office or a restaurant. Victor Flores, Assistant City Attorney stated all variances granted ran with the land. The new owner would have to get a parking agreement.

Ms. Chavez stated the parking spaces was not based on their office square footage, it was based on the woodshop. Chairperson Diaz stated no, it was based on the proposed office space.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request. There was no one else in favor of the variance request.

Chairperson Diaz asked if there was anyone present or on Zoom in opposition of the variance request. There was no one in opposition of the variance request.

Mr. Flores stated on the voting, he offered several options to Board members.

Chairperson Diaz asked the applicant how they were going to include the landscaping. Ms. Chavez stated because they were on the property line legally the City will not let them landscape outside the property line. There was one gray area for one tree. In one area there were 10 palm trees but did not count as landscaping according to staff. Mr. Camacho stated it did not count towards the full amount, it was only 20%. They still needed the shadowing trees, which were being proposed. The strip of land that was between the storage buildings and the restaurants that was the dedication for landscaping and there was nothing there.

Board member Sylvia Hinojosa asked staff if they spoke with the possibility of negotiating



fixing the corner where the small park was located. Edgar Garcia, Planning Director stated there was something in the works for that small park.

Mr. Flores stated on the aerial map, the license agreement allowed the applicant to keep the structure up to the property line but cannot expand further past it. Since then, they had removed the awning that was previously in violation.

Vice-Chairperson Millin wanted to get a clear understanding as to what happened to the landscaping. Ms. Chavez stated in order to install the landscaping they had to go through the City's legal department if they could do it because it sat on City property. Mr. Omar Sotelo stated that it was allowed as landscaping in the Right of Way; however, it would not count towards landscaping requirements. They would have to amend the license agreement for the landscaping but would not count towards their landscape footage of 50% in the front.

Mr. Flores stated that to approve the request it would have to be a super majority and to go against staff's recommendation. However, since staff's recommendation was for disapproval it would need a majority to disapprove all or one item.

Chairperson Diaz asked the applicant was willing to table the parking requirement and speak with the neighbors to find those extra eight parking spaces. Ms. Chavez stated yes.

After more discussion about parking, zoning, landscaping, current and future land uses, Ms. Ann Tafel moved to disapprove the variance request #1, #2 #3, and #4. Mr. Jose Gutierrez seconded the motion. The Board voted unanimously to disapprove variance request with five members present and voting.

### **3. FUTURE AGENDA ITEMS:**

a) 3012 Yellowhammer Avenue

b) 912 South 25<sup>th</sup> ½ Street E.

Mr. Victor Flores mentioned to the Board that we had a new City Attorney, Issac Tawil.

### **ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Vice-Chairperson John Millin moved to adjourn the meeting. Ms. Sylvia Hinojosa seconded the motion, which carried unanimously with five members present and voting.

---

Chairperson Erick Diaz

---

Carmen White, Secretary



# MEMO

**TO:** Zoning Board of Adjustment & Appeals

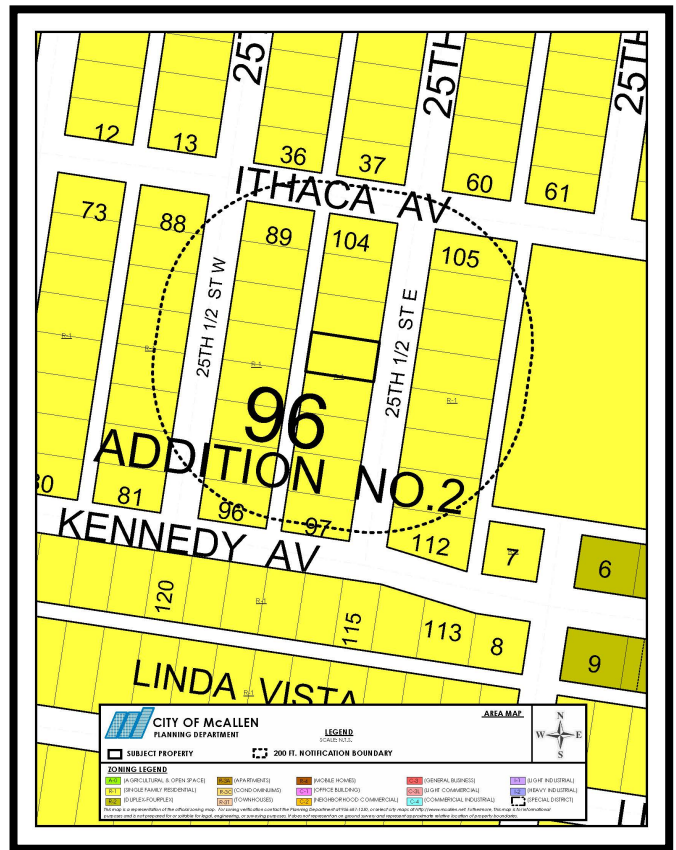
**FROM:** Planning Staff

**DATE:** March 30, 2021

**SUBJECT: REQUEST OF JUAN A. VALDIVIA FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 8 FT. INTO THE 10 FT. REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL MEASURING 16 FT. BY 26 FT., AT LOT 101, ROWLAND ADDITION NO. 2 SUBDIVISION, HIDALGO COUNTY, TEXAS; 912 SOUTH 25TH ½ STREET EAST. (ZBA2021-0007)**

**REASON FOR APPEAL:**

Juan A. Valdivia, is requesting a variance to allow an encroachment of 8 ft. into the 10 ft. rear yard setback for a proposed rectangular swimming pool measuring 16 ft. by 26 ft. The applicant is requesting for the pool to be placed further away from the home to allow maneuvering space around the house and allow for ease of access around the pool and structures around the house. The applicant is looking to use the property as a retirement home and the pool would help them with their medical conditions.





**PROPERTY LOCATION AND VICINITY:**

The property is located on the Westside of South 25th ½ Street East, approximately 159 feet south of Ithaca Avenue. The property has 53 feet of frontage along South 25th ½ Street East with a depth of 90 feet for a tract size of 4,770 square feet. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. The subject property contains a single family residence and an accessory building. Surrounding land use is single family residential.

**BACKGROUND AND HISTORY:**

Rowland Addition No. 2 was recorded January 10, 1951. The plat does not indicate setbacks. The subdivision was recorded prior to 1979 and the applicable setbacks were subject to the 1945 Zoning Ordinance. The side yard setback along the south side is 7 feet and 5 feet along the north side. The rear yard setback under the 1945 Zoning Ordinance was 3 feet for accessory buildings however the rear yard setback requirement changed to 10 feet under the 1979 zoning ordinance. An application for a swimming pool permit was submitted on March 2, 2021. An application for the variance request was submitted March 3, 2021.

**ANALYSIS:**

The submitted site plan shows a proposed swimming pool encroaching 8 ft. into the 10 ft. rear yard setback. The variance request is for a proposed swimming pool, which is an accessory structure. In the past, swimming pools were allowed to be built within setbacks; however, a subsequent determination by the City's Legal Department included swimming pools as structures which require compliance with setbacks.

The plat does not show any utility easements at the proposed location for the pool.

During the site visit, staff noticed that there is a storage building measuring 12 ft. by 8 ft. that may be encroaching into the north side yard setback. The applicant stated that he would be removing the storage building.

During a site visit, staff noticed other rear yard setback encroachments in the area. A review of Planning Department records revealed that four variances were approved in the past for encroachment into the rear and side yard along this block between Ithaca Avenue and Kennedy Avenue.

Staff has not received any phone calls or emails in opposition to this variance request.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request. If the Board grants approval of the request it should be limited to the footprint shown on the submitted site plan.



ZBA 2021-0007

ZBA 4/7/21



City of McAllen

## Planning Department

 APPEAL TO ZONING BOARD OF  
 ADJUSTMENT TO MCALLEN ZONING ORDINANCE

 311 North 15<sup>th</sup> Street  
 McAllen, TX 78501  
 P. O. Box 220  
 McAllen, TX 78505-0220  
 (956) 681-1250  
 (956) 681-1279 (fax)

## Project

 Legal Description ALL of Lot 101 Rowland Addition NO. 2  
to the city of McAllen Hidalgo County TX

Subdivision Name \_\_\_\_\_

Street Address 912 S 25 1/2 ST E McAllen TX 78501Number of lots 1

Gross acres \_\_\_\_\_

Existing Zoning R-1 Existing Land Use Single family HomeReason for Appeal (please use other side if necessary) Swimming PoolConstruction to encroach 8' into 10' rear setback →☒ \$300.00 non-refundable filing fee☐ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

## Applicant

Name JUAN A. VALDIVIA Phone 815-716-0496Address 912 S 25 1/2 ST E E-mail EMMASAGENCY@yahoo.comCity MCALLEN State TX Zip 78501

## Owner

Name JUAN A. VALDIVIA  
DARIA E. VALDIVIA Phone 815-716-0496Address 912 S 25 1/2 ST E E-mail EMMASAGENCY@yahoo.comCity MCALLEN State TX Zip 78501

## Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?

☐ Yes☒ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

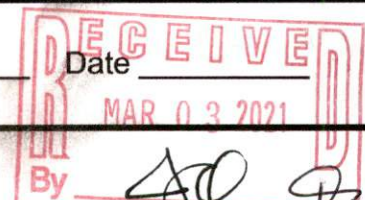
Signature Juan A. ValdiviaDate 03/02/2021Print Name JUAN A VALDIVIA☒ Owner☐ Authorized Agent

## Office

Accepted by K.F.  
REVISED 9/11

Payment received by \_\_\_\_\_

Date \_\_\_\_\_



Rct# 774046



7500-1808A1

We are Requesting To Build it closer TO The Rear 10 feet so that we can easily walk Around the House - if Built 10' feet from Rear it will be too Close TO the House being that we Have the AC unit measuring 5' feet By the House and will Have Some difficulties getting around Due to our Diabetes And Leg Problems - there fore we in ALL honesty will Require the extra feet granted TO Entirely Enjoy our Retirement Time and Years Left. being that This Will be our Retirement Home for the years TO Come. And it Has been in our family for Many Years. We just moved here to Texas from ILLINOIS After 50 yrs Residing in IL. The Severe cold weather Affected our Bones-Limbs - AND a pool would Really help.

We will Appreciate Immensely your Consideration of Our Request in Hopes that it Can be granted;

Cordially Yours

Juan A Valdivia

Daria Emma Valdivia

7500-1808A1





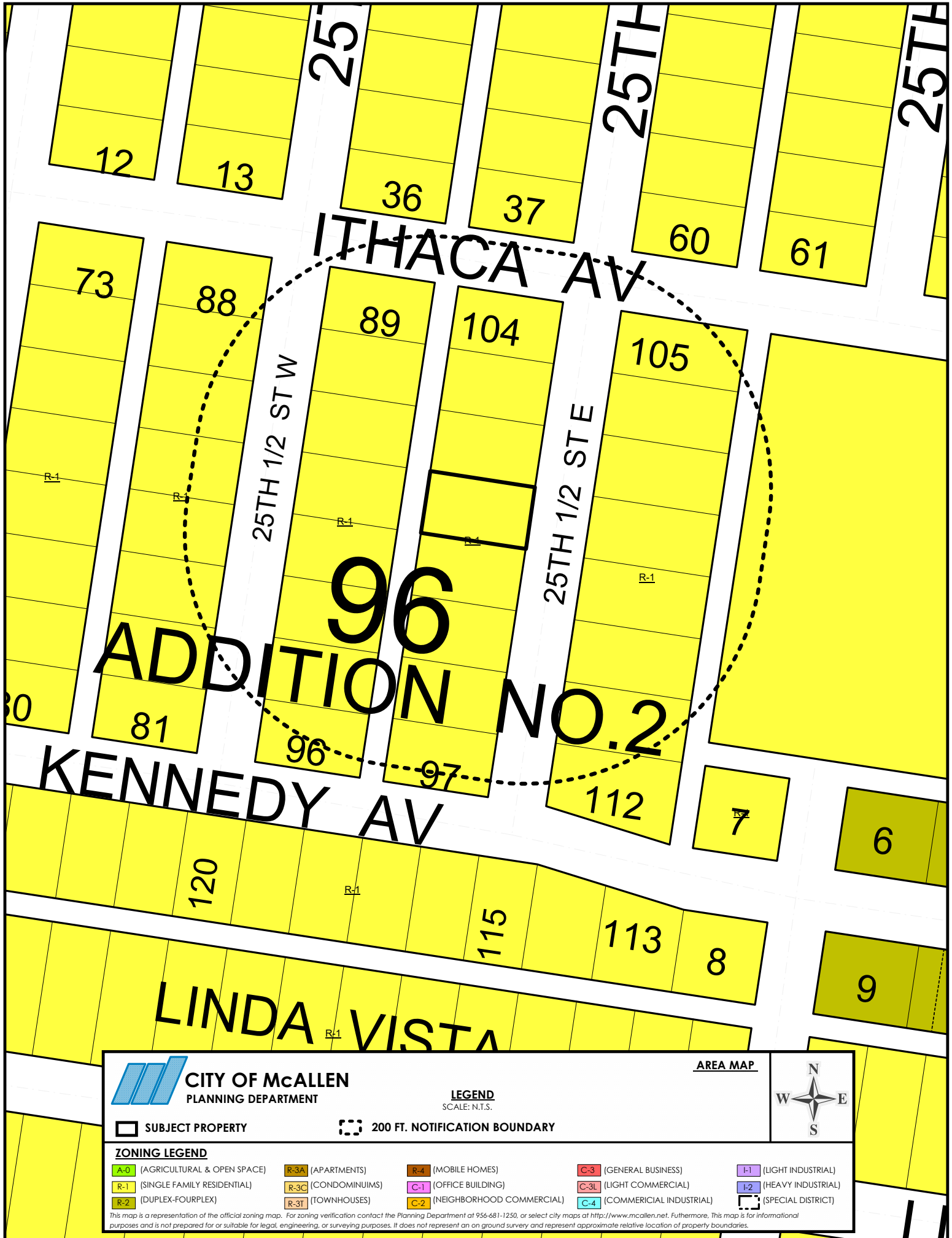
# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: (Please use an additional page if necessary to complete responses)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p> <p>1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:</p> <p>it Has A Small Back yard where the Pool is Intended to be Built and if it is constructed 10 feet from Rear it will be closer to the House and will be difficult for us to walk around it Due To our <sup>Health</sup> condition</p> <p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p> <p>Both my wife and I ARE Retired and over 60 yrs Old and with Health Issues That we may benefit from Exercise in A Swimming Pool</p> <p>3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:</p> <p>We are looking To have A small pool. '16' X 24' for Laps and Exercise and will Enclose Back yard with A privacy fence To make it safe for other Around our property</p> <p>4. Describe special conditions that are unique to this applicant or property:</p> <p>Our property is situated AT A Very Old Neighborhood This Home is in A Small lot AS it is, it was Left to us by my Parents / in Laws after they <sup>Both</sup> Passed in 2010-2011 it Has A lot of Sentimental Value TO US and our family</p>						
Board Action	<table border="1"><tr><td data-bbox="243 1585 1055 1702"></td><td data-bbox="1055 1585 1622 1702"></td></tr><tr><td data-bbox="243 1702 1055 1808">Chairman, Board of Adjustment Signature</td><td data-bbox="1055 1702 1622 1808">Date</td></tr><tr><td data-bbox="243 1808 1055 1919"><hr/></td><td data-bbox="1055 1808 1622 1919"><hr/></td></tr></table> <p>Rev. 9/20</p>			Chairman, Board of Adjustment Signature	Date	<hr/>	<hr/>
Chairman, Board of Adjustment Signature	Date						
<hr/>	<hr/>						





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: N.T.S.

**AREA MAP**



 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**

**ZONING LEGEND**

**A-0** (AGRICULTURAL & OPEN SPACE)  
**R-1** (SINGLE FAMILY RESIDENTIAL)  
**R-2** (DUPLEX-FOURPLEX)

**R-3A** (APARTMENTS)  
**R-3C** (CONDOMINIUMS)  
**R-3I** (TOWNHOUSES)

**R-4** (MOBILE HOMES)  
**C-1** (OFFICE BUILDING)  
**C-2** (NEIGHBORHOOD COMMERCIAL)

**C-3** (GENERAL BUSINESS)  
**C-3L** (LIGHT COMMERCIAL)  
**C-4** (COMMERCIAL INDUSTRIAL)

**I-1** (LIGHT INDUSTRIAL)  
**I-2** (HEAVY INDUSTRIAL)  
**S** (SPECIAL DISTRICT)

This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**



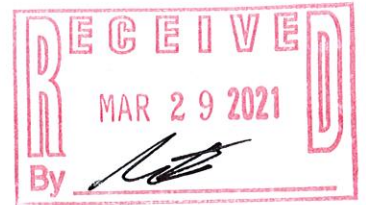
**200' NOTIFICATION BOUNDARY**



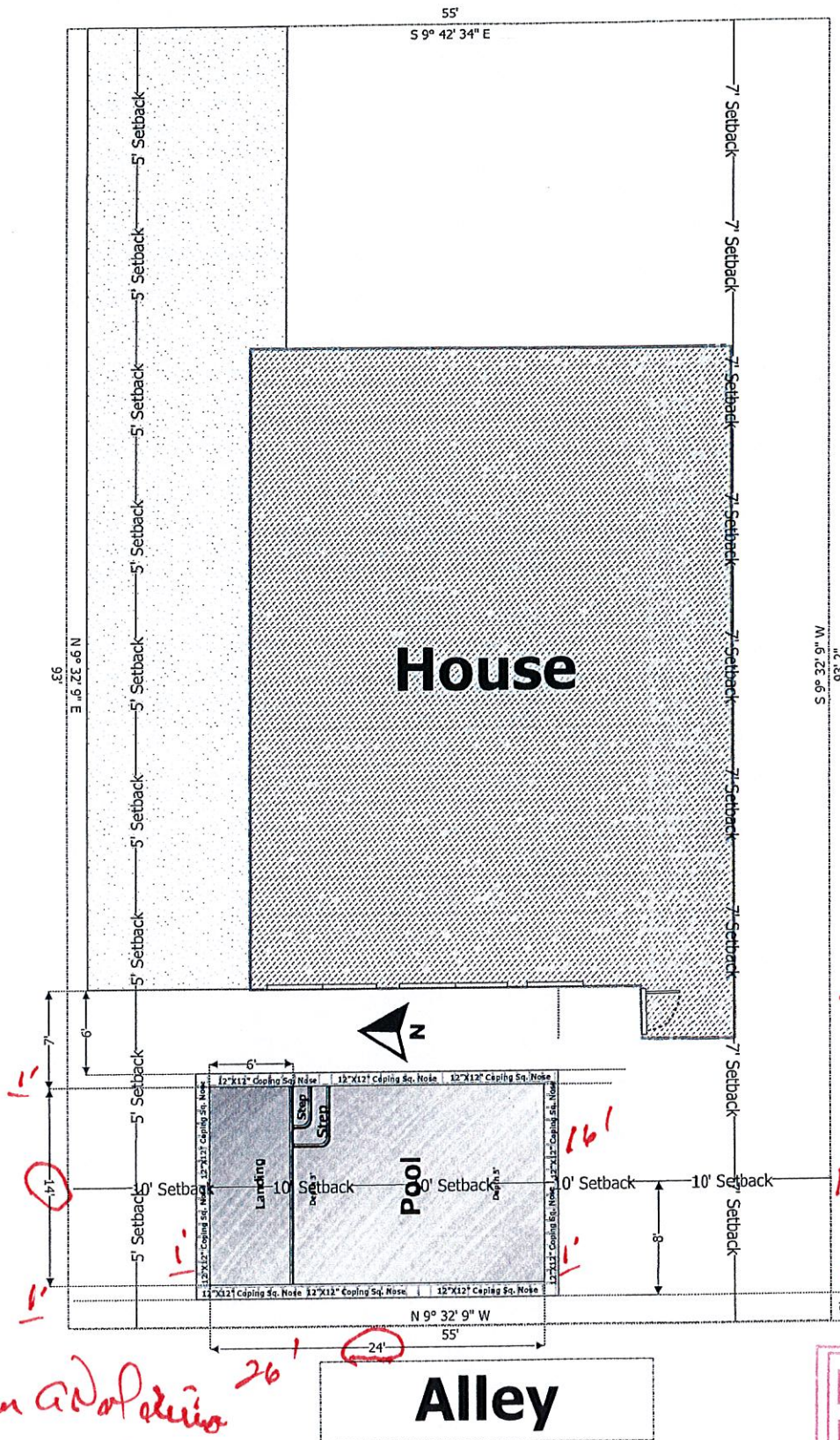
This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property on ground survey and represent approximate relative location of property boundaries.



# S. 25th 1/2 ST E

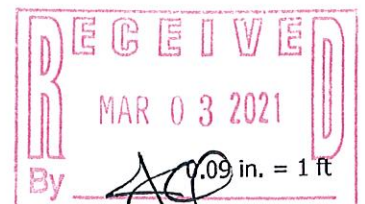


Revised Site Plan.



Total Dimension  
size of Pool  
Construction will  
Eventually be  
16' x 26' with  
1 foot beams on each  
side of Pool  
Instead of 14' x 24'

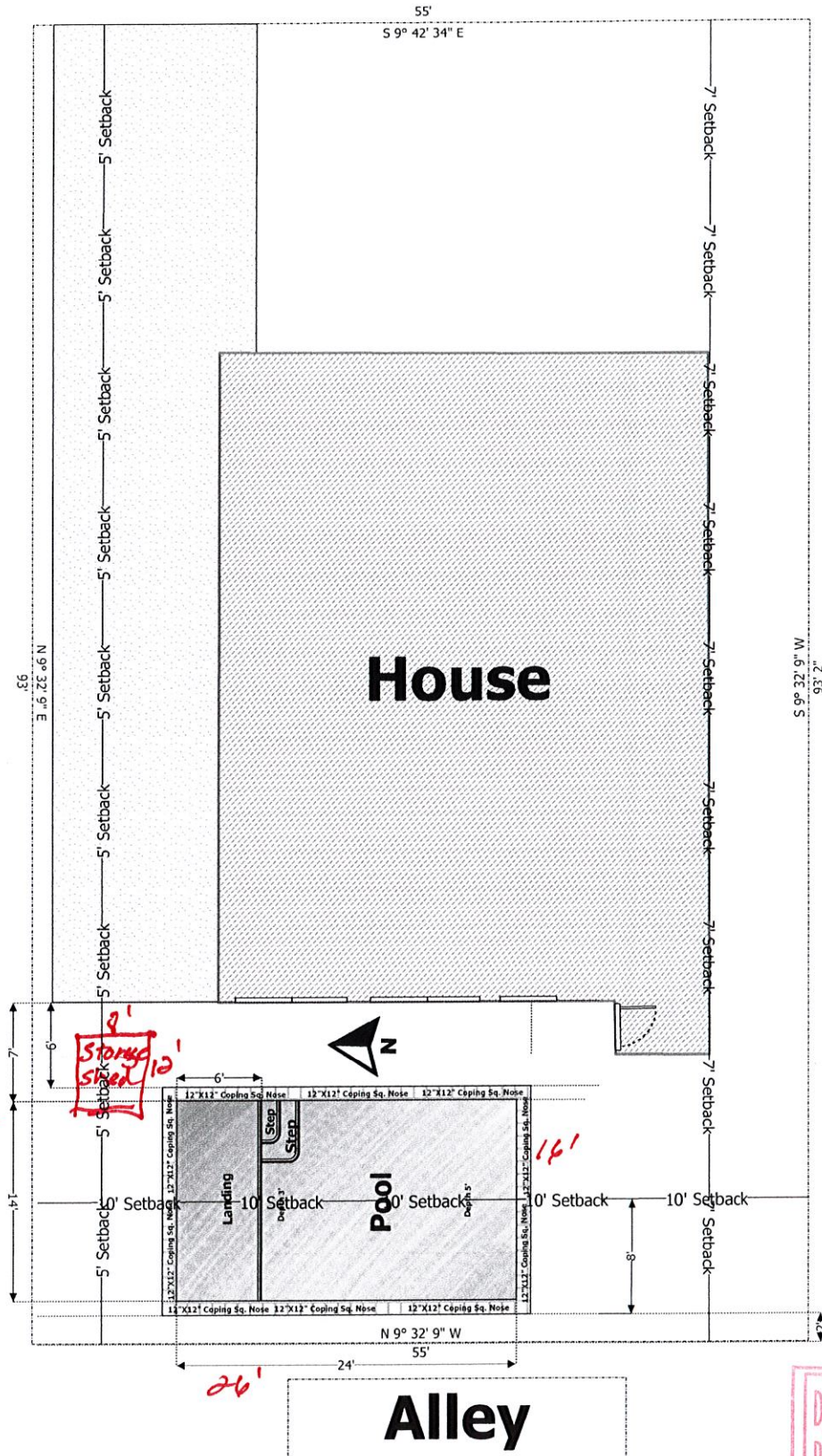
Juan A. Dela Cruz  
Luis E. Valdivia  
March 29, 2021





RECEIVED  
MAR 29 2021  
By *MB*

S 9° 32' 9" W  
93° 2"



Storage  
Shed →  
will be Removed  
taken Down  
~~from~~ totally

Total Dimensions  
of Pool Construction  
Including 1' Beams  
at Each Side  
Totals 16' x 26'  
Instead of 14' x 24'

Juan C. Solari  
 Luis E. Valdivia  
 March 29, 2001

RECEIVED  
MAR 03 2021  
By AC 0.09 in. = 1 ft





# MAP OF **ROWLAND ADDITION NO. 2**

MC ALLEN, TEXAS  
A SUBDIVISION OF LOTS 94 & 96, MC ALLEN  
THIRD SUBURBAN CITRUS GROVE'S SUBDIVISION  
HIDALGO COUNTY, TEXAS

PREPARED BY  
C. L. FABIAN  
LICENSED LAND SURVEYOR  
MC ALLEN, TEXAS

DATE: JANUARY 10, 1931

SCALE: 1"=100'

I, C. L. FABIAN, A LICENSED LAND SURVEYOR, DO HEREBY CERTIFY THE FOREGOING MAP TO BE A TRUE AND CORRECT REPRESENTATION OF THE SURVEY AS MADE BY ME ON THE GROUND.

STATE OF TEXAS  
COUNTY OF HIDALGO

WE, R. A. ROWLAND JR. AND M. W. ROWLAND, OWNERS OF THE PROPERTY HEREON DESCRIBED, DO HEREBY ADOPT, DEEDS AND CONFIRM THE FOREGOING MAP, AND DO HEREBY DEDICATE TO THE PUBLIC THE STREETS THEREON SHOWN.

Robert A. Rowland Jr.  
R. A. ROWLAND JR.

M. W. Rowland  
M. W. ROWLAND

STATE OF TEXAS  
COUNTY OF HIDALGO

SUBSCRIBED AND SHOWN TO BEFORE ME ON THIS 31 DAY OF MARCH, A.D. 1931

Notary Public in and for  
HIDALGO COUNTY, TEXAS

APPROVED JANUARY 16, 1931  
MC ALLEN ZONING AND PLANNING BOARD

BY: *C. L. Fabian*  
C. L. FABIAN, CHAIRMAN

APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS ON THIS 29 DAY OF JANUARY, 1931

ATTEST: *William J. Schupp*  
W. J. SCHUPP, CITY SECRETARY

BY: *Clarence Davis*  
CLARENCE DAVIS, MAYOR













NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2021-0007







## Hidalgo CAD

### Property Search Results > 273050 VALDIVIA JUAN A & DARIA EMMA for Year 2021

Tax Year: 2021

#### Property

##### Account

Property ID:	273050	Legal Description:	ROWLAND ADDN NO. 2 LOT 101
Geographic ID:	R4300-02-000-0101-00	Zoning:	RS
Type:	Real	Agent Code:	
Property Use Code:			
Property Use Description:			

##### Location

Address:	S 25TH 1/2 ST E MCALLEN, TX	Mapsco:	
Neighborhood:	ROWLAND ADDITION #2	Map ID:	CML VOL 10 PG 41
Neighborhood CD:	R430002		

##### Owner

Name:	VALDIVIA JUAN A & DARIA EMMA	Owner ID:	1032558
Mailing Address:	912 S 25TH 1/2 ST E MCALLEN, TX 78501	% Ownership:	100.0000000000%
		Exemptions:	

#### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$34,806	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$16,457	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
<hr/>			
(=) Market Value:	=	\$51,263	
(-) Ag or Timber Use Value Reduction:	-	\$0	
<hr/>			
(=) Appraised Value:	=	\$51,263	
(-) HS Cap:	-	\$0	
<hr/>			
(=) Assessed Value:	=	\$51,263	

#### Taxing Jurisdiction

Owner:	VALDIVIA JUAN A & DARIA EMMA
% Ownership:	100.0000000000%
Total Value:	\$51,263



Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	
CAD	APPRAISAL DISTRICT	0.000000	\$51,263	\$51,263	\$0.00	
CML	CITY OF MCALLEN	0.495600	\$51,263	\$51,263	\$254.06	
DR1	DRAINAGE DISTRICT #1	0.102600	\$51,263	\$51,263	\$52.60	
GHD	HIDALGO COUNTY	0.575000	\$51,263	\$51,263	\$294.76	
JCC	SOUTH TEXAS COLLEGE	0.171800	\$51,263	\$51,263	\$88.07	
R12	ROAD DIST 12	0.000000	\$51,263	\$51,263	\$0.00	
SML	MCALLEN ISD	1.138600	\$51,263	\$51,263	\$583.68	
SST	SOUTH TEXAS SCHOOL	0.049200	\$51,263	\$51,263	\$25.22	
Total Tax Rate:		2.532800				
Taxes w/Current Exemptions:					\$1,298.39	
Taxes w/o Exemptions:					\$1,298.39	

## Improvement / Building

**Improvement #1:** RESIDENTIAL **State Code:** A1 **Living Area:** 1320.0 sqft **Value:** \$34,806

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	BRKFA - 4M	DBRK	1985	1320.0
POR	PORCH (COVERED)	*		1985	88.0
STG	STORAGE	*		2006	64.0

## Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1095	4770.00	53.00	90.00	\$16,457	\$0

## Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2021	\$34,806	\$16,457	0	51,263	\$0	\$51,263
2020	\$32,192	\$16,457	0	48,649	\$0	\$48,649
2019	\$28,598	\$16,457	0	45,055	\$0	\$45,055
2018	\$22,249	\$16,695	0	38,944	\$0	\$38,944
2017	\$24,082	\$16,695	0	40,777	\$0	\$40,777
2016	\$23,521	\$16,695	0	40,216	\$0	\$40,216
2015	\$23,699	\$14,310	0	38,009	\$0	\$38,009
2014	\$24,415	\$14,310	0	38,725	\$0	\$38,725
2013	\$24,887	\$14,310	0	39,197	\$0	\$39,197
2012	\$26,255	\$14,310	0	40,565	\$0	\$40,565
2011	\$27,233	\$14,310	0	41,543	\$0	\$41,543
2010	\$28,210	\$14,310	0	42,520	\$0	\$42,520
2009	\$27,966	\$16,695	0	44,661	\$0	\$44,661
2008	\$27,966	\$16,695	0	44,661	\$3,155	\$41,506
2007	\$29,065	\$16,695	0	45,760	\$8,027	\$37,733

## Deed History - (Last 3 Deed Transactions)

--	--	--	--	--	--	--



#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/22/2014	WD	WARRANTY DEED	GOMEZ ALEJANDRINA	VALDIVIA JUAN A & DARIA EMMA			2532931
2	6/18/2014	AOH	AFFIDAVIT OF HEIRSHIP	GOMEZ DIAZ EMIGDIO	GOMEZ ALEJANDRINA			2523300
3		CONV	CONVERSION	UNKNOWN	GOMEZ DIAZ EMIGDIO			

## Tax Due

Property Tax Information as of 03/10/2021

Amount Due if Paid on:  ↓

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
------	---------------------	---------------	----------	-----------------	--------------	-------------------------------	---------------	------------

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

**Questions Please Call (956) 381-8466.**

Website version: 1.2.2.31

Database last updated on: 3/9/2021 9:23 PM

© N. Harris Computer Corporation





## SWIMMING POOL PERMIT APPLICATION

REV. 5/2020

P.O. BOX 220 McAllen, Texas 78505-0220  
APPLICATION MUST BE COMPLETE  
(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER

Swm202101645

APPLICANT

NAME Rowdy's Pools PHONE 956-703-0270  
ADDRESS 4300 N. 27th Street  
CITY McAllen STATE TX ZIP 78504  
CONTACT NAME: Raudel Garcia PHONE 956 703 0270  
☐ OWNER ☒ CONTRACTOR ☐ TENANT ☐ OTHER

OWNER

NAME Juan & EMMA Valdivia PHONE 815 716 0496  
ADDRESS 912 S. 25th 1/2 st. E.  
CITY McAllen STATE TX ZIP 78501  
\*OWNER INFORMATION NOT PROVIDED, INITIAL:

☐ NEW ☐ REMODELING ☐ REPAIR  
SQ. FT. 336 NO. OF GALLONS 7,300 SQ. FT. LOT        STRUCTURE VALUE \$ 24,000.00  
EXISTING USE House NEW USE         
PLUMBING CONTRACTOR Montez ELECTRICAL CONTRACTOR Exoenergy

PROJECT

ENCLOSURE/  
BARRIER NEW        EXISTING        MATERIAL        HEIGHT       

POOL  
☐ IN-GROUND  
☐ ABOVE-GROUND  
☐ HOT TUB/SPA  
☐ OTHER  
☐       

DECKING  
☐ COOL DECK  
☐ PAVERS  
☐ WOOD  
☐ CONCRETE  
☐ OTHER  
☐       

ADDITIONAL FEATURES  
☐ SLIDE  
☐ WATER FALL  
☐ POOL FIRE BOWL  
☐ HEATING SYSTEM  
☐ OTHER  
☐       

LOT 101 BLOCK        SUBDIVISION Rowland Addition #2  
SITE ADDRESS: ADDRESS NUMBER 912 STREET NAME 25th 1/2 st. E

CITY USE ONLY

ZONING        Permit Fee \$ 55.86  
Double Fee \$         
Total Fee \$       

Rec'd by [Signature]  
Date         
Time       

The foregoing is a true and correct description of the Improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the Improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

Raudel Garcia  
PRINT (AUTHORIZED AGENT/OWNER)

SIGNATURE

rowdypools78@yahoo.com 3/2/2021  
EMAIL ADDRESS (required) DATE



## Planning Department

### Memo

**TO:** Zoning Board of Adjustment & Appeals

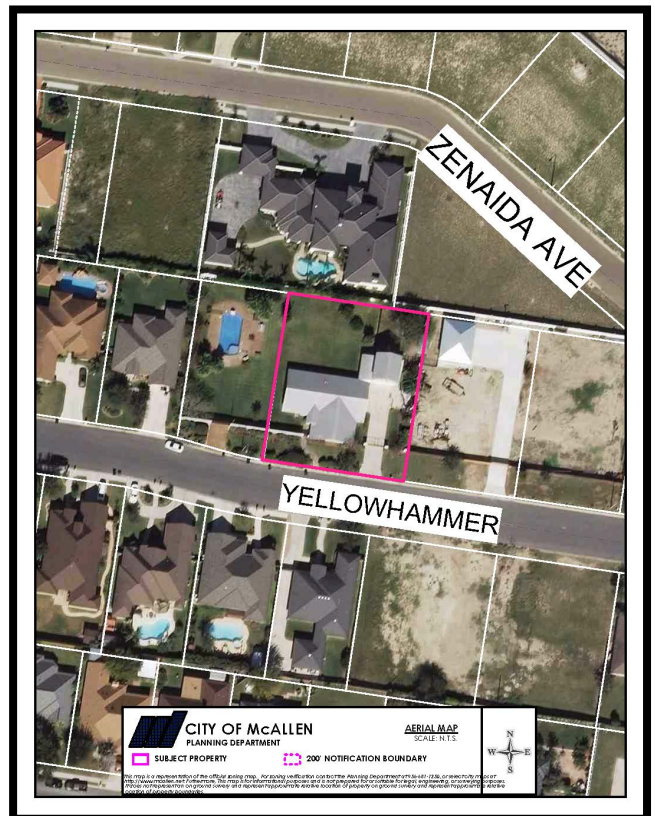
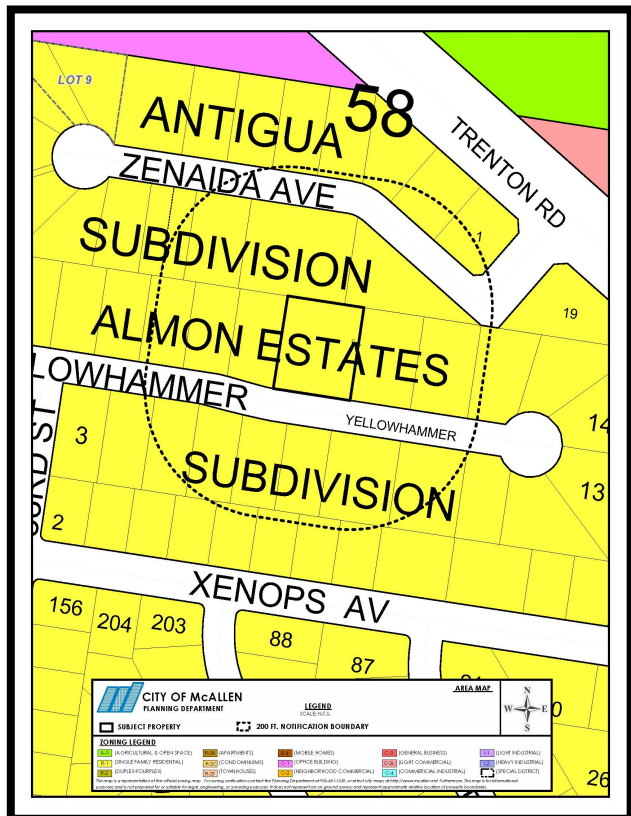
**FROM:** Planning Staff

**DATE:** March 31, 2021

**SUBJECT:** REQUEST OF MICHAEL C. MONTALVO FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 3.6 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR AN EXISTING SINGLE FAMILY RESIDENCE, AND 2) AN ENCROACHMENT OF 3.6 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A PROPOSED RESIDENTIAL ADDITION, AT LOT 19, ALMON ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 3012 YELLOWHAMMER AVENUE. (ZBA2021-0006)

#### REASON FOR APPEAL:

The applicant is requesting the following variances to allow: 1) an encroachment of 3.6 ft. into the 25 ft. front yard setback for an existing single family residence, and 2) an encroachment of 3.6 ft. into the 25 ft. front yard setback for a proposed residential addition. The applicant is requesting the variances in order to allow an encroachment for the existing single family residence and to allow a proposed addition to encroach into the front yard setback.





**PROPERTY LOCATION AND VICINITY:**

The property is located along the north side of Yellowhammer Avenue. The property has 115.13 feet of frontage along Yellowhammer Avenue with a depth of approximately 145 feet for a total area of approximately 16,694 square feet. The property is zoned R-1 (single family residential) District. Adjacent zoning is R-1 (single family residential) District in all directions. The surrounding land use is single family residential. There is an existing single family residence and garage on the subject property.

**BACKGROUND AND HISTORY:**

The subdivision plat for Almon Estates Subdivision was recorded on October 10, 2003. As per plat lot 19 has a 25 ft. front yard setback, a 6 ft. on the west side yard setback, a 20 ft. east side yard setback, and a 46.71 ft. rear yard setback. Lots 18 and 19 have a 35-foot gas easement running parallel to each lot line with 15 feet on Lot 18 and 20 feet on Lot 19. Lot 19 has a 10 ft. utility easement and 36.71 ft. gas easement running concurrently with the North property line (rear yard). A review of Department records presented a one story brick house on Lot 19 prior to subdivision recording. According to Hidalgo County Appraisal District records, the residential home on the subject property was built in 1985 and purchased by the applicant Michael C. Montalvo in 2004.

A review of Planning Department records revealed that in 2011 a variance to allow an accessory building not on the same lot as the main building was disapproved for Lot 18, and currently there is a pending application for a building permit for a proposed single family residence on that lot. In 2004 a variance to allow a 9 ft. encroachment into the 25 ft. front yard setback for a single family residence was approved for Lot 11.

**ANALYSIS:**

Variance request #1 is to allow an existing encroachment of 3.6 ft. into the 25 ft. front yard setback to remain for the single family residence. The existing structure was constructed prior to Almon Estates Subdivision being recorded and was incorporated as part of the subdivision. The existing structure is nonconforming and approval of the request would bring it into compliance.

Variance request #2 is to allow an encroachment of 3.6 ft. into the 25 ft. front yard setback for a proposed residential addition. The applicant is proposing to construct the addition to be in line with the front of the existing structure. The proposed addition does not impact easements or side yard setbacks.

Staff has not received any phone calls or emails in opposition to this variance request.

**RECOMMENDATION:**

Staff recommends approval of the variance requests, since the encroachments are minimal and will allow the proposed and existing front façade construction to be squared off.



ZBA2021-0006

ZBA  
4.7.21

City of McAllen

## Planning Department

APPEAL TO ZONING BOARD OF

## ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

## Project

Legal Description Lot 19 ~~A-20~~

Subdivision Name Almon Estates

Street Address 3012 Yellowhammer Ave.

Number of lots 2 Gross acres \_\_\_\_\_

Existing Zoning R1 Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Addition to home. Currently has Exception to setbacks due to being the original house in the subdivision. ~~1~~ current home.

☒ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)

☒ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

## Applicant

Name Michael C. Montalvo Phone 956.212.4915

Address 3012 Yellowhammer E-mail che@holchemont.com

City McAllen State TX Zip 78504

## Owner

Name Michael C. Montalvo Phone 956.212.4915

Address 3012 Yellowhammer E-mail che@holchemont.com

City McAllen State TX Zip 78504

## Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?

☒ Yes ☐ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature [Signature] Date 3.2.21

Print Name Michael C. Montalvo ☒ Owner ☐ Authorized Agent

## Office

Accepted by KP Payment received by \_\_\_\_\_

Rev 10/18

Date

MAR 02 2021

By

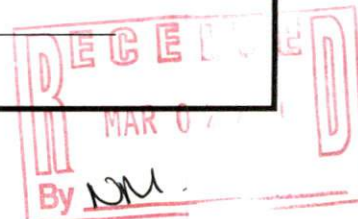
NM



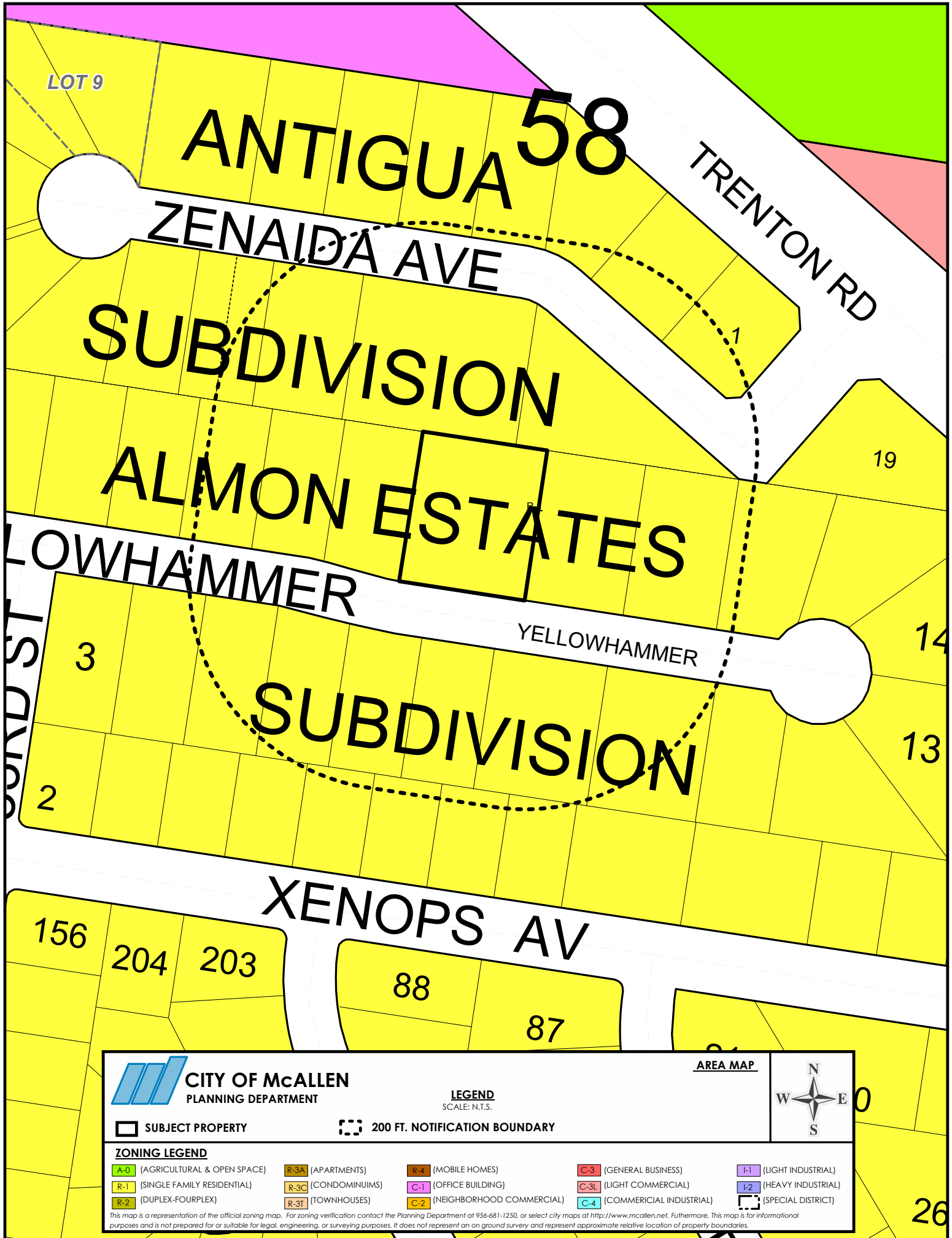


**City of McAllen**  
***Planning Department***  
**REASON FOR APPEAL & BOARD ACTION**

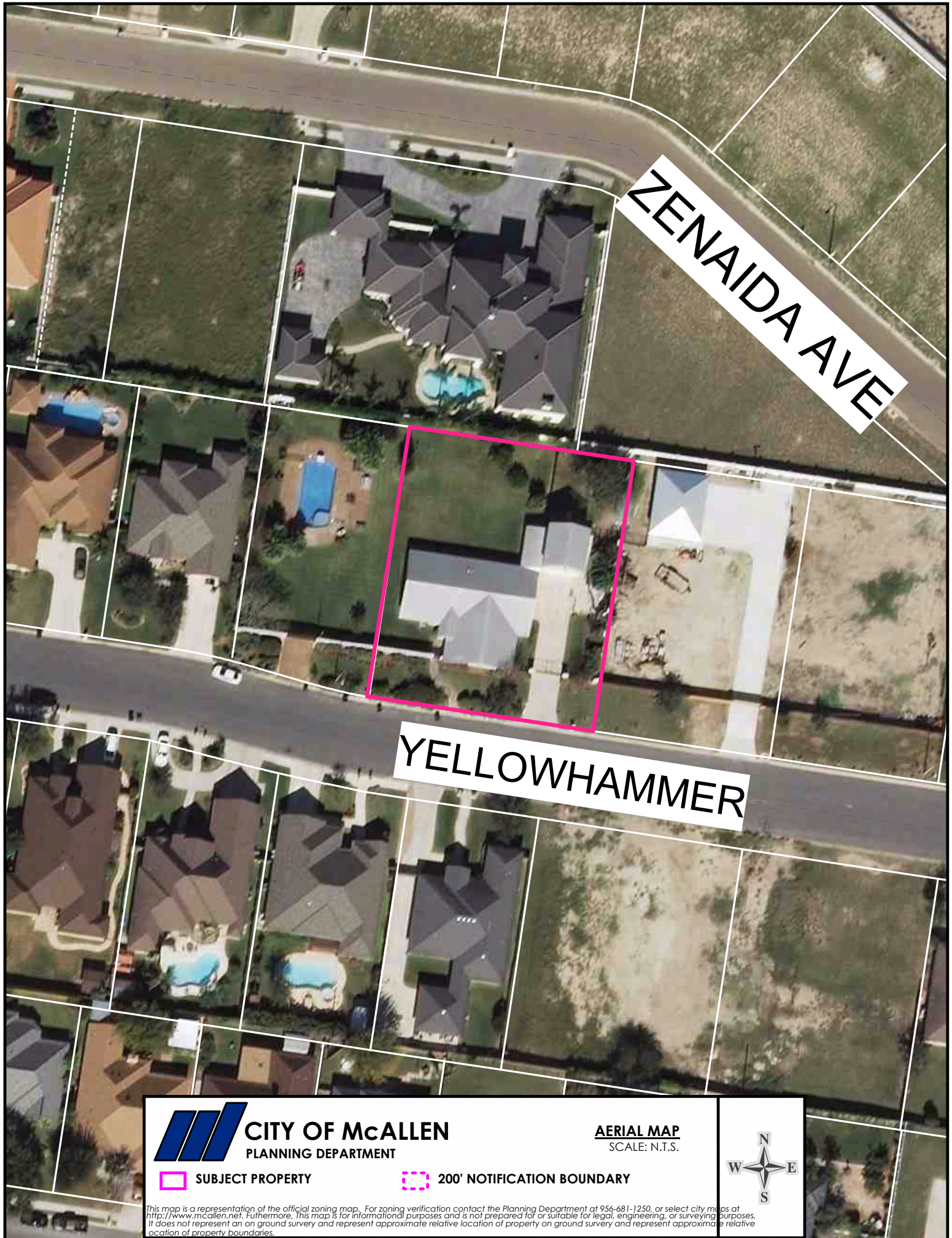
Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider <b>any combination of</b> the following: <i>(Please use an additional page if necessary to complete responses)</i></p> <p><b>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</b></p> <p><b>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</b></p>	
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:	
	Existing exception since subdivision plotted. A substantial demolition would have to be made causing hardship.	
	Current setback is approximately 21'-5" from back of curb.	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	Allows the owner to add living area thus increasing enjoyment of residence while increasing value in turn increasing taxes to public entities.	
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:	
	No detriment to neighbors or public health issues.	
Board Action		
	Chairman, Board of Adjustment Signature	Date











ZENNAIDA AVE

YELLOWHAMMER



**CITY OF McALLEN**  
PLANNING DEPARTMENT

**AERIAL MAP**  
SCALE: N.T.S.

 **SUBJECT PROPERTY**

 **200' NOTIFICATION BOUNDARY**



This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property on ground survey and represent approximate relative location of property boundaries.





Milnet  
Architectural  
Services

MEMBER, INSTITUTE OF ARCHITECTS

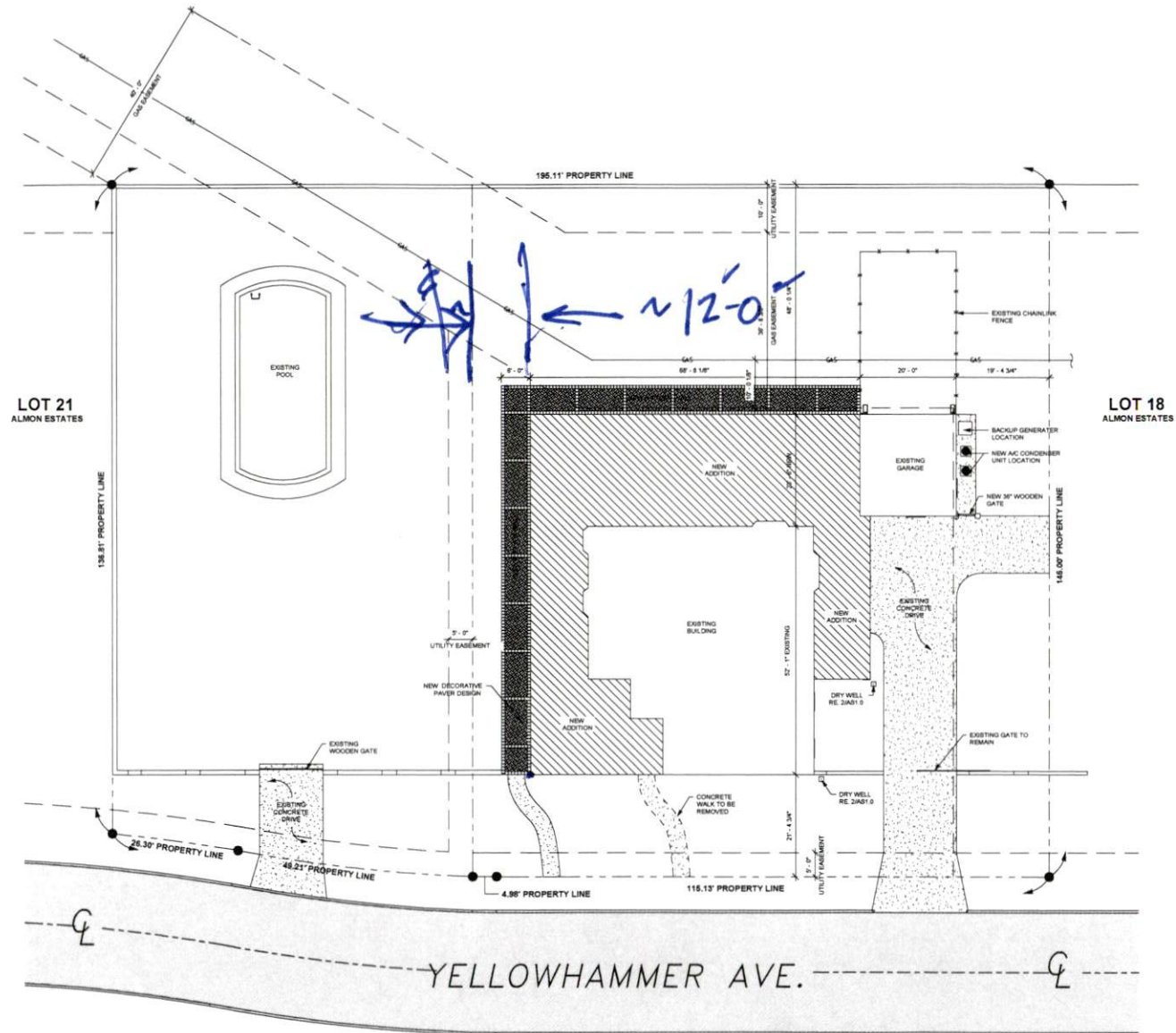
2/12/2021

Michael & Pamela Montalvo  
Phase II Main House Reno/Addition  
McAllen, TX

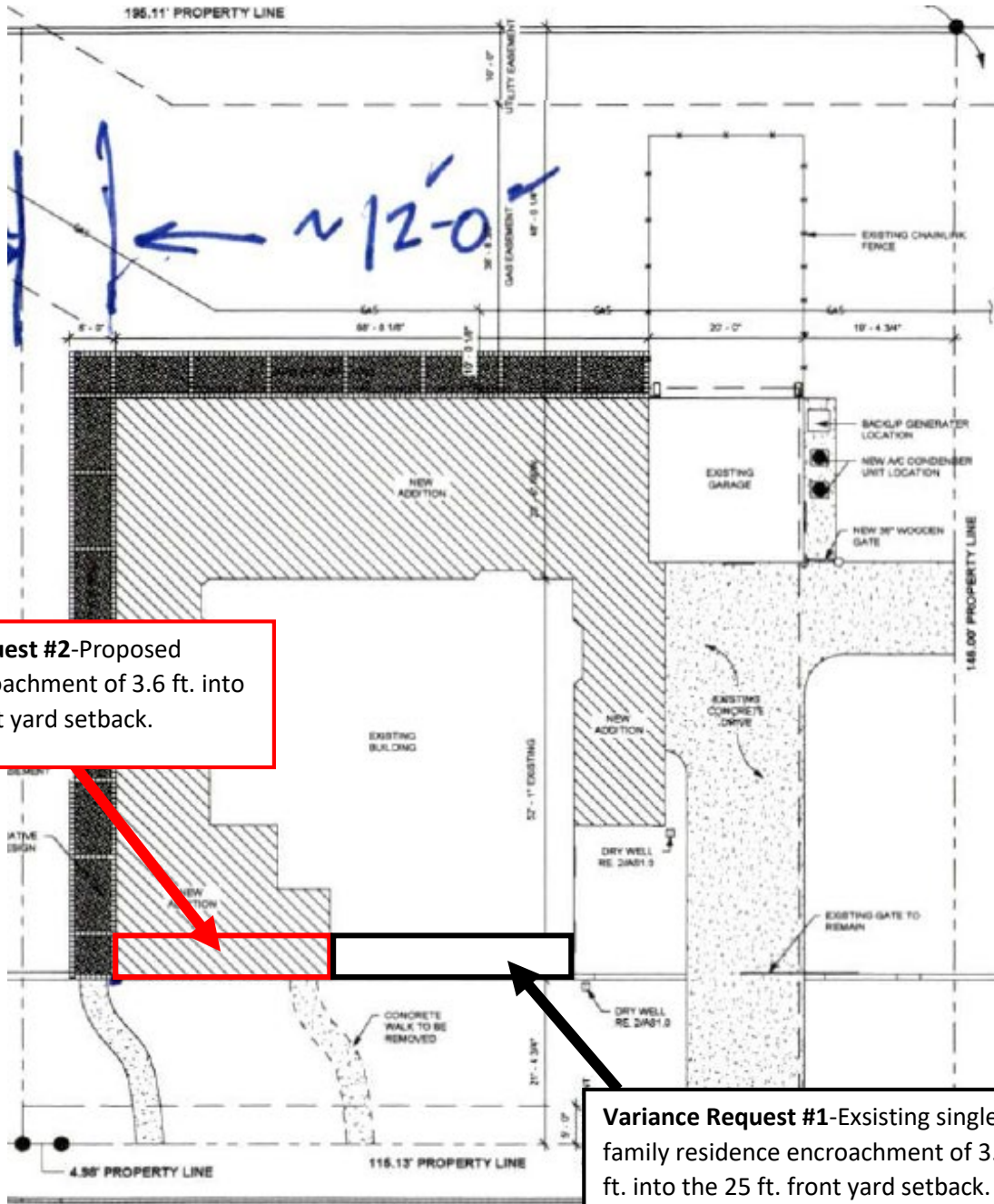
PROJECT NUMBER  
#218028

DATE  
FEB 12, 2021

S H E E T







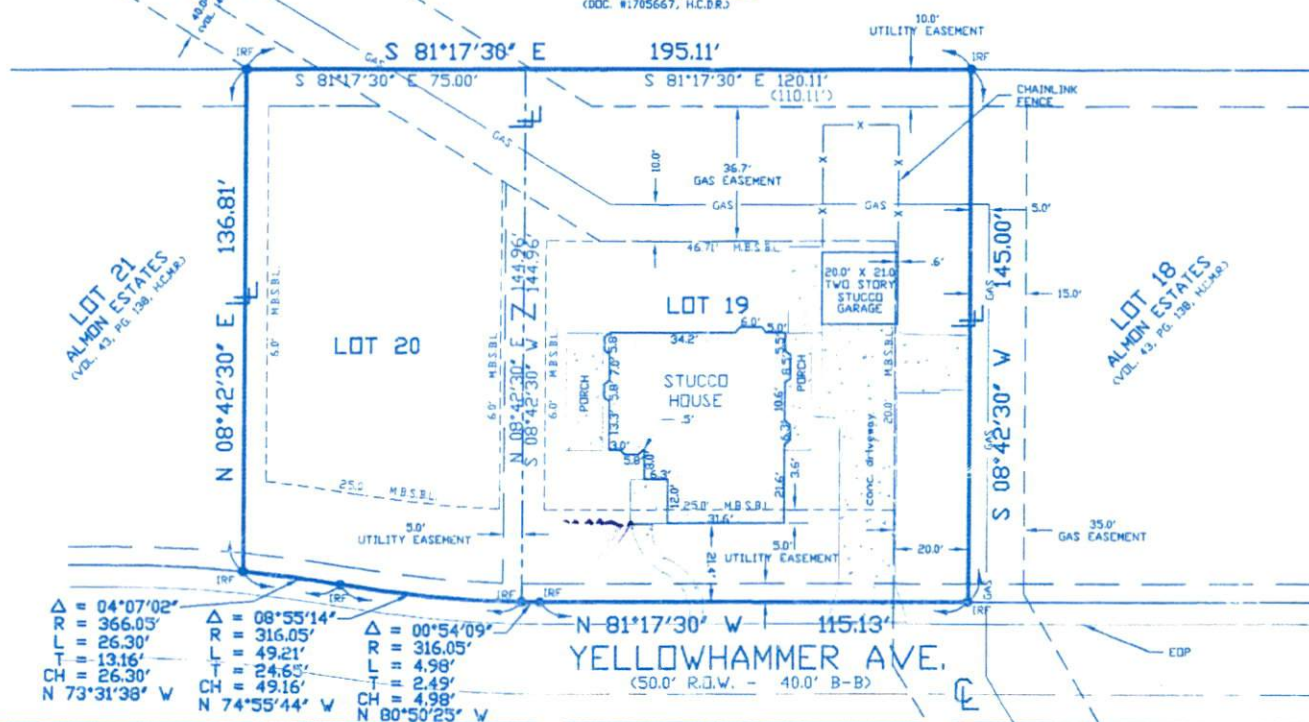
**Variance Request #2**-Proposed addition encroachment of 3.6 ft. into the 25 ft. front yard setback.

**Variance Request #1**-Existing single family residence encroachment of 3.6 ft. into the 25 ft. front yard setback.



**LOT 58**  
**LA LOMITA IRRIGATION AND CONSTRUCTION**  
**COMPANY SUBDIVISION**  
 (VOL. 24, PG. 68, H.C.M.R.)  
**HUGO GONZALEZ, YOLANDA G. LOPEZ AND**  
**VIRGINIA G. FLORES**  
 (DOC. #1705667, H.C.D.R.)

BASIS OF BEARING AS PER S/D PLAT  
 LA LOMITA IRRIGATION & CONSTRUCTION  
 COMPANY SUBDIVISION  
 VOLUME 24, PAGE 68, H.C.M.R.  
**SCALE: 1" = 40.0'**



**BUYERS: MICHAEL MONTALVO**

*Pamela Montalvo*  
**PAMELA MONTALVO**

Δ = 04°07'02"  
 R = 366.05'  
 L = 26.30'  
 T = 13.16'  
 CH = 26.30'  
 N 73°31'38" W

Δ = 08°55'14"  
 R = 316.05'  
 L = 49.21'  
 T = 24.65'  
 CH = 49.16'  
 N 74°55'44" W

Δ = 00°54'09"  
 R = 316.05'  
 L = 4.98'  
 T = 2.49'  
 CH = 4.98'  
 N 80°50'25" W

SURVEYED DATE: 4/15/04						
PROJECT No.: 040413						
DRAWN BY: C.T.G.						
CHECKED BY: C. V.						
<b>REVISIONS</b> <table border="1"> <thead> <tr> <th>DATE</th> <th>REASON</th> </tr> </thead> <tbody> <tr> <td>4/20/04</td> <td>EASEMENTS</td> </tr> </tbody> </table>			DATE	REASON	4/20/04	EASEMENTS
DATE	REASON					
4/20/04	EASEMENTS					
2014 NORTH WARE ROAD McALLEN, TEXAS 78502 PH. (956) 618-1551 FAX (956) 618-1547						

- FLOOD ZONE/GENERAL NOTES**
- NO STRUCTURES PERMITTED OVER ANY EASEMENTS.
  - STATUTORY RIGHTS, RULES, REGULATIONS AND LIENS IN FAVOR OF HIDALGO COUNTY IRRIGATION DISTRICT No. 1, PURSUANT TO APPLICABLE SECTIONS OF THE TEXAS WATER CODE. (PLANET)
  - RIGHT-OF-WAY GRANTED TO AND THROUGH VALLEY GAS COMPANY, RECORDED IN VOLUME 355, PAGE 927, DEED RECORDS OF HIDALGO COUNTY, TEXAS. (PLANET)
  - RIGHT-OF-WAY GRANTED TO AND THROUGH VALLEY GAS COMPANY, RECORDED IN VOLUME 1457, PAGE 782, DEED RECORDS OF HIDALGO COUNTY, TEXAS. (PLANET)
  - CONTRACT, EASEMENT AND USE RESTRICTION ENTERED INTO BY AND BETWEEN AAP TEXAS CENTRAL COMPANY, A TEXAS CORPORATION AND LEO MONTALVO AND PAMELA ALICIA FLORES DECEMBER 14, 2003 UNDER DOCUMENT No. 1278738, OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS. (PLANET)
  - THIS PROPERTY IS LOCATED IN ZONE "C" ON A FLOOD INSURANCE MAP OF McALLEN, TEXAS AS PER F.E.A. 13 PLAT MAP 185134 D400 C, DATED NOV. 11, 1982. FLOOD ZONE IS DETERMINED BY GRAPHIC PLOTTING ONLY. WE DO NOT ASSUME RESPONSIBILITY FOR EXACT DETERMINATION.
  - DRAINAGE DETENTION REQUIRED OF 0.52 AC-FT. AND OR 1,208 cu. ft. PER LOT FOR LOTS 1 - 28 AND 9,300 cu. ft. FOR LOT 27.
  - MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATION SHALL BE 14" ABOVE TOP OF CURB AT MID-POINT OF EACH LOT.
  - A 4 FT. SETBACK IS REQUIRED ALONG YELLOWHAMMER AVENUE AND N. 38TH STREET.
  - A 5' BUFFER IS REQUIRED BETWEEN COMMERCIAL AND RESIDENTIAL ZONE/USE.

- LEGEND**
- LOT LINE
  - PROPERTY LINE
  - EDGE OF PAVEMENT
  - EDGE OF PAVEMENT TO EDGE OF PAVEMENT DISTANCE
  - P.O.B. - POINT OF BEGINNING
  - P.O.C. - POINT OF COMMENCING
  - R.O.W. - RIGHT OF WAY
  - B-B - GAS LINE
  - RF - FOUND IRON ROD
  - RF - FOUND 1/2" IRON ROD WITH A CAP STAMPED "T23 L3"
  - M.B.S.L. - MINIMUM BUILDING SETBACK LINE
  - H.C.D.R. - HIDALGO COUNTY DEED RECORDS
  - H.C.M.R. - HIDALGO COUNTY MAP RECORDS
  - H.C.I.D. - HIDALGO COUNTY IRRIGATION DISTRICT

**PROJECT DESCRIPTION**

This plat is a true and correct representation of a survey made on the ground of the property located at: 3012 YELLOWHAMMER AVENUE, McALLEN, TEXAS, described as follows: LOTS FIFTEEN (15) and TWENTY (20), ALMON ESTATES, Hidalgo County, Texas, according to the map or plat thereof recorded in Volume 43, Page 138, Map records, Hidalgo County, Texas, reference to which is here made for all purposes.

**SURVEYOR'S CERTIFICATION**

I, Carlos Vazquez, a Registered Professional Land Surveyor, do hereby certify that the foregoing plat is a true and correct representation of the land as surveyed on the ground on April 15, 2004, under my direction.

*Carlos Vazquez*  
 Carlos Vazquez  
 R.P.L.S. NO. 4608  
 STATE OF TEXAS

COPYRIGHT 2004  
 SHEET 1 OF 1



LA LOMITA IRRIGATION & CONSTRUCTION COMPANY SUBDIVISION  
VOL. 24, PG. 68 H.C.D.R.  
HUGO GONZALEZ, YOLANDA G. LOPEZ, &  
VIRGINIA G. FLORES  
DOC. #1705667

SCALE: 1" = 80'  
BASIS OF BEARING:  
THE WEST LINE OF LOT 58  
LA LOMITA IRRIGATION  
AND CONSTRUCTION SUBD.  
VOL. 24, PAGE 68 H.C.D.R.

# SUBDIVISION PLAT OF ALMON ESTATES

A TRACT OF LAND CONTAINING 10.00 ACRES, SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING A PART OR PORTION OF LOT 58, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION, MAP REFERENCE: VOLUME 24, PAGE 68, HIDALGO COUNTY MAP RECORDS

STATE OF TEXAS  
COUNTY OF HIDALGO

WE, THE UNDERSIGNED OWNERS OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS ALMON ESTATES, AN ADDITION TO THE CITY OF MCALLEN, TEXAS, AND WHOSE NAMES ARE SUBSCRIBED HEREIN, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, SEWER LINES, WATER COURSES, STORM SEWERS, FIRE HYDRANTS AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH WE WILL CAUSE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF MCALLEN, ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, EITHER ON THE PLAT OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF MCALLEN.

OWNER: LEO MONTALVO  
900 N. MAIN STREET  
MCALLEN, TEXAS 78501

OWNER: RENE ALCAIA  
2709 QUAIL AVENUE  
MCALLEN, TEXAS 78501

STATE OF TEXAS  
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, LEO MONTALVO & RENE ALCAIA PERSONALLY APPEARED AND PROVED, THROUGH THEIR DEPARTMENT OF PUBLIC SAFETY DRIVER'S LICENSES, TO BE THE PEOPLE WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT. FURTHERMORE, AFTER BEING DULY SWORN BY ME, THEY DECLARED THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE AND CORRECT, AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREBY EXPRESSED. ALL GIVEN UNDER MY HAND AND SEAL OF OFFICE DATED

THIS THE 25<sup>th</sup> DAY OF August, 2003 A.D.

NOTARY PUBLIC FOR THE STATE OF TEXAS  
MY COMMISSION EXPIRES ON: 9/5/05



I, THE UNDERSIGNED, THE MAYOR PRO-TEM OF THE CITY OF MCALLEN, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN APPROVAL IS REQUIRED.

MAYOR PRO-TEM, CITY OF MCALLEN DATE 9/23/03

THIS SUBDIVISION PLAT OF ALMON ESTATES HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF MCALLEN, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS 23<sup>rd</sup> DAY OF September, 2003 A.D.

CHAIRMAN, PLANNING & ZONING COMMISSION

STATE OF TEXAS  
COUNTY OF HIDALGO

I, JAVIER HINOJOSA, REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

JAVIER HINOJOSA, P.E.  
REGISTERED PROFESSIONAL ENGINEER NO. 74808

STATE OF TEXAS  
COUNTY OF HIDALGO

I, CARLOS VASQUEZ, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

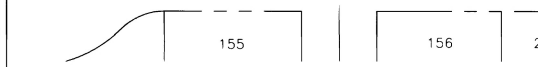
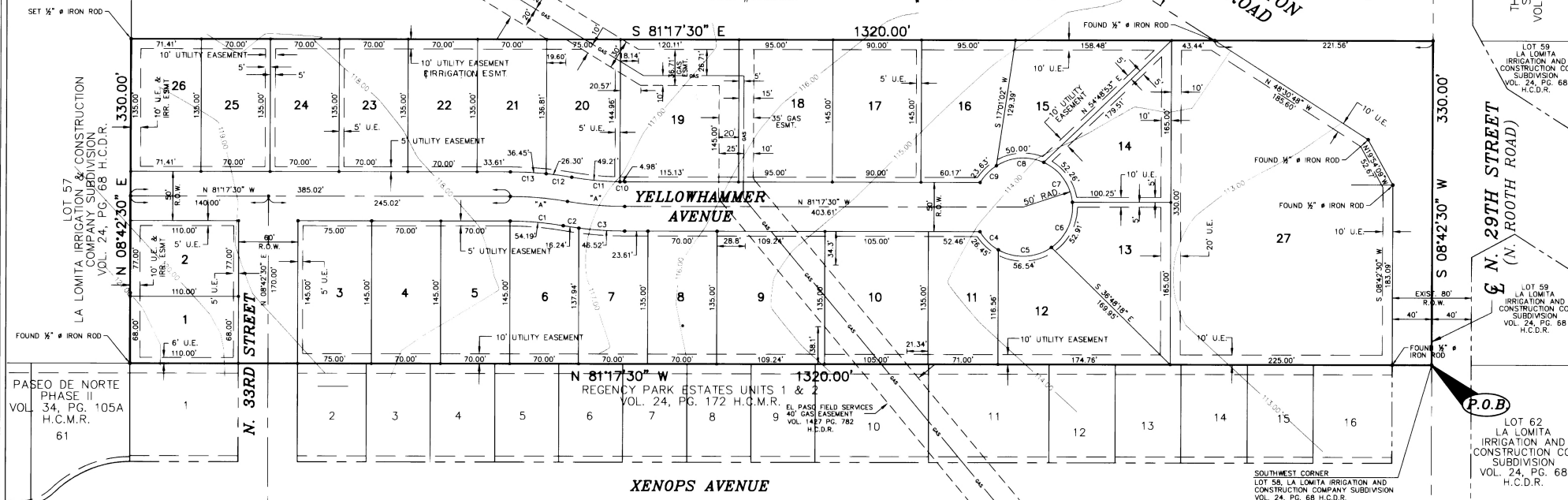
CARLOS VASQUEZ, R.P.L.S.  
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4608  
CVO LAND SURVEYORS  
2014 NORTH WARE ROAD  
MCALLEN, TEXAS 78501  
(956) 618-1151  
DATE SURVEYED: NOVEMBER 7, 2002

STATE OF TEXAS  
COUNTY OF HIDALGO

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEXAS WATER CODE 49.21(C). THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

BY: 10/6/03



STATE OF TEXAS  
COUNTY OF HIDALGO

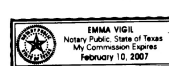
WE, THE UNDERSIGNED, HOLDER OF SECURITY INTEREST IN THE ABOVE DESCRIBED PROPERTY, BEING THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS ALMON ESTATES SUBDIVISION, OF THE CITY OF MCALLEN, TEXAS, DO HEREBY CONSENT TO THE SUBDIVISION OF THE PROPERTY AS PROVIDED FOR UNDER THE PLAT AND DO HEREBY THAT ANY FORECLOSURE RELATING TO THE SECURITY INTEREST ON THE ABOVE DESCRIBED PROPERTY SHALL BE SUBJECT TO THE PLATTING OF THE PROPERTY AS PROVIDED FOR HEREIN.

BANK NAME SIGNATURE TITLE

STATE OF TEXAS  
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, ON THIS DAY PERSONALLY APPEARED AND KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. ALL GIVEN UNDER MY HAND AND SEAL OF OFFICE

THIS THE 14<sup>th</sup> DAY OF August, 2003 A.D.



THIS PLAT APPROVED BY HIDALGO COUNTY IRRIGATION DISTRICT NO. 1, THIS 14<sup>th</sup> DAY OF August, 2003 A.D. NO IMPROVEMENTS OF ANY KIND SHALL BE PLACED ON HIDALGO COUNTY IRRIGATION DISTRICT NO. 1 RIGHT-OF-WAYS OR EASEMENTS WITHOUT THE EXPRESSED WRITTEN PERMISSION OF THE HIDALGO COUNTY IRRIGATION DISTRICT NO. 1.

SECRETARY PRESIDENT

METES AND BOUNDS DESCRIPTION

A TRACT OF LAND CONTAINING 10.00 ACRES, SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING A PART OR PORTION OF LOT 58, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION, MAP REFERENCE: VOLUME 24, PAGE 68, H.C.D.R. AND SAID 10.00 ACRES OF LAND ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHEAST CORNER OF SAID LOT 58 AND THE CENTERLINE OF 29TH STREET (NORTH ROTH ROAD), FOR THE SOUTHEAST CORNER OF THIS TRACT;

THENCE N 81° 17' 30" W, ALONG THE SOUTH LINE OF SAID LOT 58, AT A DISTANCE OF 20.00 FEET PASS THE WEST RIGHT-OF-WAY LINE OF SAID 29TH STREET, AND CONTINUING A TOTAL DISTANCE OF 1320.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 58, FOR THE SOUTHWEST CORNER OF THIS TRACT;

THENCE N 08° 42' 30" E, ALONG THE WEST LINE OF SAID LOT 58, A DISTANCE OF 330.00 FEET TO THE NORTHWEST CORNER OF THIS TRACT;

THENCE S 81° 17' 30" E, AT A DISTANCE OF 1300.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID 29TH STREET, AND CONTINUING A TOTAL DISTANCE OF 1320.00 FEET TO THE EAST LINE OF SAID LOT 58 AND THE CENTER LINE OF SAID 29TH STREET, FOR THE NORTHWEST CORNER OF THIS TRACT;

THENCE S 08° 42' 30" W, ALONG THE WEST LINE OF SAID LOT 58, A DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING, CONTAINING 10.00 ACRES OF LAND, OF WHICH 0.15 OF ONE ACRE LIES IN THE RIGHT-OF-WAY OF SAID 29TH STREET, LEAVING A NET OF 9.85 ACRES OF LAND, MORE OR LESS;

CURVE DATA				
No.	DELTA	RADIUS	TANGENT	LENGTH
C1	09°49'23"	316.05'	27.12'	54.14'
C2	02°32'31"	366.05'	8.12'	16.24'
C3	07°16'52"	366.05'	23.29'	46.54'
C4	30°18'47"	50.00'	13.54'	26.45'
C5	64°47'29"	50.00'	31.73'	56.54'
C6	60°38'05"	50.00'	29.24'	52.91'
C7	59°52'54"	50.00'	29.80'	52.26'
C8	57°17'58"	50.00'	27.32'	50.00'
C9	27°04'47"	50.00'	12.04'	23.63'
C10	00°54'09"	316.05'	2.49'	4.98'
C11	08°55'14"	316.05'	24.65'	49.21'
C12	04°07'02"	366.05'	13.16'	26.30'
C13	05°42'21"	366.05'	18.24'	36.44'

CENTERLINE CURVE DATA				
No.	DELTA	RADIUS	TANGENT	LENGTH
"A"	09°49'23"	341.05'	29.31'	58.47'

FILED FOR RECORD IN:  
HIDALGO COUNTY  
BY J.D. SALINAS, III  
COUNTY CLERK  
ON: 10-03 AT 4:08 AM  
AS A RECORDING NUMBER 1251741  
BY: [Signature] DEPUTY

Recorded in Volume 43, Page 38  
of the map records of Hidalgo  
County, Texas  
J.D. Salinas III  
County Clerk

DATE OF PREPARATION: NOVEMBER 12, 2002 DRAWN BY: A. O'CAÑA, JR., L. HERNANDEZ, & M. FONSECA

J E H JAVIER HINOJOSA ENGINEERING  
CONSULTING ENGINEERS  
416 E. DOVE AVENUE MCALLEN, TEXAS 78504  
PHONE (956) 668-1588



## Hidalgo CAD

### Property Search Results > 665662 MONTALVO MICHAEL & PAMELA for Year 2021

Tax Year: 2021

#### Property

##### Account

Property ID:	665662	Legal Description:	ALMON ESTATES LOT 19 & 20
Geographic ID:	A2681-00-000-0019-00	Zoning:	RS
Type:	Real	Agent Code:	
Property Use Code:			
Property Use Description:			

##### Location

Address:	3012 YELLOWHAMMER AVE TX	Mapsco:	
Neighborhood:	ALMON ESTATES	Map ID:	CML VOL 43 PG 138
Neighborhood CD:	A268100		

##### Owner

Name:	MONTALVO MICHAEL & PAMELA	Owner ID:	554946
Mailing Address:	3012 YELLOWHAMMER AVE MCALLEN, TX 78504-5528	% Ownership:	100.0000000000%
		Exemptions:	HS

#### Values

(+) Improvement Homesite Value:	+	\$169,674	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$121,120	
(+) Land Non-Homesite Value:	+	\$0	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
<hr/>			
(=) Market Value:	=	\$290,794	
(-) Ag or Timber Use Value Reduction:	-	\$0	
<hr/>			
(=) Appraised Value:	=	\$290,794	
(-) HS Cap:	-	\$30,094	
<hr/>			
(=) Assessed Value:	=	\$260,700	

#### Taxing Jurisdiction

#### Improvement / Building

Improvement #1:	RESIDENTIAL	State Code:	A1	Living Area:	2770.0 sqft	Value:	\$169,674
-----------------	-------------	-------------	----	--------------	-------------	--------	-----------



Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	STUGD - 8M	DSTU	1985	2329.0
MA2	MAIN 2ND FL	STUGD - 8M	DSTU	2003	441.0
GAR	GARAGE	*		2003	441.0
POR	PORCH (COVERED)	*		2003	24.0
POR	PORCH (COVERED)	*		2003	483.0
PAT	PATIO	*		2003	372.0
SWPA8M-8P	SWPA CL 8M-8P	STUGD - SWPA8M-8P		2009	100.0

## Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.6436	28037.00	0.00	0.00	\$121,120	\$0

## Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2021	\$169,674	\$121,120	0	290,794	\$30,094	\$260,700
2020	\$117,843	\$119,157	0	237,000	\$0	\$237,000
2019	\$124,852	\$112,148	0	237,000	\$0	\$237,000
2018	\$160,018	\$70,031	0	230,049	\$0	\$230,049
2017	\$160,633	\$70,031	0	230,664	\$0	\$230,664
2016	\$160,633	\$70,031	0	230,664	\$0	\$230,664
2015	\$161,284	\$70,031	0	231,315	\$0	\$231,315
2014	\$161,609	\$70,031	0	231,640	\$0	\$231,640
2013	\$165,062	\$70,031	0	235,093	\$0	\$235,093
2012	\$165,795	\$70,031	0	235,826	\$0	\$235,826
2011	\$158,666	\$70,031	0	228,697	\$0	\$228,697
2010	\$160,240	\$70,031	0	230,271	\$0	\$230,271
2009	\$146,813	\$36,574	0	183,387	\$0	\$183,387
2008	\$148,386	\$36,574	0	184,960	\$0	\$184,960
2007	\$164,429	\$44,411	0	208,840	\$0	\$208,840

## Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	5/5/2004	WDV	WARRANTY DEED/VENDORS LIEN	MONTALVO LEO	MONTALVO MICHAEL & PAMELA			1331110
2		CONV	CONVERSION	MORA CARMEN	MONTALVO LEO			

## Tax Due

Property Tax Information as of 03/09/2021

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax				Attorney Fees	Amount Due
------	---------------------	---------------	----------	--	--	--	---------------	------------



				<b>Base Taxes Paid</b>	<b>Base Tax Due</b>	<b>Discount / Penalty &amp; Interest</b>			
--	--	--	--	--------------------------------	-----------------------------	--	--	--	--

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

**Questions Please Call (956) 381-8466.**

Website version: 1.2.2.31

Database last updated on: 3/8/2021 9:12 PM

© N. Harris Computer Corporation





NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2021-0006



## CRITERIA FOR ZBOA DETERMINATIONS

### APPEALS

1. ZBOA may hear and decide appeals **where it is alleged there is error** in any order, requirement, decision or determination made by an administrative official **in the enforcement of Chapter 138** of the Code of Ordinances ("Zoning").
2. In conformity with the provisions of V.T.C.A., Local Government Code § 211.009 et seq. and Chapter 138 of the Code of Ordinances, the **ZBOA may reverse or affirm, wholly or partly, or may modify** the order, requirement, decision or determination appealed from.

### SPECIAL EXCEPTIONS

Authorized under Ord. Sec. 138-43 ("Powers") in the following instances:

1. Where the **street layout** actually on the ground varies from the street layout as shown on such maps.
2. To permit the **reconstruction of a nonconforming building** which has been damaged to the extent of more than 50 percent of its replacement cost.
3. To **waive or reduce the parking and loading requirements** whenever:
  - a. The character or use of the building is such as to make unnecessary the full provisions of parking or loading facilities, OR
  - b. Where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
4. To allow a change **from an existing nonconforming use to another nonconforming use** of a structure, or a structure and premises in combination, if:
  - a. No structural alterations are made, AND
  - b. The Board finds that the proposed nonconforming use is not more nonconforming in the district as the existing nonconforming use.

#### **Ord. Sec. 138-86. – GENERAL POLICY.**

The general public, the board of commissioners, and the planning board are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, wherever and whenever possible, except:

- (1) When necessary to preserve property rights established prior to the date the ordinance from which this article is derived became effective as to the property in question, and
- (2) When necessary to promote the general welfare and to protect the character of the surrounding property.



## VARIANCES

Authorized only when ALL of the following applies:

1. Owing to special conditions, a literal enforcement of Zoning Ordinance provisions would result in **unnecessary hardship**.
2. **Applicant proves** to the Board the following:
  - a. Land in question cannot yield a reasonable return if used only for a purpose allowed in that zone,
  - b. **Plight is unique** and not shared in general by others in the neighborhood, and
  - c. Variance will **not alter the essential character of the locality**.
3. Variance would **not merely serve as a convenience** to the applicant.
4. Variance must be in **harmony with purpose and intent of Zoning Ordinance**.
5. Variance would **not be contrary to the public interest**.
6. **Surrounding property is be properly protected**.
7. **The spirit of this Zoning Ordinance is observed and substantial justice done**.



Definitions

Table of Contents

**Chapter 138-Zoning .....1**

    Section 138-1 Definitions .....1

**Chapter 110-Vegetation .....6**

    Section 110-26 Definitions .....6



## Chapter 138-Zoning

### Sec. 138-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building, located on the same lot as the main building, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the property.

*Accessory use* means a use which is clearly incidental to and customarily found in connection with the principal use of the premises and which is located on the same lot as the principal use.

*Accessory use of building* means a subordinate use or structure customarily incident to and located on the lot occupied by the main use or structure and conforming with setback and other regulations concerning location.

*Alley* means a minor public right-of-way which is used primarily for vehicular and utility service access to the backs or sides of properties otherwise abutting on a public street.

*Apartment* means a room or suite of rooms located in a building with other such rooms or suites arranged, designed, or to be occupied as a residence by a family. (See Dwelling unit.)

*Associated recreation* means recreational uses which are an integral part of a common ownership or associated or high density residential development (example: homeowners' association with a private club or facility).

*Authorized agent* means an architect, builder, developer or other person empowered to act on behalf of such persons.

*Base station.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below, except for new base stations that are not eligible for Section 6409, need not be existing at the time of the application, nor does subsection 138-1.A(a)1.c. apply to a new base station.

*Boardinghouse* means a building other than a hotel where lodging and meals are provided for compensation.

*Building* means any structure designed to be built for the support, enclosure, shelter or protection of persons, animals, chattel or property of any kind. The word "building" includes the word "structure."

*Carrier on wheels or cell on wheels ("COW").* A portable self-contained mobile facility moved to a location and set up to provide wireless services on a temporary or emergency basis.

*Concealed or stealth design elements.* A design elements of any tower, base station or transmission equipment that allows it to be integrated as an architectural feature of a tower or base station or so that it is not readily apparent to a casual observer. It may be screened, disguised, concealed or otherwise camouflaged as a natural structure, structure or part of a structure so that it is not easily recognizable from other natural structures.

*Conditional use* means a use which may be suitable in certain locations in a zoning district if developed and operated under specific conditions and/or for a limited period of time.

*Depth of lot* means the mean horizontal distance between the front and rear lot lines. (See definitions of Front and Rear lot lines.)

*District* means a section of the city for which the regulations governing the areas, heights or uses of buildings are uniform.

*Dwelling unit* means any building or portion thereof which is designed for or used primarily for residential occupancy, but not including hotels, boardinghouses or mobile homes.

- (1) *Single-family* means a building designed for and/or occupied exclusively by one family as a separate dwelling unit.



- (2) *Duplex* means a building designed for and/or occupied exclusively by two families living independently of each other.
- (3) *Triplex* means a building designed for and/or occupied exclusively by three families living independently of each other.
- (4) *Fourplex* means a building designed for and/or occupied exclusively by four families living independently of each other.
- (5) *Multiple* means a building designed for and/or occupied exclusively by five or more families living independently of each other.

The determination of whether one family is living independent of another is based on one or more of the following criteria: separate sanitary facilities; separate kitchen facilities; separate entrances; or separate utilities.

*Eligible facilities request.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Eligible support structure.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Existing.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Family* means one or more persons living together as a single housekeeping unit with common sanitary and kitchen facilities.

*Garage, commercial* means a building or premises used for storage, repair, rental or servicing of motor vehicles.

*Garage, private* means an accessory building, attached or detached, designed or used for the storage of motor-driven vehicles owned and used only by the occupants of the building to which it is accessory.

*Guesthouse* means an accessory building designed for the temporary occupancy of guests of the primary dwelling for which there is no remuneration. "Maids' quarters" means a portion of a dwelling unit, within the same enclosure and not a separate accessory building attached to the primary building, that may contain separate sanitary and/or kitchen facilities which is designed for or used for residential occupancy by an employee of the primary residence.

*Height* means, for a building or portion of a building, the vertical distance from grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, and the mean height level between eaves and ridge for hip, gable or gambrel roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, mechanical rooms, tanks, water towers, radio towers, television antennas, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height. Heights authorized in this chapter are subordinate to the airport zoning ordinance, appendix A.

*Loading space* means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks and having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

*Lot* means an undivided tract or parcel of land having frontage on a public street, and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record. The word "lot" includes the word "plot."

- (1) *Corner lot* means a lot abutting upon two or more public streets at their intersection.
- (2) *Building coverage* means percentage of the lot that is occupied by the ground area of a building and its accessory buildings.
- (3) *Lot, double frontage* means a lot abutting on two nonintersecting public streets as distinguished from a corner lot.



- (4) *Lot lines* means the lines bounding a lot as defined in this section.
- a. *Front lot line* means the property line between the front yard and the contiguous street right-of-way boundary.
  - b. *Rear lot line* means the property line between the rear yard and the adjacent property or right-of-way, and contiguous with the legal boundary of such use.
  - c. *Side lot line* means the property between two adjacent lots or between the side yard and the contiguous street right-of-way boundary on corner lots.

*Lot of record* means a parcel of land which is part of a subdivision, the map or plat of which has been recorded in the office of the county clerk; or a tract of land not a part of an urban or town lot subdivision, the deed of which has been recorded in the office of the county clerk prior to October 15, 1973, which has not been divided since recording.

*Maneuvering space* means the space entirely on private property required for maneuvering vehicles in such a manner as to preclude the backing of any vehicle into any street right-of-way.

*Mobile home* means a movable or portable dwelling originally constructed to be towed, on its own chassis, by a motor vehicle over public roads.

*Mobile home and modular home park* means a unified development of five acres or more for mobile homes arranged on a tract of land owned by an individual or a single business entity for the purpose of renting or leasing lots, and meeting the requirements of chapter 122, article II of this Code.

*Mobile home and modular home subdivision* means a unified development of five acres or more for mobile homes arranged on a tract of land in such a manner as to provide an individual lot (see definition of Lot) for each of the mobile homes.

*Modular home* means a dwelling unit in which more than 50 percent of the structure is constructed at other than the construction site, brought to the site in modules, and set on a permanent foundation.

*Ornamental feature* means an addition to a structure designed to enhance the appearance of the structure, in compliance with all of the following criteria:

- (1) Any space occupied by or enclosed by the ornamental feature should not be included in or made a part of the air conditioned, heated, or enclosed portion of the structure;
- (2) The feature should serve no purpose or function for the structure other than ornamentation. The building should be equally functional without the feature as with the feature; and
- (3) The feature shall extend no further than 24 inches into a required yard.

*Parking area* means a space used exclusively for the parking of vehicles and where no other business is conducted.

*Parking space* means an area, not closer than six feet from the back edge of the curb, the width and length of which shall exceed by a minimum of two feet the dimensions of the type of vehicle normally to be parked in the space, and connected with a street or alley by a driveway affording satisfactory ingress and egress. The minimum dimension of a parking space shall be in accordance with the city off-street parking requirements in article VII of this chapter.

*Planned unit development (PUD)* means and includes a combination of different dwelling types and/or a variety of land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity, and which comply with the Planned Unit Development provisions of chapter 134, article IV of this Code.

*Portable building* means a temporary building that does not have a foundation and is transportable.

*Recreational vehicle or travel trailer* means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight feet and a body length not exceeding state maximums.



*Residential storage building* means any building, either portable or constructed onsite, utilized for storage purposes and not requiring plumbing and electrical wiring, and not used for living quarters.

*Restaurant* means a building or portion of a building where the primary business is the on-premises sale of prepared food, with adequate kitchen facilities for the preparation of the food to be sold, the adequacy of such kitchen facilities to be based upon the seating capacity of the restaurant and the type of menu offered, and where alcoholic beverages may be sold under the following conditions:

- (1) At least 51 percent of the gross income shall be derived from the sale of prepared food.
- (2) Any outside entrances, outside separate identification, outside signs or other separate advertising for lounge or bar areas shall be permitted only as an accessory or secondary feature of the restaurant.
- (3) Live entertainment may be permitted.
- (4) Whenever the director of planning on the basis of a sworn complaint from any person determines that a violation of this section exists, he may require any person serving alcoholic beverages as an incidental use to provide the city, within 30 days of notification, a verified audit for each quarter of the calendar year, showing the gross income derived from the sale of food.

*Retail* means the sale of goods directly to a consumer; engaged in, pertaining to or relating to the sale of merchandise at retail; or selling by individual items, or by the piece, directly to a consumer.

*Right-of-way line* means a dividing line between a lot, tract or parcel of land and the public right-of-way.

*Street* means a public or private thoroughfare which affords the principal means of access to abutting property, excluding alleys.

*Structural alteration* means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

*Structure* means anything constructed, erected or artificially built up; or composed of parts and joined together in a permanent manner.

*Substantial change.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Tower.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below, except for new towers that are not eligible for Section 6409, they need not be existing at the time of the application.

*Townhouse* means a single-family dwelling unit constructed in a series or a group of units having common walls, each on a separate lot.

*Transmission equipment.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Yard* means an open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in the definitions of "yard" set out in this section. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

- (1) *Front yard* means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the right-of-way line and wall of the main building or any projections thereof other than projections of the usual uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where corner lots may be square in dimension and/or have double frontage, in which case the front yard shall correspond to the lot's side adjacent to the longest block face in which it occurs and to which the majority of the existing structures front.



- (2) *Rear yard* means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than projections of uncovered steps, uncovered balconies or uncovered porches. On all lots, the rear yard shall be in the rear of the front yard.
- (3) *Side yard* means a yard between the main building and the side line of the lot, and being the minimum horizontal distance between a side lot line and the sides of the main buildings or any projections thereof.

(Code 1966, § 32-2; Ord. No. 1996-8, § I, 1-22-96; Ord. No. 1996-70, § I, 11-18-96; Ord. No. 1998-68, § 1, 2-27-98; Ord. No. 1999-69, § 1, 8-9-99; Ord. No. 2004-15, § 5, 2-9-04; Ord. No. 2015-38, § II, 5-11-15)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Footnotes:

--- () ---

**Note**— 47 U.S.C. § 332(c)(7)(C) Definitions. For purposes of this paragraph—(i) the term "personal wireless services" means commercial mobile services [cellular service], unlicensed wireless services, and common carrier wireless exchange access services..."; 47 U.S.C. § 332(d) ....(1) the term "commercial mobile service" means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;..."

--- () ---

**Note**— 47 U.S.C. § 332(c)(7)(C) Definitions for purposes of this paragraph... (ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services..."

## Chapter 110-Vegetation

### Sec. 110-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Buffer* means a screen constructed of wood, concrete block, masonry, a combination of wood and masonry, or landscape material with a chain link fence in such a manner that adjacent property is visually screened, and so that noise, solid waste or other objectionable influences will be avoided. Such buffer shall be perpendicular to the ground, a minimum of six feet in height, continuous and uninterrupted, and 100 percent opaque except where extraordinary circumstances exist where additional height will more adequately accomplish the desired end.

*Caliper* means the diameter of a tree measured 12 inches above the ground for trees up to and including eight inches in diameter and four and one-half feet above the ground for trees having a diameter of more the eight inches. The diameter of a multi-stem tree shall be measured at the point below branching or the sum of the two largest stems measured at four and one-half feet above the ground which ever is greater.



*Contiguous* means adjacent property whose property lines are shared, or are separated by only a street, alley, easement or right-of-way.

*Developed property* means that portion of a lot or parcel upon which a building, structure, pavement, or other improvements have been or are proposed to be placed.

*Diameter-at-breast-height (DBH)* means the tree trunk diameter measured in inches at a height of four and one-half feet (54 inches) above natural grade or the DBH measurement according to the latest edition of the Guide for Plant Appraisal as published by the Council of Tree and Landscape Appraisers, when the tree trunk branches out at a point lower than four and one-half feet.

*Frontage* means lineal distance measured along abutting street rights-of-way.

*Ground cover* means low growing plants planted in such a manner as to form a continuous cover over the ground, typical horizontal growth form with a maximum height of 24 inches, such as liriopse, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.

*Landscape material* means trees, shrubs, ground cover, vines or grass installed in planting areas, including but not limited to those installed for the purpose of fulfilling the requirements of this article.

*Landscape strip area* means a planting area within the property lines of specified width and parallel to a public street, excluding driveways for ingress and egress.

*Paved ground surface area* (also referred to in this article as paved area or paved ground area) means any paved ground surface area (excepting public rights-of-way) used for the purpose of driving, parking, storing or displaying of vehicles, boats, trailers and mobile homes, including new and used car lots and other open lot uses. Parking structures, covered drive-in parking areas to the drip line of the covering or garages shall not be considered as paved ground surface areas.

*Planting area* means an area intended or used for landscaping that has a minimum of 40 square feet of actual plantable area and an inside dimension on any side of at least 36 inches.

*Reconstruction* means rehabilitation or replacement of structures on nonresidential or multifamily property to an extent exceeding 50 percent of the assessed valuation of such structures as shown on the most recent tax roll of the city.

*Shrub* means any woody plant of relatively low height, having several stems arising from the base and lacking a single trunk.

*Stormwater detention facility* means an impoundment on a lot or parcel reserved for detaining and controlling the release of stormwater runoff as required by City of McAllen Drainage Policy.

*Street line* means that line separating the right-of-way from any adjacent property.

*Tree* means any self-supporting woody plant of a single trunk and of a species which normally grows to an overall mature height of a minimum of 15 feet in the lower Rio Grande Valley of the state.

*Vine* means any of a group of woody or herbaceous plants which may climb by twining, by means of aerial rootlets or tendrils, or which may simply sprawl over the ground or other plants.

*Xeriscape* means landscape methods which conserve water through the use of drought-tolerant plants and planting techniques.

(Code 1966, § 17 3/8 -4; Ord. No. 1993-88, § I, 12-13-93; Ord. No. 2006-118, § 1, 11-13-06; Ord. No. 2007-28, § 1, 3-26-07)

**Cross reference**— Definitions and rules of construction generally, § 1-2.



## Exceptions Cited within the Zoning Ordinance

### Exceptions pertaining to front yard setbacks:

1. Balconies opening upon fire towers not to exceed 5 feet (*Section 138-366 (d)*)
2. Balconies, uncovered (*Section 138-1, Yard (1)*)
3. Chimneys not to exceed 5 feet (*Section 138-366 (d)*)
4. Cornices up to 2 feet (*Section 138-366 (c)*)
5. Eaves up to 2 feet (*Section 138-366 (c)*)
6. Fence not to exceed 3 feet within 25 feet of a curb intersection in residential zones (*Section 138-367 (c)*)
7. Fire escapes, open or lattice-enclosed not to exceed 5 feet (*Section 138-366 (d)*)
8. Flues not to exceed 5 feet (*Section 138-366 (d)*)
9. Ornamental features up to 2 feet (*Section 138-366 (c)*)
10. Planting not to exceed 3 feet within 25 feet of a curb intersection in residential zones (*Section 138-367 (c)*)
11. Porches, uncovered (*Section 138-1, Yard (1)*)
12. Projections up to 2 feet (*Section 138-366 (c)*)
13. Pumps, filling station not less than 13 feet from the property line or 18 feet from the curb, whichever greater (*Section 138-367(d)*)
14. Pumps, gas and canopies not less than 9 feet from the property line or 10 feet from the curb, whichever greater (*Section 138-259*)
15. Pumps, islands not less than 13 feet from the property line or 18 feet from the curb, whichever greater (*Section 138-367(d)*)
16. Sills up to 2 feet (*Section 138-366 (c)*)
17. Stairways, outside not to exceed 5 feet (*Section 138-366 (d)*)
18. Steps, uncovered (*Section 138-1, Yard (1)*)
19. Structure not to exceed 3 feet within 25 feet of a curb intersection in residential zones (*Section 138-367 (c)*)

### Exceptions pertaining to rear yard setbacks:

1. Balconies opening upon fire towers not to exceed 5 feet (*Section 138-366 (d)*)
2. Balconies, uncovered (*Section 138-1, Yard (1)*)
3. Buildings, accessory may occupy no more than 30% (*Section 138-369*)
4. Carports, unenclosed abutting an alley may be built up to the rear property line within the R-3A and R-3C Districts (*Section 138-356, Footnote 5*)
5. Chimneys not to exceed 5 feet (*Section 138-366 (d)*)
6. Cornices up to 2 feet (*Section 138-366 (c)*)
7. Eaves up to 2 feet (*Section 138-366 (c)*)
8. Fire escapes, open or lattice-enclosed not to exceed 5 feet (*Section 138-366 (d)*)
9. Flues not to exceed 5 feet (*Section 138-366 (d)*)
10. Ornamental features up to 2 feet (*Section 138-366 (c)*)
11. Parking, unenclosed may occupy no more than 90% (*Section 138-369*)
12. Porches, uncovered (*Section 138-1, Yard (1)*)
13. Projections up to 2 feet (*Section 138-366 (c)*)
14. Sills up to 2 feet (*Section 138-366 (c)*)
15. Stairways, outside not to exceed 5 feet (*Section 138-366 (d)*)
16. Steps, uncovered (*Section 138-1, Yard (1)*)



Exceptions pertaining to side yard setbacks:

1. Balconies opening upon fire towers not to exceed 5 feet (*Section 138-366 (d)*)
2. Canopy, unenclosed and not less than 4 feet from the side lot line or 8 feet from a corner lot line (*Section 138-368 (d)*)
3. Chimneys not to exceed 5 feet (*Section 138-366 (d)*)
4. Cornices up to 2 feet (*Section 138-366 (c)*)
5. Eaves up to 2 feet (*Section 138-366 (c)*)
6. Fire escapes, open or lattice-enclosed not to exceed 5 feet (*Section 138-366 (d)*)
7. Flues not to exceed 5 feet (*Section 138-366 (d)*)
8. Ornamental features up to 2 feet (*Section 138-366 (c)*)
9. Porte-cochere, unenclosed and not less than 4 feet from the side lot line or 8 feet from a corner lot line (*Section 138-368 (d)*)
10. Projections up to 2 feet (*Section 138-366 (c)*)
11. Side yards can be reduced to 10% of the lot width provided the lot has a width less than 50 feet. However, no side yard shall be less than 3.5 feet (*Section 138-368 (f)*)
12. Sills up to 2 feet (*Section 138-366 (c)*)
13. Stairways, outside not to exceed 5 feet (*Section 138-366 (d)*)
14. Townhouses can be built up to the side property line with a firewall (*Section 138-356, Footnote 10*)

Exceptions pertaining to height measurements (*Section 138-1, Height*):

1. Chimneys
2. Cooling towers
3. Domes
4. Elevator bulkheads
5. Mechanical rooms
6. Ornamental cupolas
7. Parapet walls not exceeding four feet in height
8. Radio towers
9. Spires
10. Tanks
11. Television antennas
12. Water towers



## Exceptions as per Planning Department Policy

By policy the following are permitted:

1. AC Units
2. Clothes lines
3. Concrete slabs
4. Fire pits
5. Pergolas, arbors, and trellises as a landscape feature (legal opinion, 2009)
6. Playground equipment
7. Pool decks
8. Pool pumps
9. Portable grills
10. Sports equipment i.e. basketball hoop
11. Swimming pools prior to 2009 (legal opinion)
12. Umbrellas and patio furniture
13. Water features and fountains

Legal opinions:

1. In 2009 Assistant City Attorney Ignacio Perez made an interpretation to allow arbors, pergolas, and trellises within the required setbacks. The definition of landscape material is stated as trees, shrubs, ground cover, vines or grass installed in planting areas in Section 110-26 of the Vegetation Ordinance. The legal interpretation was if vines were allowed by code as a planting area and they cover vertical planes such as walls then the same logic could be applied to arbors, pergolas, and trellises as a planting area. Mr. Perez also cited Section 110-56 (g) of the Vegetation Ordinance stating architectural planters may be permitted to fulfill landscape requirements.
2. Prior to 2009 swimming pools were not considered a structure due to the fact they were constructed underground and the Zoning Ordinance defines a structure as anything constructed, erected or artificially built up or composed of parts and joined together in a permanent manner. However, an interpretation was made in 2009 to consider swimming pools as a structure to abide by setback requirements.



# **ZONING BOARD OF ADJUSTMENT AND APPEALS**

## **RULES AND PROCEDURES**

### **CITY OF MCALLEN**

**The McAllen Zoning Board of Adjustment and Appeals adopts the following Rules and Procedures (hereinafter “Rules”) to govern the substance of all board matters.**

#### **I. ORGANIZATION AND OFFICERS**

##### **A. Members**

The McAllen City Commission created the Zoning Board of Adjustment and Appeals (hereinafter referred to as “Board”) pursuant to Chapter 211 of the Texas Local Government Code and Chapter 138, Article II, Division 3 of the City of McAllen, Texas Code of Ordinances (the “City Code”). The Commission appoints the members for that Board under Section 211.008 of the Texas Local Government Code (the “Code”).

The Commission composed the Board to sit five (5) members. Each member serves a two-year term. The Commission may renew a member’s term for a maximum of three total consecutive terms. The Commission also appoints four (4) alternate members to serve in the absence of a regular board member. Alternate members serve just as regular members and are subject to the same rules as regular members, unless otherwise provided in these Rules, but do not vote except in the absence of a regular member.

##### **B. Officers**

The Board shall elect a Chair and a Vice Chair from its own regular members by majority vote. The Chair and Vice Chair each serve one year. The Board shall accept an Executive Secretary appointed by the McAllen Planning Department. The Board shall adopt an attorney advisor appointed by the McAllen Legal Department. The Board shall only accept the appointment of personnel under the condition each person remains the employee and charge of the City of McAllen, with no employment relationship to the Board.

##### **C. Duties and Officers**

The Chair shall preside over the Board, hold meetings of the Board, decide points of order, and dispense the business of the Board. The Chair may administer oaths, compel the attendance of witnesses, and issue subpoenas as per Section 211.008 of the Code. The Chair shall sign the minutes of board meeting after the minutes have been approved by the Board.

In the absence of the Chair, the Vice Chair, or in both their absences the most senior member, according to the member’s appointment date, shall dispense the duties of the Chair.



**ORDINANCE NO. 2018- 70**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCALLEN AT CHAPTER 138 ("ZONING"), ARTICLE VI ("SUPPLEMENTARY DISTRICT REGULATIONS"), DIVISION 3 ("LOTS AND YARDS"), BY ADDING PROVISIONS REGULATING CARPORTS AND GRANTING THE ZONING BOARD OF ADJUSTMENTS TO GRANT SPECIAL EXCEPTIONS THERETO; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY, AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.**

**WHEREAS**, the City of McAllen desires to establish rules and regulations relating to the construction and maintenance of carports within the City,

**WHEREAS**, the City Commission finds that it is in the public interest to delegate the authority to regulate carports to the Zoning Board of Adjustments,

**WHEREAS**, the City of McAllen seeks to protect the value of property located within the corporal limits of the City,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MCALLEN, TEXAS, THAT:**

**SECTION I:** The Code of Ordinances, City of McAllen, Chapter 138 ("Zoning"), Article VI ("Supplementary District Regulations"), Division 3 ("Lots and Yards") is hereby amended to read as follows:

**Sec. 138-371. – Special Exception for carports.**

- (a) The Zoning Board of Adjustment may grant a special exception to the minimum setback requirements for a carport when, in the opinion of the board:
  - (1) there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and



- (2) the carport will not have a detrimental impact on surrounding properties.
- (b) In determining whether to grant this special exception, the board shall consider the following factors:
  - (1) Whether the requested special exception is compatible with the character of the neighborhood.
  - (2) Whether the value of surrounding properties will be adversely affected.
  - (3) The suitability of the size and location of the carport
  - (4) The materials to be used in construction of the carport
- (c) Storage of items other than motor vehicles is prohibited in a carport for which a special exception has been granted under this subsection.
- (d) If the Zoning Board of Adjustmnet Grants a special exception as provided in this section, the site plan and the minutes of the Zoning Board of Adjustment meeting shall be officially recorded with Hidalgo County.
- (e) Any special exception granted under this chapter is granted solely to the applicant and may not be transferred, sold, inherited, bequeathed, or devised.
- (f) A new special exception shall be required upon any change or transfer in ownership of the underlying tract; a special exception granted to a previous applicant does not confer any right to any other individual or corporation to maintain the carport without approval from the Zoning Board of Adjustment.

**SECTION II:** The City Secretary of the City of McAllen is hereby authorized and directed to cause the caption of this ordinance to be published in a newspaper having general circulation in McAllen, Hidalgo County, Texas in accordance with the Code of Ordinances of the City of McAllen, Section 2-56. Publication of ordinances.

**SECTION III:** The City Secretary of the City of McAllen is hereby authorized and directed to cause the language in Chapter 38, Article VI, Division 3, the McAllen Code of Ordinances, as amended by Section I, hereinabove, to be published in the appropriate location in the said Code of Ordinances.

**SECTION IV:** This Ordinance shall be and remain in full force and effect from and



after its passage by the Board of Commissioners, and execution by the Mayor.

**SECTION V:** If any part or parts of this Ordinance are found to be invalid or unconstitutional by a court having competent jurisdiction, then such invalidity or unconstitutionality shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect, and to that extent this Ordinance is considered severable.

**CONSIDERED, PASSED and APPROVED** this 8<sup>th</sup> day of October, 2018, at a regular meeting of the Board of Commissioners of the City of McAllen, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**SIGNED** this 9<sup>th</sup> day October, 2018.

**CITY OF McALLEN**

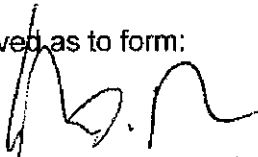
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM  
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney





## **II. POWERS OF THE BOARD**

### **A. General Powers**

The Board has those powers specified in Section 211.009 and 241.033 of the Code, and those powers granted by the City Commission under Chapter 138 (Zoning Ordinance) and Chapter 110 (Vegetation Ordinance) of the City Code, and those powers granted to the Board by ordinance.

### **B. Specified Powers**

As per city ordinance and state statute, the Board has those powers described in Section 211.009 of the Code and Section 138-43 of the City Code. Those powers described in Section 138-43 are:

1. Hear and decide appeals that allege an error in any order, requirement, decision or determination made by an administrative official or agency in the enforcement of applicable provisions of the Local Government Code, the City Ordinance;
2. Authorize variances to specific cases from the terms of the City Code as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of City Ordinance will result in unnecessary hardship, and so that the spirit of ordinances shall be observed and substantial justice done;
3. Grant special exception to waive or reduce parking and loading requirements whenever the character and use of the building is such as to make unnecessary the full provisions of parking or loading, or where such regulations would impose an unreasonable hardship upon the use of the lot; and
4. Hear and decide any other matters authorized by the City Commission through ordinance.

## **III. DUTIES OF BOARD MEMBERS**

### **A. General Duties of Members**

1. All members of the Board should attempt to inspect the premises of each case which is under consideration at each meeting and become generally familiar with each case prior to Board meetings.
2. All members shall attend all meetings, provided, however, the member must provide 72 hours prior notice to the Executive Secretary in the event the member cannot attend.
3. All members of the Board shall arrive at a logical and fair decision on each case, except where a conflict may preclude a vote on the case.

### **B. Disqualification/Conflict of Interest**

All members of the Board of Adjustment are subject to the City of McAllen Ethics Ordinance (Chapter 2 of the City Code).



In all cases before the Board where a member of the Board has a conflict as described in the Ethics Ordinance, the member shall refrain from any discussion, deliberation or vote. When applicable, the member shall complete and submit a City Conflict of Interest form, but in all cases alert the Executive Secretary at least 72 hours prior to the meeting on which the conflict is at issue. The Executive Secretary shall submit all notices of conflict to the City's attorney.

#### **IV. A BASIS FOR ACTION**

The Board shall decide each case based on the following:

1. Facts filed with application.
2. Testimony presented at the public hearing on the appeal.
3. The Planning Department's technical report on the appeal.
4. The Board's findings in its field inspection of the property may question all witnesses to assist the Board in arriving at a correct, logical and fair decision.
5. The applicable standards of review described in Section 138-43 of the City Code and Sections II.A., II.B. and VI. of these Rules.
6. All decisions shall be made on the Basis for Action. Neither the Board nor the individual members may use personal, first hand knowledge of any facts to make a determination, if such information has not been entered into the record or made available at the public hearing.

#### **V. APPLICANTS**

##### **A. Legally Vested Interest**

The Board shall not consider an application from any applicant who does not have a vested legal or equitable interest in the property in question. Applicants may appear on their own behalf or may be represented by counsel or agent. Any representation by someone other than an applicant must be accompanied with a written designation by the applicant for the agent to act on behalf of the applicant. (For example, the representative may produce a letter from the applicant to the Planning Department to authorize the representative to speak on behalf of the applicant; or, the representative may submit an application on behalf of a verifiable power of attorney.)

##### **B. Applications**

All applications for consideration by the Board must be on the prescribed form approved by the Planning Department and acceptable to the Board. The Board shall not consider applications for a variance or a special exception or any other Board action, if the application is not on a designated form. The Board shall approve the official application and the Chair shall implement it.

All applications for variances and special exceptions to commercial properties must be submitted with a current, valid "on the ground" survey. An applicant must submit a pauper form with their application if



they cannot proffer a valid survey; provided, however, the applicant illustrates their property with setbacks and encroachments as a survey would.

#### **C. Meetings**

Applicants have the right to be heard at all meetings where their applications are considered for a dispositive vote. Applicants not able to be present at the scheduled meeting to consider their application may submit to the Planning Department a written request for the Board to table the application. The Board will decide whether or not to grant the applicant's request to table. No application may be tabled at the request of applicant for more than two meetings prior to being considered for a dispositive vote. However, if the applicant requests for his/her application to be tabled because there are only four (4) board members present, such request shall not be counted against applicant's two (2) opportunities to table his/her request. Board action may proceed on any application despite the request of any applicant to table the application. The Board shall note on the record the reason(s) for the tabling of an agenda item. The reason(s) for each tabling, as well as the number of times an agenda item has been tabled, shall be reflected in an activity log in the meeting minutes at the end of each agenda item.

#### **D. Evidence**

Applicants should be prepared to present evidence necessary to prove their application. The burden of persuasion on seeking a remedy from the Board remains with the applicant at all times.

### **VI. HARDSHIP**

A. For an "unnecessary hardship" to apply to a variance, it must relate to the very property for which the variance is sought and be a condition unique, oppressive, and uncommon to other properties. An unnecessary hardship may not be self-created, or be solely financial.

B. "Hardship" must be based on hardship resulting from sharp changes in topography or unusual terrain features. The applicant may prove the topography with a plot plan which includes topographic information related to known base points or surveys, and profiles or particular problems involved, including relationships to topographic features of adjoining properties.

C. There is no unnecessary hardship if the property is suitable and useable for the uses permitted in the district in which it lies, although there will be a loss of profit or other economic disadvantage on account of such use.

### **VII. MEETINGS**

#### **A. Texas Public Information Act and Open Meetings Act.**

Except as permitted under the advice of the Board's attorney, all meetings of the Board are subject to the Texas Public Information Act and shall be open to the public. The minutes of the Board's meetings and records of its examination or other official actions are public records, unless excepted under law.



## **B. Quorum**

A quorum consists of seventy-five percent (75%) of the full complement of members. For a full complement of five (5) members, therefore, four (4) members present constitute a quorum. The Chair may declare a quorum does not exist fifteen (15) minutes following a posted meeting time, having found at least four (4) members and alternate members are not present; provided however, the Chair may not declare a quorum thirty (30) minutes from the posted time, should at least members and alternate members not be present.

## **C. Regular Meetings**

Regular meetings shall be held every first and third Wednesday at 5:30 P.M., or at other times as determined by the Board, in the City Commission Chambers. The Board by majority vote may change the place, day, and hour of the meetings; provided that, notice complies with the Texas Open Meetings Act (Chapter 511 of the Texas Government Code).

## **D. Special Meetings**

The Chair may call a special meeting. A special meeting shall have a lawful purpose and members and public shall be given at least seventy-two (72) hours notice prior to the meeting.

## **E. Order of Business**

The usual order of business shall be:

1. Call to Order
2. Approval of Minutes
3. Open Public Hearing
4. Other Statements
5. Introduction: New Information Recommendation
  - a) Presentation of recommendation by City Staff.
  - b) The Chair shall call the applicant or his representative(s) to present the case and answers any questions. If the applicant or representative is not present when called, the Chair may move a case to the end of the agenda.
  - c) The Chair shall then inquire if there are others who wish to address the Board in support of the case.
  - d) The Chair shall then inquire if there are those present who wish to address the Board who are opposed to the case.
  - e) The applicant or his representative may then give a rebuttal to any opposition.
  - f) If new facts are presented during this rebuttal, opposition shall be given the opportunity for rebuttal
  - g) Staff shall then have an opportunity to provide additional information, clarification or address questions from the Board.
  - h) Board discussion.
  - i) The Chair shall then declare that the discussion of the case is closed.



- j) In order to achieve an unambiguous decision, motions should be made in affirmative manner when possible.
- k) Any motion by a member shall require a second. After a motion has been made and duly seconded, discussion of the motion may be held for a reasonable time. Discussion shall terminate whenever a member shall call for a vote upon the question or whenever the Chair shall so rule.
- l) Vote on a motion.
- 6. The Chair may move a case out of regular agenda order.
- 7. Staff Report
- 8. Other Business posted on the Agenda
- 9. Adjournment

#### **F. Staff Recommendations**

City staff shall provide recommendations on each case before the Board.

#### **G. Action by the Board**

The super-majority concurring vote of seventy-five percent of the full board compliment, i.e., four affirming members of the Board, shall be necessary to reverse an order, requirement, decision or determination of an administrative official or agency; to decide in favor of an applicant on a matter upon which the Board is required to pass under any such ordinance or regulation; to authorize a variation; or to recommend to the Director of Planning to uphold or modify the interpretation of the City Code. All other matters shall be decided by a majority vote, unless otherwise specified in the City Code. The Board on its own motion may table an application when an applicant does not appear; provided however, in no case may the board table an application, for failure of the applicant to appear, more than twice without taking a dispositive vote.

#### **H. Minutes of the Board**

The Board, through its designated appointee, shall keep minutes of all meetings that indicate the vote of each member on every question on which it is required to act, or the fact that a member is absent or fails to vote. The minutes shall be filed in the office of the Planning Department and are public record.

### **VIII. DECISIONS OF THE BOARD**

#### **A. Precedent**

There is not precedent. Any one case does not set a precedent for any future case. Each case shall be decided on its own merits and upon the circumstances of the case.

#### **B. Public Statements**

No Board member shall release any official statement to the public or the press. Only the Director of the Planning Department or her designated representative may make official statements on behalf of the Board.



**B. Parliamentary Procedure**

Any question regarding parliamentary procedure not covered by these rules shall be decided according to the latest edition of Robert's Rules of Order.

**IX. WITHDRAWAL OF APPEAL**

Any appeal or application may be withdrawn by the applicant upon written notice to the Director of Planning.

**X. ATTENDANCE**

Excessive absences cannot be tolerated, as the Board depends on a super majority of attendance in order to exercise decisions on applications for a variance. Three absences or more in a six-month period are excessive. If a Board member is excessively absent from regularly scheduled meetings, the Board may recommend to City Commission, by majority vote, that the Commission appoint an immediate replacement.

**XI. AMENDEMENT PROCEDURE**

Amendment to these rules and procedures may be made by the Board at any meeting, upon the affirmative vote of five (5) members, provided any such amendment is proposed at a preceding meeting and entered into the minutes of such meeting. However, board members may adopt through unanimous consent of all members an amendment at the meeting at which it was introduced; provided, however, the amendment shall not become effective until the next regular meeting.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014 as affirmed by the designated Executive Secretary assigned by the Planning Department of the City of McAllen.

\_\_\_\_\_  
**Executive Secretary**



## 2021 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/06/21	01/20/21	02/03/21	02/17/21	03/03/21	03/17/21	04/07/21	04/21/21	05/05/21															
ERICK DIAZ- <b>CHAIRPERSON</b>	P	P	P	P	P	P																		
JOHN MILLIN- <b>VICECHAIRPERSON</b>	P	A	P	P	P	P																		
SYLVIA HINOJOSA	P	P	P	A	P	P																		
JOSE GUTIERREZ	P	P	P	P	P	P																		
JUAN F. JIMENEZ	P	A	P	P	P	A																		
ANN TAFEL (ALT 1)	P	P	P	P	P	P																		
HUGO AVILA (ALT 2)	P	P	P	P	P	A																		
REBECCA MILLAN (ALT 3)	P	P	P	P	P	P																		
ROGELIO RODRIGUEZ (ALT 4)	A	P	P	P	P	P																		

P - PRESENT

A - ABSENT

☐ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION









# PLANNING DEPARTMENT

311 N 15th Street McAllen, TX 78501  
Phone: 956-681-1250 Fax: 956-681-1279



## 2021 CALENDAR

### Meetings:

-  City Commission
-  Planning & Zoning Board
-  Public Utility Board
-  Zoning Board of Adjustment
- HPC - Historic Preservation Council

### Deadlines:

D- Zoning/CUP Application N - Public Notification

\* Holiday - Office is closed

### JANUARY 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1 HOLIDAY	2
3	4 A-1/19 & 1/20	5	6 N-1/19 & 1/20 D-2/2 & 2/3	7	8	9
10	11	12	13	14	15	16
17	18 A-2/2 & 2/3	19	20 HPC N-2/2 & 2/3 D-2/16 & 2/17	21	22	23
24	25	26	27	28	29	30
31						

### FEBRUARY 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 A- 2/16 & 2/17	2	3 N- 2/16 & 2/17 D- 3/2 & 3/3	4	5	6
7	8	9	10	11	12	13
14	15 A-3/2 & 3/3	16	17 N-3/2 & 3/3 D-3/16 & 3/17	18	19	20
21	22	23	24 HPC	25	26	27
28						

### MARCH 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 A-3/16 & 3/17	2	3 N-3/16 & 3/17 D-4/6 & 4/7	4	5	6
7	8	9	10	11	12	13
14	15	16	17 D-4/20 & 4/21	18	19	20
21	22 A-4/6 & 4/7	23	24 HPC N-4/6 & 4/7	25	26	27
28	29	30	31			

### APRIL 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2 HOLIDAY	3
4	5 A-4/20 & 4/21	6	7 N-4/20 & 4/21 D-5/4 & 5/5	8	9	10
11	12	13	14	15	16	17
18	19 A- 5/5 & 5/6	20	21 HPC N- 5/4 & 5/5 D-5/18 & 5/19	22	23	24
25	26	27	28	29	30	

### MAY 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3 A- 5/18 & 5/19	4	5 N-5/18 & 5/19	6	7	8
9	10	11	12	13	14	15
16	17 A-6/18 & 6/2	18	19 N-6/1 & 6/2 D-6/16 & 6/17	20	21	22
23	24	25	26 HPC	27	28	29
30	31 HOLIDAY					

### JUNE 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2 N-6/16 & 6/17 D-7/1 & 7/7	3	4	5
6	7	8	9	10	11	12
13	14	15	16 D-7/15 & 7/21	17	18	19
20	21 A-7/1 & 7/7	22	23 HPC N-7/1 & 7/7	24	25	26
27	28	29	30			

Deadlines and Meeting Dates are subject to change at any time. Please contact the Planning Department at (956) 681-1250 if you have any questions.





# PLANNING DEPARTMENT

311 N 15th Street McAllen, TX 78501  
Phone: 956-681-1250 Fax: 956-681-1279



## 2021 CALENDAR

### Meetings:

- City Commission
- Planning & Zoning Board
- Public Utility Board
- Zoning Board of Adjustment
- HPC - Historic Pres Council

### Deadlines:

- D- Zoning/CUP Application
- N - Public Notification

\* **Holiday** - Office is closed

### JULY 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
					A-7/20 & 7/21	
4	5 <b>HOLIDAY</b>	6	7 N-7/20 & 7/21 D-8/4 & 8/5	8	9	10
11	12 	13 	14	15	16	17
18	19 A-8/4 & 8/5	20	21 <b>HPC</b> N-8/4 & 8/5 D-8/18 & 8/19	22	23	24
25	26 	27 	28 N-8/18 & 8/19	29	30	31

### AUGUST 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3	4 N- 8/18 & 8/19 D-9/1 & 9/2	5	6	7
8	9 A- 8/18 & 8/19	10 	11	12	13	14
15	16 A-ZBA 9/1	17	18 N-ZBA 9/1 D-9/16 & 9/17	19	20	21
22	23 A-PZ 9/7	24 	25 <b>HPC</b> N-PZ 9/7	26	27	28
29	30 A-ZBA 9/15	31				

### SEPTEMBER 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 N-ZBA 9/15 D-10/5 & 10/6	2	3 A-PZ 9/21	4
5	6 <b>HOLIDAY</b>	7	8 N-PZ 9/21	9	10	11
12	13 	14 	15 D-10/19 & 10/20	16	17	18
19	20 A-10/5 & 10/6	21	22 <b>HPC</b> N-10/5 & 10/6	23	24	25
26	27 	28 	29	30		

### OCTOBER 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6 N-10/19 & 10/20 D-11/2 & 11/3	7	8	9
10	11 A-10/19 & 10/20	12 	13	14	15	16
17	18 A- 11/2 & 11/3	19	20 N- 11/2 & 11/3 D-11/16 & 11/17	21	22	23
24	25 	26 	27 <b>HPC</b>	28	29	30
31						

### NOVEMBER 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3 N-11/16 & 11/17 D-12/1 & 12/7	4	5	6
7	8 	9 	10	11	12	13
14	15 A-ZBA 12/1	16	17 N-ZBA 12/1 D-PZ-12/21	18	19	20
21	22 A-PZ 12/7	23 	24 N-PZ 12/7	25 <b>HOLIDAY</b>	26	27
28	29 A-ZBA 12/15	30				

### DECEMBER 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			<b>HPC</b> N-ZBA 12/15 D-1/4 & 1/5	2	3	4
5	6 A-PZ 12/21	7	8 N- PZ 12/21	9	10	11
12	13 	14 	15 D-1/18 & 1/19	16	17	18
19	20 A- 1/4 & 1/5	21	22 N- 1/4 & 1/5	23 <b>HOLIDAY</b>	24 <b>HOLIDAY</b>	25
26	27	28	29	30	31 <b>HOLIDAY</b>	

Deadlines and Meeting Dates are subject to change at any time. Please contact the Planning Department at (956) 681-1250 if you have any questions.