

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, MARCH 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: 672 423 1883

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

CALL TO ORDER - Chairperson Erick Diaz

1. MINUTES:

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

2. PUBLIC HEARINGS:

- a) Request of Potenciano and Madeline Garcia for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 7.67 ft. into the 10 ft. south corner side yard setback for an existing metal patio canopy cover measuring 12 ft. by 10 ft., **2)** an encroachment of 6.67 ft. into the 10 ft. south corner side yard setback for an existing metal carport measuring 30 ft. by 16 ft., **3)** an encroachment of 8.67 ft. into the 10 ft. rear yard setback for an existing metal carport measuring 30 ft. by 16 ft., and **4)** to not require a 5 ft. separation for an accessory building to the main building for an existing metal carport measuring 30 ft. by 16 ft., at Lot 1, The Gardens Subdivision, Hidalgo County, Texas; 7001 North 5th Street. **(ZBA2021-0003) (TABLED: 2/17/2021)**
- b) Request of Irma I. Rios for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy measuring 25.33 ft. by 9 ft., at Lot 87, Forest Valley Subdivision, Hidalgo County, Texas; 5812 North 39th Street. **(ZBA2021-0001)**

3. FUTURE AGENDA ITEMS

- a) 404 Grayson Avenue
- b) 110 North 16th 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, February 17, 2021 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	Erick Diaz	Chairperson
	John Millin	Vice-Chairperson (via Zoom)
	Juan F. Jimenez	Member
	Jose Gutierrez	Member
	Ann Tafel	Alternate
	Rebecca Millan	Alternate (via Zoom)
	Hugo Avila	Alternate
	Rogelio Rodriguez	Alternate (via Zoom)

Absent:	Sylvia Hinojosa	Member
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Staff Present:	Victor Flores	Assistant City Attorney
	Michelle Rivera	Assistant City Manager
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Mario Escamilla	Planner I
	Jose Ortega	GIS Technician III
	Carmen White	Secretary

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

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

The minutes for the meeting held on February 3, 2020 were approved. The motion to approve the minutes was made by Mr. Jose Gutierrez. Ms. Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

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

Mr. Escamilla stated the applicants were requesting the following variances to allow: 1) an encroachment of 7.67 ft. into the 10 ft. south corner side yard setback for an existing metal

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

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

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

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

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

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

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

reduced or eliminated by modifying the structure to be in compliance with the 10 ft. south corner side yard setback.

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

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

The applicant had also applied for an abandonment request, which was currently in process.

During a site visit, staff noticed similar encroachments in the area. A review of Planning Department records did not reveal any recent variances granted along this street. However, in 2014 a variance for a side yard encroachment was approved approximately 970 feet north of the subject property at 7132 North 5th Street.

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

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

Mr. Escamilla mentioned to Chairperson Diaz that the applicant was appraised of attaching the carport to the home and was willing to do it.

Dr. Potenciano and Madeline Garcia, Jr., the applicant stated he was unaware of any permits needed to build the structures. The side structure had been there since they built the house for his son back 2002. He wanted to change the covering because it was dilapidating. In addition, they wanted to add a canopy for shade in the back yard to have more space to have for recreational use and for his wife's skin condition.

Chairperson Diaz asked the applicant that the covered patio was there when the house was built and the carport in the back was added later. Dr. Garcia stated yes. They lived in a larger house previously but wanted to down size and keep the house they built for their late son. Chairperson Diaz mentioned to the applicant that they agreed to attach the carport to the home. Dr. Potenciano stated yes and if it were required, then he would ask his contractor to do so.

Chairperson Diaz asked staff the reason it was a variance was that it was going into the side yard setback and not a special exception. Mr. Escamilla stated the special exceptions were only for the front yard.

Board member Ms. Tafel asked that there was a utility easement. Mr. Escamilla stated it was currently going through the abandonment process and were waiting to receive letters.

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

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

Board member Mr. Jose Gutierrez had concerns that something would be built there in the future since it ran with the land.

Chairperson Diaz stated to the applicant if the variance request was granted, the Board's concern would be that the next owner would have the power to enclose those structures into living areas. Chairperson Diaz asked the applicant if he would be willing to reduce it from the property line or comprises that he would like to discuss with staff. Dr. Garcia stated they were not going to be adding any more to the structures other than for the shade in the back yard and side yard.

Vice-Chairperson Millin agreed with Mr. Gutierrez regarding concerns with the enclosing of structures. He stated there was a vacant property that did not appear to be large enough for a residence, a buffer behind it and a street to the south that would not affect anyone.

Vice-Chairperson John Millin **moved** to approve the variance requests #1, #2 and #3 with variance request #4 being withdrawn limited to the encroachment as shown on the submitted site plan and abandonment process. Mr. Juan Jimenez seconded the motion. The Board voted to approve the variance requests with two members voting aye and two members voting nay, Mr. Jose Gutierrez and Rebecca Millan. The motion did not pass.

Victor Flores, legal counsel stated the motion was to approve for the carport and side patio. If it is different to those that can be entertained which would be splitting up the two-variance requests.

Chairperson Diaz stated to Dr. Garcia that the items as it were not approved. He asked the applicant if he had a priority to the structures or return with a different solution. Dr. Garcia stated if he a choice he would like to retain the patio in the back yard. He asked the applicant if he would like to table the item to get with staff to discuss for different solution.

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

3. FUTURE AGENDA ITEMS:

- a) 5812 North 39th Street**

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Mr. Jose Gutierrez **moved** to adjourn the meeting. Vice-Chairperson Erick Diaz 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: February 23, 2021

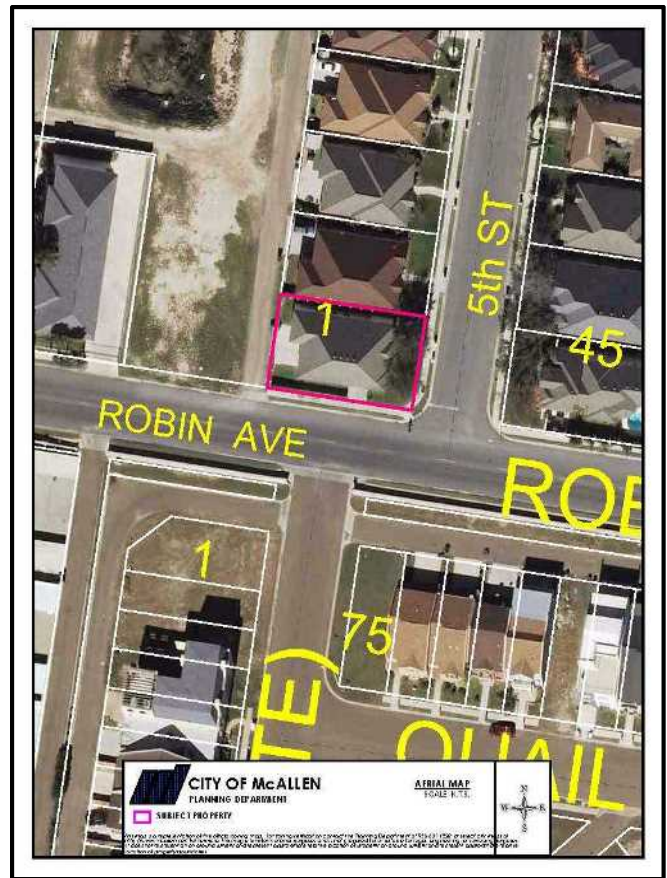
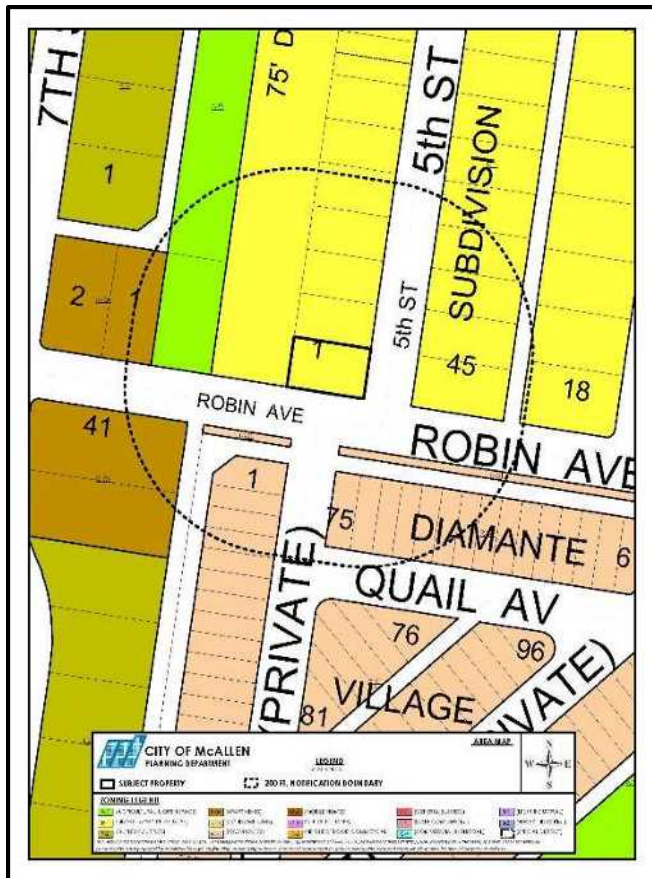
SUBJECT: REQUEST OF POTENCIANO AND MADELINE GARCIA FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 7.67 FT. INTO THE 10 FT. SOUTH CORNER SIDE YARD SETBACK FOR AN EXISTING METAL PATIO CANOPY COVER MEASURING 12 FT. BY 10 FT., 2) AN ENCROACHMENT OF 6.67 FT. INTO THE 10 FT. SOUTH CORNER SIDE YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 30 FT. BY 16 FT., 3) AN ENCROACHMENT OF 8.67 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 30 FT. BY 16 FT., AND 4) TO NOT REQUIRE A 5 FT. SEPARATION FOR AN ACCESSORY BUILDING TO THE MAIN BUILDING FOR AN EXISTING METAL CARPORT MEASURING 30 FT. BY 16 FT., AT LOT 1, THE GARDENS SUBDIVISION, HIDALGO COUNTY, TEXAS; 7001 NORTH 5TH STREET. (ZBA2021-0003)

REASON FOR APPEAL:

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

PROPERTY LOCATION AND VICINITY:

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



BACKGROUND AND HISTORY:

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

ANALYSIS:

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

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

Variance request #1 is to allow an encroachment of 7.67 ft. into the 10 ft. south corner side yard setback for an existing metal patio canopy measuring 12 ft. by 10 ft. The plat for the subdivision shows and specifies a 5 ft. utility easement running concurrently with the 10 ft. corner side yard setback along the south property line. The applicant is requesting to allow the canopy to remain at

this location since there is no available area for relocation that would place it out of the setbacks.

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

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

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

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

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

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

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

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

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



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)

ZBA 02-17-21

Project	<p>Legal Description <u>7001 N. 5th St</u></p> <p>Subdivision Name <u>McAllen Tx 78504</u></p> <p>Street Address <u>The Gardens</u></p> <p>Number of lots <u>1</u> Gross acres _____</p> <p>Existing Zoning _____ Existing Land Use _____</p> <p>Reason for Appeal (please use other side if necessary) <u>replace / pnt back</u> <u>existing roof (porch)</u></p> <p><input type="checkbox"/> \$300.00 non-refundable filing fee + <input 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>
	<p>Applicant</p> <p>Name <u>Potenciano & Madeline Garcia</u> Phone <u>956-631-3344</u></p> <p>Address <u>7001 N. 5th</u> E-mail <u>prgarcia.mad@aol.com</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78504</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 checked="" 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>Potenciano Garcia Jr.</u> Date <u>1/20/2021</u></p> <p>Print Name <u>Potenciano Garcia Jr.</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>ES</u> Payment received by _____ Date _____</p> <p>Rev 10/18</p> <p>RECEIVED JAN 20 2021 BY <u>Dey</u></p>



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:

There is a concrete foundation that is existing on this porch (since 2002) when the house was built. The roof over the above porch has been in disrepair & needed replacement.

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

This new roof is simply to replace the old one.

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 porch faces Robin St and there is a concrete wall between the porch & Robin Avenue.

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

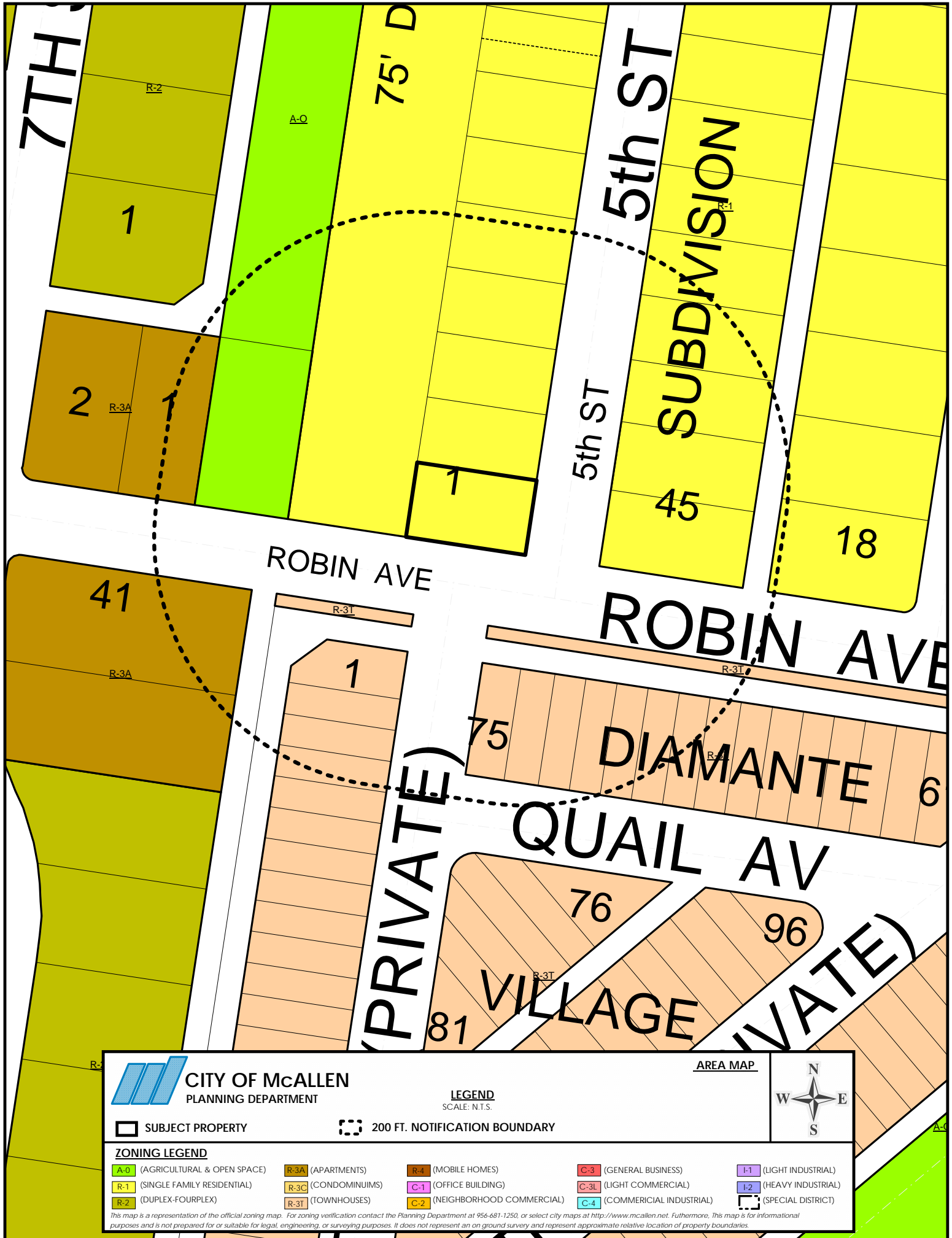
There is no other area in the property to possibly relocate the above existing porch area

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date





CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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



RESIDENTIAL PERMIT APPLICATION

REV. 3/2020

P.O. BOX 220 McALLEN, TEXAS 78505-0220

APPLICATION MUST BE COMPLETE

PERMIT APPLICATION REFERENCE NUMBER

RES2020-06710

(Please type or print in black or blue ink)

GC104293
APPLICANT

NAME David Gonzalez PHONE 956-393-9308
 ADDRESS 704 S. Main St.
 CITY McAllen STATE TX ZIP 78501
 CONTACT NAME: Skyline RV LLC PHONE 956-393-9308
☐ OWNER ☒ CONTRACTOR ☐ TENANT ☐ OTHER

OWNER

NAME Protenciano R. Garcia PHONE 956-292-5097
 ADDRESS 7001 N. 5th *EMAIL: prgarcia@yahoo.com
 CITY McAllen STATE TX ZIP 78504

*OWNER INFORMATION NOT PROVIDED, INITIAL:

☐ NEW 480 ☐ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE BLDG. HGT. 1 NO. OF FLOORS
 BLDG SQ. FT. 16x30 NO. PARKING SPACES _____ SQ. FT. LOT _____ FLOOR EL. ABOVE CURB _____
 EXISTING USE residential NEW USE _____
 OF LOT _____

SCOPE OF WORK TO BE DONE adding car porch

PROJECT

RESIDENTIAL NEW NO. OF UNITS _____ NO. BDRMS _____ NO. BATHRMS _____ SQ. FT. NON-LIVING _____ SQ. FT. LIVING _____

FOUNDATION

☒ CONCRETE SLAB
☐ CONCRETE PIER
☐ CONCRETE BLOCK
☐ CONCRETE BEAM
☐ WOOD POSTS
☐ _____

EXT WALL

☐ MASONRY VENEER
☐ MASONRY SOLID
☐ METAL SIDING
☐ COMPOSITION
☐ WOOD
☐ _____

ROOF

☐ WOOD SHINGLE
☐ COMPOSITION
☒ METAL
☐ BUILD UP
☐ CLAY OR CONCRETE TILE
☐ _____

UPGRADES/OTHER

☐ GRANITE COUNTERTOPS
☐ MARBLE TUBS/FLOORS
☐ CUSTOM WINDOWS
☐ POLYURETHANE INSULATION
☐ OTHER UPGRADES _____
☐ SEPTIC TANK EXISTING OR PROPOSED
☐ YES ☐ NO

LOT _____ BLOCK _____ SUBDIVISION _____
 SITE ADDRESS ST. NO. 7001 ST. NAME NORTH 5th McAllen TX 78504

CITY USE ONLY

Construction Cost _____ Permit Fee \$ 76.80 Rec'd by [Signature]
 Value \$ 21,600 Double Fee \$ _____ Date 9/17/20
 Zoning _____ Total Fee \$ _____ Time 2:43
 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 hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

David Gonzalez PRINT (AUTHORIZED AGENT/OWNER) [Signature] SIGNATURE Skyline RV20@gmail.com EMAIL ADDRESS (required) 9/17/20 DATE

7001
N. 5th

House

12x10

Old
Porch

Extended
Porch

Fence Block

30x16

New

Covered Porch

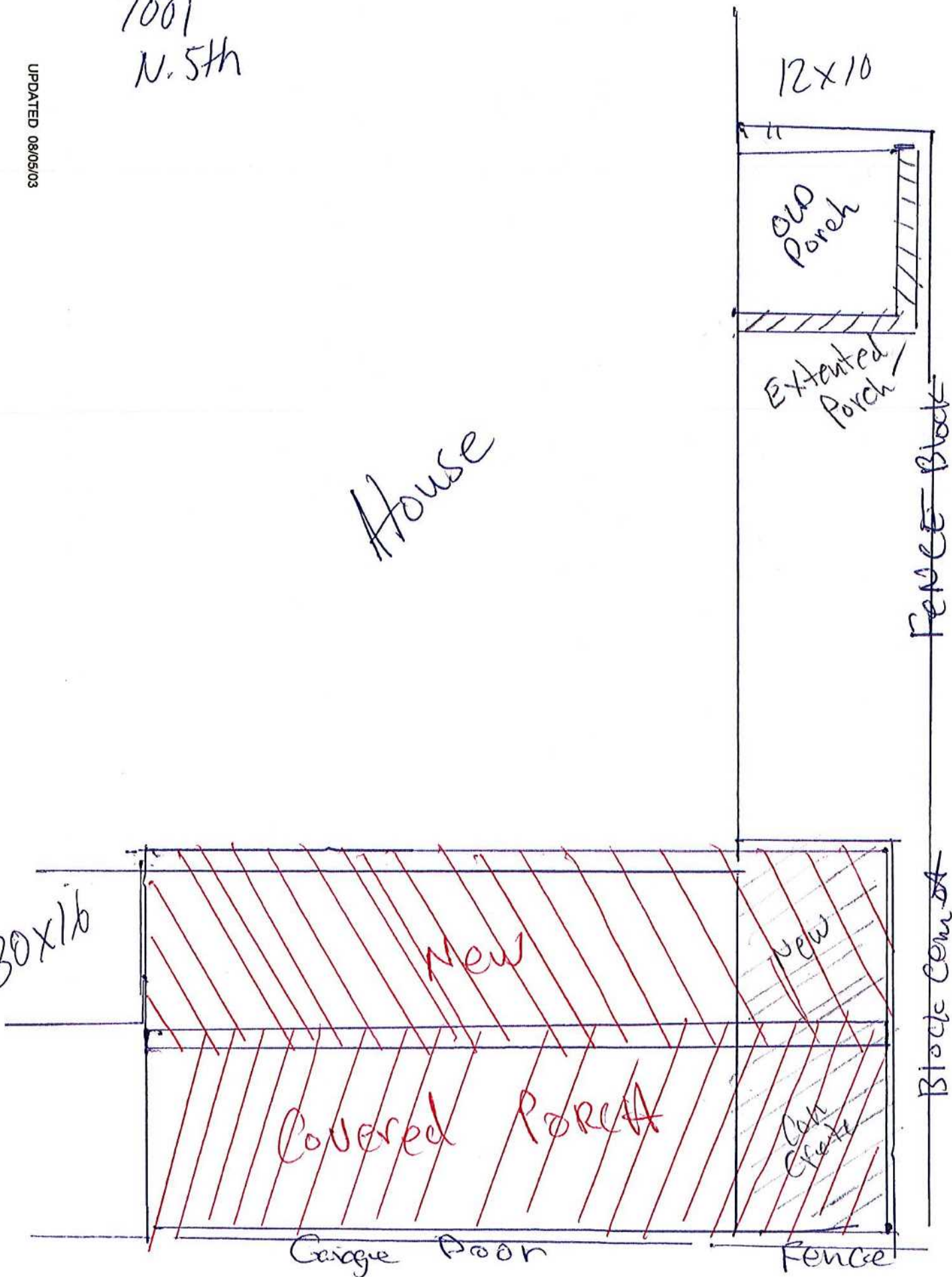
Garage Door

New

Can
Chairs

Fence

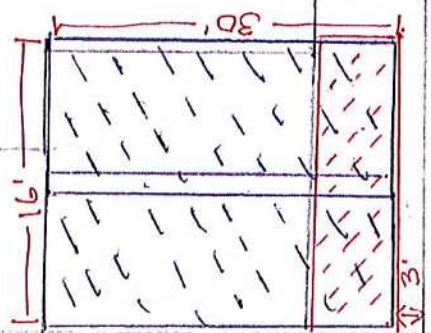
Block Com



↑ N

Ally

50



Robbin

SUBDIVISION PLAT OF THE GARDENS SUBDIVISION

AN 11.091 ACRE TRACT BEING A RESUBDIVISION OF CAMBRIDGE ESTATES SUBDIVISION AS RECORDED IN VOL 29, PG 130A, HIDALGO COUNTY, TEXAS, AND 1.074 ACRES OUT OF LOT 1, SECTION 12, HIDALGO CANAL COMPANY'S SUBDIVISION, OF PORCTIONS 64, 65, AND 66, HIDALGO COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF HIDALGO

I (WE) THE UNDERSIGNED OWNER(S) OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS THE GARDENS SUBDIVISION AN ADDITION TO THE COUNTY OF HIDALGO TEXAS AND WHOSE NAME(S) IS (ARE) 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 (WE) WILL CAUSE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE COUNTY OF HIDALGO ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED EITHER ON THE PLAT OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE COUNTY OF HIDALGO

Rudolfo (Rudy) Elizondo Jr.
RUDOLFO ELIZONDO DEVELOPMENT CO. L.L.C.
921 N. 27TH STREET
McALLEN TEXAS 78501
RODRIGO (RUDY) ELIZONDO JR. PRESIDENT

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED RUDY ELIZONDO KNOWN TO ME TO BE THE PERSON(S) WHOSE NAME(S) IS (ARE) SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE (THEY) EXECUTED THE SAME FOR PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED GIVEN UNDER MY HAND AND SEAL OF OFFICE

THIS THE 27th DAY OF March A.D. 1995

Salvador Olvera
NOTARY PUBLIC TEXAS
EXPIRATION DATE 3-9-99

THIS PLAT APPROVED BY HIDALGO COUNTY IRRIGATION DISTRICT No. THREE

ON THIS 14th DAY OF May A.D. 1995

HIDALGO COUNTY IRRIGATION DISTRICT No. THREE WILL NOT BE RESPONSIBLE FOR DRAINAGE OF DELIVERY OF WATER TO ANY LOT IN THIS SUBDIVISION IF DESIRED THIS WILL NOT BE AT THE OWNER'S EXPENSE

J.R. Smith SECRETARY
Blaine Doyle PRESIDENT

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

William M. Voth Jr. CITY CLERK
John M. Hinkle MAYOR CITY OF McALLEN

THIS SUBDIVISION PLAT OF THE GARDENS SUBDIVISION HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF McALLEN TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION

DATED THIS 21st DAY OF May A.D. 1995

STATE OF TEXAS
COUNTY OF HIDALGO

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

Javier Hinojosa
REGISTERED PROFESSIONAL ENGINEER No. 74808

LEO L. RODRIGUEZ JR. A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND AND FURTHER CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT

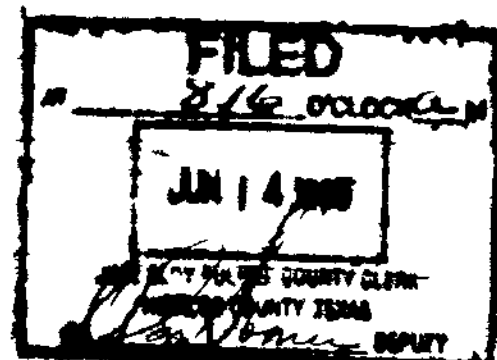
REGISTERED PROFESSIONAL LAND SURVEYOR No. 2448
Leo L. Rodriguez Jr.

CHECKED BY *Leo L. Rodriguez Jr.*
6-8-95



APPROVED FOR RECORDING
BY
COMMISSIONERS COURT
This the 12th day of June 1995
JOSE ELOY PULIDO County Clerk
Hidalgo County Texas
By *Jose E. Pulido* Deputy

457884



APPROVED FOR RECORDING
HIDALGO COUNTY PLANNING DEPT
DATE 6-12-95

APPROVED
Verna Walker
Hidalgo County ROW DEPT

METES AND BOUNDS DESCRIPTION

A 11.091 ACRE TRACT OF LAND BEING A RESUBDIVISION OF CAMBRIDGE ESTATES SUBDIVISION AS RECORDED IN VOL 29 PG 130A HIDALGO COUNTY TEXAS AND 1.074 ACRES OUT LOT 1 SECTION 12 HIDALGO CANAL COMPANY'S SUBDIVISION OF PORCTIONS 64 65 AND 66 HIDALGO COUNTY TEXAS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1 SECTION 12 FOR THE NORTHWEST CORNER OF THIS TRACT SAID POINT BEING IN THE CENTERLINE OF TRENTON ROAD

THENCE S81°14'00"E ALONG THE CENTERLINE OF SAID TRENTON ROAD A DISTANCE OF 366.00 FEET TO A POINT FOR THE NORTHEAST CORNER OF THIS TRACT

THENCE S08°46'00"W AT 60.00 FEET THE SOUTH RIGHT-OF-WAY LINE OF TRENTON ROAD IN ALL A DISTANCE OF 1320.00 FEET TO A POINT FOR THE SOUTHWEST CORNER OF THIS TRACT

THENCE N81°14'00"W A DISTANCE OF 366.00 FEET TO A POINT FOR THE SOUTHWEST CORNER OF THIS TRACT

THENCE N08°46'00"E AT 1260.00 FEET THE SOUTH RIGHT-OF-WAY LINE OF TRENTON ROAD IN ALL A DISTANCE OF 1320.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11.091 ACRES OF LAND MORE OR LESS

Recorded in Volume 30 Page 666
of the map records of Hidalgo County Texas
Melden and Hunt, Inc.
County Surveyors

NOTES

1. THIS PROPERTY IS LOCATED IN ZONE "B" ON THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 480334 0425 C REVISED NOV 16 1982
2. MINIMUM FINISHED FLOOR ELEVATION SHALL BE 1/4" +18 AS MEASURED AT THE CENTER OF EACH LOT
3. SETBACKS: FRONT - 20.00 REAR - 10.00 FEET OR TO THE EASEMENT LINE, WHICHEVER IS GREATER SIDE - 6.00 FEET EXCEPT FOR CORNER LOTS WHICH SHALL BE 10.00 FEET GARAGE - 18.00 FEET EXCEPT WHERE GREATER SETBACK APPLIES
4. A TOTAL OF 27.0 ACRES FEET OF STORMWATER DETENTION IS REQUIRED FOR THIS SUBDIVISION OWNER IS REQUIRED TO SUBMIT AN ENGINEERED DETENTION PLAN APPROVED BY THE ENGINEERING DEPARTMENT PRIOR TO APPLICATION FOR BUILDING PERMIT
5. A 5' BUFFER REQUIRED FROM COMMERCIAL ZONE AND ALONG TRENTON ROAD AND ROBIN AVENUE
6. A 4' WIDE SIDEWALK REQUIRED ON TRENTON ROAD AND NORTH 5TH STREET (BOTH SIDES) AND THE NORTH SIDE ROBIN AVENUE
7. NO CURB CUTS OR LOT FRONTAGE PERMITTED ON TRENTON ROAD
8. A 25' x 25' CORNER CLIP EASEMENT REQUIRED AT ALL STREET INTERSECTIONS
9. A 10' x 10' CORNER CLIP EASEMENT REQUIRED AT ALLEY AND STREET INTERSECTIONS.

I THE UNDERSIGNED OWNER OF PARCEL "B" AS SHOWN ON THIS PLAT DESIGNATED AS THE GARDENS SUBDIVISION HEREBY DEDICATE TO THE USE OF THE PUBLIC THIS TRACT OF LAND FOR USE AS AN ALLEY

Kathleen Shepherd
THE ROYAL OAK GROUP
208 NOLANA
McALLEN, TEXAS 78501
KATHLEEN SHEPHERD GENERAL PARTNER

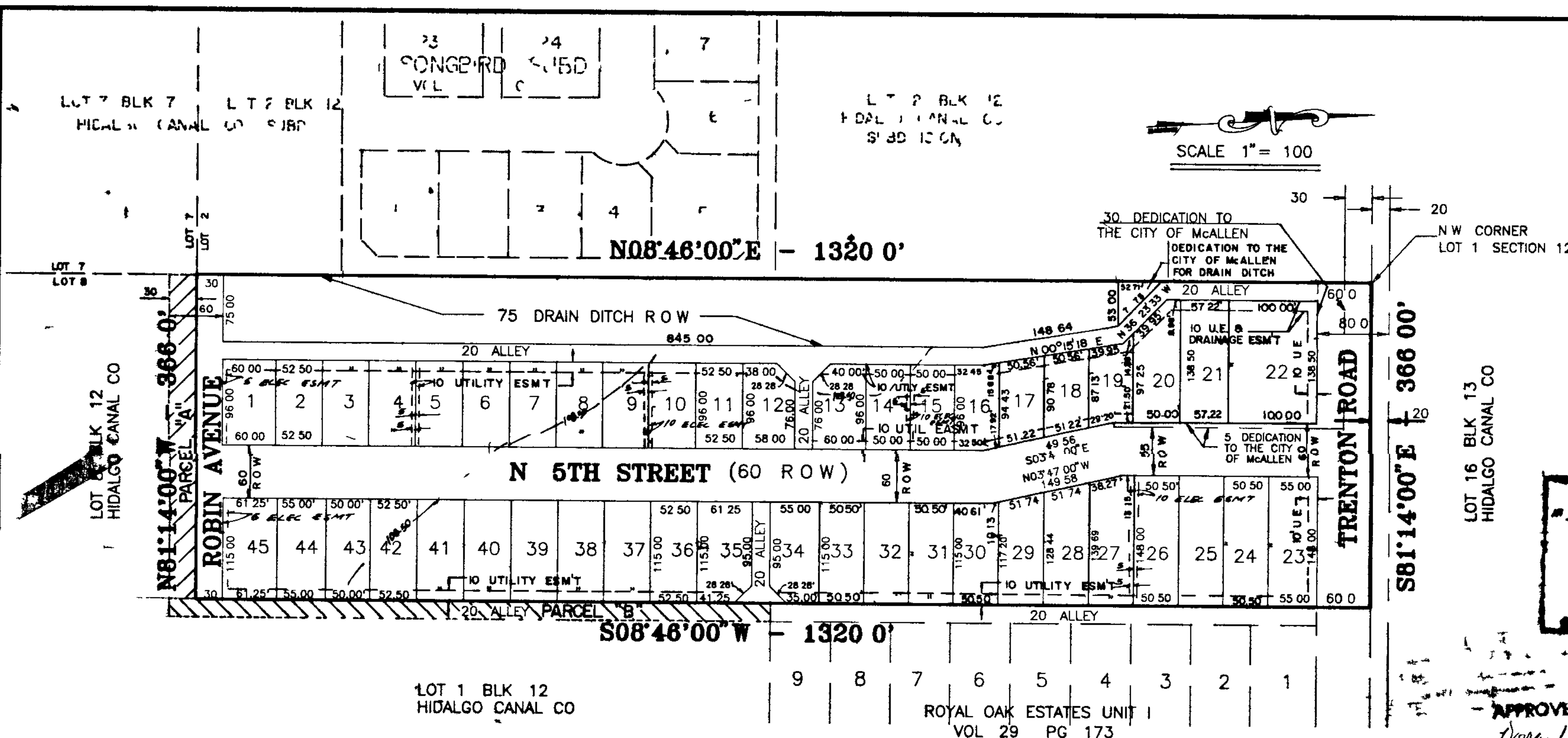
SWORN TO AND SUBSCRIBED BEFORE ME
THIS THE 16 DAY OF May A.D. 1995

Salvador Olvera
NOTARY PUBLIC TEXAS
EXPIRATION DATE: 3-9-99



APPROVED
Verna Walker
Hidalgo County ROW DEPT
DATE 6-8-95

CHECKED BY *Leo L. Rodriguez Jr.*
6-8-95

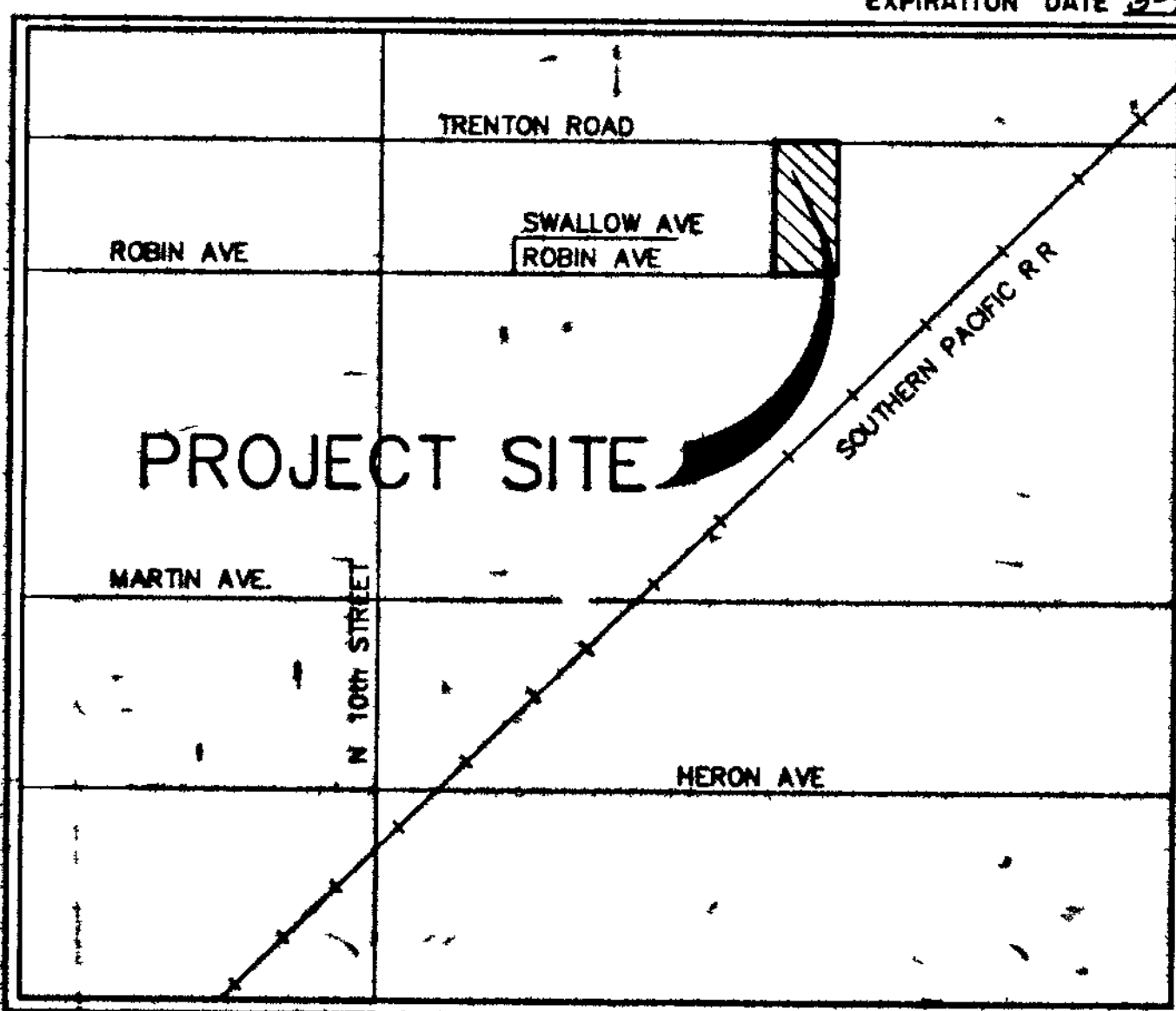


I THE UNDERSIGNED OWNER OF PARCEL "A" AS SHOWN ON THIS PLAT DESIGNATED AS THE GARDENS SUBDIVISION HEREBY DEDICATE TO THE USE OF THE PUBLIC THIS TRACT OF LAND FOR USE AS ROADWAY



HEED PROPERTIES
921 N. 27TH STREET
McALLEN TEXAS 78501
HUGO HAMDAN MANAGER

SWORN TO AND SUBSCRIBED BEFORE ME
THIS THE 16 DAY OF May A.D. 1995
Salvador Olvera
NOTARY PUBLIC TEXAS
EXPIRATION DATE: 3-9-99



LOCATION MAP

DATE OF PREPARATION 02/15/95



L. L. RODRIGUEZ and ASSOCIATES, INC.
CONSULTING ENGINEERS / PLANNERS / SURVEYORS
2427 N. 16TH STREET SUITE 101 McALLEN, TEXAS 78501
PHONE (214) 887-7281











NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0003

7001

Hidalgo CAD

Property Search Results > 550251 GARCIA POTENCIANO JR & MADELINE M for Year 2021

Tax Year: 2021

Property

Account

Property ID:	550251	Legal Description:	THE GARDENS LOT 1
Geographic ID:	T3253-00-000-0001-00	Zoning:	RS
Type:	Real	Agent Code:	1024876
Property Use Code:			
Property Use Description:			

Location

Address:	7001 N 5TH ST MCALLEN, TX	Mapscot:	
Neighborhood:	THE GARDENS	Map ID:	CML VOL 30 PG 66
Neighborhood CD:	T325300		

Owner

Name:	GARCIA POTENCIANO JR & MADELINE M	Owner ID:	491961
Mailing Address:	PO BOX 4876 MCALLEN, TX 78502-4876	% Ownership:	100.000000000000%

Exemptions:

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$128,258	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$38,016	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0

(=) Market Value:	=	\$166,274	
(-) Ag or Timber Use Value Reduction:	-	\$0	

(=) Appraised Value:	=	\$166,274	
(-) HS Cap:	-	\$0	

(=) Assessed Value:	=	\$166,274	

Taxing Jurisdiction

Owner:	GARCIA POTENCIANO JR & MADELINE M
% Ownership:	100.000000000000%
Total Value:	\$166,274

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Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	
CAD	APPRAISAL DISTRICT	0.000000	\$166,274	\$166,274	\$0.00	
CML	CITY OF MCALLEN	0.495600	\$166,274	\$166,274	\$824.05	
DR1	DRAINAGE DISTRICT #1	0.102600	\$166,274	\$166,274	\$170.60	
GHD	HIDALGO COUNTY	0.575000	\$166,274	\$166,274	\$956.08	
JCC	SOUTH TEXAS COLLEGE	0.171800	\$166,274	\$166,274	\$285.66	
R12	ROAD DIST 12	0.000000	\$166,274	\$166,274	\$0.00	
SML	MCALLEN ISD	1.138600	\$166,274	\$166,274	\$1,893.20	
SST	SOUTH TEXAS SCHOOL	0.049200	\$166,274	\$166,274	\$81.81	
Total Tax Rate:		2.532800				
Taxes w/Current Exemptions:					\$4,211.40	
Taxes w/o Exemptions:					\$4,211.39	

Improvement / Building

Improvement #1: RESIDENTIAL **State Code:** A1 **Living Area:** 2020.0 sqft **Value:** \$128,258

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	BRKAV - 7	DBRK	2002	2020.0
GAR	GARAGE	*		2002	462.0
POR	PORCH (COVERED)	*		2002	24.0
PAT	PATIO	*		2002	120.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1322	5760.00	60.00	96.00	\$38,016	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2021	\$128,258	\$38,016	0	166,274	\$0	\$166,274
2020	\$114,377	\$38,016	0	152,393	\$0	\$152,393
2019	\$112,526	\$38,016	0	150,542	\$0	\$150,542
2018	\$107,231	\$41,760	0	148,991	\$0	\$148,991
2017	\$107,231	\$41,760	0	148,991	\$0	\$148,991
2016	\$105,748	\$41,760	0	147,508	\$0	\$147,508
2015	\$105,748	\$41,760	0	147,508	\$0	\$147,508
2014	\$105,146	\$41,760	0	146,906	\$0	\$146,906
2013	\$107,591	\$41,760	0	149,351	\$0	\$149,351
2012	\$110,037	\$40,320	0	150,357	\$0	\$150,357
2011	\$108,951	\$40,320	0	149,271	\$0	\$149,271
2010	\$110,147	\$40,320	0	150,467	\$0	\$150,467
2009	\$111,344	\$40,320	0	151,664	\$0	\$151,664
2008	\$112,540	\$40,320	0	152,860	\$0	\$152,860
2007	\$116,477	\$40,320	0	156,797	\$0	\$156,797

Deed History - (Last 3 Deed Transactions)

#	Type	Description	Grantor	Grantee	Volume	Page
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	Deed Date						Deed Number
1	5/23/2002	WDV	WARRANTY DEED/VENDORS LIEN	VILLALPANDO PEDRO	GARCIA POTENCIANO JR & MADELINE M		1085351
2	1/23/2001	WD	WARRANTY DEED	MIS TRES PROPERTIES LLC	VILLALPANDO PEDRO		937712
3	9/4/2000	SVD	SPEC WD/VEN LIEN	LAREDO NATIONAL BANK	MIS TRES PROPERTIES LLC		904861

Tax Due

Property Tax Information as of 01/27/2021

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
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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

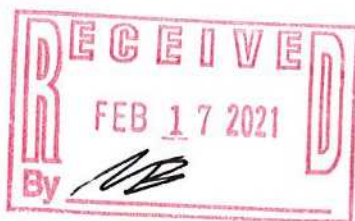
Database last updated on: 1/26/2021 9:25 PM

© N. Harris Computer Corporation

2/17/2021

I Peter James Sr. would be willing to have
the carport structure be attached to the house
and withdraw variance # 4

Peter James Sr.



Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: February 25, 2021

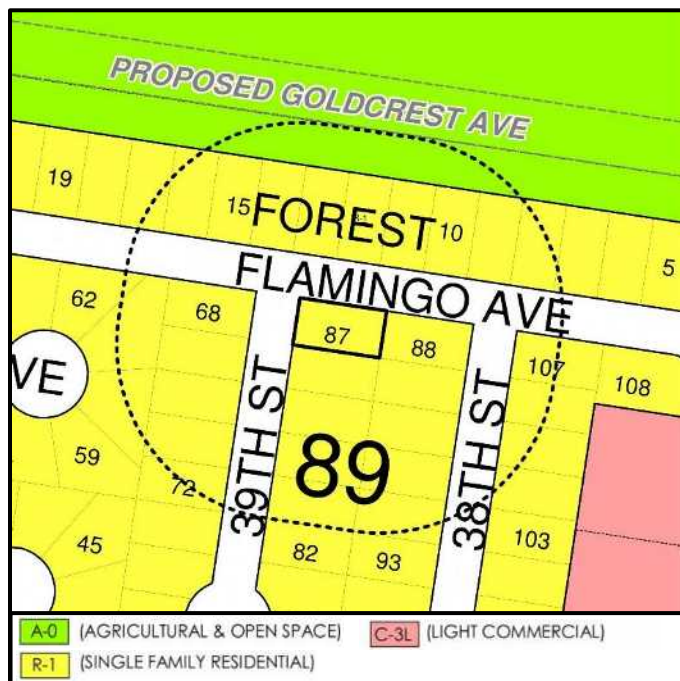
SUBJECT: REQUEST OF IRMA I. RIOS FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING WOODEN PORCH CANOPY MEASURING 25.33 FT. BY 9 FT., AT LOT 87, FOREST VALLEY SUBDIVISION, HIDALGO COUNTY, TEXAS; 5812 NORTH 39TH STREET. (ZBA2021-0001)

REASON FOR APPEAL:

The applicant is requesting a variance to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy. A variance request for a 10 ft. encroachment into the 10 ft. rear yard setback for the existing canopy was disapproved on December 4, 2020. The applicant stated that removing all of the encroachment will not provide a useable space; therefore, she proposed to reduce the size of the porch canopy to reduce the encroachment from 10 ft. to 5 ft. Ms. Rios also mentioned that they use the canopy as a family gathering space to relieve stress and that they have never heard any complaints about it. In the past, the Board has reconsidered variance requests that have been disapproved, when a significant change has been made to the request.

PROPERTY LOCATION AND VICINITY:

The subject property is located on the southeast corner of North 39th Street and Flamingo Avenue. The lot has 54 ft. of frontage along North 39th Street with a depth of 100 ft., for a lot size of 5,400 sq. ft. The surrounding land use is single-family residences.



BACKGROUND AND HISTORY:

Forest Valley Subdivision was recorded on June 7, 2001. According to Hidalgo County Appraisal District records, the residential home was built in 2001 and Irma Rios, the applicant, and Oscar Rios purchased the subject property in 2003. According to Google Earth aerial images, it seems that the canopy existed since February 2009. An application for a building permit for the existing porch canopy and the enclosed garage was submitted on February 24, 2020, which was disapproved during the building permit review process due to the encroachment into the rear yard easement and setback. A request to abandon an easement that ran concurrently with the rear yard setback was approved by the City Commission on October 26, 2020. A right-of-way permit to widen the existing driveway to accommodate two parking spaces was issued on November 30, 2020. A variance application to allow an encroachment of 10 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy measuring 25.33 ft. by 14 ft. was submitted on November 2, 2020, which was disapproved by the Board on December 4, 2020. A variance application to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy proposed to measure 25.33 ft. by 9 ft. was submitted on January 11, 2021.

ANALYSIS:

The plat for the subdivision shows a 10 ft. utility easement and setback along the rear side of the subject property. The utility easement was abandoned by the City Commission on October 26, 2020. The variance request is to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy proposed to measure 25.33 ft. by 9 ft. The porch canopy is an accessory building which seems to be built prior to February 2009, according to Google Earth aerial images.

Approval of the variance request will allow the reduced sized porch canopy to remain, that is proposed to measure 25.33 ft. by 9 ft.

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

ZBA2021-0001

ZBA
3/3/21

City of McAllen

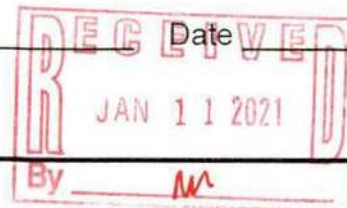
Planning Department

APPEAL TO ZONING BOARD OF

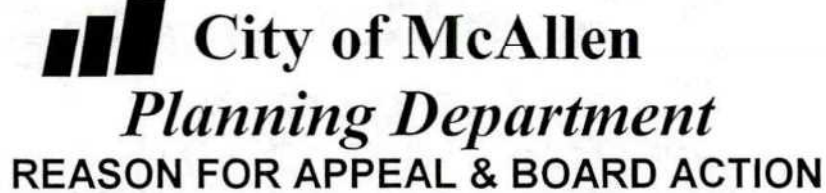
ADJUSTMENT TO MCALLEN ZONING ORDINANCE

 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 <u>Lot(87) Forest Valley Subdivision</u>
	Subdivision Name <u>Forest Valley</u>
	Street Address <u>5812 N. 39th St McAllen Tx 78504</u>
	Number of lots <u>(1)</u> Gross acres <u>5400</u>
	Existing Zoning <u>Residential</u> Existing Land Use <u>Residential</u> Reason for Appeal (please use other side if necessary) <u>The existing canopy 10 ft into rear yard setback I would like to reduce the encroachment from 10 ft to 5 ft. For final measurement of the canopy to be 9 ft x 25.33</u> <input type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
Applicant	Name <u>Irma I. Rios</u> Phone <u>[Redacted]</u> Address <u>5812 N. 39th St</u> E-mail <u>[Redacted]</u> City <u>McAllen</u> State <u>Tx</u> Zip <u>78504</u>
	Owner
Authorization	
	Office



RS



REASON FOR APPEAL & BOARD ACTION

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

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:

--

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

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466
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3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights of other property owners in the area:

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

Chairman, Board of Adjustment	Date
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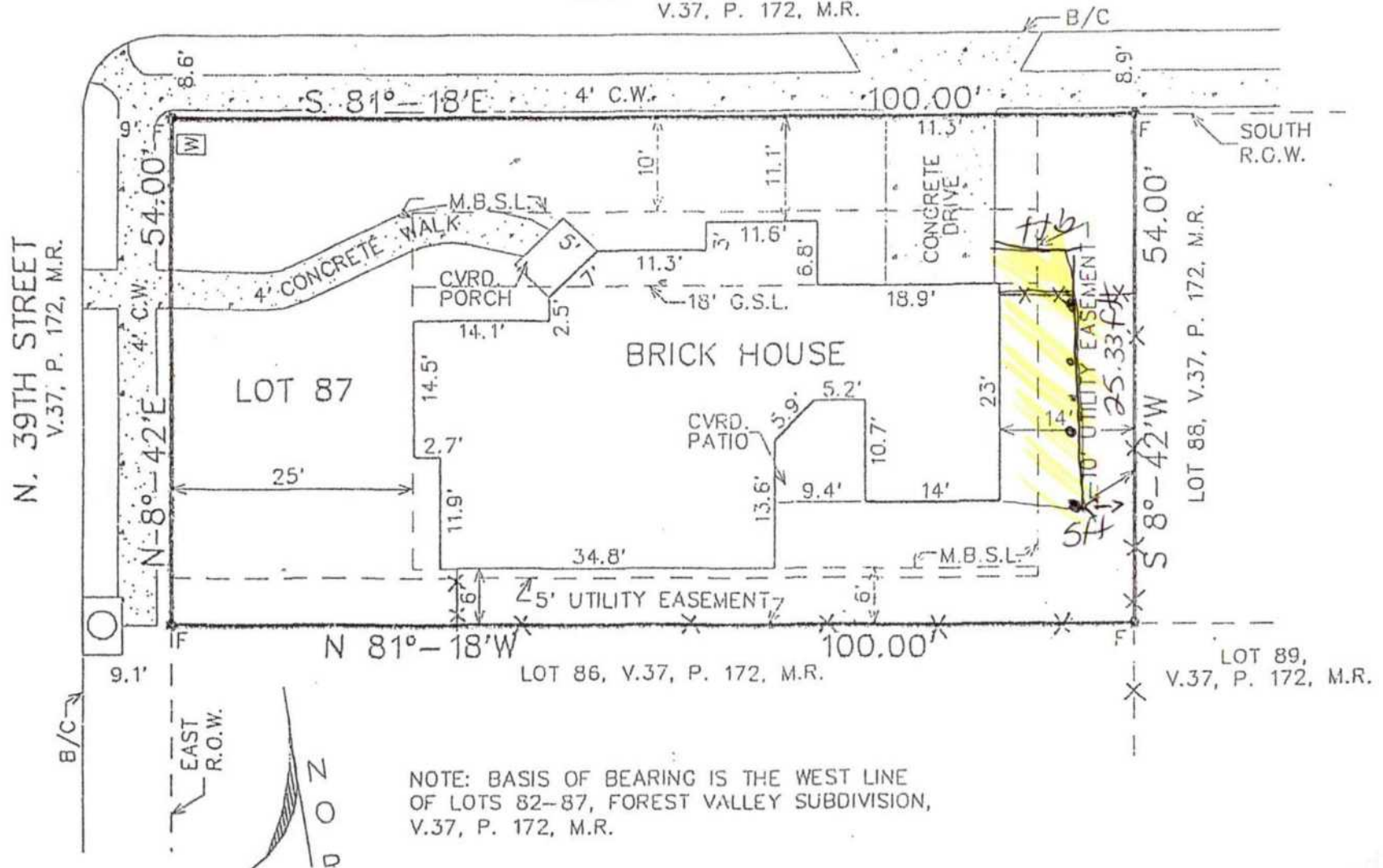
Reason for Appeal

Board Action

1. The setbacks are unusual because the house is located in a corner lot in an old subdivision.
2. We are asking this time for a total of 9 feet wide for the wooden porch. Previously only 4 feet *is outside the setback*, this being really very little, it is literally just a corridor, although it gives us some shade, it does not help us for the use that we want to continue having. 9 feet is already a space that we consider is enough to continue using as a pleasant space that you want to use for recreation and family purposes.
3. We never had any problems or complains from our neighbors of any nature.
4. The wooden porch was built around the year of 2010. The reason was for recreation and family purposes, since we were forced not to travel to Mexico to visit our relatives due to the violence between the cartels. The space that was unused we turned into a family space thanks to the wooden porch, which we continue to take advantage of to rest, relax and clear our minds for our working lives and very recently made the most of by the unprecedented confinement produced by the pandemic that afflicts the world. It really would have been very stressful to only be locked inside the house.

1000 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA

V.37, P. 172, M.R.





RESIDENTIAL PERMIT APPLICATION

REV. 10/16

P.O. BOX 220 McALLEN, TEXAS 78505-0220

APPLICATION MUST BE COMPLETE

(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER

RES2000-0141.7

6003813
APPLICANTNAME See below PHONE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

CONTACT NAME _____ PHONE _____

☒ OWNER ☐ CONTRACTOR ☐ TENANT ☐ OTHER _____

OWNER

NAME Irma I Rios PHONE _____ADDRESS 5812 N. 39th St *EMAIL: _____CITY McAllen, Tx 78504 REQD STATE TX ZIP 78504

*OWNER INFORMATION NOT PROVIDED, INITIAL: _____

☐ NEW ☒ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE _____ BLDG. HGT. _____ NO. OF FLOORS _____BLDG SQ. FT. 322 NO. PARKING SPACES _____ SQ. FT. LOT _____ LOT FRONT _____ FLOOR EL. ABOVE CURB _____EXISTING USE OF LOT Residential NEW USE _____SCOPE OF WORK TO BE DONE include for storage room added of porch

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS _____ NO. BDRMS _____ NO. BATHS _____ SQ. FT. NON-LIVING _____ SQ. FT. LIVING _____

FOUNDATION	EXT WALL	ROOF	SPECIAL CONDITIONS
<input type="checkbox"/> CONCRETE SLAB	<input type="checkbox"/> MASONRY VENEER	<input type="checkbox"/> WOOD SHINGLE	<input type="checkbox"/> FIRE SPRINKLER SYSTEM
<input type="checkbox"/> CONCRETE PIER	<input type="checkbox"/> MASONRY SOLID	<input type="checkbox"/> COMPOSITION	<input type="checkbox"/> TYPE OF CONSTRUCTION
<input type="checkbox"/> CONCRETE BLOCK	<input type="checkbox"/> METAL SIDING	<input type="checkbox"/> METAL	<input type="checkbox"/> ASBESTOS SURVEY
<input type="checkbox"/> CONCRETE BEAM	<input type="checkbox"/> COMPOSITION	<input type="checkbox"/> BUILD UP	<input type="checkbox"/> CONDEMNED STRUCTURE
<input type="checkbox"/> WOOD POSTS	<input type="checkbox"/> WOOD		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LOT _____ BLDG. DIVISION _____
SITE ADDRESS ST. NO. 5812 ST. NAME N. 39th St McAllen, Tx 78504

CITY USE ONLY

ZONING _____ PERMIT FEE \$ 51.52 DOUBLE FEE \$ _____
PERMIT REVIEW FEE \$ _____
TOTAL PERMIT FEE \$ _____
PARK DEV. ☐ PARK DEVELOPMENT FEE \$ _____
ZONE # _____REQD BY [Signature]
DATE 2/24/20
TIME 11:11

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

PRINT (AUTHORIZED AGENT/OWNER) Irma I Rios SIGNATURE [Signature] EMAIL ADDRESS (required) _____ DATE 2/18/2020

LOT 1

PROPOSED GOLDCREST AVE

FOREST
FLAMINGO AVE

ON AVE

LEY

AVE

39TH ST

38TH ST

89

GARLAM SUBD
LOT 1



CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLEX-FOURPLEX)	R-3I (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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

PROPOSED GOLDCREST AVE

FOREST FLAMINGO AVE

39TH ST 38TH ST



87

88

107

89

103

93

82

72

68

62

59

45

13



CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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

N 39 TH ST 5800 DEAD END

FLAMINGO AVE

STOP



5812

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0001







Definitions

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Chapter 138-Zoning

Sec. 138-1. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Footnotes:

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

--- () ---

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

Chapter 110-Vegetation

Sec. 110-26. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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. A BASIS FOR ACTION

The Board shall decide each case based on the following:

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

V. APPLICANTS

A. Legally Vested Interest

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

B. Applications

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

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

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

C. Meetings

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

D. Evidence

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

VI. HARDSHIP

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

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

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

VII. MEETINGS

A. Texas Public Information Act and Open Meetings Act.

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

B. Quorum

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

C. Regular Meetings

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

D. Special Meetings

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

E. Order of Business

The usual order of business shall be:

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

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

F. Staff Recommendations

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

G. Action by the Board

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

H. Minutes of the Board

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

VIII. DECISIONS OF THE BOARD

A. Precedent

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

B. Public Statements

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

B. Parliamentary Procedure

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

IX. WITHDRAWAL OF APPEAL

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

X. ATTENDANCE

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

XI. AMENDEMENT PROCEDURE

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

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

Executive Secretary

ORDINANCE NO. 2018- 70

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONSIDERED, PASSED and APPROVED this 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 9th day October, 2018.

CITY OF McALLEN

John Ingram, City Commissioner

Attest:

Perla Lara

Perla Lara, TRMC/CMC, CPM
City Secretary

Approved as to form:

Austin W. Stevenson

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	02/17/21																				
ERICK DIAZ- CHAIRPERSON	P	P	P	P																				
JOHN MILLIN- VICECHAIRPERSON	P	A	P	P																				
SYLVIA HINOJOSA	P	P	P	A																				
JOSE GUTIERREZ	P	P	P	P																				
JUAN F. JIMENEZ	P	A	P	P																				
ANN TAFEL (ALT 1)	P	P	P	P																				
HUGO AVILA (ALT 2)	P	P	P	P																				
REBECCA MILLAN (ALT 3)	P	P	P	P																				
ROGELIO RODRIGUEZ (ALT 4)	A	P	P	P																				

P - PRESENT

A - ABSENT

☐ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION







PLANNING DEPARTMENT

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



2021 CALENDAR

Meetings:

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

Deadlines:

D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed

JANUARY 2021

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

FEBRUARY 2021

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

MARCH 2021

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

APRIL 2021

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

MAY 2021

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

JUNE 2021

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

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



PLANNING DEPARTMENT

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



2021 CALENDAR

Meetings:

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

Deadlines:

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

JULY 2021

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

AUGUST 2021

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

SEPTEMBER 2021

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

OCTOBER 2021

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

NOVEMBER 2021

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

DECEMBER 2021

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

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