#### **AGENDA**

# ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, FEBRUARY 3, 2021 -4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

Web: https://zoom.us/join or phone: (346) 248-7799 Meeting ID: <u>672 423 1883</u>

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

#### CALL TO ORDER - CHAIRPERSON ERICK DIAZ

#### 1. MINUTES:

a) Minutes for the meeting held on January 20, 2021.

### 2. PUBLIC HEARINGS:

- a) Request of Daryl J. Minor for the following variances to the City of McAllen Zoning Ordinance: 1) to allow an encroachment of 35 ft. into the 35 ft. front yard setback along the west property line and 2) to allow an encroachment of 7 ft. into the 7 ft. side yard setback along the south property line for an existing metal carport measuring 11 ft. by 35 ft., at Lot 16, Block 6, Milmor Subdivision, Hidalgo County, Texas; 1106 North 17th Street. (ZBA2020-0086)
- b) Request of Lance Strand for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 ft. into the 15 ft. rear yard setback for a proposed swimming pool measuring 19.5 ft. by 29 ft., at Lot 32, Dominion Subdivision, Hidalgo County, Texas; 7913 North 1st Street. (ZBA2020-0089)
- c) Request of *J* and *J* Perez Pools for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 12 ft. into the 25 ft. rear yard setback on a double fronting lot for a proposed swimming pool measuring 10 ft. by 20 ft., at Lot 118, Meadow Ridge Subdivision, Hidalgo County, Texas; 4915 North 46th Lane. (**ZBA2020-0090**)
- d) Request of Eunice Salinas and Jarad Saladino for the following variance to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 10 ft. into the 25 ft. front yard setback for a proposed single family house at Lot 57, Frontera Village Subdivision, Hidalgo County, Texas; 1808 Harvard Avenue. (ZBA2020-0091)
- e) Request of Cynthia Cervantes for the following variance to the City of McAllen Zoning Ordinance: to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use at Lot 12, Block 16, North McAllen Subdivision, Hidalgo County, Texas; 602 North 11th Street. (ZBA2021-0002)

#### 3. FUTURE AGENDA ITEMS:

a) 7001 North 5<sup>th</sup> Street

#### **ADJOURNMENT:**

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

STATE OF TEXAS COUNTY OF HIDALGO CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, January 20, 2021 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present: Erick Diaz Chairperson

Sylvia Hinojosa
Jose Gutierrez
Ann Tafel
Hugo Avila
Rebecca Millan
Rogelio Rodriguez
Member
Alternate
Alternate
Alternate

Absent: John Millin Vice- Chairperson

Juan F. Jimenez Member

Michelle Rivera Assistant City Manager Edgar Garcia Planning Director

Rodrigo Sanchez Senior Planner

Iris Alvarado Planner I

Porfirio Hernandez GIS Technician II

Carmen White Secretary

### **CALL TO ORDER – Chairperson Erick Diaz**

### 1. MINUTES:

a) Minutes for the meeting held on January 6, 2020.

The minutes for the meeting held on January 6, 2020 were approved. The motion to approve the minutes was made by Ms. Sylvia Hinojosa. Mr. Jose Gutierrez seconded the motion, which carried unanimously with five members present and voting.

#### 2. PUBLIC HEARINGS:

a) Request of Laura E. Alvarez for the following variances to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 3.5 ft. into the 6 ft. east yard setback for an existing wooden storage shed measuring 10 ft. by 16 ft. with a wooden canopy measuring 6 ft. by 16 ft. and 2) to not require a 5 ft. separation for an accessory building to the main building, for an existing wooden storage shed measuring 10 ft. by 16 ft. with a wooden canopy measuring 6 ft. by 16 ft. at Lot 74, Oaks Place Subdivision, Hidalgo County, Texas; 2812 Jay Avenue. (ZBA2020-0088)

Ms. Alvarado the applicant was requesting the variances to allow an existing wooden storage shed with a wooden canopy to remain at its current location. The wooden storage shed and wooden canopy required a variance for an encroachment into the east

side yard setback and a variance for the distance from the main building.

The subject property was located on the north side of Jay Avenue, 325.6 ft. east of North 29th Street. The property had 64 ft. of frontage along Jay Avenue and a depth of 110 ft. with a lot size of 7,040 sq. ft. The adjacent zoning was A-O (agricultural and open space) District to the north and R-1 (single-family residential) District to the east, west and south. Surrounding land use include single-family residences, Reynaldo G. Garza Elementary School, and Lark Community Center and Library.

Oaks Place Subdivision was recorded on November 18, 1986. Hidalgo County Appraisal District records showed that the residential home was built in 1987. The applicant stated that the storage shed was constructed in 2015 and replaced an older storage shed which was built in 1990 according to the Hidalgo County Appraisal District records. The applicant mentioned that they had verbally informed the City about the storage building before constructing it, but the staff had informed them that no building permit was required since it was less than 200 sq. ft. She stated that she was not aware of the setback and minimum separation requirement and located the storage shed where she had drainage issues from the adjacent property to the east. She included that the adjacent property's pool was built higher than their house, therefore the pool's water would come into their property when it rained, leaving their side and back yard muddy before they placed the storage shed there. In addition, she mentioned that if she moved it out of the side setback, it would encroach into the rear yard setback and easement. The applicant received a SWO (Stop Work Order) from the City of McAllen on November 16, 2020. An application for a building permit for the existing storage shed and a proposed porch was submitted on November 17, 2020, which was disapproved during the building permit review process due to the encroachment into the side yard setback. The application to request the variances was submitted on December 14, 2020.

The plat indicated 6 ft. as the side yard setback.

Request #1 was for a variance to allow an encroachment of 3.5 ft. into the 6 ft. side yard setback along the east property line for an existing wooden storage shed measuring 10 ft. by 16 ft. with a wooden canopy measuring 6 ft. by 16 ft. The storage building was used to store household items. The storage building was located at the rear of the property and was built in 2015 according to the application. Storage buildings that were 200 sq. ft. or less in size did not require a building permit, but must respect the zoning district setbacks in which they are located. The applicant could reduce the canopy and relocate the storage shed to eliminate this code deficiency.

Request #2 was for a variance was to not require 5 ft. separation for an existing wooden storage shed measuring 10 ft. by 16 ft. with a wooden canopy measuring 6 ft. by 16 ft. The storage shed was located at the rear of the property and its canopy overhangs the patio's canopy that was part of the house. The McAllen Code of Ordinance stated that an accessory building shall be no closer than 5 ft. to the main building. The applicant could attach the accessory building to the main building or reduce the canopy and thus eliminate this code deficiency.

Approval of the variance requests will allow the storage shed to remain. Approval of the building permit application was pending approval of the variance requests.

During the site visit, staff noticed that there are other existing storage buildings in the area that appear to be encroaching into the side and rear yard setbacks.

Staff had received a phone call in opposition to the request. The opposition stated that she was the adjacent property owner to the east and that she was concerned about possible fire hazards and property value reduction due to the location and appearance of the storage shed.

Staff recommended disapproval of the variance requests. If the Board chooses to approve the requests, the approval should be limited to the encroachments shown on the submitted site plan.

Board member Jose Gutierrez asked staff if the storage shed had electricity or running water. Ms. Alvarado stated yes it did have electricity per the applicant.

Board member Ann Tafel asked staff if the storage shed was on a slab foundation. Ms. Alvarado stated it was on cinder blocks.

Board member Hugo Avila asked if the applicant had indicated that he would remove it so that it could be in compliance. Ms. Alvarado stated they had suggested it but the applicant would like to remain as is if possible. One issue that they had in the rear yard was that there was a 10-foot utility easement and it was not currently encroaching on that side.

Board member Tafel asked if they reduced the overhang from the porch to the storage shed then it would solve the problem. Ms. Alvarado stated reducing or eliminating the canopy so as to move the storage shed closer to the house and out of the setback but would still not comply with the 5-foot separation from the porch.

Board member Ms. Hinojosa asked staff how they were measuring. Ms. Alvarado stated they were measuring post to post which was one foot four inches. From the shed to the porch area on the home was about an inch and a half. The overhang of the shed and the porch was six inches above. The request was for not to require the 5-foot separation.

Mr. Laura Alvarez and Mr. Belford Melvin, the applicant stated when they bought their home in 1996, another smaller storage shed existed there where the current shed was located. The shed had been there for 20 years. Her husband decided to remove the smaller storage shed and replace it with a larger one. She stated her husband had called the City to ask about a permit. They had informed him no permit was required based on the size of the structure. The current storage shed had been there for 5 years. Ms. Alvarez stated that no danger would be affecting the neighbor's side because there was a swimming pool next door. The applicant stated the neighbor's swimming pool sits above the ground on concrete slab. When it rained they would get the water that overflowed from the swimming pool into their yard. She stated that other homes in their area have storage units closer to their fences than theirs. She stated they do not have any flammable materials in the storage shed. They only have school supplies for her teaching occupation.

Chairperson Diaz asked the applicant when did they built the storage unit. Ms. Alvarez

stated 5 years ago. Chairperson Diaz asked if it was built with the overhang. Ms. Alvarez stated it was put on 6 months afterwards. The storage shed also had air conditioning.

Chairperson Diaz asked Mr. Melvin if he had installed the electricity. Mr. Melvin he had an electrician install it and that he could remove it if needed. Chairperson Diaz asked the reason for not relocating the shed. Mr. Melvin stated they wanted to keep as much of the back yard area as possible.

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

Mr. Javier Farias, 2816 Jay Avenue, stated he did not see any problem with the applicant's request. He mentioned they keep their back and front yard maintained as well as their fence.

Chairperson Diaz asked if there was anyone present or on Zoom in opposition of the variance request. There was one person in opposition of the variance request.

Ms. Rhonda Sneerly, 2808 Jay Avenue, (via Zoom) stated storage the shed was sitting on her property line. She stated since it was made of wood, had electricity plus an air conditioning unit that sits half way out of the building under a tree it would be a fire hazard. She stated they were senior citizens and her husband was confined to a powered wheelchair.

Ms. Deborah Arney, 6101 N. 28<sup>th</sup> Street, (via Zoom) stated she lived in a cul-de-sac that faced their street. Her concern was when people see structures going up next to fences they may think it was alright to do. Chairperson Diaz asked Ms. Arney if she was in favor or opposing. She stated if they were going to keep it where it was at then she was opposing.

Ms. Alvarado stated the applicant wanted to make clear they had received three letters in favor of the request from the property owners within the 200-foot notification radius.

Chairperson Diaz explained to the applicant that the concerns were the Ordinance states the distance between structures so that the fire does not reach neighbors in order to give time for Fire Department to get there in time. Ms. Alvarez asked to make sure she was clear on everything. Where the fence was nothing could be built within the 6-foot setback. Chairperson Diaz stated a concrete slab was not considered a structure no matter how close to the fence but when a structure is built on top of the concrete than it had to be 6 feet away from the fence. He also stated that in the future if they were to sell the house their concern would be the next owner could use the storage building as living area.

Board member Hinojosa asked staff that if they removed the roof and move the storage building forward would it would still have the problem not meeting the five feet requirement to the main building. Ms. Alvarado stated yes for the 5-foot separation. If they moved in and out of the setback towards the house, they would still need the 5-foot separation. If they remove the porch and move it three and half feet in it would still be up close to the house.

Board member Avila stated if they approve variance request #2 allowing them to bring it close to the main building to satisfy the 5-foot separation he would be fine with it.

Board member Rodriguez stated if it got closer to the house you would be bringing the combustible materials to the primary structure it would still be a hazard.

Ms. Sylvia Hinojosa <u>moved</u> to disapprove variance request #1 and approve variance request #2. Mr. Jose Gutierrez stated if they approved #2 it would still be considered a fire hazard. There was no seconded. The motion failed.

Mr. Jose Gutierrez <u>moved</u> to disapprove variance requests #1 and #2. Ms. Rebecca Millan seconded the motion. The Board voted to disapprove variance requests #1 and #2 with five members present and voting. Ms. Sylvia Hinojosa and Ms. Ann Tafel voted nay.

Chairperson Diaz mentioned to the applicant they would have six months to discuss with staff their options in order to comply as recommended by legal counsel.

### 3. FUTURE AGENDA ITEMS:

- a) 1106 North 17th Street
- **b)** 7913 North 1<sup>st</sup> Street
- **c)** 4915 North 46<sup>th</sup> Lane
- d) 1808 Harvard Avenue
- e) 602 North 11th Street

### **ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Ms. Sylvia Hinojosa <u>moved</u> to adjourn the meeting. Ms. Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

	Chairperson Erick Diaz
Carmen White, Secretary	

### Memo

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

**FROM:** Planning Staff

**DATE:** January 28, 2020

SUBJECT: REQUEST OF DARYL J. MINOR FOR THE FOLLOWING VARIANCES TO THE

CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENCROACHMENT OF 35 FT. INTO THE 35 FT. FRONT YARD SETBACK ALONG THE WEST PROPERTY LINE AND 2) TO ALLOW AN ENCROACHMENT OF 7 FT. INTO THE 7 FT. SIDE YARD SETBACK ALONG THE SOUTH PROPERTY LINE FOR AN EXISTING METAL CARPORT MEASURING 11 FT. BY 35 FT., AT LOT 16, BLOCK 6, MILMOR SUBDIVISION, HIDALGO COUNTY, TEXAS; 1106 NORTH 17TH

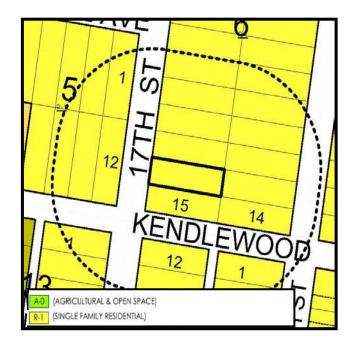
STREET. (ZBA2020-0086)

#### **REASON FOR APPEAL:**

The applicant is requesting a variance to allow an encroachment of 35 ft. into the 35 ft. front yard setback and 7 ft. into the 7 ft. side yard setback along the south property line for an existing metal carport. The existing carport is used to protect the applicant from inclement weather because of his medical conditions.

### PROPERTY LOCATION AND VICINITY:

The subject property is located on the southeast side of North 17<sup>th</sup> Street. The lot has 50 ft. of frontage along North 17<sup>th</sup> Street with a depth of 152.5 ft., for a lot size of 7,625 sq. ft. The surrounding land use is single-family residences.





### **BACKGROUND AND HISTORY:**

Milmor Subdivision was recorded on May 26, 1997. A stop work order for building without a permit was issued on December 09, 2020. The applicant submitted an application for a building permit on December 14, 2020. An application for a variance request was submitted on December 10, 2020.

### **ANALYSIS:**

The variance request is to allow an encroachment of 35 ft. into the 35 ft. front yard setback for an existing metal carport measuring 11ft. by 35 ft. There are no utility easements inside the property. The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view of properties in a subdivision.

An inspection by the planning department revealed minor encroachments into the rear and side yard setback for an existing storage building which the applicant decided not to include as part of this request.

The applicant stated that the reason for the carport is his health.

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

Staff has advised the customer to attend the meeting via zoom or in person. However, the applicant decided to submit the letter outlining the reason for his request.

### **RECOMMENDATION:**

Staff recommends disapproval of the variance request. If the Board chooses to approve the request, the approval should be limited to the encroachments shown on the submitted site plan.

### City of McAllen

## Planning Department APPEAL TO ZONING BOARD OF

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

<b>ADJUSTMENT</b>	TO MCAL	I FN ZONING	ORDINANCE
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	ADJUSTMENT TO MCALLEN ZONING ORDINANCE		
	Legal Description Kot (Mot Lot 18 Blockb		
Project	Subdivision Name  Street Address  Number of lots  Street Address  Number of lots  Existing Zoning R-1  Existing Land Use Resident a  Reason for Appeal (please use other side if necessary)  To Reason for Appeal (please		
Applicant	Name Jary ( 5 Minut Phone 956-483-1038  Address 106 No 17th E-mail Saty L Minut Cyahao. com  City McAlleis State 8. Zip 78501		
Owner	Name Daty ( ]. Minor Phone 956-483-103B  Address 1106 N. 174 E-mail Lary (14indle yahos con  City Aller State E. Zip 7850]		
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  Date  Authorized Agent		
Office	Accepted by Payment received by Date DEC 1 0 2020		

2842020-0086

Reason for Appeal

**Board Action** 

## Planning Department REASON FOR APPEAL & BOARD ACTION

	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
	<ol> <li>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:</li> </ol>
	My driveway is in the same Location and it would
	be inviolation of city ordinance to velocate or pit
1	advivewayto cooliec acea.
	<ol><li>Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</li></ol>
	Due to my numerous health conditions pertaining to my
	lung dornage, the approach of the casport would belp to
	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:
	Since the calport is not an enclosed structure it loes
	not black the view of our neighbors or ourselves From
	existing of energing any drive way.  4. Describe special conditions that are unique to this applicant or property.
	4. Describe special conditions that are unique to this applicant or property.  This Carport would be for protect the Lungs that
	I have which one domaged trangetting we take
	to vais as well as other clionatic weather
	conditions. It would also protect my daughter as well.
	To each voach 22 Feet in to the 30 Foot From your
	set back.
	Chairman, Board of Adjustment Date
	Signature

OBJECTID: 1,477,507 PROP ID: 237,286

GEO\_ID: M4600-00-006-0016-00 PIDN: M46000006001600

LAST\_FIRST: MINOR DARYL & MARCIA G

LAST\_NAME: MINOR

FIRST\_NAME: DARYL & MARCIA G

ADRS\_1: ADRS\_2:

OWNERADD\_2: PO BOX 3396

OWNERCITY: MCALLEN

OWNERSTATE: TX

OWNERZIP: 78502-3396

LEGALDESCR: MILMOR LOT 16 BLK 6

LEGAL 2:

PROPERTYUS: A1

LANDVALUE: 26,306

IMPROVALUE: 38,675

STREET: N 17TH ST

STREETNUMB: 1106

BLOCKNUMBE: 1106

STREETDIRE: N

STREETNAME: 17TH

STREETSUFF: ST

UNITNUMBER:

SITUSADDRE: 1106 N 17TH ST

YEAR: 2019

SUBDIVISIO: M460000

BLOCK: 006

LOT: 0016

SPLITS: 00

X: -98.2356

Y: 26.2148

ENTITIES: CAD CML DR1 GHD JCC R12 SML SST

HCAD: http://propaccess.hidalgoad.org/clientdb/Property.aspx?cid=1&prop\_id=237286

CREATED\_US: SDE@MCASQLSRV01.GISDATA

CREATED\_DA: 02/05/2019

LAST\_EDITE: SDE@MCASQLSRV01.GISDATA

LAST\_EDI\_1: 12/09/2019

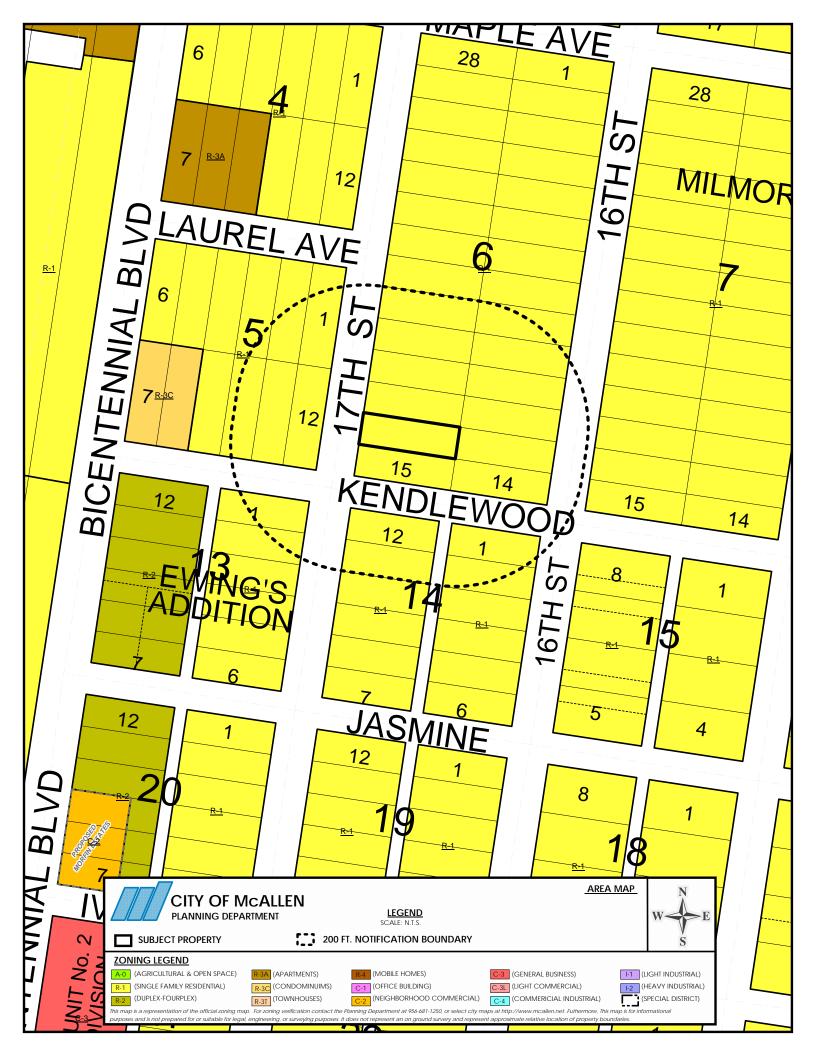
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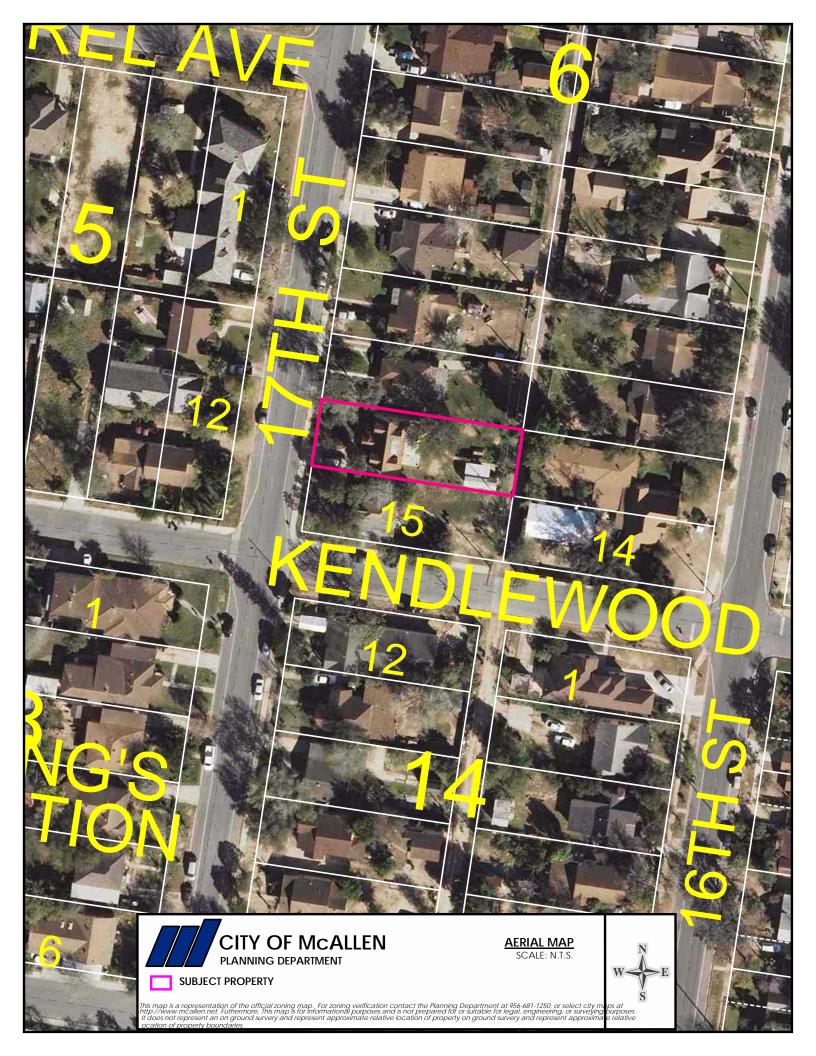
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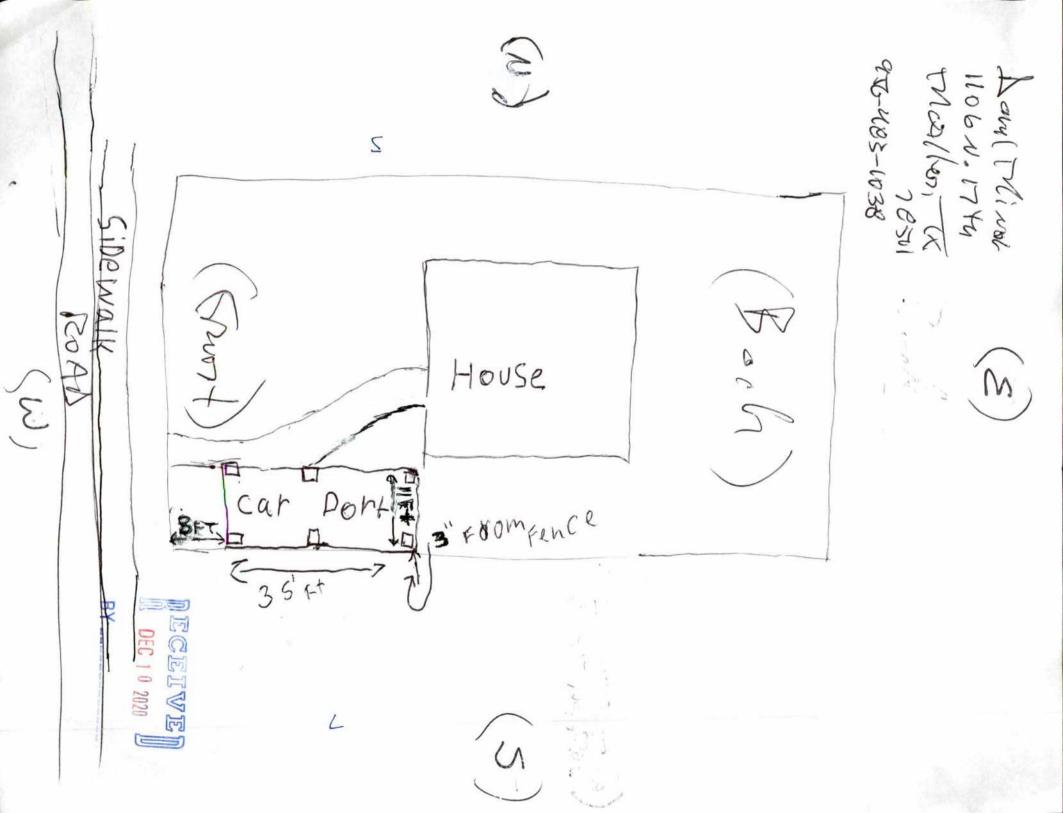
ASSESSVALU: 64,981

SHAPE\_AREA: 7,638.97537621 SHAPE\_LEN: 405.159406369

12	1	McALLEN		A REV. 3/20°0
-	_	P.O. BOX 220 McALLEN, TEXAS 78505-0220 APPLICATION MUST BE COMPLETE	PERMIT APPLICATION REFERENCE NUMBER	BP52020-09200
		(Please type or print in black or blue ink)	_ <	dy 1127 1275
2	_	NAME Lavyl	PHONE	956.403.1038
ナナ	APPLICANT	ADDRESS 1106 N. L	Tto,	
<u> </u>	PLK	city Madle	STATE	K ZIP CSU
D	AF	CONTACT: NAME:	PHONE	956 403 1038
		OWNER CONTRACTO	R TENANT OTHER	
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	OWNER	ADDRESS 1106, N. (	774 'EMAII	
	ō	CITY TO CHILLED,	STATE	ZIP 78501
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		EXISTING USE	LOT	FRONT ABOVE CURB
		OF LOT	USE V	21 20 10 63
		SCOPE OF WORK TO BE DONE	Clastochot Cal DOLV	to provide to
		reasonable acci	NOT TUB 2 MO HOS M	whosedisolders.
	<u></u>	RESIDENTIAL NO. OF NO. NO. NEW UNITS BDR		
	PROJECT			
		FOUNDATION EXT WALL  CONCRETE SLAB   MASONRY	ROOF VENEER	UPGRADES/OTHER  ☐ GRANITE COUNTERTOPS
	-	☐ CONCRETE PIER ☐ MASONRY ☐ CONCRETE BLOCK ☐ METAL SII	SOLID COMPOSITION	☐ MARBLE TUBS/FLOORS ☐ CUSTOM WINDOWS
		☐ CONCRETE BEAM ☐ COMPOSI ☐ WOOD POSTS / ☐ WOOD		☐ POLYURETHANE INSULATION ☐ OTHER UPGRADES
	2	5 steel posts. =		SEPTIC TANK EXISTING OR PROPOSED
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		LOT 16 BLOCK 6 SUBDIVISION	Milimor	//
		SITE ADDRESS ST. NO. 106 ST	NAME NONTY 1744 MS	Alter 12-76501
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	CITY USE ONLY	Value \$ 15,400	Double Fee \$ 61.60	Date 13 14 190
	š ≽	Zoning	Total Fee \$ 123.20	Time Site
	ប	Pa	k Development Fee \$	Park Zone
T	ne for	egoing is a true and correct description of the improve	ment proposed by the undersigned applicant and the applican	nt states that he will have full authority over construction of
Sa	me. be a	The building permit shall not be held to permit or be an waiver by the City of such violation. Alteration change	approval of the violation or modification of any provisions of one of the violations from the plans authorized by this permit is unlikely the plans authorized by this permit is unlikely to the plans authorized by the provisions of the violation	City ordinances, codes, subdivision restrictions of State law lawful without written authorization from the Building
In co	spec ompli	tion Department. The applicant herby agrees to compl ance. It is understood that the improvements shall r	with all City ordinances, codes, subdivision, restrictions and not be occupied until a Certificate of Occupancy has been	State laws and assume all responsibility for such n issued. Every permit issued shall become invalid unless
		k authorized by such permit is commenced within six r is commenced. This permit is good for one year only.	nonths after its issuance or if the work authorized by such per	rmit is suspended or abandoned for six months after the time
	di	auf & MASS	All Sulvino	Ovela Cost Plulzon
1	RIN	T (AUTHORIZED AGENT/OWNER)	STGNATURE LEMAIL ADD	RESS (required) DATE







Dear Mr. Carlos Garza,

This is to inform you that as a disabled Veteran and an individual with multiple disabilities, I am requesting that the City of McAllen, Texas provide an exception to its variance and setback polices when considering the medically recommended carport that I have installed on the front driveway of my house. In doing so, I would like you to consider that I am requesting your consideration for this accommodation as per the Fair Housing Act and Title II of the Americans with Disabilities Act, since it considered to be both reasonable and necessary, because it does not impose a financial or administrative burden to the City, provides myself with an equal opportunity to be able to use my home as someone would without a disability, and as the result of the therapeutic benefit the carport provides to my lung conditions by protecting them from constantly changing weather conditions as well (See Addendum B-Doctors Letters). In addition this to inform you that as the result of ongoing medical problems and appointments I am having at this time, I will not be able to attend your meeting on February 3rd at 4:30 P.M. However this is to inform you that some of my neighbors will be attending on my behalf instead. And lastly, I would appreciate your letting me know the outcome in regards to the appeal so that I can either complete the construction on my carport, or if needed, file an appeal to District Court instead. I will be looking forwards to hearing from you soon. You can call me at 956-483-1038 or email me at darylminor@yahoo.com.

Sincerely,

Daryl J. Minor

### Addendum B-Doctors Letters

MEDICAL RECORD

Progress Not

NOTE DATED: 12/31/2020 10:23 LOCAL TITLE: CHART REVIEW NOTE STANDARD TITLE: OUTPATIENT INTERDISCIPLINARY NOTE VISIT: 12/31/2020 10:23 MCA PACT YELLOW TEAM MINOR, DARYL JOSEPH, 398-64-5373

To Whom it May Concern:

I am writing you on behalf of Daryl Minor who is Disabled Veteran with lung damage and who is also a patient at our VA medical clinic. As the result of his severe medical conditions of Bronchiectasis, COPD, Pulmonary Hypertension and Asthma, for the reason that he uses Oxygen, and also suffers from constant flare-ups as the result of his conditions due to outdoor weather conditions that include but are not limited rain, heat, dust, and wind.

I feel that a carport would be of great medical necessity in regards to helping to prevent further exacerbations of his medical conditions, and in doing so to allow him to stay more are at home instead of having to be having constant hospital admission in order to receive medical treatment itself.

Should you have any questions please feel free to call our clinic at 956-618 7100.

Sincerely,

Abdias Brazier MD. DABFM. VHA

> Signed by: /es/ ABDIAS BRAZIER 12/31/2020 10:31

MINOR, DARYL JOSEPH

Printed: 12/31/2020 10

VA TEXAS VALLEY COASTAL BEND HEALTHCARE CENTER

398-64-5373 DOB:05/20/1957 Pt Loc: OUTPATIENT



December 10, 2020

RE: Daryl Minor

DOB: 05/20/1957

To whom it may concern,

I am writing on behalf of Mr. Daryl Minor, who is currently receiving care at our clinic for several medical conditions including bronchiectasis, COPD, and asthma. Mr. Minor is currently on oxygen due to his severe lung comorbidities.

Due to the severity of his pulmonary issues, Mr. Minor suffers from repeat flare- ups due to outdoor weather exposures that include but not limited to: rain, heat, dust, and wind.

In order to best protect Mr. Minor from worsening exacerbations I feel that a car port would be medically necessary.

If you have any questions regarding the nature of this letter, please feel free to contact me at 956-683-7959.

Sincerely,

Dr. Joshua A. Betancourt

### Victor R. Villarreal, M.D.

1200 South 2<sup>nd</sup> St. Ste. A-3 McAllen, TX 78501 Telephone: (956) 631-7117

August 23, 2007

To whom It May Concern: Dreyl Minor, D.O.B. 5/20/57/ in under my care for chronic / anxiety, chanic obstructive pulmonary disease, and severe as thma. ite takes multiple medications For the treatment of his Respiratory disease. Ite also needs portuble oxygen therapy during severe life throatening asthmatic attacks. It you have any questions concerning his care please call me at 956-631-7117.

> Sincerely. Victor Villamal &

### Daniel F. Villarreal, M.D. Victor R. Villarreal, M.D., P.A. Oscar Rene Vela, PA-C

**FAMILY PRACTICE** 

1200 South 2nd, Suite A-3 McAllen, Texas 78501

Ph.: (956) 631-7117 Exch.: (956) 682-2435 OI 07/2009

To Whom It May Concern:

Daryl J. Minor (20,8 05/20/1957) is under my care and the care of multiple consultants for the management of

1. Emphygoma
2. Chronic Obstructive pulmonary disorso
3. Chronic asthmatic bronchitis
4. Chronic anxiety
5. Depression

me minor is permanently disabled due to the severity of these conditions. His normal duily activities are also severely restricted by his medication regimen use of oxygon & trequent bed confinement.

It you have any questions concerning his disability or medical care, please call me at (956) 631-71/7 or E- Mail at VMC Romeo @ AUL. com.

Sincerel Illaman

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6900 ALMEDA RD HOUSTON TX 77030 January 10, 2019

Veteran's Name: Minor, Daryl, Joseph

DARYL JOSEPH MINOR
PO BOX 3396
MCALLEN TX 78502

This letter is a summary of benefits you currently receive from the Department of Veterans Affairs (VA). We are providing this letter to disabled Veterans to use in applying for benefits such as housing entitlements, free or reduced state park annual memberships, state or local property or vehicle tax relief, civil service—preference, or any other program or entitlement in which—verification of VA benefits is required. Please safeguard this important document. This letter replaces VA Form 20-5455, and is considered an official record of your VA entitlement.

### -America is Grateful to You for Your Service--

Our records contain the following information:

### **Personal Claim Information:**

Your VA claim number is: 398 64 5373

You are the Veteran

### Military Information:

Your character(s) of discharge and service date(s) include:

Army, Honorable, 30-Mar-1976 - 10-Sep-1976

(You may have additional periods of service not listed above)

### VA Benefits Information:

Service-connected disability: Yes

Your combined service-connected evaluation is: 100 PERCENT

The effective date of the last change to your current award was: 01-DEC-2018

Your current monthly award amount is: \$3,592.35

Are you considered to be totally and permanently disabled due to your service-connected disabilities: Yes

You should contact your state or local office of Veterans' affairs for information on any tax, license, or fee-related benefits for which you may be eligible. State offices of Veterans' affairs are available at http://www.va.gov/statedva.htm.

### **Need Additional Information or Verification?**

If you have any questions about this letter or need additional verification of VA benefits, please call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the federal relay number is 711. Send electronic inquiries through the Internet at https://iris.custhelp.va.gov/.

Sincerely yours,

Regional Office Director



### VA Problem List

Source: VA

Last Updated: 24 Jul 2018 @ 1121

Sorted By: Date/Time Entered (Descending) then alphabetically by Problem

Your VA Problem List contains active health problems your VA providers are helping you to manage. This information is available 3 calendar days after it has been entered. It may not contain active problems managed by non-VA health care providers. If you have any questions about your information, visit the FAQs or contact your VA health care team.

Problem:	Dental root caries (ICD-10-CM K02.7)	Date/Time Entered: 28 Jun 2018 @ 1200
Provider:	SULLIVAN, MICHAEL R	
Location:	VA Texas Valley Coastal HCS	
Status:	ACTIVE	
Comments:		

Problem:	Encounter for dental examination and cleaning without abnormal findings (ICD-10-CM Z01.20)	Date/Time Entered: 28 Jun 2018 @ 1200
Provider:	SULLIVAN, MICHAEL R	
Location:	VA Texas Valley Coastal HCS	
Status:	ACTIVE	
Comments:		

Problem:	Bronchiectasis (SCT 12295008)	Date/Time Entered: 26 Oct 2016 @ 1200
Provider:	DEAL, EUGENE C	
Location:	VA Texas Valley Coastal HCS	
Status:	ACTIVE	
Comments:		

( Problem:	Chronic obstructive lung disease (SCT	Date/Time Entered: 26 Oct	
	13645005)	2016 @ 1200	
Provider:	DEAL,EUGENE C		
Location:	VA Texas Valley Coastal HCS		
Status:	ACTIVE		
Comments:	pfts c/w servere obstructive defect done	11/2006	

Problem:	Anxiety disorder (SCT 197480006)	Date/Time Entered: 25 Feb 2016 @ 1200
Provider:	NAVARRO,MIGUEL	
Location:	VA Texas Valley Coastal HCS	

### Self Reported Medications & Supplements

Source: Self-Entered

No information was available that matched your selection.

Provider: GUERRA,MARIO C

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: in 5 years. 2015

int.hemorrhoids and sigmoid diverticulosis, rec repeat scope

Problem: Angina Pectoris, Variant (ICD-9-CM 413.1)

Provider: GUERRA, MARIO C

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: started on norvasc by his cardiologist

Problem: Pulmonary Hypertension (ICD-9-CM 416.8)

Provider: GUERRA, MARIO C

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: pt placed on norvasc by his cardiologist

Problem: Personal History of Colonic Polyps
(ICD-9-CM V12.72)

Provider: GUERRA,MARIO C

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: --

Problem: Chronic Obstructive Pulmonary Disease (ICD-9-CM 496.)

Provider: GUERRA,MARIO C

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: pfts c/w servere obstructive defect done 11/2006

Problem: Hemoptysis (ICD-9-CM 786.3)

Date/Time Entered: 07 Aug 2006 @ 1200

Provider: GUERRA,MARIO C

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: resolved.

Location:	VA Texas Valley Coastal HCS
Status:	ACTIVE
Comments:	

Problem:	Pulmonary Hypertension (chronic) (ICD-9-CM 416.8)	Date/Time Entered: 22 Nov 2011 @ 1200
Provider:	r: GUERRA,MARIO C n: VA Texas Valley Coastal HCS	
Location:		
Status:	ACTIVE	A second of the
Comments:	pt placed on norvasc by his cardiologis	t

	Problem:	Screening for Malignant Neoplasms of colon (ICD-9-CM V76.51)	Date/Time Entered: 22 Nov 2011 @ 1200
	Provider:	GUERRA, MARIO C	
	Location: VA Texas Valley Coastal HCS Status: ACTIVE		
Tie, He			
	Comments:	in 5 years. 2015	
		int.hemorrhoids and sigmoid diverticulosis. rec repeat scope	

Problem:	Generalized Anxiety Disorder (ICD-9-CM 300.02)	Date/Time Entered: 23 Sep 2011 @ 1200
Provider:	RAFOLS, RAFAEL A	
Location:	on: VA Texas Valley Coastal HCS	
Status:	ACTIVE	
Comments:	_	

Problem:	Nonspecific (Abnormal) Findings on Radiological and other Examination of Musculo (ICD-9-CM 793.7)	Date/Time Entered: 11 Jan 2011 @ 1200
Provider:	GUERRA, MARIO C	
Location:	Location: VA S. Texas Health Care System	
Status:	ACTIVE	
Comments:	lucencies in ct of the c-spine	

	Problem:	Diverticulosis, Colonic (ICD-9-CM 562.10)	Date/Time Entered: 23 Jun 2010 @ 1200
	Provider:	: GUERRA,MARIO C : VA S. Texas Health Care System	
	Location:		
	Status:	ACTIVE	75,Jkn
Bankill Com	Comments:	-	

colon (ICD-9-CM V76.51) 2010 @ 1200	Problem:	Screening for Malignant Neoplasms of	Date/Time Entered: 08 Mar
		colon (ICD-9-CM V76.51)	2010 @ 1200

Problem: OXYGEN THERAPY (ICD-9-CM 799.9)

Provider: REGALADO,ELIAS R

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: 2 LPM/NC PRN. DURING ASHTMA ATTACKS

Problem: Anxiety (ICD-9-CM 300.00)

Provider: IBARRA,AURELIO

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: --

Problem: Asthma (ICD-9-CM 493.90)

Provider: IBARRA,AURELIO

Location: VA S. Texas Health Care System

Status: ACTIVE

Comments: --

### VA Admissions and Discharges

Source: VA

Last Updated: 24 Jul 2018 @ 1121

No information was available that matched your selection. However if you were recently discharged, your summary may be available 3 calendar days after it is completed.





### Memo

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

**FROM:** Planning Staff

**DATE:** January 29, 2021

SUBJECT: REQUEST OF LANCE STRAND FOR THE FOLLOWING VARIANCE TO THE

CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 15 FT. REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL MEASURING 19.5 FT. BY 29 FT., AT LOT 32, DOMINION SUBDIVISION, HIDALGO COUNTY, TEXAS; 7913 NORTH 1<sup>ST</sup> STREET.

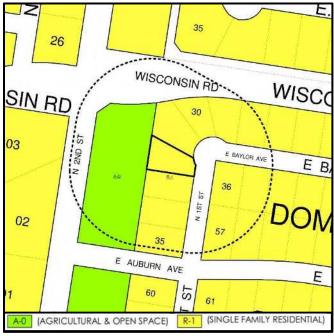
(ZBA2020-0089)

### **REASON FOR APPEAL:**

Lance Strand, is requesting the following variance: to allow an encroachment of 5 ft. into the 15 ft. rear yard setback for a proposed irregularly shaped swimming pool. The applicant stated that his healthcare provider recommended him to swim often and in order to build a reasonable sized pool with enough walkway to be safe for his children, he needs to encroach 5 ft. into the 15 ft. rear yard setback. He has also applied for an abandonment request which is currently in process.

#### PROPERTY LOCATION AND VICINITY:

The property is located at the intersection of North 1<sup>st</sup> street and East Baylor Avenue. The irregularly shaped lot has 51.21 ft. of frontage along North 1<sup>st</sup> Street and a depth of 125 ft. at its deepest point for a lot size of 8,321 sq. ft. The property is zoned R-1 (single-family residential) District. The adjacent zoning is A-O (agricultural and open space) District to the west and R-1 District to the north, east, and south. The surrounding land uses include single-family residences, McAllen Hike and Bike Trail, and vacant land.





#### **BACKGROUND AND HISTORY:**

Dominion Subdivision was recorded on September 17, 2003. The residential home was built in 2017 according to the Hidalgo County Appraisal District records. A variance application to allow an encroachment of 5 ft. into the 15 ft. rear yard setback and an application to abandon a 5 ft. utility easement running concurrently with the rear yard setback were submitted on December 21, 2020. Staff has received all required approval letters from the utility companies in response to the abandonment request and no letter is pending.

### **ANALYSIS:**

The plat for the subdivision shows a 15 ft. utility easement and setback along the rear side of the subject property. The submitted site plan shows a proposed swimming pool encroaching 5 ft. into the 15 ft. rear yard setback, leaving a 10 ft. distance between the rear property line and the proposed pool. The variance request is for a proposed swimming pool, which is an accessory structure.

During the site visit, staff noticed that there is a storage building measuring 4 ft. by 6 ft. encroaching into the north side yard setback. Storage buildings that are 200 sq. ft. or less in size do not require a building permit, but must respect the zoning district setbacks in which they are located. The applicant stated that he would relocate the storage building out of the setback.

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

### **RECOMMENDATION:**

Staff recommends disapproval of the variance request. If the Board chooses to grant the variance, it should be limited to the footprint of the submitted site plan.

ZBA2020-0089

200 A. 3/3/21

### City of McAllen

# Planning Department APPEAL TO ZONING BOARD OF

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)

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

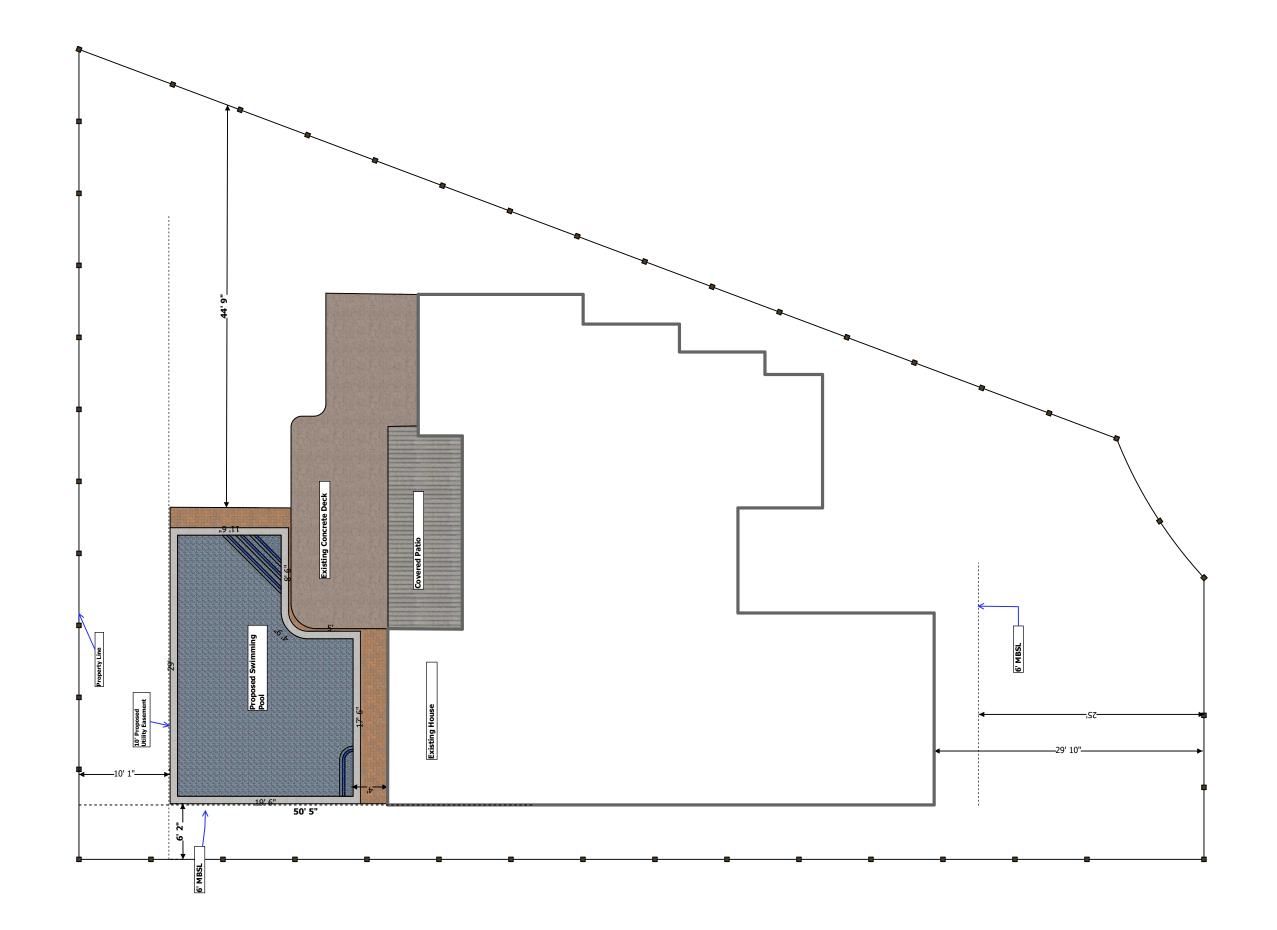
	Legal Description DomINION LOT 32		
Project	Subdivision Name  Street Address  7913 N. IST Street MCAILLY, TX 78504  Number of lots Ø1 Gross acres		
	<ul> <li>         \$300.00 non-refundable filing fee + □ \$50.00 Recording Fee for Special Exception (carport)     </li> <li>□ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required     </li> </ul>		
Applicant	Name Lance Strand Phone Address 1913 N. 1St Street E-mail  City McAllen State TX Zip 78504		
Owner	Name Lance Strand Phone  Address 7913 N. 1St Street E-mail  City MCAILLEN 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  Date  Date  Authorized Agent		
Office	Accepted by Payment received by Date VED  Rev 10/18		

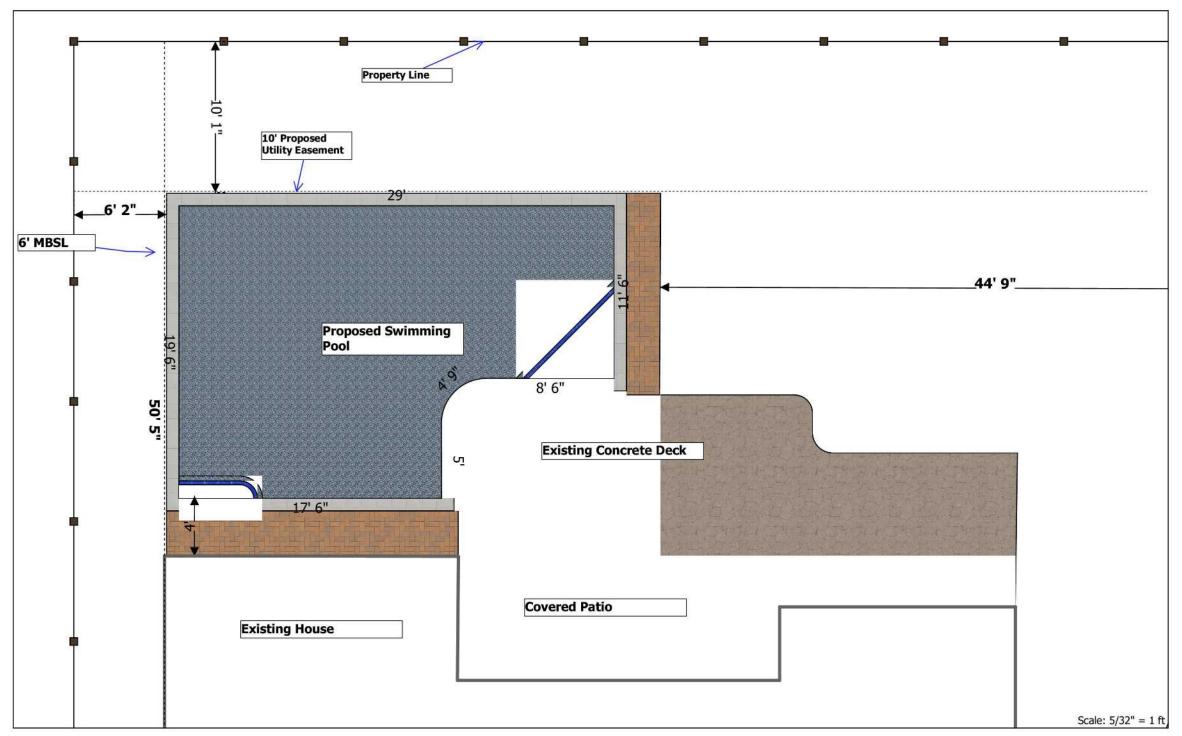
## City of McAllen

## 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

Adjustment will consider any combination of the following: (Presponses)  **Information provided here by the applicant does not guara  ***Applicant should include all information they determine is to all sections listed below.  1. Describe the special circumstance or condition affecting a provisions required would deprive the applicant of the result of the provisions required would deprive the applicant of the result in order to build a pool on the land upon would be approximately s. setting the pool would be approximately s. setting the pool would be approximately s. setting the pool would a reasonable sized pool.  2. Describe how the variance is necessary for the preservation owner:  In order to build a reasonable sized pool.  2. Describe how the variance is necessary for the preservation owner:  In order to build a reasonable sized pool.  3. Describe how the variance will not be detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights other property owners enjoy in the area:  This variance is not detrimental to the prights of the property owners enjoy in the area:  This variance is not detrimental to the prights of the property owners enjoy in the area:  This variance is not detrimental to the pright of the property owners enjoy in the area:  This variance is not property owners enjoy in the area:  This variance is not property owners enjoy in the area:  This variance is not property owners enjoy in the area:  This varia	Itease use an additional page if necessary to complete intee that the Board will grant a variance. Is relevant, but it is not required to provide responses the land involved such that the strict application of the asonable use of the land:  I Within the curvent ISFT I decking the width of the Indication of the width of the Indication and enjoyment of the legal property rights of the Indication and enjoyment of the legal property rights of the Indication and world like to achieve in order to achieve and row safety reasons.  I with a reasonable sized indicate in order to achieve and row safety reasons.  I will health, safety or welfare or injurious to the legal use it is unty moving in SFT and ample room (10 ft).  I will have sought to build a covary to exercise with
Chairman, Board of Adjustment Signature  Rev. 9/20	Date
	DEC 2 1 2020



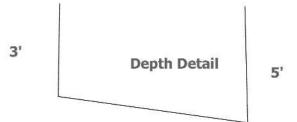


Tile

Bond Beam Reinf.

3" Min
(TYP.)

3" A Bars



- Pool Rebar #4 12" o.c
- Spa Rebar #3 12" o.c.
- #6 Cooper Wire for

## Bonding

- 5000 p.s.i Concrete Gunite
- Sch 40 Pvc Pipes
- D.E Filter
- Dual Safety Drains and vgb covers
- 1 1/2 Hp pump

 Owner: Lance Strand
 State: Tx.

 Address: 7913 N. 1st St
 Zip: 78504

 City: Mcallen

Phone: LOT # 32 DOMINION SUB.

Designer: Ancer Pools LLC

Address: PO Box 1198

City: Mission

State/Zip: Tx.78573

Phone:

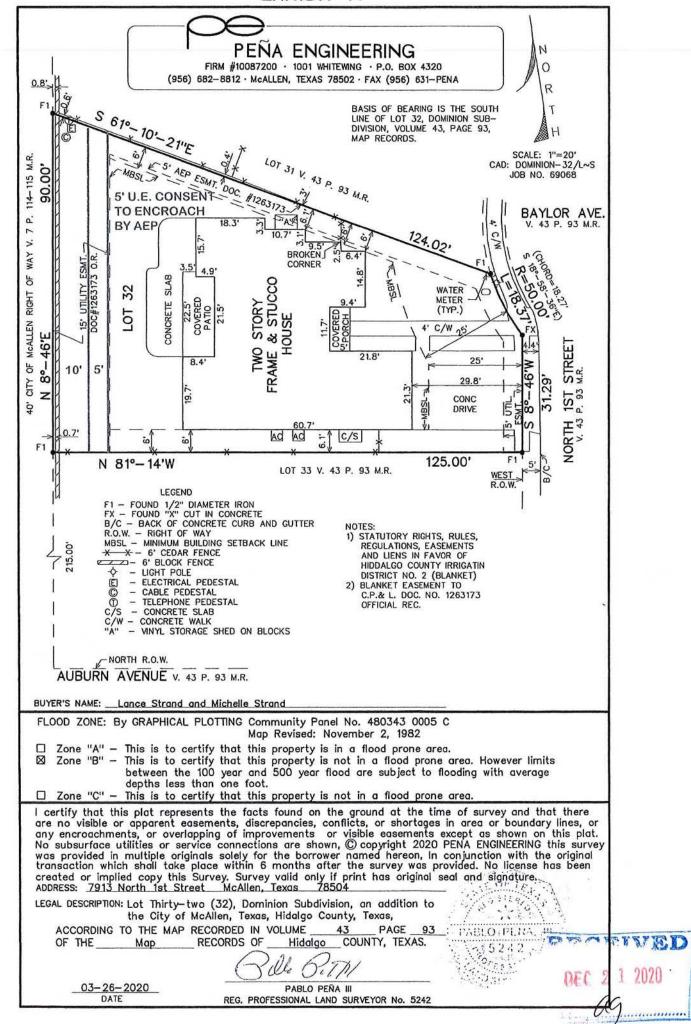
Cell: 956-522-3299

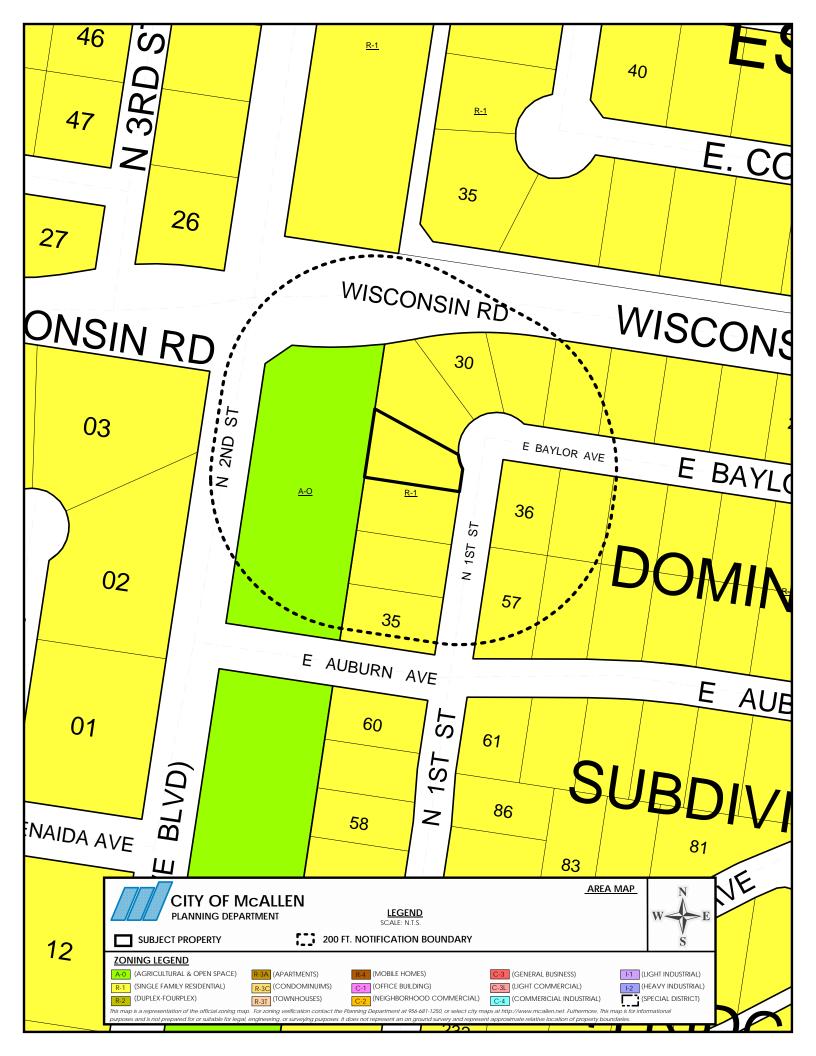
Email: jorge@ancerpools.com

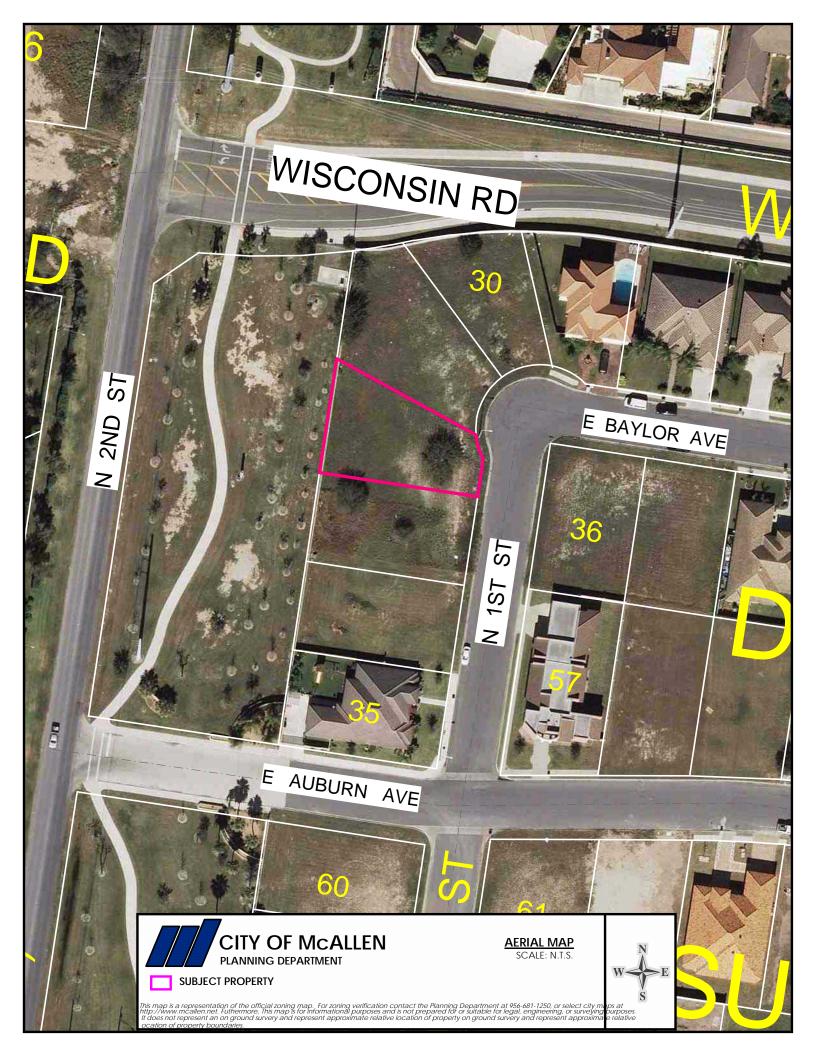
Alternate Contact:

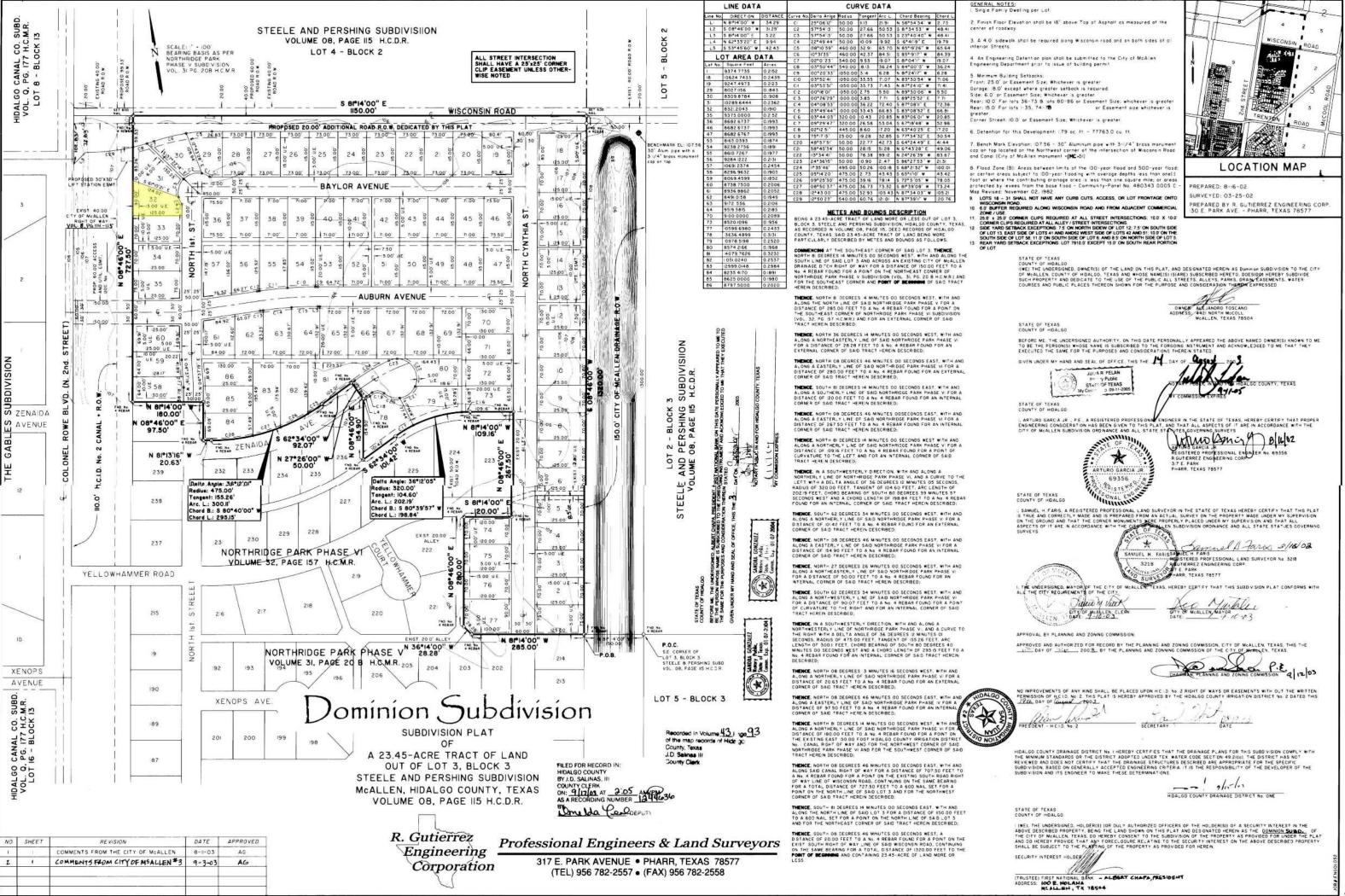
License #:











R.2.







### Memo

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

FROM: Planning Staff

**DATE:** January 29, 2021

SUBJECT: REQUEST OF J AND J PEREZ POOLS FOR THE FOLLOWING VARIANCE

TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 12 FT. INTO THE 25 FT. REAR YARD SETBACK ON A DOUBLE FRONTING LOT FOR A PROPOSED SWIMMING POOL MEASURING 10 FT. BY 20 FT., AT LOT 118, MEADOW RIDGE SUBDIVISION,

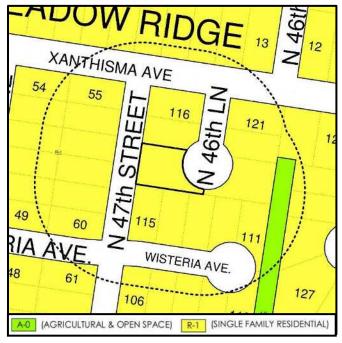
HIDALGO COUNTY, TEXAS: 4915 NORTH 46<sup>TH</sup> LANE. (ZBA2020-0090)

#### **REASON FOR APPEAL:**

Luis Perez, on behalf of J and J Perez Pools, is requesting the following variance: to allow an encroachment of 12 ft. into the 25 ft. rear yard setback for a proposed pool measuring approximately 10 ft. by 20 ft. The applicant is requesting the variance since subject property is a double fronting lot, and there is not enough space to build a pool with the current setbacks.

#### PROPERTY LOCATION AND VICINITY:

The property is a double fronting lot located at a cul-de-sac, between North 47<sup>th</sup> street and North 46<sup>th</sup> Lane, 115 ft. south of Xanthisma Avenue. The lot has 82 ft. of frontage along North 47<sup>th</sup> Street, 101.32 ft. of frontage along North 46<sup>th</sup> Lane and a depth of 135.13 ft. at its deepest point for a lot size of 8,054 sq. ft. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 District in all directions. The surrounding land uses include single-family residences and vacant land.





#### **BACKGROUND AND HISTORY:**

Meadow Ridge Subdivision was recorded on February 15, 2006. The residential home was built in 2011 according to the Hidalgo County Appraisal District records. A variance application to allow an encroachment of 12 ft. into the 25 ft. rear yard setback for a proposed pool was submitted on December 21, 2020.

#### **ANALYSIS:**

The property is a "double frontage" lot that is adjacent to North 47th Street on the west. The zoning ordinance requires the rear setback to be the same as the front setback for double frontage lots to separate the residential structures from traffic and noise of major roadways; however, North 47th Street is a residential street.

The submitted site plan shows a proposed rectangular pool encroaching 12 ft. into the 25 ft. rear yard setback, leaving 13 ft. between the rear property line and the proposed pool. There is a 10 ft. utility easement adjacent to the rear property line that runs concurrently with the rear yard setback. The submitted site plan shows that the pool will not encroach into the 10 ft. utility easement.

The variance request is for a proposed swimming pool, which is an accessory structure. In the past, the Board has approved variances for accessory buildings in the rear yard on double fronting lots.

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

#### **RECOMMENDATION:**

Staff recommends disapproval of the variance request. If the Board chooses to grant the variance, it should be limited to the footprint of the submitted site plan.

ZBA 2020 - 0090

280,03-21

## City of McAllen

# Planning Department APPEAL TO ZONING BOARD OF

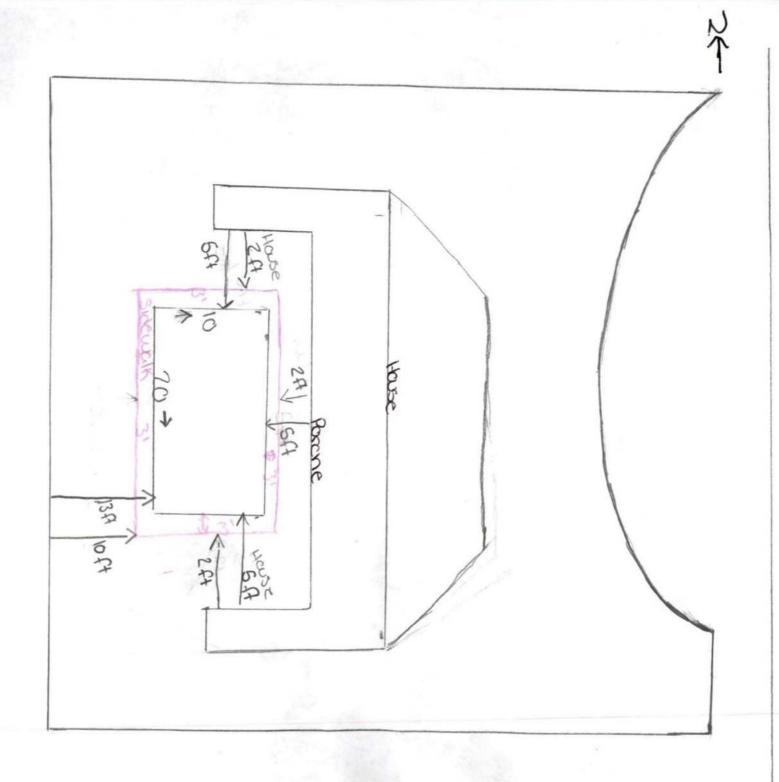
311 North 15th Street McAllen, TX 78501 P. O. Box 220 McAllen, TX 78505-0220 (956) 681-1250 (956) 681-1279 (fax)

	ADJUSTIMENT TO MICALLEN ZUNING UNDINANCE
	Legal Description Meadow Ridge Lat 118
Project	Subdivision Name  Street Address  Y9 15 N 46 TH N  Number of lots
Applicant	Name Jand J Pevez Paols Phone  Address 2541 Wacberry E-mail  City Meglen State +X Zip 78501
Owner	Name Sandia Nuñes Floves Phone.  Address 4915 N 467H LN E-mail  City Mallen State +x 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  Date 12 18 2020  Print Name  Owner  Authorized Agent
Office	Accepted by Payment received by Date DEC 2.1 20200
	By NM

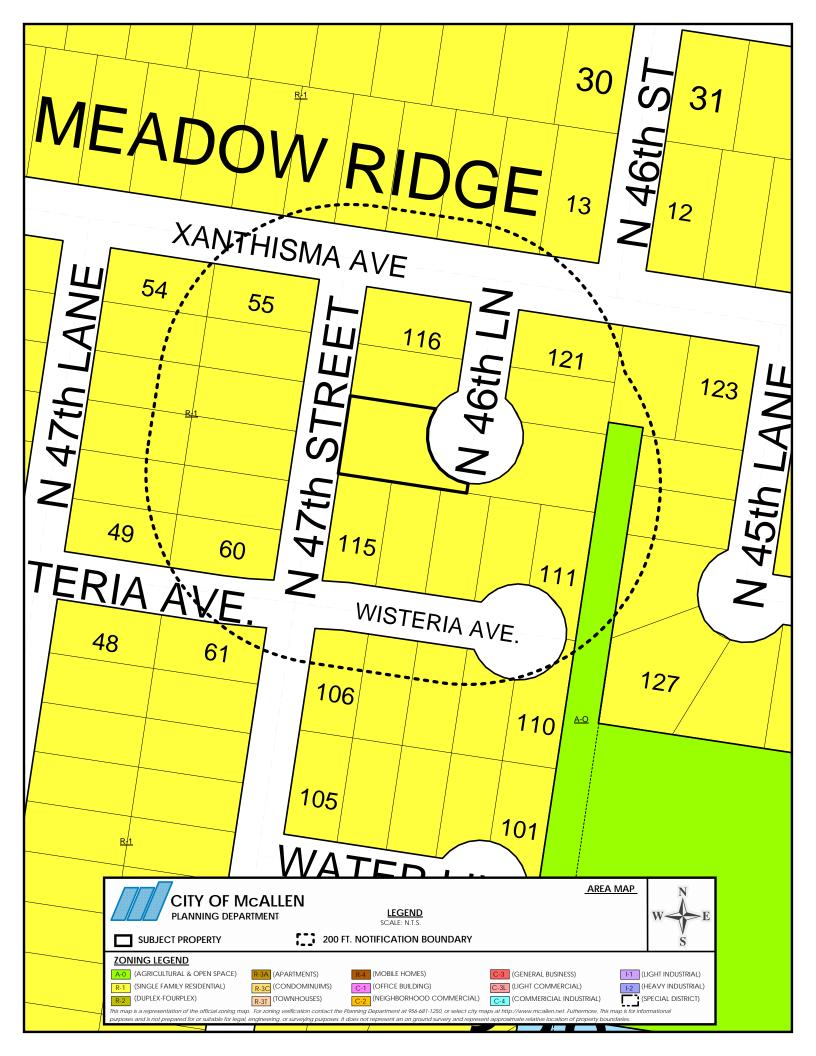
## City of McAllen

## Planning Department REASON FOR APPEAL & BOARD ACTION

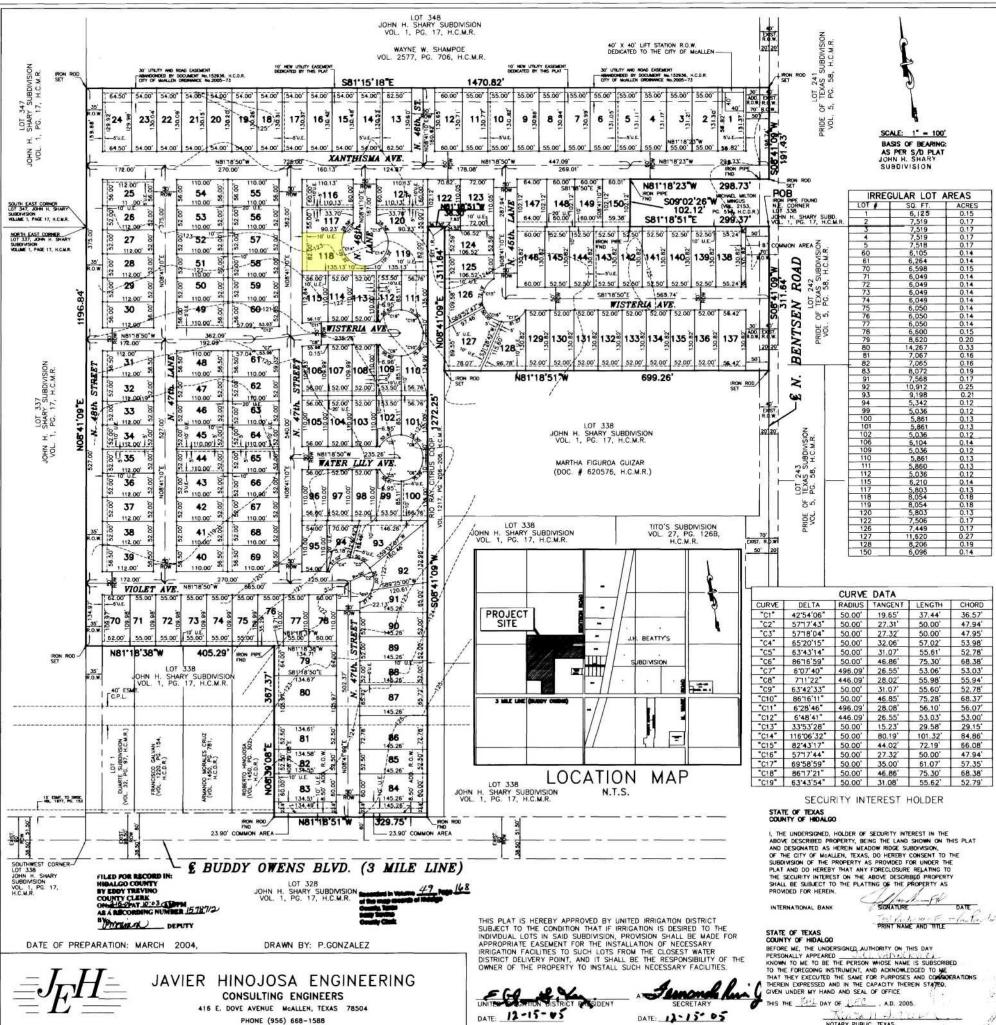
\*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: (Please use an additional 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. 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: fronting Reason for Appeal Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the leaving enough space in back yord 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: Describe special conditions that are unique to this applicant or property: Board Action Chairman, Board of Adjustment Date Signature Rev. 9/20



46 th Lane







PHONE (956) 668-1588

#### GENERAL NOTES

NO STRUCTURES PERMITTED OVER ANY EASEMENTS MINIMUM BUILDING SETBACKS SHALL BE AS FOLLOW: (EXCEPT WHERE GREATER SETBACK OR EASEMENT APPLIES)

SIDE: SIDE CORNER:

10.00 FFFT 18.00 FEET EXCEPT WHERE GREATER SETBACK IS REQUIRED.

GARAGE SCHBACK: 18.00 FEET EXCEPT 25 FEET FOR LOTS 25-39 AND 116-118

3. THIS PROPERTY IS LOCATED IN ZONE "B" & "C" ON A FLOOD INSURANCE RATE MAP — COMMUNITY PANEL No. 480343 0005 C; REVISED. NOV. 2, 1982 RATE MAP — COMMUNITY PANEL No. 480334 0400 C; REVISED. NOV. 16, 1982

DEVELOPER SHALL PROVIDE AN ENGINEERED DETENTION PLAN. APPROVED BY THE ENGINEERING DEPARTMENT PRIOR TO AN APPLICATION FOR A BUILDING PERMIT.

DRAINAGE DETENTION REQUIRED OF 3.034 ACRE-FEET AND OR 958 CUBIC FEET PER LOT.

MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATION SHALL BE 18" ABOVE TOP OF CURB AS MEASURED AT THE CENTER OF THE LOT

BENCH MARK: ELEVATION = 126.12 TOP OF STORM SEWER CURB INLET LOCATED ON THE SOUTHWEST CORNER OF 3 MILE LINE AND N. BENTSEN ROAD (MC 58)

8. A 25 x 25 FOOT CORNER CLIP EASEMENT IS HEREBY DEDICATED AT ALL STREET INTERSECTIONS.

A 4' WIDE SIDEWALK IS REQUIRED ALONG THE NORTH SIDE OF BUDDY OWENS BLVD.,
 N. BENTSEN ROAD, N.48th. STREET AND ALONG BOTH SIDES OF ALL INTERIOR STREETS

10. A 1/2" DIAMETER IRON ROD WITH A PLASTIC CAP "CVQ LS" SET ON ALL LOT CORNERS.

A 6' BUFFER IS REQUIRED FOR ADJACENT COMMERCIAL ZONE/USE AND ALONG BUDDY OWENS BLVD., N. BENTSEN ROAD AND N. 48th. STREET.

NO CURB CUT, ACCESS OR LOT FRONTAGE PERMITTED ON BUDDY OWENS BLVD., N. BENTSEN RD. AND N. 48th. STREET.

ALL COMMON AREAS TO BE MAINTAINED BY THE SUBDIVISION LOT OWNERS (HOMEOWNERS ASSOCIATION AND NOT THE CITY OF MCALLEN.

15. NO UTILITY COMPANY OR OTHER PERSON IS ALLOWED TO CROSS ABOVE OR BELOW GROUND ANY DISTRICT EASEMENT OR RIGHT OF WAY WITH LINES, POLES, OPEN DITCHES OR OTHER USE WITHOUT FIRST OBTAINING A CROSSING PERMIT FROM THE DISTRICT.

16. NO PERMANENT STRUCTURE, (EXAMPLE, FENCES OR DRIVEWAY OF ANY CONSTRUCTION) WILL BE ALLOWED TO BE CONSTRUCTED OR EXIST ON ANY DISTRICT EASEMENT OR RIGHT OF WAY WITHOUT WRITTEN APPROVAL BY THE DISTRICT. ANY UNAUTHORIZED STRUCTURE IN THE EASEMENT AREA IS SUBJECT TO

17. NO UTILITY COMPANY OR OTHER PERSON IS ALLOWED TO CONNECT ANY DISTRICT FACILITY WITHOUT FIRST OBTAINING A PERMIT FROM THE IRRIGATION DISTRICT. ANY CONNECTION NOT AUTHORIZED BY THE DISTRICT IS SUBJECT TO

#### METES AND BOUNDS

BEGINNING ON A 60-D NAIL FOUND ON THE EAST COMMON CORNER OF LOT 338 AND 348 AND THE CENTERLINE OF BENTSEN ROAD, FOR AN OUTSIDE CORNER OF THIS TRACT;

THENCE N 81' 18' 51' W, ALONG THE NORTH LINE OF SAID MARTHA FICURDA GUIZAR TRACT AT A DISTANCE OF 20.0 FEET PASS AN IRON ROD FOUND ON THE WEST ROHT-OF-MAY LINE OF SAID BENTSEN ROAD, CONTINUING AT A DISTANCE OF 20.0 FEET PASS THE EAST LINE OF A 5.0 FOOD UTULTY EASEMENT RECORDED IN VOLUME 944, PAGE 241, H.C.M.R., VOLUME 945, PAGE 56, H.C.M.R., WOLUME 943, PAGE A34, H.C.M.R., AND CONTINUING FOR A TOTAL DISTANCE OF 698.2 FEET TO A 1/2" RON ROD WITH A FLASTIC CAP STAMPED "CVO LS" SCT ON THE EAST LINE OF A TRACT OF LAND DEEDED TO RO BAY CITIES COOP, RECORDED IN VOLUME 121', PAGE 206, H.C.M.R., PAGE 168.

THENCE N 81" 18" 51" M. ALONG THE NORTH LINE OF SAID RIO RAY OTRUS COOP TRACT AND THE SOUTH LINE OF LOT 348, A DISTANCE OF 36.30 FEET TO A 1/2" IRON ROD WITH A PLASTIC CAP STAMPED "CVO LS" SET ON THE NORTHWEST CONNER OF ROY CITRUS COOP TRACT, FOR AN INSIDE CONNER OF THIS TRACT;

THENCE IN OR' 41' 9" E. AT A DISTANCE OF 904.85 FEET, PASS A 1/2" IRON ROD WITH A PLASTIC CAP STAMPED "CWO LS" SET ON THE WEST COMMON CORNER OF LOT 338 AND 348 CONTINUING ALONG THE WEST LINE OF LOT 348, A TOTAL DISTANCE OF 1,196.84 FEET TO A 1/2" RION ROD WITH A PLASTIC CAP STAMPED "CWO LS" SET ON THE SOUTHWEST CORNER OF A TRACT OF LAND DEDDED TO WAYNE W. SHAMPOE RECORDED IN VOLUME 2577, PAGE 708, HCLUR, FOR THE MORTHWEST CORNER OF THAS TRACT:

THENCE S 81' 16' 51" E, ALONG THE SOUTH LINE OF SAID MICHAEL MILTON MINGUS TRACT AND THE SOUTH LINE OF LOT 348, A DISTANCE OF 279.37 FEET; PASS A 1/2" IRON PIPE FOUND ON THE WEST RIGHT-OF-WAY LINE OF SAID BENTSEN ROAD AND CONTINUING FOR A TOTAL DESTANCE OF 293.7 FEET TO THE POINT OF BICHINHING, CONTAINING 32.24 ACRES OF LAND, OF WHICH 0.23 OF ONE ACRE LIES IN BENTSEN ROAD RIGHT-OF-WAY, LINE ACRES LIES IN SENTISEN ROAD.

#### SUBDIVISION PLAT OF

#### MEADOW RIDGE SUBDIVISION

A TRACT OF LAND CONTAINING 32,24 ACRES, SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING A PART OR PORTION OF LOT 338 AND LOT 348, JOHN H. SHARY SUBDIVISION, AN ADDITION TO THE CITY OF MCALLEN, HIDALGO COUNTY TEXAS, MAP REFERENCE: VOLUME 1, PAGE 17. H.C.M.R.

### STATE OF TEXAS COUNTY OF HIDALGO

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

OWNER: STONEOAK DEVILOPMENT, LLC.
1429 E. TAMARACK MENUE
MCALLEN TEXAS 78501

McALLEN, TEXAS 78501 BY: ROMED RENDON

#### STATE OF TEXAS COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED ROMEO RENDON KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND WHOSE NAME IS SUBSCRIBED TO THE FORECOME INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THE METHOD THE METHOD

Claudia M. Mana NOTARY PUBLIC, TEXAS MY COMMISSION EXPIRES: 03-23-2008

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

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

BY: -5-1 2/13/-6

I, THE UNDERSIGNED, MAYOR OF THE CITY OF MCALLEN HEREBY CER DETAILS THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THIS CITY WHEREIN MY APPROVAL

Deline Correc MAYOR, CITY OF MCALLEN

THIS SUBDIVISION PLAT OF MEADOW RIDGE SUBDIVISION HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF MCALLEN, TEXAS AND IS HERBY APPROVED BY SUCH CONJUSISION.

DATED THIS 134 DAY OF FEBRUARY , A.D. 2005

#### STATE OF TEXAS

JAMER HINOJOSA, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS HEREBY CERTIFY THAT PROPER ENGINEERIN CONSIDERATION HAS BEEN GIVEN TO THIS PLAT

SAMER HIMOSOSA, P.E.
REGISTERED PROFESSIONAL ENGINEER #74808

### STATE OF TEXAS COUNTY OF HIDALGO

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

CARLOS VASQUEZ, R.P.L.S. REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4608 CVQ LAND SURVEYORS 517 BEAUMONT AVE. MCALLEN, TEXAS 78501

(956) 618-1551 DATE SURVEYED: 01-23-04









### **Planning Department**

#### Memo

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

**FROM:** Planning Staff

**DATE:** January 28, 2021

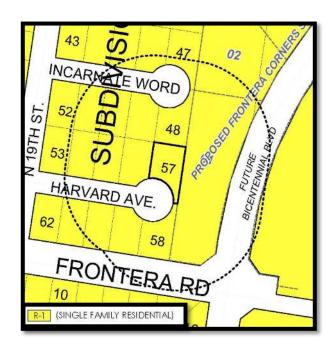
SUBJECT: REQUEST OF EUNICE SALINAS AND JARAD SALADINO FOR THE

FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 10 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A PROPOSED SINGLE FAMILY HOUSE AT LOT 57, FRONTERA VILLAGE SUBDIVISION, HIDALGO COUNTY, TEXAS; 1808 HARVARD

**AVENUE. (ZBA2020-0091)** 

#### **REASON FOR APPEAL:**

The applicant is requesting a variance request to encroach 10 ft. into the 25 ft. front yard setback. The applicant is proposing to build a new single family house where the living room and kitchen/dining area encroach into the front yard setback.





#### PROPERTY LOCATION AND VICINITY:

The subject property is located on the north side of Harvard Avenue, approximately 260 ft. east of North 19<sup>th</sup> Street. The property has around 95.38 ft. along the cul-de-sac on Harvard Avenue and a depth of 132 ft. along the east property line and 84.81 ft. along the west property line for a lot area of 7,326.35 square feet. Surrounding land use are single-family houses and vacant land.

#### **BACKGROUND AND HISTORY:**

Frontera Village was recorded on April 13, 2005. On October 9, 2018, a Citation was given for a weedy lot. The subject property is vacant; there is no building permit on file. The application for the variance request was submitted on December 21, 2020.

#### **ANALYSIS:**

The request is to allow and encroachment of 10 ft. into the 25 ft. front yard setback for a proposed single-family residence. The site plan indicates that the addition of a guest room and courtyard in the house design is creating the 10 ft. encroachment of the living and kitchen/dining area into the front yard setback.

The subject property is in a cul-de-sac; hence, the encroachment changes as it travels along the curved property line. The highest point of encroachment is at 10 ft.

There are two variances along Harvard Avenue, (1825 and 1817) that got approved in 2015 and 2009 respectively; however, the variances requested were for rear encroachments on double fronting lots.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view of properties in a subdivision.

Should the request be approved, it may encourage other property owners to request a variance to encroach into the front setback. Approval of the request should be limited to the footprint shown on the site plan.

Staff has not received any phone calls or email in regards to the variance request.

#### **RECOMMENDATION:**

Staff recommends disapproval of the variance request. If the Board chooses to approve the request, the approval should be limited to the footprint shown on the site plan.

## City of McAllen

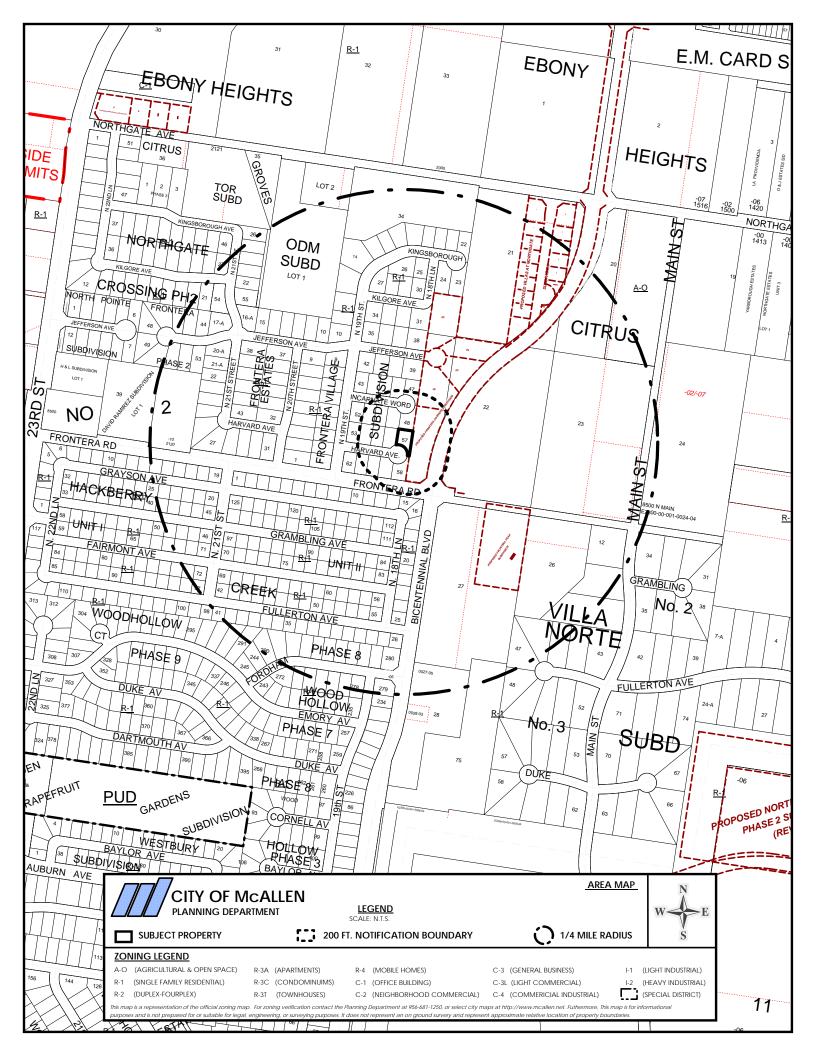
## Planning Department APPEAL TO ZONING BOARD OF

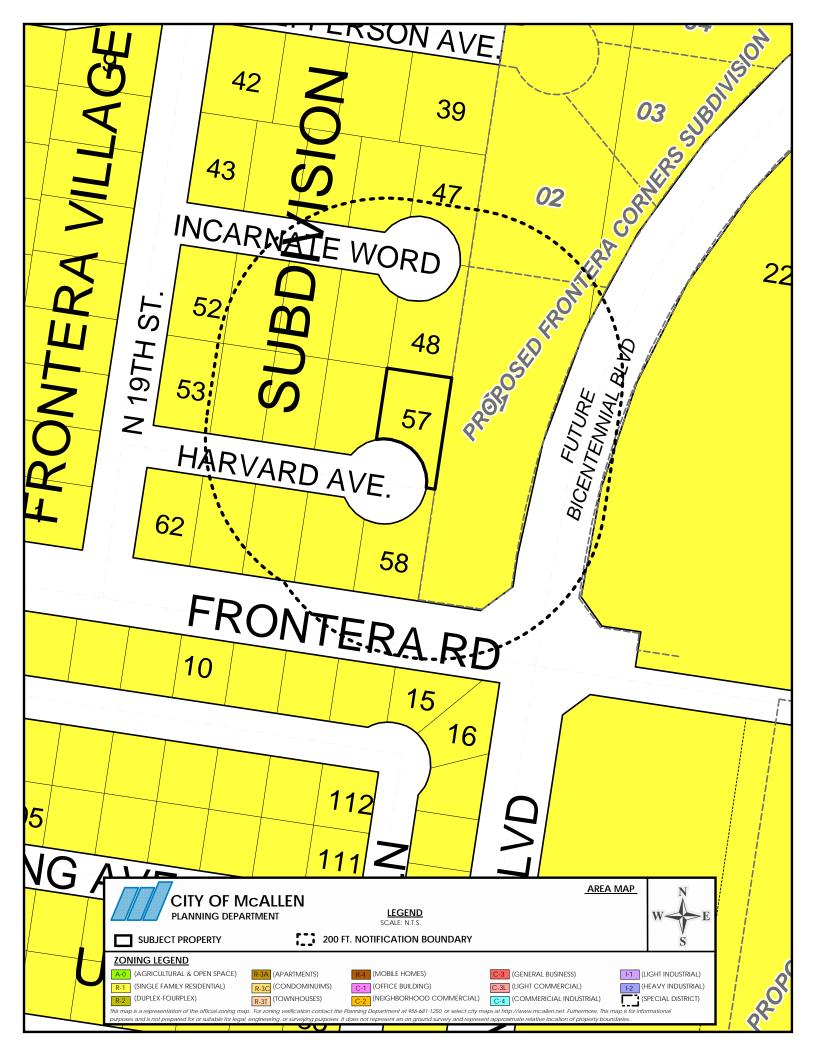
311 North 15th Street McAllen, TX 78501 P. O. Box 220 McAllen, TX 78505-0220 (956) 681-1250 (956) 681-1279 (fax)

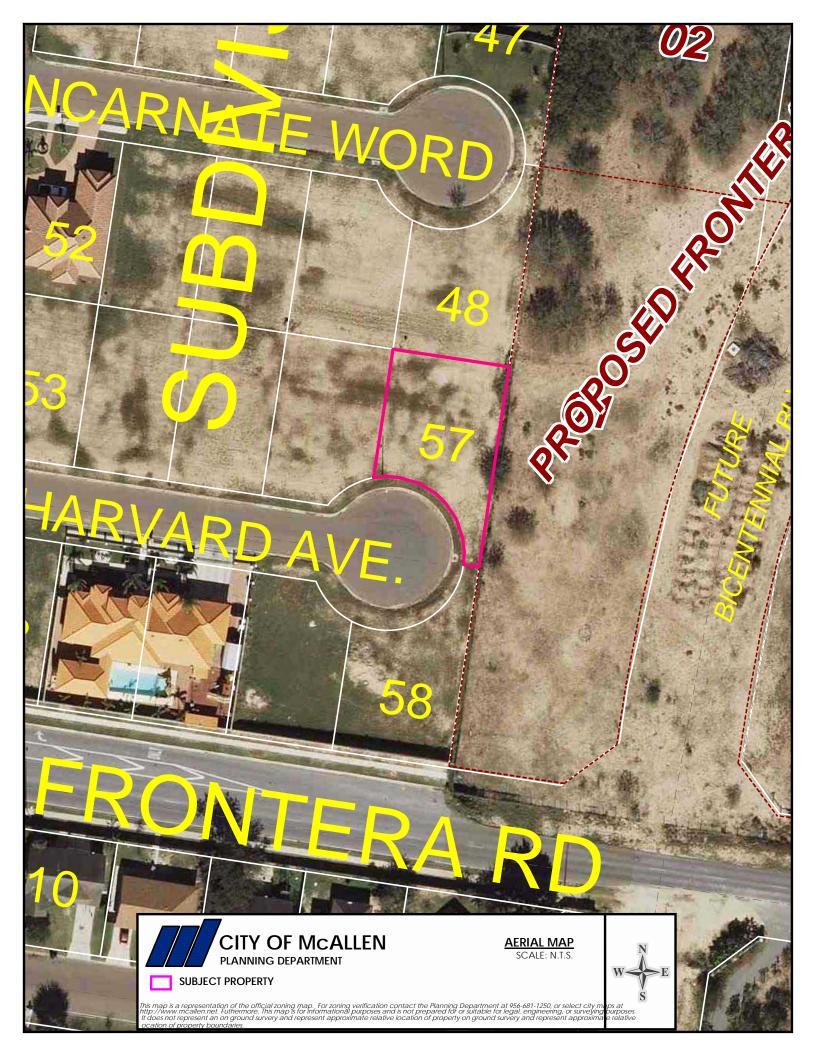
ADJUSTMENT TO MCALLEN ZONING ORDINANCE

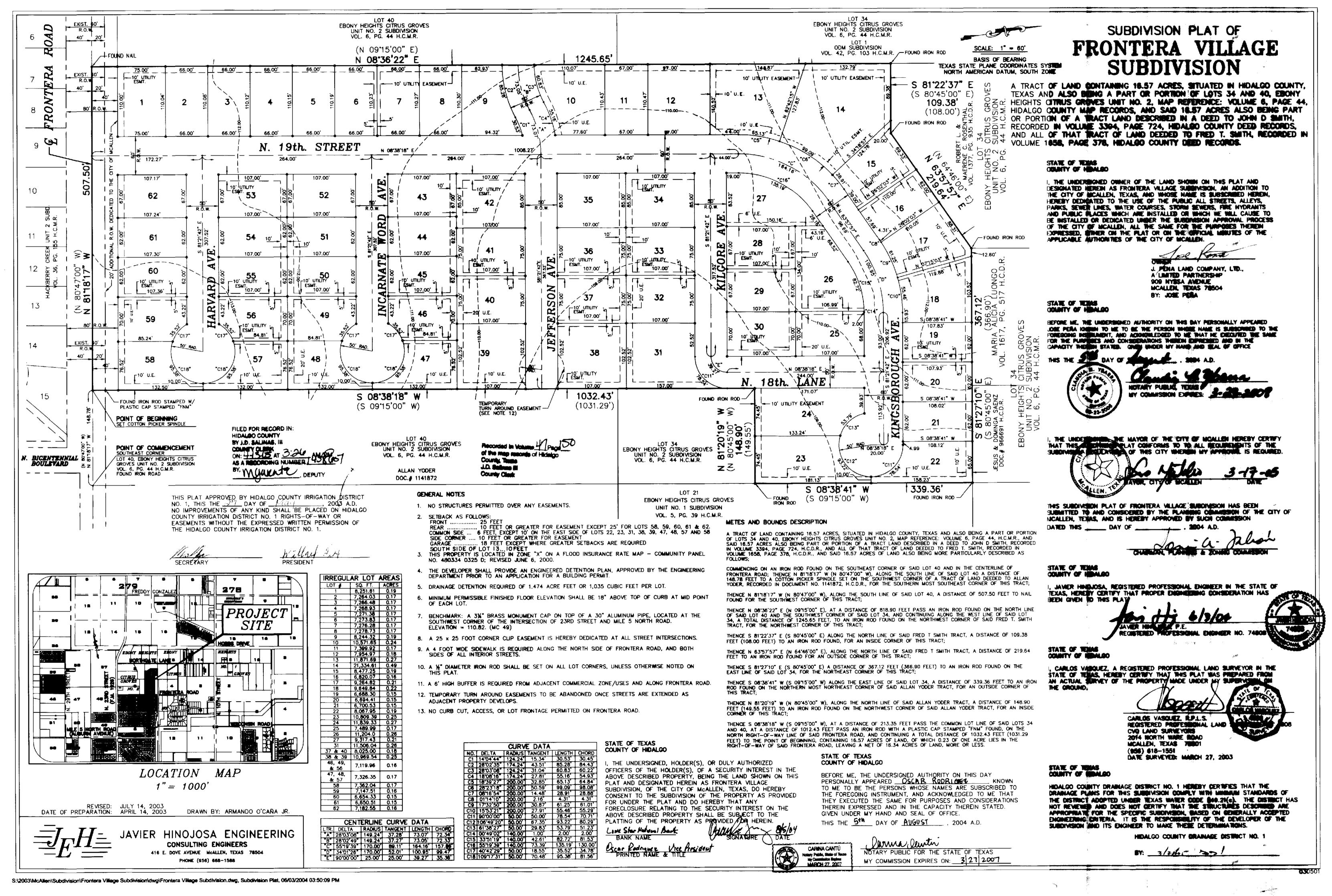
-			
Project	Legal Description	Frontera Village Lot 57	
	Street Address Nu Existing Zoning RS	Frontera Village  1808 Harvard Ave McAllen, TX 78504  mber of lots Gross acres	
	\$300.00 non-refundable filing fee + □ \$50.00 Recording Fee for Special Exception (carport)     □ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required		
Applicant	Address 3044 Jud	Phone         956-766-0670           Bith Ave         E-mail         eunice.salinas2@gmail.com           State         TX         Zip         78503	
Owner	Address 3044 Jun	nas and Jarad Saladino         Phone         956-766-0670           dith Ave         E-mail eunice.salinas2@gmail.com           State _TX         Zip _78503	
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 12-01-2020  Print Name Eunice Salinas Jarad Saladino  Owner  Authorized Agent		
Office	Accepted by, M. B.	Payment received by	

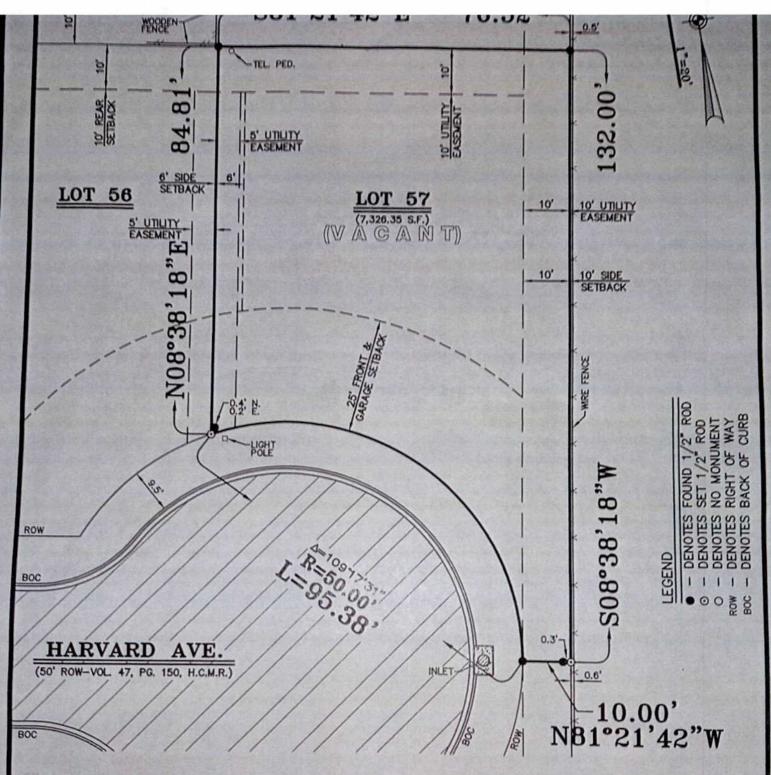
	*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: ( <i>Please use an additional page if necessary to complete responses</i> )  **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.
	<ol> <li>Describe the special circumstance or condition affecting the land involved such that the strict application of the</li> </ol>
	provisions required would deprive the applicant of the reasonable use of the land:
	The subject property is located on a cul-de-sac creating an irregular-shaped lot. The property also contains a utility
_	easement of 10 feet in concurrence with a 10 foot rear yard setback. The buildable area on the property is 5,870 feet.
69	
\dd\	<ol><li>Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</li></ol>
or /	This variance is necessary for my property since the kitchen and living room encroach 10 feet into
n K	the 25 foot front yard setback. The guest room, created purposefully for my parents who will visit often to
380	help take care of their grandchildren, causes the living room to encroach into the front yard setback.
Reason for Appeal	<ol><li>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:</li></ol>
	This variance will not be detrimental to public health, safety or welfare or injurious to the legal rights other property owners.
	enjoy in the area. My property will include a privacy fence on the front and both sides of the property. My property is
	situated in front of a lot that is used as a yard and has a privacy fence, and also has no neighbors on one side.
	<ol> <li>Describe special conditions that are unique to this applicant or property:</li> </ol>
	This property has an irregular-shaped lot with a utility easement of 10 feet in concurrence with a 10 foot rear yard setback.
	The guest room that will be designated for my parents pushes the living room into the 25 foot front yard setback, this room.
	is essential for me since I have a growing family and as a working mother I depend on my children's grandparents to help
	me take care of them.
lion	
Aci	Chairman, Board of Adjustment Date
Board Action	Signature
Bo	Rev. 9/20











FLOOD ZONE DESIGNATION: The property shown hereon lies in Zone "X". Zone "X" areas are areas determined to be outside 500-year flood plain as per F.E.M.A. Flood insurance Rate Map No. 480334-0325-D dated 06-06-00.

There are no discrepancies, conflicts, shortages in area or boundary lines, encroachments, overlapping of improvements or visible or apparent easements except as shown on this plat.

The survey plat is prepared in connection with Title Policy G.F. # 101923 and does not guarantee title. This survey is for the exclusive use of the client named hereon and may not be copied or transferred to another party without the express written consent of the surveyor.

This survey must contain an embossed seal and an original signature to be valid as per Section 661,46 and Section 663,19 of the "The Professional Land Surveying Practices Act".

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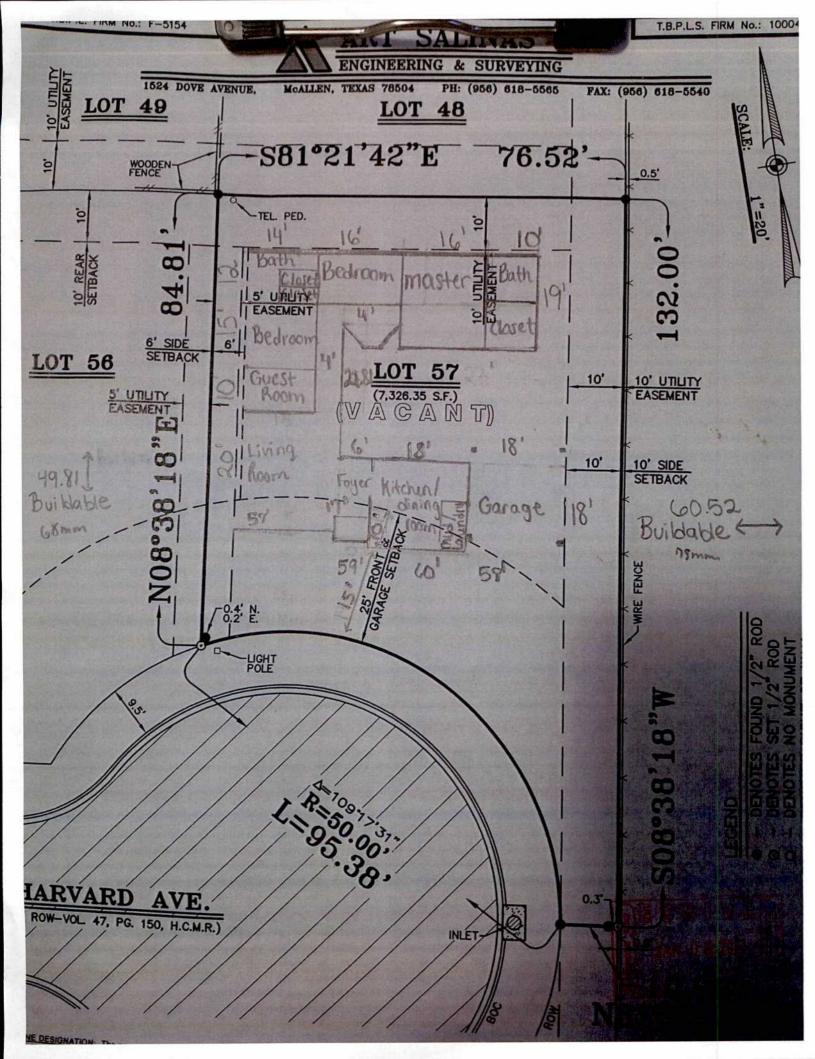
This survey must contain an embossed seal and an original signature to be valid as per Section 661,46 and Section 663,19 of the "The Professional Land Surveying Practices Act".

Right-of-Way Easement granted by Vernon B. Lewis to W. J. Paterson, by Instrument dated December 11, 1937, recorded in Volume 369, Page 117, Deed Records of Hidalgo County, Texas. (Blanket)

Pipeline Easement granted by C. M. Davison and wife, Rebecca Davison to Louis Meserow, by Instrument dated November 12, 1937, recorded in Volume 435, Page 492, Deed Records of Hidalgo County, Texas. (Blanket)

Easements, rights, rules and regulations in favor of Hidalgo County Irrigation Di

THIS IS TO CERTIFY THAT I HAVE, THIS DATE, PREPARED A SURVEY ON THE GROUND WHICH IS LOCATED AT 1808 HARVARD AVE., in McALLEN, TEXAS, DESCRIBED AS FOLLOWS: LOT 57, FRONTERA VILLAGE SUBDIVISION, AN ADDITION TO THE CITY OF MCALLEN, HIDALGO COUNTY, TEXAS ACCORDING TO THE PLAT OR MAP THEREOF RECORDED IN VOLUME 47, PAGE 150, MAP RECORDS OF HIDALGO COUNTY, TEXAS.



Bath 15 Closet 15	Bedroom 19 Master	g.c. Bath 10
Bedroom	14	9.5 closet 16
Guest Roam	4 22.8 yard	
20 Room	Foyer 18 kitchen 5 Entrance 18.52	ill Garage



## **Planning Department**

#### **MEMO**

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

FROM: Planning Staff

**DATE:** January 29, 2021

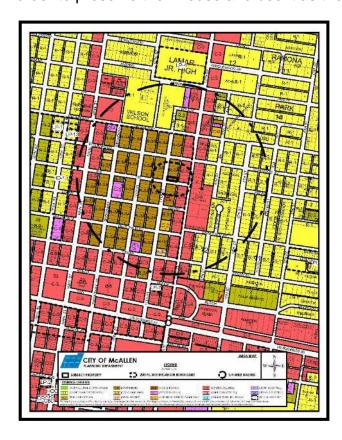
SUBJECT: REQUEST OF CYNTHIA CERVANTES FOR THE FOLLOWING VARIANCE TO THE

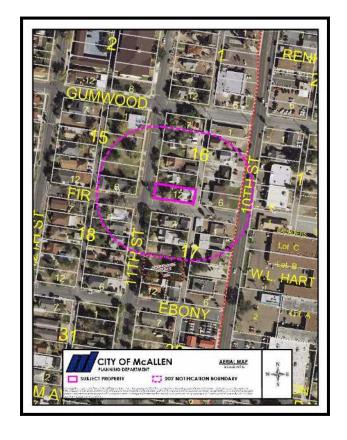
CITY OF MCALLEN ZONING ORDINANCE: TO ALLOW ISSUANCE OF A BUILDING PERMIT IN EXCESS OF 10% REPLACEMENT VALUE FOR A NON-CONFORMING USE AT LOT 12, BLOCK 16, NORTH MCALLEN SUBDIVISION, HIDALGO COUNTY, TEXAS;

602 NORTH 11TH STREET. (ZBA2021-0002)

#### **REASON FOR APPEAL**

The applicant is requesting to allow issuance of a building permit in excess of 10% replacement value. The applicant is proposing to conduct repairs to an existing single family house on the subject property in order to preserve their house and use it as their primary residence.





#### PROPERTY LOCATION AND VICINITY:

The property is located on the northeast corner of the intersection of North 11<sup>th</sup> Street and Fir Avenue. The property dimensions are 50 ft. by 140 ft. and is zoned R-3A (multifamily residential apartment) District. The adjacent zoning is R-3A District in all directions except to the east there is C-3 (general business).

#### **BACKGROUND AND HISTORY:**

There is an existing 1,468 sq. ft. single family home on the property according to the Hidalgo County Appraisal records. As per the applicant the home was constructed in the 1950's. There is also a structure at the rear of the property, which houses three apartment units. Building & Inspections Department records show that the three apartments resulted from a remodeling of an existing structure in 1994, however the permit never received a final inspection.

#### **ANALYSIS:**

The property currently contains a single family house and a triplex. The zoning ordinance from 1945 and the applicable zoning district prior to 1979 permitted a one family dwelling with a one family garage apartment. It also permitted accessory buildings including a private garage. The original use of the building at the rear property may have been as an apartment and/or private garage. The remodeling undertaken in 1994 changed the use to a triplex. As per McAllen Code of Ordinances Section 138-356(7), only one single-family residential structure may be erected on an R-3A zoning district lot. This makes the current residential uses (one single family dwelling and a triplex) a non-conforming use. In addition, the Zoning Ordinance states, "units on the same parcel shall be separated by at least 12 feet". The separation between the single family home and triplex is approximately 6 feet. Building separation compliance can be achieved by removing the wooden canopy thus making the house (if considered to be the main use) compliant. The structure at the rear of the property may not be compliant with setbacks and any future work for this structure (triplex) may require its own variance requests.

McAllen Code of Ordinances Section 138-89. Repairs and Maintenance (a) On any nonconforming structure or portion of a structure containing a nonconforming use, no work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing to an extent exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure...". The submitted variance request is for the purpose of allowing the proposed repair work for the single family residential structure to exceed the ten percent of the current replacement cost. The issuance of any requested building permits depends on the outcome of the variance request.

The estimated replacement value of the subject building for the variance request is \$58,720 (10% of this amount is \$5,872). The replacement value is based on an estimated \$40 dollar per square foot calculation as suggested by Building and Inspections Department staff. The applicant estimates that the proposed improvements (that would require a building permit) may be up to \$22,400, exceeding the 10% replacement value by \$16,528. The need to meet a higher cost of remodeling, (above 10%) may be due primarily to the requirement of meeting the City building code. The building would be improved from the current state and any such improvement would need to comply with applicable building codes thus, the building would be brought up to standard (depending on the type of work to be performed). The proposed work does not increase the footprint of the existing structure.

Staff has not received any calls in opposition to the variance request.

#### **RECOMMENDATION:**

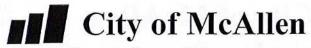
Staff recommends approval of the variance request.

## City of McAllen

# Planning Department APPEAL TO ZONING BOARD OF

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

080A	APPEAL TO ZONING BOARD OF (956) 681-1279 (fax) ADJUSTMENT TO MCALLEN ZONING ORDINANCE	
	Legal Description North Mallow 70' lot 12816	
Project	Subdivision Name  Street Address    Street Address   Stre	ken
Applicant	Name Cynthia Cerupate Phone 956-312-4841  Address Cold Wilth E-mail Islandof Praise Qydrou, C  City Mcalla, State TX Zip 18501	100
Owner	Name Cynthia Cerup to Phone 956-827-896) Address Willh, E-mail Island of Pouise ( ydo). (a) City Mally The State To Zip 7850)	án ·
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  Print Name  Owner  Authorized Agent	
Office	Accepted by Payment received by Date Date JAN 2021	



# Planning Department REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	Avariance 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:  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:  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:  1. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:  1. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:  1. 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:  1. 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:  1. Describe special conditions that are unique to this applicant or property:  2. Describe special conditions that are unique to this applicant or property:  3. Describe special conditions that are unique to this applicant or property:  4. Describe special conditions that
ction	range of the first transfer of the contract of
Board Action	Chairman, Board of Adjustment Date Signature
Boa	Rev. 9/20

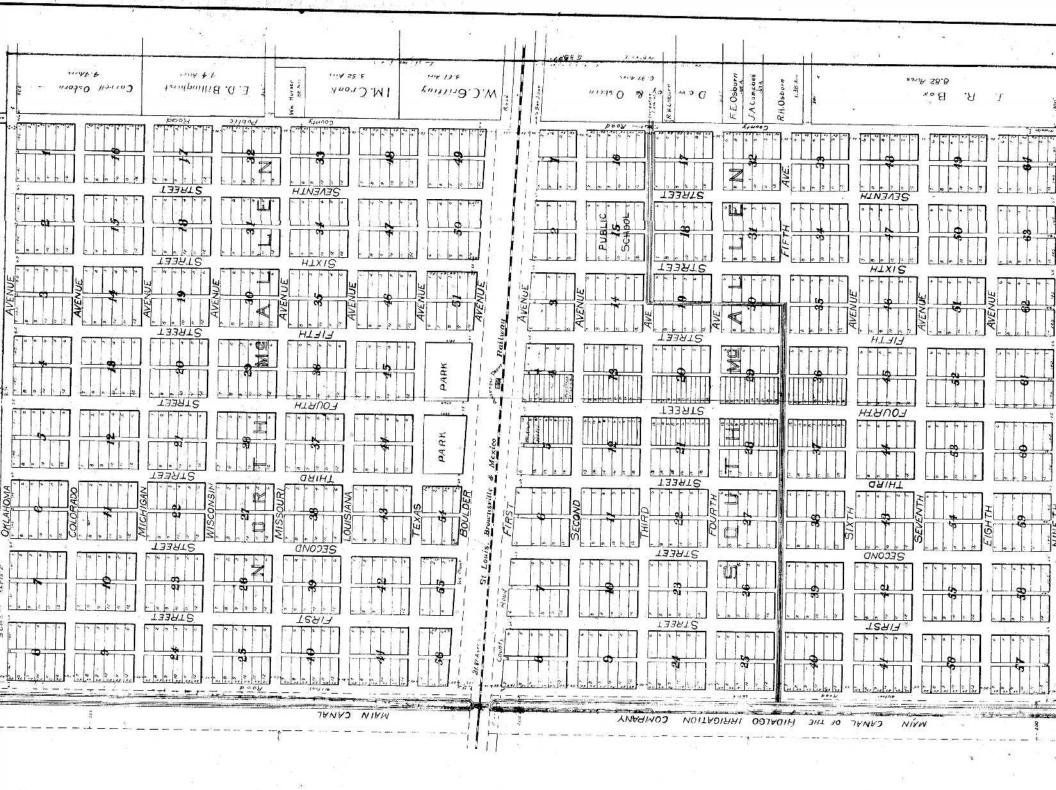
602 W. 11th, 3 chiminey Beth BR Drive way · Kitchen! 5十 Fir 5t-JAN 1 1 2021

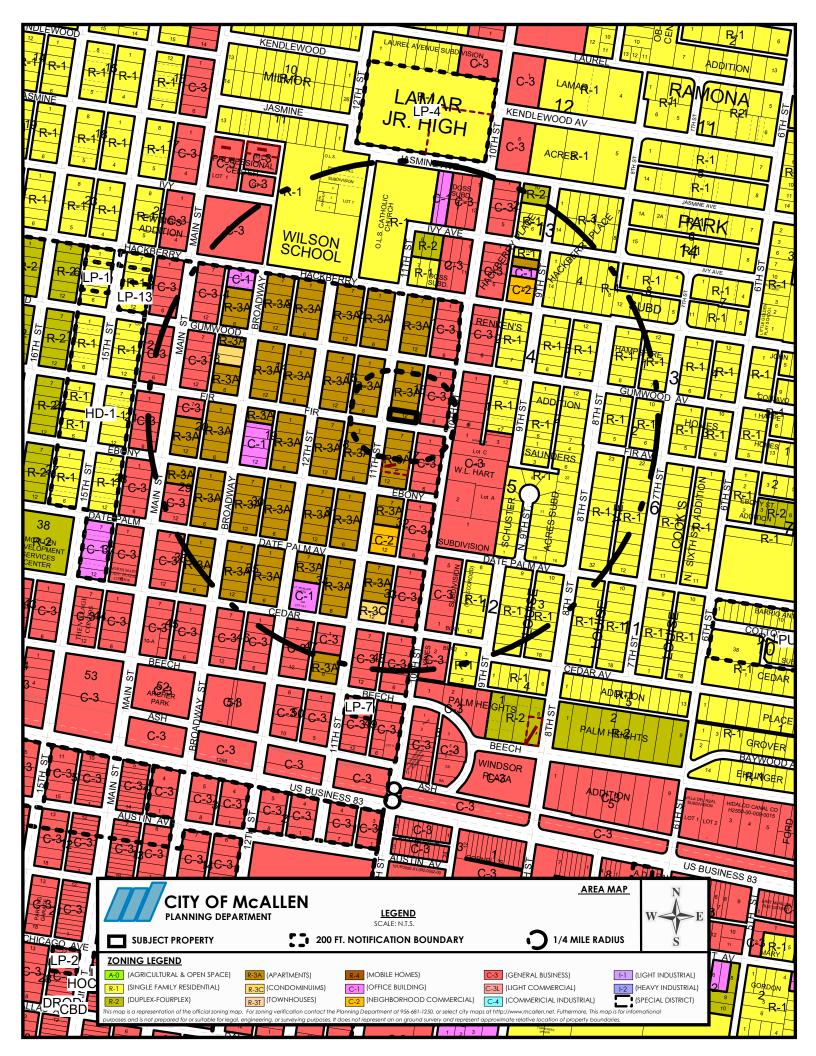
Scope of work bod No 11th mealler, TX

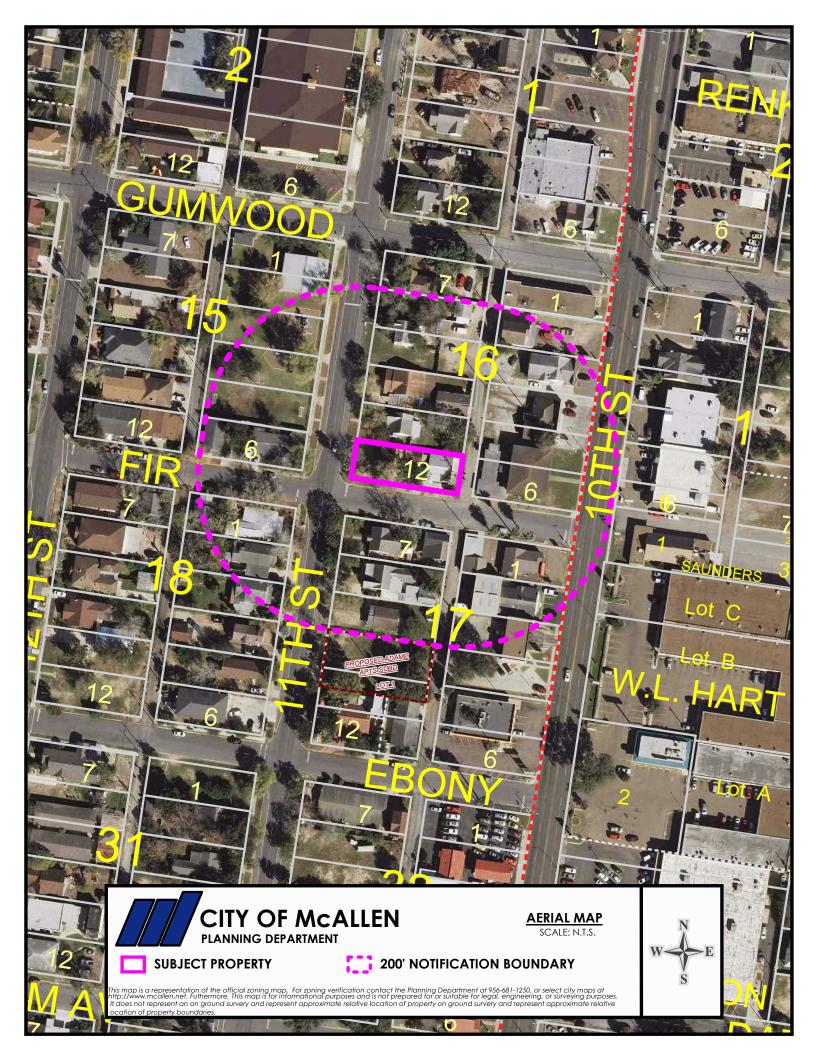
all work in House

1. Replace old electrical Panel @ the main house. Carrently the house is connected to the electricity meter@ He Tri plex located next to the Lous 2. Remodel the interior bathroom (X2), Kitchen, + utility room. Replace broken old Sheetrock + retile BR Ploors + Walls 3. Place Vynil Flooring on entire housefloor. 4. Kno Demo Chimney Tocated on North Wall- Prep Le Pier + Beams are rotten or Broken-Teplacel Repair to Brep Louse For leveling raising in this
7. Raise house 24 inches due to Plusding in this 8. seplace \$broken Windows q. Reconnect electricity to electric meter at main house









DEL	1 21	2020
REV	. 01	ZUZU

P.O. BOX 220 McALLEN, TEXAS 78505-0220 PERMIT APPLICATION REFERENCE NUMBER CMM-2020 APPLICATION MUST BE COMPLETE (Please type or print in black or blue ink) NAME APPLICANT ADDRESS CITY CONTACT: NAME: TENANT OTHER OWNER CONTRACTOR 89 PHONE REQ'D STATE \*OWNER INFORMATION NOT PROVDIED, INITIAL: REMODELING REPAIR MOVE BLDG. HGT. NO. OF FLOORS REMOVE ADDITION NEW NO. PARKING FLOOR FL ABOVE CURB SPACES LOT SQ. FT EXISTING USE NEW SCOPE OF WORK TO BE DONE NO. SQ.FT RESIDENTIAL NO. OF NO. NON-LIVING UNITS **BDRMS** BATHRMS C NEW PROJECT ROOF UPGRADES/OTHER FOUNDATION EXT WALL CONCRETE SLAB ☐ MASONRY VENEER ☐ WOOD SHINGLE ☐ GRANITE COUNTERTOPS ☐ MARBLE TUBS/FLOORS CONCRETE PIER MASONRY SOLID COMPOSITION ☐ METAL SIDING METAL. ☐ CUSTOM WINDOWS CONCRETE BLOCK COMPOSITION ☐ BUILD UP POLYURETHANE INSULATION CONCRETE BEAM CLAY OR CONCRETE TILE OTHER UPGRADES ☐ WOOD POSTS WOOD SEPTIC TANK EXISTING OR PROPOSED YES NO SUBDIVISION () SITE ADDRESS Permit Fee \$ Rec'd by CITY USE ONLY Construction Cost Double Fee \$ Value \$ Total Fee \$ Zoning Park Development Fee \$ Park Zone The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant herby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time

of work is commenced. This permit is good for one year only.

PRINT (AUTHORIZED AGENT/OWNER)

Yahoo Com



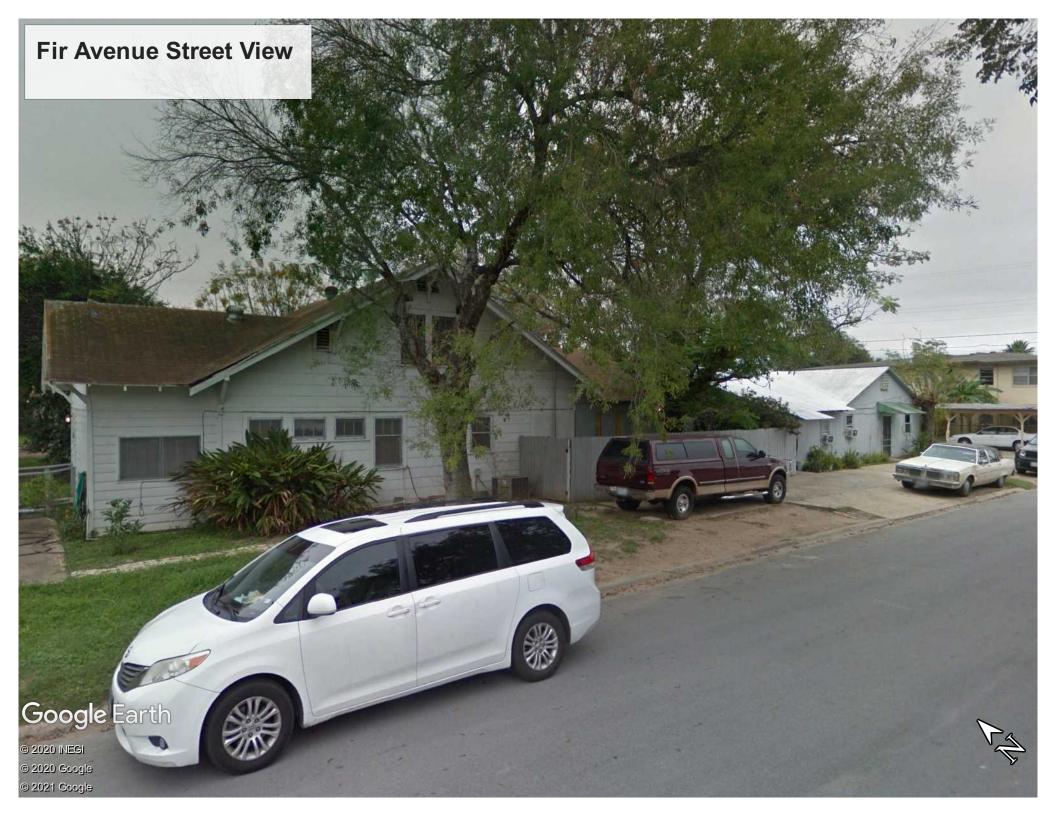














## **Hidalgo CAD**

# Property Search Results > 247838 CERVANTES CYNTHIA O Tax Year: 2021 for Year 2021

#### **Property**

Α	CC	0	u	n	t

Property ID: 247838

Legal Description: NORTH MCALLEN W70'-LOT 12

**BLK 16** 

RS

CML

Geographic ID: N5400-00-016-0012-00 Zoning:

Type: Real

Property Use Code: Property Use Description:

Location

Address: 602 N 11TH ST Mapsco:

MCALLEN, TX

Neighborhood: NORTH MCALLEN Map ID:

Neighborhood CD: N540000

Owner

Name: CERVANTES CYNTHIA O Owner ID: 1184847

Mailing Address: DELFINO OLIVAREZ SR & ELIDIA C GRANTOR TRUST % Ownership: 100.0000000000%

3108 WISTERIA AVE MCALLEN, TX 78504-2010

Exemptions: HS, OTHER

Agent Code:

#### **Values**

(+) Improvement Homesite Value: + \$29,356 (+) Improvement Non-Homesite Value: + \$0 (+) Land Homesite Value: + \$33,600

(+) Land Non-Homesite Value: + \$0 Ag / Timber Use Value (+) Agricultural Market Valuation: + \$0 \$0

(+) Timber Market Valuation: + \$0 \$0

(=) Market Value: = \$62,956 (-) Ag or Timber Use Value Reduction: - \$0

(=) Appraised Value: = \$62,956 (-) HS Cap: - \$25,125

(=) Assessed Value: = \$37,831

#### **Taxing Jurisdiction**

Owner: CERVANTES CYNTHIA O % Ownership: 100.0000000000%

Total Value: \$62,956

Entity	Description	Tax Rate	<b>Appraised Value</b>	Taxable Value	Estimated Tax	Tax Ceiling
CAD	APPRAISAL DISTRICT	0.000000	\$62,956	\$37,831	\$0.00	

				Taxes w/o Exemptions:	\$1,594.55	
				Taxes w/Current Exemptions:	\$240.14	
	Total Tax Rate:	2.532800				
SST	SOUTH TEXAS SCHOOL	0.049200	\$62,956	\$37,831	\$18.61	
SML	MCALLEN ISD	1.138600	\$62,956	\$2,831	\$0.00	\$0.00
R12	ROAD DIST 12	0.000000	\$62,956	\$37,831	\$0.00	
JCC	SOUTH TEXAS COLLEGE	0.171800	\$62,956	\$37,831	\$45.62	\$45.62
GHD	HIDALGO COUNTY	0.575000	\$62,956	\$22,831	\$67.70	\$67.70
DR1	DRAINAGE DISTRICT #1	0.102600	\$62,956	\$37,831	\$38.81	
CML	CITY OF MCALLEN	0.495600	\$62,956	\$27,831	\$69.40	\$69.40

## Improvement / Building

Improvement #3	L: RESIDENTIAL	State Code: A	1 Living Are	ea: 1468.0 s	qft <b>Value</b>
Туре	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	WDLW - 2P	DWD	1980	1076.0
STG	STORAGE	*		1980	256.0
MA2	MAIN 2ND FL	WDLW - 2P	DWD	1980	392.0

#### Land

#	Туре	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.0803	3500.00	0.00	0.00	\$33,600	\$0

## **Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2021	\$29,356	\$33,600	0	62,956	\$25,125	\$37,831
2020	\$25,586	\$12,075	0	37,661	\$3,269	\$34,392
2019	\$19,190	\$12,075	0	31,265	\$0	\$31,265
2018	\$19,190	\$11,900	0	31,090	\$0	\$31,090
2017	\$19,615	\$11,900	0	31,515	\$0	\$31,515
2016	\$20,495	\$11,900	0	32,395	\$412	\$31,983
2015	\$17,175	\$11,900	0	29,075	\$0	\$29,075
2014	\$21,183	\$11,900	0	33,083	\$0	\$33,083
2013	\$21,616	\$11,900	0	33,516	\$0	\$33,516
2012	\$19,758	\$11,900	0	31,658	\$0	\$31,658
2011	\$19,449	\$11,900	0	31,349	\$0	\$31,349
2010	\$19,847	\$11,900	0	31,747	\$0	\$31,747
2009	\$20,243	\$11,900	0	32,143	\$0	\$32,143
2008	\$21,434	\$11,900	0	33,334	\$0	\$33,334
2007	\$23,308	\$11,900	0	35,208	\$2,791	\$32,417

## **Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Туре	Description	Grantor	Grantee	Volume	Page	Deed Number
1	8/27/2020	SWD	SPEC. W/D	CERVANTES CYNTHIA O & DANIEL OLIVAREZ	CERVANTES CYNTHIA O			3142856
2	6/9/2011	DWW	DEED WITHOUT WARRANTY	OLIVAREZ DELFINO	CERVANTES CYNTHIA O &			2213519

			DANIEL OLIVAREZ
3	CONV CONVERSION	UNKNOWN	OLIVAREZ
			DELFINO

#### **Tax Due**

Property Tax Information as of 01/12/2021

Amount Due if Paid on:

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

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

Questions Please Call (956) 381-8466.

Website version: 1.2.2.31 Database last updated on: 1/11/2021 9:21 PM © N. Harris Computer Corporation

## Mario Escamilla, Jr.

From:

Roy Cervantes <islandofpraise@yahoo.com>

Sent:

Tuesday, January 26, 2021 12:26 PM

To:

Mario Escamilla, Jr.

Subject:

Re: 602 N. 11th Street.

Hello Mario,

Please see attached estimate of repairs for 602 N11th St McAllen, Texas. Let me know if you received my email.

Scope of work/ESTIMATE OF REPAIRS/ 602 N.11 MCALLEN, TEXAS

- 1. LEVEL THE HOUSE-\$12,000
- 2. REPAIR WATER DAMAGED WOOD BEAMS/RUNNERS \$1200
- 3. REPAIR EXTERIOR WATER DAMAGED SIDING \$1200
- 4. REPAIR BOTTOM THREE TO FIVE EXTERIOR SIDING ROWS ESTIMATED DAMAGE FROM LEVELING \$1000
- 5. REPLACE DAMAGED/ BROKEN WINDWS \$700
- 6. REWIRE ENTIRE HOUSE WITH NEW ELECTRICAL PANEL TO CODE (W SMOKE ALARMS) \$6000
- 7. REPAIR WATER DAMAGED FLOORING AND WALLS RETILE WALLS ADN FLOORS IN BOTH BATH ROOMS. \$6800
- 8. REPAIR TERMITE/WATER DAMAGED KITCHEN CABINETS AND WALLS \$3800
- 9. REPLACE WATER DAMAGED SHEETROCK \$700
- 10. PAINT REPAIRS INTERIOR AND EXTERIOR OF THE HOME \$4000
- 11. REPLACE PLUMBING DAMGED DURING LEVELING \$1000

On Tuesday, January 26, 2021, 11:30:58 AM CST, Mario Escamilla, Jr. <mescamilla@mcallen.net> wrote:

Good Morning Mr. Cervantes,

If you could please provide me the estimated cost list, for the scope of work you will be conducting at the subject property. Please feel free to contact me if you have any questions.

Sincerely,



## Mario Escamilla, Jr.

Planner I

City Of Mcallen Planning Department

311 N. 15th Street

Mcallen, Texas

(956)-681-1250

mescamilla@mcallen.net

Disclaimer: If you are not the intended recipient or have received this e-mail in error, please notify me via return e-mail and telephone at 956-681-3111, and permanently delete and purge the original and any copy thereof. This e-mail, with attachments hereto, if any, is intended only for receipt and use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. Regardless of address or routing, if you are not the intended recipient, then you are hereby notified that any use, copying, reproduction, dissemination, distribution, or transmission of this e-mail, and any attachments hereto, is strictly prohibited. Whereas all reasonable steps have been taken to ensure the accuracy and confidentiality of the information and data submitted herein, the City of McAllen and its employees are not liable if information or data is corrupted or does not reach its intended destination.

## **Definitions**

## **Table of Contents**

1
1
6
6

#### **Chapter 138-Zoning**

Sec. 138-1. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Footnotes:

--- () ---

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

--- () ---

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

#### **Chapter 110-Vegetation**

Sec. 110-26. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### CRITERIA FOR ZBOA DETERMINATIONS

#### **APPEALS**

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

#### SPECIAL EXCEPTIONS

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

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

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

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

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

#### **VARIANCES**

Authorized only when ALL of the following applies:

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

### Exceptions Cited within the Zoning Ordinance

### Exceptions pertaining to front yard setbacks:

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

## Exceptions pertaining to rear yard setbacks:

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

## Exceptions pertaining to side yard setbacks:

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

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

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

### Exceptions as per Planning Department Policy

### By policy the following are permitted:

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

#### Legal opinions:

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

#### ZONING BOARD OF ADJUSTMENT AND APPEALS

#### RULES AND PROCEDURES

#### CITY OF MCALLEN

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

#### I. ORGANIZATION AND OFFICERS

#### A. Members

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

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

#### B. Officers

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

#### C. Duties and Officers

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

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

#### II. POWERS OF THE BOARD

#### A. General Powers

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

#### B. Specified Powers

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

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

#### III. DUTIES OF BOARD MEMBERS

#### A. General Duties of Members

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

#### B. Disqualification/Conflict of Interest

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

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

#### IV. <u>A BASIS FOR ACTION</u>

The Board shall decide each case based on the following:

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

#### V. <u>APPLICANTS</u>

#### A. Legally Vested Interest

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

#### B. Applications

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

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

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

#### C. Meetings

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

#### D. Evidence

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

#### VI. HARDSHIP

- A. For an "unnecessary hardship" to apply to a variance, it must relate to the very property for which the variance is sought and be a condition unique, oppressive, and uncommon to other properties. An unnecessary hardship may not be self-created, or be solely financial.
- B. "Hardship" must be based on hardship resulting from sharp changes in topography or unusual terrain features. The applicant may prove the topography with a plot plan which includes topographic information related to known base points or surveys, and profiles or particular problems involved, including relationships to topographic features of adjoining properties.
- C. There is no unnecessary hardship if the property is suitable and useable for the uses permitted in the district in which it lies, although there will be a loss of profit or other economic disadvantage on account of such use.

#### VII. <u>MEETINGS</u>

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

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

#### B. Quorum

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

#### C. Regular Meetings

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

#### D. Special Meetings

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

#### E. Order of Business

The usual order of business shall be:

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

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

#### F. Staff Recommendations

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

#### G. Action by the Board

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

#### H. Minutes of the Board

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

#### VIII. DECISIONS OF THE BOARD

#### A. Precedent

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

#### B. Public Statements

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

#### B. Parliamentary Procedure

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

#### IX. WITHDRAWAL OF APPEAL

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

## X. <u>ATTENDANCE</u>

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

#### XI. AMENDEMENT PROCEDURE

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

Adopted this	day of		2014 as	affirmed	by	the
designated Executive Se	ecretary assigned by the Plan	ning Department of the C	ity of McA	Ilen.		
						,
TT						
Executive Secretary						

#### **ORDINANCE NO. 2018-70**

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

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

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

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

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

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

### Sec. 138-371. - Special Exception for carports.

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

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

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

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

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

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

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

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

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

CITY OF MCALLEN

John Ingram, dity Commissioner

Attest:

Perla Lara, TRMC/CMC, CPM

City Secretary

Approved as to form:

Austin W. Stevenson, Assistant City Attorney

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

	01/06/21	01/20/21	02/03/21											
ERICK DIAZ- CHAIRPERSON	Р	Р												
JOHN MILLIN-VICECHAIRPERSON	Р	Α												
SYLVIA HINOJOSA	Р	Р												
JOSE GUTIERREZ	Р	Р												
JUAN F. JIMENEZ	Р	Α												
ANN TAFEL (ALT 1)	Р	Р												
HUGO AVILA (ALT 2)	Р	Р												
REBECCA MILLAN (ALT 3)	Р	Р												
ROGELIO RODRIGUEZ (ALT 4)	Α	Р												

P - PRESENT

A - ABSENT

NEW APPOINTMENT

MC - MEETING CANCELLED

**NRM - NO MEETING** 

**LOQ - LACK OF QUORUM** 

**RS - RESIGNATION** 



Meetings:

## **PLANNING DEPARTMENT**



**Deadlines:** 

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

## 2021 CALENDAR

N - Public Notification D- Zoning/CUP Application Planning & Zoning Board City Commission Zoning Board of Adjustment Public Utility Board \* Holiday - Office is closed HPC - Historic Preservation Council FEBRUARY 2021 **JANUARY 2021** Thu Fri Sat Mon Tue Wed Thu Fri Sat Sun Tue Wed Sun Mon HOLIDAY N- 2/16 & 2/17 D- 3/2 & 3/3 A- 2/16 & 2/17 12 13 10 D-2/2 & 2/3 19 20 17 15 16 13 10 N-3/2 & 3/3 D-3/16 & 3/17 A-3/2 & 3/3 26 27 HPC 23 22 HPC N-2/2 & 2/3 D-2/16 & 2/17 A-2/2 & 2/3 29 25 **APRIL 2021** MARCH 2021 Wed Thu Fri Sat Tue Thu Fri Sat Sun Mon Sun Mon Tue Wed HOLIDAY N-3/16 & 3/17 D-4/6 & 4/7 A-3/16 & 3/17 10 12 N-4/20 & 4/21 D-5/5 & 5/6 -4/20 & 4/21 16 17 15 11 14 19 20 17 18 16 D-4/20 & 4/21 21 HPC 22 23 24 18 26 N- 5/5 & 5/6 **HPC** D-5/18 & 5/19 A- 5/5 & 5/6 N-4/6 & 4/7 A-4/6 & 4/7 30 30 31 **JUNE 2021 MAY 2021** Wed Thu Fri Sat Mon Tue Thu Fri Sat Sun Wed Tue Sun Mon N-6/16 & 6/17 D-7/1 & 7/7 12 11 N-5/18 & 5/19 A- 5/18 & 5/19 18 19 13 14 15 15 14 10 12 D-7/15 & 7/21 25 26 21 22 20 22 21 16 17 18 **HPC** N-6/1 & 6/2 A-7/1 & 7/7 N-7/1 & 7/7 D-6/16 & 6/17 A-6/1& 6/2 27 28 29 25 23 **HPC** HOLIDAY 31 A-6/16 & 6/17 Deadlines and Meeting Dates are subject to change at any time. Please contact the Planning Department at (956) 681-1250 if you have any questions.



## **PLANNING DEPARTMENT**



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

# **2021 CALENDAR**

	ity Commis	ssion	Meetings:	0.000	& Zoning l	Deadlines:  D- Zoning/CUP Application  N - Public Notification											
HPC -	Historic Pre						* Holiday - Office is closed  AUGUST 2021										
Sun	Mon	J. Tue	<b>ULY 202</b> Wed	Thu	Fri	Sun Mon Tue Wed Thu Fri Sat											
Sun	WIUII	Tue	Weu	1	2 A-7/20 & 7/21	Sat 3	1	2 A- 8/18 & 819	3	4 N- 8/18 & 8/19 D-9/1 & 9/2	5	6	7				
4	HOLIDAY	6	N-7/20 & 7/21 D-8/4 & 8/5	8	9	10	8	9	10	11	12	13	14				
11	12	13		15	16	17	15	16 A-ZBA 9/1		18 N-ZBA 9/1 D-9/16 & 9/17	19	00/000	21				
	A-8/4 & 8/5	20	N-8/4 & 8/5 D-8/18 & 8/19	22	23	24	22	A-PZ 9/7		HPC N-PZ 9/7	26	27	28				
25	26	27	N-8/18 & 8/19	29	30	31	29	30 A-ZBA 9/15	31								
		SEPT		2021				ОСТ									
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat				
			N-ZBA 9/15 D-10/5 & 10/6	2	3 A-PZ 9/21	4							2				
5	HOLIDAY	7	8 N-PZ 9/21	9	10	11	3	4 A-10/19& 10/20		6 N-10/19& 10/20 D-11/2 & 11/3	7	8	9				
12	13	14	D-10/19 & 10/20	16	17	18	10	11	12	13	14	15	16				
19	20 A-10/5 & 10/6	21	HPC N-10/5 & 10/6	23	24	25	17	18 A- 11/2 & 11/3		N- 11/2 & 11/3 D-11/16 & 11/1	7	22	23				
26	27	28		30			31	25	26	HPC	28	29	30				
		NOVI	<b>EMBER</b>	2021			DECEMBER 2021										
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed HPC	Thu	Fri	Sat				
	1 A-11/16 & 11/1	7	N-11/16 & 11/1 D-12/1 & 12/7		5	6				N-ZBA 12/15 D-1/4 & 1/5	2	3	4				
7	8	9	10	11	12	13	5	6 A-PZ 12/21	7	N- PZ 12/21	9	10	11				
14	15 A-ZBA 12/1	16	17 N-ZBA 12/1 D-PZ-12/21	18	19	20	12	13	14	15 D-1/18 & 1/19	16	17	18				
21	22 A-PZ 12/7	23	24	HOLIDAY	26	27	19	20 A- 1/4 & 1/5	21	22 N- 1/4 & 1/5	HOLIDAY	HOLIDAY	25				
28	29 A-ZBA 12/15	30					26	27	28		30	HOLIDAY					
Deadlin	es and Meetin	ig Dates are	subject to cha	nge at any ti	me. Please	contact th	e Plannin	g Department	at (956) 681	-1250 if you h	ave any que	stions.					