

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, FEBRUARY 22, 2023 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR

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 Jose Gutierrez

#### 1. MINUTES:

- a) Minutes for the meeting held on February 8, 2023

#### 2. PUBLIC HEARINGS:

- a) Request of Cesar Martinez for a variance to the City of McAllen Zoning Ordinance to allow:  
1) an encroachment of 7 feet into the 25-foot front yard setback for a garage, and 2) an encroachment of 10 feet into the 25-foot front yard setback for a proposed single-family residence at Lot P1, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 13321 Atlas Peak Court. **(ZBA2023-0005)**
- b) Request of Heriberto Padron, Jr. for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 25 feet rear yard setback on a double-fronting Lot for a proposed swimming pool measuring 16 feet by 26 feet at Lot 7, Vine Ridge Estates Subdivision, Hidalgo County, Texas; 3520 Upas Avenue. **(ZBA2023-0006)**
- c) Request of Nora Lisa Lozano on behalf of Cesar A. Flores for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 10 feet sideyard setback along North 16th Street for a proposed metal carport measuring 23 feet by 23 feet at Lot 22 Less the East 5 feet, Sycamore Heights Subdivision, Hidalgo County, Texas; 1509 Sycamore Avenue. **(ZBA2023-0009)**
- d) Request of Sylvia Yolanda Garza for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 30 feet front yard setback for a proposed metal carport measuring 12 feet by 18 feet, at Lot 4, Silvestre Garza Subdivision, Hidalgo County, Texas; 705 North 29th Street. **(ZBA2023-0004)**
- e) Request of David T. Marroquin for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 10 feet rear yard setback for an existing metal carport measuring 23.83 feet by 16.16 feet, at Lot 64, Las Villas Subdivision Unit No. 2, Hidalgo County, Texas; 100 East Kerria Avenue. **(ZBA2022-0132)**
- f) Request of Oscar Cancino on behalf of Marissa Cantu (property owner) for the following Special Exception and Variance requests to the City of McAllen Zoning Ordinance to allow:  
1) an encroachment of 3.04 feet into the 10 feet rear yard setback for an existing metal carport measuring 23.66 feet by 24.66 feet, and 2) A Variance to allow an encroachment of 5.5 feet into the 7 feet south side yard setback for an existing metal storage building measuring approximately 5 feet by 19.2 feet, at Lot 4, Block 7, North McAllen Subdivision, Hidalgo County, Texas; 709 North 16th Street. **(ZBA2023-0003)**

- g) Request of Jose M. Guerra for the following Variance requests to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 6 feet into the 6 feet north side yard setback for an existing metal porch measuring 6 feet by 37 feet, and **2)** to allow an encroachment of 6 feet into the 6 feet south side yard setback for an existing triangular shaped metal porch, at Lot 161, Gardenia Terrace No. 12 Subdivision, Hidalgo County, Texas; 5912 North 35th Street. **(ZBA2022-0113)**
- h) Request of David Omar Salinas on Behalf of Maria Eugenia Zabaleta (owner) for the following Variance request to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 10 parking spaces for proposed commercial use at Lot 8, Floyd Bennet Subdivision, Hidalgo County, Texas; 1605 North 6th Street. **(ZBA2022-0118) (TABLED: 12/21/2022) (TABLED: 01/05/2023) (REMAIN TABLED: 01/18/2023, 02/08/2023)**
- i) Request of Luis D. Waldo on Behalf of Rene Castellanos (owner) for the following Variance request to the City of McAllen Vegetation Ordinance to allow the required landscaped area to be synthetic grass instead of natural grass at Lot 17, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 3817 Cosentino Drive. **(ZBA2022-0126) (TABLED: 12/21/2022) (REMAIN TABLED: 01/05/2023, 01/18/2023, 02/08/2023)**

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

- a) 909 North Jackson Road
- b) 1800 Dove Avenue
- c) 2400 North 46th Street
- d) 120 South 4th Street
- e) 3405 Vendome Avenue
- f) 2716 Lucille Avenue

### **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 ZONING BOARD OF ADJUSTMENTS AND APPEALS 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, February 8, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:**

<b>Present:</b>	<b>Sylvia Hinojosa Jose Gutierrez Ann Tafel Hugo Avila Sam Saldivar</b>	<b>Chairperson Vice-Chairperson Member Member Alternate</b>
<b>Absent:</b>	<b>Rogelio Rodriguez Juan Mujica</b>	<b>Member Alternate</b>
<b>Staff Present:</b>	<b>Austin Stevenson Edgar Garcia Rodrigo Sanchez Omar Sotelo Katia Sanchez Adriana Solis Samantha Trevino Porfirio Hernandez Julian Hernandez Carmen White</b>	<b>Assistant City Attorney Planning Director Senior Planner Senior Planner Planner II Planner II Planner I Planning Technician II Planning Technician I Administrative Assistant</b>

**CALL TO ORDER –Chairperson Sylvia Hinojosa**

**1. MINUTES:**

- a)** Minutes for the special meeting held on January 18, 2023.

The minutes for the special meeting held on January 18, 2023 were approved. The motion to approve the minutes were made by Vice-Chairperson Jose Gutierrez. Ms. Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

**As per Chairperson Sylvia Hinojosa’s suggestion, the following items had been recommended for approval by staff. They are as follows:**

**2. PUBLIC HEARINGS:**

- a)** Request of Jesus Amaya for a special exception to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 23 feet into the 25 feet front yard setback for an existing carport measuring 19 feet by 16.67 feet and **2)** an encroachment of 4 feet into the 25 foot front yard setback for an existing porch measuring 4 feet by 23 feet at Lot 112, Idela Park Unit No. 1 Subdivision, Hidalgo County, Texas; 2732 Norma Avenue. **(ZBA2022-0134)**
- b)** Request of Michael Steven Deck for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of: **1)** 25 feet into the 25 feet front yard

setback including overhang and **2)** 6 feet into the 6 feet west side yard setback for an existing metal carport measuring 28 feet by 22 feet at Lot 34, Olivarez Subdivision Unit No. 4, Hidalgo County, Texas; 3005 Sycamore Avenue. **(ZBA2022-0137)**

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Mr. Sam Saldivar **moved** to approve the previously outlined special exceptions as per staff's recommendation, limited to the submitted plans correspondent to each item. Mr. Hugo Avila seconded the motion. The Board voted to approve with five members present and voting.

- c) Request of Manuel Ramirez and Juana Ramirez for the following Variance request to the City of McAllen Zoning Ordinance to allow an encroachment of 9 feet into the 25-foot front yard setback for the construction of a house, at Lot 2, Ramirez Subdivision to McAllen, Hidalgo County, Texas; 2420 South 25th Street. **(ZBA2023-0007)**

Ms. Solis stated the applicant was requesting a variance to allow an encroachment of 9 feet into the 25 feet front yard setback to accommodate construction of a proposed single-family residence as it is an irregular lot.

The subject property was located at the west side of 25<sup>th</sup> street. The property was 740 feet west of 23<sup>rd</sup> street, for a lot size of approximately 10,890 square feet. The surrounding land use was single-family residential with a commercial use to the east along 25<sup>th</sup> street.

The plat for Ramirez Subdivision was recorded October 31, 2006. A building permit application for the proposed residence had not yet been submitted. The applicant submitted the variance request on January 17, 2023.

Approval of the variance request would allow an encroachment of 9 feet into the 25 feet front yard setback for the construction of a house. The front yard setback will be 16 feet. The submitted site plan showed that a single-family residence was to be built on the property. The applicant stated proposed site plan and square footage does not coincide with required front yard setback. The subject property was an irregular lot. Upon the site visit, subject property was identified as a cul-de-sac. Cul-de-sac lots often seek a variance for front yard setbacks.

If the variance request was approved, the applicant must comply with all other building and zoning ordinance requirements, including requirements from the vegetation ordinance (landscaping) and the off-street parking ordinance.

A review of Planning Department records did not reveal any approved special exceptions or variances in the immediate area.

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

Staff recommended approval of the variance request. If the Board grants approval of the request, it should be limited to the encroachment of 9 feet into the 25 feet front yard setback shown on the submitted site plan. The proposed encroachment will not alter the essential character of the neighborhood.

Mr. Edson Ramirez, the applicant stated he had made some adjustments as requested to make sure everything fell into place.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was one in opposition of the variance request.

Mr. Francisco Luna, 2500 Yuma Avenue, asked if the construction of the applicant was going to affect his property. Chairperson Hinojosa explained that a letter was always sent to the neighbors within the 200 ft. radius to inform them of any type of construction that is being requested. It would not affect his property in any way, shape, or form. Ms. Hinojosa sent onto to say everyone that comes before the Board need to speak with the City to acquire the proper permits.

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

- d) Request of Mireya Espinoza for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 25-foot front yard setback for a proposed single family home, at the North 131' Lot 1, Block 6, Bryan's Addition Subdivision, Hidalgo County, Texas; 208 North 4th Street. **(ZBA2022-0135)**  
**WITHDRAWN**

- e) Request of David Omar Salinas on Behalf of Maria Eugenia Zabaleta (owner) for the following Variance request to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 10 parking spaces for proposed commercial use at Lot 8, Floyd Bennet Subdivision, Hidalgo County, Texas; 1605 North 6<sup>th</sup> Street. **(ZBA2022-0118) (TABLED: 12/21/2022) (TABLED: 01/05/2023)**

**This item was to remain tabled per the applicant until the next meeting.**

- f) Request of Luis D. Waldo on Behalf of Rene Castellanos (owner) for the following Variance request to the City of McAllen Vegetation Ordinance to allow the required landscaped area to be synthetic grass instead of natural grass at Lot 17, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 3817 Cosentino Drive. **(ZBA2022-0126) (TABLED: 12/21/2022) (REMAIN TABLED: 01/05/2023, 01/18/2023)**

**This item was to remain tabled until the next meeting.**

### **3. DISCUSSION:**

- a) Election of Officers

Ms. Ann Tafel nominated Vice-Chairperson Jose Gutierrez for Chairperson. Mr. Hugo Avila seconded the nomination with all members present and voting.

Ms. Ann Tafel nominated Chairperson Sylvia Hinojosa for Vice-Chairperson. Mr. Hugo Avila seconded the nomination with all members present and voting.

**4. FUTURE AGENDA ITEMS:**

- a) 5912 North 35<sup>th</sup> Street
- b) 100 East Kerria Avenue
- c) 709 North 16<sup>th</sup> Street
- d) 705 North 29<sup>th</sup> Street
- e) 13321 Atlas Court
- f) 3520 Upas Avenue
- g) 1509 Sycamore Avenue

**ADJOURNMENT**

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

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Chairperson Sylvia Hinojosa

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Carmen White, Administrative Assistant

## Planning Department

### Memo

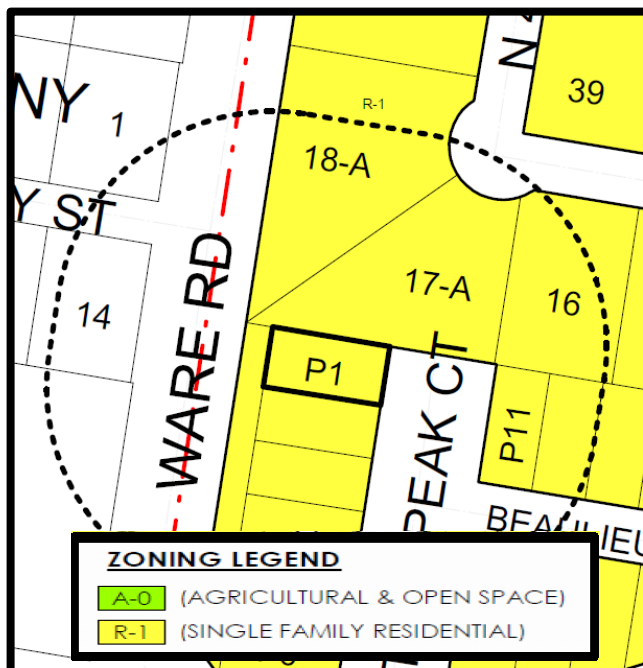
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** February 8, 2023

**SUBJECT:** REQUEST OF CESAR MARTINEZ FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 7 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR A GARAGE, AND 2) AN ENCROACHMENT OF 10 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR A PROPOSED SINGLE-FAMILY RESIDENCE AT LOT P1, VINEYARD ESTATES SUBDIVISION PHASE 1A, HIDALGO COUNTY, TEXAS; 13321 ATLAS PEAK COURT. (ZBA2023-0005)

**REASON FOR APPEAL:** The applicant is requesting a variance to allow a proposed single family dwelling to encroach 10 feet into the 25 feet front yard setback, and 7 feet into the 25 feet front yard setback for a garage. Since the subject property will be undergoing an involuntary right-of-way dedication along the rear yard in the near future, the applicant thinks that he will not have the adequate space afterward to build a standard residence.



**PROPERTY LOCATION AND VICINITY:** The vacant subject property is located along the west side of Atlas Peak Court. According to the subdivision plat, the property has frontage of 54.74 feet along Atlas Peak Court, with a total lot size of 6,093 square feet. The subject property is zoned R-1 (single family residential) District. The surrounding land use is single-family residential.

**BACKGROUND AND HISTORY:** The Vineyard Estates Subdivision Phase 1A plat was recorded on September 28, 2012. The application for the variance request was submitted on August 11, 2022. A building permit application has not been submitted.

**ANALYSIS:** Approval of this variance request will allow encroachments of 10 feet and 7 feet into the 25 feet front yard setback for a proposed one-story residence and a built-in garage, respectively.

According to the subdivision plat, Lot P1 has two 10-foot utility easements that run along the rear and north side property lines. The requested encroachments are due in part to these easements that restrict the buildable width and length of the proposed residence. Lots to the south of the subject property (Lots P2 to P6) are not restricted in this way. The Lot appears to be located within a cul-de-sac road, however the front yard property line is not curved or listed within the Subdivision Plat's Curve Table for cul-de-sac lots. The property does not have access to an alley.

The applicant has informed staff that the subject property has received notice of an involuntary right-of-way dedication to the State of Texas. The dedication, according to applicant, will be taking place in 2024. According to the submitted site plan, this dedication will be removing 511.74 square feet from his rear yard property. After all applicable minimum building setbacks and easements are applied after the dedication, the applicant will essentially have 5,530.26 square feet of buildable area within his lot. Moreover, the applicant has informed staff that he may have to request a variance in the future to the rear yard setback after the dedication has been completed. This would allow the applicant to build a one-story residence similar in size to adjacent residences within the subdivision.

A review of Planning Department records did not reveal any similar variances or special expectations that have been approved in the subdivision.

If the variance request is approved, the applicant must comply with all other building and zoning ordinance requirements, including but not limited to, the off-street parking and loading ordinance and the vegetation ordinance (i.e., required parking spaces and landscaping).

Staff has not received any phone calls, emails, or letters in opposition of this request.

**RECOMMENDATION:**

Staff recommends approval of the variance request.



ZBA 2023-0005

ZBA  
2/2/2023

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	<u>Lot P1, Vineyard Estater Subdivision Ph 1A</u>		
	Subdivision Name	<u>Vineyard Estater Ph 1A</u>		
	Street Address	<u>13321 Atlas Peak Court, McAllen, TX.</u>		
	Number of lots	<u>1</u>	Gross acres	<u>0.14</u>
	Existing Zoning	<u>R-1</u>	Existing Land Use	<u>VACANT</u>
	Reason for Appeal (please use other side if necessary)	<u>Requesting a 5' rear setback &amp; 15' front setback w/ 18' Garage front setback.</u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
Applicant	Name	<u>Cesar Martinez</u>	Phone	<u>956-457-0778</u>
	Address	<u>541 E Hackberry Ave</u>	E-mail	<u>cmtz84@icloud.com</u>
	City	<u>Alamo</u>	State	<u>TX</u>
	Zip	<u>78516</u>		
Owner	Name	<u>Cesar Martinez</u>	Phone	<u>956-457-0778</u>
	Address	<u>541 E Hackberry Ave.</u>	E-mail	<u>cmtz84@icloud.com</u>
	City	<u>Alamo</u>	State	<u>TX</u>
	Zip	<u>78516</u>		
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<u>Cesar Martinez</u>	Date	<u>1-11-23</u>
	Print Name	<u>Cesar Martinez</u>	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Authorized Agent
Office	Accepted by	<u>K/F</u>	Payment received by	<u>                    </u>
	Date	<u>                    </u>		

Rev 09/20

JAN 11 2023

BY:

cw

Q/S



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

\*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)

\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

Due to partial land being acquired by TxDOT. I, the owner of the property request a variance on the rear setback of 5' from the new property line.

Since its a cul-de-sac lot, a second variance of 15' front setback w/ 18' garage setback.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

Intention of keeping a single-story structure and requiring the requested setbacks to fit desired square footage.

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:

Staying within original setbacks And w/ more than 5' from new property line.

4. Describe special conditions that are unique to this applicant or property:

Portion to be acquired by TxDOT: 0.0117 acres (509 sq.ft.)

Depth of Acquisition: 9.13' lineal feet (South) 9.06' lineal ft (North)

Length of Acquisition: 56.04' lineal feet.

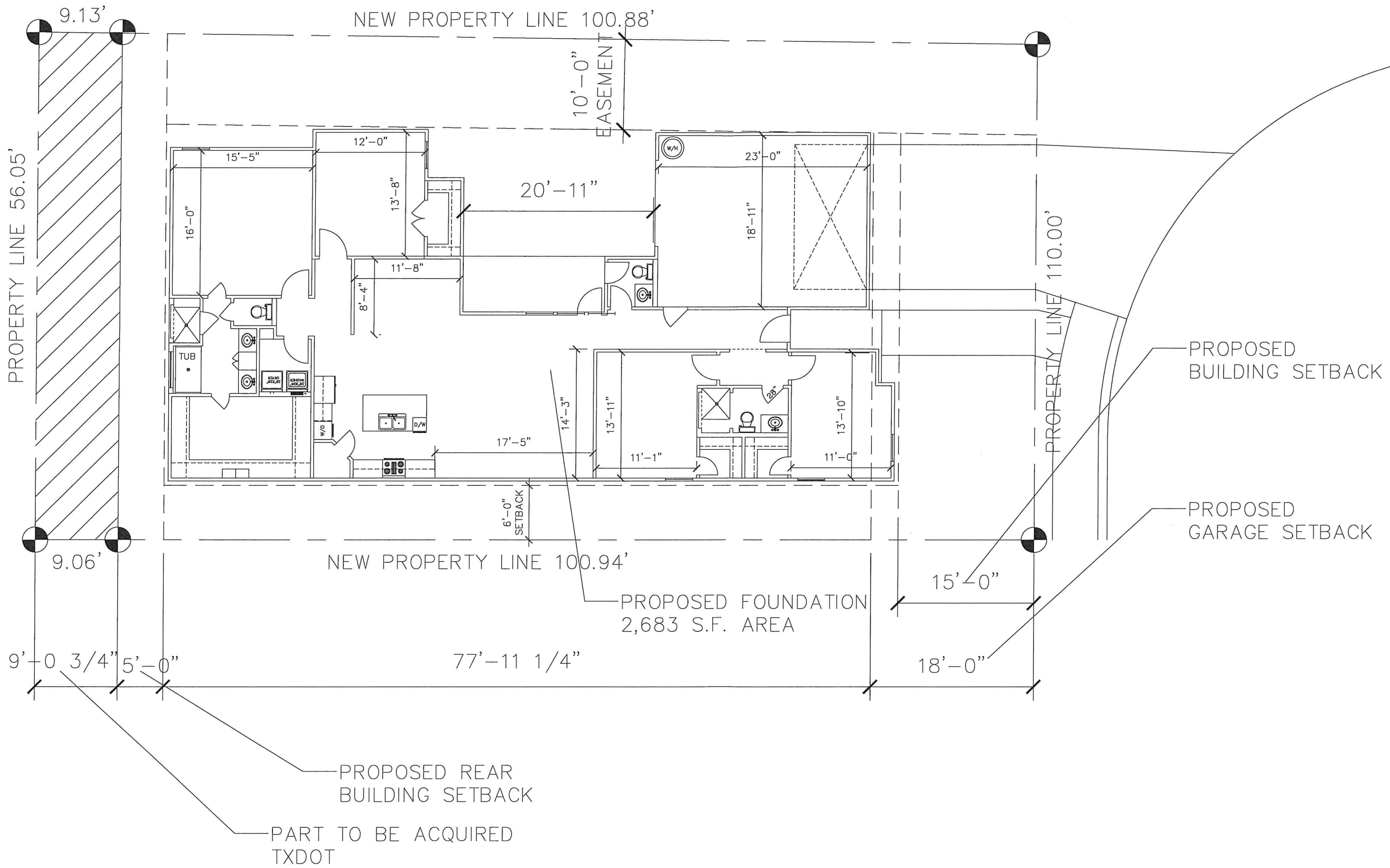
Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

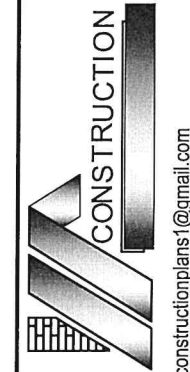
Date





PROJECT: PROPOSED SITE PLAN  
LOT P1 VINEYARD ESTATES PH#1 SUB'D  
MCALLEN, TEXAS

Consulting Services  
Project Supervision Management  
Construction Plans, , Foundation  
Plans, Manual J, ResCheck, and  
City Permits.



DRAFTING SERVICES  
PROJECT #: 2022-213  
DATE: 11/24/2022  
DRAWN BY: Mr. Ramos  
McALLEN, TEXAS 78501

REVISION:  
1:  
2:  
3:  
4:

# MAP OF VINEYARD ESTATES SUBDIVISION PHASE 1A

BEING A PRIVATE SUBDIVISION OF 502.48 ACRES  
OUT OF VINEYARD ESTATES SUBDIVISION PHASE I  
AS RECORDED IN VOL. 52, PG. 68, H.C.M.R.  
CITY OF McALLEN  
HIDALGO COUNTY, TEXAS

SEE SHEETS 2, 3, 4 & 5 OF 5  
FOR OWNER'S SIGNATURE  
CONTINUATION

VINEYARD ESTATES SUBDIVISION PHASE 1A  
PARCELS 1 THRU 8, PARCEL 6(LAKE)  
LOT 3, LOT 4, LOT 17 THRU LOT 22  
LOT 28 THRU LOT 30,  
LOT 35 AND LOT 36, LOT 38 AND LOT 39,  
LOT 46 AND LOT 47, LOT 50, LOT 52, LOT 55,  
LOT P2 THRU LOT P5, LOT P7 THRU LOT P10,  
LOT P12 THRU LOT P17

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS VINEYARD ESTATES SUBDIVISION PHASE 1A DO HEREBY GRANT AN ACCESS AND UTILITY EASEMENT TO THE CITY OF McALLEN AND THOSE WHO MAY NOW OR HEREAFTER HOLD FRANCHISE UNDER SAID CITY. THE USE OF THE STREETS, ALLEYS AND EASEMENTS THEREON SHOWN SURFACE USE OF THE STREETS AND ALLEYS IS RESTRICTED TO THE EMPLOYEES OR AGENTS OF THE CITY OF McALLEN, TO THE EMPLOYEES OF UTILITIES OPERATING UNDER FRANCHISE TO THE CITY OF McALLEN AND RESIDENTS OF THE SUBDIVISION AND THEIR GUESTS. N. WARE ROAD AND 8 1/2 MILE ROAD ARE DEDICATED TO THE PUBLIC BY THIS PLAT.

*Charles Marina*  
CHARLES MARINA  
2401 N. 10TH, McALLEN, TX. 78501

STATE OF TEXAS  
COUNTY OF HIDALGO  
BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED CHARLES MARINA, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 20th DAY OF April, 2011.

*John Davis*  
JOHN DAVIS  
NOTARY PUBLIC, FOR THE STATE OF TEXAS  
MY COMMISSION EXPIRES July 11, 2014

STATE OF TEXAS  
COUNTY OF HIDALGO

I, THE UNDERSIGNED, HOLDER (OR DULY AUTHORIZED OFFICER OF THE HOLDER) OF A SECURITY INTEREST IN THE ABOVE DESCRIBED PROPERTY, BEING THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS "VINEYARD ESTATES SUBDIVISION PHASE 1A" OF THE CITY OF McALLEN, TEXAS, DO HEREBY CONSENT TO THE SUBDIVISION OF THE PROPERTY AS PROVIDED FOR UNDER THE PLAT, AND DO HEREBY PROVIDE THAT ANY FORECLOSURE RELATING TO THE SECURITY INTEREST ON THE ABOVE DESCRIBED PROPERTY SHALL BE SUBJECT TO THE PLATING OF THE PROPERTY AS PROVIDED FOR HEREIN.

*Sharon McShane*  
SHARON MC SHANE  
3900 N. 10TH, McALLEN, TX. 78501

STATE OF TEXAS  
COUNTY OF HIDALGO  
BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED Sharon McShane, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 20th DAY OF April, 2011.

*Sharon McShane*  
SHARON MC SHANE  
NOTARY PUBLIC, FOR THE STATE OF TEXAS  
MY COMMISSION EXPIRES May 25, 2015

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

*Arturo Guajardo*  
ARTURO GUJARDO  
CHAIRMAN, PLANNING COMMISSION

I, THE UNDERSIGNED, MAYOR OF THE CITY OF McALLEN, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

*Robert L. Kurth*  
ROBERT L. KURTH  
MAYOR, CITY OF McALLEN

STATE OF TEXAS  
COUNTY OF HIDALGO

I, THE UNDERSIGNED, FRED L. KURTH, A REGISTERED PROFESSIONAL ENGINEER AND REGISTERED PUBLIC LAND SURVEYOR, IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT I HAVE CONSIDERED ALL REQUIREMENTS FOR SECTION 184-168 OF THE PLAT AND IT IS A TRUE AND ACCURATE REPRESENTATION OF THE SUBDIVISION OF THE LANDS HEREIN DESCRIBED.

*Fred L. Kurth*  
FRED L. KURTH  
PROF. L. KURTH, R.E. # 54151, R.P.L. # 4750  
DATE PREPARED: 03-08-08, REVISED 12-22-10  
PREPARED BY: R. DE JESUS

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
BY: *Guido Gura*  
DATE: 03-08-12

As per Declaration of Ownership, Conditions and Restrictions, the Vineyard Estates Subd. Plan (Recorded as Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21) is hereby acknowledged by the undersigned as the owner of the property described in the Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21, and the undersigned agrees to maintain the property in accordance with the requirements of the Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21, and the undersigned agrees to maintain the property in accordance with the requirements of the Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
BY: *Guido Gura*  
DATE: 03-08-12

As per Declaration of Ownership, Conditions and Restrictions, the Vineyard Estates Subd. Plan (Recorded as Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21) is hereby acknowledged by the undersigned as the owner of the property described in the Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21, and the undersigned agrees to maintain the property in accordance with the requirements of the Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21, and the undersigned agrees to maintain the property in accordance with the requirements of the Declaration of Ownership, Conditions and Restrictions, 2010-03-08, H.C.D. # 48-21.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
BY: *Guido Gura*  
DATE: 03-08-12

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HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
BY: *Guido Gura*  
DATE: 03-08-12

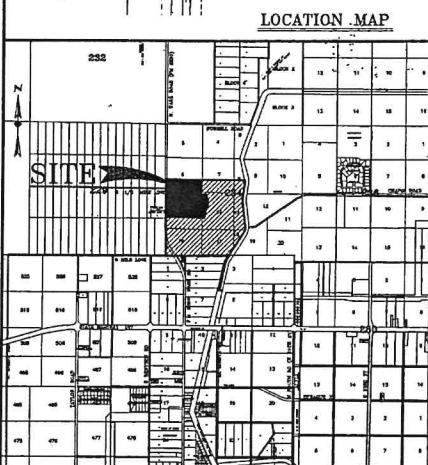
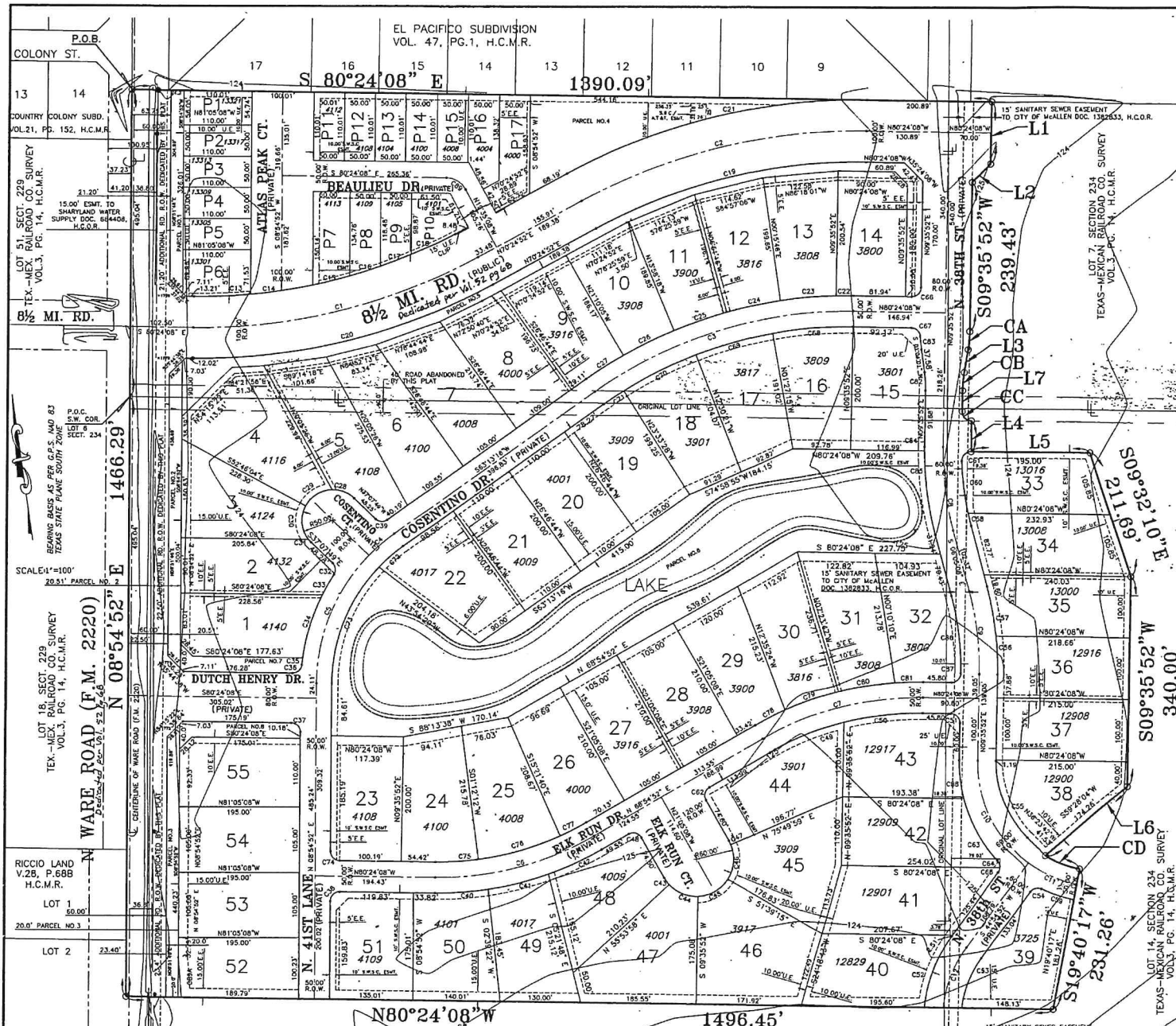
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**LEGEND**

- FOUND No. 4 REBAR
- SET No. 4 REBAR W/PLASTIC CAP STAMPED MELDEN & HUNT ON ALL LOT CORNERS

DRAWN BY: R. DE JESUS DATE: 12-22-11  
SURVEYED CHECKED: DATE: 12-22-11  
FINAL CHECK: DATE: 12-22-11

**MELDEN & HUNT INC.**  
CONSULTANTS • ENGINEERS • SURVEYORS  
115 W. McINTYRE ST. 515 E. 2nd ST.  
McALLEN, TX. 78501  
PH: (956) 381-0881 FAX: (956) 488-5591  
ESTABLISHED 1947

LOT AREAS	
PARCELS: 8.872 S.F. 0.20 AC.	L-1: 23,408 S.F. 0.54 AC.
PARCELS: 9,912 S.F. 0.23 AC.	L-2: 23,408 S.F. 0.54 AC.
PARCELS: 8,973 S.F. 0.20 AC.	L-3: 22,289 S.F. 0.51 AC.
PARCELS: 28,520 S.F. 0.65 AC.	L-4: 22,289 S.F. 0.51 AC.
PARCELS: 27,059 S.F. 0.62 AC.	L-5: 22,289 S.F. 0.51 AC.
PARCELS: 174,205 S.F. 4.00 AC.	L-6: 22,289 S.F. 0.51 AC.
PARCELS: 5,055 S.F. 0.12 AC.	L-7: 22,289 S.F. 0.51 AC.
PARCELS: 1,109 S.F. 0.03 AC.	L-8: 22,289 S.F. 0.51 AC.
L-1: 21,431 S.F. 0.49 AC.	L-9: 22,289 S.F. 0.51 AC.
L-2: 21,431 S.F. 0.49 AC.	L-10: 22,289 S.F. 0.51 AC.
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L-126: 21,431 S.F. 0.49 AC.	L-134: 22,289 S.F. 0.51 AC.
L-127: 21,431 S.F. 0.49 AC.	L-135: 22,289 S.F. 0.51 AC.
L-128: 21,431 S.F. 0.49 AC.	L-136: 22,289 S.F. 0.51 AC.





NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2023-0005





## **Memo**

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

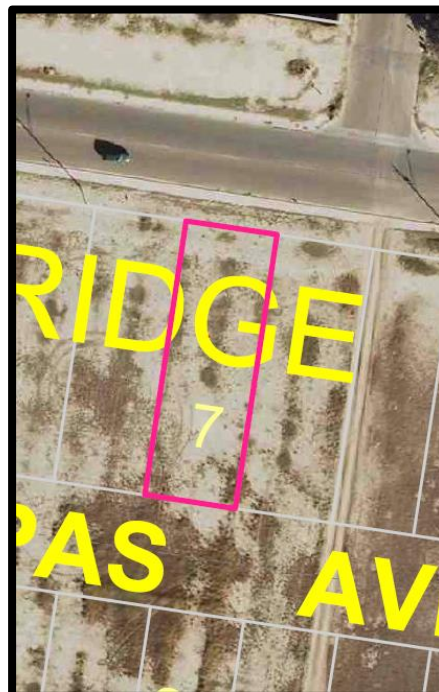
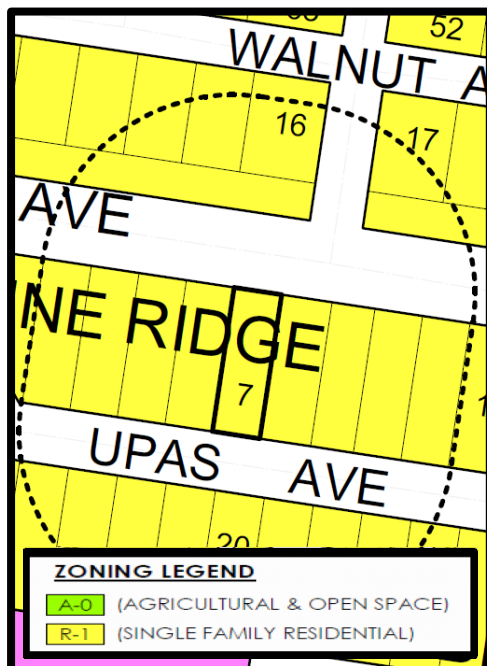
**FROM:** Planning Staff

**DATE:** February 6, 2023

**SUBJECT:** REQUEST OF HERIBERTO PADRON, JR. FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FEET INTO THE 25 FEET REAR YARD SETBACK ON A DOUBLE-FRONTING LOT FOR A PROPOSED SWIMMING POOL MEASURING 16 FEET BY 26 FEET AT LOT 7, VINE RIDGE ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 3520 UPAS AVENUE. (ZBA2023-0006)

**REASON FOR APPEAL:** The applicant is requesting to allow the above mentioned encroachment for a proposed swimming pool measuring 16 feet by 26 feet. The swimming pool is proposed to be located at the rear yard of the subject property with a 15-foot separation between the swimming pool and the property line.

**PROPERTY LOCATION AND VICINITY:** The subject property is located between Upas and Vine Avenues. The property has an area of 7,565 square feet. The surrounding land use is single-family residential in all directions.



**BACKGROUND AND HISTORY:** The Vine Ridge Estates Subdivision plat was recorded on March 12, 2019. According to Hidalgo County Appraisal District records, the existing residence was built in 2019. A swimming pool permit application was submitted on July 29, 2022. The variance request application was submitted on January 18, 2023.

**ANALYSIS:** Lots 1 through 11 between Upas and Vine Avenues are double-fronting lots and are restricted by the subdivision's plat to a front and rear yard setback of 25 feet. The approval of this variance request will allow for a swimming pool to be built with a 15-foot setback from the Lot's rear yard property line.

City Ordinance Section 138-367 (b) states, "where lots have double frontage...a required front yard shall be provided on one street only." The submitted site plan shows the existing residence in compliance with the 25 feet front yard setback along Upas Avenue. However, an approved variance is still necessary to resolve the plat note setback requirement of 25 feet for the rear yard (fronting Vine Avenue).

A 10 feet utility easement, adjacent to the rear property line of Lot 7, runs concurrently with the 25 feet rear yard setback and will not be impacted by the proposed encroachment. A 10 feet utility easement also runs along the south side property line (fronting Upas Avenue).

A review of Planning Department records revealed similar variances that were approved in the past for rear yard encroachments for Lots 1 and 9 of the subdivision.

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

**RECOMMENDATION:**

Staff recommends approval of the variance request since the required front yard setback has 25 feet along Upas Avenue and is in compliance with the City of McAllen Zoning Ordinance requirement for double-fronting lots.

ZBA:  
2/22/23

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)

<b>Project</b>	Legal Description	<u>VINE RIDGE ESTATES LOT 7</u>		
	Subdivision Name	<u>VINE RIDGE ESTATES</u>		
	Street Address	<u>3520 UPAS AVE.</u>		
	Number of lots	_____	Gross acres	_____
	Existing Zoning	_____	Existing Land Use	_____
	Reason for Appeal (please use other side if necessary)	<u>INSTALLING INGROUND POOL AND NEED 15FT. SETBACK Rear <b>Setback</b></u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
<b>Applicant</b>	Name	<u>HERIBERTO PADRON JR.</u>		Phone <u>(956) 874-5929</u>
	Address	<u>3520 UPS VE.</u>		E-mail _____
	City	<u>McALLEN</u>	State	<u>TEXAS</u> Zip <u>78504</u>
<b>Owner</b>	Name	<u>HERIBERTO PDRON JR.</u>		Phone _____
	Address	<u>3520 UPS AVE</u>		E-mail _____
	City	<u>McALLEN</u>	State	<u>TEXAS</u> Zip <u>78504</u>
<b>Authorization</b>	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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<u>[Signature]</u>		Date <u>1/17/2023</u>
	Print Name	<u>HERIBERTO PDRON JR.</u>		<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by	<u>[Signature]</u>		Payment received by _____ Date <b>ENTERED</b>
	Rev 10/18	JAN 18 2023 Initial: <u>NM</u>		





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

\*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)*

\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

BUILDING IN GROUND SWIMMING POOL AND ASKING FOR 15 FEET OF SETBACK FOR FUTURE

BACKYARD PROJECT

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

THE 15 FEET SETBACK WOULD ALLOW FOR A RESONABLE SIZE POOL

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:

THERE ARE NO EASEMENT WHERE POOL IS BEENING BUILD AND NO PUBLIC OR ENVIROMENT

HARZRDS.

4. Describe special conditions that are unique to this applicant or property:

PROPERTY HAS TWO MAIN STREETS RUNNING ON THE REAR AND SOUTH OF THE PROPERTY

AND HAS A 10 FOOT UTILITY EASEMENT ON REAR PLUS 15 FOOT SETBACK ASKING FOR 15 FOOT

SETBACK FOR INGROUND POOL.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date















NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2023-0006



# Memo

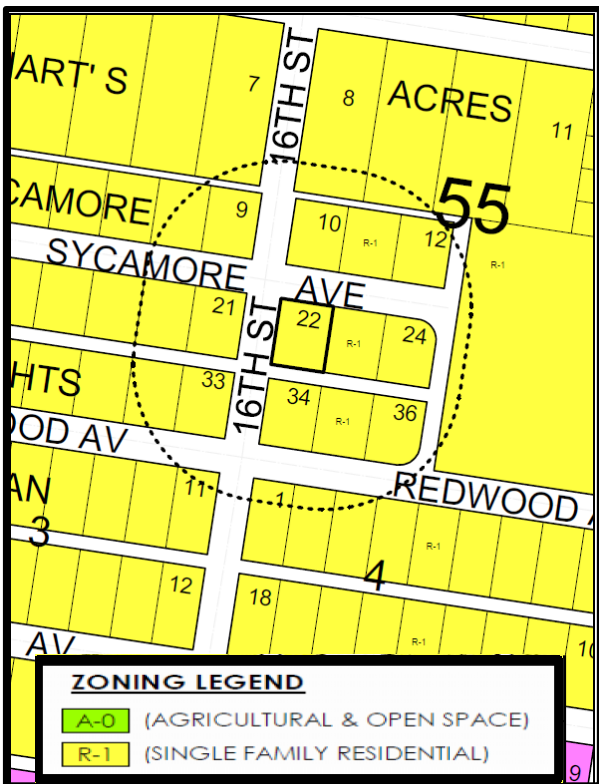
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** February 6, 2023

**SUBJECT: REQUEST OF NORA LISA LOZANO ON BEHALF OF CESAR A. FLORES FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FEET INTO THE 10 FEET SIDEYARD SETBACK ALONG NORTH 16<sup>TH</sup> STREET FOR A PROPOSED METAL CARPORT MEASURING 23 FEET BY 23 FEET AT LOT 22 LESS THE EAST 5 FEET, SYCAMORE HEIGHTS SUBDIVISION, HIDALGO COUNTY, TEXAS; 1509 SYCAMORE AVENUE. (ZBA2023-0009)**

**REASON FOR APPEAL:** The applicant is requesting a special exception for the above mentioned encroachment for a proposed metal carport measuring 23 feet by 23 feet. The applicant stated the metal carport would be used to protect her vehicles, especially her truck, from the weather elements. The applicant has stated that her truck does not fit inside the existing garage space due its length.



**PROPERTY LOCATION AND VICINITY:** The subject property is located on the southeast corner of Sycamore Avenue and North 16<sup>th</sup> Street. The property has 72.5 feet of frontage along Sycamore Avenue and a depth of 97 feet, for a lot size of approximately 7,032.5 square feet. There is an existing single-family residence on the subject property. The surrounding land use is single-family residential.

**BACKGROUND AND HISTORY:** The plat for Sycamore Heights Subdivision was recorded on September 8, 1948. The existing residence was built in 1978 with additions made later in 1998. The application for this special exception request was submitted on January 19, 2023.

**ANALYSIS:** Approval of the special exception request would allow an encroachment of 10 feet into the 10 feet sideyard setback for a proposed metal carport. This carport would be facing North 16<sup>th</sup> Street.

There is an existing two car garage that is used to park the applicant's vehicles. However, the applicant has stated that her truck cannot be accommodated in one of her garage spaces due to space constraints and the truck's size.

There is an ally at the rear of the property. However, due to the existing location of the home's garage structure, there would be no space on the rear yard that would allow for the relocation of the proposed carport. There is also no garage or driveway access located on the front yard property facing Sycamore Avenue where the applicant can build the proposed metal carport.

During a site visit staff noticed several similar structures located along the front and sideyard setbacks. A review of Planning Department Records revealed one variance for a front yard carport in the Subdivision that was approved at the Zoning Board of Adjustments meeting of August 5, 2009.

Special exceptions are issued and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Staff has received one phone call in support of the special exception request.

**RECOMMENDATION:**

Staff recommends approval of the special exception request since the proposed structure would not negatively impact the existing character of the subdivision.

ZBA 2023-0009

ZBA  
2/22/2023



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 Sycamore Heights Lot 22 - less East 5ft.

Subdivision Name Sycamore Heights

Street Address 1509 Sycamore Ave McAllen TX 78501

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

Existing Zoning residential Existing Land Use Home

Reason for Appeal (please use other side if necessary) An encroachment of 10ft into the 10ft S.Y.C. Setback of 10ft for a metal carport 18 by 23

☒ \$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 Nora Lisa Lozano Phone 956-534-0360

Address 1509 Sycamore E-mail nocard-2000@yahoo.com

City McAllen State TX Zip 78501

Owner

Name Cesar A. Flores Phone 409-5109-3259

Address 1509 Sycamore Ave E-mail CesaraFlores2002@yahoo.com

City 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 Nora Lozano Date 1-18-2023

Print Name Nora Lozano ☐ Owner ☒ Authorized Agent

Office

Accepted by SEN Payment received by \_\_\_\_\_ Date \_\_\_\_\_

Rev 09/20 1/18/23

JAN 19 2023

BY

aw





# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

\*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)

\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

My current garage is not long enough to fit my new truck in. Carport is needed to protect my vehicle which is an investment.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

Variance is needed in order to protect my vehicle from the elements. It will help protect my investment.

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:

Variance will not disturb public health, safety or welfare or injurious to the legal rights other property owners enjoy because it will be inside <sup>my property</sup> lines.

4. Describe special conditions that are unique to this applicant or property:

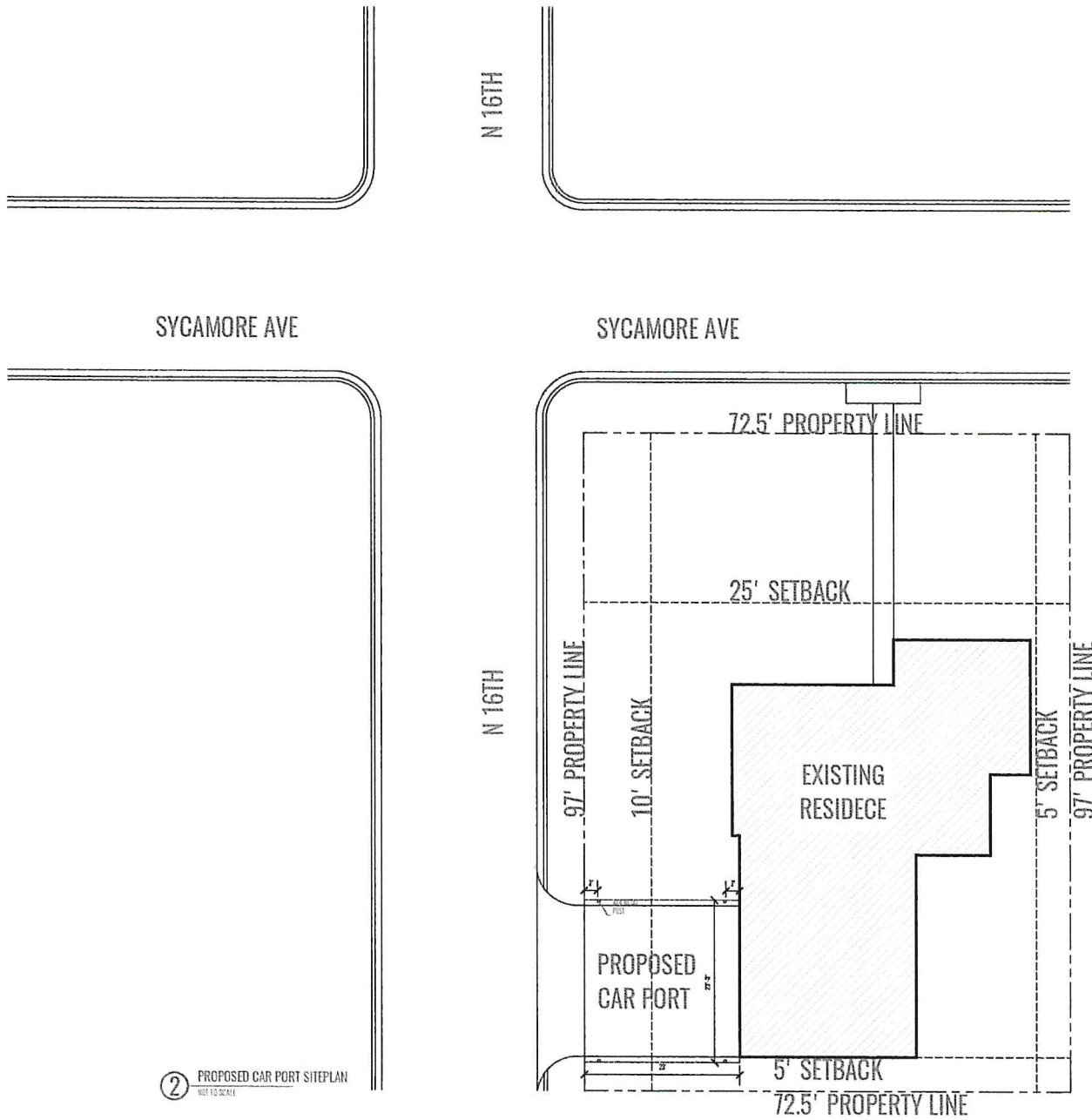
Due to setbacks because my property is a corner property - I'm asking for a variance to be acknowledged in order to protect my property.

Reason for Appeal

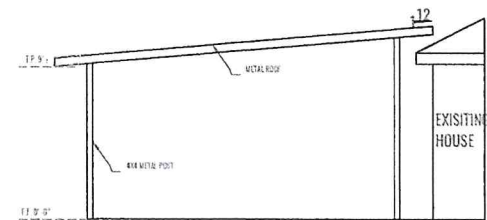
Board Action

Chairman, Board of Adjustment  
Signature

Date



② PROPOSED CAR PORT SITEPLAN  
NOT TO SCALE



① PROPOSED CAR PORT ELEVATION  
NOT TO SCALE

**JV**  
JONA VALENCIA  
CONSTRUCTORES

PH. 956.900.5423  
E M A I L :  
JJ88845@GMAIL.COM

PROJECT  
**LOZANO  
RESIDENCE**

LOCATION  
**1509 SYCAMORE AVE  
MCALLEN, TX**

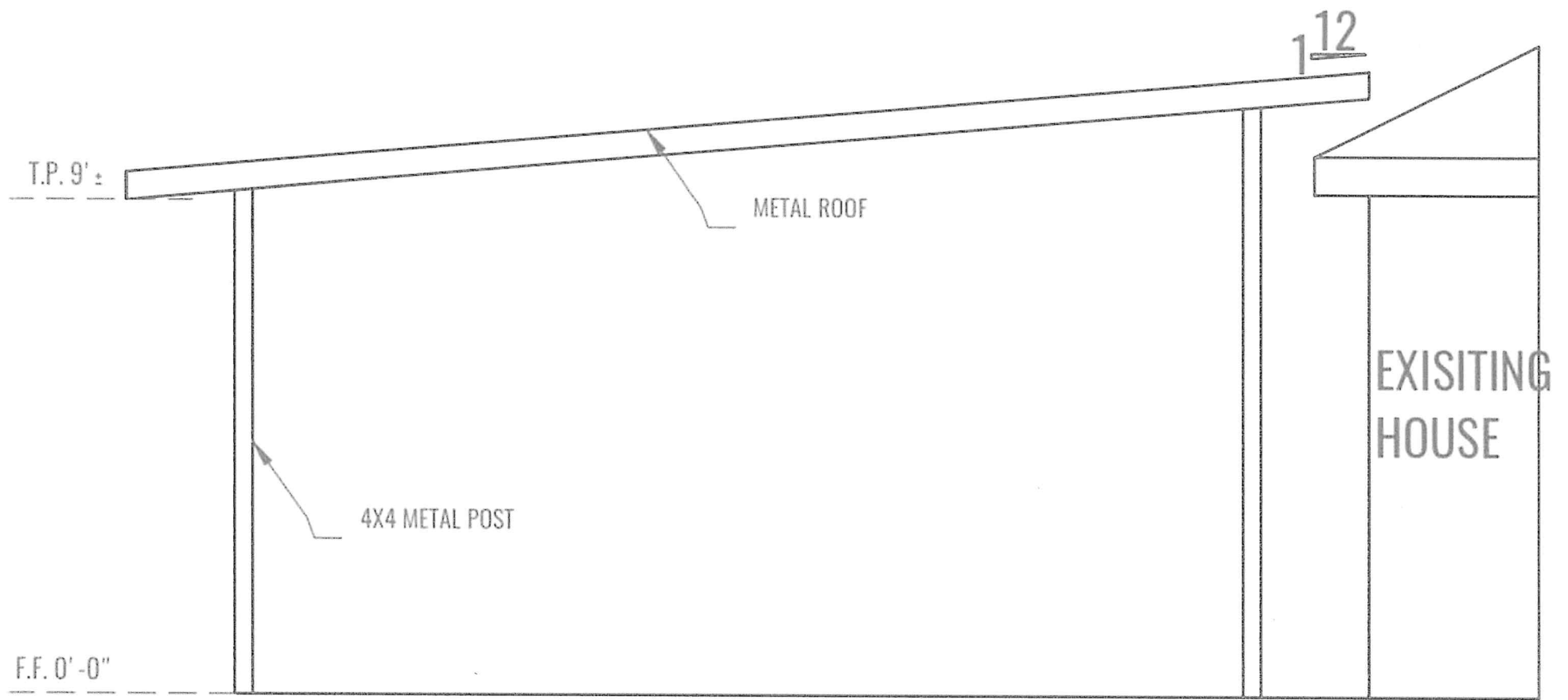
DATE: 01-17-2023  
PROJECT NO.: 2306

AREAS:  
LIVING  
GARAGE  
FRONT PORCH  
REAR PORCH  
TOTAL

REVIEW  
**T-1.0**  
DRAWN BY: JV

NOT FOR CONSTRUCTION





1

## PROPOSED CAR PORT ELEVATION

NOT TO SCALE











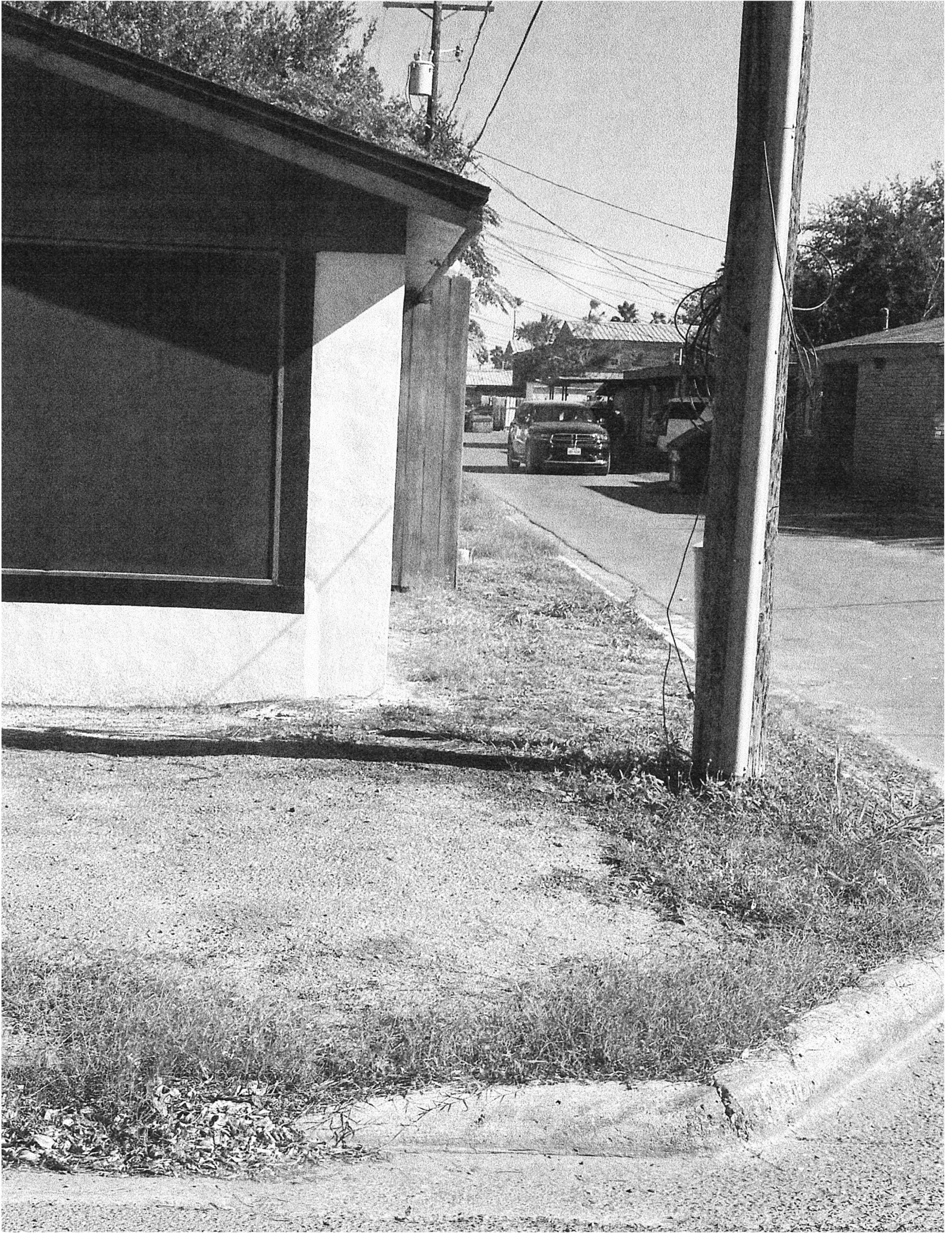




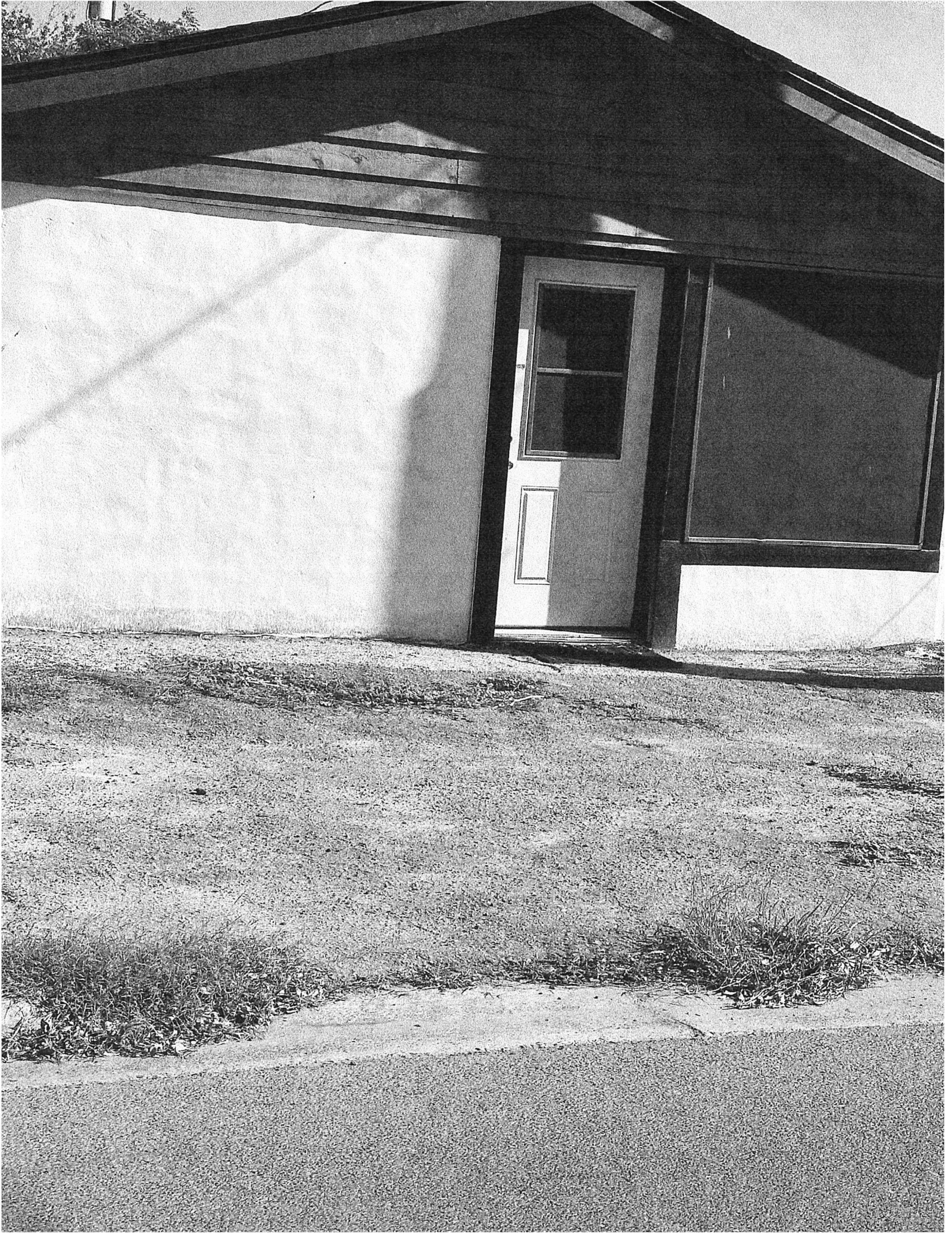


NO  
PARKING  
ANY  
TIME  
→











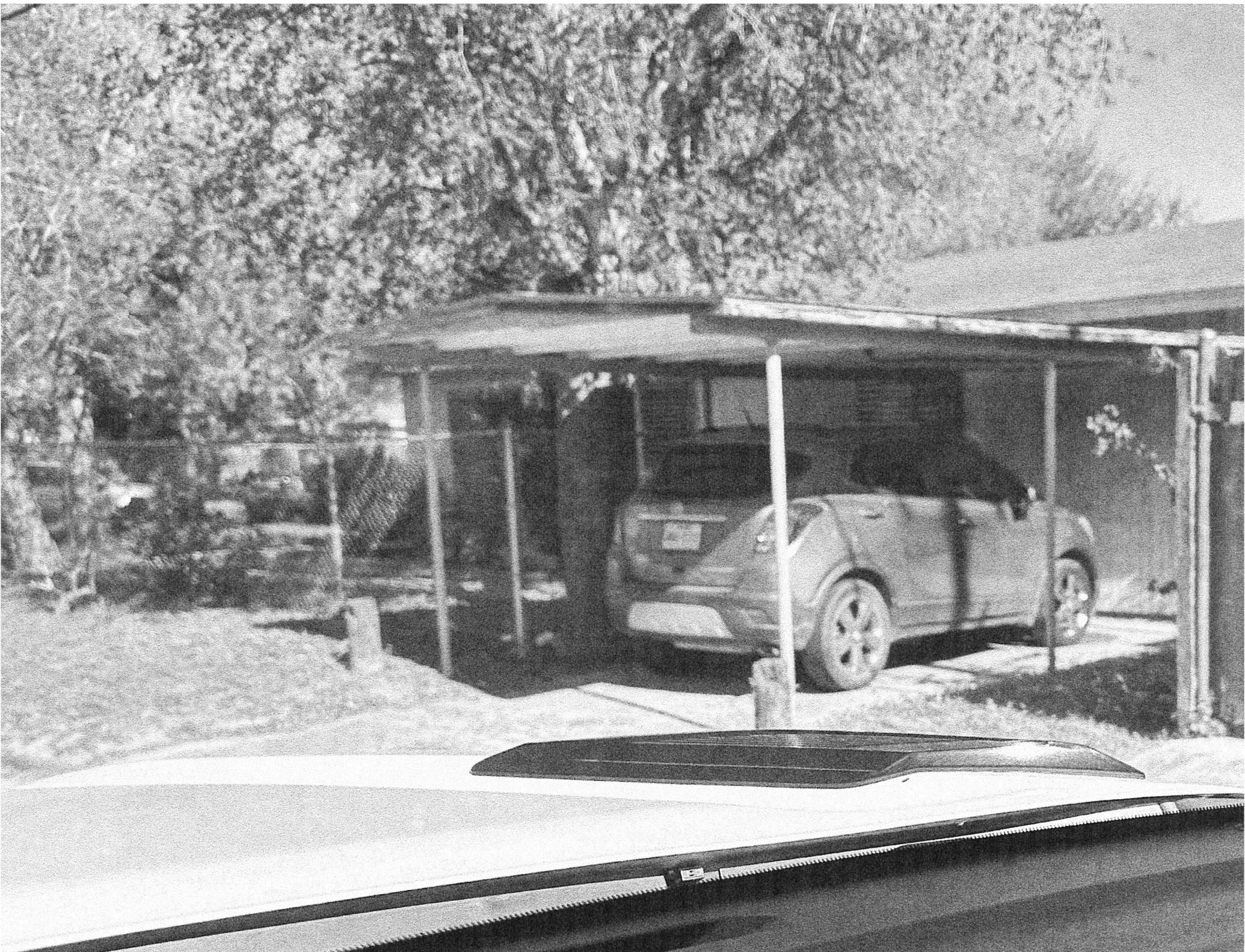




















NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0009



## Memo

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

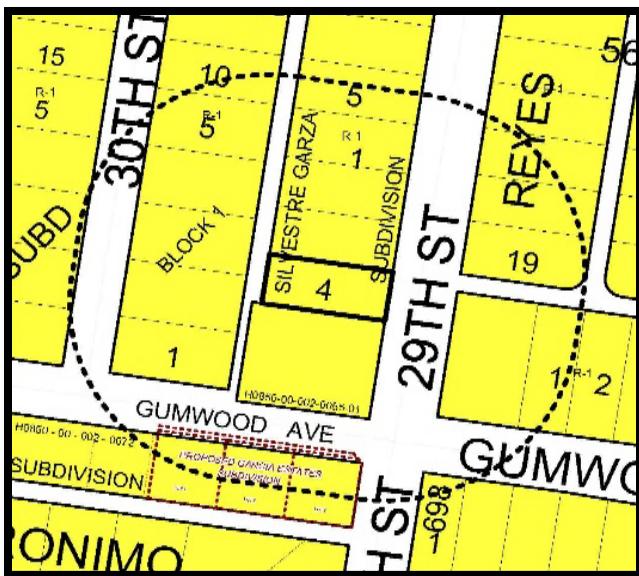
**FROM:** Planning Staff

**DATE:** February 14, 2023

**SUBJECT: REQUEST OF SYLVIA YOLANDA GARZA FOR THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 18 FEET INTO THE 30 FEET FRONT YARD SETBACK FOR A PROPOSED METAL CARPORT MEASURING 12 FEET BY 18 FEET, AT LOT 4, SILVESTRE GARZA SUBDIVISION, HIDALGO COUNTY, TEXAS; 705 NORTH 29<sup>TH</sup> STREET. (ZBA2023-0004)**

### REASON FOR APPEAL:

The applicant is requesting a special exception for an encroachment into the 30 feet front yard setback for a proposed metal carport having dimensions of 12 feet by 18 feet. The applicant states the carport is to provide protection for the family vehicles from inclement weather events and due to health related reasons for one of the family members.



### PROPERTY LOCATION AND VICINITY:

The subject property is located along the west side of North 29<sup>th</sup> Street, 110 feet north of Gumwood Avenue. The Lot has 55 feet of frontage along North 29<sup>th</sup> Street and a depth of 135 feet for a Lot size of 7,425 square feet. The property is zoned R-1 (single-family residential) District and a single family residence is located on the property. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

### BACKGROUND AND HISTORY:

Silvestre Garza Subdivision was recorded in November 1964. The required front yard setback as per plat is 30 feet. In November 2020 an additional 10 feet of right of way was acquired by the City of



McAllen for the expansion of North 29<sup>th</sup> Street to accomodate a right turn lane. This action essentially shifted the Lot line and therefore the front yard setback line by 10 feet from the original 30 feet front yard setback. An application for a building permit was submitted to Building Permits and Inspections Department on January 6, 2023 and an application for a Special Exception request was submitted to the Planning Department on January 11, 2023.

**ANALYSIS:**

The request is for a special exception to allow an encroachment for a proposed carport of 18 feet into the original 30 feet front yard setback (as per plat) or 2 feet away from the new Lot line.

There is an existing one-car garage currently being used to park the family vehicle. The applicant states the existing car garage is too narrow to accommodate a family member with medical conditions and restricts access in and out from the family vehicle. There is an existing wheelchair accessible ramp connecting the driveway to the front door of the house providing access to the residence.

During the site visit, staff noticed other similar structures with encroachments in the front yard. A review of Planning Department records did not reveal any Special Exceptions granted in this area.

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

Measurements provided are without the benefit of a survey.

Special exceptions are issued to a property owner and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

**RECOMMENDATION:**

Staff recommends **approval** of the Special Exception request, since the proposed location of the structure is to provide more space and protection from the weather element events during access in and out of the vehicle.

ZBA2023-0004

ZBOA  
2.22.23

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 <u>Silvestre Garza Subdivision Lot 4</u>
	Subdivision Name <u>Silvestre Garza Subdivision</u> Street Address <u>705 N. 29 St</u> Number of lots <u>1</u> Gross acres _____ Existing Zoning _____ Existing Land Use _____ Reason for Appeal (please use other side if necessary) <u>add carport encroaching into front yard setback</u> <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
Applicant	Name <u>Silvia Yolanda Garza</u> Phone <u>956-250-7703</u> Address <u>705 N. 29 St</u> E-mail <u>sygarza31@gmail.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u>
Owner	Name <u>Silvia Yolanda Garza</u> Phone <u>956-250-7703</u> Address <u>705 N. 29 St</u> E-mail <u>sygarza31@gmail.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u>
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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 <u>Silvia Y Garza</u> Date <u>1-11-23</u> Print Name <u>Silvia Y Garza</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
Office	Accepted by <u>[Signature]</u> Payment received by _____ Date _____ Rev 09/20

Q29





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

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\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

*protect 100% vietnam vet from weather*

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

*protect occupants from accidents or falls*

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:

*Project is inside fence*

4. Describe special conditions that are unique to this applicant or property:

*Both occupants disabled seniors over 70 yrs old.*

Reason for Appeal

Board Action

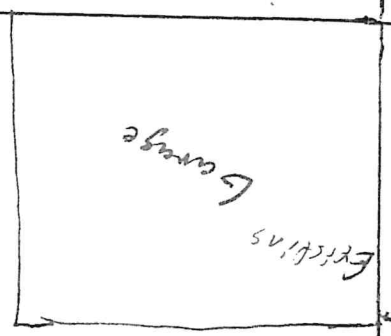
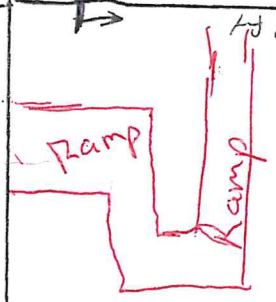
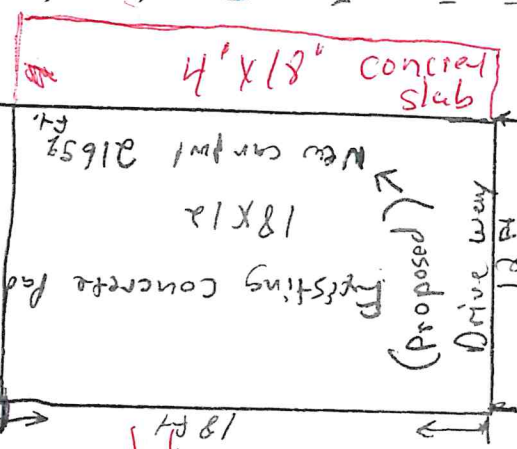
Chairman, Board of Adjustment  
Signature

Date



29th Street

Property line



Property line

14'

24'

60'

Property line



Property line

12'

FILED FOR RECORD THIS DATE  
At 10:34 o'clock A.M.

NOV 2 1964

JULIO GUZMAN  
County Clerk, Hidalgo County, Texas  
By *M. Hedley* Deputy

APPROVED FOR RECORDING  
BY  
COMMISSIONERS' COURT  
This the 9th day of November 1964  
JULIO GUZMAN County Clerk  
*Francis DeBakey* Deputy

MAP  
OF  
**SILVESTRE GARZA SUBDIVISION**  
MC ALLEN, TEXAS

BEING A SUBDIVISION OF THE NORTH 2200 FT. OF  
THE EAST 1600 FT. OF THE SOUTH 1/4 OF LOT 53, BLOCK 2,  
C. E. HAMMOND SUBDIVISION, OF PORCIONES 61, 62 & 63,  
HIDALGO COUNTY, TEXAS

APPROVED  
FOR RECORDING  
Hidalgo Co. Right of Way Dept.  
By *[Signature]*  
Date 11-9-64

I, C. L. FABIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THE FOREGOING  
MAP TO BE A TRUE AND CORRECT REPRESENTATION OF THE LANDS HEREON DESCRIBED AS  
PLATTED BY ME FROM SURVEY OF THE OUTSIDE BOUNDARIES OF SAME.

*C. L. Fabian*  
C. L. FABIAN  
REGISTERED PUBLIC SURVEYOR  
MC ALLEN, TEXAS

STATE OF TEXAS:  
COUNTY OF HIDALGO:

KNOW ALL MEN BY THESE PRESENTS:  
THAT WE, SILVESTRE GARZA, ET. UX, EULALIA G. GARZA AND SILVESTRE GARZA, JR. ET. UX,  
JOSIE B. GARZA, OWNERS OF THE PROPERTY HEREON DESCRIBED, DO HEREBY ADOPT, DEDICATE  
AND CONFIRM THE FOREGOING MAP AND DO HEREBY DEDICATE TO THE PUBLIC THE SURFACE USE  
OF THE STREETS AND ALLEYS THEREON SHOWN.

*Silvestre Garza*  
SILVESTRE GARZA

*Silvestre Garza Jr.*  
SILVESTRE GARZA, JR.

*Eulalia G. Garza*  
EULALIA G. GARZA

*Josie B. Garza*  
JOSIE B. GARZA

STATE OF TEXAS:  
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED SILVESTRE  
GARZA, ET. UX, EULALIA G. GARZA AND SILVESTRE GARZA, JR. ET. UX, JOSIE B. GARZA,  
OWNERS, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FORE-  
GOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSES  
AND CONSIDERATION THEREIN EXPRESSED. GIVEN UNDER MY HAND AND SEAL OF OFFICE  
ON THIS THE 28th DAY OF September A.D. 1964

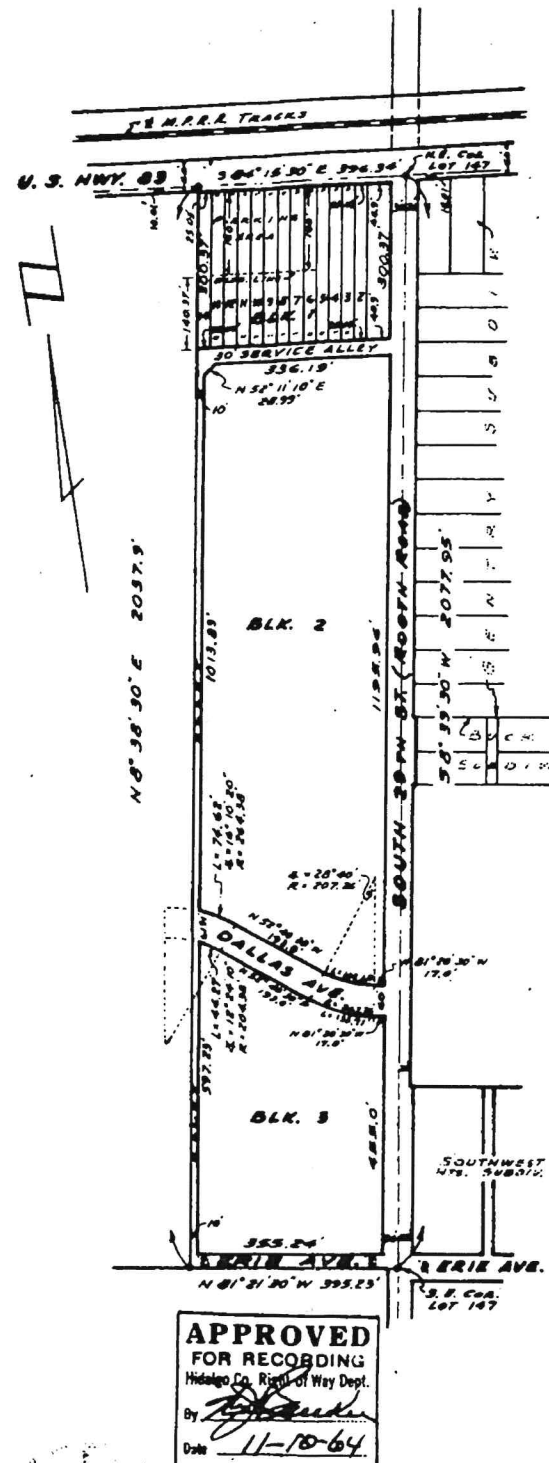
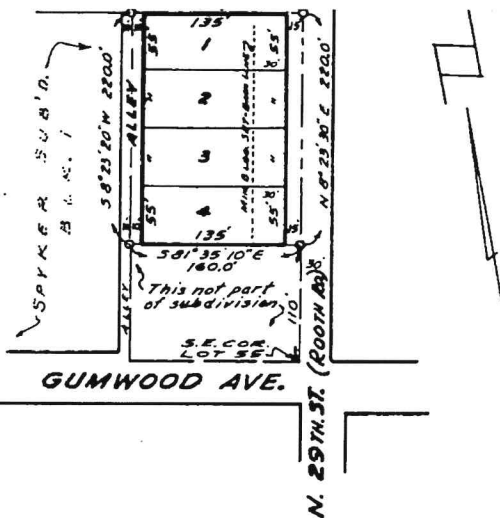
*Juan H. Cardenas*  
JUAN H. CARDENAS  
NOTARY PUBLIC IN AND FOR  
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS THE 15  
DAY OF October A.D. 1964.

MC ALLEN ZONING AND PLANNING BOARD  
BY: *Ben Bilbrey*  
BEN BILBREY, CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS ON THIS  
THE 19th DAY OF October A.D. 1964.

ATTEST:  
*Paul G. Veale*  
PAUL G. VEALE, MAYOR



APPROVED  
FOR RECORDING  
Hidalgo Co. Right of Way Dept.  
By *[Signature]*  
Date 11-10-64

APPROVED FOR RECORDING  
COMMISSIONERS' COURT  
This the 14th day of Nov. 1964  
County Clerk  
By *[Signature]*

FILED FOR RECORD THIS DATE  
At 11:40 o'clock A.M.

DEC 1 1964

JULIO GUZMAN  
County Clerk, Hidalgo County, Texas  
By *M. Hedley* Deputy

30466

AMENDED  
MAP  
OF  
**TEXAN MOBILE  
PARK SUBDIVISION**  
MC ALLEN, TEXAS

BEING A SUBDIVISION OF THE EAST  
18.81 AC. OF LOT 147, LA LOMITA IRRIGATION &  
CONSTRUCTION CO. SUB., OF PORCIONES 61, 62 & 63,  
HIDALGO COUNTY, TEXAS

Scale: 1" = 500'

Date: 10-26-64

I, C. L. FABIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THE FOREGOING MAP TO BE A  
TRUE AND CORRECT REPRESENTATION OF THE LANDS HEREON DESCRIBED AS PLATTED BY ME FROM THE OUT-  
SIDE BOUNDARIES OF SAME.

*C. L. Fabian*  
C. L. FABIAN  
REGISTERED PUBLIC SURVEYOR  
MC ALLEN, TEXAS

STATE OF TEXAS:  
COUNTY OF HIDALGO:

KNOW ALL MEN BY THESE PRESENTS:  
THAT I, HERSCHEL E. WHIGHAM, PRESIDENT OF BORDER DEVELOPMENT CORPORATION, OWNER OF THE LANDS  
HEREON MAPPED AND PLATTED, DOES HEREBY DEDICATE THE SURFACE USE OF THE STREETS AND ALLEYS  
SHOWN ON THE ABOVE MAP TO THE USE OF THE PUBLIC AND UNTO THE CITY OF MC ALLEN, TEXAS, SO  
LONG AS IT SHALL ACCEPT, MAINTAIN AND PROTECT THE SAME FOR THE USE AND BENEFIT OF THE PUBLIC.

IN TESTIMONY WHEREOF, THE SAID BORDER DEVELOPMENT CORPORATION HAS CAUSED THESE PRESENTS TO  
BE EXECUTED THIS 2nd DAY OF November A.D. 1964.

ATTEST:  
*Allen K. Baker*  
ALLEN BAKER, SECRETARY

BORDER DEVELOPMENT CORPORATION  
BY: *Herschel E. Whigham*  
HERSCHEL E. WHIGHAM, PRESIDENT

STATE OF TEXAS:  
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED, HERSCHEL E. WHIGHAM,  
PRESIDENT OF BORDER DEVELOPMENT CORPORATION, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUB-  
SCRIBED TO THE FOREGOING INSTRUMENT AND WHO ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME  
FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED AS THE ACT AND DEED OF SAID CORPORATION  
AND IN THE CAPACITY AS THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 2nd  
DAY OF November A.D. 1964.

*J. F. Ewers Jr.*  
J. F. EWERS JR.  
NOTARY PUBLIC IN AND FOR  
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 1 ON THIS  
THE 5th DAY OF November A.D. 1964.

ATTEST:  
*Wm. D. Curre*  
SECRETARY

*Richard Whigham*  
PRESIDENT

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS THE 4 DAY OF  
November A.D. 1964.

MC ALLEN ZONING AND PLANNING BOARD  
BY: *Ben Bilbrey*  
BEN BILBREY, CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS THIS 2nd DAY OF  
November A.D. 1964.

ATTEST:  
*Atitibio Sanchez*  
ATITIBIO SANCHEZ, CITY CLERK

*Paul G. Veale*  
PAUL G. VEALE, MAYOR

STATE OF TEXAS:  
COUNTY OF HIDALGO:

KNOW ALL MEN BY THESE PRESENTS:  
THAT WE, DENNIS F. HERRIN & WIFE, JOYCE HERRIN, OWNERS OF THE FIRST 18.84 FT. OF LOT 8, ALL OF  
LOTS 7, 8 & 9 AND THE EAST 9.16 FT. OF LOT 10, BLOCK 1, OF THE MAP HEREON PLATTED, DO HEREBY  
ADOPT, DEDICATE AND CONFIRM THE FOREGOING MAP AND DO HEREBY DEDICATE TO THE PUBLIC THE SURFACE  
USE OF THE STREETS AND ALLEYS THEREON SHOWN.

*Dennis F. Herrin*  
DENNIS F. HERRIN

*Joyce Herrin*  
JOYCE HERRIN

STATE OF TEXAS:  
COUNTY OF HIDALGO:



October 25, 2000  
**29<sup>TH</sup> STREET**  
**ADDITIONAL RIGHT-OF-WAY**  
Grantor: Silvia Alvarado

**PARCEL 5**

A tract of land containing 0.0126 of one acre (550 square feet) situated in the City of McAllen, Hidalgo County, Texas, being a part or portion of LOT 4, SILVESTRE GARZA SUBDIVISION according to the plat thereof recorded in Volume 15, Page 27, Hidalgo County Map Records, which said Lot 4 was conveyed to Silvia Alvarado by virtue of a Warranty Deed from Silvestre Garza, Jr. and wife, Josie B. Garza, dated February 10, 1992, recorded in Volume 3216, Page 691, Hidalgo County Official Records, said 0.0126 of one acre (550 sq. ft.) also being more particularly described as follows:

BEGINNING at the Northeast corner of Lot 4, Silvestre Garza Subdivision for the Northeast corner of this tract;

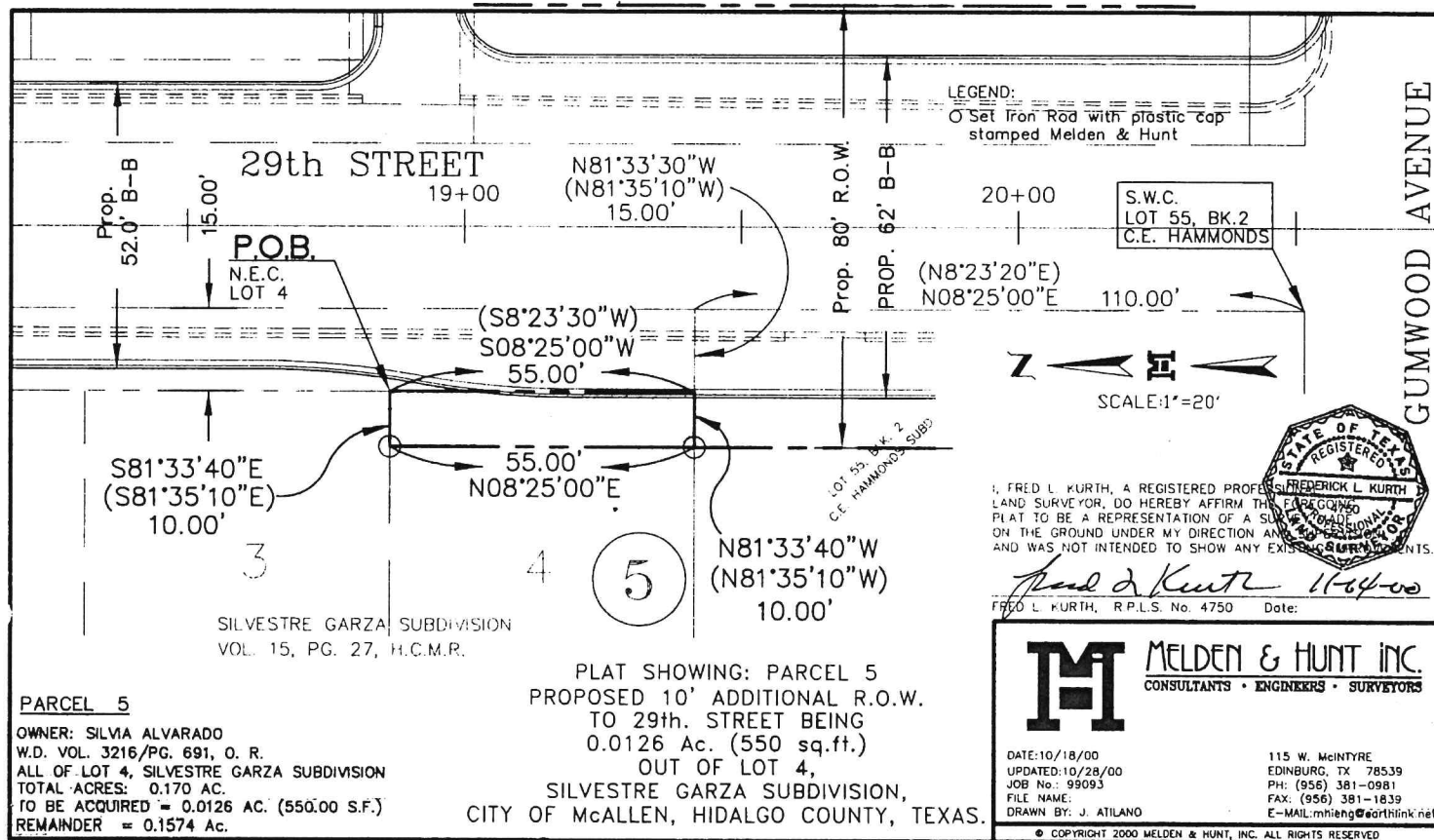
1. THENCE, S 08° 25' 00" W (S 08° 23' 30" W recorded plat call) along the East line of said Lot 4 and the existing West right-of-way line of 29<sup>th</sup> Street, a distance of 55.00 feet to the Southeast corner of said Lot 4 and this tract;
2. THENCE, N 81° 33' 40" W (N 81° 35' 10" W recorded plat call) along the South line of said Lot 4, a distance of 10.00 feet to an iron rod set for the Southwest corner of this tract;
3. THENCE, N 08° 25' 00" E along the proposed West right-of-way line of 29<sup>th</sup> Street, a distance of 55.00 feet to an iron rod set on the North line of said Lot 4 for the Northwest corner of this tract;
4. THENCE, S 81° 33' 40" E (S 81° 35' 10" E recorded plat call) along the North line of said Lot 4, a distance of 10.00 feet to the POINT OF BEGINNING, and containing 0.0126 of one acre (550 sq. ft.) of land, more or less.

I, FRED L. KURTH, REGISTERED PROFESSIONAL LAND SURVEYOR DO HEREBY AFFIRM THAT THIS METES AND BOUNDS DESCRIPTION REPRESENTS THE RESULTS OF A SURVEY MADE ON THE GROUND ON UNDER MY DIRECTION AND SUPERVISION.

 11-4-00  
FRED L. KURTH, R.P.L.S. #4750      DATE:



















NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0004  
CITY OF MOBILE PLANNING DEPT.  
1000 1ST AVE  
MOBILE, AL 36682  
WWW.MOBILEALICIA.NET



## **Memo**

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

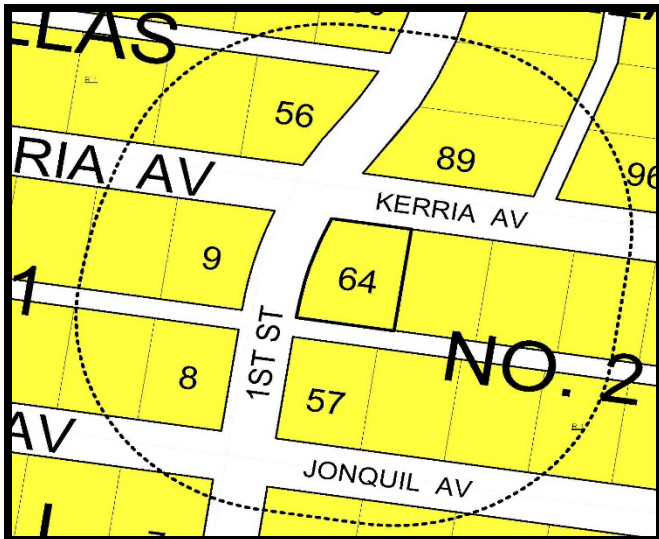
**FROM:** Planning Staff

**DATE:** February 15, 2023

**SUBJECT: REQUEST OF DAVID T. MARROQUIN FOR THE FOLLOWING SPECIAL EXCEPTION REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FEET INTO THE 10 FEET REAR YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 23.83 FEET BY 16.16 FEET, AT LOT 64, LAS VILLAS SUBDIVISION UNIT NO. 2, HIDALGO COUNTY, TEXAS; 100 EAST KERRIA AVENUE. (ZBA2022-0132)**

### **REASON FOR APPEAL:**

The applicant is requesting a special exception for an encroachment into the 10 foot rear yard setback for an existing metal carport having dimensions of 23.83 feet by 16.16 feet. The applicant states the carport is to provide protection for the family vehicles from inclement weather events and for shade.



### **PROPERTY LOCATION AND VICINITY:**

The subject property is located at the southeast corner of North 1<sup>st</sup> Street and East Kerria Avenue and has a Lot size of 7,875 square feet. The property is zoned R-1 (single-family residential) District and a single family residence is located on the property. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

### **BACKGROUND AND HISTORY:**

Las Villas Subdivision Unit No. 2 was recorded on January 18, 1983. The required rear yard setback as per plat is 10 feet. A Stop Work order was posted by Building Permits and Inspections Department on September 13, 2022 for construction work without a building permit. An application for a building permit was submitted to Building Permits and Inspections Department on November 09, 2022 and



an application for a Special Exception request was submitted to the Planning Department on December 08, 2022. As per the applicant the structure was built in 1990 without a building permit.

**ANALYSIS:**

The request is for a special exception to allow an encroachment of 10 feet into the 10 feet rear yard setback for an existing metal carport measuring 23.83 feet by 16.16 feet and is constructed over an existing concrete driveway.

There is a 5 feet utility easement running concurrently with the rear yard setback along the rear of the property and the carport also encroaches into the 5 feet utility easement. As per a revised site plan, the applicant is proposing to reduce the encroachment by 5 feet in order to resolve the 5 feet utility easement encroachment. The proposed alternate request is to encroach 5 feet into the 10 feet rear yard setback.

During the site visit, staff noticed other similar structures with encroachments in the rear yard. At the Zoning Board of Adjustments and Appeals meeting of August 18, 2021, the Board approved an encroachment of 5 feet into the 10 feet rear yard setback for a proposed irregular shaped metal carport at Lot 82, Las Villas Subdivision Unit No. 2.

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

Measurements provided are without the benefit of a survey.

Special exceptions are issued to a property owner and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

**RECOMMENDATION:**

Staff recommends **disapproval** of the Special Exception request as originally requested, however alternatively, staff recommends **approval** of the modified request for an encroachment of 5 feet into the 10 feet rear yard setback. Approval of the request will allow the construction to be modified to resolve the encroachment into the 5 feet utility easement.



ZBA-1/18/22

ZBA2022-0132



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

Las Villas Unit 2, Lot 64

Subdivision Name

Las Villas

Street Address

100 E. Kerria Ave

Number of lots

1

Gross acres

0.2

Existing Zoning

R1

Existing Land Use

Residential

Reason for Appeal (please use other side if necessary)

Encroaching 10' into 10' west side yard setback☒ \$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 David T. ManroguinPhone (956) 342-0483Address 100 E. Kerria AveE-mail dtmanroguin@yahoo.comCity McAllenState TXZip 78501

## Owner

Name Same

Phone

Address

E-mail

City

State

Zip

## 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 12/8/22Print Name David T. Manroguin☒ Owner☐ Authorized Agent

## Office

Accepted by [Signature]Payment received by [Signature]

Date

DEC 08 2022

Rev 10/18

By





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

\*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)

\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

my grand kids were getting wet. Protect vehicles. Lower heat in garage during the summer

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

Protect vehicles <sup>and</sup> grandchildren. Reduce heat and provide safe area for grandchildren.

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:

Neighbors like it. <sup>No</sup> other property involved. Neighbors don't complain about it.

4. Describe special conditions that are unique to this applicant or property:

Encroaches on sidewalk setback.

Being used to protect vehicles + grandchildren.

Reason for Appeal

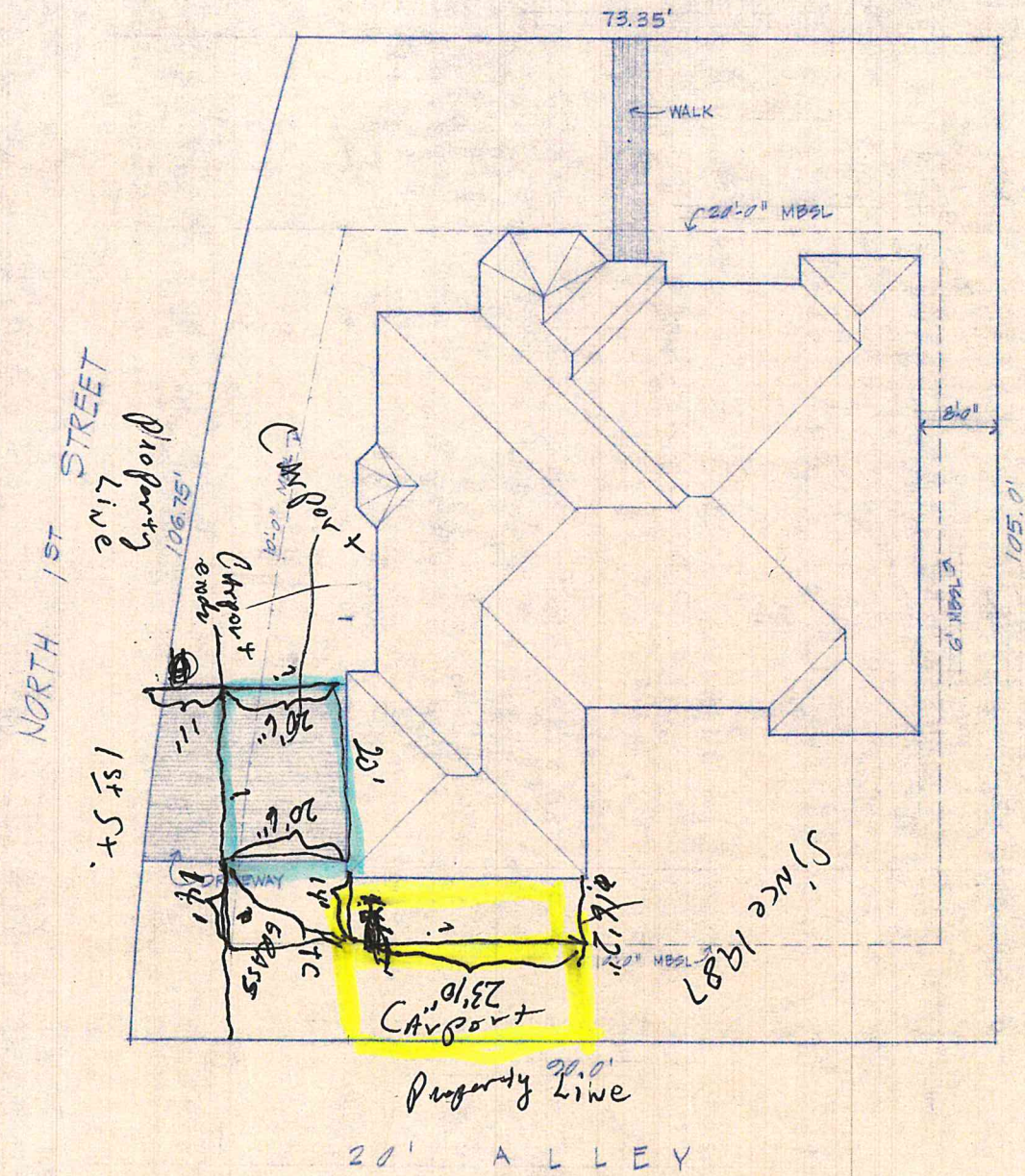
Board Action

Chairman, Board of Adjustment  
Signature

Date



KERRIA AVENUE



ENTERED

JAN 13 2023

Initial: UR



SITE PLAN:  $\frac{3}{32}'' = 1'-0''$

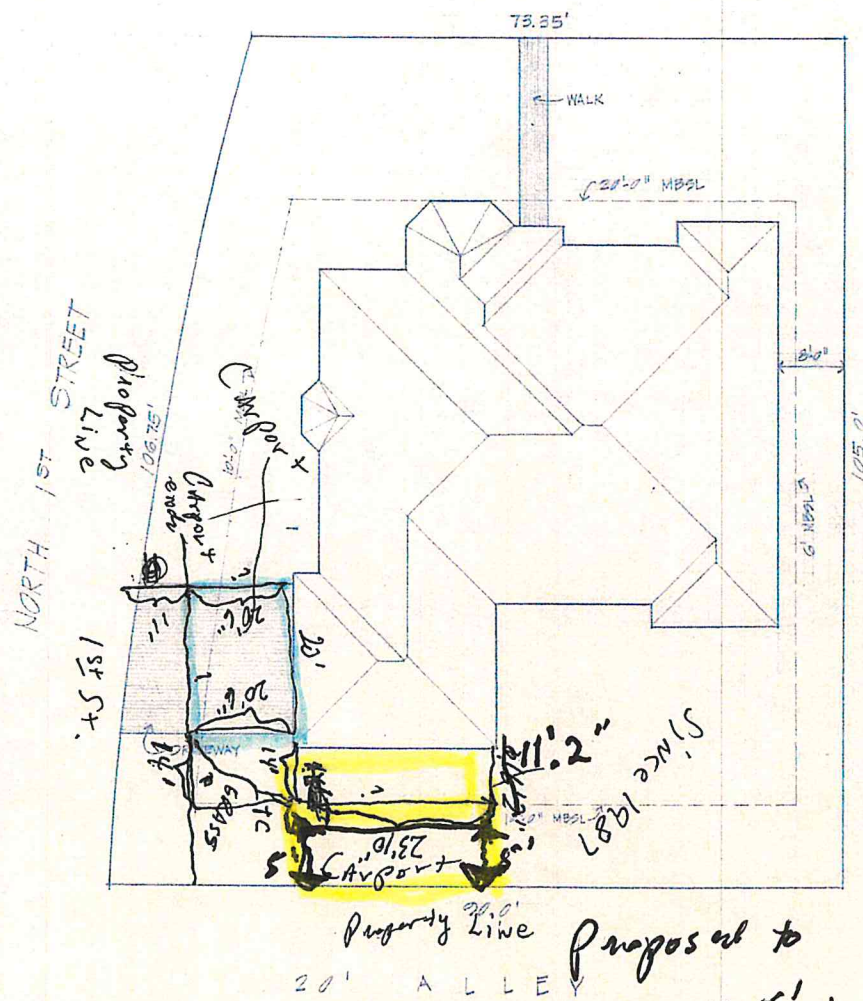
LOT 64 LAS VILLAS SUB'D.

20' MIN. FLR. ELEV.



Proposed

KERRIA AVENUE



ENTERED

JAN 13 2023

Initial: MR



SITE PLAN: 3/32" = 1'-0"

LOT-64 LAS VILLAS SUB'D.

20' MIN. FLR. ELEV.

Property Line  
20' ALLEY

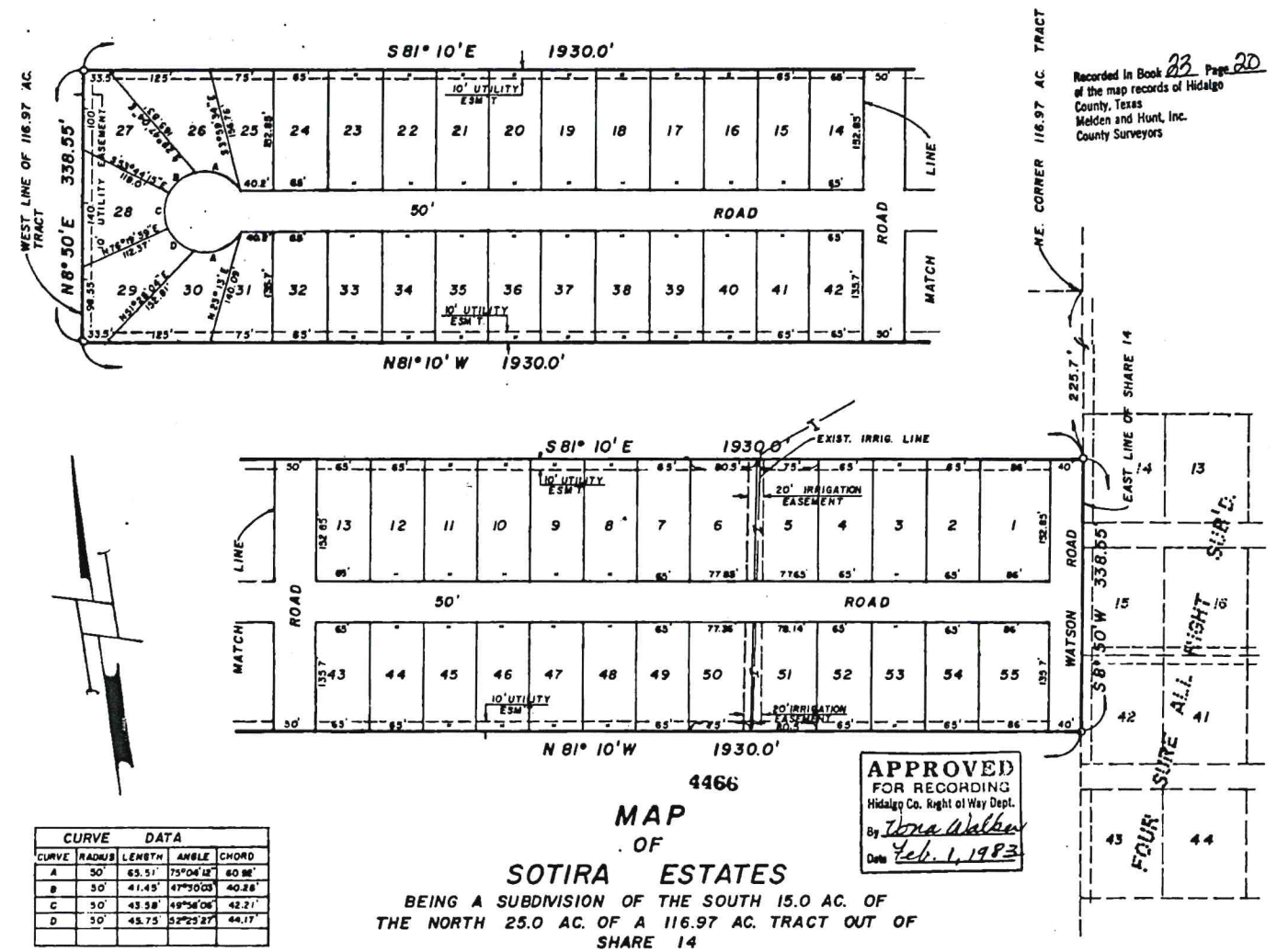
Since 1987  
Proposed to  
remove 5' to  
clear easement

ENTERED

FEB 10 2023

Initial: MR





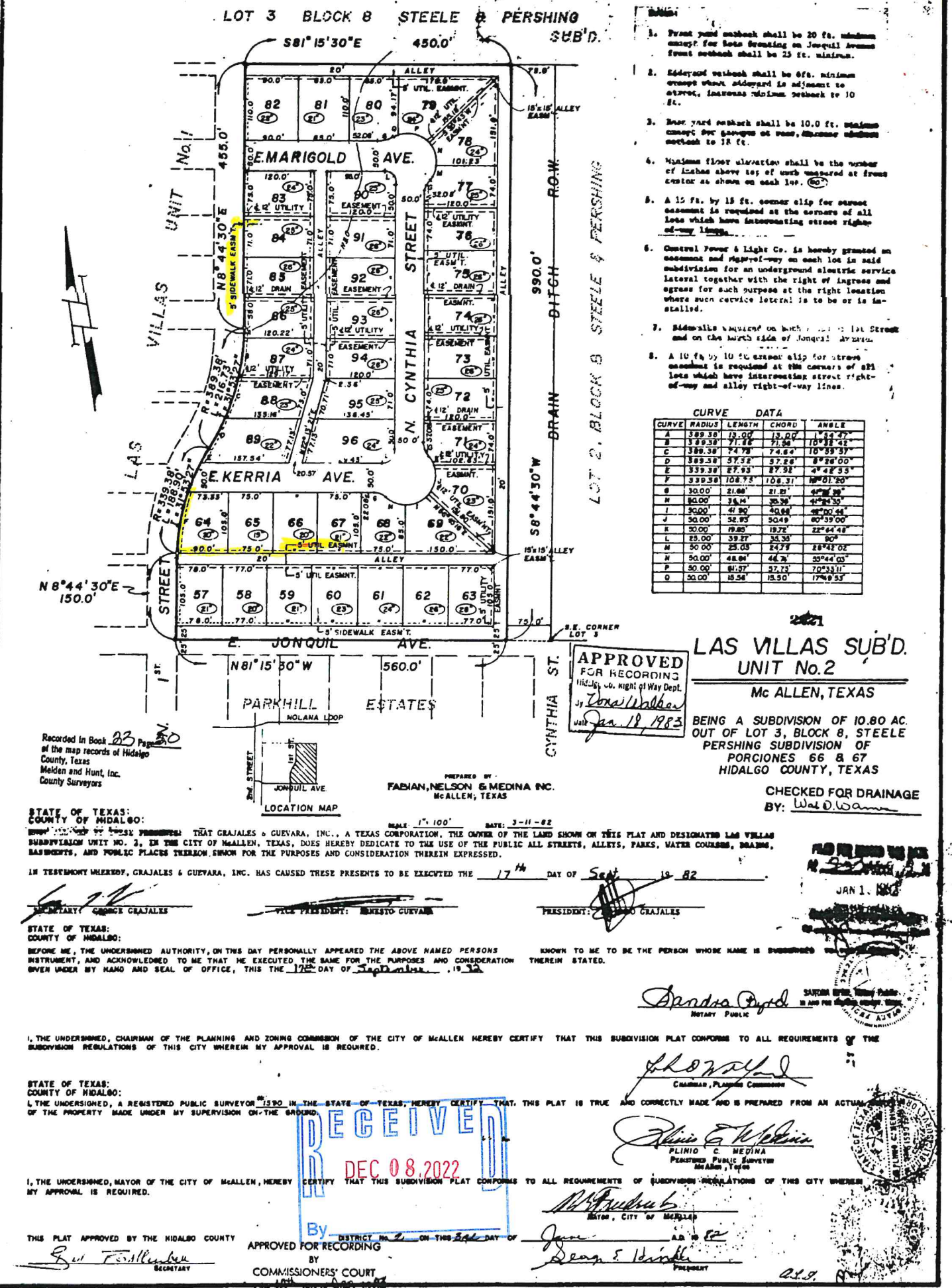
STATE OF TEXAS: COUNTY OF HIDALGO: WE THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE "SOTIRA ESTATES" SUBDIVISION TO THE COUNTY OF HIDALGO, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINAGE, EASEMENTS, AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

STATE OF TEXAS: COUNTY OF HIDALGO: BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED ABOVE NAMED OWNERS KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED, AND IN THE CAPACITY STATED THEREIN.

STATE OF TEXAS: COUNTY OF HIDALGO: I, THE UNDERSIGNED, A REGISTERED PUBLIC SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

APPROVED FOR RECORDING BY COMMISSIONER'S COURT THIS 12th day of FEB. 1983

THIS PLAT APPROVED BY THE HIDALGO COUNTY CLERK



STATE OF TEXAS: COUNTY OF HIDALGO: I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF McALLEN HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN BY APPROVAL IS REQUIRED.

STATE OF TEXAS: COUNTY OF HIDALGO: I, THE UNDERSIGNED, A REGISTERED PUBLIC SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

RECEIVED DEC 08 2022

APPROVED FOR RECORDING BY COMMISSIONER'S COURT THIS 12th day of FEB. 1983

THIS PLAT APPROVED BY THE HIDALGO COUNTY CLERK





100E

TEXAS  
RTP-4436









NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2022-0132  
CITY OF WILLOW PARK, TEXAS  
WWW.WILLOWPARKTX.GOV

100E

100E



## **Memo**

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

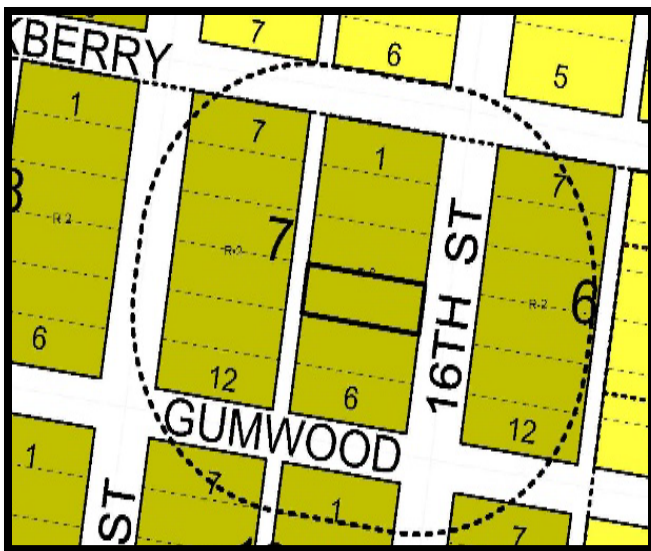
**FROM:** Planning Staff

**DATE:** February 15, 2023

**SUBJECT: REQUEST OF OSCAR CANCINO ON BEHALF OF MARISSA CANTU (PROPERTY OWNER) FOR THE FOLLOWING SPECIAL EXCEPTION AND VARIANCE REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 3.04 FEET INTO THE 10 FEET REAR YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 23.66 FEET BY 24.66 FEET, AND 2) A VARIANCE TO ALLOW AN ENCROACHMENT OF 5.5 FEET INTO THE 7 FEET SOUTH SIDE YARD SETBACK FOR AN EXISTING METAL STORAGE BUILDING MEASURING APPROXIMATELY 5 FEET BY 19.2 FEET, AT LOT 4, BLOCK 7, NORTH MCALLEN SUBDIVISION, HIDALGO COUNTY, TEXAS; 709 NORTH 16<sup>TH</sup> STREET. (ZBA2023-0003)**

### **REASON FOR APPEAL:**

The applicant is requesting a special exception for an existing metal carport with an encroachment into the 10 feet rear yard setback and a variance for an encroachment into the 7 feet south side yard setback for an existing storage building. The applicant states a contractor was hired to construct the building but did not obtain a building permit. The carport is to provide protection for the family vehicles from inclement weather events. The carport has a storage building component.



### **PROPERTY LOCATION AND VICINITY:**

The subject property is located along the west side of North 16<sup>th</sup> Street, between Hackberry and Gumwood Avenues. The lot has 50 feet of frontage along North 16<sup>th</sup> Street and a depth of 140 feet for a lot size of 7,000 square feet. The property is zoned R-2 (duplex-fourplex residential) District and a single family residence is located on the property. The adjacent zoning is R-2 District in all directions. The surrounding land use is single family residential.



## **BACKGROUND AND HISTORY:**

According to Hidalgo County Appraisal District records, the main residence was built in 1993. The applicant purchased the property in 2016.

A Stop Work order was posted by Building Permits and Inspections Department on September 20, 2022 for construction work without a building permit. An application for a building permit was submitted to Building Permits and Inspections Department on November 03, 2022 and an application for a Special Exception request was submitted to the Planning Department on January 09, 2023.

## **ANALYSIS:**

The sideyard setbacks for this property are 7 feet on the south side yard setback and 5 feet on the north side yard setback. The rear yard setback is 10 feet.

**Special Exception #1:** The request is for a special exception to allow an encroachment of 3.04 feet into the 10 feet rear yard setback for an existing metal carport measuring 23.66 feet by 24.66 feet and constructed over an existing concrete driveway. There is a paved alley at the rear of the property that allows the vehicles access to the carport. The property has a block fence that surrounds the rear of the property that helps to partially screen the property.

Locating carports and having access from the alley at the rear of the property helps to maintain curb appeal along the front yard.

The carport has a storage space component that does not encroach into the side yard setback.

**Variance #2:** to allow an encroachment of 5.5 feet into the 7 feet south side yard setback for an existing metal storage building measuring approximately 5 feet by 19.2 feet. The storage space is currently being used to store work equipment.

The storage building space is a second storage building that is a component to the metal carport, however it was constructed encroaching into the south side yard setback.

A windshield survey revealed other similar encroachments in the rear of the property along the Block. A review of Planning Department records did not reveal any Variances or Special Exceptions approved for properties in this Block.

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

Special exceptions are issued to a property owner and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

## **RECOMMENDATION:**

**Special Exception #1:** Staff recommends **approval** of the Special Exception request #1, since carports located at the rear yard helps to maintain curb appeal along the front yard and the encroachment is minor. The existing 20 feet alley also provides a separation to other properties across the alley.

**Variance request #2:** Staff recommends **disapproval** since variances run with the land, buildings are not permitted within setbacks and fire-rated construction is required. If the Board chooses to approved the request, approval should be limited to the encroachment shown on the submitted site plan.



ZBA 2023-0003

ZBA  
2/22/2023

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 4 Block 7  
Vol 0 , Pg 33

Subdivision Name North McAllen Subdivision

Street Address 709 N 16th St

Number of lots 1 Gross acres .15 acres

Existing Zoning Residential Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Variance for the reconstruction of carport.

☒ \$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 Oscar Cancino Phone 956.648.7245

Address 5111 N. 10th St. #366 E-mail ocancino@rgv.rr.com

City McAllen State TX Zip 78504

## Owner

Name Marissa Cantu Phone 956.566.6231

Address 709 N 16th St E-mail javiercantu97@yahoo.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 12/26/22

Print Name Oscar Cancino, P.E. ☐ Owner ☒ Authorized Agent

## Office

Accepted by [Signature] Payment received by \_\_\_\_\_ Date JAN 09 2023

Rev 10/18

b.c.

aw





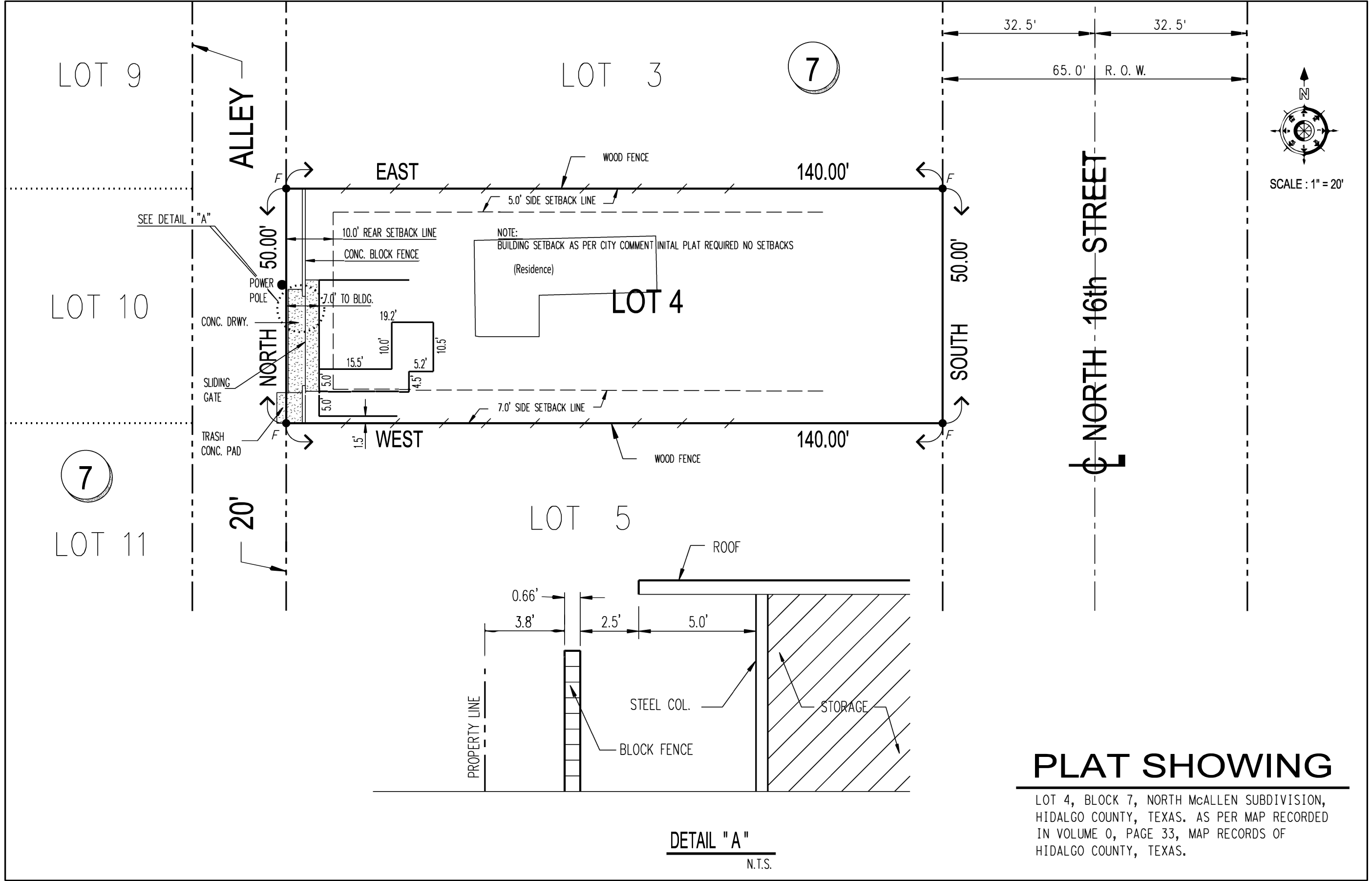
# City of McAllen

## 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: <i>(Please use an additional page if necessary to complete responses)</i></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>	
	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:	
	The previous land use was for the use of carport storage. The previous structure was damaged during a	
	past storm event. The owner recovered insurance claim and reconstructed the previous structure for	
	family vehicle storage use.	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	The variance will help satisfy the previous existing conditions of having the ability to have covered parking	
	for family vehicles as previously enjoyed. Original plat setback requirements are not noted in initial plat.	
	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:	
	The variance will not be detrimental to public health as the structure has been certified by a professional	
	licenced engineer. The structure is a vast improvement to the previous structure where the new one	
	has been constructed out of steel and concrete to assure safety and prevent failure during a storm event.	
	4. Describe special conditions that are unique to this applicant or property:	
	The majority of the neighboring homes also contain encroaching structure(s). Most homes in the area to aleave congestion along 16th street utilize the alley to access the rear of the home for parking. Again, the structure that has been constructed was due to the replacement of a previously damaged existing structure where the new structure has added a safer and more presentable structure to the neighboring community.	
Board Action		
	Chairman, Board of Adjustment Signature	Date
	_____	_____









VARIANCE





SPECIAL  
EXCEPTION









NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0003

709

☆ 709



## Planning Department

### Memo

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

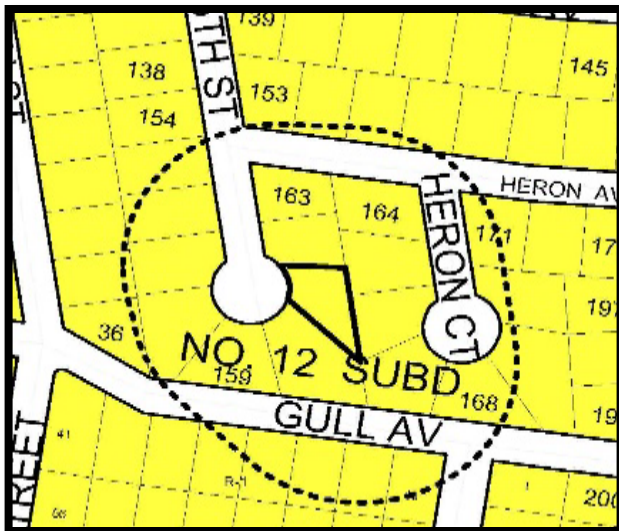
**FROM:** Planning Staff

**DATE:** February 14, 2023

**SUBJECT:** REQUEST OF JOSE M. GUERRA FOR THE FOLLOWING VARIANCE REQUESTS TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 6 FEET INTO THE 6 FEET NORTH SIDE YARD SETBACK FOR AN EXISTING METAL PORCH MEASURING 6 FEET BY 37 FEET, AND 2) TO ALLOW AN ENCROACHMENT OF 6 FEET INTO THE 6 FEET SOUTH SIDE YARD SETBACK FOR AN EXISTING TRIANGULAR SHAPED METAL PORCH, AT LOT 161, GARDENIA TERRACE NO. 12 SUBDIVISION, HIDALGO COUNTY, TEXAS; 5912 NORTH 35<sup>TH</sup> STREET. (ZBA2022-0113)

#### REASON FOR APPEAL:

The applicant is requesting two variances to encroach 6 feet into the north and south side yard setbacks for two existing metal porches. The applicant states that the metal porches are used for shade and protection from weather elements, and for storage.



#### PROPERTY LOCATION AND VICINITY:

The subject property has an irregular shape and is located on the east side of a cul-de-sac on North 35<sup>th</sup> Street, approximately 130 feet south of Heron Avenue. The property has 52.36 feet of frontage along North 35<sup>th</sup> Street and a depth of 128.78 feet at its deepest point for a lot size of 9,900 square feet. The zoning for the property and adjacent zoning is R-1 (single-family residential) District in all directions. Surrounding land use is single family residential.



## **BACKGROUND AND HISTORY:**

Gardenia Terrace No. 12 Subdivision was recorded in October 1980. A Stop Work order was issued by the Building Permits and Inspections Department on September 22, 2022 for construction without a building permit. A building permit application was submitted to the Building Permits and Inspections Department on November 10, 2022 and a variance application was submitted to the Planning Department on October 14, 2022.

## **ANALYSIS:**

**Variance #1):** The request is to allow an encroachment of 6 feet into the 6 feet north side yard setback for an existing metal porch building measuring 6 feet by 37 feet. As per applicant, the structure helps to provide shade and protection for the family members from inclement weather events and to provide storage space. It was originally built to cover a low spot in the ground where standing water would accumulate. The structure was built in 2019 by the applicant.

**Variance #2):** The request is to allow an encroachment of 6 feet into the 6 feet south side yard setback for an existing triangular shaped metal porch measuring 20 feet wide at the rear of the structure and 27 feet at its deepest point of measurement. As per the applicant, the structure helps to provide shade and protection for the family members from inclement weather events and for storage space. The structure was built in 2008 by a subcontractor with help from the applicant.

Concerns with structures built to the property line are potential for enclosure of the structures and rainfall runoff into neighboring properties. The property owner has installed gutters for the roof additions to prevent run off from spilling into the neighbors properties.

During a site visit, staff noticed other encroachments along the side yards of the other properties. A review of Planning Department records did not reveal other variances granted within the subdivision.

At the Board of Adjustment and Appeals meeting of July 17, 2003, the Board approved an encroachment of 4 feet into the 10 feet rear yard setback for a swimming pool. The property is located adjacent to the rear of the subject property.

Measurements provided were without benefit of a survey.

There are no utility easements that are impacted by the encroachments.

Staff has not received calls or emails in opposition of the variance request.

## **RECOMMENDATION:**

Staff recommends **disapproval** of the variance requests **#1** and **#2** since variances run with the land, structures are not permitted within setbacks, and approval may encourage other construction with similar encroachments. If the Board chooses to approve the variance requests, it should be limited to the footprint shown in the submitted site plan.



280A  
12/21/2022

28A2022-0113



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 Gardenia Terrace  
No. 12 Lot 161  
Subdivision Name Gardenia Terrace  
Street Address 5912 N 35<sup>th</sup> ST  
Number of lots 1 Gross acres \_\_\_\_\_  
Existing Zoning R1 Existing Land Use House  
Reason for Appeal (please use other side if necessary) Two Porches Encroachment to  
6 Feet Into 6' side yard set-back Property Line on North and South Side  
☒ \$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 Jose M. Guerra Phone 956-874-3298  
Address 5912 N<sup>th</sup> 35<sup>th</sup> ST E-mail joeymguerra@yahoo.com  
City McAllen State TX Zip 78504

Owner

Name Jose M. Guerra Phone 956-874-3298  
Address 5912 N<sup>th</sup> 35<sup>th</sup> ST E-mail joeymguerra@yahoo.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]  
Print Name Jose M. Guerra

Date 11/11/22  
☒ Owner ☐ Authorized Agent

Office

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

Rev 10/18

NOV 11 2022

CW



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

Reason for Appeal

\*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)

\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

Due to the construction of several cement foundation and metal roof i am asking for permission to record a variance on my property setback

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

My family will be able to enjoy the outdoors within a cities views. With the construction of a cement foundation and metal Roofing this will be protect my family from the elements (rain + sun). The cement foundation will also help later on use of mobile equipment

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:

Because of the construction using metal and cement i believe there not be a public health or safety issues. The ~~cons~~ materials used to construct ~~Postes~~ were made of Metal Roof and ~~metal~~ Post and support

4. Describe special conditions that are unique to this applicant or property:

HAVING a big Lot to enjoy the backyard

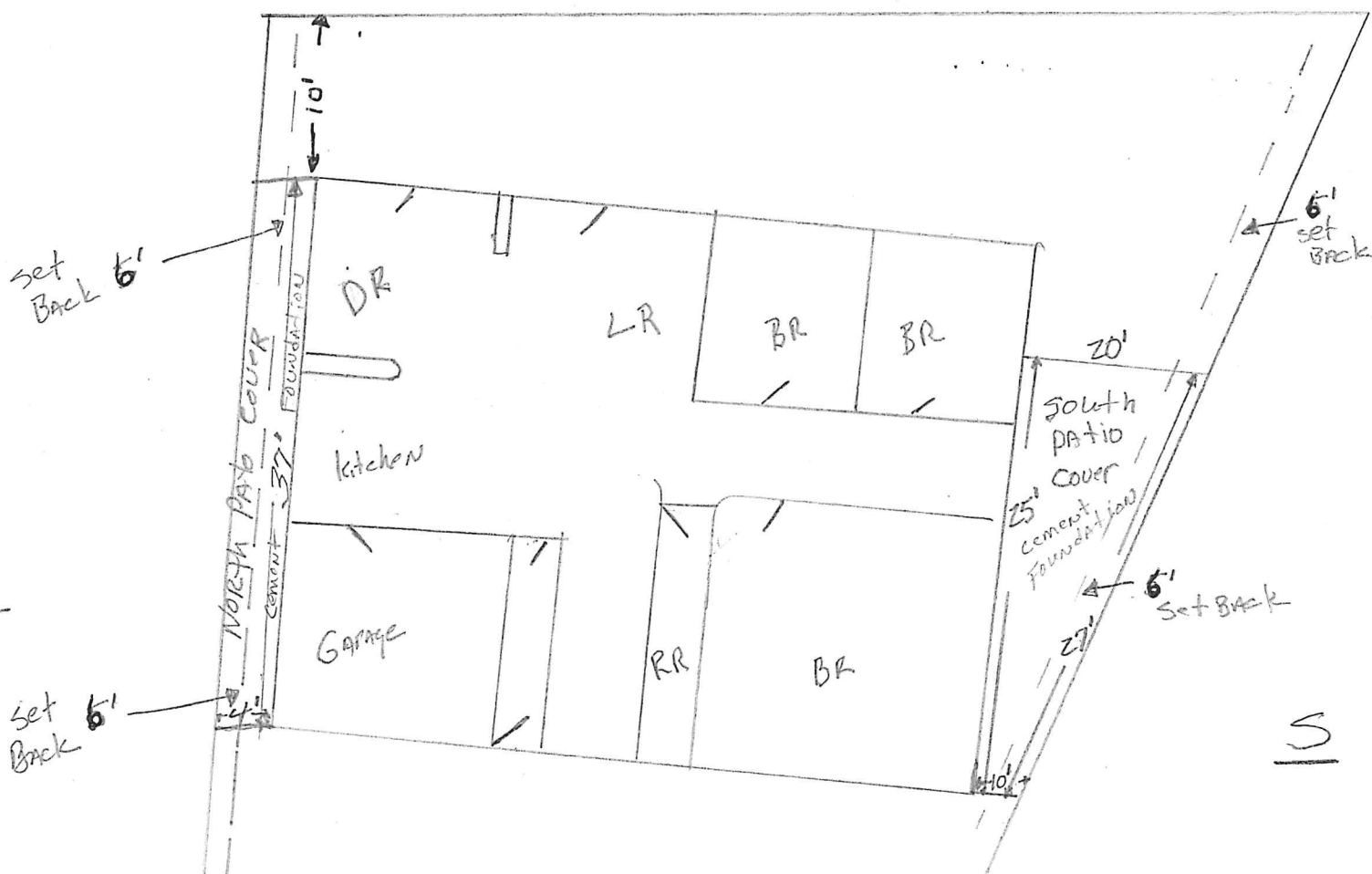
Board Action

Chairman, Board of Adjustment  
Signature

Date



E



N

S

W

5912 N 35<sup>th</sup> ST  
Gardenia Terrace  
No. 12 Lot 161













Pray









NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0113

Pray



## Memo

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

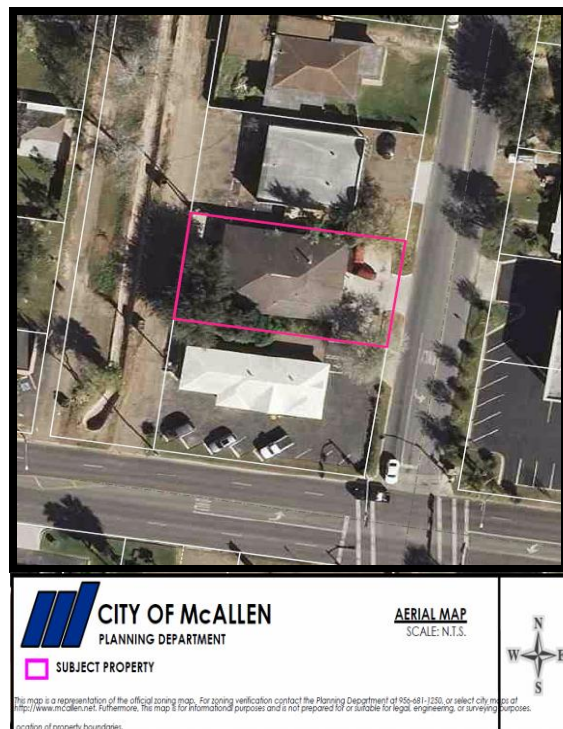
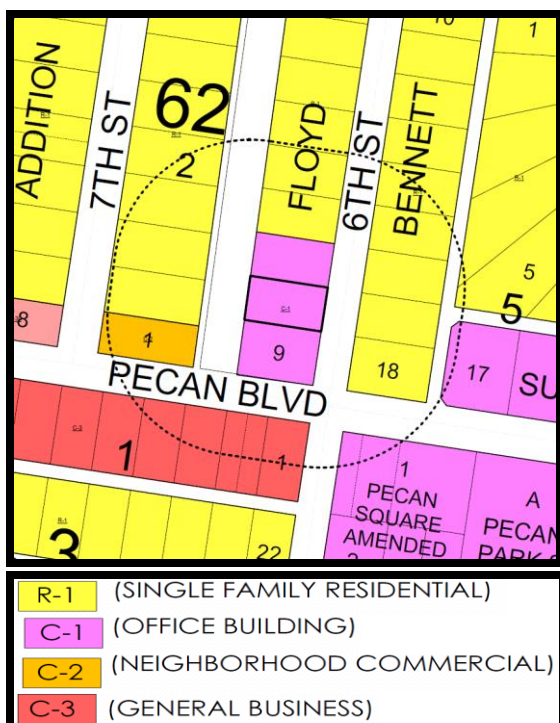
**FROM:** Planning Staff

**DATE:** December 12, 2022

**SUBJECT:** Request of David Omar Salinas on Behalf of Maria Eugenia Zabaleta (owner) for the following Variance request to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 10 parking spaces for proposed commercial use at Lot 8, Floyd Bennet Subdivision, Hidalgo County, Texas; 1605 North 6th Street. (ZBA2022-0118)

**REASON FOR APPEAL:** The applicant requests the following variance to allow five parking spaces instead of the required ten parking spaces. The applicant indicated that he is requesting the above variance to “permit orderly development of existing commercial building”.

**PROPERTY LOCATION AND VICINITY:** The property is located on the west side of North 6<sup>th</sup> Street, approximately 100 feet north of Pecan Boulevard. The property has 65 feet of frontage along North 6<sup>th</sup> Street and 113.63 feet of depth for a tract size of 7,385.95 square feet. The property is zoned C-1 (office building) District. The zoning is C-1 District to the north and south, and R-1 (single-family residential) District to the east and west.





**BACKGROUND AND HISTORY:** The recorded plat is Floyd Bennett Subdivision. A variance application for the proposed five parking spaces instead of the required 10 was received on November 16, 2022.

**ANALYSIS:** The variance request is to allow five parking spaces instead of the required 10 parking spaces. The proposed facility will consist of two-floors with the total square footage being 2,522. Based on the square footage of the floor area, 10 parking spaces are required. Section 138-395 requires four parking spaces for up to 400 square feet of floor area plus one parking space for each additional 400 square feet of floor area.

The submitted site plan reveals ten parking spaces; however, the five parking spaces located at the rear of the property are located in the 50-foot canal right-of way, which is under Hidalgo County Irrigation District #3 ownership. The irrigation district will permit parking spaces to be located within the canal right-of-way; however, will not provide a letter indicating consent of the use of the canal right-of-way.

Planning Department has received one phone call in opposition to the request as the citizen expressed concern that the reduction in parking spaces will cause customers to park in their driveways or block alleys.

**RECOMMENDATION:** Staff recommends disapproval of the variance request since the Hidalgo County Irrigation District will not provide a letter to use the canal right-of-way, and approval of the variance request may encourage others to not comply with the parking and maneuvering requirement.



ZBA 2022-0118

ZBA: 12.21.22



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 8,

Subdivision Name FLOYD BENNETT SUBD.

Street Address 1605 N. 6<sup>TH</sup> ST.

Number of lots 1 Gross acres 0.17

Existing Zoning C-1 Existing Land Use OFFICE BUILDING

Reason for Appeal (please use other side if necessary) NOT TO PROVIDE 10 PARKING SPACES - TO PERMIT ONLY 5 PARKING SPACES

☒ \$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 DAVID OMAR SALINAS Phone 682-9081

Address 2221 DAFFODIL AVE. E-mail dsalinas@salinasengineer

City MCALLEN State TX Zip 78501 146.COM

Owner

Name MARIA EUGENIA ZABALETA Phone 956-375-4695

Address 4909 JUAN DR. E-mail MARUCABALETA@

City EDINBURG State TX Zip 78540 LIVE.COM

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 11/16/22

Print Name DAVID OMAR SALINAS ☐ Owner ☒ Authorized Agent

Office

Accepted by \_\_\_\_\_ Payment received by \_\_\_\_\_ Date ENTERED

Rev 10/18

NOV 16 2022

Initial: 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 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>	
	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:	
	HCID #3 WILL PERMIT PARKING AT REAR OF LOT 8 BUT WILL NOT PROVIDE LETTER	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	APPROVAL OF VARIANCE WILL PERMIT ORDERLY DEVELOPMENT OF EXIST. COMMERCIAL BUILDING	
	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:	
	APPROVAL OF VARIANCE DOES NOT AFFECT THE HEALTH, SAFETY OR WELFARE OF GENERAL PUBLIC	
	4. Describe special conditions that are unique to this applicant or property:	
	REAR OF PROPERTY IS ADJACENT TO HCID #3 CANAL ROW	
	Board Action	
Chairman, Board of Adjustment Signature _____		Date _____

Rev. 9/20

ENTERED

NOV 16 2022

Initial: NM







GENERAL NOTES:

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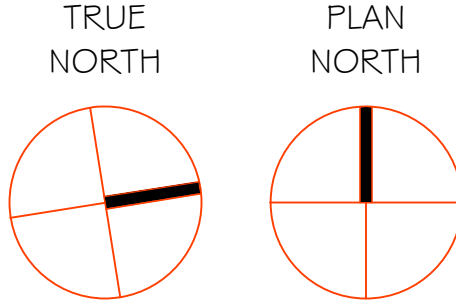
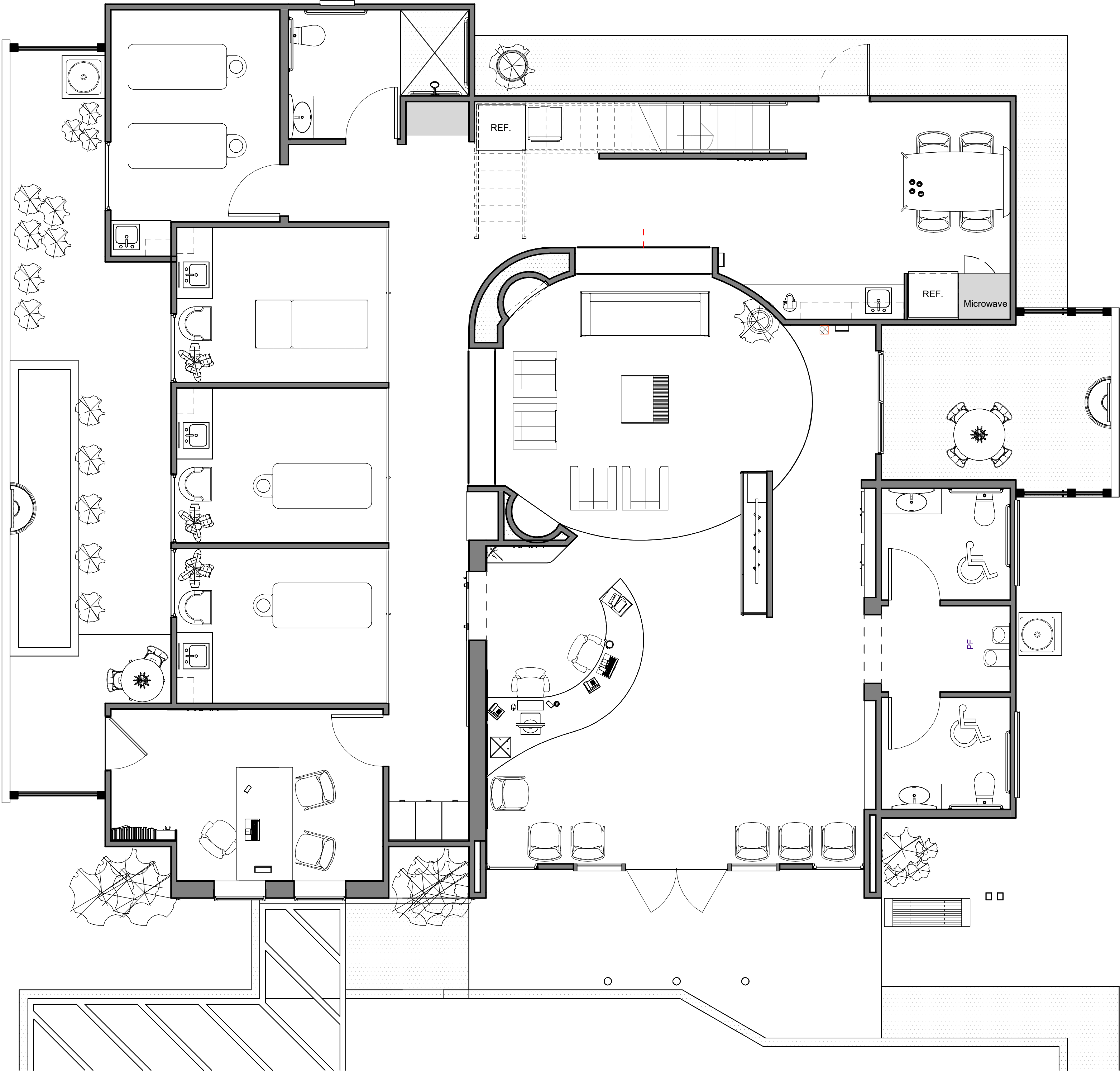
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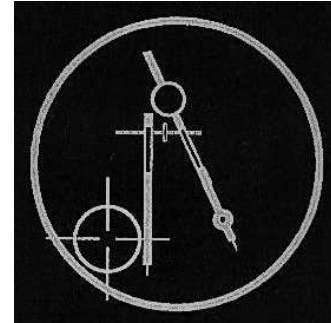
For additional information call Owner, Architectural Designer for info.

LAND	
AREA	SQ. FT.
Lot Size:	7,410
Green Area:	1,444
Concrete Apron:	301
Parking Area #1: (5 Slots)	1,872
Parking Area #2: (5 Slots)	996
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Courtyard (Pavers):	61
Patio:	137
Waste Container Pad:	60

BUILDING AREA	
AREA	SQ. FT.
1st Floor:	2320
2nd Floor:	310
Total	2,630



1 Arch. Floor Plan - 1F  
SCALE: 1/4" = 1'-0"



I HEREBY CERTIFY THAT THIS DRAWING OR PLAN AND RELATED SPECIFICATIONS MEET ALL LOCAL CODE(S) REQUIREMENTS AND ARE IN CONFORMITY WITH "A MINIMUM PROPERTY REQUIREMENTS".  
ID # VA-1322-SAO CORNELIO RIOS  
SBOCI PROFESSIONAL MEMBER #24973  
MEMBER SINCE 1994

DATE: MARCH 2022

PROJECT NO.: IM-COMM-03-22

REGISTRATION NO 22525

ARCHITECTURAL DESIGNER Cornelio Rios

ARCHITECTURAL DRAFTER Alec Rios

REVISIONS d A G

NOTES:

Client Name(s):  
Ivan Olivella & Maria Zabaleta

PROJECT: Face Fresh Medspa & Boutique  
ADDRESS 1605 N. 6th Street, McAllen, Tx.

del Arq. Group LLC

Phone #: (956)205-2145 Email: arquit@live.com  
This project design and specifications are and shall remain the property of del Arq. Group LLC. They may not be reused, reproduced or altered in any way, shape or form without prior written approval and with appropriate compensation to "delArq. Group LLC".

SHEET:

04



GENERAL NOTES:

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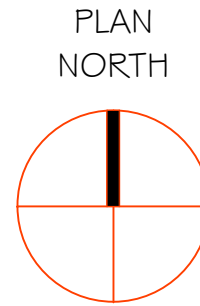
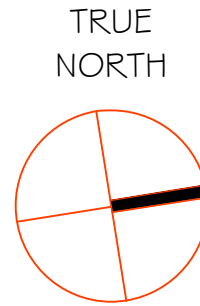
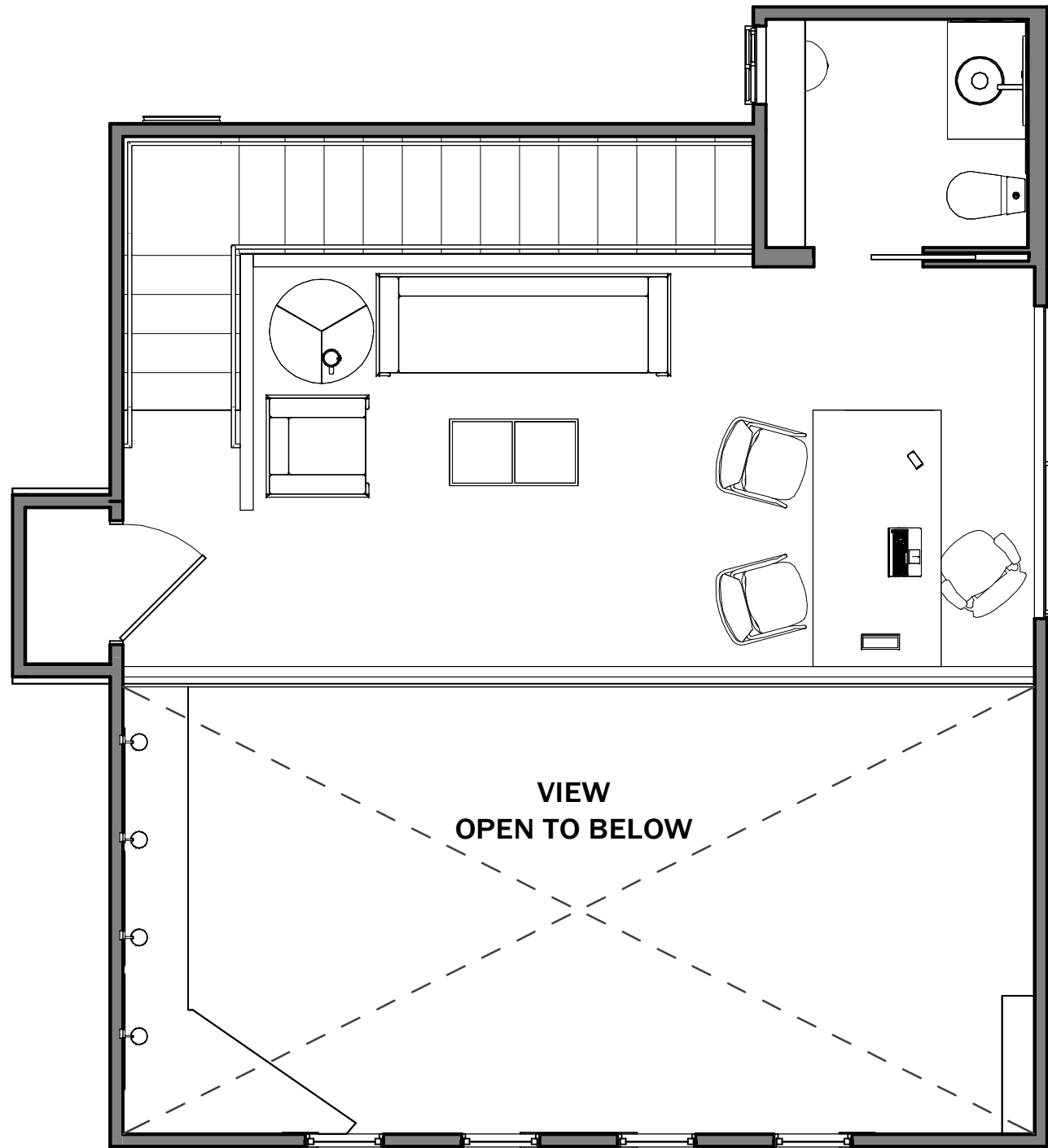
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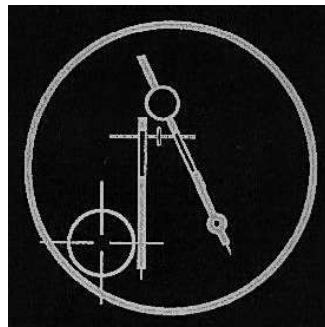
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2nd Floor:	310
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1 Arch. Floor Plan - Mezzanine

SCALE: 1/4" = 1'-0"



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ID # VA-1322-SAO  
CORNELIO RIOS  
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MEMBER SINCE 1994

DATE: MARCH 2022

PROJECT NO.: IM-COMM-03-22

REGISTRATION NO 22525

ARCHITECTURAL DESIGNER Cornelio Rios

ARCHITECTURAL DRAFTER Alec Rios

REVISIONS d A G

NOTES:

Client Name(s): Ivan Olivella & Maria Zabaleta

PROJECT: Face Fresh Medspa & Boutique

ADDRESS 1605 N. 6th Street, McAllen, Tx.

del Arq. Group LLC

Phone #: (956)209-2145 Email: arquit@live.com  
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SHEET:

05

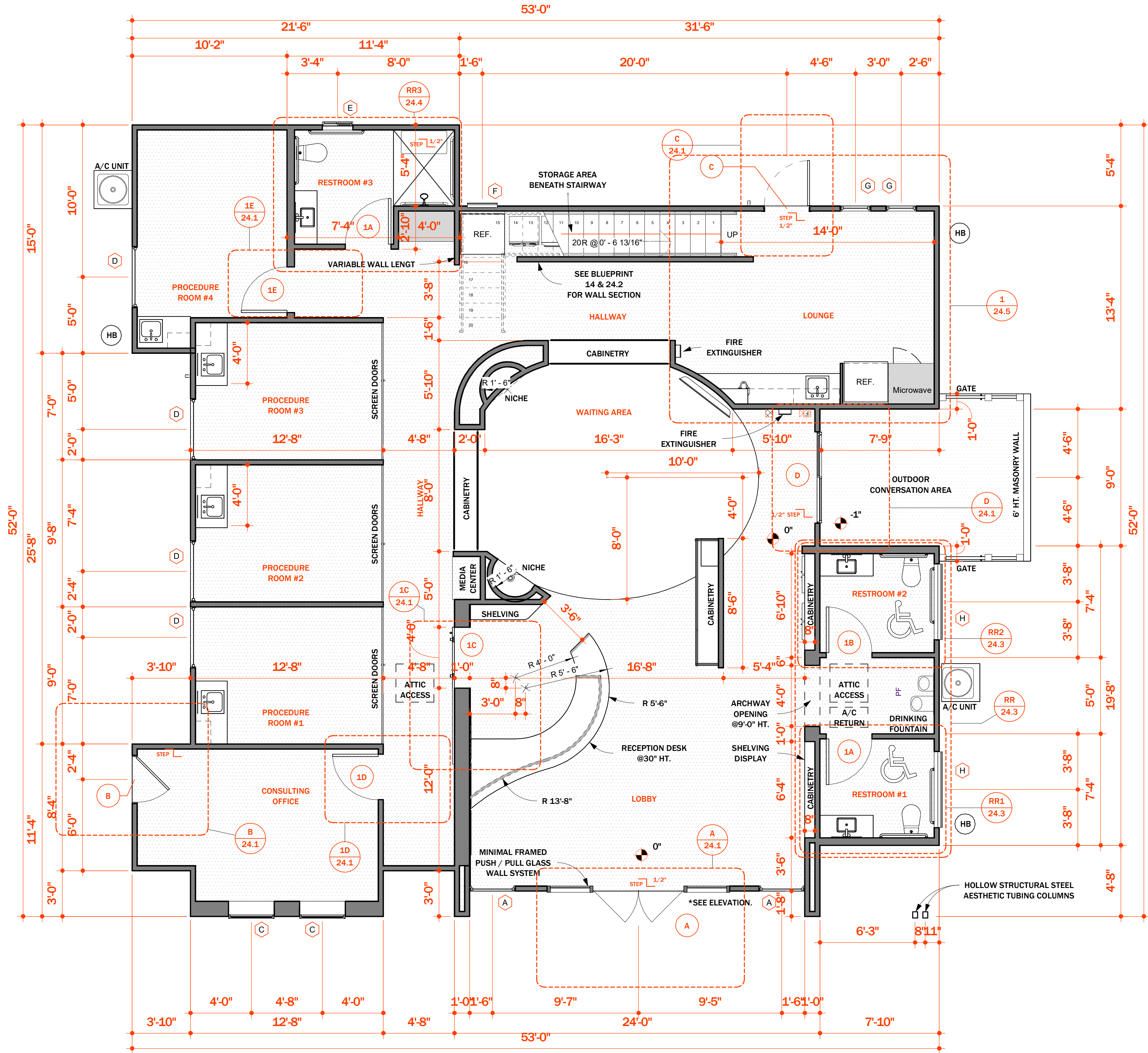


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TRUE NORTH

PLAN NORTH

1

Floor Plan - 1F

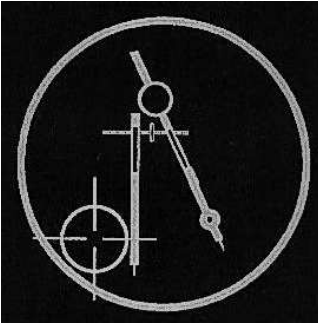
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SHEET:

06



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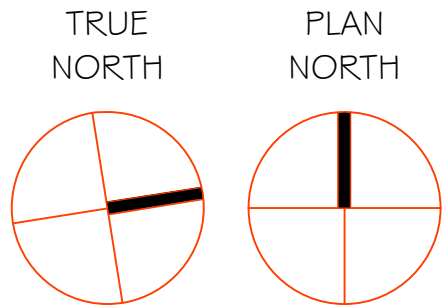
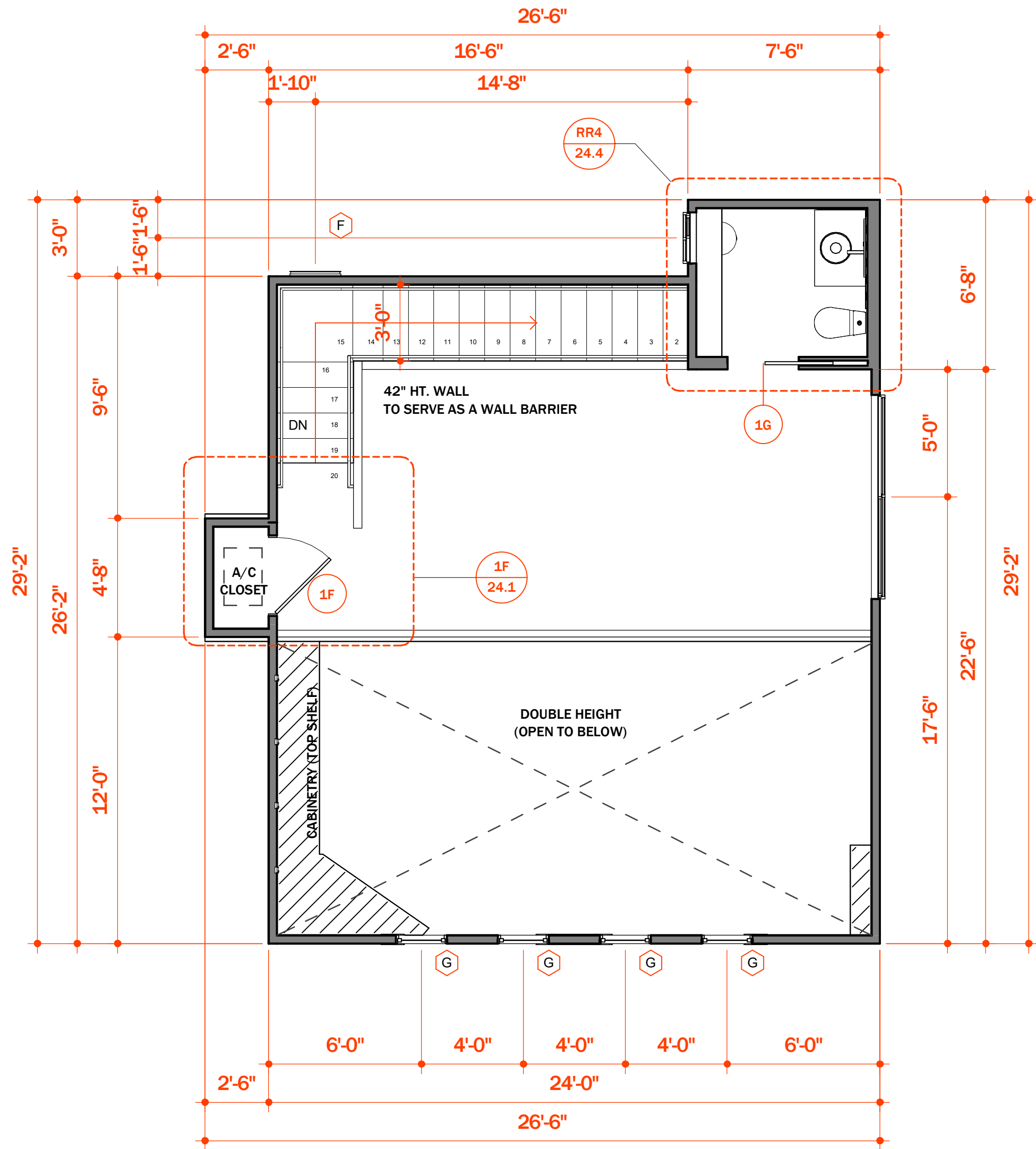
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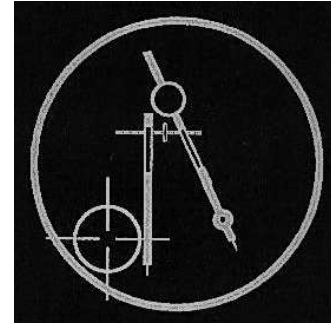
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**1** Floor Plan - 2F  
SCALE: 1/4" = 1'-0"



\*I HEREBY CERTIFY THAT THIS DRAWING OR PLAN AND RELATED SPECIFICATIONS MEET ALL LOCAL CODE(S) REQUIREMENTS AND ARE IN CONFORMITY WITH VA MINIMUM PROPERTY REQUIREMENTS.\*

ID # VA-1322-SAO  
CORNELIO RIOS  
SBCCI PROFESSIONAL MEMBER #24973  
MEMBER SINCE 1994

DATE: MARCH 2022

PROJECT NO.: IM-COMM-03-22

REGISTRATION NO 22525

ARCHITECTURAL DESIGNER Cornelio Rios

ARCHITECTURAL DRAFTER Alec Rios

REVISIONS d A G

NOTES:

Client Name(s): Ivan Olivella & Maria Zabaleta

PROJECT: Face Fresh Medspa & Boutique

ADDRESS 1605 N. 6th Street, McAllen, Tx.

del Arq. Group LLC

Phone #: (956)209-2145 Email: arquit@live.com  
This project design and specifications are and shall remain the property of del Arq. Group LLC. They may not be reused, reproduced or altered in any way, shape or form without prior written approval and with appropriate compensation to "delArq. Group LLC".

SHEET:

07







## MEMO

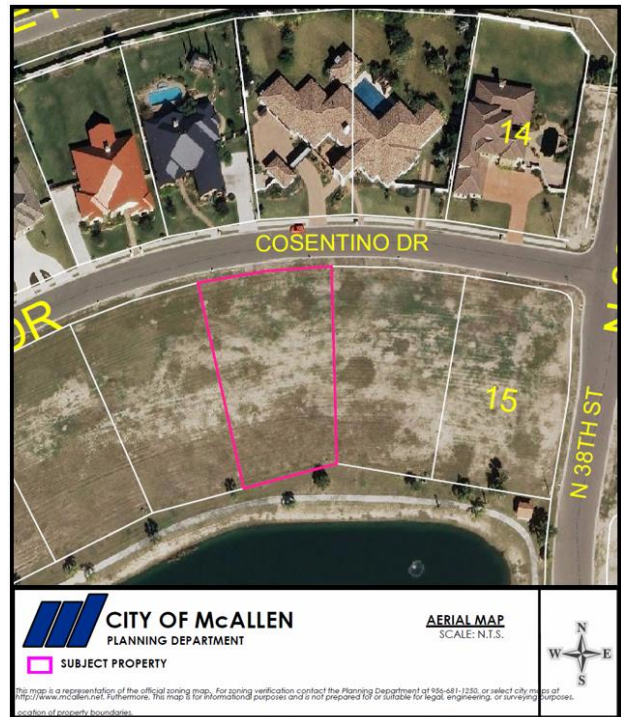
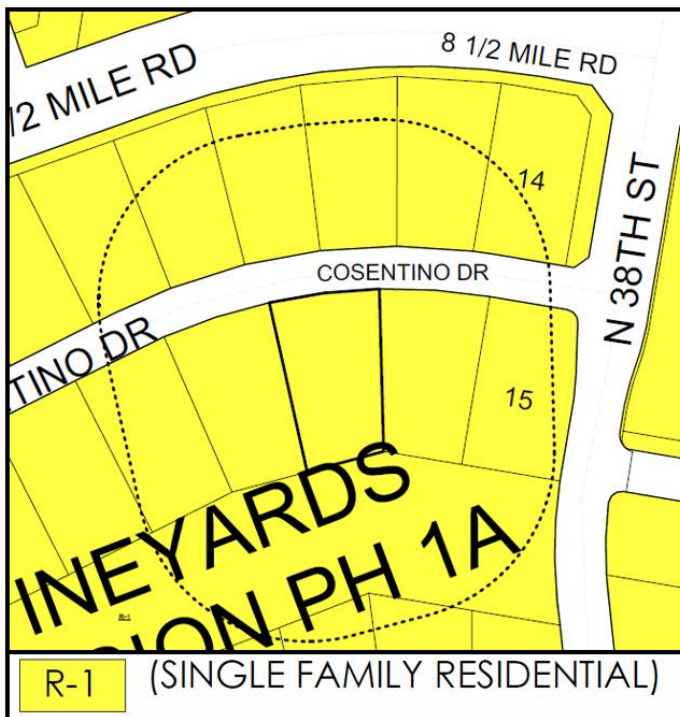
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** January 12, 2023

**SUBJECT:** Request of Luis D. Waldo on Behalf of Rene Castellanos (owner) for the following Variance request to the City of McAllen Vegetation Ordinance to allow the required landscaped area to be synthetic grass instead of natural grass at Lot 17, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 3817 Cosentino Drive. (ZBA2022-0126)

**REASON FOR APPEAL:** Property owner is requesting a variance to the Vegetation Ordinance to reduce the cost of maintaining natural grass, to give the landscape better appearance year around, and to reduce the usage of water and chemicals.



**PROPERTY LOCATION AND VICINITY:** The property is located on the south side of Cosentino Drive, approximately 250 ft. west of North 28<sup>th</sup> Street. The property dimensions are 130.20 feet by 204.07 feet. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. Surrounding land uses include single-family residences and vacant land.

**BACKGROUND AND HISTORY:** A building permit was submitted in November 2020 for a 7,453 square feet single-family residence. An application for the variance request was received by the Planning



Department on December 2, 2022.

**ANALYSIS:** Upon submittal of the variance request, the applicant also submitted a landscape plan that indicates that synthetic grass is proposed to be used for the subject property to comply with the landscape requirements. Section 110-56 (f) of the Vegetation Ordinance states that synthetic or artificial lawns or plants shall not be used in lieu of plant requirements.

The variance to the vegetation ordinance to allow the synthetic grass instead of the required landscape area that is visible from the fronting street (Consentino Drive) is not being met. As per Section 110-48 indicates that a minimum of fifty percent of the area within the required front yard of any residential parcel shall be devoted to landscape material.

Under the Building Permit, the applicant signed the conditions requiring a certain amount of landscape square footage to be of “sod, including the side yard setback extending to the front property line...” in December 2020.

The Engineering Department has received and reviewed the proposed turf and have no objections as the turf would not have a noticeable impact on the drainage of the property. However, no comment or recommendation on the planning or landscaping aspect is being stated or implied by the Engineering Department.

The Planning Director reviewed landscaping codes for various cities across Texas, including Austin, Dallas, San Antonio, and El Paso, and none allowed synthetic materials to be used for compliance with landscaping requirements.

Staff received two phone calls in opposition to the variance request. The citizens expressed that everyone must comply with the landscaping requirements.

**RECOMMENDATION:** Staff recommends disapproval of the variance request as synthetic grass should not be used in lieu of plant requirements and approval of the variance request may encourage other property owners to not comply with landscaping requirements.



ZBA 2022-0126

ZBA: 12/21/22



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 17 of the vineyards subdivision

Subdivision Name

The vineyards

Street Address

3817 Cosentino

Number of lots

10

Gross acres

50 Acre

Existing Zoning

Existing Land Use

Reason for Appeal (please use other side if necessary)

Synthetic Artificial turf instead of natural grass on entire lot.

☒ \$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

Luis D. Waldo

Phone

956-777-3677

Address

8904 N. 9th McAllen

E-mail

luiswaldo@yahoo.com

City

McAllen

State

TX

Zip

78504

Owner

Name

Rene Castellanos

Phone

956-369-4877

Address

N/A 4817 S Jackson

E-mail

City

Edinburg

State

TX

Zip

78539

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:

Date

Print Name

Rene Castellanos

☒ Owner☐ Authorized Agent

Office

Accepted by

Payment received by

Date

ENTERED

DEC. 02 2022

Rev 09/20

Initial:

DM





# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

\*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)

\*\*Information provided here by the applicant does not guarantee that the Board will grant a variance.

\*\*\*Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

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:

This house is in Compliance with Greenery, it has adequate amount of trees & plants & the grass is low maintenance & low of pest.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

The Client cannot afford to water the property all of its lifetime, it's a greater investment but grass will stay green all year

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:

The grass has the legal testis, and will be in compliance with larger municipalities.

4. Describe special conditions that are unique to this applicant or property:

This Artificial turf is compliance with all Drainage laws & will further cause a Savings in water consumption

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date



## ECO 94 GOLD



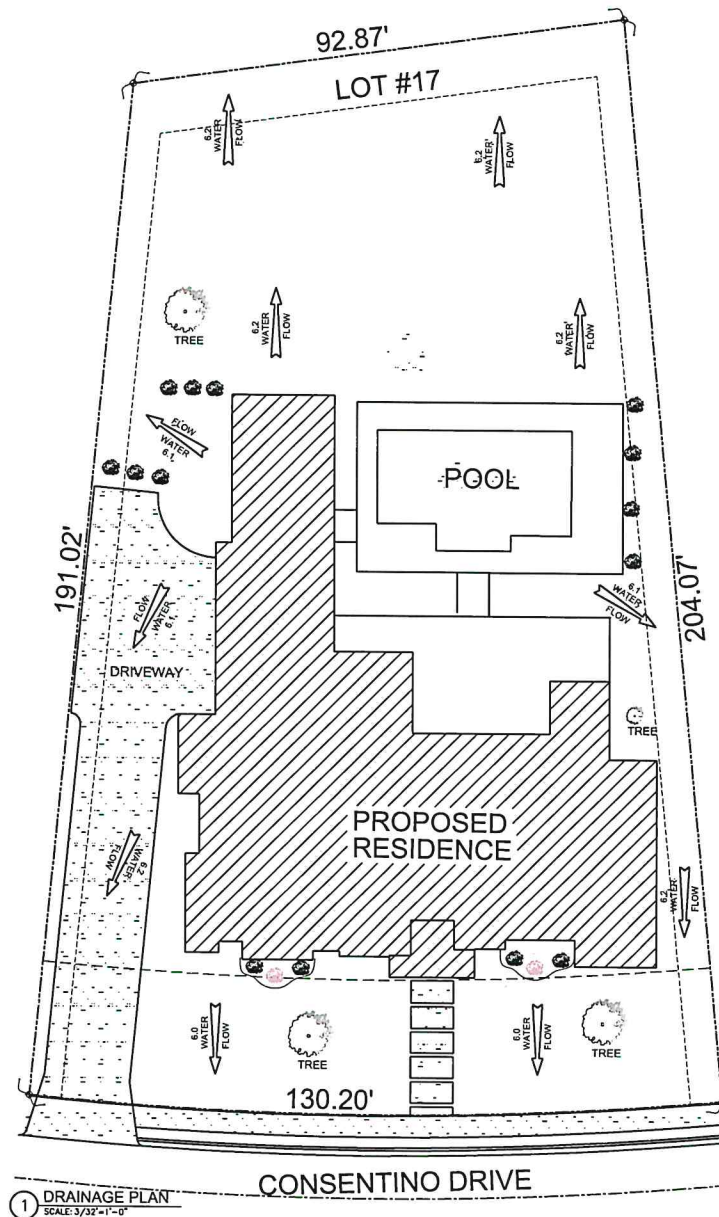
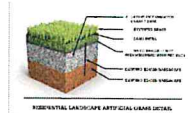
Yarn Type	Polyethylene - C Blade
Extruder	FE1500-493420
Approximate Pile Height	2.0 in.
Machine Gauge	3/8 in.
Roll Size	15 x 60 inches / roll
Approximate Inlet Amount	15.2 lbs / sq ft
Primary Backing	Polyurethane
Approx. Total Product Weight	56 lbs / sq ft
Pile Stem Weight	0.713 lbs / sq ft
Average Tuft Blade Strength	10 x 10 lb / sq ft
Total Load Capacity	< 0.5 in / sq ft
UV Resistance	8 out of 10 Pass
Water Permeability	100.0 in / sq ft
QUV Accelerated Weathering	Color: 9 / Texture: 10

### Recommended Uses

- Landscapes
- Pet Areas
- Playgrounds
- Fences

Eco 94 Gold is a high-quality product ideal for moderate to high traffic. The jade and olive green blades have a natural coloring that can be installed in any neighborhood in any state. Whatever application you choose to use Eco 94 Gold it will look lush and natural while still being affordable.

- 10 Year Warranty
- DuraBlade™ Technology
- Lead Free



Definitely Quality Homes

**ALDO HOMES**  
LUIS WALDO  
TERRE WALDO  
(956) 466-8590  
luisvaldo@alho.com

**LOT #17**  
**THE VINEYARDS**  
**SUBDIVISION**  
**MCALLEN, TEXAS.**

### NOTES:

DATE: 06-24-2020

**SHEET**  
**C-1**











## 2023 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/23	01/18/23	02/08/23	02/22/23	03/08/23	03/22/23	04/05/23	04/20/23	05/03/23	05/17/23	06/07/23	06/21/23	07/13/23	07/27/23	08/09/23	08/17/23	09/07/23	09/20/23	10/04/23	10/18/23	11/01/23	11/15/23	12/06/23	12/20/23
SYLVIA HINOJOSA-CHAIRPERSON	P	P	P																					
JOSE GUTIERREZ-VICE-CHAIR	P	P	P																					
ANN TAFEL	P	P	P																					
HUGO AVILA	P	P	P																					
ROGELIO RODRIGUEZ	A	P	A																					
REBECCA MILLAN (ALT 1)	P																							
MARK TALBOT (ATL 2)	A																							
SAM SALDIVAR (ALT 3)	P	P	P																					
JUAN MUJICA (ALT 4)	P	P	A																					

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



## 2023 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 2023

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





### FEBRUARY 2023

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





### MARCH 2023

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





### APRIL 2023

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

### MAY 2023

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

### JUNE 2023



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



## 2023 CALENDAR






### Meetings:

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







### Deadlines:

- D- Zoning/CUP Application
- N - Public Notification
- \* **Holiday** - Office is closed







### JULY 2023

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







### AUGUST 2023

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








### SEPTEMBER 2023

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





### OCTOBER 2023

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

### NOVEMBER 2023

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

### DECEMBER 2023

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