

AGENDA

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

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

CALL TO ORDER -

1. MINUTES:

- a) Minutes for the meeting held on September 20, 2023

2. PUBLIC HEARINGS:

- a) Request of Arnold Gonzalez Jr. for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 10 foot rear yard setback for a proposed carport measuring 18.5 feet by 17.5 feet at Lot 22, Shady Oaks Subdivision Unit 1, Hidalgo County, Texas; 704 Heron Avenue. **(ZBA2023-0082)**
- b) Request of Jesus Ruiz for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 foot front side yard setback for a proposed carport measuring 18 feet by 20 feet at Lot 127, Plantation Gap Phase 1 Subdivision, Hidalgo County, Texas; 4416 Sandpiper Avenue. **(ZBA2023-0089)**
- c) Request of Michael Perez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25 foot front yard setback for an existing carport measuring 15 feet by 19 feet at lot 149, Saddle Creek Unit 2, Hidalgo County, Texas; 3404 Providence Avenue **(ZBA2023-0088)**
- d) Request of Norma Robledo for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 foot front yard setback for a proposed carport measuring 20 feet by 20 feet at Lot 50, Del Sol Phase I Subdivision, Hidalgo County, Texas; 4301 North 28th Street. **(ZBA2023-0086)**
- e) Request of Jose Guadalupe Cantu for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 6 feet side yard setback for an existing metal carport measuring 21 feet by 24 feet at Lot 51, Alta Linda, Hidalgo County,

Texas; 1909 South 39th Street. **(ZBA2023-0079) (TABLED: 09/07/2023) (TABLED: 09/20/2023) WITHDRAWN**

- f) Request of Alma Beraza for a Special Exception and Variance to the City of McAllen Zoning Ordinance to: **1)** allow an encroachment of 4 feet into the 6 feet side yard setback for an existing metal carport measuring 19 feet by 21.6 feet, **2)** to allow an encroachment of 3.2 feet into the 10 feet rear yard setback for an existing patio measuring 25 feet by 25 feet and **3)** to allow an encroachment of 5 feet into the 6 feet side yard setback for a storage measuring 10 feet by 7 feet at Lot 83, Montebello Unit No. 3 Subdivision, Hidalgo County, Texas; 2108 North 32nd Street. **(ZBA2023-0085) (TABLED: 09/20/2023)**

3. FUTURE AGENDA ITEMS

- a) 1106 North 15th Street
- b) 3036 Olga Avenue
- c) 5001 Expressway 83
- d) 6 South 26th Street
- e) 8218 North 23rd Street
- f) 6001 North 51st Street
- g) 2820 North 39th Street

ADJOURNMENT:

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

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, September 20, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Rogelio Rodriguez	Member
	Hiram A. Gutierrez	Member
	Hugo Avila	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
 Staff Present:	 Benito Alonzo	 Assistant City Attorney I
	Edgar Garcia	Planning Director
	Omar Sotelo	Senior Planner
	Natalie Moreno	Planner I
	Porfirio Hernandez	Planner I
	Jessica Puga	Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a)** Minutes for the meeting held on September 7, 2023.

The minutes for the meeting held on September 7, 2023 and were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a)** Request of Enrique Garza for a Special Exception and Variance to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 5 feet 9 inches into the 6 foot side yard setback and encroaching 3 feet into the 10 foot rear yard setback for an existing metal carport measuring 20 feet by 25 feet and 2) allow an encroachment of 2.5 feet into the 6 foot side yard setback and 5.5 feet into the 10 foot rear yard setback for an existing storage measuring 12 feet by 16 feet at Lot 2, Block 5, Carolyn Addition, Hidalgo County, Texas; 213 Upas Avenue. **(ZBA2023-0083)**

Ms. Moreno stated the applicant was requesting the above Special Exception and Variance to encroach into the rear and side yard setback. The applicant has stated he uses the carport for vehicle protection and the storage to store large items.

The subject property was located along the south side of Upas Avenue. The lot had 80 feet of frontage and 120 feet of depth for a total of 9,600 square feet. The property was zoned R-1 (single family residential) District. There was R-1 District in the area.

Carolyn Addition was recorded on February 24, 1959. The plat shows a 10 feet rear yard setback for the subdivision and 6 feet side yard setbacks. On July 28, 2023, a non-compliance order was issued. On July 28, 2023, the applicant applied for a building permit. On August 17, 2023, the applicant applied for a Special Exception.

This request was for an existing metal carport and storage to be allowed to remain at its current location. Applicant stated the carport was used to provide shade for the homeowners, their vehicles, and the storage for placement of large household items that cannot fit inside the home.

Applicant does have a garage in the property which applicant stated his vehicles do not fit.

During site visit staff, reveal another structure encroaching in to the side and rear yard setback. Applicant was willing to add the structure in the application (storage).

Site visit by staff revealed 7 other rear encroachments within the subdivision, which did not have permits.

Measurements provided are without benefit of a survey.

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

Staff was recommending disapproval for special exception and variance due to the carport exceeding the 400 square feet for a carport and due to not being characteristic of the neighborhood.

Chairperson Gutierrez asked staff if they had discussed with the applicant the exceeding of the 400 square feet. Ms. Moreno stated yes, he is reducing it by 5 feet to be 400 square feet. Chairperson Gutierrez asked staff if they had it in writing. Ms. Moreno stated yes and that he had sent an email stating it.

Mr. Enrique Garza, the applicant stated the carport was built after hailstorm. They only had a one-car garage, which was too small for their one vehicle. In addition, they had a driveway that was wide enough for two vehicles but was difficult to back out. He stated he did not follow up with all the setbacks. They initially wanted to build a 20 by 20 carport because of the material costs. Their contractor told them he could build a 20 by 25 since he already had the materials. Mr. Garza stated he was willing to reduce it back by 5 feet from the rear to comply.

Board member Avila regarding the storage shed was anyone living there because he noticed the air-conditioner. Mr. Garza no one was living there. The purpose of the shed was for him to do projects. They use it to store household items and lawn equipment. Board member Avila asked if it was on a concrete floor. Mr. Garza stated it was on a wood foundation and could be moved depending on the cost.

Chairperson Gutierrez asked if there was electricity in the shed. Mr. Garza stated the contractor installed the pump next to it. The pump was for the swimming pool. When the inspector was there for the pool, he was asking questions about the pool. Mr. Garza stated he was not aware of the setbacks. Afterwards, he started applying for all the permits needed.

Chairperson Gutierrez explained to the applicant the difference between a special exception and a variance.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was one person in favor of the special exception.

Ms. Laura Cristina Garcia, 208 West Upas Avenue stated she was in favor of the special exception and variance request. She described the neighbor's house prior to them purchasing the home that it was in a terrible state of repairs. She stated they take pride in their neighborhood.

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

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

Board member Rodriguez asked staff if on the picture shown that had the measuring tape was that on the side or in the rear. Ms. Moreno stated it was on the side. Board member Rodriguez asked what the distance from the fence to the post. Ms. Moreno stated they were encroaching 5 feet into the 6-foot setback.

Following discussion, Mr. Hugo Avila **moved** to approve the special exception as the applicant has explained it. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

Following discussion, Mr. Hiram Gutierrez **moved** to disapprove the variance request as the applicant has explained it. Vice-Chairperson Ann Tafel seconded the motion. The Board voted unanimously to disapprove the variance request with five members present and voting.

- b) Request of Alma Beraza for a Special Exception and Variance to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 4 feet into the 6 foot side yard setback for an existing metal carport measuring 19 feet by 21.6 feet, **2)** to allow an encroachment of 3.2 feet into the 10 foot rear yard setback for an existing patio measuring 25 feet by 25 feet and **3)** to allow an encroachment of 5 feet into the 6 foot side yard setback for a storage measuring 10 feet by 7 feet at Lot 83, Montebello Unit No. 3, Hidalgo County, Texas; 2108 North 32nd Street. (**ZBA2023-0085**)**

Ms. Moreno stated the applicant was requesting the special exception and variance for encroachments into the side yard and rear yard setback for an existing metal carport, patio and storage. The applicant stated the carport is for vehicle protection and the patio for gatherings.

The subject property was located along the east side of 32nd street. The lot has 51 feet of frontage and 100 feet of depth for a total of 5,100 square feet. The property is zoned R-1 (single family residential) District. There is R-1 and R-3A (Apartments) District around the area.

Montebello No.3 Subdivision was recorded on October 20, 1981. The plat shows a 10 feet rear yard setback and a 6 feet side yard setback for the subdivision. On July 28, 2023, a

non-compliance order was issued. On August 02, 2023, the applicant applied for a building permit. On August 18, 2023, the applicant applied for a Special Exception.

The applicant was requesting to keep the requests for a more comfortable experience. The applicant stated that it is nice to arrive home on a rainy day and be able to get out of vehicle without getting wet.

Applicant does have a one-car garage in the property, but vehicle is too large to fit so she uses it as storage.

During site visit, staff revealed other structures in the rear that are encroaching into the rear yard and side yard setback. Applicant was willing to add those encroachments into this application (storage and patio).

Applicant stated that the storage would be removed at a later time.

Site visit by staff revealed 10 other encroachments, which did not have permits.

Measurements provided are without benefit of a survey.

Staff did receive one letter in support of the request.

Staff was recommending disapproval for requests 1, 2 and 3 due to not being characteristic to the neighborhood and can create a safety hazard in case of a fire.

Board member Rodriguez asked staff if the storage was a two story. Ms. Moreno stated yes. He asked if staff knew the height. Ms. Moreno stated she did not get the measurement of the height.

Board member Avila asked staff if there was alley in the back. Ms. Moreno stated yes.

Ms. Alma Beraza, the applicant stated the two-story storage unit existed when they bought the house back in 2002. She stated her husband spent two years trying to tear it down but it got too expensive. She stated they have been to find someone to do it but for the right price. Concerning the patio in the rear, it had been there about 12 to 15 years. Financially, they have been trying to see who to get to cut the pipes to tear down and put up some more pipes because it sits on cement. It goes as well for the carport in front. Chairperson Gutierrez asked the applicant if they built the carport. Ms. Beraza stated yes, both front and back years ago. She stated her husband had obtained a permit a year ago for the carport in front but there was a misunderstanding. She stated the building department said they would call her husband but never called. They had said that they sent him an email. He has one but because he works away from home, he never opened it. After a couple of months of he never heard from them again so he decided to build the carport.

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

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

Board member Rodriguez asked staff if the City assists residents in situations for hardship if a structure needed to be taken down, any volunteers from certain departments. Mr. Garcia stated that the Code and Health Enforcement Department had an Imagine Tomorrow, which covers large trash bins but someone would still need to demolish the structure. The Grant Department issues grants for Affordable Homes of South Texas and Housing Authorities. That would be something to consider.

Chairperson Gutierrez asked if the applicant would like to table the item in order to speak with staff to discuss her options.

Following discussion, Vice-Chairperson Ann Tafel **moved** to table the item until the next meeting. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to table the item with five members present and voting.

- c) Request of Javier Benavidez & Dalia Garcia for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 14.5 feet into the 20 foot front yard setback for an existing metal carport measuring 19 feet by 24 feet at Lot 46 & North 5 ft. of 45, Gardenia Terrace Unit No. 2 Subdivision, Hidalgo County, Texas; 3309 North 27th Street. **(ZBA2023-0087)**

Mr. Hernandez stated the applicant was requesting a Special Exception to encroach 14.5 feet into the 20 feet front yard setback for an existing carport measuring 19 feet by 24 feet for protection from the sun, hail and severe heat for her vehicles and for protection to the family as they go in and out of the house. Applicant is proposing to reduce the size of carport to meet the 400 square feet as per city ordinance.

The subject property was located along the West side of North 27th Street just South of Hibiscus Avenue. The lot had 75 feet of frontage and 110.00 feet of depth for a total of 8,250 square feet. The property was zoned R-1 (single family residential) District. The surrounding zones include R-1(single-family residential) all around.

Gardenia Terrace Unit No. 2 subdivision was recorded on July 14, 1975. The plat shows a 20-foot front yard setback for the subdivision. On August 23, 2023, the applicant applied for a Special Exception to encroach 14.5 feet into the 20 feet front yard setback.

The applicant submitted a new site plan and letter to reduce the carport depth to 21 feet and comply with the new ordinance to meet the square footage. Applicant is requesting a Special Exception to allow an encroachment of 11.5 feet into the 20-foot front yard setback for an existing metal carport that would now measure 19 feet by 21 feet for protection from the sun, hail and severe heat for her vehicles and family as they go in and out of the house. Applicant states a recent hailstorm did some damage to one of her vehicles and the severe heat broke a window to her car.

Site visit by staff revealed 4 other carports in the area, in which two are built without a permit. A variance for a canopy was approved on May 17, 2012 for Lot 94. A building permit was issued for a carport for Lot 41.

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

Measurements provided are without benefit of a survey.

Staff was recommending approval of the special exception request as per applicant was reducing the size of the carport.

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

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

Following discussion, Vice-Chairperson Ann Tafel **moved** to approve the special exception based on applicant's written statement to reduce the carport to meet the 400 square feet requirement. Mr. Hugo Avila seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

- d) Request of Jose Guadalupe Cantu for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 6 feet side yard setback for an existing metal carport measuring 21 feet by 24 feet at Lot 51, Alta Linda, Hidalgo County, Texas; 1909 South 39th Street. **(ZBA2023-0079) (TABLED: 09/07/2023)**

Mr. Hugo Avila **moved** to remove the item from the table. Vice-Chairperson Ann Tafel seconded the motion. The Board voted unanimously with five members present and voting.

Ms. Moreno stated the applicant was requesting a special exception to encroach 5 feet into the 6 feet side yard setback. It helps the applicant with his outside exercises in a shaded area and for vehicle protection.

The subject property was located along the west side of 39th Street. The lot had 70 feet of frontage and 108 feet of depth for a total of 7,560 square feet. The property was zoned R-1 (single family residential) District. There was R-1, R-3A (Apartments) and C-3 (General Business) Districts around the area.

Alta Linda Subdivision was recorded on February 13, 1979. The plat shows a 25 feet front yard setback and a 10 feet curve setback for the subdivision. There is a 5 feet utility easement on the north side of the property. On August 23, 2022, a stop work order was issued. On August 24, 2022, a building permit was submitted. On January 16, 2023, a non-compliance order was issued. On May 13, 2023, another stop work order was issued. On August 2, 2023, a Special Exception application was submitted.

The applicant is requesting this Special Exception to keep the carport. Applicant is disabled and it will help him with his daily therapy exercise activities recommended by his doctor.

Site visit by staff revealed 1 other carport in the area, which did not have a permit.

During site visit, the applicant has two other structures in the back that may be encroaching into the side yard setback and rear yard setback. Applicant stated he would be removing those structures.

Applicant does have a consent to encroachment letter by AEP, which the court recorded on January 04, 2023.

There is no garage in the property.

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

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

Measurements provided are without benefit of a survey.

At the last meeting on September 7th the applicant was given an opportunity to cut it back to make it at least the minimum 400 square feet requirement for a carport.

Applicant mentioned he received quotes on removing portion of the carport and it would be more costly for him to cut it back, therefore no proposal was made.

Staff was recommending disapproval for the Special Exception request due to exceeding the 400 square feet max for a carport stated in ordinance 138-371(g) and not being characteristic to the neighborhood.

Chairperson Gutierrez asked if the applicant was present. Ms. Moreno stated no he was not present.

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

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

Following discussion, Mr. Hiram Gutierrez **moved** to disapprove the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to disapprove the special exception with five members present and voting.

- e) Request of Carlos Alarcon on behalf of James Weaver for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet East side yard setback for a carport measuring 15 feet by 35 feet at Rancho de La Fruta No. 1 Lot E 142.5' of W 285' of N 184.22' of 11, Hidalgo County, Texas; 108 East Fresno Avenue. **(ZBA2023-0081) (TABLED: 09/07/2023)**

Mr. Hernandez stated the applicant withdraw his application after meeting with staff. He decided to modify the carport in order to comply with the 6-foot side yard setback.

- f) Request of Gerardo Castillo for a Special Exception and Variance to the City of McAllen Zoning Ordinance to: **1)** allow an encroachment of 20 feet into the 20 feet front yard setback for a proposed wooden carport measuring 16 feet by 22 feet, **2)** to allow an encroachment of 6 feet into the 6 feet rear yard setback for an existing carport measuring 12.13 feet by 20 feet, **3)** to allow an encroachment of 6 feet in the 6 feet side yard setback and 6 feet into the 6 feet rear yard setback for an existing storage shed measuring 24.2 feet by 10.2 feet and **4)** to allow an encroachment of 6

feet into the 6 feet side yard setback and 6 feet into the 6 feet rear yard setback for an existing (L) shaped shed measuring 27.4 feet by 14.1 feet and 15.4 feet and 11.3 feet at Lot 28, McColl Terrace Subdivision, No. 2. Hidalgo County, Texas; 213 East Vine Avenue. **(ZBA2023-0073) (TABLED: 09/07/2023)**

Vice-Chairperson Ann Tafel **moved** to remove the item from the table. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously with five members present and voting.

Mr. Hernandez stated since the last meeting the applicant met with staff to correct the wording of the material of the carport to being metal. Mr. Castillo also retained a list of signatures from the neighbors who were in favor of his request. Mr. Castillo was proposing to have the carport cantilevered, which was going to be supported on one post.

Board member Mujica asked staff if there were any drawings submitted for the cantilever. Mr. Hernandez stated no, just the site plan.

Vice-Chairperson Tafel asked staff if it was still going to be 20 feet into the 20-foot front setback that was not being reduced. Mr. Hernandez stated the proposed was 16 feet by 20-foot front yard setback. Vice-Chairperson Tafel asked about special exception #2, the rear yard setback. Mr. Hernandez stated that nothing had changed. Variance requests #3 and #4 remain the same, no changes.

Mr. Gerardo Castillo, the applicant stated he changed the wording from the wooden carport to the metal carport. The metal carport would be in compliance. Being a cantilever, it would not have any poles on one side. He stated that 95% of the vehicles hang over the sidewalks. The driveways were small. Mr. Castillo mentioned about the structures in the back that had been there for 25 years and no one came out to cite the previous owner. Chairperson Gutierrez stated to the applicant that if at any time he decided to sell the home the next owner could change the use of the structure because the variance goes with the land.

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

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exceptions/variance requests. There was no one in opposition of the special exceptions/variance requests.

The Board decided to vote on each item separately.

Following discussion, Vice-Chairperson Ann Tafel **moved** to disapprove the special exception #1. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to disapprove special exception #1 with five members present and voting.

Vice-Chairperson Ann Tafel **moved** to disapprove special exception #2. Mr. Rogelio seconded the motion. The Board voted unanimously to disapprove special request #2 with five members present and voting.

Mr. Hugo Avila **moved** to disapprove variance requests #3 #4. Mr. Rogelio Rodriguez seconded the motion. The Board voted unanimously to disapprove variance requests #3 and #4 with five members present and voting.

At this time, Mr. Garcia stated the applicant for Item 2D had arrived. The item had been disapproved however, asked if the Board would be willing to bring back to discuss. The idea was for Mr. Cantu to get with staff and see if he would be willing to reduce the carport and that there was no new proposal, which was why the Board disapproved.

Mr. Jose Guadalupe Cantu, the applicant stated that his daughter had built the carport for him to do his therapies her not knowing about obtaining a building permit. He stated that if he removes the carport and relocate it would be costly. In addition, if he were to reduce it by four feet again it would be costly. Mr. Cantu mentioned that there were many others with carports almost to the sidewalk. Chairperson Gutierrez stated that his request was for the square footage of the carport being more than the 400 square footage requirement not so much the height. Mr. Cantu the only utility line that ran down the middle was AEP. He spoke with them and he had a letter that was not a problem with the utility line.

Board member Avila asked legal if a vote could be rescinded in this case so that the applicant could return with a modification. Mr. Garcia stated a motion was made to rescind to re-hear an item, and then there is a second and then the Board votes.

Following discussion, Mr. Hugo Avila **moved** to re-open item 2d for further discussion. Mr. Rogelio Rodriguez seconded the motion. The Board voted to re-open item 2D with three members voting and two members voting nay, Vice-Chairperson Ann Tafel and Chairperson Jose Gutierrez.

Mr. Hugo Avila **moved** to table the item for the applicant to have time to discuss with City staff his options. Mr. Rogelio Rodriguez seconded the motion. The Board voted to table the item. The Board voted with three members voting aye and three members voting nay, Vice-Chairperson Ann Tafel and Chairperson Jose Gutierrez.

Chairperson Gutierrez explained to Mr. Cantu the item was tabled until the next meeting without another fee.

3. FUTURE AGENDA ITEMS:

- a) 704 Heron Avenue
- b) 4301 North 28th Street
- c) 3404 Providence Avenue
- d) 4416 Sandpiper Avenue

ADJOURNMENT

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

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

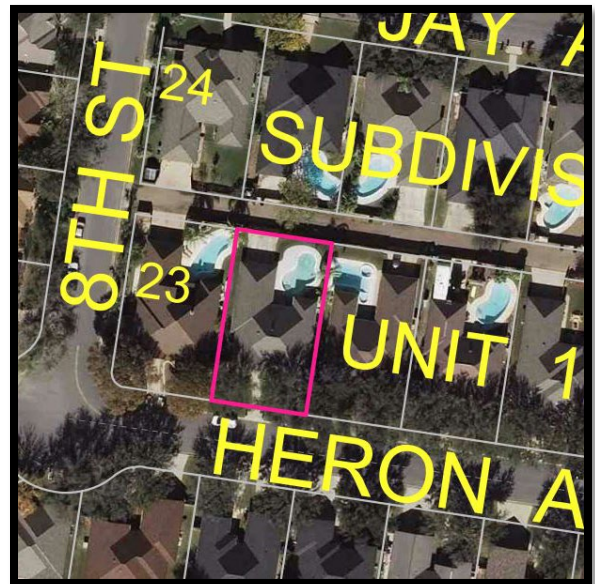
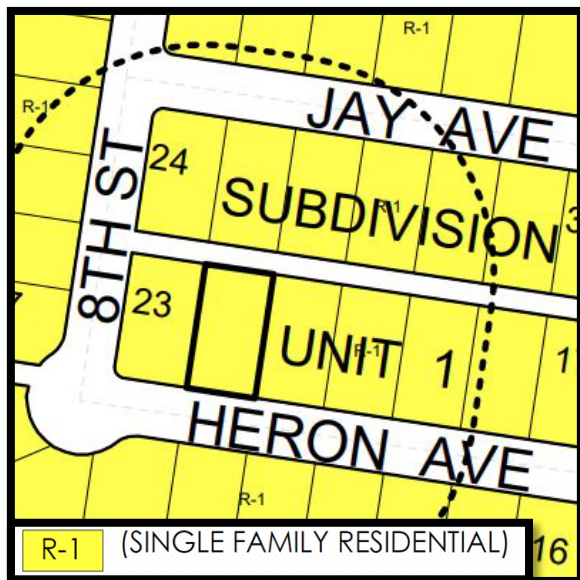
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 26, 2023

SUBJECT: REQUEST OF ARNOLD GONZALEZ JR. FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 6 FEET INTO THE 10 FOOT REAR YARD SETBACK FOR A PROPOSED CARPORT MEASURING 18.5 FEET BY 17.5 FEET AT LOT 22, SHADY OAKS SUBDIVISION UNIT 1, HIDALGO COUNTY, TEXAS; 704 HERON AVENUE. (ZBA2023-0082)

REASON FOR APPEAL: The applicant is requesting a special exception to encroach 6 feet into the 10 foot rear yard setback for a carport. The applicant stated the carport will be used to protect vehicles from extreme weather conditions.



PROPERTY LOCATION AND VICINITY: The subject property is located along the South side of Heron Avenue. The lot has a 63 feet of frontage and 114 feet of depth for a total of 7, 182 square feet. The property is zoned R-1 (single family residential) District. There is R-1 districts in all directions.

BACKGROUND AND HISTORY: Shady Oaks Subdivison was recorded on May 8th, 1990. The plat shows a ten feet rear yard setback. On August 16, 2023 a building permit was submitted. On August 16, 2023 a special exception application was submitted for a proposed carport in the rear.

ANALYSIS: The applicant is requesting a special exception to encroach six feet into the ten foot rear yard setback for a carport for weather elements.

A review of Planning Department revealed five other carports that did not have permits, only one

Special exception was granted within the subdivision.

There are no utility easements located in the rear area of the property. Relocation is not feasible.

The property has a two car garage which she uses for her vehicles. Family is extending and would allow for her other vehicles to have sun protection as well.

At the Zoning Board of Adjustments meeting of December 21, 2022 the board approved a special exception to allow an encroachment of ten feet into the ten foot rear yard setback for an existing carport measuring 19.5 by 17 at lot 7, Shady Oaks Unit 1 Subdivision.

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

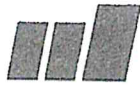
Staff has not received any phone calls, emails, or letters in opposition to the special exception request.

Measurements are provided without the benefit of a survey.

RECOMMENDATION: Staff is recommending approval of the request since it is characteristic to the neighborhood and relocation is not feasible.

ZBA 2023-0082

ZBA 10/4/23



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot 22, Shady Oaks Subdivision Unit 1

Subdivision Name Shady Oaks Subdivision Unit 1

Street Address 704 Heron Ave.

Number of lots 1 Gross acres _____

Existing Zoning _____ Existing Land Use Residential

Reason for Appeal (please use other side if necessary) requesting an additional
16 ft. from setback "to encroach 16 ft. into the 10 ft. rear yard, as
setback for a proposed carport"

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

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

Applicant

Name Arnoldo Gonzalez Jr. Phone (956) 878-9044

Address 704 Heron Ave. E-mail ARNOLDO REV. RR.COM

City McAllen State TX Zip 78504

Owner

Name Arnoldo Gonzalez Jr. Phone (956) 878-9044

Address 704 Heron Ave. E-mail ARNOLDO REV. RR.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.

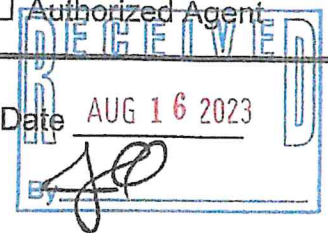
Signature Arnoldo Gonzalez Jr. Date 08/16/2023

Print Name Arnoldo Gonzalez Jr. ☒ Owner ☐ Authorized Agent

Office

Accepted by EDG Payment received by _____ Date AUG 16 2023

Rev 10/18





City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on 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:

We are asking for a two foot waiver from the 10ft. setback in order to accomodate full coverage for an average size vehicle.

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

The variance would allow us to fully protect our vehicles from extreme weather conditions, such as hail, rain, and sun exposure.

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

Because it is in our property, which is already enclosed by a fence, this proposed metal carport is not a fire hazzard and would be over our existing driveway.

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

We already use the garage to house two vehicles. The carport would allow us to cover the cars of our extended family residing with us.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date



[illegible]





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0082
CITY OF MCALLEN PLANNING DEPT.
2023-08-01
WWW.MCALLEN.NET

Memo

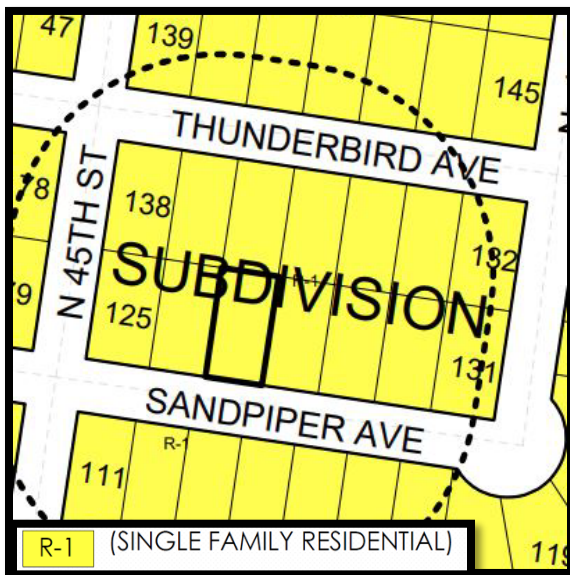
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 27, 2023

SUBJECT: REQUEST OF JESUS RUIZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 20 FEET INTO THE 25 FOOT FRONT YARD SETBACK FOR A PROPOSED CARPORT MEASURING 18 FEET BY 20 FEET AT LOT 127, PLANTATION GAP PHASE 1 SUBDIVISION, HIDALGO COUNTY, TEXAS; 4416 SANDPIPER AVENUE. (ZBA2023-0089)

REASON FOR APPEAL: The applicant is requesting a special exception to encroach 20 feet into the 25 foot front yard setback. The applicant stated he has medical conditions and the carport would help protect him and his vehicle from weather elements.



PROPERTY LOCATION AND VICINITY: The subject property is located along the South side of Sandpiper Avenue. The lot has a 53.20 feet of frontage and 102.98 feet of depth for a total of 5, 478.54 square feet. The property is zoned R-1 (single family residential) District. There is R-1 district in all directions.

BACKGROUND AND HISTORY: Plantation Gap Phase I Subdivision was recorded on December 20, 2004. The plat shows a 25 feet front yard setback. On August 17, 2022 applicant applied for a building permit. On September 7, 2023 Special Exception application was submitted for a carport.

ANALYSIS: The applicant is requesting this Special Exception to construct a carport with permission from the city.

Site visit by staff revealed seven other carport in the area, five of them did not have permits and only two of them had been approved by ZBOA.

There is a five foot utility easement in the front yard setback, applicant will be away from easement.

At the Zoning Board of Adjustments meeting on January 15, 2020 the board approved an encroachment of 25 feet into the 25 foot front yard setback for a carport measuring 25 by 20 at lot 131, Plantation Gap Phase 1.

At the Zoning Board of Adjustments meeting on May 4, 2022 the board approved an encroachment of 12 feet into the 25 foot front yard setback for a carport measuring 17 by 24 at lot 112, Plantation Gap Phase 1.

The applicant has a two car garage but the use is unknown at this time. I was not able to make contact with the applicant.

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

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

Measurements provided are without benefit of a survey.

RECOMMENDATION: Staff recommends approval of the request since there have been Special Exceptions previously approved in the subdivision. Approval should be limited to the encroachment shown on the submitted site plan.

ZBDA - Oct 4

ZBA 2023-0089



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALEN ZONING ORDINANCE

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

Project	Legal Description <u>Plantation Gap PH 120T 127</u> <u>PLANTATION GAP PH 1, Lot 127</u>
	Subdivision Name _____ Street Address <u>446 Sandpiper Ave McAllen TX 78504</u> Number of lots <u>127</u> Gross acres _____ Existing Zoning <u>R1</u> Existing Land Use <u>Residence</u> Reason for Appeal (please use other side if necessary) <u>To Allow encroaching of 20ft into the 25-ft front yard Setback for a wooden Carport.</u> <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
Applicant	Name <u>Jesus Ruiz</u> Phone <u>(956) 379 4907</u> Address <u>446 Sandpiper Ave McAllen TX</u> E-mail <u>Jesus Ruiz 2727@gmail.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
Owner	Name <u>Jesus Ruiz</u> Phone <u>(956) 379 4907</u> Address <u>446 Sandpiper Ave</u> E-mail <u>Jesus Ruiz 2727@gmail.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>Jesus Ruiz</u> Date <u>07/9/23</u> Print Name <u>Jesus Ruiz</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
Office	Accepted by <u>PSH</u> Payment received by _____ Date _____ Rev 09/20 <div style="border: 2px solid blue; padding: 5px; display: inline-block;"> RECEIVED SEP 07 2023 By <u>AK</u> </div>



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:

Medical Conditions. Core Protection

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

*To obtain Permission for a recorder
@ airport 18x20*

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:

*Causes no obstruction to neighbors.
Airport will be inside my property.*

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

*Medical Conditions (wife) Core Protection
from weather*

Reason for Appeal

Board Action

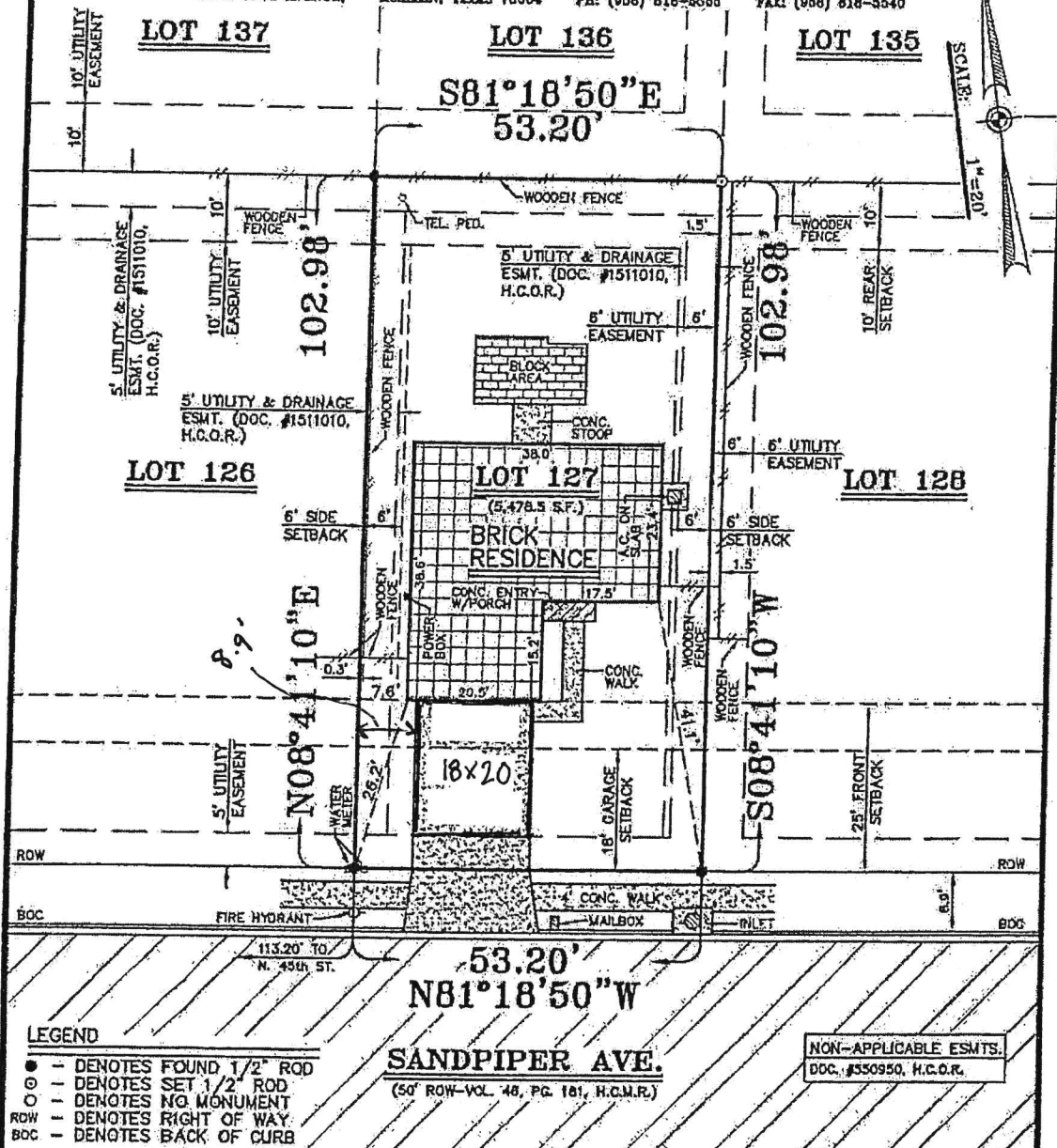
Chairman, Board of Adjustment
Signature

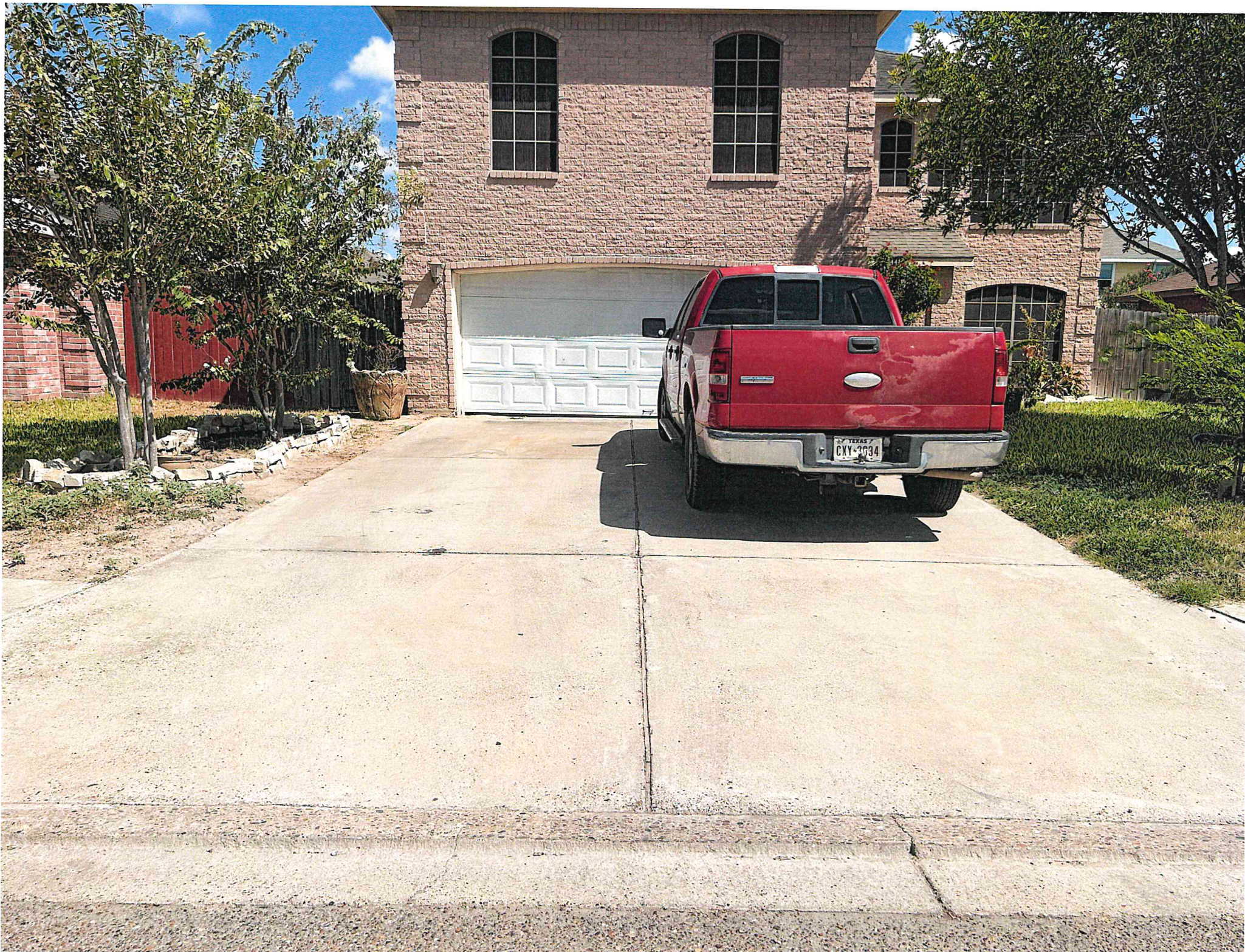
Date

ART SALINAS

ENGINEERING & SURVEYING

1524 DOVE AVENUE, McALLEN, TEXAS 78504 PH: (956) 816-5585 FAX: (956) 816-5540







NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0089

Memo

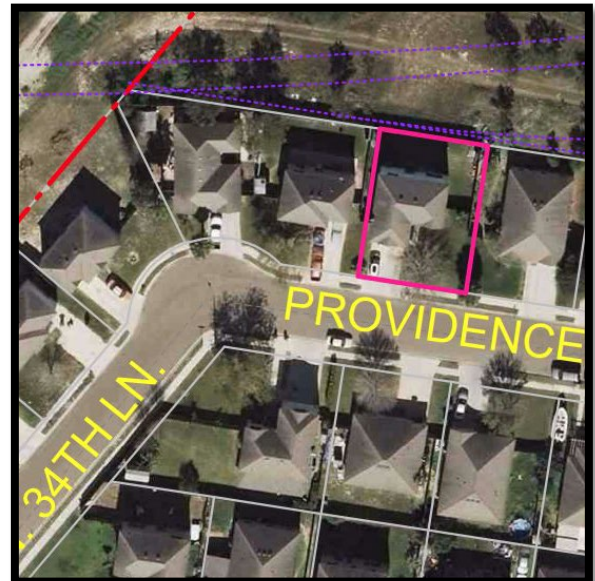
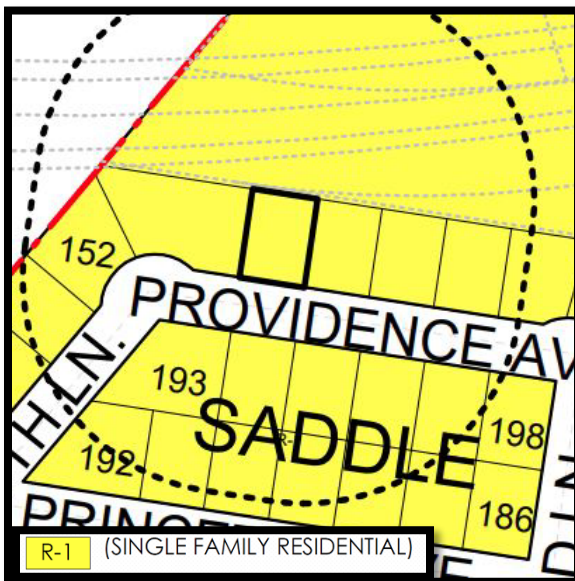
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 26, 2023

SUBJECT: REQUEST OF MICHAEL PEREZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 25 FOOT FRONT YARD SETBACK FOR AN EXISTING CARPORT MEASURING 15 FEET BY 19 FEET AT LOT 149, SADDLE CREEK UNIT 2, HIDALGO COUNTY, TEXAS; 3404 PROVIDENCE AVENUE (ZBA2023-0088)

REASON FOR APPEAL: The applicant is requesting a special exception in order to allow an encroachment of 15 feet into the 25 foot front yard setback for an existing carport measuring 15 feet by 19 feet. The applicant stated the carport is to protect her vehicles from inclement weather events. The owner was unaware about not being able to construct in setbacks.



PROPERTY LOCATION AND VICINITY: The subject property is located along the North side of Providence Avenue. The lot has a square footage of 5,035 sqft. The property is zoned R-1 (single family residential) District. There is R-1 in all directions.

BACKGROUND AND HISTORY: Saddle Creek was recorded on February 10, 2003. The plat shows a 25 feet front yard setback. A stop work order was issued for non compliance by the building department on September 16, 2022. An application for a building permit was submitted September 29, 2022. An application for the special exception request was submitted on November 7, 2022. On December 21, 2022 the board disapproved the request. On August 30, 2023 the applicant applied for a second try for the special exception with a proposal submitted.

ANALYSIS: Approval of the special exception request would allow the applicant to keep the carport after cutting it back four feet from setback making the carport measuring 19 by 20.

After legal notices had been sent out, applicant came by the office and corrected the site plan resulting in the being encroaching 20 feet into the 25 foot front yard setback measuring 19 feet by 20 feet.

At the Zoning Board of Adjustment meeting on December 21, 2022 the board disapproved the applicants request of an encroachment of 25 feet into the 25 foot front yard setback for an existing carport measuring 19 by 20 located on saddle creek unit 2, lot 149.

At the Zoning Board of Adjustments on November 15, 2017, the board voted to approve a request of encroaching 6.67 feet into the 10 foot side yard setback measuring 18 by 28 feet for an existing carport located on Saddle Creek Unit 2, lot 178

Site visit by staff revealed four other carport in the area which did not have permits. Staff revealed only one carport that was approved back in 2017.

There is an existing two car garage that is used to park one vehicle leaving the rest of the applicants vehicles in the driveway.

There is no alley at the rear of the property that would allow for relocation of the carport.

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

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

Measurements provided are without benefit of a survey.

RECOMMENDATION: Staff recommends approval of the request since there have been special exceptions previously approved in the subdivision. Approval should be limited to the encroachment shown on the submitted site plan.

ZBA 2023-0088



City of McAllen

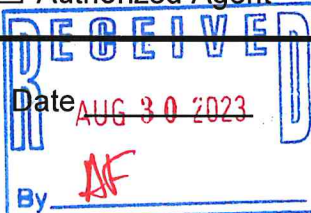
Planning Department

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 10/4/23

Project	<p>Legal Description <u>Saddle Creek ut 2 Lot 149</u></p> <p>Subdivision Name <u>Saddle Creek</u></p> <p>Street Address <u>3404 providence ave Mcallen TX 78504</u></p> <p>Number of lots _____ Gross acres _____</p> <p>Existing Zoning <u>R1</u> Existing Land Use <u>Residential</u></p> <p>Reason for Appeal (please use other side if necessary) <u>Existing Carport</u> <u>encroaching 25 feet into 25 feet.</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
Applicant	<p>Name <u>Michael Perez</u> Phone <u>329-4322</u></p> <p>Address <u>3404 providence ave</u> E-mail <u>2micchi@gmail.com</u></p> <p>City <u>Mcallen</u> State <u>TX</u> Zip <u>78504</u></p>
Owner	<p>Name <u>Michael Perez</u> Phone <u>329-4322</u></p> <p>Address <u>3404 providence ave</u> E-mail <u>2micchi@gmail.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 type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.</p> <p>Signature <u>[Signature]</u> Date <u>8-30-23</u></p> <p>Print Name <u>Michael Peter</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>[Signature]</u> Payment received by _____</p> <p>Rev 09/20</p> <p style="text-align: right;">  Date <u>AUG 30 2023</u> By <u>AF</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:

I need my carport for my vehicles protection
my son already 2 already w/ Sundamage; Hail and
use my garage for storage.

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

I am using it to protect vehicles from
further Sundamage and other weather conditions.

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:

My carport is within my property lines
Neighbors are OK with it not affecting no one
or crossing any property lines

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

I have multiple vehicles my kids drive.
to school I use my garage for my storage of
my stuff.

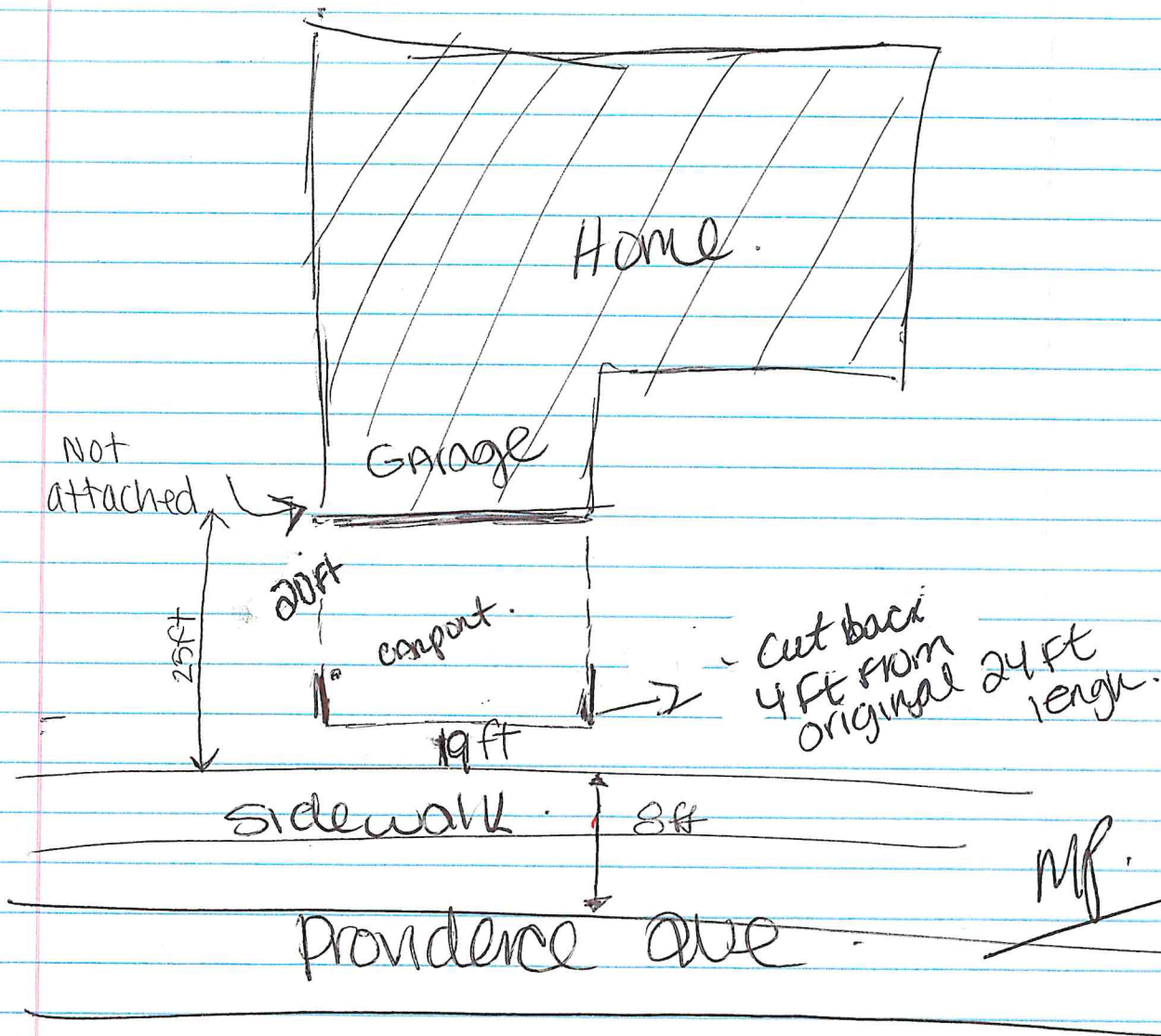
Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

3404 prudence ave.
McAllen TX 78504.



8/30/2023

I will be cutting ARport
4 feet back. So it will measure. 20x19.

A handwritten signature in dark ink, consisting of a stylized 'A' followed by a horizontal line and a large, sweeping flourish.







NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA 2023-0088

3402

Memo

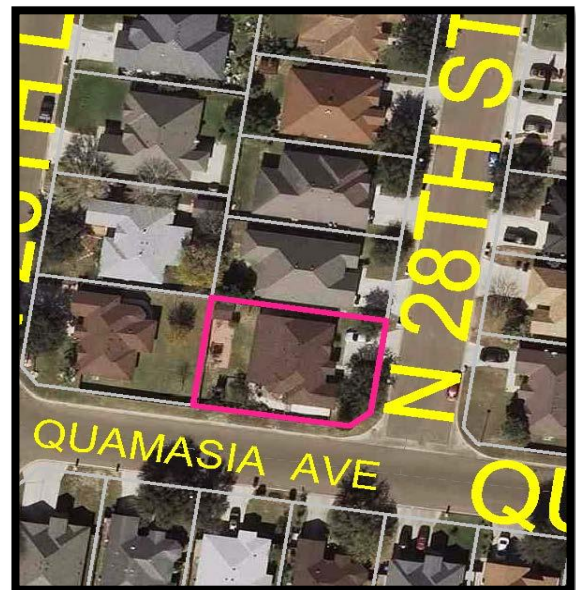
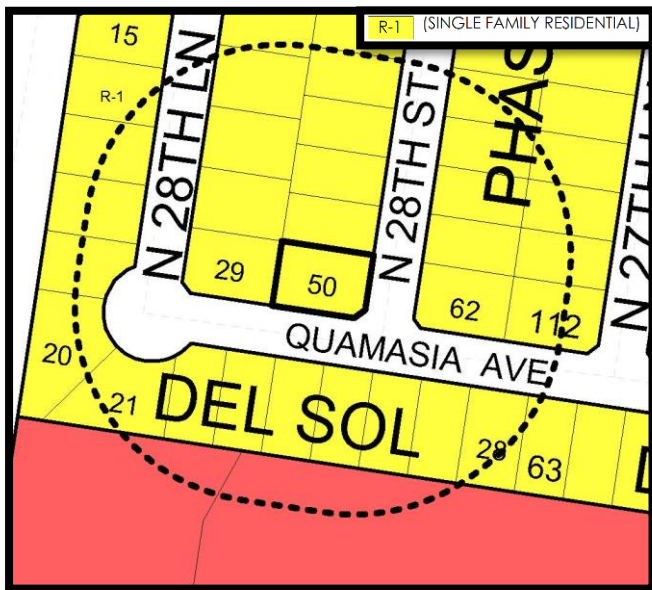
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 20, 2023

SUBJECT: REQUEST OF NORMA ROBLEDO FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 20 FOOT FRONT YARD SETBACK FOR A PROPOSED CARPORT MEASURING 20 FEET BY 20 FEET AT LOT 50, DEL SOL PHASE I SUBDIVISION, HIDALGO COUNTY, TEXAS; 4301 NORTH 28TH STREET. (ZBA2023-0086)

REASON FOR APPEAL: The applicant is requesting a Special Exception to encroach 15 feet into the 20 feet front yard setback for a proposed carport measuring 20 feet by 20 feet for protection from the sun, hail and severe heat for her vehicles and family as they go in and out of the house.



PROPERTY LOCATION AND VICINITY: The subject property is located along the West side of North 28th Street intersecting with Quamasia Avenue. The lot has 66.25 feet of frontage and 94.00 feet of depth for a total of 6,228 square feet. The property is zoned R-1 (single family residential) District. The surrounding zones include R-1(single-family residential) all around.

BACKGROUND AND HISTORY: Del Sol Phase I subdivision was recorded on November 6, 1998. The plat shows a 20 foot front yard setback for the subdivision. The house was built in 1999 without a garage. On August 18, 2023, the applicant applied for a Special Exception to encroach 15 feet into the 20 feet front yard setback.

ANALYSIS: The applicant is requesting Special Exception to allow an encroachment of 15 feet into the

20 foot front yard setback for a proposed carport measuring 20 feet by 20 feet for protection from the sun, hail and severe heat for her vehicles and family as they go in and out of the house.

Site visit by staff revealed 4 other carports in the area in which were built without a permit.

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

Measurements provided are without benefit of a survey.

RECOMMENDATION: Staff is recommending disapproval of the special exception due to being non characteristic of the neighborhood.

ZBOA
9/20/23



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA 1013-0086

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 50 Vol. 33 pg 173 Phase 1

Hidalgo County Del Sol PH1 Lot 50

Subdivision Name

Del Sol

Street Address

4301 N. 28th Street

Number of lots

1

Gross acres

Existing Zoning

~~R-1~~ R-1

Existing Land Use

R-1

Reason for Appeal (please use other side if necessary)

Proposed Carport

increasing 15 ft into the 20 ft. Front yard set back

☒ \$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 Norma Robledo

Phone 956-225-4048

Address 4301 N. 28th St

E-mail norma.lean0829@gmail

City McAllen

State TX

Zip 78504

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 Norma Robledo

Date 8/18/23

Print Name Norma Robledo

☒ Owner

☐ Authorized Agent

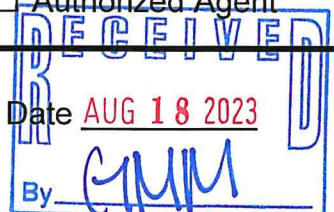
Office

Accepted by

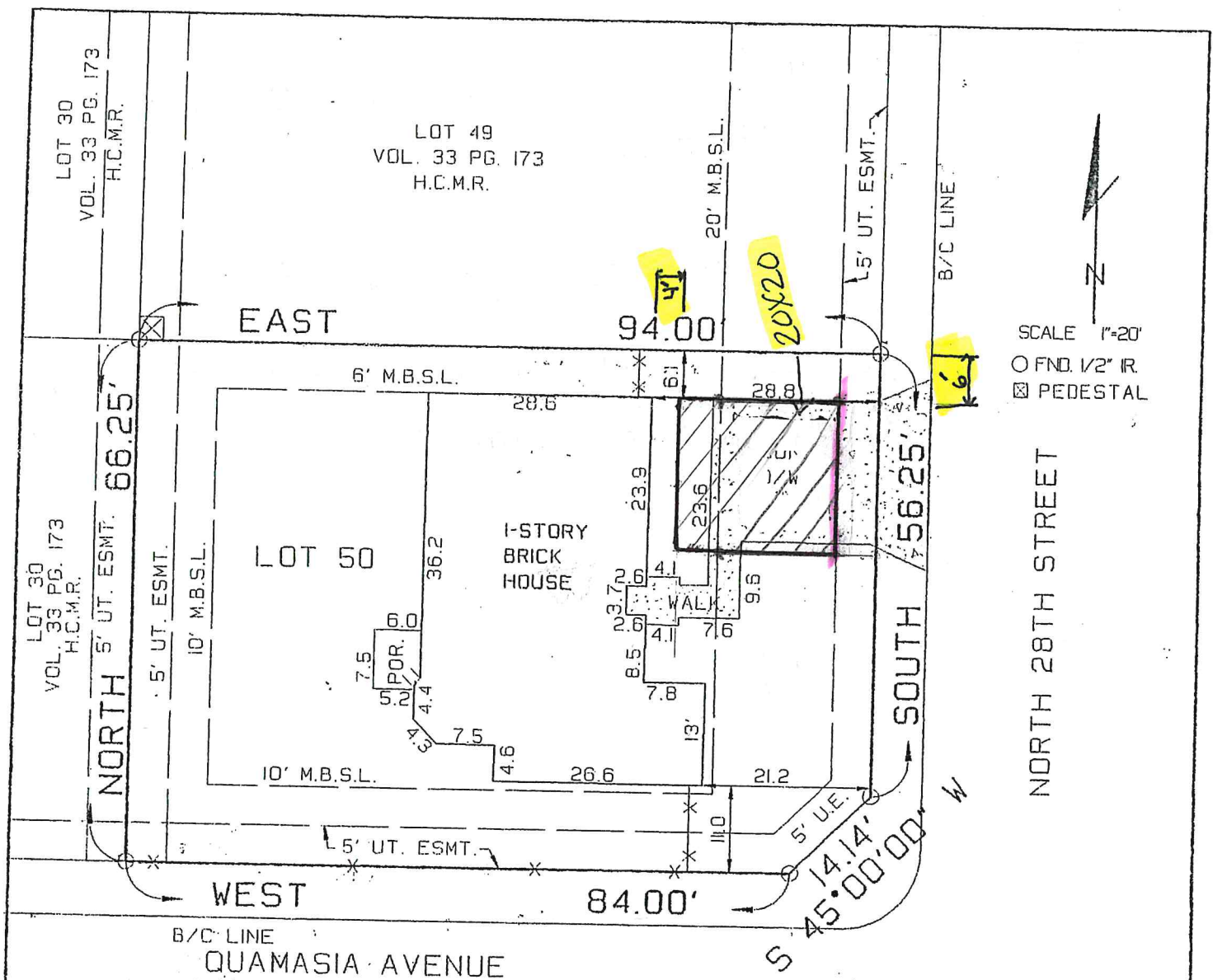
Payment received by

Date AUG 18 2023

Rev 09/20







PREPARED FOR: JESUS ROBLEDO AND NORMA A. ROBLEDO *Norma Robledo 9/12/23*

THIS IS TO CERTIFY THAT I HAVE ON THIS DATE MADE A STANDARD LAND SURVEY ON THE GROUND UNDER MY SUPERVISION OF PROPERTY WHICH IS LOCATED AT 4301 NORTH 28TH STREET, IN MCALLEN, HIDALGO COUNTY, TEXAS, DESCRIBED AS FOLLOWS: ALL OF LOT 50, DEL SOL PHASE I SUBDIVISION, AN ADDITION TO THE CITY OF MCALLEN, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 33, PAGE 173, MAP RECORDS OF HIDALGO COUNTY, TEXAS.



NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0086

★ 4301 ★

I am JOSE G. CANTO

Am withdrawing my application due
to comply with city setbacks
will be cutting carport on the side yard

Jose Canto

9-28-23

Memo

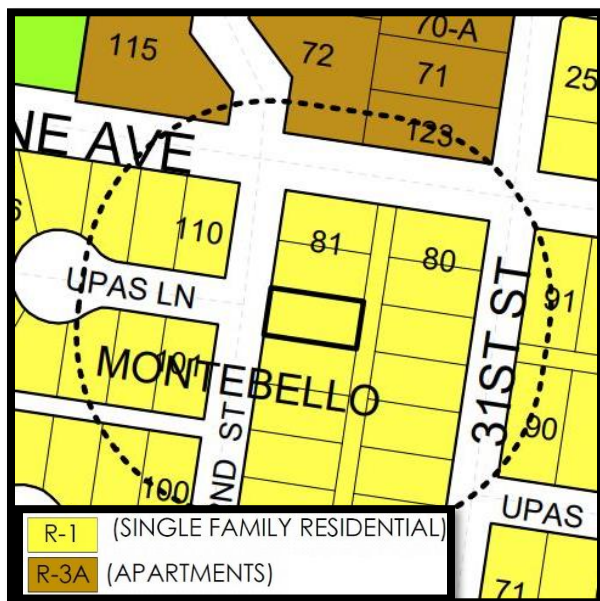
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 27, 2023

SUBJECT: REQUEST OF ALMA BERAZA FOR A SPECIAL EXCEPTION AND VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO 1.) ALLOW AN ENCROACHMENT OF 4 FEET INTO THE 6 FEET SIDE YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 19 FEET BY 21.6 FEET AND 2.) TO ALLOW AN ENCROACHMENT OF 3.2 FEET INTO THE 10 FEET REAR YARD SETBACK FOR AN EXISTING PATIO MEASURING 25 FEET BY 25 FEET AND 3.) TO ALLOW AN ENCROACHMENT OF 5 FEET INTO THE 6 FEET SIDE YARD SETBACK FOR A STORAGE MEASURING 10 FEET BY 7 FEET AT LOT 83, MONTEBELLO UNIT NO. 3, HIDALGO COUNTY, TEXAS; 2108 NORTH 32ND STREET. (ZBA2023-0085) (TABLED 09/20/2023)

REASON FOR APPEAL: The applicant is requesting the special exception and variance for encroachments into the side yard and rear yard setback for an existing metal carport, patio and storage. The applicant stated the carport is for vehicle protection and the patio for gatherings.



PROPERTY LOCATION AND VICINITY: The subject property is located along the East side of 32nd Street. The lot has 51 feet of frontage and 100 feet of depth for a total of 5,100 square feet. The property is zoned R-1 (single family residential) District. There is R-1 and R-3A (Apartments) District in all directions.

BACKGROUND AND HISTORY: Montebello No.3 Subdivision was recorded on October 20,1981. The plat shows a ten feet rear yard setback and a six feet side yard setback for the subdivision. On

July 28, 2023 a non-compliance order was issued. On August 02, 2023 the applicant applied for a building permit. On August 18, 2023 the applicant applied for a special exception.

ANALYSIS: The applicant is requesting to keep the requests for a more comfortable experience. The applicant stated that it is nice to arrive home on a rainy day and be able to get out of vehicle without getting wet.

Applicant does have a one car garage in the property, but vehicle is too large to fit, so she uses it as storage.

During site visit staff revealed other structures in the rear that are encroaching into the rear yard and side yard setback. Applicant was willing to add those encroachments into this application (storage and patio).

Applicant stated that the storage would be removed at a later time.

Site visit by staff revealed ten other encroachments, which did not have permits.

Measurements provided are without benefit of a survey.

Staff did receive one letter in support of the request.

MEETING OF SEPTEMBER 20: At the last meeting on September 20th, the item was tabled by the board and applicant was given an opportunity to discuss with staff some options.

For the special exception (carport) the applicant was willing to cut back four feet from the side to comply with the city setbacks, therefore no special exception process would be required.

For the variance request (storage) the applicant will be demolishing, therefore no variance for the storage will be required.

For the variance request (patio) applicant is willing to proceed with the request due to being more difficult to cut back. The patio in the rear is only encroaching three feet two inches into the ten feet rear yard setback.

RECOMMENDATION: Staff is recommending disapproval of the variance request due to the structure being enclosed at a later time.

ZBA: 9/20/23

ZBA7073-0085



City of McAllen

Planning Department

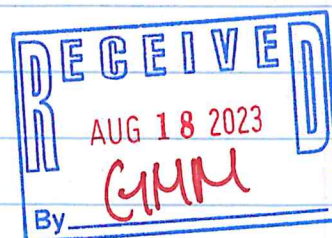
311 North 15th Street
McAllen, TX 78501
P. O. Box 220
McAllen, TX 78505-0220
(956) 681-1250
(956) 681-1279 (fax)

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project	<p>Legal Description <u>Montebello UT No. 3 Lot 83</u></p> <p>Subdivision Name <u>Montebello UT No 3 Lot 83</u></p> <p>Street Address <u>2108 N. 32nd St</u></p> <p>Number of lots <u>1</u> Gross acres <u>0</u></p> <p>Existing Zoning <u>RD-1</u> Existing Land Use <u>RD-1</u></p> <p>Reason for Appeal (please use other side if necessary) <u>Carport is in croaching</u> <u>4 ft into 6 ft - add back patio is in croaching 3.2 into 10 ft</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required <u>Storage building inside 5 ft into 6</u> <u>Side</u></p>
	<p>Name <u>Alma BERAZA</u> Phone <u>956-789-8816</u></p> <p>Address <u>2108 N. 32nd St</u> E-mail <u>almaberaza@yahoo.com</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u></p>
Owner	<p>Name <u>Alma D. & Juan M BERAZA</u> Phone <u>956-789-8816</u></p> <p>Address <u>2108 N. 32nd St</u> E-mail <u>almaberaza@yahoo.com</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78501</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 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>Alma Beraza</u> Date <u>8/18/23</u></p> <p>Print Name <u>Alma Beraza</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>[Signature]</u> Payment received by _____ Date <u>AUG 18 2023</u></p> <p>Rev 10/18</p> <p>By <u>GMM</u></p>

Carport - ALMA BERAZA - 2108 N. 32nd St

- ① Avoiding sun damage -
- ② A more comfortable experience. The car gets brutally warm. It's nice to get home on a rainy day and be able to get out of the vehicle without getting soaked.
- ③ ~~Protect~~ Protects car in hail storms
- ④ The carport is used to work on projects, make bbg, ~~fix~~ work on my daughter's car.
- ⑤ I have ~~serve~~ ^{severe} arthritis on right knee. Doctor says I will need a knee replacement in the near future.





Alma BERAZA

2108 N 32nd St

① Front Metal carport

I'm willing to cut carport four feet to be in compliance with side setback. We are getting quote on how much it will cost. We will be needing 8 month due to other financial reason.

② Storage on back

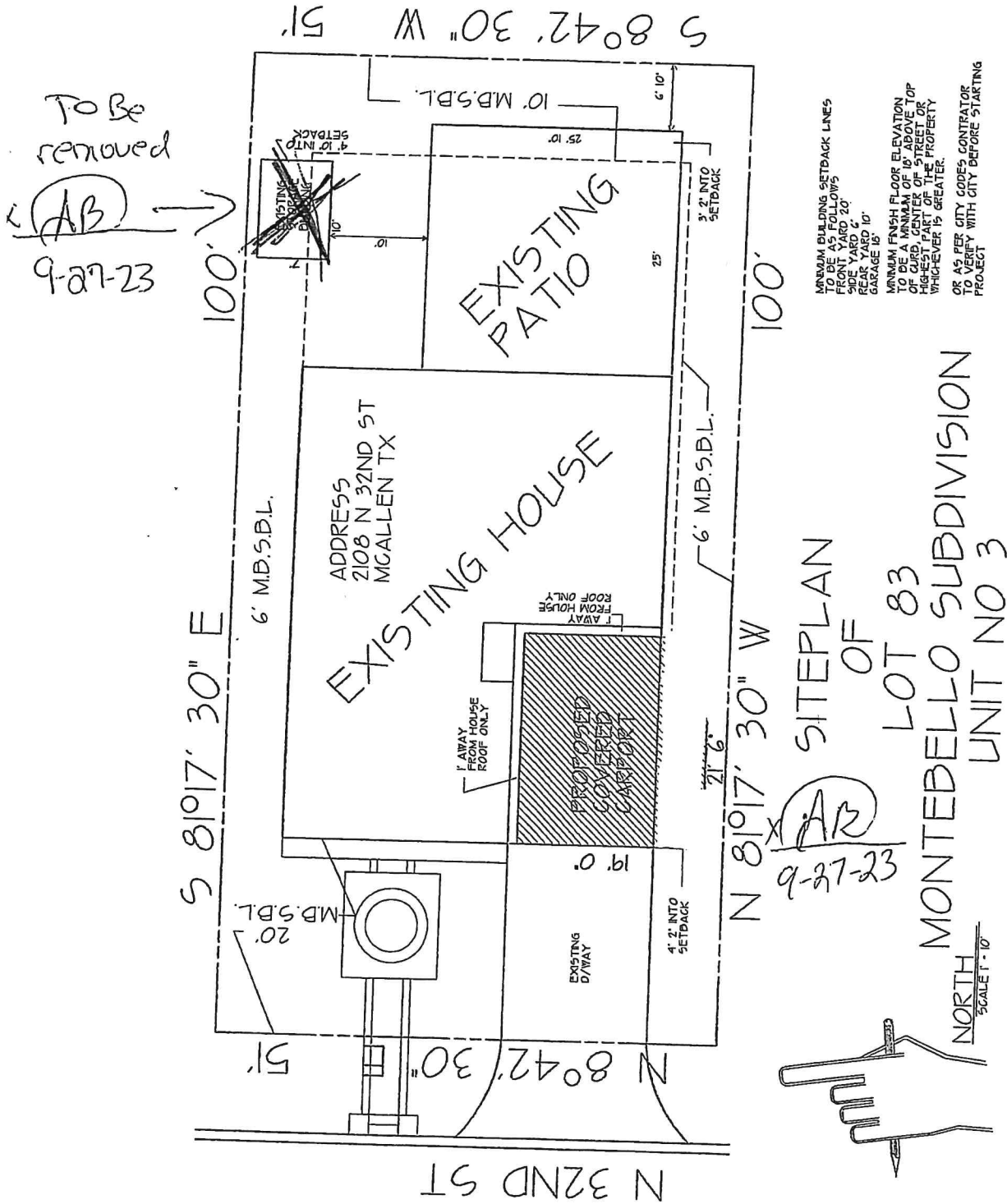
We will be removing storage. Again will be needing around 8 month due to financial reason.

③ Back patio

We will resolve the back patio after the carport and storage have been fixed.

Alma Beraza
9/22/2023

Rev. .
9-27-23







NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0085

2023 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

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

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION







PLANNING DEPARTMENT

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



2023 CALENDAR

Meetings:

-  City Commission
-  Planning & Zoning Board
-  Public Utility Board
-  Zoning Board of Adjustment





HPC - Historic Preservation Council

Deadlines:





D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed





JANUARY 2023

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





FEBRUARY 2023

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





MARCH 2023

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





APRIL 2023

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

MAY 2023

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





JUNE 2023

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

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

2023 CALENDAR






Meetings:

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







Deadlines:

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







JULY 2023

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







AUGUST 2023

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








SEPTEMBER 2023

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





OCTOBER 2023

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

NOVEMBER 2023

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

DECEMBER 2023

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