

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, JUNE 21, 2023 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

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

CALL TO ORDER – Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on June 7, 2023

2. PUBLIC HEARINGS:

- a) Request of Maria Saldana for a Special Exception to the City of McAllen Zoning Ordinance to allow:
1) an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover measuring 21 feet by 20 feet, and 2) an encroachment of 6 feet into the 6 feet west side yard setback for an existing metal carport with canvas cover measuring 21 feet by 20 feet, at Lot 11, Los Encinos Subdivision Unit 2, Hidalgo County, Texas; 3036 Olga Avenue. (ZBA2023-0044)
- b) Request of Mario Ferron for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport with canvas cover measuring 18 feet by 20 feet, at Lot 43, Ponderosa Park Phase 6 Subdivision, Hidalgo County, Texas; 3409 Gardenia Avenue. **(ZBA2023-0045)**
- c) Request of Uriel Torres on behalf of Maria del Carmen Ruiz for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 16 feet into the 30 feet front yard setback for a proposed carport measuring 16 feet by 14 feet, at Lot 22, Rosa Linda Subdivision, Hidalgo County, Texas; 3401 Harvey Drive. **(ZBA2023-0046)**

3. FUTURE AGENDA ITEMS

- a) 1100 South 10th Street
- b) 305 Cornell Avenue
- c) 100 Fern Avenue
- d) 2721 Upas Avenue
- e) 2752 Judith Avenue
- f) 2107 Jackson Avenue
- g) 9401 North 10th Street
- h) 2820 North 39th Street
- i) 4105 Zinnia Avenue
- j) 5101 South 29th Street
- k) 4319 North 26th Lane
- l) 2909 Tamarack Avenue
- m) 2524 Goldcrest Avenue
- n) 1400 Westway Avenue

ADJOURNMENT:

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

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, June 7, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Member
	Hugo Avila	Member
	Hiram A. Gutierrez	Member
	Sam Saldivar	Alternate
	Juan Mujica	Alternate
Absent:	Rogelio Rodriguez	Member
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Marco Rivera	Planner I
	Porfirio Hernandez	Planning Technician II
	Jessica Pugo	Planning Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a)** Minutes for the meeting held on May 17, 2023.

The minutes for the meeting held on May 17, 2023 were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Ms. Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

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

2. PUBLIC HEARINGS:

- a)** Request of David A. Guerra for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing metal carport measuring 25 feet by 10 feet at Lot 31, Olivarez, Subdivision No. 4, Hidalgo County, Texas; 3017 Sycamore Avenue. **(ZBA2023-0038)**
- b)** Request of Priscilla Corin Olivarez for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover measuring 18 feet by 16 feet, at Lot 74, Ponderosa Park Phase 6 Subdivision, Hidalgo County, Texas; 3405 Geranium Avenue. **(ZBA2023-0043)**

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

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

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

- c) Request of Edgar Trigo for the following Variance request to the City of McAllen Zoning Ordinance to allow an encroachment of 3 feet into the 6 feet north side yard setback for a proposed outdoor bathroom with storage area and an unenclosed canopy measuring 24 feet by 22 feet, at Lot 13, Hacienda Rincon Subdivision, Hidalgo County, Texas; 3600 North 43rd Street. **(ZBA2023-0042)**

Mr. Rivera stated the applicant was proposing to encroach 3 feet into the 6 feet north side yard setback for the construction of a structure measuring 24 feet by 22 feet that consisted of an outdoor bathroom with storage area and unenclosed canopy. The applicant stated that the encroachment was necessary to accommodate the proposed structure and to accommodate a swimming pool slide.

The subject property was located at the northeast corner of North 43rd Street and Jonquil Avenue. The Lot had 77 feet of frontage along North 43rd Street and a depth of 130.01 feet for a Lot size of approximately 10,011 square feet. The property was zoned R-1 (single-family residential) District and a single-family residence was located on the property. The adjacent zoning is R-1 District in all directions. The surrounding land use was single family residential.

Hacienda Rincon Subdivision was recorded in July 2006. The required side yard setback along the north side of this Lot was 6 feet. An application for a building permit had not been submitted. An application for a Variance request was submitted to the Planning Department on April 21, 2023.

The request was to allow an encroachment of 3 feet into the 6 feet north side yard setback for a proposed structure measuring 24 feet by 22 feet that consisted of an enclosed outdoor bathroom with storage area and an unenclosed canopy to be used for shade. The applicant stated the variance was required to accommodate the proposed structure and a water slide for the existing swimming pool.

There was an existing concrete slab where the proposed structure will be built. A picture of the site showed plumbing work for the bathroom/shower facility may have been started without a required permit. The outdoor bathroom and storage area will be encroaching 3 feet into the 6 feet north side yard setback.

There was an existing car garage, and swimming pool located at the rear of the property that prevents relocation out of the setback.

A 6 feet tall cedar fence surrounds the rear yard area of the property, which may help to reduce the view of the proposed construction.

Approval of the variance request will allow the proposed construction as depicted on the site plan. Building distance separation between structures (whether existing or future) of the subject property and adjacent properties to the north or east may potentially not meet requirements.

The submitted site plan shows that the structure could be reduced 3 feet to be in compliance with the setback requirement. The variance request was not due to special conditions nor was the plight of the owner unique.

A review of Planning Department records did not reveal any variances granted for this subdivision in the past.

Measurements provided were without benefit of a survey.

Staff had not received any phone calls or emails in opposition to the Variance request.

Staff recommended disapproval of the variance request since the site plan may be modified to be in compliance and variances run with the land.

Mr. Edgar Trigo, the applicant stated when they did their swimming pool two years ago; there was an existing patio when they bought their house in 2007. It had plumbing going into a water sink and a toilet in the patio. They removed the patio two years ago during the pandemic to have the pool done. The pool builder decided to run the plumbing to the side so that it would not run under the pool. The plumbing was in the 3 feet where it was going to encroach into the 6 feet. Mr. Trigo stated they had a contractor go out to build the patio again. That was when he was informed to go see the Planning Department and get a variance. He stated there was nothing behind them but empty land.

Chairperson Gutierrez asked the applicant if he spoke with staff to discuss any other options to be in compliance. Mr. Trigo stated he was not informed of anything else except to remove the concrete. Staff stated the first time they spoke with the applicant was they proposed to cut back the three feet to be within the six feet. When they followed up on the inspection, the applicant sent them the pictures that is when they found out there was some plumbing existing. Staff checked with Building Department and no building permit was found. If they reduced the structure, they would have to move the plumbing, which would be costly.

Board member Avila asked staff if the pool was in compliance. Staff stated there was a pool permit.

Mr. Trigo stated that the neighbor on the north side there was a fence dividing them where they want to go into the three feet. They were leaving their 10 feet in the rear for their utilities. There was no alley. Board member Avila had concerns with safety issues such as fire being close to the neighbor's fence.

Board member Mujica mentioned that when the pool was built the plumbing had been moved to the side within this setback. Mr. Trigo stated they built the pool and the plumbing that had gone to the patio had to be moved to the side when they removed the patio. Instead of going over the pool deck, they went on the other side of the deck. Board member Mujica stated he had concerns with the way the plumbing was done.

Board member Saldivar asked the applicant if he got a pool permit why did he not get one

for the plumbing before they put in the cement. Mr. Trigo stated that he thought since the installers got the pool permit that it was all included.

Mr. Rivera stated that normally for the concrete slab, that was done by the Engineering Department it does not require a permit unless it will be covered.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the variance request. There was no one else in favor of the variance request.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the variance request. There was no one in opposition of the variance request.

Following discussion, Mr. Juan Mujica **moved** to disapprove the variance request. Ms. Ann Tafel seconded the motion. The Board voted to disapprove the variance request with five members present and voting.

3. ELECTION OF VICE-CHAIRPERSON:

- a) Election for Vice-Chairperson

Chairperson Jose Gutierrez nominated Ms. Ann Tafel for the position of Vice-Chairperson.

4. FUTURE AGENDA ITEMS:

- a) 3036 Olga Avenue
- b) 3409 Gardenia Avenue
- c) 3401 Harvey Drive
- d) 1100 South 10th Street

ADJOURNMENT

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

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

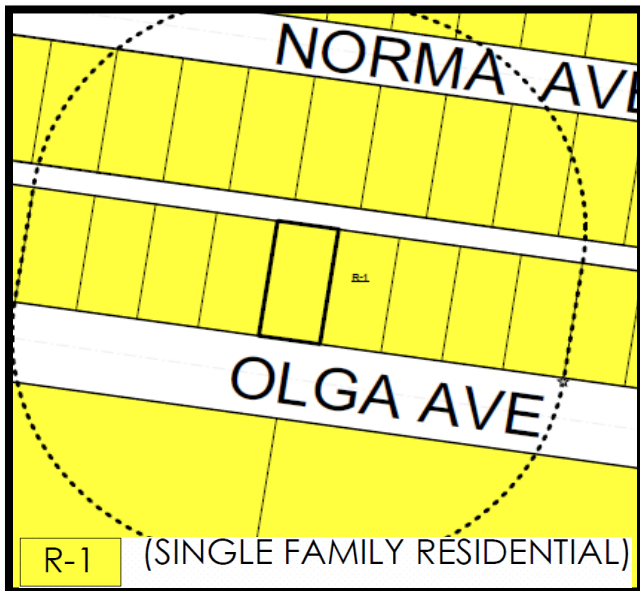
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: June 17, 2023

SUBJECT: REQUEST OF MARIA SALDANA FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 15 FEET INTO THE 20 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT WITH CANVAS COVER MEASURING 21 FEET BY 20 FEET, AND 2) AN ENCROACHMENT OF 6 FEET INTO THE 6 FEET WEST SIDE YARD SETBACK FOR AN EXISTING METAL CARPORT WITH CANVAS COVER MEASURING 21 FEET BY 20 FEET, AT LOT 11, LOS ENCINOS SUBDIVISION UNIT 2, HIDALGO COUNTY, TEXAS: 3036 OLGA AVENUE (ZBA2023-0044)

REASON FOR APPEAL: The applicant is requesting a special exception to encroach 15 feet into the 20 feet front yard setback, and 6 feet into the 6 feet west side yard setback. Both requests are for an existing metal carport constructed to protect her vehicles from rain, hail, and the sun, as the house does not have a garage.



PROPERTY LOCATION AND VICINITY: The subject property is located along the north side of Olga Avenue, and north of Sam Houston Elementary. The Lot has 50 feet of frontage along Olga Avenue and a depth of 102.70 feet for total square feet of 5,135 feet. The property is zoned R-1 (single-family residential) District. There is R-1 district in all directions.

BACKGROUND AND HISTORY: Los Encinos Subdivision Unit 2 was recorded in June 1995. The plat shows a 20 feet front yard setback and a 6 feet side yard setback. A stop work order was posted July 8, 2022 for carport built without a permit. An application for a building permit was submitted July 26, 2022. The special exception application was submitted May 9, 2023.

ANALYSIS: The applicant is requesting a special exception in order to allow an encroachment of 15 feet into the 20 feet front yard setback and an encroachment of 6 feet into the 6 feet west side yard setback for an existing carport with canvas cover in order to protect her vehicles from the weather elements.

The applicant proposes to reduce the size of the carport by 5 feet in order to clear a 5 feet utility easement that runs concurrently with the front yard setback adjacent to the front property line. The proposed reduction will result in the carport dimensions modified to a size of 16 feet by 20 feet.

The front yard setback is 20 feet along Olga Avenue. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The carport could be relocated to the rear of the property and accessed through the alley to maintain curb appeal and be closer in compliance.

The side yard setback is 6 feet for the common side property line. A 6 feet wooden wall separates the driveway from the neighboring property.

During a site visit, staff noticed that there were no other carports within Los Encinos Subdivision Unit 2.

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

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

RECOMMENDATION: Staff recommends disapproval of the request since there are no other carports, nor have other special exceptions been granted for Lots within Los Encinos Subdivision Unit 2.

ZBA 2023-0044

ZBA
6/21/2023

City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project	<p>Legal Description <u>Los Encinos ut 2 Lot 11</u></p> <p>Subdivision Name <u>Los Encinos subdivision unit 2</u></p> <p>Street Address _____</p> <p>Number of lots <u>1</u> Gross acres _____</p> <p>Existing Zoning <u>R-1</u> Existing Land Use <u>Resident</u></p> <p>Reason for Appeal (please use other side if necessary) <u>For an encroachment of 15 ft into the 20 ft F&SB for carport measuring 16 ft x 20 ft</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
Applicant	<p>Name <u>Maria Saldana</u> Phone <u>956-905-0019</u></p> <p>Address <u>3036 Olag Ave</u> E-mail <u>ms042871@gmail.com</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78503</u></p>
Owner	<p>Name <u>Same</u> Phone _____</p> <p>Address _____ E-mail _____</p> <p>City _____ State _____ Zip _____</p>
Authorization	<p>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?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>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.</p> <p>Signature <u>Maria Saldana</u> Date <u>5-1-23</u></p> <p>Print Name <u>Maria Saldana</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>SEN</u> Payment received by _____ Date <u>MAY 09 2023</u></p> <p>Rev 09/20 BY: <u>CW</u></p>

104



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: (Please use an additional page if necessary to complete responses)

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

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

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

For an encroachment of 15ft. into the 20-ft FYSB for a carport measuring 16ft. x 20 ft.

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

To protect my cars, hail, sun

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

The stracher was well built and wont cause issue with neighbors.

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

My home does not have a built in garage.

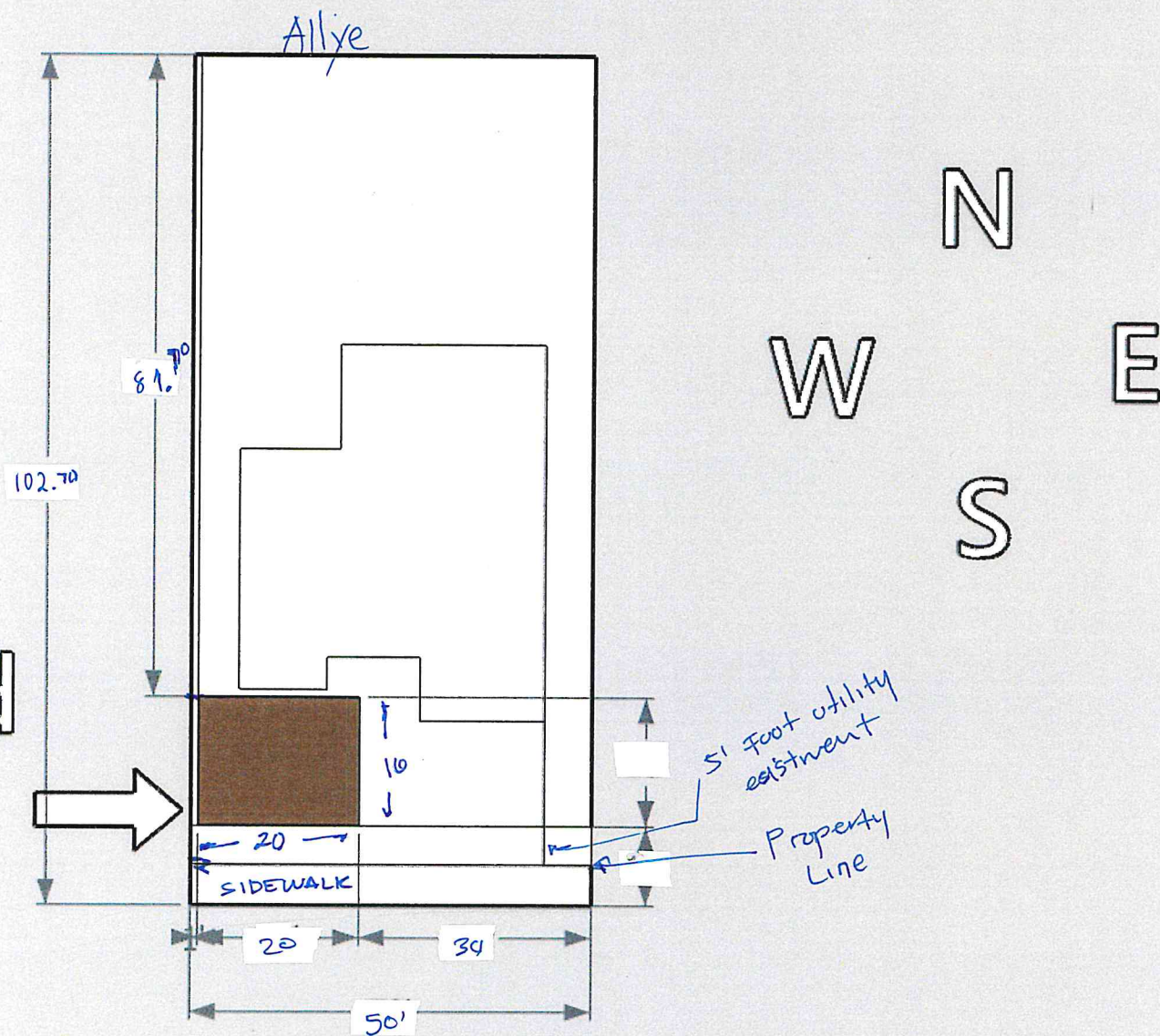
Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

Proposed
Canopy



Olga Ave





TEXAS
RWP-5503

NOTICE
OF VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
VIA 2023-0044

Memo

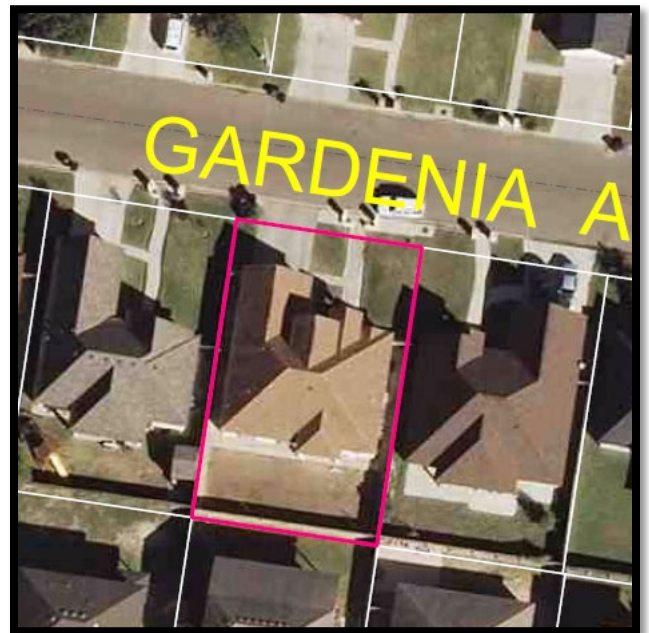
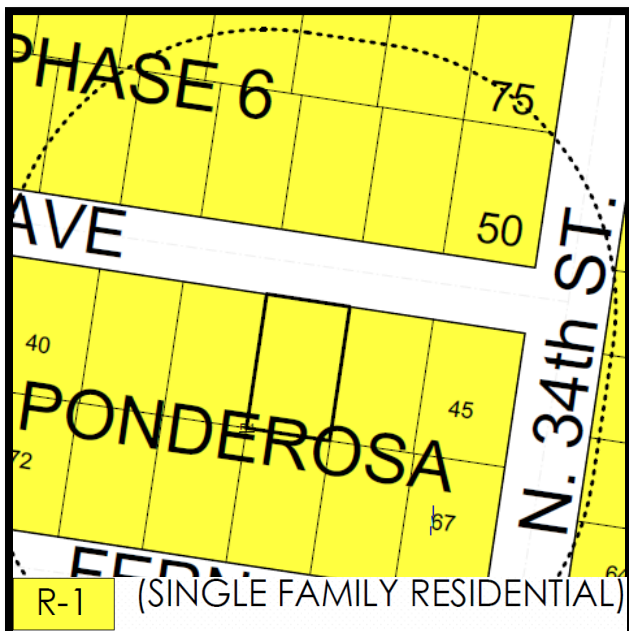
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: June 16, 2023

SUBJECT: REQUEST OF MARIO FERRON FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 20 FEET INTO THE 20 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT WITH CANVAS COVER MEASURING 18 FEET BY 20 FEET, AT LOT 43, PONDEROSA PARK PHASE 6 SUBDIVISION, HIDALGO COUNTY, TEXAS; 3409 GARDENIA AVENUE (ZBA2023-0045)

REASON FOR APPEAL: The applicant is requesting the special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport to provide protection for an individual with health concerns.



PROPERTY LOCATION AND VICINITY: The subject property is located along the south side of Gardenia Avenue between North 34th and North 36th Streets. The Lot has 63.50 feet of frontage and a depth of 102.00 feet for a total square footage of 6,477 feet. The property is zoned R-1 (single-family residential) District. The surrounding land use is R-1 District in all directions.

BACKGROUND AND HISTORY: Ponderosa Park Phase 6 Subdivision was recorded March 12, 2001. The plat states a 20 feet front yard setback. A stop work order was posted August 17, 2022. A building permit application was submitted October 10th, 2022. A special exception application was submitted May 15th, 2023. The applicant states the carport was built by a contractor but without a building permit.

ANALYSIS: The applicant is requesting a special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport. The carport is to provide protection from the sun exposure for a person with health concerns.

The front yard setback is 20 feet along Gardenia Avenue. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

The plat for this subdivision indicates a 5 feet utility easement adjacent to the front property line and runs concurrently with the front yard setback. The carport appears to be encroaching into the utility easement. The utility easement abandonment process would need to be undertaken in order to attempt to resolve the 5 feet carport encroachment into the utility easement.

At the Zoning Board and Adjustment and Appeals meeting of June 7, 2023 a request for an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover was approved for Lot 74, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of August 17, 2022 a request for an encroachment of 15 feet into the 20 feet front yard setback for a proposed metal carport that was approved at Lot 12, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of June 3, 2020, a request for an encroachment of 20 feet into the 20 feet front yard setback for a proposed carport was approved for Lot 90, Ponderosa Park Phase 6 Subdivision.

There is an existing two car garage that is part of the home that is used for storage of vehicles and other items.

Measurements provided are without benefit of a survey.

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

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

RECOMMENDATION: Staff recommends disapproval of the request since the carport also appears to encroach into a 5 feet utility easement adjacent to the property line.

ZBAUB-0045

ZBAUB:
01/20/23



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15th Street

McAllen, TX 78501

P. O. Box 220

McAllen, TX 78505-0220

(956) 681-1250

(956) 681-1279 (fax)

Project

Legal Description

PONDEROSA PARK PHASE 6
LOT 43

Subdivision Name

PONDEROSA PARK PHASE 6

Street Address

3409 W. GARDENIA AVE

Number of lots

1

Gross acres

Existing Zoning

R-1

Existing Land Use

RESIDENCE

Reason for Appeal (please use other side if necessary)

EXISTING CANOPY

13 FT ENCROACHMENT INTO
THE 20 FT FYSB FOR A CARPORT/CANOPY 13X20

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

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

Applicant

Name MARIO FERRON

Phone (956) 638-6101

Address 3409 W. GARDENIA AVE

E-mail DR.MARIO.FERRON01@gmail.com

City McAllen

State TX

Zip 78501

Owner

Name MARIO FERRON

Phone (956) 638-6101

Address 3409 W. GARDENIA AVE

E-mail

City McAllen

State TX

Zip 78501

Authorization

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

☐ Yes

☒ No

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

Signature

Date

5/15/23

Print Name

MARIO FERRON

☒ Owner

☐ Authorized Agent

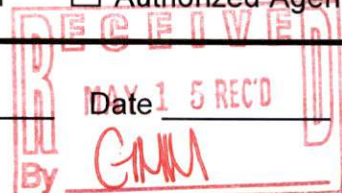
Office

Accepted by

Payment received by

Date

Rev 09/20





City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: (Please use an additional page if necessary to complete responses)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>	
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:	
	13 FE ENCROACHMENT INTO THE 20ft FYSB FOR A	
	CARPORT/CANOPY 13X20	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	THE VARIANCE IS NECESSARY TO AFFORD PERSONS WITH	
	DISABILITIES AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING.	
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:	
	STRUCTURE IS WELL BUILT.	
	4. Describe special conditions that are unique to this applicant or property:	
Board Action	PERSON WITH DISABILITIES HEALTH CONCERNS DUE TO	
	SUN EXPOSURE.	
	Chairman, Board of Adjustment Signature	
	Date	

28 ft

24 ft

1 STORY RESIDENCE

7 ft 9 in

7 ft 9 in

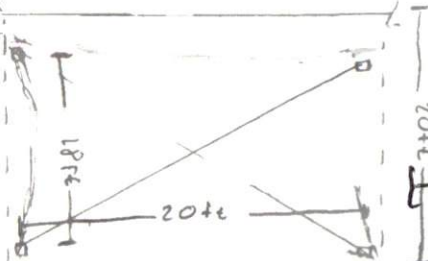
ELECTRICAL

GARAGE

WALKWAY



PROPERTY LINE



20 ft

6 ft 7 in

DRIVEWAY

GARDENIA AVE. NOT WITHIN 5 FT
PROPERTY LINE





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA 2023-0045

3409

Memo

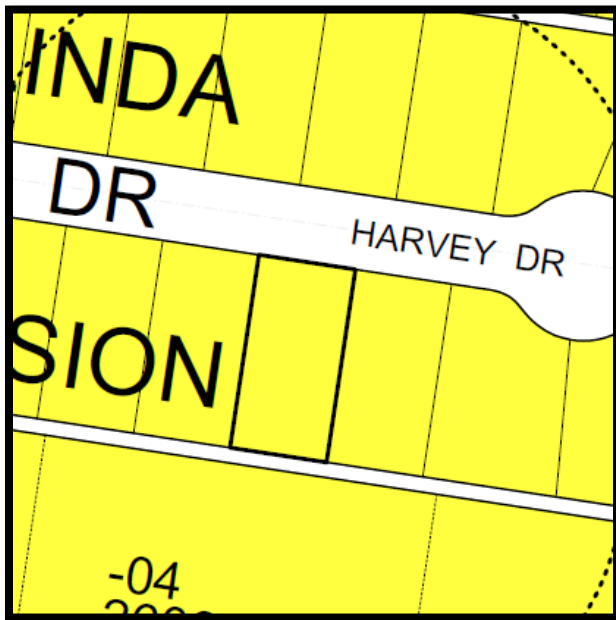
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: June 15, 2023

SUBJECT: REQUEST OF URIEL TORRES ON BEHALF OF MARIA DEL CARMEN RUIZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 16 FEET INTO THE 30 FEET FRONT YARD SETBACK FOR A PROPOSED CARPORT MEASURING 16 FEET BY 14 FEET, AT LOT 22, ROSA LINDA SUBDIVISION, HIDALGO COUNTY, TEXAS; 3401 HARVEY DRIVE (ZBA2023-0046)

REASON FOR APPEAL: The applicant is requesting the special exception to encroach 16 feet into the 30 feet front yard setback for a proposed carport that will provide protection from adverse weather.



PROPERTY LOCATION AND VICINITY: The subject property is located along the south side of Harvey Drive, near the end of a cul-de-sac. The property has a Lot frontage of 65 feet and a depth of 130 feet for a total square footage of 8,450 feet. The property is zoned R-1 (single-family residential) District. The surrounding land use is R-1 (single family residential) District in all directions.

BACKGROUND AND HISTORY: Rosa Linda Subdivision was recorded September 8, 1971. The plat shows a 30 feet front yard setback. An application for a building permit has not been submitted. An application for a special exception request was submitted on May 15th, 2023.

ANALYSIS: The applicant is requesting the special exception to encroach 16 feet into the 30 feet front yard setback for a proposed carport that will provide protection for the property owner who is elderly. The applicant states that the proposed carport will provide protection from inclement weather and lessen the possibility of slips and falls from rainfall on walking surfaces.

A windshield survey along Harvey Drive revealed only one carport constructed with a possible encroachment within Rosa Linda Subdivision; however a review of Building Permits and Inspections records did not reveal a building permit for the construction.

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

There is no paved alley access to the subject property.

There are no utility easements running concurrently with the setback.

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

RECOMMENDATION: Staff recommends disapproval of the special exception request since carports are not characteristic of construction within the front yards of Rosa Linda Subdivision, and approval of the special exception request may encourage other property owners to build similar structures.

ZBOA
4/21/2023



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Rosa Linda Lot 22

Subdivision Name Rosa Linda

Street Address 3401 Harvey St

Number of lots 1 Gross acres _____

Existing Zoning R-1 Existing Land Use Casa

Reason for Appeal (please use other side if necessary) 16x14 = 224 Ft
16 Ft dentro de los 30 Ft

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

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

Applicant

Name Uriel Torres Phone 956 897 20 86

Address 3401 Harvey St E-mail TORRES.Paint@yahoo.com

City McAllen State TEXAS Zip 78501

Owner

Name Maria del Carmen Ruiz Phone 956 238 71 80

Address 3401 Harvey E-mail _____

City McAllen State Texas Zip 78501

Authorization

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

☐ Yes

☐ No

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

Signature Maria del Carmen Ruiz Date 5/15/23

Print Name Maria del Carmen Ruiz ☒ Owner ☐ Authorized Agent

Office

Accepted by AS

Payment received by _____

Date MAY 15 2023

5

Rev 09/20

BY: _____



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: (Please use an additional page if necessary to complete responses)

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

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

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

La señora Carmen Ruiz es una persona de la tercera edad, y el porche le ayudaría para poner su vehículo y restringirse en caso de mal clima (lluvia, granizo o frío)

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

Protegerse ella como persona cuando el clima no sea el mejor, también en caso del pavimento mojado evitar accidentes.

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

Este proyecto ayudaría a la Señora Carmen Ruiz a protegerla en caso de cualquier accidente por banquetas mojadas y que puede entrar más ^{cercano} a su casa del porche a la puerta.

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

Porche para poner su carro y este más cercano a la puerta, ya que es una persona de la tercera edad

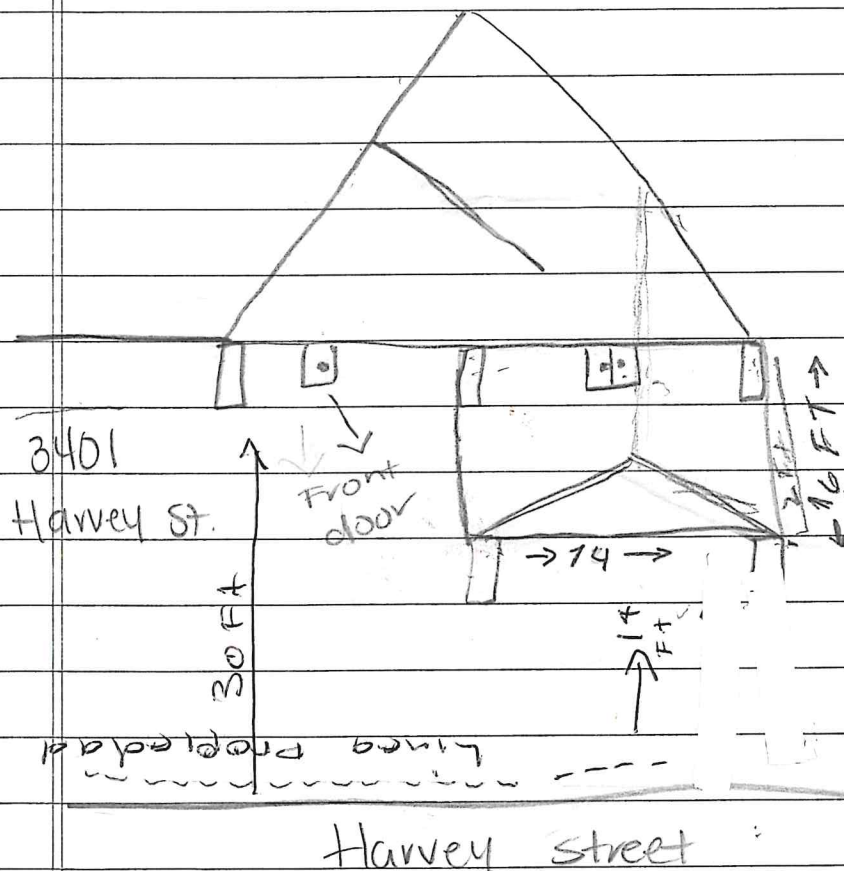
Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

costo del Proyecto
1,500





CUSTOM CABINETS
TRIM DECOR
SHUTTERS
STAIRS
WOODEN FLOORS
LAMINATE FLOORS
McAllen, TX

GMC

WB-6707-B

15605

FILED FOR RECORD THIS DATE
 RE 9-22-71 of clerk A. H.
 SEP 8 1971
 SANTIAGO SALDANA
 County Clerk
 Hidalgo County, Texas

**MAP
OF
ROSA LINDA SUBDIVISION**

BEING A SUBDIVISION OF THE NORTH 80.0 ACRES OF THE SOUTH 80.0 ACRES...
 OF LOT 128, LA LONITA IRRIGATION & CONSTRUCTION CO.'S SUBDIVISION OF
 PORCIONES 61, 62, 63, HIDALGO COUNTY, TEXAS, (LESS AND EXCEPT THE
 NORTH 80.0 FEET OF THE SOUTH 165.0 FEET OF THE WEST 160.0 FT. THEREOF)

SCALE: 1" = 100' DATE: 8-4-71

APPROVED FOR RECORDING
 BY
 COMMISSIONER'S COURT
 This day of Sept. 1971
 SANTIAGO SALDANA, County Clerk
 Hidalgo County, Texas
 [Signature]

APPROVED FOR RECORDING
 Hidalgo Co. Clerk
 [Signature]
 9/1/71

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

STATE OF TEXAS :
 COUNTY OF HIDALGO :

BEFORE ME, THE UNDERSIGNED, OFFICER OF THE PROPERTY HEREIN DESCRIBED, DO HEREBY ACCEPT, DEDICATE AND CONFIRM THE FOREGOING MAP OF "ROSA LINDA SUBDIVISION" AND DO HEREBY DEDICATE TO THE PUBLIC THE SURFACE USE OF THE STREETS AND ALLEYS THEREIN SHOWN.

[Signature] ROBERTO RODRIGUEZ
 [Signature] JOSE V. RODRIGUEZ

STATE OF TEXAS :
 COUNTY OF HIDALGO :

BEFORE ME, THE UNDERSIGNED, OFFICER OF THE PROPERTY HEREIN DESCRIBED, ON THIS DAY PERSONALLY APPEARED ABOVE NAMED OWNER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 1st DAY OF August, A.D. 1971.

[Signature] [Notary Seal]

THIS PLAT APPROVED BY THE WHALLER ZONING AND PLANNING BOARD ON THIS THE 10th DAY OF July, A.D. 1971

BY: [Signature]

THE PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF WHALLER, TEXAS ON THIS THE 22nd DAY OF August, A.D. 1971

ATTEST:
 [Signature]
 City Clerk

CONVEYED &
 THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. ONE ON THIS THE 1st DAY OF September, A.D. 1971

[Signature]
 Secretary

[Signature]
 President

[Signature]
 9-2-71



NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0046

TEXAS
HWB-1019

2023 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/23	01/18/23	02/08/23	02/22/23	03/08/23	03/22/23	04/05/23	04/19/23	05/03/23	05/17/23	06/07/23	06/21/23	07/13/23	07/27/23	08/09/23	08/17/23	09/07/23	09/20/23	10/04/23	10/18/23	11/01/23	11/15/23	12/06/23	12/20/23
SYLVIA HINOJOSA-VICE-CHAIR	P	P	P	P	P	P	P	P	A	P														
JOSE GUTIERREZ- CHAIRPERSON	P	P	P	P	P	P	P	P	P	P	P													
ANN TAFEL	P	P	P	P	A	P	P	P	P	P	P													
HUGO AVILA	P	P	P	A	P	P	P	P	P	P	P													
ROGELIO RODRIGUEZ	A	P	A	P	P	P	P	A	P	P	A													
HIRAM A. GUTIERREZ											P													
REBECCA MILLAN (ALT 1)	P																							
MARK TALBOT (ATL 2)	A																							
SAM SALDIVAR (ALT 3)	P	P	P	P	P	P	A	P	P	A	P													
JUAN MUJICA (ALT 4)	P	P	A	P	P	P	A	P	P	P	P													

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION







PLANNING DEPARTMENT

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



2023 CALENDAR

Meetings:





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

Deadlines:





D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed





JANUARY 2023

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





FEBRUARY 2023

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





MARCH 2023

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





APRIL 2023

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

MAY 2023

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



JUNE 2023

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

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

2023 CALENDAR






Meetings:

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







Deadlines:

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







JULY 2023

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







AUGUST 2023

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








SEPTEMBER 2023

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





OCTOBER 2023

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

NOVEMBER 2023

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

DECEMBER 2023

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