

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, OCTOBER 20, 2021 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

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

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a) Minutes for the meeting held on October 6, 2021

2. PUBLIC HEARINGS:

- a) Request of Chad Haycraft, for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 11.9 feet into the 15 feet rear yard setback for an existing metal storage building measuring 10 feet by 12 feet, **2)** an encroachment of 3.2 feet into the 6 feet side yard setback along the south side for an existing storage building measuring 10 feet by 12 feet, **3)** an encroachment of 4.5 feet into the 6 feet side yard setback along the north side for an existing wooden storage building measuring 9 feet by 12 feet, **4)** an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden storage building measuring 9 feet by 12 feet, **5)** an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden deck measuring 9 feet by 10 feet at Lot 106, Woodhollow Subdivision Phase III, Hidalgo County, Texas; 1925 Baylor Avenue. **(ZBA2021-0044) (TABLED: 10/6/2021)**
- b) Request of Felipe Martinez for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25-foot front yard setback for a proposed metal carport measuring 20 feet by 20 feet at the north 40 feet of Lots 13 and 14, Block 7, College Heights Subdivision, Hidalgo County, Texas; 915 South 22nd Street. **(ZBA2021-0045) (TABLED: 10/6/2021)**
- c) Request of Erick M. Chavez for the following Variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 0.25 ft. into the 6 ft. side yard setback along the east property line for an existing structure measuring 69.5 ft. by 24 ft., **2)** to provide 2.5 ft. of landscape instead of the 6 ft. required side yard landscape requirement along the west property line and **3)** an encroachment of 6 ft. into the 6 ft. side yard setback for an existing structure measuring 69.5 ft. by 24 ft. at Lot 23, Jackson Meadows Subdivision, Hidalgo County, Texas; 1325 East Keeton Avenue. **(ZBA2021-0046)**
- d) Request of Rodolfo Salazar for the following Variance to the City of McAllen Zoning Ordinance to allow: an encroachment of 10 ft. into the 25 ft. rear yard setback for a proposed pool measuring 30 ft. by 15 ft. at Lot 12, Vendome Subdivision, Hidalgo County, Texas; 13821 North 37th Street. **(ZBA2021-0047)**
- e) Requests of Kim Ranson for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 17.8 ft. into the 30 ft. front yard setback for a proposed metal carport measuring 19 ft. by 10.75 ft., at Lot 5, Block 7, Morningside Addition Subdivision, Hidalgo County, Texas; 713 Highland Drive. **(ZBA2021-0048)**

- f) Request of Rosa M. Duran for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6 ft. into the 25 ft. front yard setback for a proposed front porch measuring 6 ft. by 7 ft., at Lot 18, Olivarez Subdivision No. 4, Hidalgo County, Texas; 2909 Redwood Avenue. **(ZBA2021-0050)**
- g) Request of Miguel Saldana for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 8 ft. into the 10 ft. rear yard setback for an existing wooden storage building measuring 20.08 ft. by 40.41 ft., and **2)** an encroachment of 2 ft. into the 5 ft. side yard setback along the west property line for an existing wooden storage building measuring 20.08 ft. by 40.41 ft. at Lot 5, Block 6, Balboa Acres Subdivision, Hidalgo County, Texas; 2501 Elmira Avenue. **(ZBA2021-0049)**

3. FUTURE AGENDA ITEMS

- a) 3405 Vendome Drive
- b) 900 East Cedar Avenue
- c) 4013 Falcon Avenue
- d) 2420 Jonquil Avenue

ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE 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, October 6, 2021 at 4:33 p.m. in the City Commission Meeting Room with the following present:

Present:	Erick Diaz	Chairperson
	John Millin	Vice-Chairperson
	Sylvia Hinojosa	Member
	Jose Gutierrez	Member
	Ann Tafel	Alternate
	Hugo Avila	Alternate
	Rebecca Millan	Alternate
Absent:	Juan F. Jimenez	Member
	Rogelio Rodriguez	Alternate
Staff Present:	Evaristo Garcia	Assistant City Attorney
	Edgar Garcia	Planning Director
	Rod Sanchez	Senior Planner
	Mario Escamilla, Jr.	Planner I
	Katia Sanchez	Planner I
	Porfirio Hernandez	Planning Technician II
	Julian Hernandez	Planning Technician I
	Magda Ramirez	Administrative Assistant

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a)** Minutes for the meeting held on September 15, 2021.

The minutes for the meeting held on September 15, 2021 were approved. The motion to approve the minutes was made by Vice-Chairperson John Millin. Mr. Jose Gutierrez seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a)** Request of Teresa Valenzuela Cox for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 ft. into the 5 ft. side yard setback for an existing building addition comprising an art studio and porch canopy, at Lot 5, Block 5, Orange Terrace Subdivision No.3, Hidalgo County, Texas; 1017 Orange Avenue. **(ZBA2021-0041)**

Mr. Escamilla stated Teresa Valenzuela Cox is requesting a variance to allow an encroachment of 5 ft. into the 5 ft. side yard setback for an existing building addition comprising of an art studio and porch canopy. The applicant was unaware that a building permit was never obtained by the builder at the time of construction. The applicant uses the existing art studio for creating and displaying her artwork. She would also like the existing porch area to remain as well.

The property is located along the south side of Orange Avenue, 270 ft. west of N. 10th Street. The lot has 67 ft. of frontage along Orange Avenue and a depth of 138 ft. for a lot size of 9,246 sq. ft. The property is zoned R-1 (single family residential) District. Adjacent zoning is R-1 District in all directions. There is a single-family residence on the subject property. The surrounding land uses are single-family residences and commercial business.

Orange Terrace Subdivision No. 3 was recorded on July 17, 1945. The plat does not indicate setbacks. The subdivision was recorded prior to 1979 and the applicable setbacks were subject to the 1945 Zoning Ordinance. The side yard setbacks are 7 feet on the east side and 5 feet along the west side. A stop work order was issued by Buildings and Inspections Department staff on July 02, 2021 for construction without a building permit. An application for a building permit was submitted to the Building and Inspections Department on August 18, 2021. An application for a variance was submitted to the Planning Department on August 23, 2021 for the existing building addition.

The submitted survey from 2021 shows a carport that is considered non-conforming since (according to Hidalgo County Appraisal district information) the existing carport was constructed in 1975. The carport was altered therefore requiring compliance with the Zoning Ordinance and Building Code requirements. The art studio, which measures approximately 22 ft. by 13.6 ft., was constructed within the footprint of the existing carport and is encroaching 5 ft. into the 5 ft. side yard setback. The remaining porch canopy measures approximately 33 ft. by 13.6 ft. and also encroaches 5 ft. into the 5 ft. side yard setback. Both structures share the same roofline and are attached to existing single-family residence.

Buildings are not permitted to be constructed within the side yard setbacks.

The applicant has provided gutters along the west property line, to prevent rainfall from spilling into the neighbor's property.

Staff had not received any calls in opposition.

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

Mr. Escamilla stated the applicant did submit a building permit but it was ongoing. The contractor never submitted any of the necessary permits per instructions. Ms. Cox had to go back and do the appropriate permitting process. She received a Stop Work Order first,

got her building permit then went to the Planning Department. There was a nonconforming structure and then altered that structure. It had to confirm to the new Code.

Chairperson Diaz asked if it was on the 5 ft. side or 7 ft. side. Mr. Escamilla stated it was on the 5 ft. side and goes up the property line.

Vice-Chairperson Millin asked if under the new legislative that there would be a nonconforming use that give some discretion to approve. Planning Director, Mr. Garcia stated when any additions are made to a nonconforming structure it had to not conform to everything but the Board could consider it.

Ms. Sylvia Hinojosa asked if the outer wall was not moved. Mr. Escamilla stated the outer wall was built within the footprint of the old structure but the art studio was a new structure.

Ms. Teresa Valenzuela Cox, the applicant stated she purchased her home in May of 2021. At the end of May, she hired the services of OMS Construction. They had started the work and had assured her the permits were to be processed. On July 16, 2021, the contractor told her that he was no longer going to complete the job a week before the completion date. He had told her that the permits would be available on July 21. She stated she went to the City to see if the contractor did indeed obtain the permits. She was informed to email the City to request the permits to be retrieved and that it would take about 10 days. After three weeks, she went out of town only to return to find a green sticker on her door, which stated it did not comply with her studio. She then applied for the building permit then spoke with staff in the Planning Department who asked for additional information on the structure.

Chairperson Diaz asked Ms. Cox before contacting OMS Construction what was there previously. Ms. Cox stated there was an existing extended carport for two vehicles to be behind each other. She replaced the existing 6-foot fence with a seven and a half foot wall. She installed a sliding door. The existing wall of the house served as the other wall and a door.

Ms. Ann Tafel asked the applicant how much space separates the wall built from the neighboring property. She stated that the wall was built on her property but they suggested she move the wall four inches in to the house to accommodate their request.

Chairperson Diaz asked the Ms. Cox if she redid the roof. Ms. Cox stated she put shingles but the structure already existed. The electrical was already in existence so she utilized it. Plumbing was accessible from the outside so when the bathroom was built it was connected.

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

Chairperson Erick Diaz asked if there was anyone present in opposition of the variance request. There was one in opposition of the variance request.

Maria R. Cantu, 1101 Orange Avenue, stated she was in opposition. She stated the cooling system that drains into her driveway. In addition, there was no inspection done on the electricity in which her fence was three inches away. She had her vehicles there along with her elderly mother who lives with her. She was concerned for safety issues. Chairperson Diaz asked Ms. Cantu if she ever complained about the existing carport prior to this new homeowner. Ms. Cantu stated no. She stated the gutters had not been installed properly so it drips a lot. Vice-Chairperson Millin asked if the applicant had discussed this with Ms. Cantu. Ms. Cantu stated yes. Ms. Cantu stated they had to cut about 2 inches from her fence where the gate was because her fence had been on their property. She asked the contractor if they had permits. They did not have permits. Ms. Cantu stated that the wall was right there. She stated the contractor had asked her not to call the City that they would move it 3 inches. Vice-Chairperson Millin asked Ms. Cantu if it would alleviate her concern the water from the condensation from the a/c unit or what was dripping if it was redirected so as to not to fall on her property and if it received an inspection was approved for the electrical would that address her concern. Ms. Cantu stated that would alleviate her concern for the fire hazard.

Chairperson Erick Diaz asked if there was anyone else present in opposition of the variance request. There was someone else in opposition of the variance request.

Mr. Bill Brown, 1105 Orange Avenue, stated that the fire hazard was not only for the electric. Fire can start anywhere. He stated that setbacks were designed for a reason concerning safety issues. Mr. Brown stated Ms. Cox's wall was within 3 to 4 inches from each other.

Chairperson Erick Diaz asked if there was anyone else present in opposition of the variance request. There was no one else in opposition of the variance request.

Ms. Cantu stated the roof was removed and replaced it with a new roof. Ms. Sylvia Hinojosa asked the applicant if the bedroom was next to the fence being there was a driveway there. Ms. Cantu stated the her driveway between the two properties but the fence that goes from her property to her house is the one that almost attached 3 inches to the neighbor's side. Ms. Ann Tafel asked if her fence was made of wood. Ms. Cantu stated yes.

Chairperson Diaz asked staff if the existing house was it 14 feet from the property. Mr. Escamilla stated it was about 13.6 feet. He stated that as far as the permitting process it would still have to get an inspection done even after the variance. It would have to go through electrical and plumbing to be in compliance.

Chairperson Diaz asked staff if they were not grant the variance and they were able to build to the setback, could the carport portion stay as is or would that have to comply since that was grandfathered. Mr. Escamilla stated when the structure was considered as one structure that was they brought it in as a variance and not as a special exception.

Following discussion, Ann Tafel **moved** to disapprove the variance request as recommended by staff. Mr. Jose Gutierrez seconded the motion. The Board voted to disapprove the variance request with four members voting aye and Sylvia Hinojosa voting nay.

- b) Requests of Rosemaly G. Silva for the following special exception to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 10 ft. into the 10 ft. front yard setback for an existing metal carport measuring 20 ft. by 20 ft., and **2)** an encroachment of up to 4 ft. into the 6 ft. side yard setback along the west property line for an existing metal carport measuring 20 ft. by 20 ft. at Lot 45, Oaks Place Subdivision, Hidalgo County, Texas; 6112 North 27th Street. **(ZBA2021-0042)**

Mr. Escamilla stated Rosemaly G. Silva, was requesting a special exception to allow an existing metal carport to encroach into the front and side yard. The applicant was unaware that a building permit was never obtained by the builder at the time of construction. The applicant would like the structure to remain because the existing carport provides shade and protection for her vehicles during inclement weather. The carport also accommodates the applicant's larger vehicles.

The subject property was located at the end of a cul-de-sac on North 27th Street. The irregular tract has approximately 50.7 ft. of frontage along North 27th Street and a maximum depth of 165.62 for a tract size of 9623 sq. ft. The property was zoned R-1 (single family residential) District. There was a single-family residence on the subject property. The surrounding land use is single-family residences and Lark Community Center.

The subdivision plat for Oaks Place Subdivision was recorded on November 18, 1986. As per plat, the front yard setback shall be 10 ft. for cul-de-sacs, the side yard setback shall be 6 ft., and the rear yard setback shall be 10 ft. According to Hidalgo County Appraisal District records the residential home was built in 1987. A stop work order was issued by Buildings and Inspections Department staff on August 02, 2021 for construction of a carport without a building permit. An application for a building permit for a carport was submitted to the Building Permits & Inspections Department on August 09, 2021. An application for a special exception request was submitted to the Planning Department on August 23, 2021 for the existing carport.

The special exception request is for an existing metal carport measuring 20 ft. by 20 ft. over an existing driveway. The existing carport is open all sides. The submitted site plan shows a carport encroaching up to 10 ft. into the 10 ft. front yard setback.

The property is located along a Cul-de-sac making the property have an irregular shape varying the side yard encroachments with a maximum encroachment of up to four feet along the West property line.

Front yard setbacks are important to help to keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

Approval of the special exception request may encourage other property owners to build similar structures in the front yard. Buildings are not permitted to be located within the front yard setbacks.

Measurements provided were without the benefit of a survey.

There is no alley at the rear of the property where a carport could be alternatively built.

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

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

Vice-Chairperson John Millin asked staff if there were other similar structures in the neighborhood. Mr. Escamilla stated no but there other structures located in the rear and side yard. There were no other front yard encroachments in the whole neighborhood. Chairperson Diaz asked there was an alley. Mr. Escamilla stated there was no access. Ann Tafel asked if the structure had a garage. Mr. Escamilla there was an existing garage.

Mr. and Mrs. Jose Silva, applicants stated as old as the house was the garage was not meant for the size of their vehicles. They needed the carport because of the acorns falling and bird droppings damaging their windshields. As far as the permits, was told that as long as it was not attached to the house it was fine. Chairperson Diaz asked when the carport was built. Mrs. Silva stated in August of 2021. Mr. Silva stated there was no issue with their west side neighbor. Chairperson Diaz the applicant if they had spoken to the contractor regarding the building permit. Mr. Silva stated he could not get in touch with the contractor.

Chairperson Erick Diaz asked if there was anyone present in favor of the special exception requests. There was no one else in favor of the special exception requests.

Chairperson Erick Diaz asked if there was anyone present in opposition of the special exception requests. There was no one in opposition of the special exception requests.

Ms. Nilda Paxman, 6105 North 27th Street, stated she has resided there for 19 years. She stated she was not opposing the carport but 18 years ago, she had asked to put an aluminum carport and was informed she needed to get a permit. She stated she went to apply but only being told it was not allowed. Ms. Paxman stated she had two oak trees that was doing damage to her vehicles. In turn, she stated of this request got approved that she would go and obtain a permit for a carport. Chairperson Diaz stated no and whatever the Board decided on this case would not apply to her property. She would have to apply and go through the same process.

Ms. Ann Tafel asked for an explanation for the encroachment of the 10 ft. into the 10 ft.

front yard setback. Mr. Escamilla stated the first 10 ft. is a Right of Way dedication. The house was placed at 20 ft.

Ms. Rosemary G. Silva, the applicant stated there was a carport at one the house on the other street, which was on 26th Street. Their house was similar to theirs but they put theirs on the side of the house but they had more of a driveway towards the side. She stated as you go more to the front their driveway becomes narrower. Mr. Silva stated years ago, their subdivision had a Homeowners Association where you could only build certain things but when they bought the house, nothing was mentioned about a Homeowner Association. There is no Homeowners Association.

Chairperson Diaz explained the difference between a special exception and variance.

Following discussion, Mr. Jose Gutierrez **moved** to approve the special exception as presented. Mr. Hugo Avila seconded the motion. The Board voted to approve the special exception with four members voting aye and with Vice-Chairperson John Millin voting nay.

- c) Request of Jose Zavala for the following special exception and variance to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 30 feet into the 30 feet front yard setback for an existing carport measuring 23.92 feet by 23.70 feet, **2)** an encroachment of 4.25 feet into the 5 feet north side yard setback for an existing carport measuring 23.92 feet by 23.70 feet, and **3)** an encroachment of 5 feet into the 30 feet front yard setback for an existing garage at Lot 16, Block 2, Langridge Addition, Hidalgo County, Texas; 912 North 28th Street. **(ZBA2021-0040) (TABLED: 09/15/2021)**

Vice-Chairperson John Millin **moved** to remove the item from the table. Ms. Ann Tafel seconded the motion. The Board voted with five members present and voting.

Ms. Sanchez stated the applicant was requesting the special exception to shelter his vehicles from inclement weather and potential damage from trees adjacent to the property. He also states in the application that the carport helps with a medical condition of a family member. The applicant states the carport was built in 2021 by a contractor who did not obtain a building permit for the construction. The variance request is to resolve a garage encroachment that existed on the property prior to the applicant purchasing the house.

The subject property is located along the east side of North 28th street, north of Ivy Avenue. The subject property has 52 feet of frontage along North 28th Street and a depth of 130 feet for a total area of 6,760 square feet. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 (single-family residential) District to the north, east, south and R-3A (multifamily residential apartment) District to the west. Surrounding land uses are single-family residences and the Ivy Terrace apartment complex.

Langridge Addition was recorded on March 28, 1967. According to Hidalgo County Appraisal District records, a residential home was built on the property in 1978 and acquired

by the applicant on September 1, 2005.

On June 21, 2017, the Zoning Board of Adjustments and Appeals approved a variance request to allow a front yard setback of 2.58 feet instead of 30 feet for a carport measuring 22 feet by 24 feet, for Lot 3, Block 2, Langridge Addition. On August 02, 2017 the Zoning Board of Adjustments and Appeals alternatively approved a front yard setback of 12 feet instead of 30 feet for a carport measuring 20 feet by 24 feet and a side yard setback along the south side property line of 5 feet instead of 7 feet for a carport measuring 19 feet by 20 feet, for Lot 23, Block 2, Langridge Addition.

A stop work order was issued by Buildings Permits and Inspections Department staff on August 04, 2021. The applicant submitted an application for a building permit on August 04, 2021 to construct the existing carport on the subject property. An application for special exception and variance requests was submitted to the Planning Department on August 18, 2021.

This request was for an existing metal carport that encroaches into the front yard and north side yard setbacks. The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Buildings are not permitted to be located within the front yard setbacks.

The existing carport was open on all sides and allows for visibility during egress and ingress into the street. The applicant indicated that rain gutters will be installed in order to avoid rainfall runoff from flowing into the side yard.

The variance request was to allow an encroachment of 5 feet into the 30 feet front yard setback for an existing garage. The Hidalgo County Appraisal District records show that the garage construction has existed since 1978. The garage was used as storage space for household items.

Special exception requests #1 and #2: Staff recommends disapproval of the special exception requests however, if the Board chooses to approve the requests, approval should be limited to the encroachments shown on the submitted site plan.

Variance request #3: Staff recommends approval since this structural area appears to have been part of the original construction.

At the Zoning Board of Adjustment and Appeals meeting of September 15, 2021 no one appeared in opposition of the special exception and variance requests. Mr. Jose Zavala, the applicant, stated that the existing metal carport at the front of the property is to shelter his vehicles from inclement weather, potential damage from trees adjacent to the property, aids a family member of the applicant who has medical conditions, and provide shade to the vehicles from the hot sun along the west side of the home. Mr. Zavala added that the garage already existed on the property prior to him purchasing the house and utilizes the garage as storage space for household items. The Board expressed that the

existing carport encroachment extends all the way to the property line. Following further discussion, the Board voted to table the item to allow time for the applicant to consider reduction of the existing encroachments.

Ms. Ann Tafel asked the applicant if the posts had been moved. Mr. Zavala stated no not yet. He had to speak with his contractor to see if it could be done.

Mr. Jose Zavala, the applicant stated he reduced the carport posts by two feet back to be in compliance and keep the overhang. Gutters would be installed on the north side of the roof. He spoke with the welder and said the posts could be moved along with big plates to make it more secured.

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

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

Following discussion, Ms. Sylvia Hinojosa **moved** to approve special exceptions #1 and #2 and the variance request #3 with the conditions of the new proposed site plan. Mr. Jose Gutierrez seconded the motion. The Board voted to table the variance requests with five members present and voting.

- d) Request of Jesus Espino, for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of up to 4.08 feet into the 25 feet rear yard setback for a proposed single-family residence at Lot 3, Vendome Subdivision, Hidalgo County, Texas; 3601 Vendome Drive. **(ZBA2021-0043)**

Ms. Sanchez stated the applicant was requesting the variance to encroach into the rear yard setback in order to construct a proposed 2,500 square feet single-family residence made of stucco and stone.

The subject property is located along the north side of El Pacifico Avenue, between Vendome Drive and El Pacifico Avenue. The subject property had 75 feet of frontage and a depth of 113.45 feet for a total area of 8,508.75 square feet. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 (single-family residential) District in all directions. Surrounding land uses are single-family residences.

Vendome Subdivision was recorded on November 17, 2017. According to Hidalgo County Appraisal District records, no building or improvements exist on the subject property (vacant land).

On June 15, 2020, the Zoning Board of Adjustments and Appeals approved a variance request to allow an encroachment of 10 feet into the 25 feet rear yard setback on a double fronting lot for a proposed covered patio measuring 12 feet by 15 feet, for Lot 1, Vendome Subdivision. On August 5, 2020, the Zoning Board of Adjustments and Appeals approved a

variance request to allow an encroachment of 10 feet into the 25 feet rear yard setback on a double fronting lot for a proposed swimming pool measuring 14 feet by 24 feet, for Lot 4, Vendome Subdivision.

An application for a variance request was submitted to the Planning Department on August 23, 2021.

This request was based upon a revised site plan provided after original application submittal for a proposed single-family residence that would encroach up to 4.0 feet into the 25 feet rear yard setback on a double fronting lot. The Zoning Ordinance requires the rear yard setback to be the same as the front yard setback for lots with double frontage. The proposed area that would encroach into the rear yard setback would be portion of a bathroom.

The purpose of the additional setback of the rear yard is to separate the main building from the traffic and noise from roadways.

A 15 feet utility easement exists along the rear of the property that runs concurrently with the rear yard setback. The proposed construction will not encroach into the 15 feet utility easement.

The standard rear yard setback for lots in the R-1 District is 10 ft.

Access to the lot is limited to Vendome Drive as per plat note. Currently, there is a masonry wall at the rear of the property, which mitigates the street level noise between the single-family residence and El Pacifico Avenue.

The Planning Department has not received any calls in opposition to the variance request.

Staff recommended approval of the variance request.

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

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

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

- e) Request of Chad Haycraft, for the following variances to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 11.9 feet into the 15 feet rear yard setback for an existing metal storage building measuring 10 feet by 12 feet, 2) an encroachment of 3.2 feet into the 6 feet side yard setback along the south side for an existing storage building measuring 10 feet by 12 feet, 3) an encroachment of

4.5 feet into the 6 feet side yard setback along the north side for an existing wooden storage building measuring 9 feet by 12 feet, 4) an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden storage building measuring 9 feet by 12 feet, 5) an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden deck measuring 9 feet by 10 feet at Lot 106, Woodhollow Subdivision Phase III, Hidalgo County, Texas; 1925 Baylor Avenue. **(ZBA2021-0044)**

Per the applicant, this item will be tabled until the next meeting.

Ms. Sylvia Hinojosa **moved** to table the item until the next meeting. Mr. Jose Gutierrez seconded the motion. The Board voted to table the item with five members present and voting.

- f) Request of Felipe Martinez for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25-foot front yard setback for a proposed metal carport measuring 20 feet by 20 feet at the north 40 feet of Lots 13 and 14, Block 7, College Heights Subdivision, Hidalgo County, Texas; 915 South 22nd Street. **(ZBA2021-0045)**

Per the applicant, this item will be tabled until the next meeting.

Ms. Sylvia Hinojosa **moved** to table the item until the next meeting. Mr. Jose Gutierrez seconded the motion. The Board voted to table the item with five members present and voting.

3. FUTURE AGENDA ITEMS:

- a) 1325 East Keeton Avenue
- b) 13821 North 37th Street
- c) 713 Highland Drive
- d) 2501 Elmira Avenue
- e) 2909 Redwood Avenue

ADJOURNMENT

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

Chairperson Erick Diaz

Magda Ramirez, Secretary

Memo

TO: Zoning Board of Adjustment & Appeals

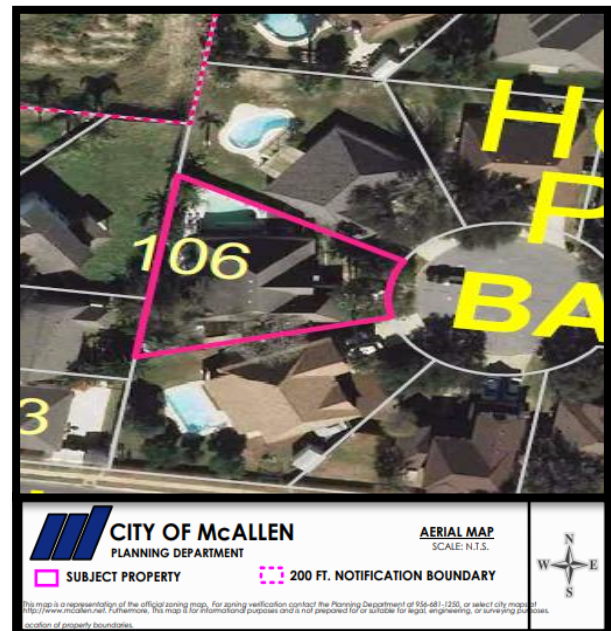
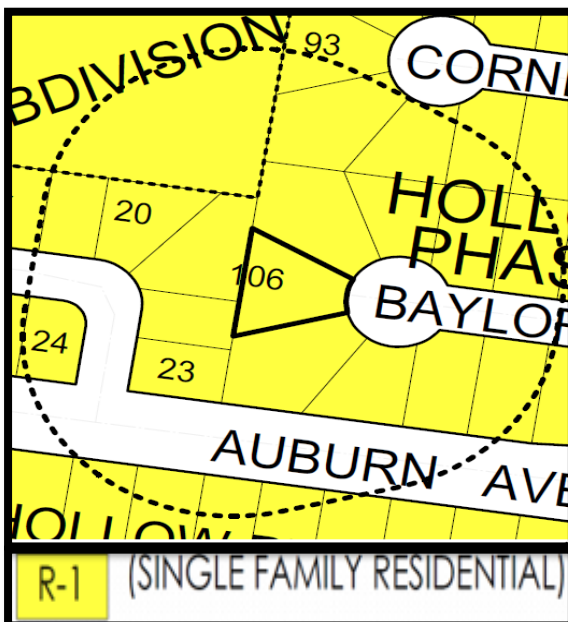
FROM: Planning Staff

DATE: October 12, 2021

SUBJECT: Request of Chad Haycraft, for the following variances to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 11.9 feet into the 15 feet rear yard setback for an existing metal storage building measuring 10 feet by 12 feet, 2) an encroachment of 3.2 feet into the 6 feet side yard setback along the south side for an existing storage building measuring 10 feet by 12 feet, 3) an encroachment of 4.5 feet into the 6 feet side yard setback along the north side for an existing wooden storage building measuring 9 feet by 12 feet, 4) an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden storage building measuring 9 feet by 12 feet, 5) an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden deck measuring 10 feet by 10 feet at Lot 106, Woodhollow Subdivision Ph. 3, Hidalgo County, Texas; 1925 Baylor Avenue. (ZBA2021-0044)

REASON FOR APPEAL:

The applicant is requesting variances to allow an existing metal storage building, an existing wooden storage building, and an existing wooden deck to remain at their current location. The variance requests are for encroachments into the rear and side yard setbacks. The storage buildings are used to store pool equipment materials, tools, and other household items.



PROPERTY LOCATION AND VICINITY:

The subject property is located on a cul-de-sac at the end of Baylor Avenue. The subject property has a depth of 111.98 feet at its deepest point. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 (single-family residential) District in all directions. Surrounding land uses are single-family residences.

BACKGROUND AND HISTORY:

Woodhollow Subdivision Ph. 3 was recorded in May 1993. An application for the variance requests was submitted to the Planning Department on August 25, 2021.

ANALYSIS:

The plat indicates a 10 feet utility and electrical easement that runs concurrently with the 15 feet rear setback along the rear property line. There is a 5 feet electrical easement that runs concurrently with the sideyard setback along the north side property line, for which an abandonment request has been submitted and is being processed.

Variance requests #1 & #2: The variance requests are to allow an encroachment of 11.9 feet into the 15 feet rear yard setback and to allow an encroachment of 3.2 feet into the 6 feet side yard setback along the south side for an existing metal storage building measuring 10 feet by 12 feet. The storage building also encroaches into the 10 feet utility and electrical easement. Storage buildings that are 200 square feet or less in size do not require a building permit, but must respect the zoning district setbacks and easements in which they are located. If the existing metal storage building is to remain at its current location, the easement abandonment process should be undertaken. Buildings are not allowed to be placed in setbacks or easements.

Variance requests #3 & #4: The variance requests are to allow an encroachment of 4.5 feet into the 6 feet side yard setback along the north side and an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden storage building measuring 9 feet by 12 feet. Relocation of the existing building out of the side yard setback would require relocation of the wooden deck as well. Relocation of the existing wooden storage building would not be possible due to the existing swimming pool that leaves no room for such relocation. The encroachment at the rear setback will encroach into a 10 feet utility and electrical easement and the encroachment at the north side setback will encroach into a 5 feet electrical easement for which the applicant has received a consent to encroach agreement from AEP electric company. If the wooden storage building is to remain, the easement abandonment process should be undertaken for the wooden storage building encroachment into the 10 feet utility and electrical easement. Storage buildings that are 200 square feet or less in size do not require a building permit, but must respect the zoning district setbacks and easements in which they are located. Buildings are not allowed to be placed in setbacks or easements.

Variance request #5: The variance request is to allow an encroachment of 13.6 feet into the 15 feet rear yard setback for an existing wooden deck measuring 10 feet by 10 feet. The raised wooden deck is used to provide access to the wooden storage building. The encroachment at the rear yard will encroach into a 10 feet utility and electrical easement. If the deck is to remain, the easement abandonment process will need to be undertaken. Buildings are not allowed to be placed in setbacks or easements.

The existing improvements on the irregular shaped lot with the 15 feet rear yard setback do not allow sufficient space for accessory structures to be placed in compliance with setbacks.

A 6 feet wooden fence surrounds the rear yard area and helps to screen the accessory structures.

During a site visit, staff noticed other properties with encroachments in the rear yard setback. The Planning Department did not find any records for approved variances along Baylor Avenue.

The Planning Department has not received any calls or emails in opposition to the variance requests.

RECOMMENDATION:

Variance requests #1 & #2: Staff recommends approval since the metal storage building cannot be relocated out of the setbacks since relocation may cause a conflict with the required distance from an accessory building to the main building.

Variance requests #3 & #4: Staff recommends approval since the building cannot be relocated out of the setbacks due to the swimming pool.

Variance request #5: Staff recommends approval since there does not seem to be an area for the wooden deck to be relocated and placed out of the setbacks.

ZBOA- 10.6.21

ZBA 2021-0044



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 lot 106 wood hollow phase 3 subdivision

Subdivision Name wood hollow subdivision phase 3

Street Address 1925 Baylor Ave

Number of lots 1 Gross acres 8120.64 SQFT

Existing Zoning R1 residential Existing Land Use residential

Reason for Appeal (please use other side if necessary) TO ENCRoach 8.6'
into the 10' rear yard set back and 3.25' into the
6' side yard set back "south"

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

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

Applicant

Name Chad Haycraft Phone 956-970-1888

Address 1925 Baylor Ave E-mail Chad Haycraft@yahoo.com

City McAllen State TX Zip 78504

Owner

Name \\ Phone \\

Address \\ E-mail \\

City \\ State \\ Zip \\

Authorization

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

☐ Yes☒ No

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

Signature Chad HaycraftDate 8-25-21Print Name Chad Haycraft☒ Owner☐ Authorized Agent

Office

Accepted by _____

Payment received by _____

Date

ENTERED

AUG 25 2021

Rev 10/18

Initials

AK



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:

and to encroach 1.38' int the 6' side yard set Back
"north" irregular shaped lot and small space

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

we have 3 small children under the age of 7 kids love
being in the outdoors most of the day we have to make
our Backyard Child Friendly safe. these much needed

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:

1 portable Building has been in place 10 years and
the other 5 years and if anything has helped the
community we have dangerous tools (tools to upkeep the property)

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

I'm in a culdesac so my property ^{has a small yard and has a} ~~has a~~ irregular shape
making it diff cut to avoid set Backs

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

Rev. 9/20

ENTERED

AUG 25 2021

Initial: AK

2. Storage sheds allow us to safely store much needed and used sharp tools/hazardous chemicals, etc. in addition the shade canopies protect my family from extreme NGU sun rays. Our small space doesn't allow for much trees

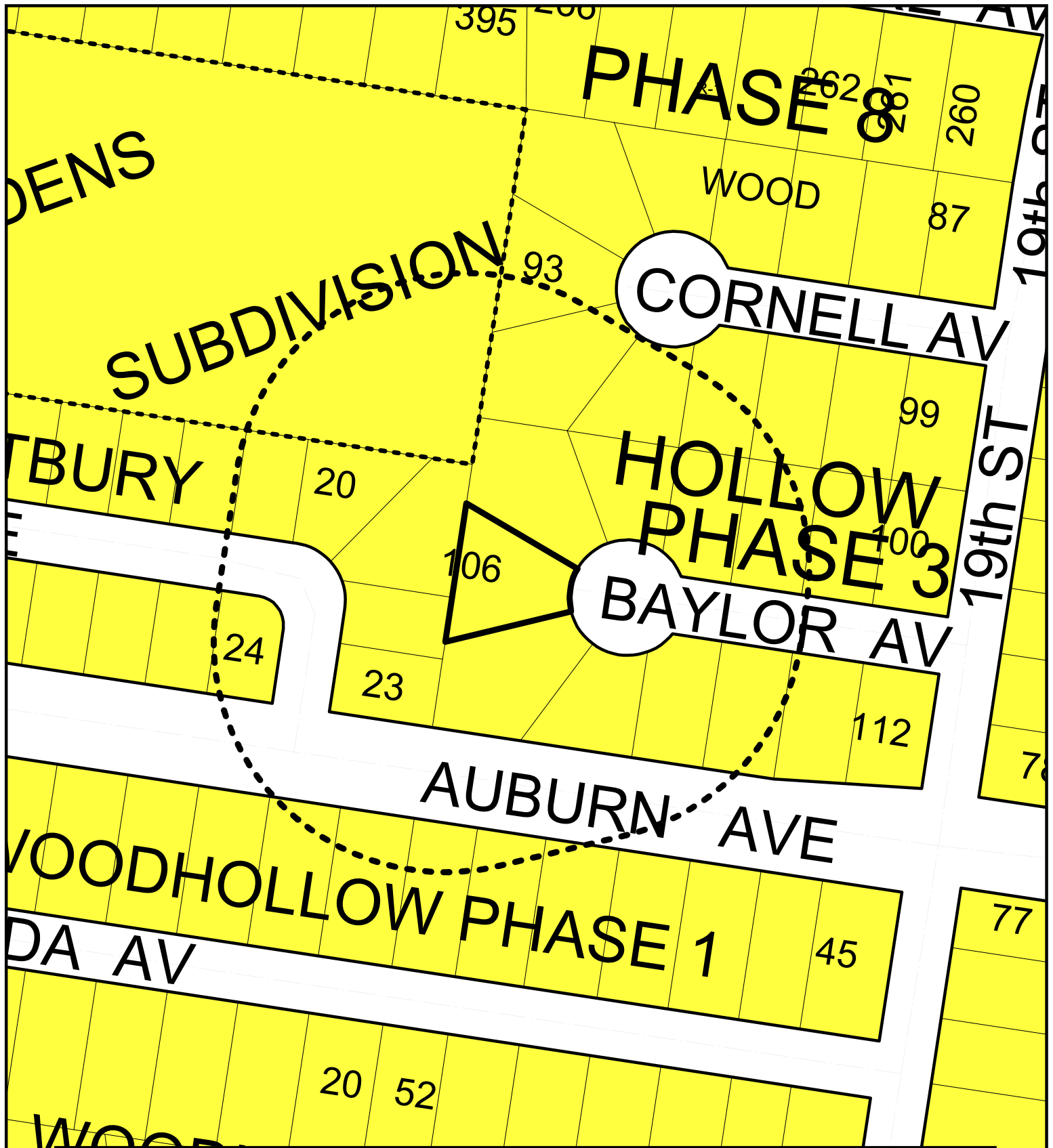
3. and hazardous chemicals from surrounding kids and neighbors,

ENTERED

NOV 22 2015

(11)

Initials



CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS

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-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	S (SPECIAL DISTRICT)

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



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.



SUBJECT PROPERTY



200 FT. NOTIFICATION BOUNDARY



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

WOODHOLLOW
SUBDIVISION
PHASE IAMENDING PLAT OF
**WOODHOLLOW SUBDIVISION
PHASE III**CITY OF McALLEN
AS RECORDED IN VOLUME 28 PAGE 61B H.C.M.R. ALSO
BEING 8.436 ACRES OUT OF
LOT 5 and 6, BLOCK 1,
GOLDEN GRAPEFRUIT TRACT No. 2,
HIDALGO COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION

A tract of land containing 8.436 acres of land situated in Hidalgo County, Texas and also being WOODHOLLOW SUBDIVISION PHASE III (As Recorded in Volume 28, Page 61B H.C.M.R.) and said 8.436 acres of land also being more particularly described as follows:

Beginning at a #4 rebar set on the northwest corner of said Lot 5 for the northwest corner of this tract;

Thence S 81°18'04" E along the north line of said lot 5 at a distance of 350.70 feet pass the common north corner of said Lots 5 and 6 and continuing along the north line of said Lot 6 a total distance of 597.51 feet a #4 rebar set for the northeast corner of this tract and said Lot 6;

Thence S 84°43'36" W along the said east line of Lot 6 a distance of 40.00 feet a #4 rebar set for an exterior corner;

Thence N 81°18'04" W a distance of 85.00 feet the east line of a 25' Utility Easement, continuing in all a distance of 110.00 feet a #4 rebar set on the west line of said easement for an interior corner;

Thence S 84°43'36" W along the west line of said easement a distance of 569.88 feet a #4 rebar found on the north line of Woodhollow Subdivision Phase II for the southeast corner of this tract;

Thence N 81°18'04" W along said north line at 111.11 feet the east right-of-way line of N. 19th Street continuing a total distance of 181.11 feet a #4 rebar found on the west line of said street for an interior corner of this tract;

CHECKED FOR DRAINAGE
BY: *[Signature]*
5-12-93

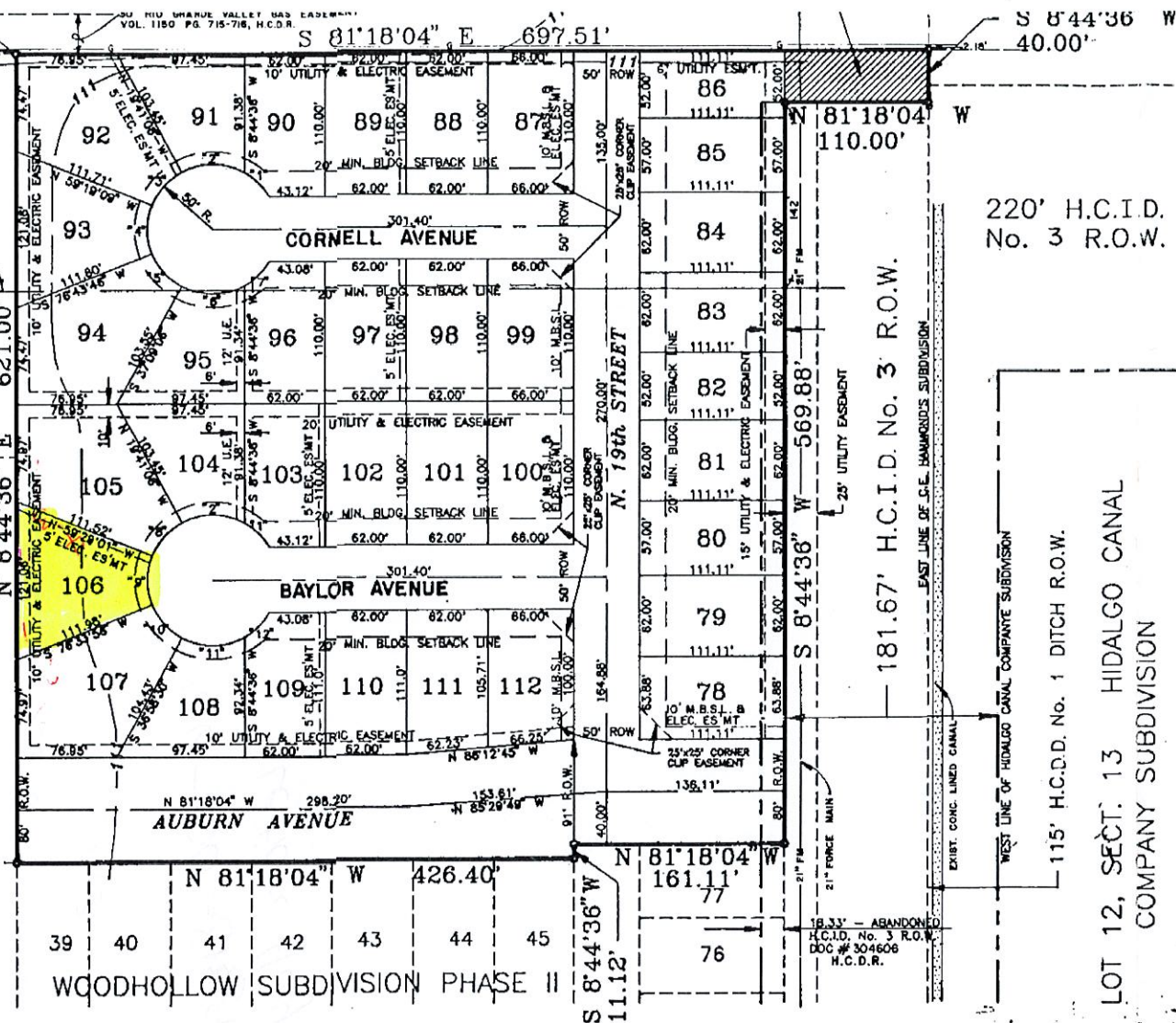
APPROVED FOR RECORDING

BY

COMMISSIONERS' COURT

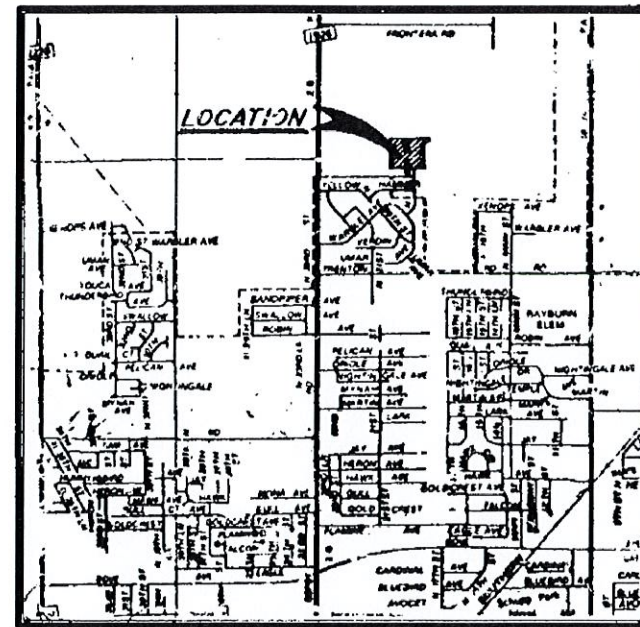
This the 25th day of May 1993WILLIAM "BILLY" LEO, County Clerk
Hidalgo County, Texas

By Deputy

220' H.C.I.D.
No. 3 R.O.W.

181.67' H.C.I.D. No. 3 R.O.W.

115' H.C.D. No. 1 DITCH R.O.W.

LOT 12, SECT. 13 HIDALGO CANAL
COMPANY SUBDIVISION

LOCATION MAP

LOT NO.	SQUARE FEET
90	6612.44
91	6435.21
92	9914.69
93	8120.63
94	9915.92
95	6435.19
96	6611.45
103	6612.44
104	6435.21
105	9948.60
106	8120.64
107	9991.62
108	6499.97
109	6673.45

No.	DELTA	RADIUS	TANGENT	CURVE DATA		CHORD BEARING & DISTANCE
				ARC LENGTH	ARC BEARING	
1	30°44'47"	50.00'	13.75'	26.83'	N 36°40'27" V	26.51'
2	57°38'15"	50.00'	27.51'	50.30'	N 80°51'59" V	48.20'
3	39°38'03"	50.00'	18.02'	34.59'	S 50°29'52" V	33.90'
4	43°57'05"	50.00'	20.18'	38.35'	S 08°42'18" V	37.42'
5	39°34'40"	50.00'	17.99'	34.54'	S 33°03'34" E	33.86'
6	57°37'03"	50.00'	27.50'	50.28'	S 81°39'26" E	39.28'
7	30°50'07"	50.00'	13.79'	26.91'	N 54°06'59" E	26.59'
8	39°47'55"	50.00'	18.13'	34.73'	S 50°24'56" V	34.94'
9	43°57'03"	50.00'	20.18'	38.35'	S 08°32'27" V	37.42'
10	39°35'25"	50.00'	18.00'	34.55'	S 33°13'47" E	33.87'
11	57°26'27"	50.00'	27.40'	50.13'	S 81°44'43" E	48.05'
12	30°50'07"	50.00'	13.79'	26.91'	N 54°06'59" E	26.59'

GENERAL NOTES:

1. PROPOSED MINIMUM SETBACKS:

FRONT	20 FEET
FRONT CUL-DE-SAC	10 FEET
REAR	15 FEET
SIDE INTERIOR	6 FEET
SIDE CORNER	10 FEET

GARAGE - 18 FEET, EXCEPT WHERE
GREATER SETBACK APPLIES

2. MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATION FOR ALL BUILDING IMPROVEMENTS IS: 18" ABOVE TOP OF CURB MEASURED AT FRONT CENTER OF EACH LOT OR ELEVATION 111.50, WHICHEVER IS HIGHER.

3. ANTICIPATED HIGH WATER CREATED BY A 100-YEAR STORM WILL NOT POND IN THIS SUBDIVISION AND IS LOCATED IN ZONE "C" ON FEMA'S FLOOD INSURANCE RATE MAP COMMUNITY PANEL # 480343 0425C, REVISED NOVEMBER 18, 1982.

4. BENCH MARK: NAIL IN POWER POLE LOCATED ON THE EAST SIDE OF DEPOT ROAD AT THE INTERSECTION OF MILE 5. EL. = 113.68

5. EACH LOT IN THIS SUBDIVISION SHALL BE REQUIRED TO DETAIN 642 C.F. OF STORM WATER RUNOFF, IN ACCORDANCE WITH THE ENGINEERED DETENTION PLAN ON FILE.

6. A 15'x25' CORNER CLIP IS DEDICATED AT EACH STREET INTERSECTION.

7. A 4' SIDEWALK SHALL BE REQUIRED ALONG BOTH SIDES OF N. 19TH STREET, BOTH SIDES OF AUBURN AVENUE AND ALONG THE REAR OF LOTS 78 THRU 86 AT BUILDING PERMIT STAGE.

8. A 6' OPAQUE BUFFER SHALL BE REQUIRED ON AUBURN AVENUE ON LOT 78 AND LOTS 107-112 INCLUSIVE AND ALONG THE REAR OF LOTS 78-86 INCLUSIVE AT TIME OF BUILDING PERMIT.

9. NO LOT FRONTAGE OR LOT ACCESS SHALL BE PERMITTED ONTO AUBURN AVENUE ON LOTS 78 AND 107-112, INCLUSIVE. NO LOT FRONTAGE OR LOT ACCESS SHALL BE

NATED HEREIN AS WOODHOLLOW SUBDIVISION PHASE III TO THE CITY OF McALLEN, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, WATER LINES, SEWER LINES, STORM SEWERS, FIRE HYDRANTS, AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I WILL CAUSE TO BE INSTALLED THEREON SHOWN OR NOT SHOWN AND REQUIRED OTHERWISE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF McALLEN ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, EITHER ON THE PLAT HEREIN OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF McALLEN.

[Signature]
JIM SIKKINK
U.S. HOME
3411 N. 10th STREET, STE. "E"
McALLEN, TEXAS 78504

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED *[Signature]* KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 26 DAY OF

APRIL, 19 93

[Signature]
FRED L. KURTH
NOTARY PUBLIC, HIDALGO COUNTY, TEXAS
MY COMMISSION EXPIRES:



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

[Signature]
CHAIRMAN, PLANNING COMMISSION

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

[Signature]
MAYOR, CITY OF McALLEN

THIS PLAT APPROVED BY THE HIDALGO COUNTY IRRIGATION DISTRICT No. 1 ON
THIS THE 24th DAY OF November 19 92

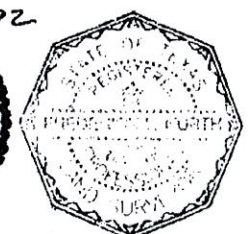
ATTEST: *[Signature]*
SECRETARY

NOTE: HIDALGO COUNTY IRRIGATION DISTRICT No. 1 WILL NOT BE RESPONSIBLE FOR DRAINAGE OR DELIVERY OF WATER TO ANY LOT IN THIS SUBDIVISION.

STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED, FRED L. KURTH, A REGISTERED PROFESSIONAL ENGINEER AND REGISTERED PUBLIC LAND SURVEYOR, IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT AND IS A TRUE AND ACCURATE REPRESENTATION OF THE SUBDIVISION OF THE LANDS HEREDIN DESCRIBED.

[Signature]
FRED L. KURTH, RPE # 54151
DATE SURVEYED: 7/21/91
DATE PREPARED: 4/26/93
T-310, PG. 66-67





1925

GMC
TEXAS
PNL-7438

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZB.2021-0044

CITY OF MACALLEN PLANNING DEPT.
900 WEST 13TH
WWW.MACALLEN.NET

1925

054518

ITEM 2B - FELIPE MARTINEZ

**THIS ITEM IS TO REMAIN TABLED
UNTIL NOVEMBER'S MEETING**

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: October 14, 2021

SUBJECT: REQUEST OF ERICK M. CHAVEZ, FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 0.25 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE EAST PROPERTY LINE FOR AN EXISTING STRUCTURE MEASURING 69.5 FT. BY 24 FT. 2) TO PROVIDE 2.5 FT. OF LANDSCAPE INSTEAD OF THE 6 FT. REQUIRED SIDE YARD LANDSCAPE REQUIREMENT ALONG THE WEST PROPERTY LINE AND 3) AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK FOR AN EXISTING STRUCTURE MEASURING 69.5 FT. BY 24 FT., AT LOT 23, JACKSON MEADOWS SUBDIVISION, HIDALGO COUNTY, TEXAS; 1325 EAST KEETON AVENUE. (ZBA2021-0046)

REASON FOR APPEAL:

The applicant is requesting the variance requests allow the existing structure to remain at its current location. The new owners bought the property at its current state and the disapproval of the request will require them to modify the existing structure to comply with setbacks.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the north side of East Keeton Avenue, approximately 160 ft. west of South "M" Street. The property has 75 ft. of frontage along E. Keeton Avenue and a depth of

115.60 ft. with a lot size of 8,670 square feet. The property and adjacent zoning is R-1 (single family residential) District in all directions. Surrounding land use include single-family residential houses.

BACKGROUND AND HISTORY:

Jackson Meadows Subdivision was recorded on March 29, 2007. The plat specifies a 6 ft. side yard setback and a 10 ft. electrical easement between Lots 22 & 23.

An abandonment application was submitted to the Planning Department on September 21, 2012, the abandonment was disapproved by AEP. The applicant, at the time, was proposing to relocate the easement to the west side of Lot 23; however no records of being recorded is on file. A submitted survey showed that there was not relocation of any easement.

An application for a building permit to build a garage with a TV room over Lots 22 & 23 was submitted to the Building Permits & Inspections Department on February 13, 2013, the permit was approved; however, it was not routed to the Planning Department, a renewal of the application was submitted to the Building & Inspections Department on June, 25, 2021 to convert the garage into a house. An application for variance request for encroachment of an existing structure was submitted to the Planning Department on July 21, 2021, this request was withdrawn at the ZBOA Meeting of 8/18/21. A New application for a variance was submitted to the Planning Department on September 10, 2021.

ANALYSIS:

Variance #1:

The variance request is to allow an encroachment of 0.25 ft. into the 6 ft. side yard setback for an existing structure that measures 69.5 ft. by 24 ft. the original building permit had a distance of 6 ft. setback on site plan

Variance #2:

The variance is to provide 2.5 ft. of landscaping instead of the 6 ft. landscape requirement on the side yard setback. There is an existing 36.5 ft. driveway that extends approximately 3.5 ft. into the 6 ft. side yard setback.

Variance #3:

The variance request is to allow an encroachment of 6 ft. into the 6 ft. side yard setback. There is a 10 ft. electrical easement between Lot 23 and Lot 22, however, AEP issued out an Encroachment Agreement Letter to the applicant stating that AEP has no objection with the structure to remain over the easement as they confirmed no electrical facilities exist upon said 5 ft. easement.

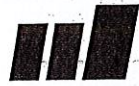
There is a current building permit on file to turn the garage into a house, because of the encroachments, the Planning Dept. has not approved the building permit.

A site inspection confirmed that there are existing structures built around the neighborhood without a permit and some with accessory buildings that seemed to be in different lots without a primary structure. There are other structures around the area that seemed to be encroaching into the rear setback.

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

RECOMMENDATION:

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



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

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
10/20/2021

Project

Legal Description

Jackson Meadows Lot 23
Jackson Meadows

Subdivision Name

Street Address

1325 E. Keeton Ave

Number of lots

1

Gross acres

Existing Zoning

R1

Existing Land Use

Residential

Reason for Appeal (please use other side if necessary)

Side encroachment East West for
Land scape requirements left side strip existing house

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

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

Applicant

Name

Erick M. Chavez

Phone

456-359-0202

Address

1325 E Keeton Ave

E-mail

marswilde@gmail.com

City

McAllen

State

TX

Zip

78503

Owner

Name

Erick M. Chavez

Phone

456-359-0202

Address

1325 E. Keeton Ave

E-mail

marswilde@gmail.com

City

McAllen

State

TX

Zip

78503

Authorization

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

☐ Yes

☒ No

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

Signature

Date

9/10/21

Print Name

☐ Owner

☒ Authorized Agent

Office

Accepted by

H.C.

Payment received by

Date



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:

bought property already build and dont want to demolish

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

it necessary the house already built.

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:

it not going to affect its in our side of property

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

it was already built prior to buying the property. with out variance we will have to demolish

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

LOT 2 BLOCK 8
A.J. McCOLL SUBDIVISION
VOL. 21, PAGE 598, DEED RECORDS

SCALE 1" = 100'

LOT 1 BLOCK 16
STEEL AND PERSHING SUBDIVISION

P.O.B.
S.W.C.
LOT 3, BLK 8
FD 1/2" ROD

LOCATION
MAP

K K Engineering Consultant
GENERAL PROFESSIONAL CIVIL ENGINEERING SERVICES
410 E. DOWE AVE.
P.O. BOX 5425
MCALLEN, TEXAS 78502
(956) 830-2125
FAX (956) 830-2219

CURVE TABLE					
CURVE	LENGTH	RADIUS	TANGENT	CHORD	DELTA
C1	20.32'	50.00'	10.30'	20.18'	23°17'22"
C2	51.00'	50.00'	27.97'	48.82'	58°26'19"
C3	53.80'	50.00'	29.83'	51.24'	61°38'44"
C4	33.01'	50.00'	17.13'	32.41'	37°49'21"
C5	56.85'	50.00'	31.94'	53.84'	65°08'35"
C6	52.89'	50.00'	29.22'	50.46'	60°36'26"
C7	48.30'	50.00'	26.22'	46.44'	55°20'45"
C8	136.45'	50.00'	238.88'	97.88'	156°21'22"

E. YUMA AVE.

(DEED S 81°25' E)
S 81°18'47" E

696.30'

N.E.C.
LOT 3, BLK 8

MOORE RD.

587.41'

(DEED N 08°32' E)
N 08°32'57" E

FD 1/2" ROD

FD 1/2" ROD

FD 1/2" ROD

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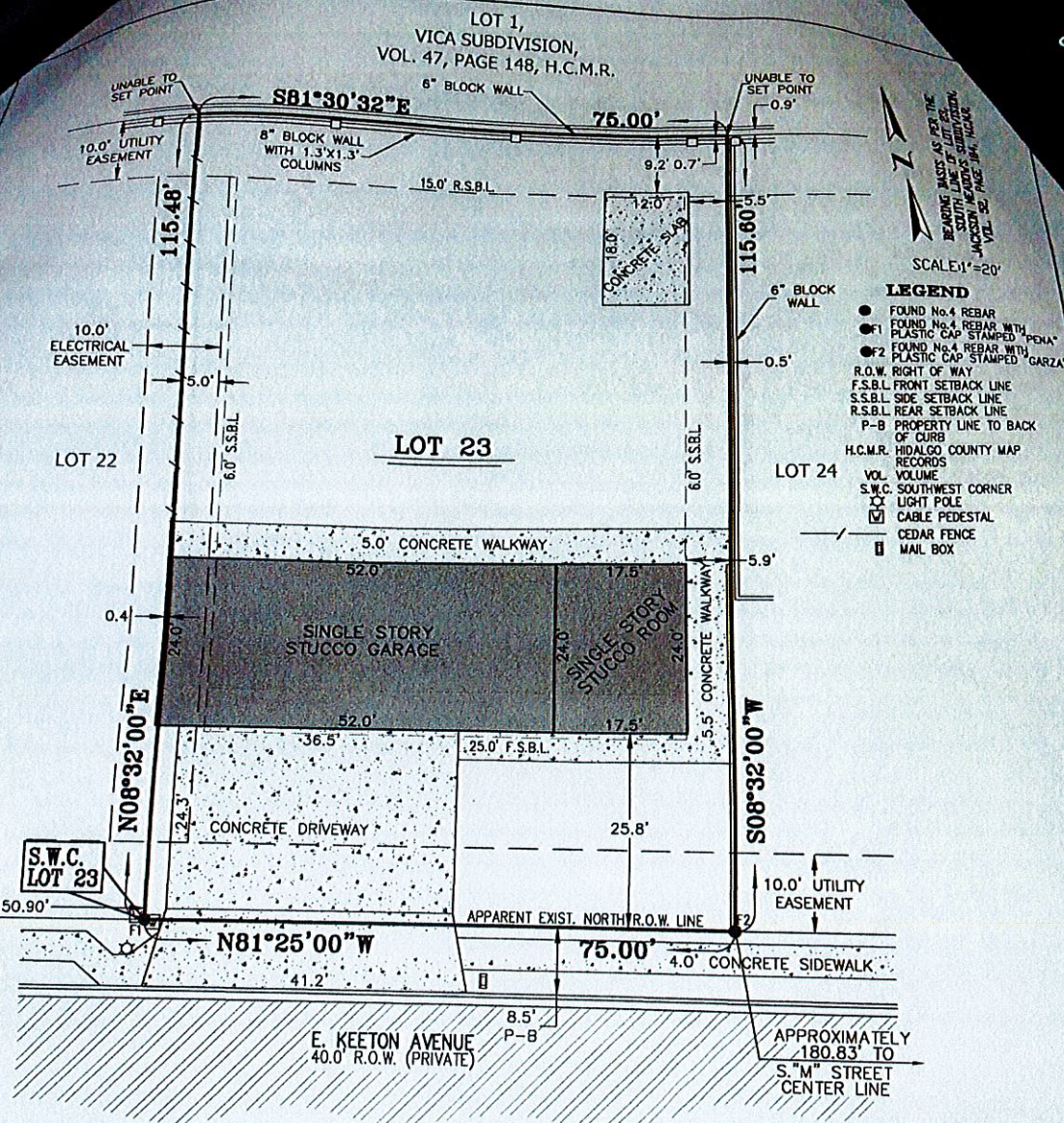
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**SURVEY PLAT SHOWING
ALL OF LOT 23,
JACKSON MEADOWS SUBDIVISION,
VOL. 52, PAGE 184, H.C.M.R.
CITY OF McALLEN,
HIDALGO COUNTY, TEXAS.**



NOTES:

1. SURVEY IS VALID ONLY IF PRINT HAS ELECTRONIC SEAL AND ORIGINAL SIGNATURE OF SURVEYOR.
2. SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE POLICY, WHICH MAY SHOW ADDITIONAL EASEMENTS AFFECTING THIS TRACT. SURVEYOR IS ADVISING THE RECIPIENT OF THIS PLAT THAT ADDITIONAL EASEMENTS MAY BE ON THIS TRACT.
3. THIS LOT IS SUBJECT TO RESTRICTIONS AS RECORDED IN VOLUME 52, PAGE 184, MAP RECORDS OF HIDALGO COUNTY, TEXAS.
4. HOMERO L. GUTIERREZ, DID NOT RESEARCH OR PREPARE A TITLE REPORT OR ABSTRACT OF TITLE ON THE ABOVE PROPERTY.
5. THE EXISTENCE, IF ANY, UNDERGROUND GAS LINES OR OTHER UNDERGROUND UTILITIES NOT SHOWN ON THIS SURVEY SHOULD BE THOROUGHLY INVESTIGATED BY THE OWNER PRIOR TO ANY CONSTRUCTION ON THIS SITE. THE SURVEYOR HAS LIMITED HIS INVESTIGATION OF UNDERGROUND UTILITIES ON THIS SITE TO THAT WHICH CAN BE SEEN.

FLOOD ZONE

ZONE "B"

AREAS BETWEEN LIMITS OF THE 100-YEAR FLOOD AND 500-YEAR FLOOD; OR CERTAIN AREAS SUBJECT TO 100-YEAR FLOODING WITH AVERAGE DEPTHS LESS THAN ONE FOOT OR WHERE THE CONTRIBUTING DRAINAGE AREA IS LESS THAN ONE SQUARE MILE; OR AREAS PROTECTED BY LEVEES FROM THE BASE FLOOD. (MEDIUM SHADING)

Surveyor's Certification

I, Homero Luis Gutierrez, a Registered Professional Land Surveyor in the State of Texas, state that this plat represents the facts found on the ground on August 11, 2021, and that there are no discrepancies, conflicts or shortages in the area or boundary lines, or any encroachments, or overlapping of improvements or no visible or apparent easements except as shown on this plat.

Homero Luis Gutierrez 08-12-21
Homero Luis Gutierrez, RPLS #2791 Date

HOMERO L. GUTIERREZ, P.E., R.P.L.S.

P.O. Box 548
McAllen, Texas 78505
(956) 369-0988



An AEP Company

BOUNDLESS ENERGY™

September 9, 2021

Erick Mauricio Chavez
1325 E. Keeton Ave
McAllen, TX 78503

RE: Utility easement encroachment

To Whom It May Concern,

AEP Texas Inc (AEP) has reviewed your inquiry regarding an encroachment at your property located at 1325 E. Keeton Ave in McAllen, TX and further described as Lot Twenty-Three (23), Jackson Meadows Subdivision, Hidalgo County, Texas.

Based on the Plat filed in Volume 52, Page 184, Map Records, Hidalgo County, Texas, a five foot (5') utility easement is dedicated along the WEST property line of Lot 23. Records show a permanent structure (a car garage), was built over the utility easement creating the encroachment. AEP has confirmed no electrical facilities exist upon said 5' easement and has no objection to the encroachment.

AEP Texas Inc does not hereby abandon any easements on the property it might have obtained through other means.

Please do not hesitate to contact AEP if you have further questions at (956) 626-2617.

Sincerely,
AEP TEXAS INC

A handwritten signature in black ink, appearing to read "Mario G. Campos". The signature is written in a cursive, flowing style.

Mario G. Campos
Right-of-Way Agent
Rio Grande Valley District

SEP 10 2021

BY: _____

July 21, 21

I Erick M. Chavez give
Michelle R. Cuellar authorization
on my behalf

Erick M. Chavez





Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

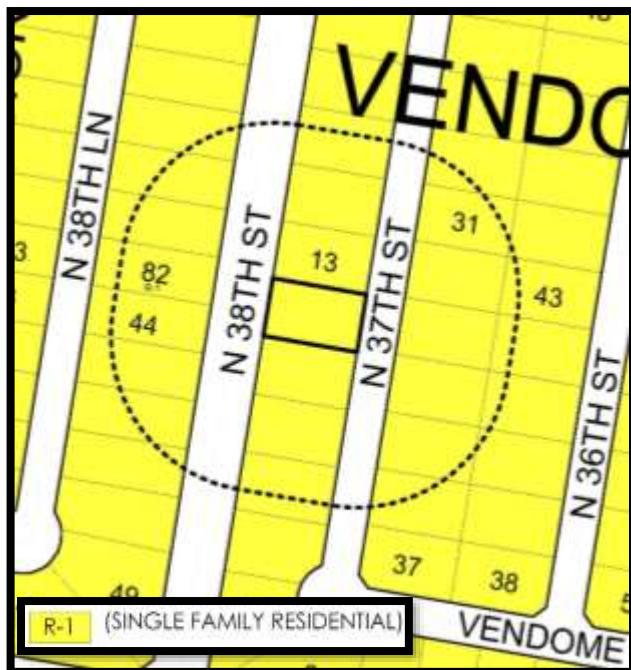
FROM: Planning Staff

DATE: October 11, 2021

SUBJECT: REQUEST OF RODOLFO SALAZAR FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: AN ENCROACHMENT OF 10 FT. INTO THE 25 FT. REAR YARD SETBACK FOR A PROPOSED POOL MEASURING 30 FT. BY 15 FT. AT LOT 12, VENDOME SUBDIVISION, HIDALGO COUNTY, TEXAS; 13821 NORTH 37TH STREET. (ZBA2021-0047)

REASON FOR APPEAL:

The applicant is requesting a variance to a double fronting lot for a proposed pool. The applicant is requesting to allow the swimming pool at the proposed location, since it will benefit the property owners to use the pool for aquatic therapy.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the west side of North 37th Street, approximately 280 ft. North of Vendome Drive. The property has 75 ft. of frontage along North 37th Street and a depth of 125 ft. with a lot size of 9,375 square feet. The property and adjacent zoning is R-1 (single family residential) District in all directions. Surrounding land use include single-family residential houses and vacant land.

BACKGROUND AND HISTORY:

Vendome Subdivision was recorded on November 17, 2017. The plat specifies that double fronting lots (along Wisconsin Road) have a 25 ft. rear yard setback. An application for a variance request for encroachment for a proposed swimming pool was submitted to the Planning Department on September 14, 2021.

ANALYSIS:

The variance request is to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for proposed swimming pool that measures 30 ft. by 15 ft. The plat for the subdivision specifies a 25 ft. rear yard setback for double fronting lots. (Lots 1-18). Standard rear yard setback in R-1 Districts is 10 ft. The development of the subdivision has built a 6 ft. masonry wall along the rear of the lots along North 38th Street. There is a 15 ft. Utility Easement at the rear of the lot that will not be impacted by the proposed swimming pool.

There are three variance requests on file, similar to the variance request; encroachment for swimming pool and other structures into the rear yard setback that were approved in 2020 and 2021, along the double fronting lots.

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

RECOMMENDATION:

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

ZBA 2021-0047

ZBA
10/20/2021

City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project	<p>Legal Description <u>VENDOME LOT 12</u></p> <p>Subdivision Name <u>Vendome</u></p> <p>Street Address <u>13821 N. 37th St. McAllen, Tx 78504</u></p> <p>Number of lots <u>1</u> Gross acres <u>9,375 sq. ft.</u></p> <p>Existing Zoning <u>R1</u> Existing Land Use <u>RESIDENCIAL.</u></p> <p>Reason for Appeal (please use other side if necessary) <u>TO ENCRACH 10' IN THE 25' FT REAR YARD SET BACK.</u></p> <p><input checked="" 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>
Applicant	<p>Name <u>OCTOPUS POOLS / ROBERTO SANCHEZ</u> Phone <u>(956) 331-1943</u></p> <p>Address <u>6302 N. 19TH LN.</u> E-mail <u>octopus.pools@gmail.com</u></p> <p>City <u>MCALLEN</u> State <u>TX</u> Zip <u>78504</u></p>
Owner	<p>Name <u>Delbert & Mireya Kane</u> Phone <u>517-410-6322</u></p> <p>Address <u>13821 N. 37th St</u> E-mail <u>HARLEYDEL639@AOL.COM</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u></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 checked="" 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>[Signature]</u> Date <u>4-1-21</u></p> <p>Print Name <u>Delbert Kane Mireya Kane</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by _____ Payment received by _____ Date _____</p> <p>Rev 10/18</p> <p>SEP 14 2021</p> <p>BY: <u>[Signature]</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:

UNABLE TO BUILD NECESSARY POOL ON PROPERTY DUE TO A
25' SET BACK. I WOULD LIKE THE SET BACK TO BE
REDUCED TO 15' IN ORDER TO BUILD ON PROPERTY.

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

POOL WILL BE USED FOR AQUATIC THERAPY TO TREAT
MEDICAL CONDITIONS OF PEOPLE LIVING ON THE PROPERTY

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

THE VARIANCE WILL ONLY AFFECT THE AREA OF THE
BACKYARD WITHIN THE FENCING OF THE PROPERTY AND
WILL NOT AFFECT ANYTHING OUTSIDE OF THE PROPERTY PERIMETER

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

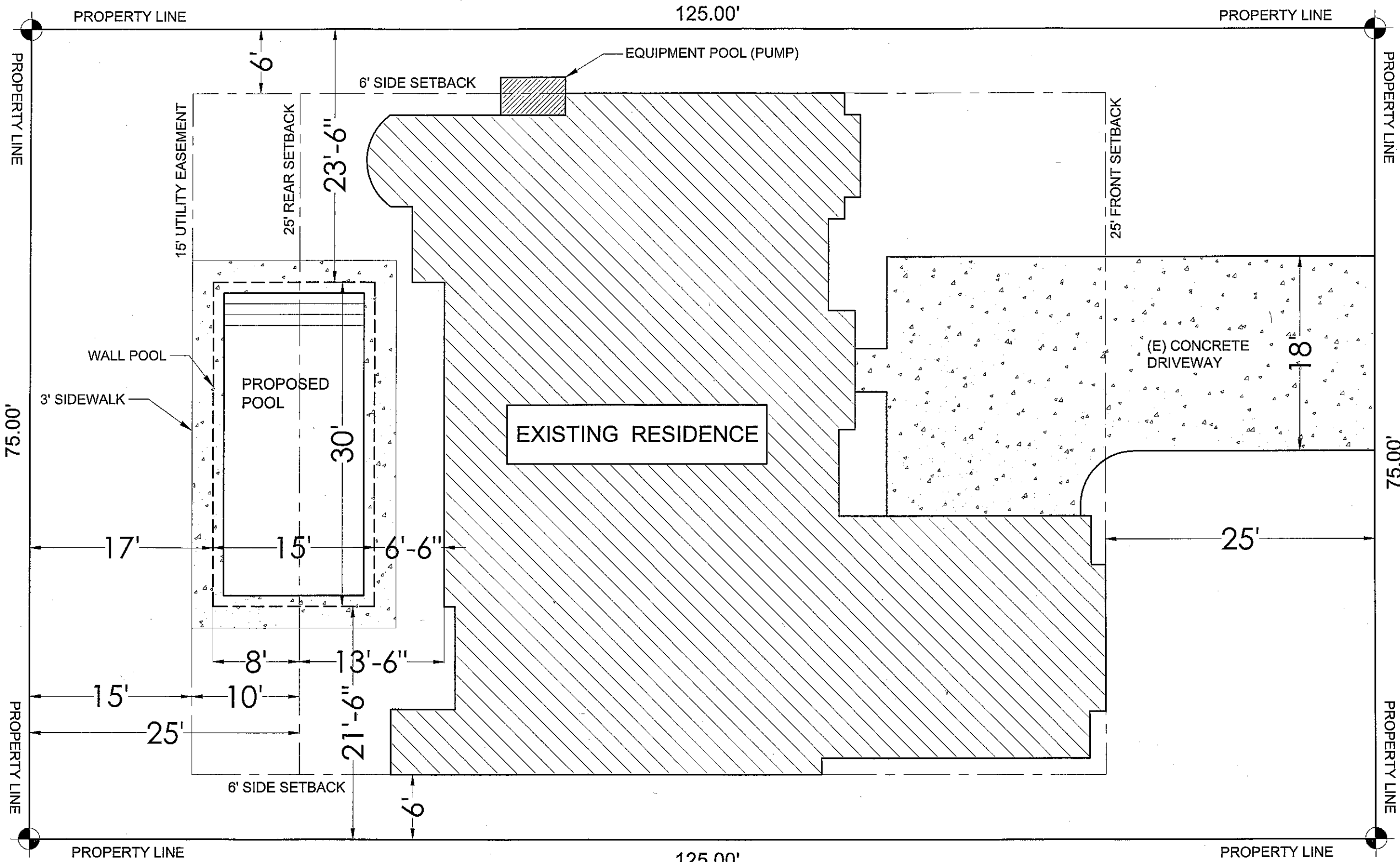
AQUATIC THERAPY IS NECESSARY TO HELP ALLEVIATE PAIN OF
PERSON LIVING IN PROPERTY AND HELP FACILITATE FROM
IN WHICH THERAPY IS APPLIED.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

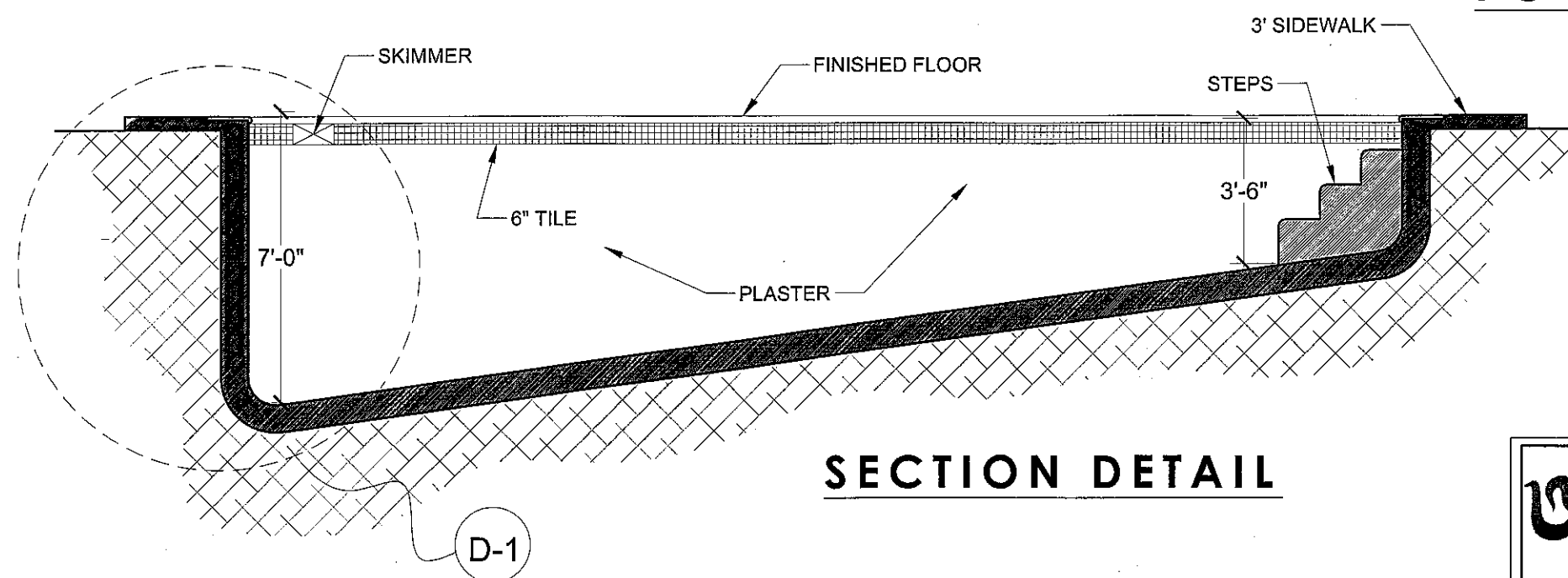
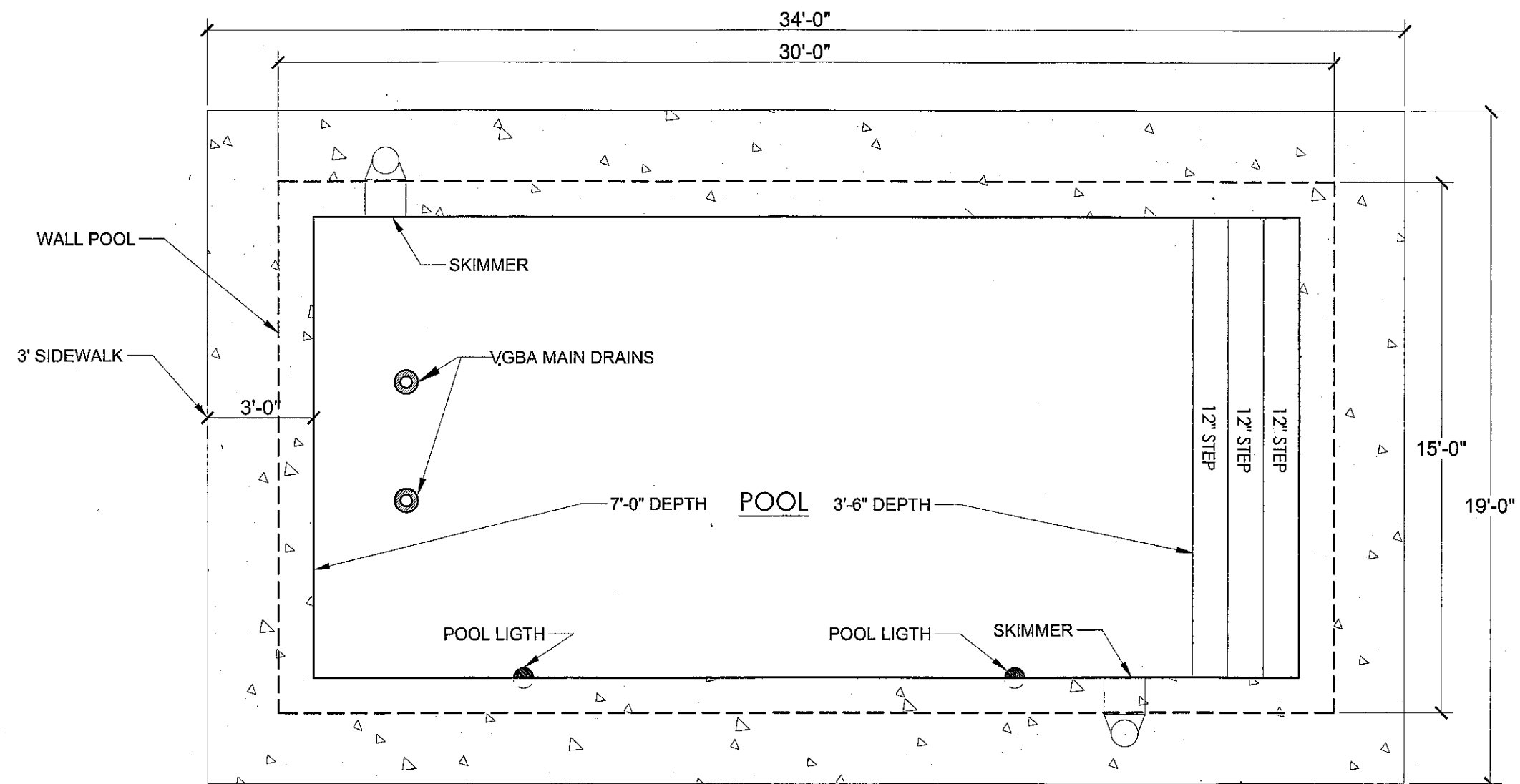
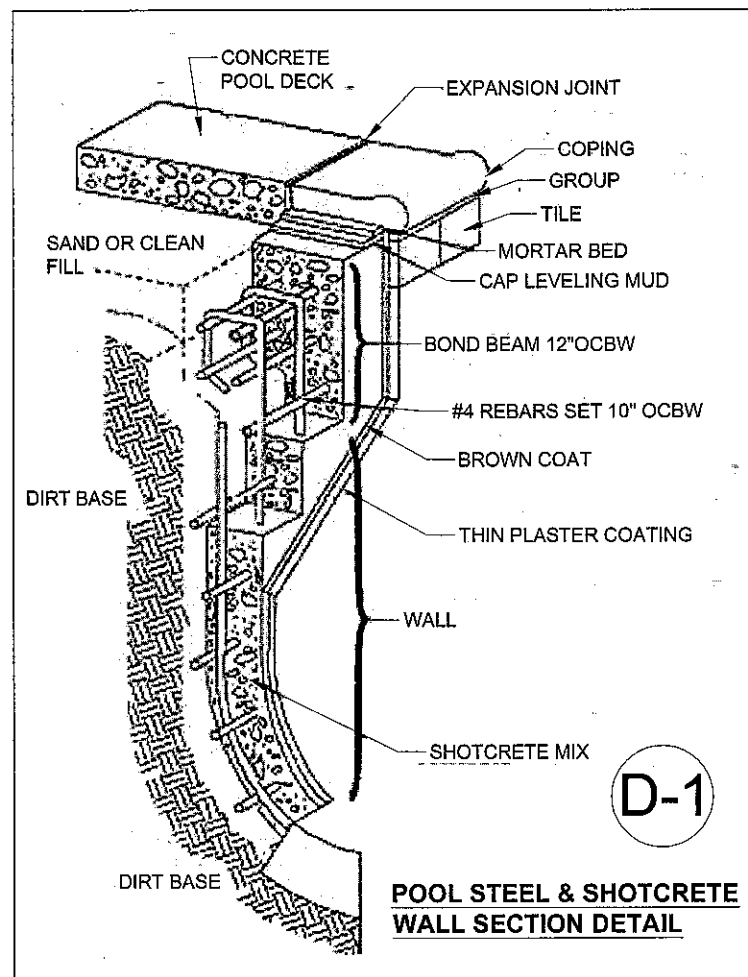


SITE Plan



PROJECT NAME: _____
OWNERS: _____
ADDRESS: LOT-12, VENDOME SUBD. MCALLEN, TX
CONTRACTOR: OCTOPUS POOL & SPA, 956-331-1943
DATE: 04.14.2021

ENTERED
SEP 14 2021
Initial: *all*



ENTERED

SEP 14 2021

Initial: *AK*



PROJECT NAME: _____
 OWNERS: _____
 ADDRESS: LOT-12, VENDOME SUBD. MCALLEN, TX
 CONTRACTOR: OCTOPUS POOL & SPA, 956-331-1943
 DATE: 04.14.2021



ENTERED

SEP 14 2021

Initial: AK

I, Delbert J. Kane, authorize

Rodolfo Salazar to represent me on behalf of my appeal to build my pool and waive the barrier (25 foot setback) on my property

[Signature] 4/11/21

I, Mireya R. Kane, authorize Rodolfo Salazar to represent me on behalf of my appeal to build a pool and waive the barrier (25 foot setback) on my property Mireya R Kane 7/11/21

Fw: Vendome**Delbert J. Kane** <harleydel639@aol.com>

mié, abr. 28 3:52 p. m.

Para: Rodolfo Salazar <octopus.pools@gmail.com>

Sent from the all new AOL app for iOS

Begin forwarded message:

On Wednesday, April 28, 2021, 11:28 AM, Gilbert ozuna <go@jbctexas.com> wrote:

Mr. Kane,

After reviewing the plans for the proposed pool . Vendome HOA has no issues with the plans and specifications. The plans are approved as designed and please proceed with construction. Please let me know if you have any questions, thanks.

Vendome HOA President
Gilbert Ozuna
10602 N. 10th
MCALLEN, Texas 78502
Office 956.316.0777
Cell 956.358.3314

On Apr 20, 2021, at 3:06 PM, Delbert J. Kane <harleydel639@aol.com> wrote:

Sent from the all new AOL app for iOS

Begin forwarded message:

On Thursday, April 15, 2021, 7:06 PM, rodolfo salazar
<octopus.pools@gmail.com> wrote:

<04.14.2021Vendome 37st POOL.pdf>

ENTERED

SEP 14 2021

Initial: 



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0047
CITY OF MCALLEN PLANNING DEPT.
956-651-1236
WWW.MCALLEN.NET

T65
CLR

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

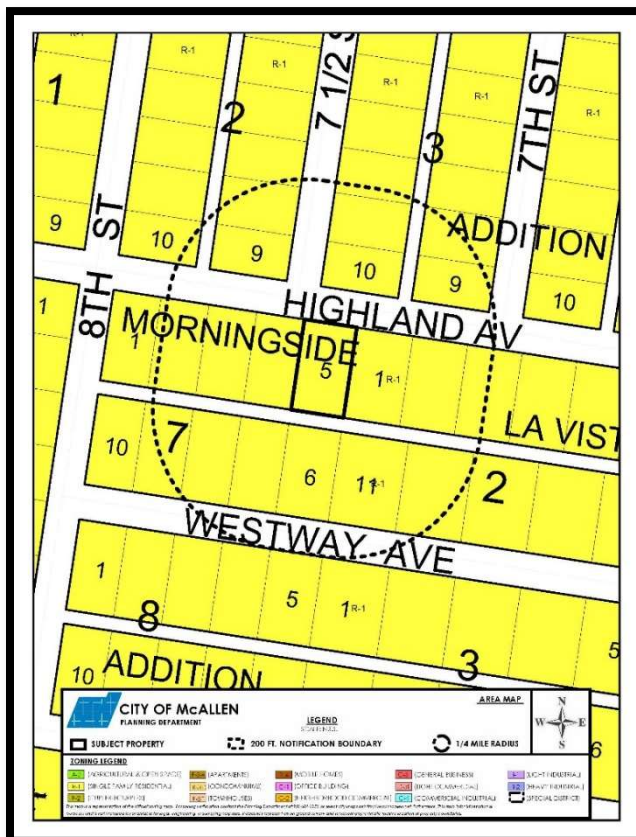
FROM: Planning Staff

DATE: October 14, 2021

SUBJECT: REQUESTS OF KIM RANSON FOR THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 17.8 FT. INTO THE 30 FT. FRONT YARD SETBACK FOR A PROPOSED METAL CARPORT MEASURING 19 FT. BY 10.75 FT., AT LOT 5, BLOCK 7, MORNINGSIDE ADDITION SUBDIVISION, HIDALGO COUNTY, TEXAS; 713 HIGHLAND DRIVE. (ZBA2021-0048)

REASON FOR APPEAL:

The applicant is requesting a special exception to encroach 17.8 ft. into the 30 ft. front yard setback for a proposed metal carport measuring 19 ft. by 10.75 ft. The applicant is currently in the process of renovating the subject property, and would like to include a carport to provide shade and protection for her vehicles.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the south side of Highland Drive, approximately 280 ft. east of North 8th street. The property has 76.8 ft. of frontage along Highland Drive and a depth of 130 ft. with a lot size of 9,984 square feet. The property and adjacent zoning is R-1 (single family residential) District in all directions. Surrounding land use include single-family residential.

BACKGROUND AND HISTORY:

Morningside Addition Subdivision was recorded on January 28, 1955. The plat indicates a front yard setback of 30 feet. The subdivision was recorded prior to 1979 and the applicable setbacks were subject to the 1945 Zoning Ordinance. The side yard setbacks are 7 feet on the east side and 5 feet along the west side. A stop work order was issued by Buildings and Inspections Department staff on August 26, 2021 for a carport built without a building permit. An application for a building permit was submitted to the Building and Inspections Department on August 30, 2021. An application for a variance was submitted to the Planning Department on September 15, 2021 for the proposed carport.

ANALYSIS:

The special exception request is for a proposed metal carport measuring 19 ft. by 10.75 ft. over an existing driveway. The existing carport will be open all sides and comprise of wood framing with metal roofing. The submitted site plan shows a carport encroaching up to 17.8 ft. into the 30 ft. front yard setback.

The applicant can relocate the proposed carport to the rear of the property to be in compliance, but this option however would involve, a re-design of the rear yard to accommodate the carport and construction of a concrete driveway with alley access.

During a site visit of the area staff noticed similar encroachments in the area. A review of Planning Department records revealed that in 2010 a variance was approved to allow a carport encroachment of 21 feet 5 inches by 23 feet into the 30-foot front yard setback at Lot 8, Block 2, Morningside Addition and in 2017 a variance was approved for 6.41-foot setback instead of 30 foot for an existing wooden carport measuring 19 feet by 24 feet at Lot 10, Block 3, Morningside Addition Subdivision.

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

RECOMMENDATION:

Staff recommends approval of the special exception request limited to the footprint shown on the submitted site plan

ZBA 2021-0048

ZBOA
10/20/21

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 Lot 5, Block 7, Morningside Addition

Subdivision Name Morningside Addition

Street Address 713 Highland Drive

Number of lots 1 Gross acres 9984 sf

Existing Zoning R1 - Residential Single Family Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Carport will possibly be encroaching front easement

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

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

Applicant

Name Kim Ranson Phone 956-458-1101

Address 2412 El Encino Drive E-mail kim.e.ranson@gmail.com

City Mission State TX Zip 78573

Owner

Name Zachary Pollock Phone 956-451-0304

Address 713 Highland Drive E-mail zackpollock91@gmail.com

City McAllen State TX Zip 78501

Authorization

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

☐ Yes☒ No

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

Signature Kim E RansonDate 09/03/2021Print Name Kim E Ranson☐ Owner☒ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date _____

Rev 09/20

ENTERED

SEP 15 2021

Initial: CR



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: <i>(Please use an additional page if necessary to complete responses)</i></p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>	
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: The addition of the carport has no adverse affect in regards the enjoyment, use	
	nor marketability of the subject property; in fact, it will increase the market value. This is	
	evident as there are numerous homes in the subdivision with similar features (photos have	
	been provided to show this).	
	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:	
Board Action		
Chairman, Board of Adjustment Signature _____		Date _____
Rev. 9/20		

Mario Escamilla, Jr.

From: Kim Ranson <kim.e.ranson@gmail.com>
Sent: Wednesday, September 15, 2021 3:32 PM
To: Mario Escamilla, Jr.
Subject: Fwd: Carport approval

Here is the authorization letter you requested

Sent from my iPhone

Begin forwarded message:

From: Kim Ranson <kim.e.ranson@gmail.com>
Date: September 15, 2021 at 3:24:40 PM CDT
To: John Pena <jpena@mcallen.net>
Subject: Fwd: Carport approval

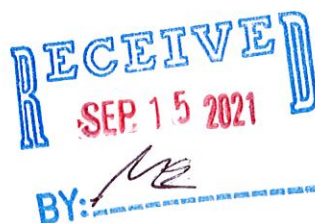
Sent from my iPhone

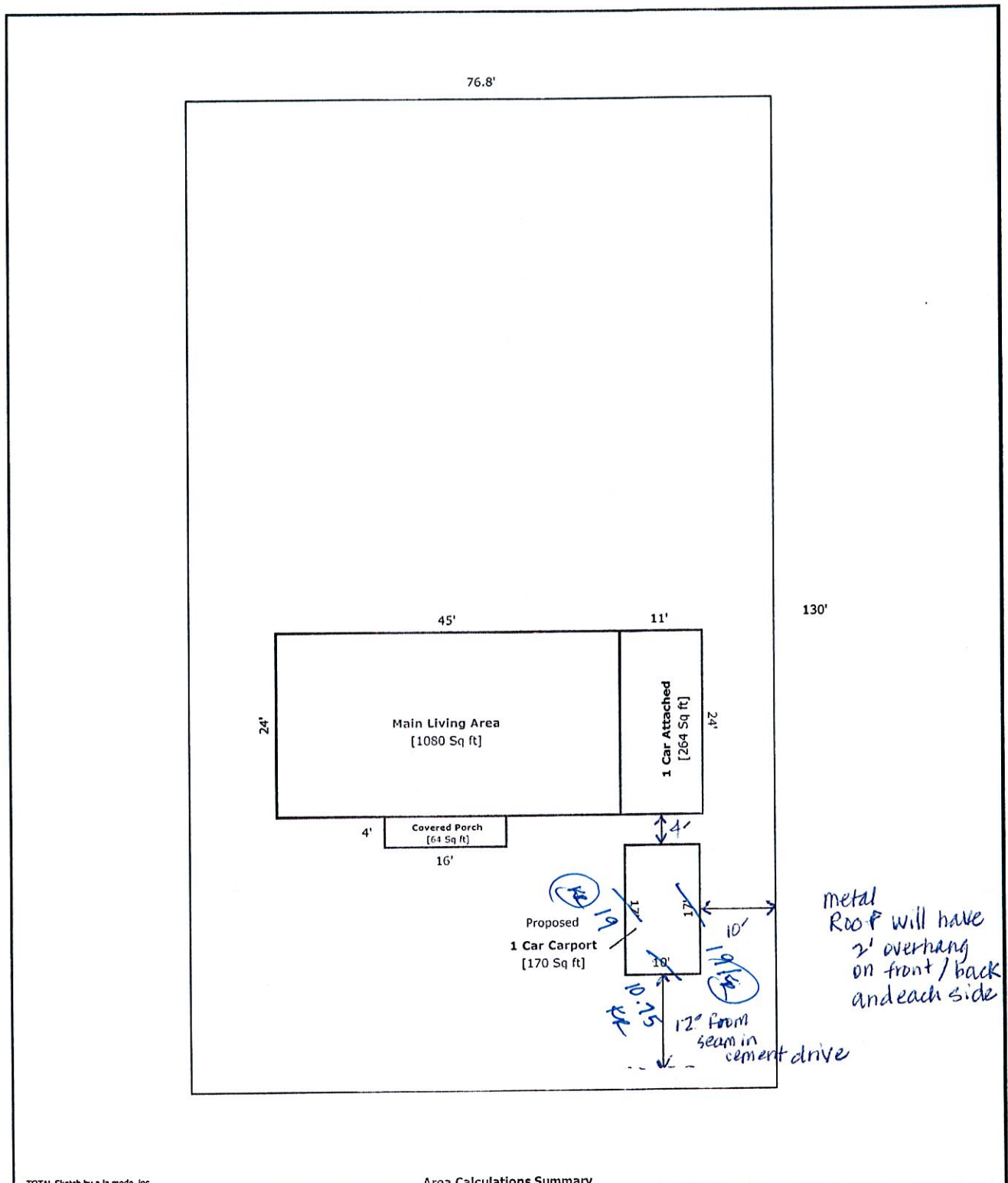
Begin forwarded message:

From: Zachary Pollock <zackpollock91@gmail.com>
Date: September 15, 2021 at 3:20:52 PM CDT
To: Kim Ranson <kim.e.ranson@gmail.com>
Subject: Carport approval

I Zachary Pollock give Kim Ranson approval to build a carport at 713 highland.

Zack Pollock





TOTAL Sketch by a la mode, Inc.

Area Calculations Summary

		Calculation Details
Living Area		
Main Living Area	1080 Sq ft	$24 \times 45 = 1080$
Total Living Area (Rounded):		1080 Sq ft
Non-living Area		
1 Car Carport	170 Sq ft	$17 \times 10 = 170$
Covered Porch	64 Sq ft	$16 \times 4 = 64$
1 Car Attached	264 Sq ft	$24 \times 11 = 264$

ENTERED

SEP 15 2021

Initial: AM





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2021-0048





MAP
OF
BLOCKS 6, 7 & 8.
MORNINGSIDE ADDITION
MC ALLEN, TEXAS.
 BEING THE SUBDIVISION
 OF 3.03 ACRES OF LAND LYING EAST OF CANAL
 NO. 15, S. 4. 10 OF SECTION 10, T. 42 N.
 R. 10 E. 10 OF DIVISION OF RANCHES 44,
 45 AND 46, MIDLAND COUNTY, TEXAS.
 1955-74, 1955

STATE OF TEXAS
 COUNTY OF MIDLAND
 I, E. S. BUTLER, OWNER OF THE PROPERTY HEREIN DESCRIBED, DO HEREBY AGREE, DEDICATE AND
 CONFIRM THE FOREGOING PLAT AND DO HEREBY DEDICATE TO THE PUBLIC, FOR USE AS SUCH, THE
 STREETS AND ALLEYS THEREON SHOWN.

 E. S. BUTLER



STATE OF TEXAS
 COUNTY OF MIDLAND
 WHEREFORE AND SHOWN TO BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS THE _____ DAY OF
 JANUARY, 1955.

 NOTARY PUBLIC IN AND FOR
 MIDLAND COUNTY, TEXAS

THIS PLAT APPROVED ON THE 23RD DAY OF JANUARY, 1955, BY THE MC ALLEN BOARD AND
 PLANNING BOARD.

 V. E. COOK, JR.
 CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS, ON THE 23RD
 DAY OF JANUARY, 1955.



 CITY SECRETARY

 McAllen, Texas

C. L. FARLAN, A LICENSED LAND SURVEYOR, DO HEREBY CERTIFY THE FOREGOING PLAT TO
 BE A TRUE AND CORRECT REPRESENTATION OF THE LAND HEREIN DESCRIBED, AS SET OUT BY THE
 ON THE GROUND.

 C. L. FARLAN
 LICENSED LAND SURVEYOR
 MC ALLEN, TEXAS



RESIDENTIAL PERMIT APPLICATION

REV. 3/2021

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

PERMIT APPLICATION REFERENCE NUMBER

Res2021-07312

APPLICATION MUST BE COMPLETE

(Please type or print in black or blue ink)

GC NUMBER

105098

APPLICANT

NAME Kim Ranson PHONE 956 458 1101
ADDRESS 713 Highland Dr
CITY McAllen STATE TX ZIP 78501
CONTACT NAME: Kim Ranson PHONE 956 458 1101
☐ OWNER ☐ CONTRACTOR ☒ TENANT ☐ OTHER

OWNER

NAME Zachary Pollock PHONE 956 451 0304
ADDRESS 713 Highland Dr *EMAIL: zackpollock91@gmail.com
CITY McAllen STATE TX ZIP 78501

*OWNER INFORMATION NOT PROVIDED, INITIAL:

☐ NEW ☒ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE 10 BLDG. HGT. NO. OF FLOORS
BLDG SQ. FT. 280 NO. PARKING SPACES 1 SQ. FT. LOT 9984 LOT FRONT 76.8' FLOOR EL. ABOVE CURB
EXISTING USE OF LOT Residential home NEW USE 1 car carport

SCOPE OF WORK TO BE DONE construct 1 car carport

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. 713 ST. NAME Highland Dr

CITY USE ONLY

Construction Cost Permit Fee \$ 48.00 Rec'd by JP
Value \$ 11,200 Double Fee \$ Date 8/30/21
Zoning R-1 Total Fee \$ Time 1:56
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.

Kim E Ranson

PRINT (AUTHORIZED AGENT/OWNER)

SIGNATURE

kim.e.ranson@gmail.com

EMAIL ADDRESS (required)

08/27/2021

DATE

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

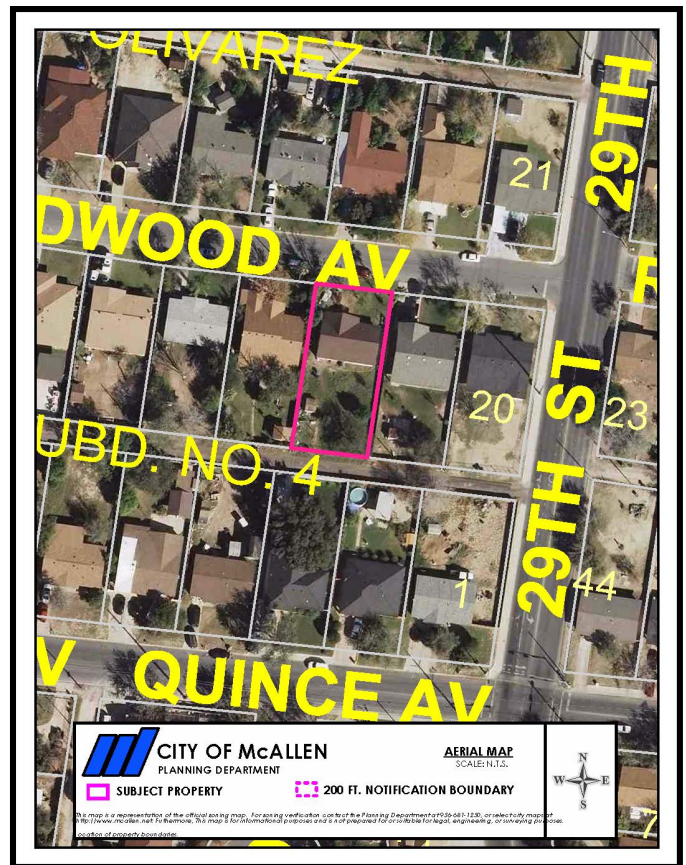
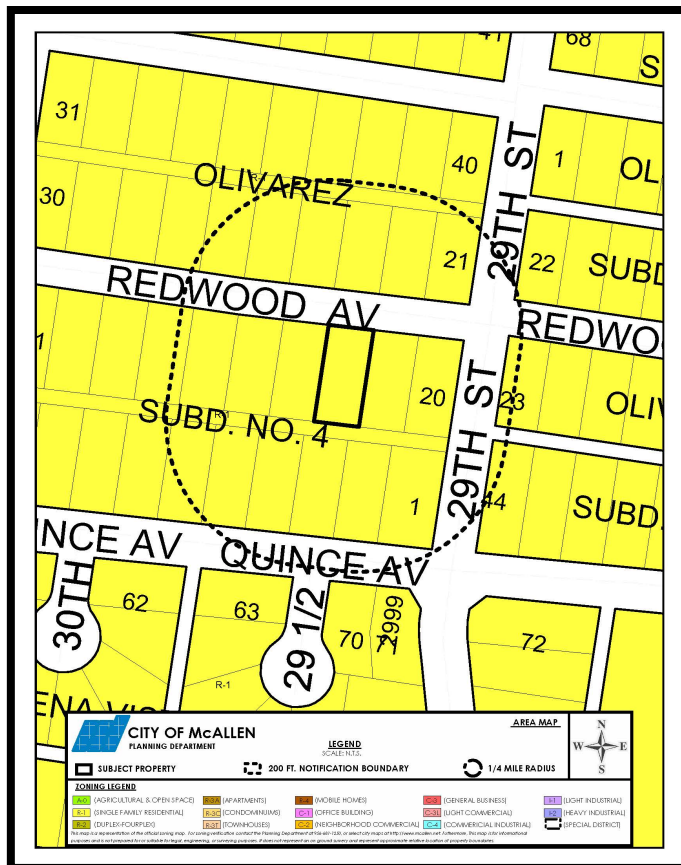
FROM: Planning Staff

DATE: October 15, 2021

SUBJECT: REQUEST OF ROSA M. DURAN FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A PROPOSED FRONT PORCH MEASURING 6 FT. BY 7 FT., AT LOT 18, OLIVAREZ SUBDIVISION NO. 4, HIDALGO COUNTY, TEXAS; 2909 REDWOOD AVENUE. (ZBA2021-0050)

REASON FOR APPEAL:

Rosa M. Duran is requesting the following variance to the City of McAllen Zoning Ordinance to allow encroachment of 6 ft. into the 25 ft. front yard setback for a proposed front porch measuring 6 ft. by 7 ft. The applicant is requesting the structure because the proposed front porch would provide protection for guests and family when waiting to enter the house during inclement weather. It will also help in preventing rain from coming into the house through the front door.



PROPERTY LOCATION AND VICINITY:

The property is located along the south side of Redwood Avenue, approximately 123 ft. west of North 29th Street. The tract has 61.43 feet of frontage along Redwood Avenue with a depth of 134.4 feet at its maximum depth, for a tract size of approximately 8,252 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding land use is single family residential. There is an existing single family residence on the subject property.

BACKGROUND AND HISTORY:

Olivarez Subdivision No.4 was recorded on January 13, 1971. The plat indicates a front yard setback of 25 feet. The subdivision was recorded prior to 1979 and the applicable setbacks were subject to the 1945 Zoning Ordinance. An application for a building permit was submitted to the Building and Inspections Department on August 30, 2021. An application for a variance was submitted to the Planning Department on September 15, 2021 for the proposed front porch.

ANALYSIS:

The variance request is for a front porch measuring 6 ft. by 7 ft. The proposed porch will be open on all sides and visibility is not a concern. The submitted site plan shows a front porch encroaching 6 ft. into the 25 ft. front yard setback. The encroachment comprises of 42 sq. ft. or 2.73% of the required front yard.

Front yard setbacks are important to help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

During a site visit staff noticed similar styled front porch façades along this block.

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

RECOMMENDATION:

Staff recommends approval of the variance request, since the encroachment is minimal.

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



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)

10/20/21
ZBOA

Project

Legal Description

Lot Eighteen (18), Olivarez Subdivision
No. 4

Subdivision Name

Olivarez Subdivision No. 4

Street Address

2909 REDWOOD AVE

Number of lots

18

Gross acres

Existing Zoning

R-1

Existing Land Use

residence

Reason for Appeal (please use other side if necessary)

TO protect home

OWNERS as well as guest when waiting to enter home
to encroach lot into the 25 ft. front yard set back for a lot x 7 ft. wooden porch (proposed)

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

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

Applicant

Name

Rosa M Duran

Phone

(956) 330-2202

Address

2212 Lilly Cove Dr

E-mail

rose.duran16@gmail.com

City

Mission

State

TX

Zip

78572

Owner

Name

Juan Santos Duran

Phone

(956) 929-3407

Address

2901 Notre Dame Ave

E-mail

hwanzill2@yahoo.com

City

McAllen

State

TX

Zip

78504

Authorization

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

☐ Yes

☒ No

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

Signature

Juan Santos Duran

Date

9/15/2021

Print Name

Juan Santos Duran

☒ Owner

☐ Authorized Agent

Office

Accepted by

Payment received by

Date

ENTERED

Rev 09/20

SEP 15 2021

Initial:

NM



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

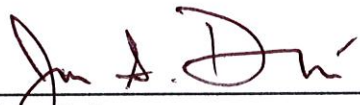
Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: (Please use an additional page if necessary to complete responses)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>
	<p>1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:</p> <p>Adding the porch would protect the house from the rain from coming into the house and all other elements from damaging the entrance.</p>
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p> <p>To protect home owners and guests from the elements.</p>
	<p>3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:</p> <p>The encroachment is only 6 ft. and open on the front and sides.</p>
	<p>4. Describe special conditions that are unique to this applicant or property:</p> <p>By adding the porch it would protect family members with medical conditions when it rains or even with the heat of the sun.</p>
Board Action	<p>Chairman, Board of Adjustment Signature _____</p> <p>Date _____</p> <p>Rev. 9/20</p>

September 16, 2021

I Juan Santos Duran authorize Rose M. Duran or Leticia Duran to undertake the variants request and to speak on my behalf as property owner at any required meetings. The home is located at 2909 Redwood Ave., McAllen TX 78501.

If you have any questions you can reach me at (956) 929-3407. I currently reside at 2901 Notre Dame Ave. McAllen TX 78504.

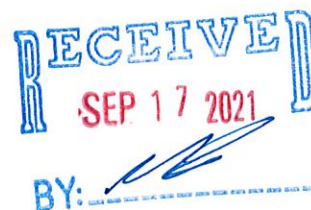
Sincerely,



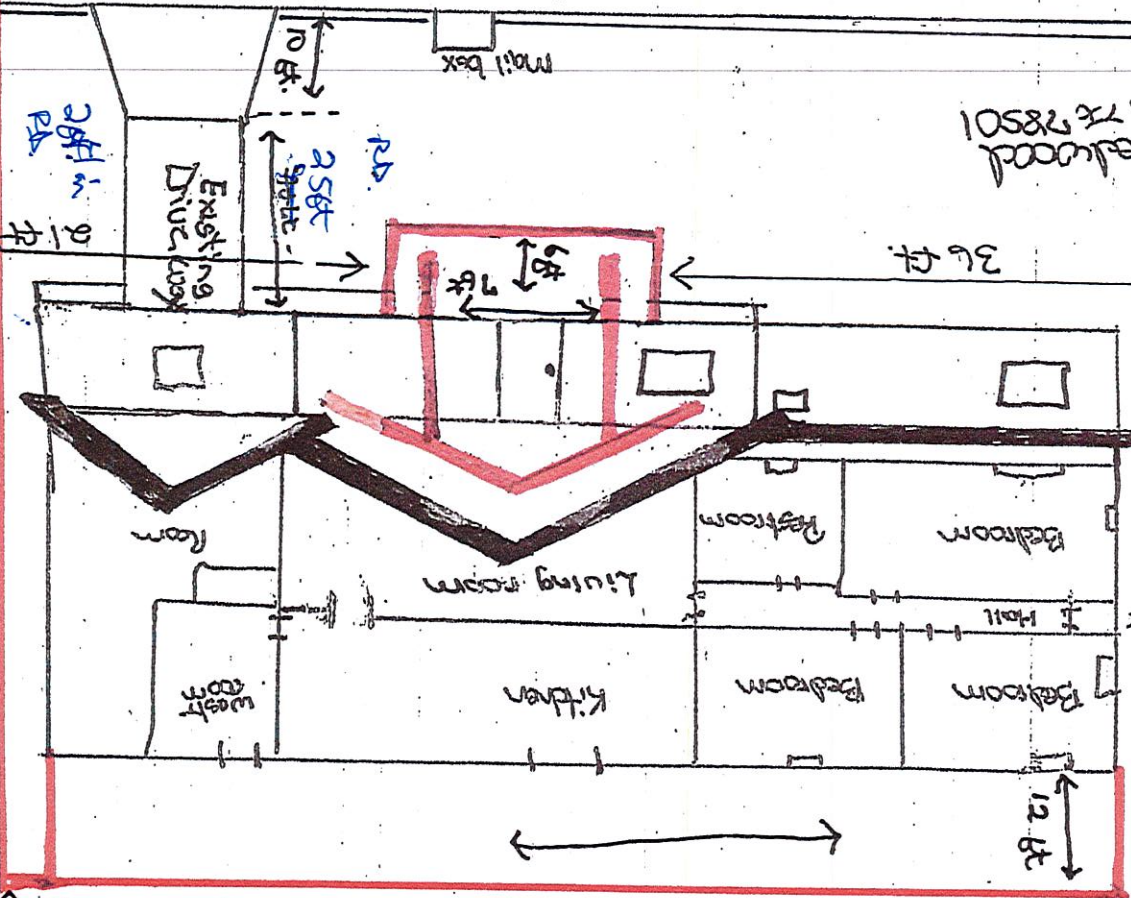
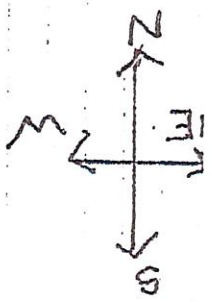
Juan S. Duran.

9/16/2021

Date



Alley

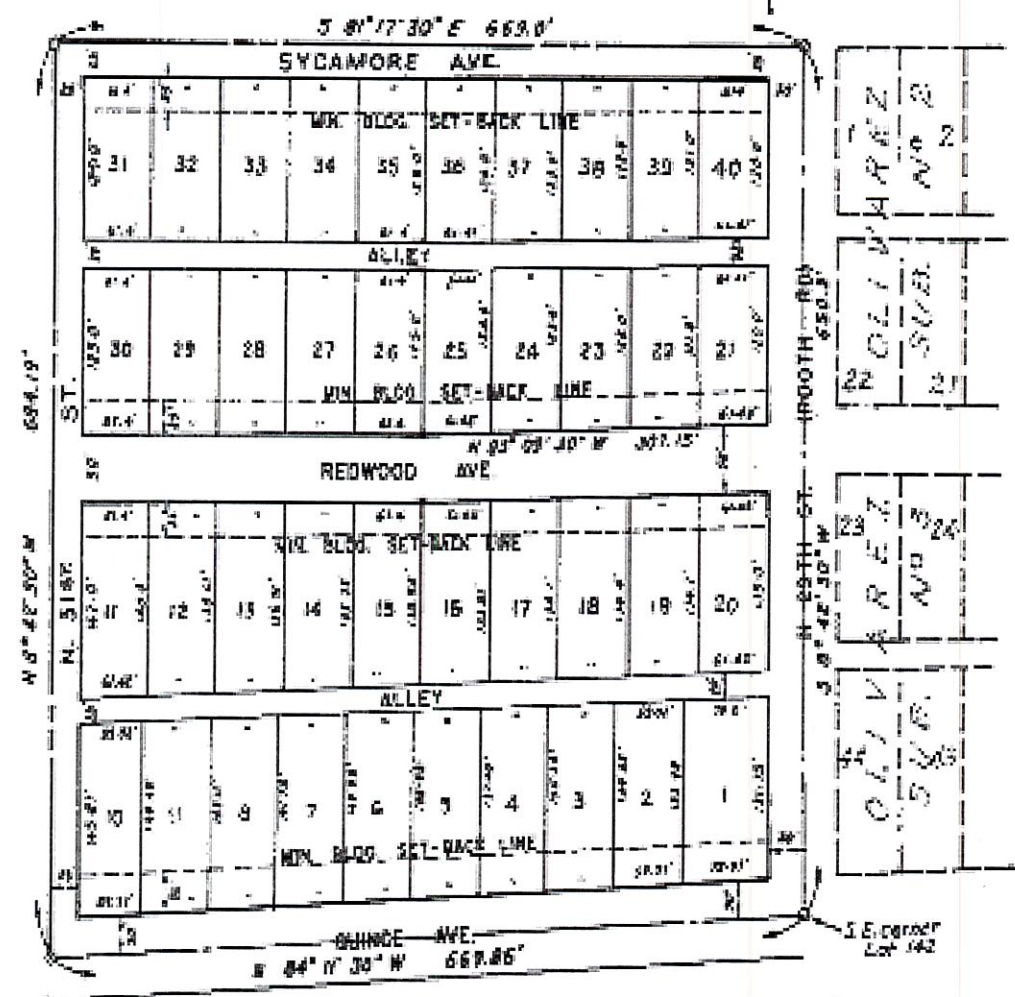


2909 Reduced
McAllen, TX 78501

Reduced

RECEIVED
SEP 17 2021
BY: [Signature]

FILED FOR RECORD THIS DATE
 11:30 P.M.
 JAN 13 1971
 CLERK OF COURTS
 MOBILE, ALA.



MAP
 OF
OLIVAREZ SUBDIVISION NO. 4
 HIDALGO COUNTY, TEXAS
 BEING A SUBDIVISION OF THE SOUTH 10.25
 ACRES OF THE EAST 25.00 ACRES OF LOT
 142, LA LOMITA IRRIGATION & CONSTRUCTION
 COMPANY SUBDIVISION OF PORCIONES 61, 62, 8 & 63,
 HIDALGO COUNTY, TEXAS

SCALE: 1"=60' DATE: 12-23-70

APPROVED FOR RECORDING
 BY
 COUNTY CLERK
 11th January 1971
 CLERK OF COURTS
 MOBILE, ALA.

APPROVED
 FOR RECORDING
 1-14-71

I, C. L. FADIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THAT THE FOREGOING MAP IS A TRUE AND CORRECT REPRESENTATION OF THE SAID TRACT, BEING AS PLATTED BY ME FROM SURVEY OF THE OUTSIDE BOUNDARIES OF SAME.

C. L. Fadian
 C. L. FADIAN
 REGISTERED PUBLIC SURVEYOR
 MOBILE, TEXAS

STATE OF TEXAS
 COUNTY OF HIDALGO

KNOW ALL MEN BY THESE PRESENTS
 THAT I, ENRIQUE OLIVAREZ, OWNER OF THE PROPERTY HEREIN DESCRIBED, DO HEREBY ADOPT, DEDICATE, AND CONFIRM THE FOREGOING MAP OF "OLIVAREZ SUBDIVISION NO. 4" AND DO HEREBY DEDICATE
 TO THE PUBLIC THE SURFACE USE OF THE STREETS AND ALLEYS HEREIN SHOWN.

Enrique Olivarez
 ENRIQUE OLIVAREZ

STATE OF TEXAS
 COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED, ENRIQUE OLIVAREZ, OWNER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT
 AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 23rd DAY OF December, A.D. 1970.

Thomas C. Madala
 THOMAS C. MADALA
 NOTARY PUBLIC IN AND FOR
 HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MOBILE ZONING AND PLANNING BOARD ON THIS THE 23rd DAY OF December, A.D. 70

MOBILE ZONING AND PLANNING BOARD
 BY *Ben Bailey*
 BEN BAILEY, CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MOBILE, TEXAS ON THIS THE 24th DAY OF December, A.D. 70

W. H. Smith
 W. H. SMITH, CITY CLERK

Jack A. Westel
 JACK A. WESTEL

THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 1 ON THIS THE 7th DAY OF January, A.D. 1971

W. H. Smith
 SECRETARY

W. H. Smith
 PRESIDENT



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0050





RESIDENTIAL PERMIT APPLICATION

REV. 3/2021

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

PERMIT APPLICATION REFERENCE NUMBER

Res2021-07295

APPLICATION MUST BE COMPLETE

(Please type or print in black or blue ink)

GC NUMBER

105096

APPLICANT

NAME

Virginia Ross

PHONE

956-661-8229

ADDRESS

1300 N. Linden

CITY

Pharr

STATE

TX

ZIP

CONTACT NAME:

PHONE

☐ OWNER☐ CONTRACTOR☐ TENANT☐ OTHER

OWNER

NAME

Rose Duran

PHONE

956 330-2202

ADDRESS

2909 Redwood Ave

*EMAIL:

CITY

McAllen TX

STATE

ZIP

78501

*OWNER INFORMATION NOT PROVIDED, INITIAL:

☐ NEW☒ ADDITION☐ REMODELING☐ REPAIR☐ MOVE☐ REMOVE

BLDG. HGT.

NO. OF FLOORS

BLDG

SQ. FT

5X5²⁵

NO. PARKING

SPACES

SQ. FT

LOT

LOT

FRONT

FLOOR EL

ABOVE CURB

EXISTING USE

OF LOT

NEW

USE

SCOPE OF WORK TO BE DONE

Front Porch connected to house siding with screws

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.

2909

ST. NAME

Redwood Ave

CITY USE ONLY

Construction Cost

Permit Fee \$

48.00

Rec'd by

JP

Value \$

\$1,000

Double Fee \$

Date

8/30/21

Zoning

R-1

Total Fee \$

Time

10:04

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.

PRINT (AUTHORIZED AGENT/OWNER)

SIGNATURE

EMAIL ADDRESS (required)

DATE

Vike Rios@gmail.com 8-30-21

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

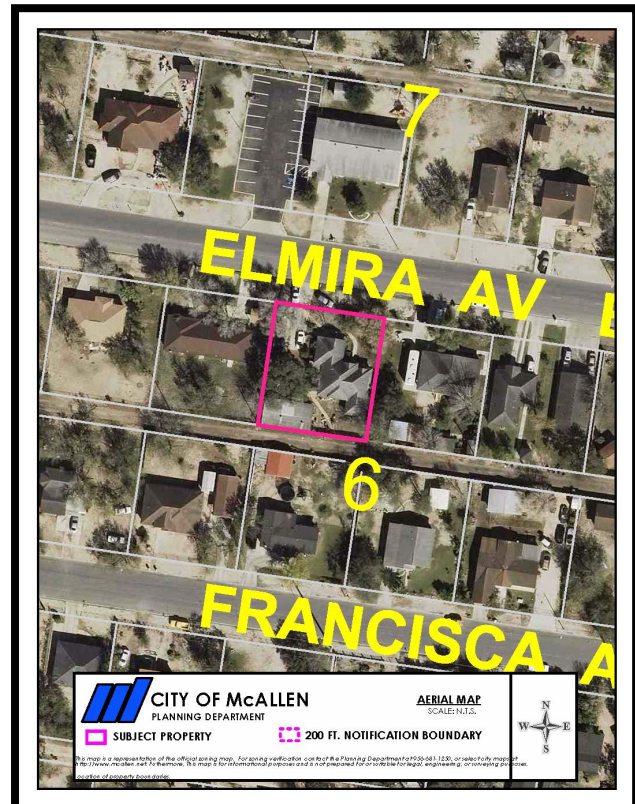
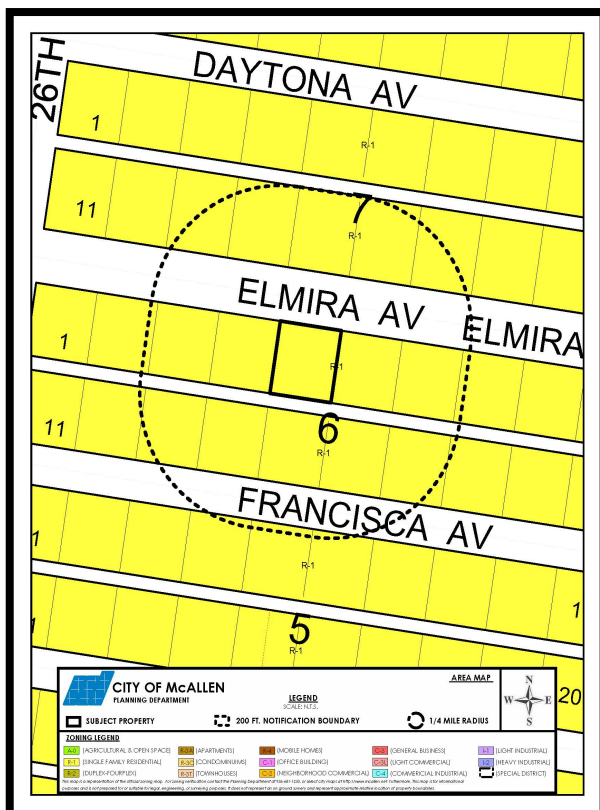
FROM: Planning Staff

DATE: October 15, 2021

SUBJECT: REQUEST OF MIGUEL SALDANA FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 8 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING WOODEN STORAGE BUILDING MEASURING 20.08 FT. BY 40.41 FT., AND 2) AN ENCROACHMENT OF 2 FT. INTO THE 5 FT. SIDE YARD SETBACK ALONG THE WEST PROPERTY LINE FOR AN EXISTING WOODEN STORAGE BUILDING MEASURING 20.08 FT. BY 40.41 FT. AT LOT 5, BLOCK 6, BALBOA ACRES SUBDIVISION, HIDALGO COUNTY, TEXAS; 2501 ELMIRA AVENUE. (ZBA2021-0049)

REASON FOR APPEAL:

Miguel Saldana is requesting the following variances to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 8 ft. into the 10 ft. rear yard setback for an existing wooden storage building measuring 20.08 ft. by 40.41 ft., and 2) an encroachment of 2 ft. into the 5 ft. side yard



setback along the west property line for an existing wooden storage building measuring 20.08 ft. by 40.41 ft. The applicant is requesting the encroachments in order for the structure to remain because it will be used for the placement of solar panels as the applicant is currently converting his residence to solar energy. In addition, the existing structure is also utilized by the applicant for storage and hobby purposes. According to the applicant the structure may have been constructed as early as the 1960's.

PROPERTY LOCATION AND VICINITY:

The property is located along the south side of Elmira Avenue, approximately 805 feet west of South 23rd Street. The tract has 95 feet of frontage along Elmira Avenue with a depth of 107.5 feet, for a tract size of 10,212.50 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding land use is single family residential. There is an existing single family residence on the subject property.

BACKGROUND AND HISTORY:

Balboa Acres Subdivision was recorded on January 1, 1963. The subdivision was annexed into the City in 1975. The plat indicates a front yard setback of 25 feet, the subdivision was recorded prior to 1979 and the remaining applicable setbacks were subject to the 1945 Zoning Ordinance. The side yard setbacks are 7 feet on the east side and 5 feet along the west side. The rear yard setback under the 1945 Zoning Ordinance was 3 feet for accessory buildings however the rear yard setback requirement changed to 10 feet under the 1979 zoning ordinance. An application for a variance was submitted to the Planning Department on September 15, 2021 for setback encroachments.

ANALYSIS:

The variance requests are for an encroachment of 8 ft. into the 10 ft. rear yard setback and 2 ft. into the 5 ft. side yard setback for an existing wooden storage building measuring 20.08 ft. by 40.41 ft. The existing storage building is divided into three rooms (two storage rooms and a hobby room.). The applicant can modify the existing storage building by reducing the building size to be in compliance with setbacks however, the structure sits over an existing concrete foundation and compliance would involve a re-design of the foundation and reconstruction of the storage building

The plight of the owner may be unique since the subdivision contains construction that began in the 1970's when Balboa Acres was a Colonia type subdivision and the encroachments will not alter the essential character of the neighborhood especially since the lots are large lots. If the construction of the said structure existed prior to annexation, the structure may be considered to be a non-conforming structure.

There is a 20 ft. alley that is located at the rear of the property, that provides additional building separation.

Measurements provided were without the benefit of a survey.

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

RECOMMENDATION:

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

ZBA2021-0049

ZBA
10/20/21

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

Balboa Acres

Subdivision Name

Lot 5 BIK6

Street Address

2501 Elmira Ave

Number of lots

1

Gross acres

Existing Zoning

Existing Land Use

Reason for Appeal (please use other side if necessary)

put solar panels on storage
building on south side of property

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

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

Applicant

Name

Miguel Saldana

Phone

956-648-1073

Address

2501 Elmira Ave

E-mail

miguel.saldana1950@gmail.com

City

McAllen

State

TX

Zip

78503

Owner

Name

SAME AS ABOVE

Phone

Address

E-mail

City

State

Zip

Authorization

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

☐ Yes

☒ No

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

Signature

Miguel Saldana

Date

9-15-21

Print Name

Miguel Saldana

☒ Owner

☐ Authorized Agent

Office

Accepted by

Payment received by

Date

ENTERED

Rev 09/20

SEP 15 2021

Initial: NM



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

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

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

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

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:

I am working with solar solutions to convert my home to solar energy but need the roof of storageroom to complete the project. Space on residence is inadequate.

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

Converting to solar panels would decrease the energy expenditure in the future. The freezing, flooding and hard rains of recent years have caused health and food waste due to outages.

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:

Converting to solar energy will not cause health or safety issues or vision problems. The building itself has never been a detriment to our neighbors.

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

The building was erected close to alley/long before I bought the property. The converted garage was grandfathered in. As a senior citizen with family that have health concerns the continual loss of power is a detriment to our health and safety.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

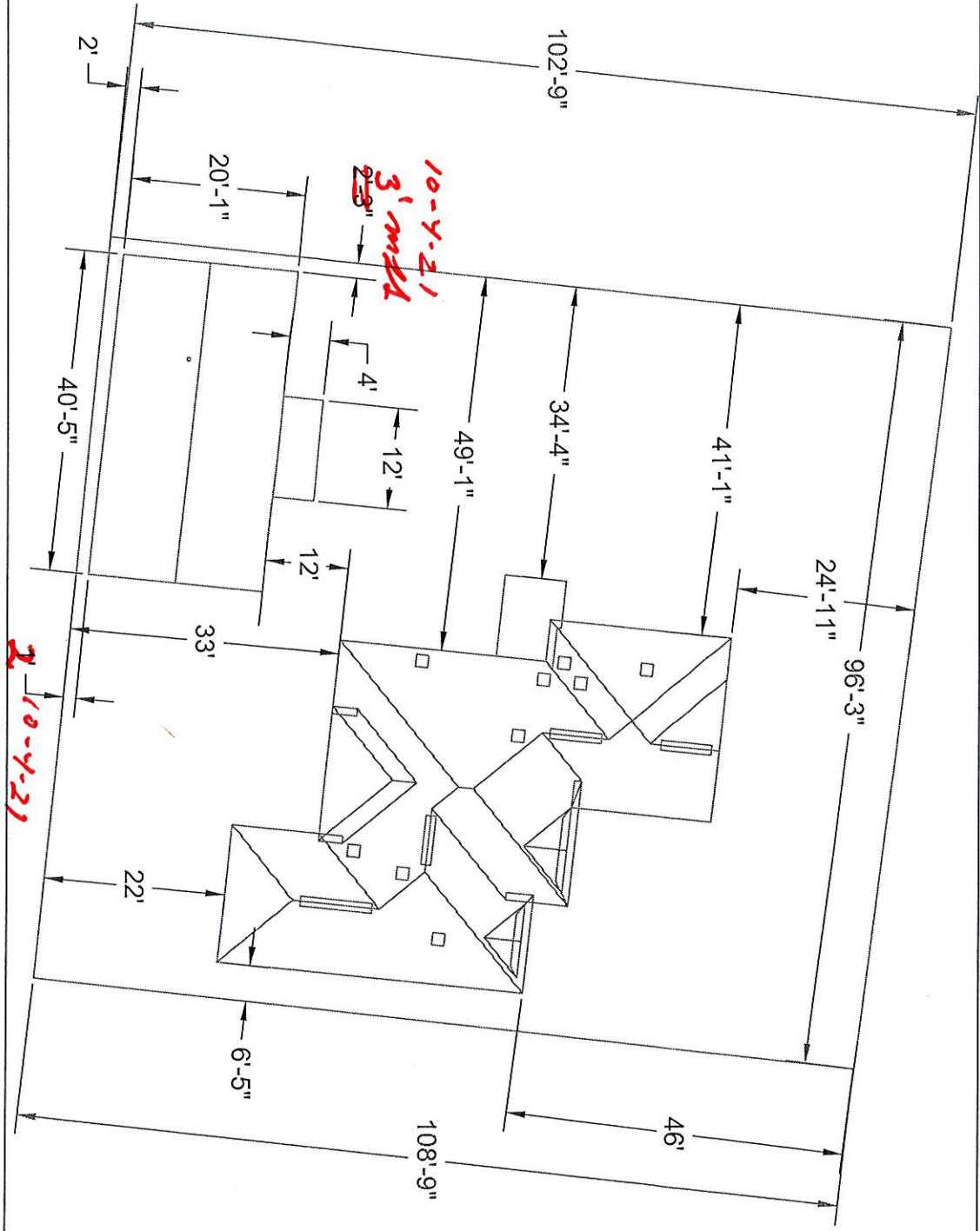
ZBA
2021-0049

1. I am working to convert my residence to solar energy, but I unfortunately do not have enough space on the roof of my house to fit the number of solar panels I propose to have. The roof of the storage shed would provide sufficient space to complete the project. We've had solar engineering technicians come out to inspect and survey the shed and they have concluded that it is in good condition and sturdy enough to easily house the additional panels that will not fit on my roof.
2. Converting to the consumption of solar powered electricity would contribute to a decrease in utility costs and ensure that future generations of my family have a more secure and healthy environment. The solar system will effectively and lastingly hedge against the ever rising retail price of electricity. I will also be helping create an environmentally friendly way of producing electricity that doesn't use fossil fuels.
3. The storage structure was grandfathered in by the city when I purchased the property. It has never been to the detriment of our neighbors in terms of being a visual or physical nuisance. Additionally, adding solar panels to the structure will not cause any tangible or imperceptible health or safety issues. The panels are black on black and non-reflective, so there wouldn't be any danger to the vision of others near or passing by.
4. The storage shed is a converted garage built close to the alley for general home and automotive maintenance and improvements. There have never been any structural issues or punitive ordinances from the city. As stated before the structure was grandfathered in with the purchase of the home; this occurred two decades ago in the 90's. As a senior citizen with family members who have health concerns, we know very well that the future of energy is in clean and renewable resources that don't contribute to the pollution and health risks of burning fossil fuels for power. We hope that more people join in the cause of creating a more sustainable means of producing energy to both help themselves and the world we all share.

ENTERED

SEP 15 2021

Initial: NM



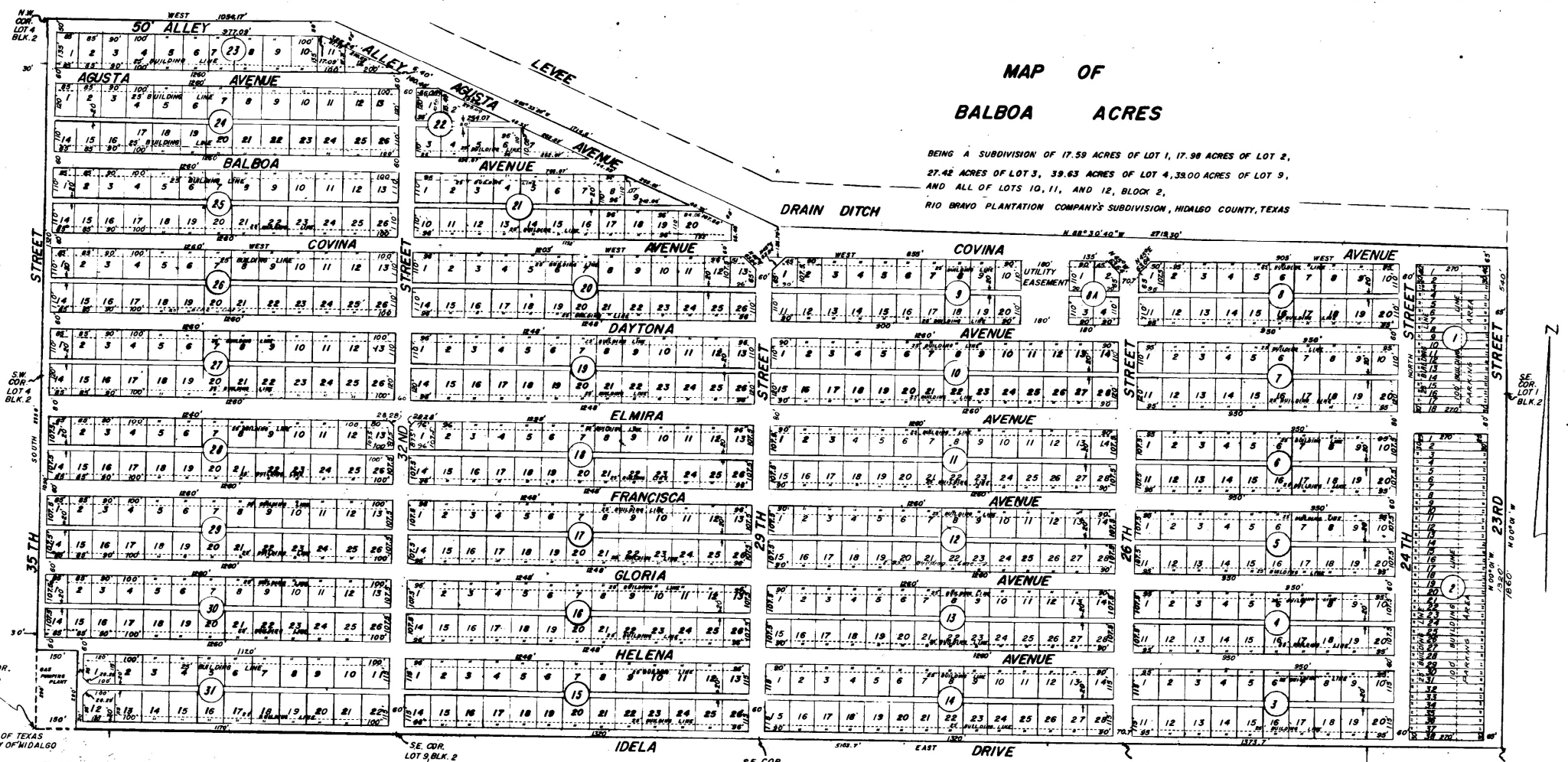
Scale: 3/32" = 1'



RECEIVED
OCT 04 2021

BY: [Signature]

PROJECT INFORMATION		
DYNAMIC SLR SALES LENDING RESOURCES	MIGUEL SALDANA 2501 ELMIRA AVE MCALLEN TX, 78503-7527	AHJ: CITY OF MCALLEN: PROJECT#: DYN-55372020 FINANCE TYPE: LOANPAL
		SITE LAYOUT



STATE OF TEXAS
COUNTY OF HIDALGO

Subscribed and sworn to before me, the undersigned authority, on this the 11TH day of SEPT., 1962.

By John M. Rowland Jr.
John M. Rowland Jr.,
Notary Public in and for Hidalgo County, Texas

Subscribed and sworn to before me, the undersigned authority, on this the 11TH day of SEPT., 1962.

By Harry E. Mudge
Harry E. Mudge,
Notary Public in and for Hidalgo County, Texas

SE. COR. LOT 11 BLK. 2

This plat approved by Hidalgo County Water Improvement District No. 3 on this 7TH day of Dec. 1962.

By John M. Rowland Jr.
John M. Rowland Jr.,
Notary Public in and for Hidalgo County, Texas

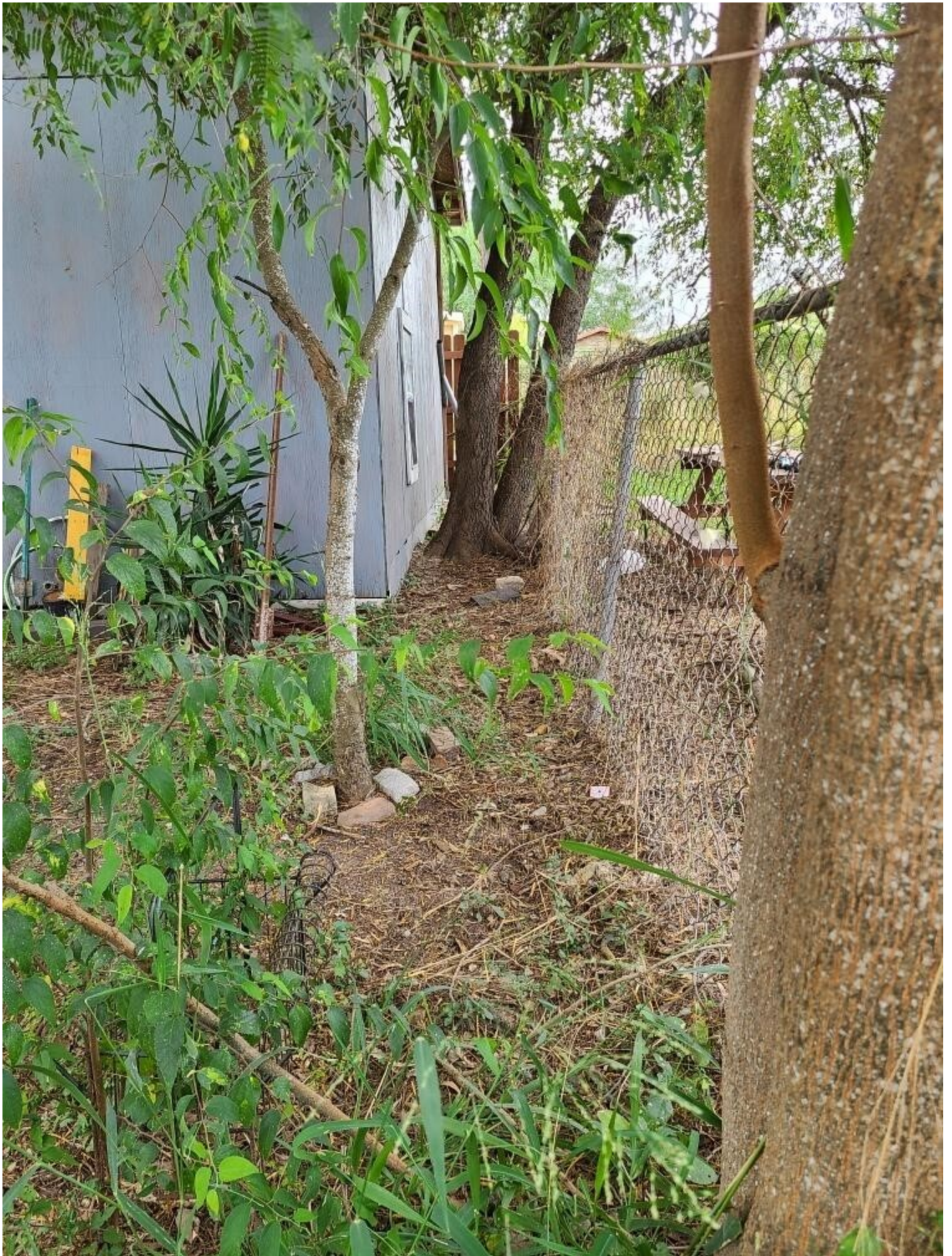
By Harry E. Mudge
Harry E. Mudge,
Notary Public in and for Hidalgo County, Texas

This plat approved by the City Commission of the City of McAllen, Texas on the 14TH day of Nov., 1962.

By Paul A. Neale
Paul A. Neale,
Mayor of McAllen, Texas

Attest Antonio J. Sanchez
Antonio J. Sanchez,
Secretary










NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0049

 CITY OF MCALLEN PLANNING DEPT.
700 WEST 12TH
WWW.MCALLEN.NET



CRITERIA FOR ZBOA DETERMINATIONS

APPEALS

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

SPECIAL EXCEPTIONS

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

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

Ord. Sec. 138-86. – GENERAL POLICY.

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

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

VARIANCES

Authorized only when ALL of the following applies:

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

Definitions

Table of Contents

Chapter 138-Zoning1

 Section 138-1 Definitions1

Chapter 110-Vegetation6

 Section 110-26 Definitions6

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;..."

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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 lirioppe, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.

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

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

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

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

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

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

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

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

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

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

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

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

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

Exceptions Cited within the Zoning Ordinance

Exceptions pertaining to front yard setbacks:

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

Exceptions pertaining to rear yard setbacks:

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

Exceptions pertaining to side yard setbacks:

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

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

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

Exceptions as per Planning Department Policy

By policy the following are permitted:

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

Legal opinions:

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

ZONING BOARD OF ADJUSTMENT AND APPEALS

RULES AND PROCEDURES

CITY OF MCALLEN

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

I. ORGANIZATION AND OFFICERS

A. Members

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

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

B. Officers

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

C. Duties and Officers

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

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

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	03/03/21	03/17/21	04/07/21	04/21/21	05/05/21	05/19/21	06/02/21	06/17/21	07/07/21	07/21/21	08/04/21	08/18/21	09/01/21	09/15/21	10/06/21	10/20/21	11/03/21	11/17/21	12/01/21	
ERICK DIAZ- CHAIRPERSON	P	P	P	P	P	P	A	P	A	P	P	P	P	P	P	P	A	P	P					
JOHN MILLIN- VICECHAIRPERSON	P	A	P	P	P	P	P	P	P	P	A	P	P	A	P	A	P	P	P					
SYLVIA HINOJOSA	P	P	P	A	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P					
JOSE GUTIERREZ	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
JUAN F. JIMENEZ	P	A	P	P	P	A	P	P	P	P	A	A	P	A	P	A	A	A	A					
ANN TAFEL (ALT 1)	P	P	P	P	P	P	P	P	P	A	A	P	P	P	P	P	P	P	P					
HUGO AVILA (ALT 2)	P	P	P	P	P	A	P	P	P	A	P	P	A	P	P	P	P	P	P					
REBECCA MILLAN (ALT 3)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
ROGELIO RODRIGUEZ (ALT 4)	A	P	P	P	P	P	A	P	P	P	P	P	P	P	P	P	P	A	A					

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION







PLANNING DEPARTMENT

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



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- 5/4 & 5/5	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 D: 6/1 & 6/2 N-5/18 & 5/19	6	7	8
9	10	11	12	13	14	15
16	17 A-6/1 & 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-7/6 & 7/7	3	4	5
6	7	8	9	10	11	12
13	14	15	16 D-7/20 & 7/21	17	18	19
20	21 A-7/6 & 7/7	22	23 HPC N-7/6 & 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 PZ moved to 7/8	7 N-7/20 & 7/21 D-8/3 & 8/4	8 PZ MTG	9	10
11	12 	13 	14	15	16	17
18	19 A-8/3 & 8/4	20	21 HPC N-8/3 & 8/4 D-8/17 & 8/18	22	23	24
25	26 	27 	28	29	30	31




AUGUST 2021

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 Las Palmas Community	4 Exec Room N- 8/17 & 8/18 D-9/1 & 9/7	5	6	7
8	9 A- 8/17 & 8/18	10 	11 	12	13	14
15	16 A-ZBA 9/1	17 Library	18 Exec Room N-ZBA 9/1 D-9/15 & 9/21	19	20	21
22	23 	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	4
					A-PZ 9/21	
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 PZ moved to 21st	20 N- 11/2 & 11/3 D-11/16 & 11/1	21 PZ MTG	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
	A-11/16 & 11/17					
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 	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	7	8 N- PZ 12/21	9	10	11
	A-PZ 12/21					
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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