

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, OCTOBER 6, 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 September 15, 2021

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)**
- b) Requests of Rosemary 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)**
- 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)**
- 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)**
- 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)**

- 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)

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:

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, September 15, 2021 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	Erick Diaz	Chairperson
	John Millin	Vice-Chairperson
	Jose Gutierrez	Member
	Ann Tafel	Alternate
	Hugo Avila	Alternate
	Rebecca Millan	Alternate
Absent:	Sylvia Hinojosa	Member
	Juan F. Jimenez	Member
	Rogelio Rodriguez	Alternate
Staff Present:	Austin Stevenson	Assistant City Attorney
	Edgar Garcia	Planning Director
	Rod Sanchez	Senior Planner
	Katia Sanchez	Planner I
	Carmen White	Secretary

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a)** Minutes for the meeting held on September 1, 2021.

The minutes for the meeting held on September 1, 2021 were approved. The motion to approve the minutes was made by Mr. Jose Gutierrez. Vice-Chairperson John Millin seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

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)**

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

The variance request is 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 recommended 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 recommended 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 to the applicant the concern the existing metal carport currently poses which is that the existing metal carport is that the existing carport will be located all the way to the property line. Following further discussion, the Board voted to table the item to allow time for the applicant to reduce the existing encroachment for the existing metal carport located at the front of the property.

Board member Mr. Jose Gutierrez asked staff if there was any way to see if the variance request was already in the beginning of the original construction. Ms. Sanchez stated as per the Hidalgo County Appraisal District it did show a garage construction was built in 1978.

Mr. Jose Zavala, the applicant stated they had a single car garage and could not use for a vehicle because they use it as storage for household items. He built the carport to protect his vehicles from inclement weather. He stated he was not aware of the encroachment on the north side. He was going to put up a fence on that side. The existing poles were going to be used to attach the fence. There will be gutters installed on the north side. Mr. Zavala stated he did not know he needed to obtain a variance permit. He stated there were other carports along some other houses south of that block and to the other block.

Mr. Gutierrez asked the applicant where he was proposing to put the fence. Mr. Zavala stated he was going to put the fence on the north side and use those four by four posts attach was he was to put across. The fence would be four feet high. The two by fours would be attached the said beams.

Chairperson Diaz asked the applicant if staff had explained the difference between a special exception and a variance. Mr. Zavala stated staff (Mario) did explain it to him. He stated he also had a child that was handicapped and would use a wheelchair at times.

Chairperson Diaz explained one of the concerns, as a Board was where water ends up so that is not being impeding on your neighbor. Mr. Zavala stated he was getting a 12-inch gutter. Chairperson Diaz also stated the other concern was that many of these carports end up to the property line whether to the side or the front. Chairperson Diaz asked the applicant if he would be willing to cut the carport back and not be on the property line. Instead of covering four cars perhaps, cover two cars. Chairperson Diaz suggested to the applicant to table the item to give time to speak with the contractor and see how he can move the carport back two feet so not to be up to the property line.

Mr. Zavala stated he would speak with the contractor and get with staff with new measurements.

Following discussion, Vice-Chairperson John Millin **moved** to table the variance requests until the next meeting. Mr. Jose Gutierrez seconded the motion. The Board voted to table the variance requests with five members present and voting.

3. FUTURE AGENDA ITEMS:

- a) 1017 Orange Avenue
- b) 6112 North 27th Street
- c) 3601 Vendome Drive
- d) 1925 Baylor Avenue
- e) 915 South 22nd Street

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

Carmen White, Secretary

MEMO

TO: Zoning Board of Adjustment & Appeals

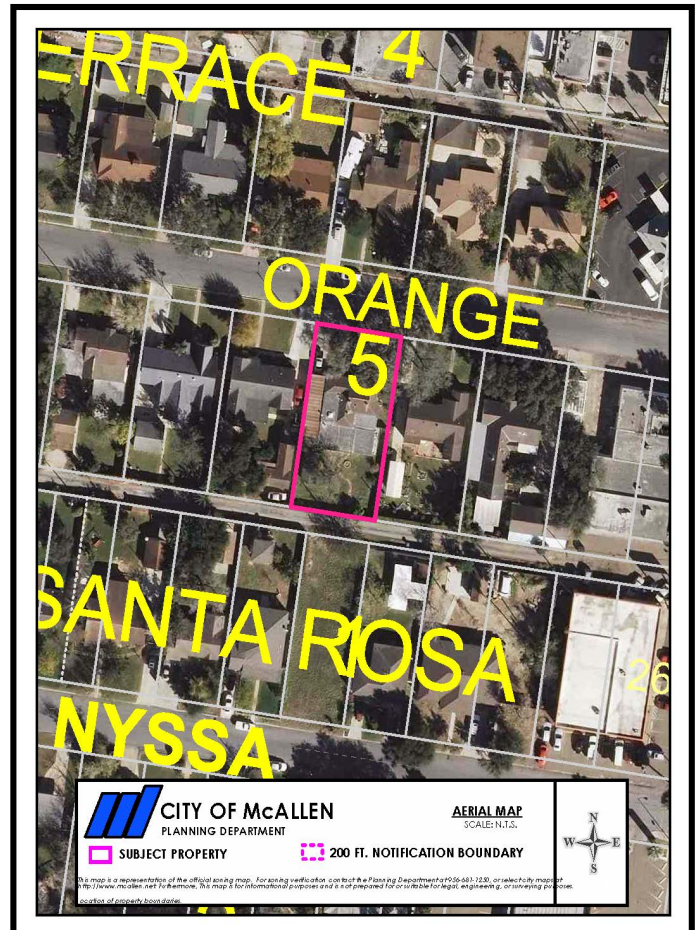
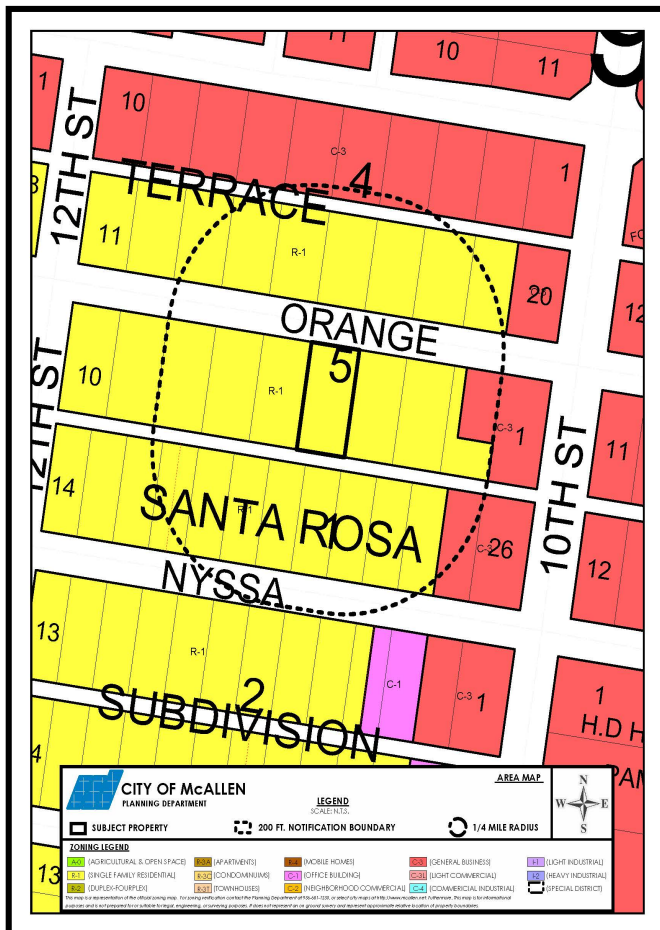
FROM: Planning Staff

DATE: September 29, 2021

SUBJECT: 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 OF AN ART STUDIO AND PORCH CANOPY, AT LOT 5, BLOCK 5, ORANGE TERRACE SUBDIVISION NO.3, HIDALGO COUNTY, TEXAS; 1017 ORANGE AVENUE. (ZBA2021-0041)

REASON FOR APPEAL:

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.



PROPERTY LOCATION AND VICINITY:

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.

BACKGROUND AND HISTORY:

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.

ANALYSIS:

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 roof line 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 has not received any calls in opposition.

RECOMMENDATION:

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

ZBA2021-0041



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)

ZBA09
10/6/21

Project

Legal Description ORANGE TERRACE #3 Lot 5 Block 5

Subdivision Name _____

Street Address 1017 ORANGE AVE. MC ALLEN, TX 78501

Number of lots 1 Gross acres _____

Existing Zoning R1 Existing Land Use Single family Residence

Reason for Appeal (please use other side if necessary) Encroachment for existing art studio and 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 TERESA VALENZUELA COX Phone 512-788-3510

Address 1017 ORANGE AVE E-mail TEVA2070@GMAIL.COM

City MC ALLEN State TX Zip 78501

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 TERESA VALENZUELA COX Date 8-23-2021

Print Name TERESA VALENZUELA COX ☒ Owner ☐ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date ENTERED

Rev 09/20

AUG 23 2021

Initial: DM

05/16



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:

No known restrictions. Carport was in existence prior to my purchase.

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

The space is necessary to park my vehicle and the addition ~~will~~ to be used as art space, ~~also~~

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:

This art studio has no bearing on public health. it is a creative space ~~for~~ intended for personal use

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

applicant is a visual artist, the space has been created ~~to~~ as ^{an area} ~~a space~~ to develop artwork. the carport is necessary to keep my car protected and safe.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

City of McAllen
Planning Department
Attn: Mario Escamilla, Jr

23 August, 2021

Dear Mr. Escamilla, Jr.

Per our in-person conversation this afternoon, I'd like to proceed to provide you with the information you requested leading to contextualizing my application for Appeal to Zoning to the Board of Adjustment to McAllen Zoning Ordinance with record # ZBOA 2021- 0041 dated August 23, 2021.

I purchased the home locate on 1017 Orange Ave, Mc. Allen, TX 78501 at the end of May of 2021. Shortly after I moved in, I hired the services of OMS Construction, owner Lupe Sanchez, phone number: 956-358-3838, email: oms.construction@yahoo.com . Mr. Sanchez was hired to build a small art studio on an existing slab of an extended carport, with existing electric access and connected to existing plumbing.

The double carport was already built and probably for many decades, electricity already available in the space, and when constructed the bathroom, we also connected to the existing plumbing. The constructor did not complete the work, he abandoned the contract one week before completion, on July 16. On this last day, Lupe Sanchez (OMS Construction) told me that the following Wednesday, July 21st, the permit for the construction of the studio, should be available at the City of McAllen and would be available online.

On Tuesday, July 20, after not being able to search for my permit online, I went to City of McAllen to request the list of all permits pulled for my property, and I was told I should send a request by email. That afternoon, I sent an email as requested to ask for the documentation showing the permits OMS construction had allegedly pulled for the construction of my art studio. A few days later, I received an email stating that a response should be received in about 10 days, so I waited. Over three weeks passed, and I had to travel to Dallas to bring my youngest son to his college dorm.

As I came back, on August 15th, I found a neon green sticker on my house door which indicated non-compliance for the construction of my studio. At this point, I had yet to receive proper response from my request to City of McAllen made on July 20. On August 17, I called the number indicated on the green tag and spoke to Ms. Cristina Ruiz, who suggested to visit City of McAllen to apply for the permit OMS construction never pulled. At this time, I was informed Lupe Sanchez from OMS Construction, never requested the permit, and thus, his lack of compliance was transferred to me.

I drove to City of McAllen and proceeded to speak with Ms. Ruiz and initiated the process of requesting the building permit for my art studio. Ms. Ruiz mentioned that the process would take approximately 5 days to be completed. On Friday, August 20, I received a call from Mr. Mario Escamilla asking some additional information about the construction of my art studio, and the property line. I responded to Mr. Escamilla that I did not have a survey on hand, but my understanding was that no encroachment took place at all, as the carport already existed and probably for a long time.

RECEIVED
AUG 24 2021

BY: 

I welcomed Mr. Escamilla to come to my property and verify what I was telling him was correct. He said he would try to come by in the afternoon, but he did not. On Monday, August 23, I received a second call from Mr. Escamilla, indicating that I needed to initiate an application called "Appeal to Adjustment of Zoning" to request the Zoning Board for an exception to the zoning requirements which, according to the regulations for my neighborhood, was 5 feet on the side where the construction was raised. I shared with him again that the carport was already in existence, so all we had done, was to raise one wall inside my property line. Electricity already existed in that space, and the small bathroom was connected to existing plumbing as well.

Mr. Escamilla provided some insight on the process of applying for this exception to the zoning ordinance and invited me to apply in person. I drove to City of McAllen in the afternoon of August 23, and proceeded to apply in person as suggested. At the time, I was also handed a list of 6 citations by Mr. Robert Rodriguez II, Building Inspector, to whom I explained that I was unaware of any previous green tags or building violations by OMS Construction, but he said, the citations were passed on to me because OMS construction was no longer in the picture, as Lupe Sanchez had abandoned the contract.

I took the citation to the municipal court, and I was given a hearing on October 6, 9:00am. This is the same morning of the meeting taking place at 4:00pm by the Zoning Board of Adjustment to McAllen Zoning Ordinance. Therefore, there is no chance to get a resolution by the zoning board prior to appearing before the court, which should evidence a conflict of scheduling between the Zoning Board and the Municipal Court.

It is with conviction that I reiterate to you, that I have made every effort to bring this permit process to compliance from the moment OMS construction left the contract but found there is a serious communication break down between the process described by City of McAllen and the manner in which the process is actually conducted. Further, there is no process in place to make the constructor accountable for their responsibility, as it is him who technically should be responding for these citations, while dealing with the consequences of his negligence and wrongdoing.

I have learned since this process started, that a friend of mine, was also abandoned by Mr. Sanchez in the remodeling process of her home, having paid 100% of the work while only having 70% completion of the contracted work. This is obviously, not the first time this company acted dishonestly, thus, the need for improving the permit process with a higher layer of accountability and follow through imposed on constructors, is not only imperative, but resents a fair and equitable effort by the City to care for the wellbeing of its taxpaying citizens.

Respectfully Submitted

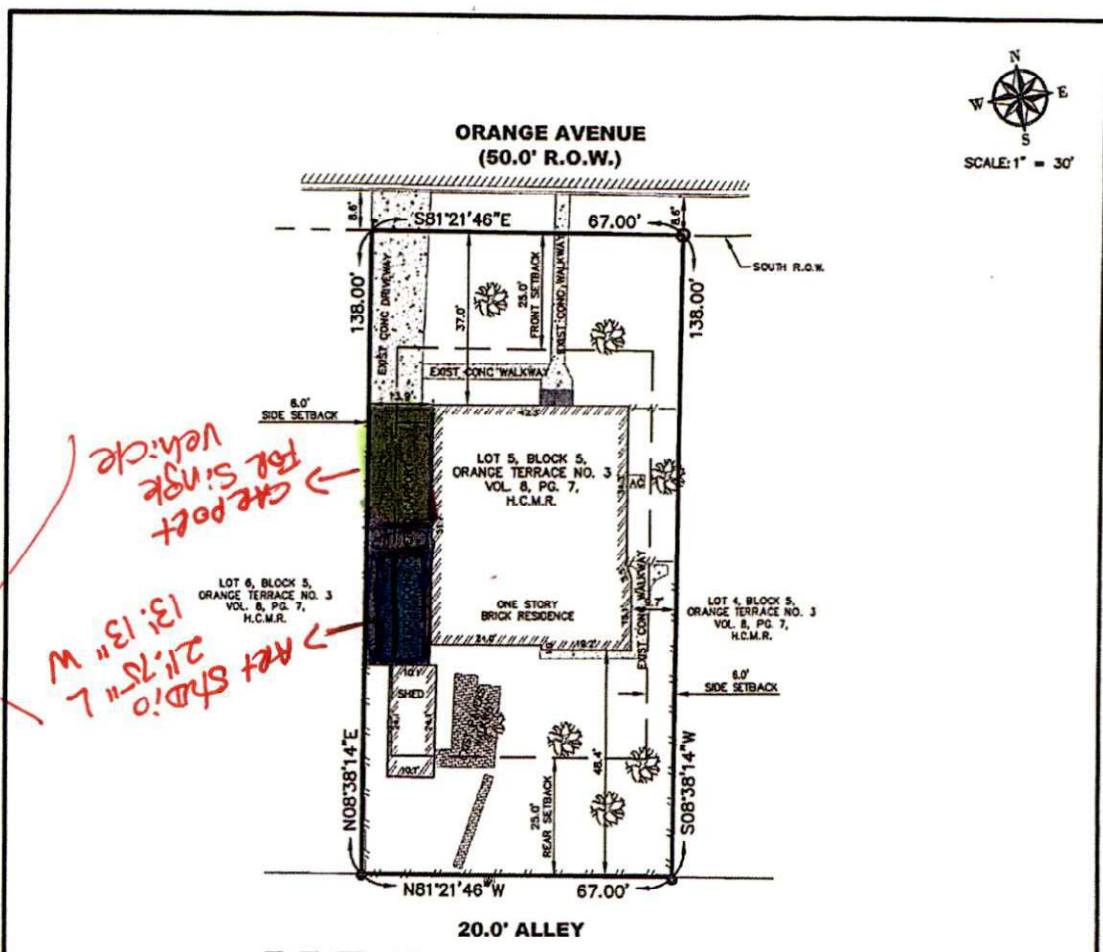


Teresa Valenzuela Cox

Homeowner

1017 Orange Avenue. McAllen, TX 78501

RECEIVED
AUG 24 2021
BY: 



GENERAL NOTES:
ADDRESS: 1017 GRANGE AVENUE, MALLEN, TEXAS, 78501
SURVEYED: JANUARY 27, 2021/REQUESTED BY:
PROPOSED BORROWER: VERY GOOD REAL ESTATE LLC
FLOOD ZONE DESIGNATION: "ZONE C" - AREAS OF MINIMAL FLOODING.
COMMUNITY-PANEL NUMBER: 4803430050
MAP REVISED: NOVEMBER 2, 1982

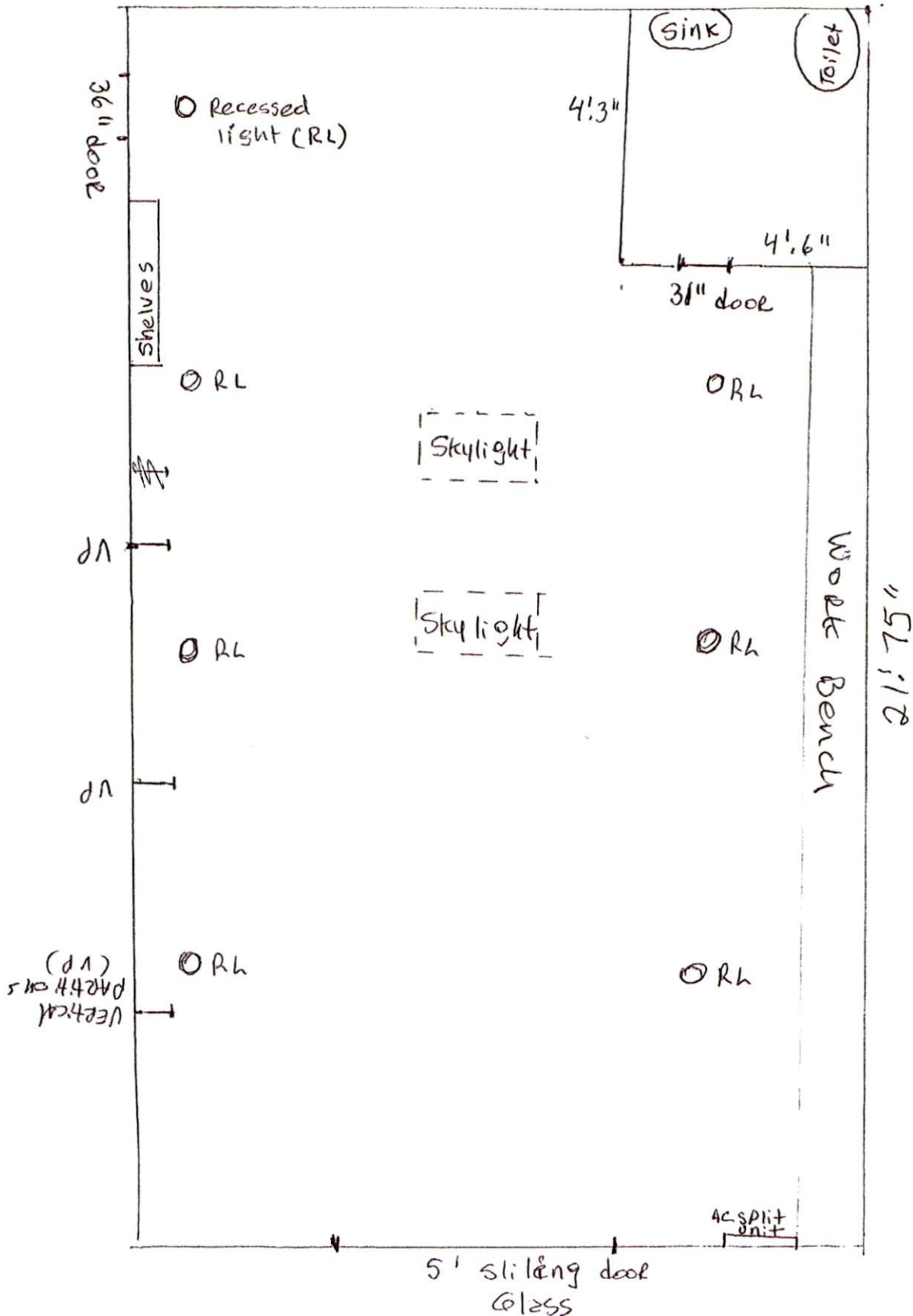
I, LEO L. RODRIGUEZ, JR., CERTIFY THAT THIS PLAT REPRESENTS THE FACTS FOUND ON THE GROUND AT THE TIME OF SURVEY AND THAT THERE ARE NO DISCREPANCIES, OMISSIONS, OR CONFLICTS, OR ENCROACHMENTS OR SHORTAGES IN AREA OR BOUNDARY LINES, OR ANY ENCROACHMENTS, OR OVERLAPPING OF IMPROVEMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN ON THIS PLAT TO SUBSURFACE UTILITIES OR SERVICE CONNECTIONS ARE SHOWN. © COPYRIGHT 2018 SAM ENGINEERING & SURVEYING. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS SOLELY FOR THE BORROWER NAMED HEREIN IN CONJUNCTION WITH THE ORIGINAL TRANSACTION WHICH SHALL TAKE PLACE WITHIN 6 MONTHS AFTER THE SURVEY WAS PROVIDED. NO LICENSE HAS BEEN CREATED OR IMPLIED COPY THIS SURVEY. SURVEY VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE.

STATE OF TEXAS
REGISTERED
LEO L. RODRIGUEZ, JR.
2448
PROFESSIONAL
LAND SURVEYOR

SAMES SAM Engineering & Surveying
200 S. 10TH STREET, SUITE 1600 TEL: (960) 702-8800
MCALLEN, TEXAS 78501 FAX: (960) 702-8883
SUNSHINE FIRM REG. No. 101416-00

SHEET 1 OF 1: SURVEY PLAT

13' 13"



1017 ORANGE AVE. McALLEN, TX 78501

ENTERED

AUG 23 2021

Initial DM







NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0041

1017

Memo

TO: Zoning Board of Adjustment & Appeals

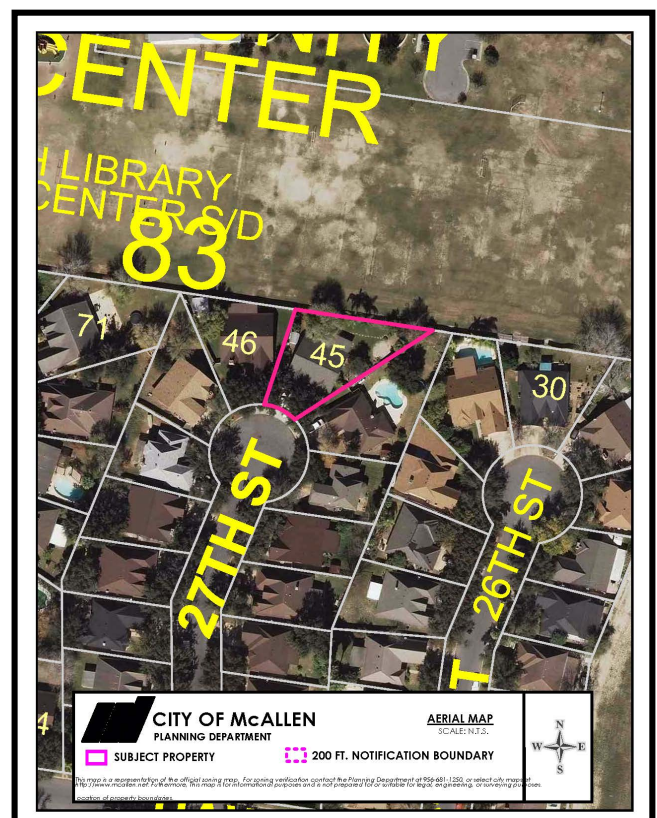
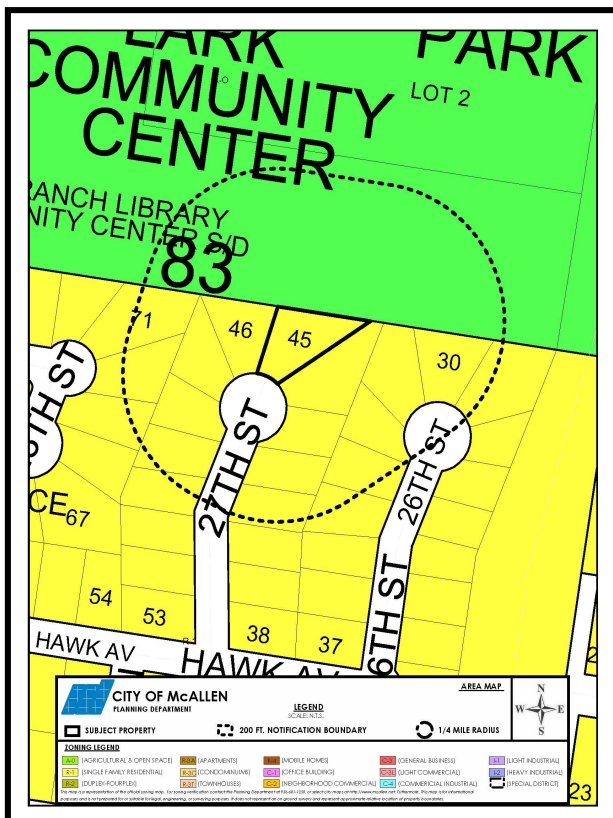
FROM: Planning Staff

DATE: September 29, 2021

SUBJECT: 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)

REASON FOR APPEAL:

Rosemaly G. Silva, is 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.



PROPERTY LOCATION AND VICINITY:

The subject property is 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 is zoned R-1 (single family residential) District. There is a single family residence on the subject property. The surrounding land use is single family residences and Lark Community Center.

BACKGROUND AND HISTORY:

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.

ANALYSIS:

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

RECOMMENDATION:

Staff recommends 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.

2BA 2021-0042

2BA
10/6/21



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 Oaks Place Lot 45

Subdivision Name Oaks Place

Street Address 10112 N. 27th St McAllen, Tx 78504

Number of lots 45 Gross acres _____

Existing Zoning R 1 Existing Land Use Residential

Reason for Appeal (please use other side if necessary) existing carport measuring 20'x20' that encroaches 20' ft into the 20' ft front yard set back and 3' ft into the left side yard setback.

☒ \$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 Rosemary G Silva Phone (956) 827-0186

Address 10112 N. 27th St E-mail Sept-1698@yahoo.com

City McAllen State TX Zip 78504

Owner

Name Jose + Rosemary Silva Phone (956) 827-0186

Address 10112 N. 27th St E-mail Sept-1698@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 Rosemary G Silva

Date 8/17/2021

Print Name Rosemary G Silva

☒ Owner

☐ Authorized Agent

Office

Accepted by [Signature]

Payment received by _____

Date 8/23/21

Rev 09/20

ENTERED
AUG 23 2021
Initial: NM

[Signature]



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.**

Reason for Appeal

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 added a carport over my driveway to help cover my cars from the oak trees damaging them from bird dropping, sap, and catkins, which have caused damage. Because my residence was built in the 80's it was not meant to house large vehicles such as SUVs, being a 2019 Ford expedition, + a 2013 Ford F-250, thus another reason for the carport.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: A carport was added to prevent any damage from the large oak trees and what is now becoming more prevalent inclement weather.

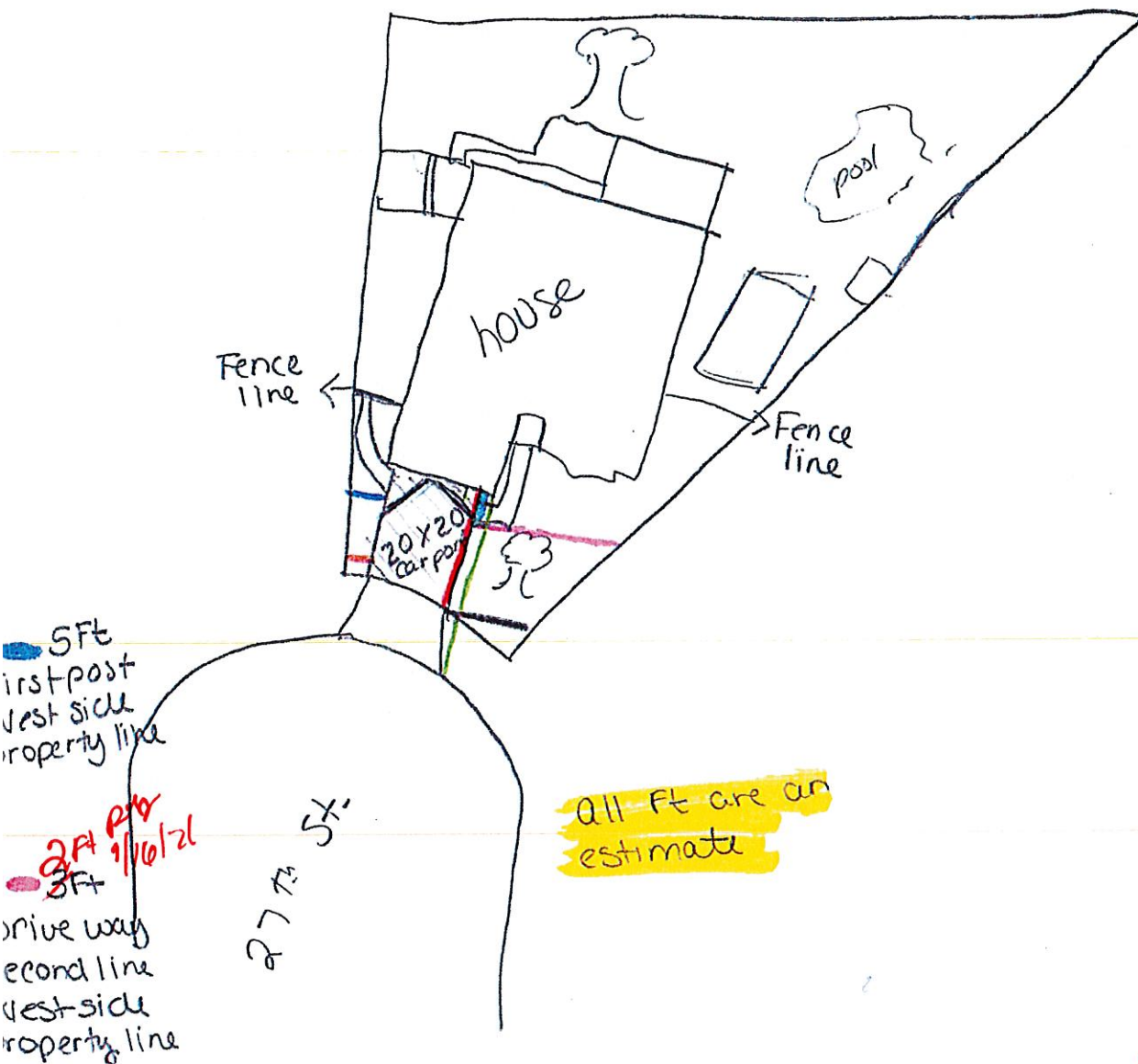
3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area: My carport is above my property and will not be in any way damaging my neighbors or community.

4. Describe special conditions that are unique to this applicant or property: I am applying for the carport encroachment on my property line. Contractor did not specify that a building permit was need due to the fact it was on my property line (encroachment) or attached to my home.

Board Action

Chairman, Board of Adjustment
Signature

Date



All Ft are an estimate

- 5.2 Ft house to First Post.
- 22.6 Ft house to second line
- 33.1 Ft house to Street
- 26 Ft Drive way to East side property line
- 12 Ft Drive way second line East side Property line

ENTERED

SEP 16 2021

Initial: LS

CENTER LINE CURVE DATA

MCALLEN INDEPENDENT SCHOOL DISTRICT NO. 5

S 81°17'30" E

1320.0'

ROOTH ROAD

N 08°42'30" E 660.0'

S.W. COR.
LOT 83

40.0'

80.0'

CURVE DATA

STATION	CHORD BEARING	CHORD DIST.	ARC BEARING	ARC DIST.	CHORD BEARING	CHORD DIST.	ARC BEARING	ARC DIST.
1. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
2. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
3. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
4. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
5. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
6. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
7. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
8. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
9. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
10. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
11. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
12. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
13. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
14. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
15. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
16. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
17. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
18. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
19. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
20. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
21. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
22. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
23. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
24. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
25. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
26. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
27. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
28. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
29. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
30. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
31. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
32. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
33. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
34. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
35. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
36. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
37. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
38. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
39. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
40. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
41. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
42. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
43. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
44. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
45. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
46. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
47. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
48. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
49. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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51. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
52. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
53. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
54. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
55. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
56. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
57. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
58. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
59. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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61. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
62. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
63. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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69. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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71. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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73. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
74. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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76. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
77. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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79. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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84. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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86. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
87. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
88. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
89. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
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97. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
98. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
99. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00
100. 30.00	10° 00' 00"	17.00	170.00	30.00	10° 00' 00"	17.00	170.00	30.00

MAP OF OAKS PLACE SUBDIVISION

BEING A RECONSIDERATION OF THE SOUTH 20.0 ACRES OUT OF LOT 80,
LA LOMA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION
LYING WEST OF THE DRAIN DITCH S.O.W.
CITY OF MCALLEN, TEXAS

STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED, TRUSTEE OF THE LAND SHOWN ON THIS PLAN AND DESIGNATED
HEREIN AS THE OAKS PLACE SUBDIVISION TO THE CITY OF MCALLEN, TEXAS,
AND WHOSE NAME IS SUBMITTED HEREIN, HEREBY DECLARE TO THE CITY OF
THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINAGE, 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 IN 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 PLAN HEREON OR
ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF
MCALLEN.

Vance Hoffmaster III
VANCE HOFFMASTER III

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
VANCE HOFFMASTER III KNOWN TO ME TO BE THE PERSON WHOSE NAME IS
SUBMITTED TO THE FOREGOING AND ACKNOWLEDGED TO ME THAT
HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED,
GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 18th DAY OF August
1986.

HED L. KURTH
Notary Public
State of Texas

[Signature]
NOTARY PUBLIC
COUNTY OF HIDALGO, TEXAS

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







NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2021-0042

8008

Memo

TO: Zoning Board of Adjustment & Appeals

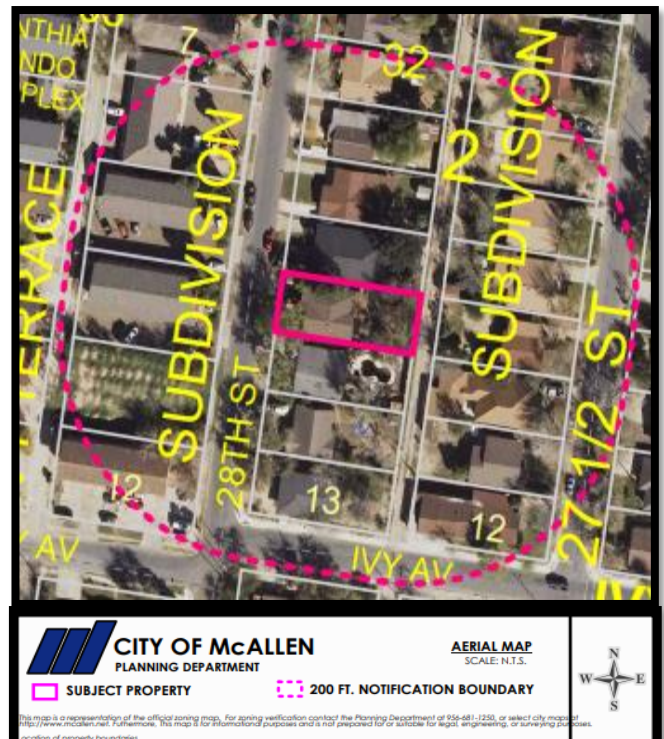
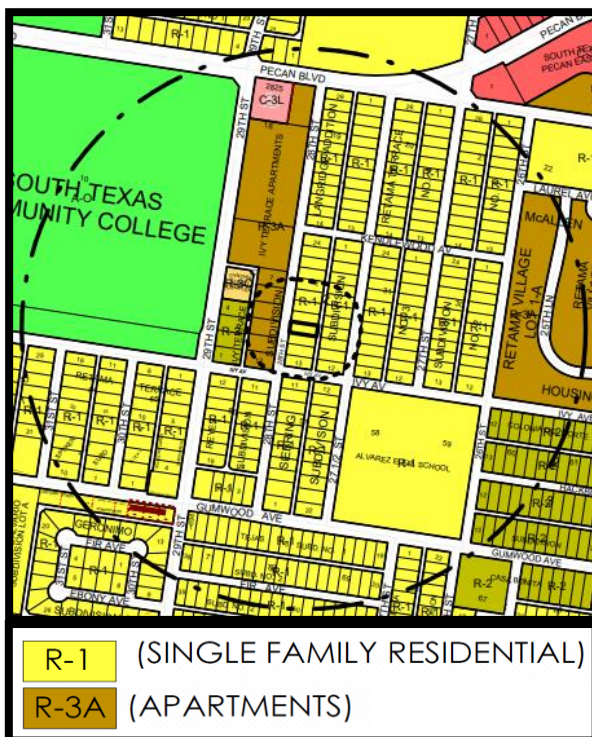
FROM: Planning Staff

DATE: September 29, 2021

SUBJECT: 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)

REASON FOR APPEAL:

The applicant is 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.



PROPERTY LOCATION AND VICINITY:

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.

BACKGROUND AND HISTORY:

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.

ANALYSIS:

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

The variance request is 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 is used as storage space for household items.

RECOMMENDATION:

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.

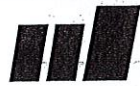
Variance request #3: Staff recommends approval since this structural area appears to have been part of the original construction.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF SEPTEMBER 15, 2021:

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.

ZBDA
9/15/2021

ZBA 2021-0040



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 LANE RIDGE ADDITION LOT 16 BLK 2
Subdivision Name _____
Street Address 912 N. 28th St
Number of lots 1 Gross acres _____
Existing Zoning R1 Existing Land Use Single Family Home
Reason for Appeal (please use other side if necessary) Existing Carport
24 X 23 FT, exist Garage encroachment prior to purchase
☒ \$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 Jose ZAVAYA Phone 956-703-2621
Address 912 N. 28th St E-mail _____
City McAllen State TX Zip 78501

Owner

Name SAME 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 [Signature]

Date 8-13-21

Print Name JOSE ZAVAYA

☒ Owner

☐ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date _____

Rev 09/20

AUG 18 2021

BY: CW

Accela H.F



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:

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: Home is single car garage, the car port

would protect my vehicles from the elements and also from damage from falling trees adjacent to my 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: Car port is not enclosed,

open on all sides, does not harm or affect anybody in anyway. It enhances appeal and increases property value to home and surrounding properties

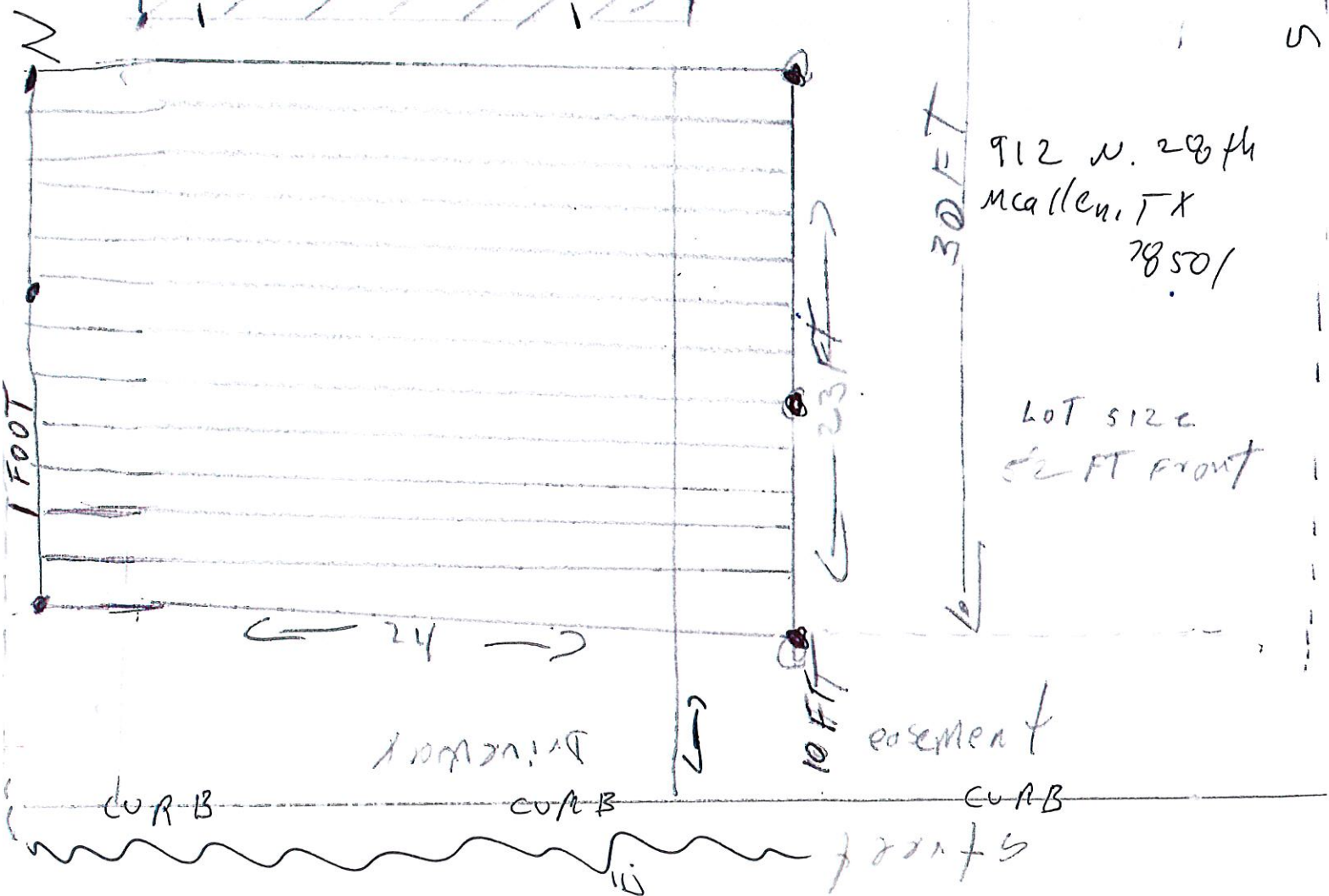
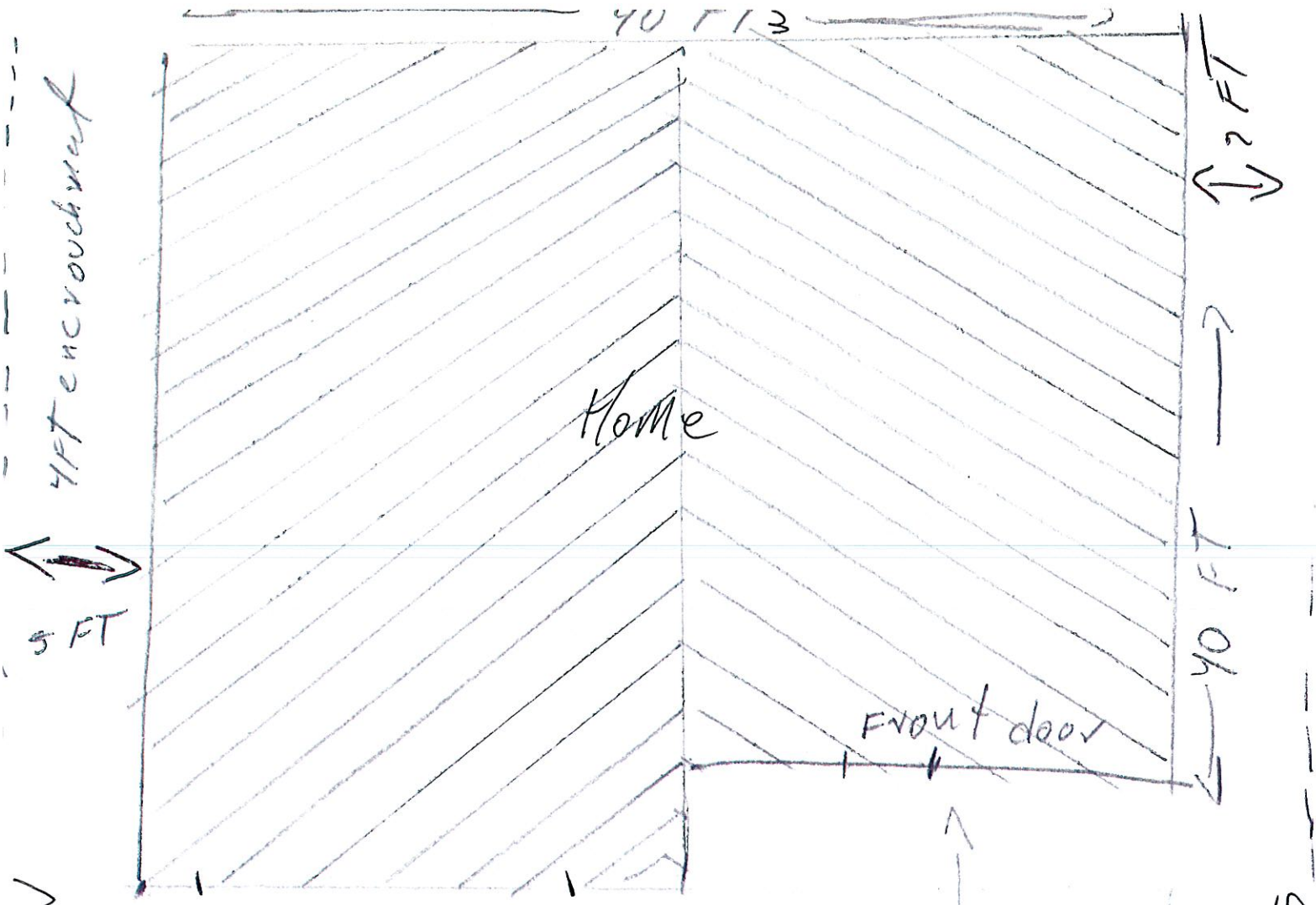
4. Describe special conditions that are unique to this applicant or property:

I built this carport due to multiple incidents to my vehicles parked on road and natural elements. I also have a child with medical conditions that needs extra time to get in vehicle →

Chairman, Board of Adjustment
Signature

Date

#40 with the assistance of crutches or a wheel chair at times. When there is bad weather, it makes it specifically hard for him and us to get into vehicle. By having this Corfort, it helps him to get into vehicle ~~much~~ ~~to~~ without too much exposure to inclement weather.



OFFICE OF BUILDING OFFICIAL

NOTICE

THIS STRUCTURE HAS BEEN INSPECTED AND IS NOT
ACCEPTED / PERMITTED

912 W 28th St.

CARPENTRY

PERMIT

CRISTINA WILZ

- ☐ GENERAL
- ☒ CONSTRUCTION
- ☐ ELECTRICAL
- ☐ MECHANICAL WORK
- ☐ PLUMBING
- ☐ GAS PIPING
- ☐ OCCUPANCY

PLEASE CONTACT OUR OFFICE AT 956-681-1300
FOR FURTHER ASSISTANCE.

-NOTE-

08/04/21
DATE

FBS
INSPECTOR

DO NOT REMOVE THIS NOTICE



RESIDENTIAL PERMIT APPLICATION

REV. 3/2021

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

PERMIT APPLICATION REFERENCE NUMBER

Res2021-06540

APPLICATION MUST BE COMPLETE

(Please type or print in black or blue ink)

GC NUMBER

7446

APPLICANT

NAME JOSE ZAVACA PHONE 956.703.2621
ADDRESS 912 N. 28th
CITY McAllen STATE TX ZIP 78501
CONTACT NAME: _____ PHONE _____
☒ OWNER ☐ CONTRACTOR ☐ TENANT ☐ OTHER _____

OWNER

NAME SAME PHONE _____
ADDRESS _____ *EMAIL: _____
CITY _____ STATE _____ ZIP _____
REQ'D _____

*OWNER INFORMATION NOT PROVIDED, INITIAL: _____

☐ NEW ☐ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE _____ BLDG. HGT. _____ NO. OF FLOORS _____

BLDG SQ. FT. 576 NO. PARKING SPACES _____ SQ. FT. LOT _____ LOT FRONT _____ FLOOR EL. ABOVE CURB _____
EXISTING USE OF LOT Residential NEW USE _____

SCOPE OF WORK TO BE DONE adding Corport

PROJECT

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

FOUNDATION <input type="checkbox"/> CONCRETE SLAB <input type="checkbox"/> CONCRETE PIER <input type="checkbox"/> CONCRETE BLOCK <input type="checkbox"/> CONCRETE BEAM <input type="checkbox"/> WOOD POSTS <input type="checkbox"/> _____	EXT WALL <input type="checkbox"/> MASONRY VENEER <input type="checkbox"/> MASONRY SOLID <input type="checkbox"/> METAL SIDING <input type="checkbox"/> COMPOSITION <input type="checkbox"/> WOOD <input type="checkbox"/> _____	ROOF <input type="checkbox"/> WOOD SHINGLE <input type="checkbox"/> COMPOSITION <input type="checkbox"/> METAL <input type="checkbox"/> BUILD UP <input type="checkbox"/> CLAY OR CONCRETE TILE <input type="checkbox"/> _____	UPGRADES/OTHER <input type="checkbox"/> GRANITE COUNTERTOPS <input type="checkbox"/> MARBLE TUBS/FLOORS <input type="checkbox"/> CUSTOM WINDOWS <input type="checkbox"/> POLYURETHANE INSULATION <input type="checkbox"/> OTHER UPGRADES _____ <input type="checkbox"/> SEPTIC TANK EXISTING OR PROPOSED <input type="checkbox"/> YES <input type="checkbox"/> NO
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

LOT _____ BLOCK _____ SUBDIVISION _____

SITE ADDRESS ST. NO. 912 ST. NAME N. 28th st

CITY USE ONLY

Construction Cost _____ Permit Fee \$ 92.16 Rec'd by [Signature]
Value \$ 2500 Double Fee \$ 92.16 Date 8/4/21
Zoning R-1 Total Fee \$ _____ Time 12:00

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.

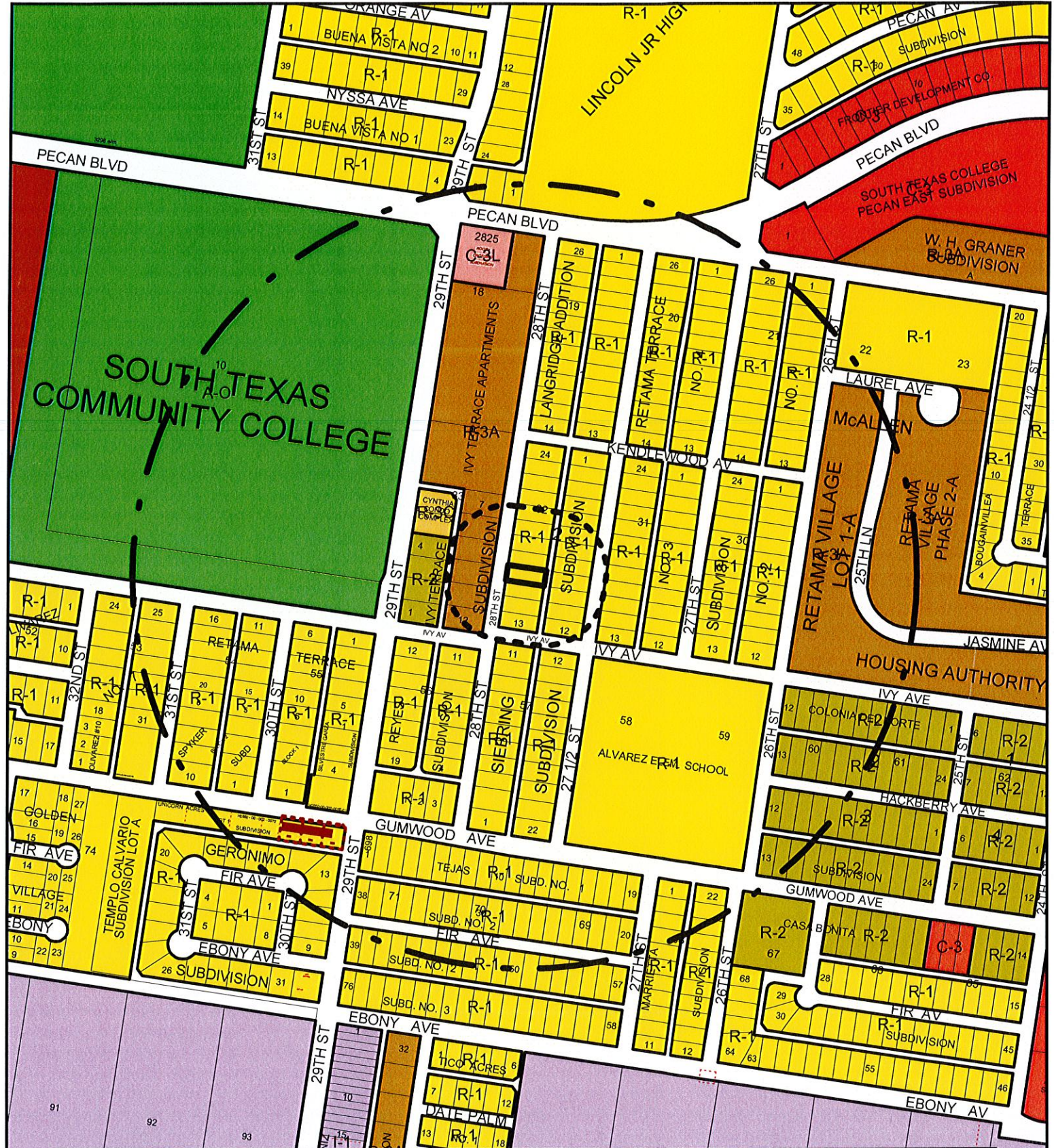
PRINT (AUTHORIZED AGENT/OWNER)


SIGNATURE

EMAIL ADDRESS (required)

DATE

JOSE ZAVACA
Sjzavmc@gmail.com 8-4-21






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)	 (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.mcalen.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.

Location of property boundaries.

4315

FILED FOR RECORD THIS DATE
At 12:04 o'clock P.M.

MAR 28 1967

SANTOS SALDANA
County Clerk, Hidalgo County, Texas
By *M. Harding* Deputy

MAP OF LANGRIDGE ADDITION MCALLEN, TEXAS

BEING A RESUBDIVISION OF LOTS 19 & 32, BLOCK 2,
C.E. HAMMOND'S SUBDIVISION OF PORCIONES 61,
62, 63, & 64, HIDALGO COUNTY, TEXAS.

SCALE: 1"=100'

DATE: 8-30-1966

I, C. L. FABIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THE
FOREGOING MAP TO BE A TRUE AND CORRECT REPRESENTATION OF THE SUBDI-
VISION OF THE LANDS HEREON DESCRIBED AS PLATTED BY ME FROM THE OUT-
SIDE BOUNDARIES OF SAME.

C. L. FABIAN
REGISTERED PUBLIC SURVEYOR
MC ALLEN, TEXAS

STATE OF TEXAS:
COUNTY OF HIDALGO:

KNOW ALL MEN BY THESE PRESENTS:
THAT I, CLIFFORD R. LANGRIDGE, OWNER OF THE PROPERTY HEREON DESCRIBED,
DO HEREBY ADOPT, DEDICATE AND CONFIRM THE FOREGOING MAP AND DO HEREBY
DEDICATE TO THE PUBLIC THE SURFACE USE OF THE STREETS AND ALLEYS
THEREON SHOWN.

Clifford R. Langridge
CLIFFORD R. LANGRIDGE

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
CLIFFORD R. LANGRIDGE, 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 PURPOSES AND CONSIDERATION THEREIN EXPRESSED.
GIVEN UNDER MY HAND AND SEAL OF OFFICE ON the 15th DAY OF November,
November A. D. 1966.

John C. Davis
NOTARY PUBLIC IN AND FOR
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS
15 DAY OF November A.D. 1966.

MC ALLEN ZONING AND PLANNING BOARD

By: *Ben Silbrey*
BEN SILBREY, CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSIONERS OF THE CITY OF MC ALLEN,
TEXAS ON THIS 31st DAY OF November A.D. 1966.

ATTEST:
Natividad Sanchez
NATIVIDAD SANCHEZ
CITY SECRETARY

Paul G. Veale
PAUL G. VEALE, MAYOR

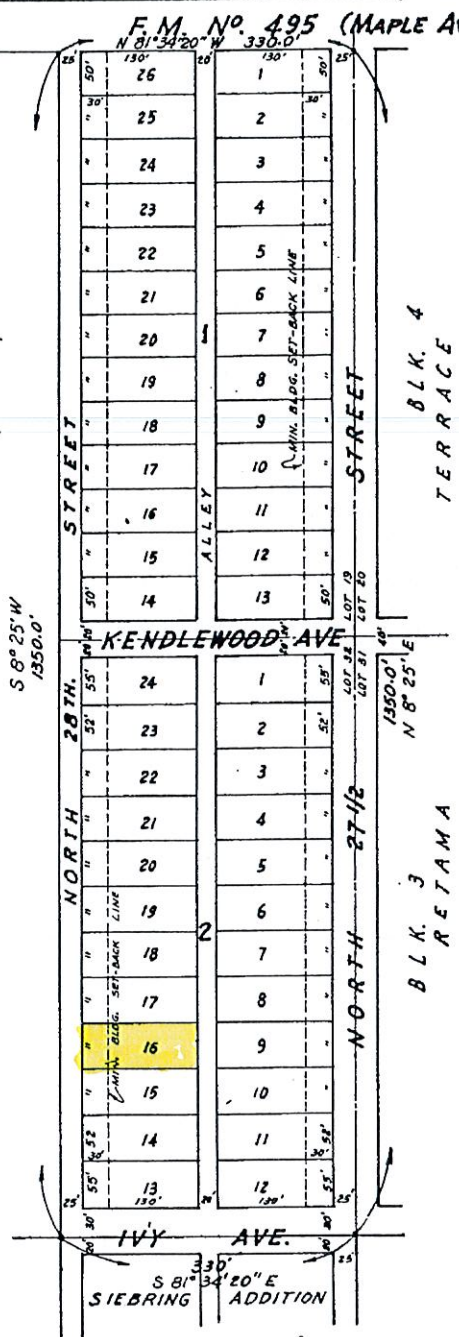
THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER CONTROL & IMPROVE-
MENT DISTRICT NO. 1 ON THIS 23rd DAY OF March A.D. 1967.

ATTEST:
Wm W. Oest
SECRETARY

Richard Wiersch
PRESIDENT

APPROVED FOR RECORDING
BY
COMMISSIONERS' COURT
This the 28th day of March 1967
SANTOS SALDANA, County Clerk
Hidalgo County, Texas
By *Louis A. Bush* Deputy

APPROVED
FOR RECORDING
Hidalgo County, Texas
By *John C. Davis*
Notary Public
No. 3-28-67





Memo

TO: Zoning Board of Adjustment & Appeals

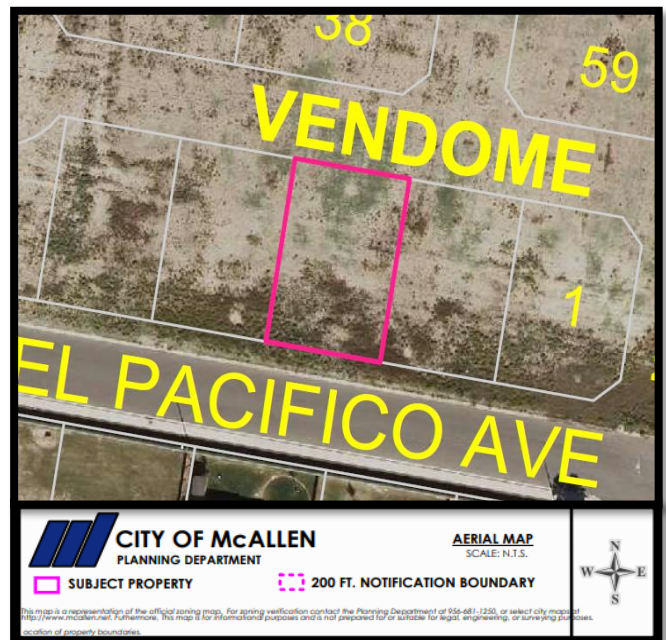
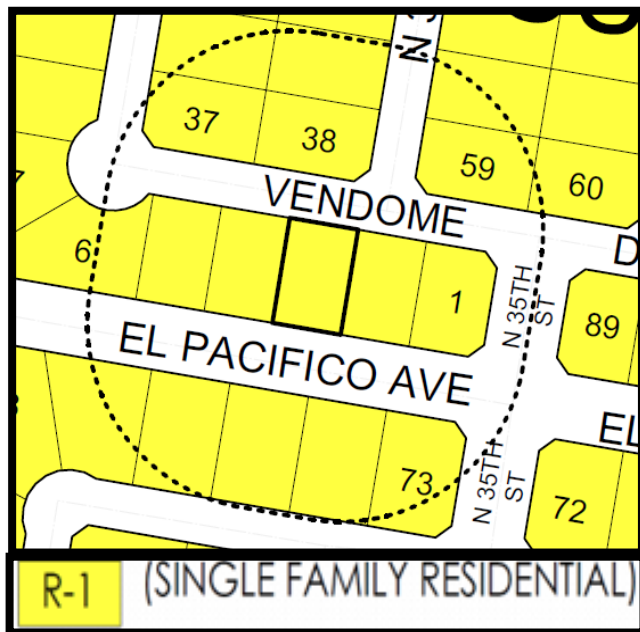
FROM: Planning Staff

DATE: September 28, 2021

SUBJECT: 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)

REASON FOR APPEAL:

The applicant is 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.



PROPERTY LOCATION AND VICINITY:

The subject property is located along the north side of El Pacifico Avenue, between Vendome Drive and El Pacifico Avenue. The subject property has 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.

BACKGROUND AND HISTORY:

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.

ANALYSIS:

This request is 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.

RECOMMENDATION:

Staff recommends approval of the variance request.

ZBA
10/6/2021

ZBA2021-0043

 City of McAllen Planning Department APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE		311 North 15 th Street McAllen, TX 78501 P. O. Box 220 McAllen, TX 78505-0220 (956) 681-1250 (956) 681-1279 (fax)
Project	Legal Description	<u>Vendome Lot 3</u>
	Subdivision Name	<u>Vendome</u>
	Street Address	<u>3601 Vendome Dr.</u>
	Number of lots	<u>1</u> Gross acres
	Existing Zoning	<u>Vacante</u>
	Existing Land Use	<u>Vacante</u>
	Reason for Appeal (please use other side if necessary)	<u>House is encroaching</u> <u>Rear set back.</u>
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)		
<input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required		
Applicant	Name	<u>Jesus Espino</u> Phone <u>956-429-1069</u>
	Address	<u>3008 La Puerta Ave</u> E-mail <u>EBconstructionllc@yahoo.com</u>
	City	<u>Edinburg</u> State <u>TX</u> Zip <u>78541</u>
Owner	Name	<u>EB Construction LLC</u> Phone <u>956-429-1069</u>
	Address	<u>2300 W Mile 7 Rd</u> E-mail <u>EBconstructionllc@yahoo.com</u>
	City	<u>Mission</u> State <u>TX</u> 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? <input type="checkbox"/> Yes <input checked="" 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>[Signature]</u> Date <u>08/23/21</u>
Office	Print Name	<u>Jesus Espino</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
	Accepted by	Payment received by Date
Rev 09/20 <u>[Signature]</u> H.C.		

Accela / L.F.

AUG 23 2021

BY: CW

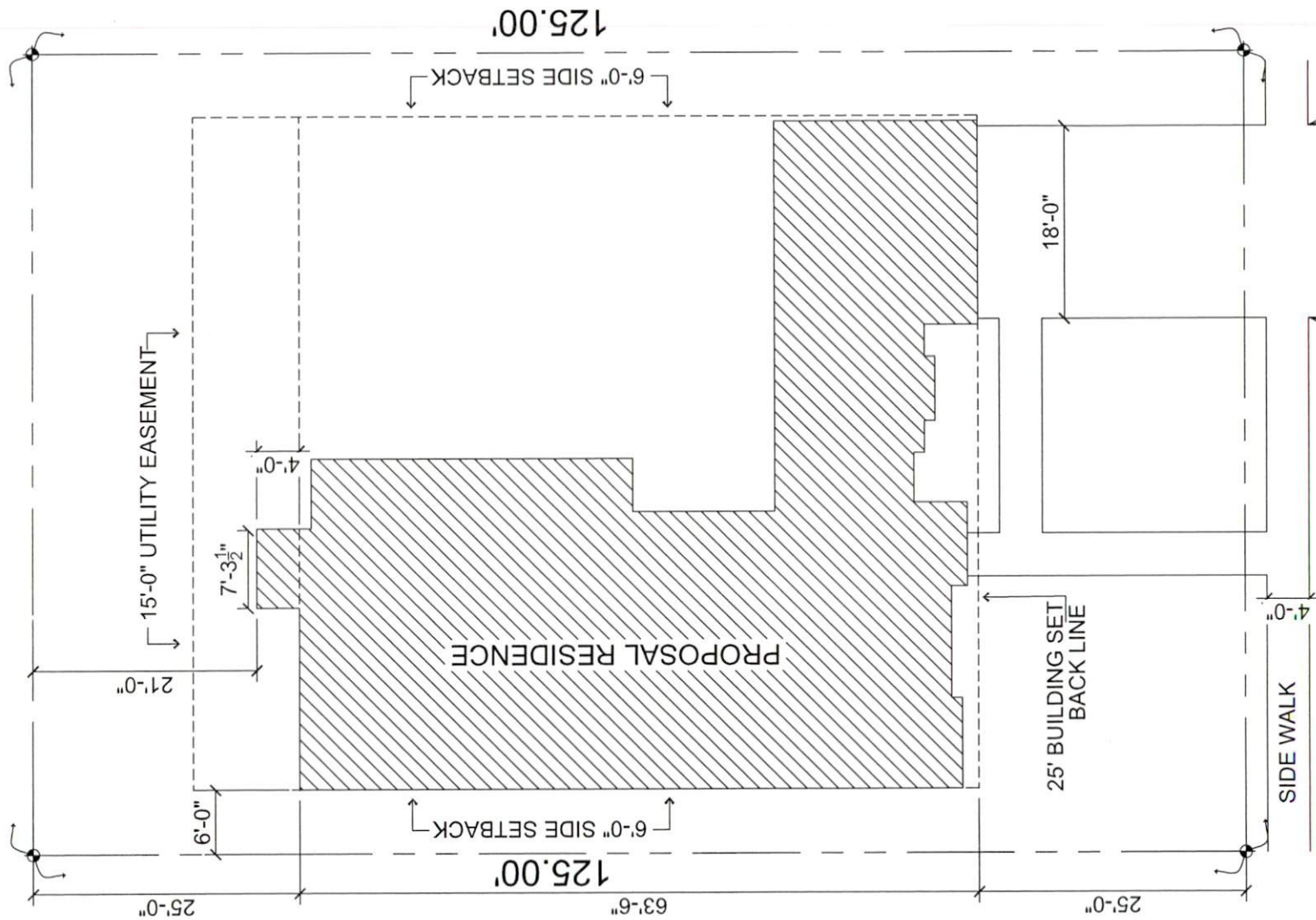


City of McAllen

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:	
	we will be increasing our 4'-1"	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	we need to have a minimum sq ft of 2,000 living.	
	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:	
	we will still have 15 ft of set back.	
Board Action	4. Describe special conditions that are unique to this applicant or property:	
	Chairman, Board of Adjustment Signature	Date
	_____	_____
Rev. 9/20		



1. VERIFY JOINT LAYOUT FOR SIDEWALKS WITH CONTRACTOR PRIOR TO CONSTRUCTION.
2. ALL SITE WORK INCLUDING LOCATION OF TRASH DUMPSTER, TEMPORARY TOILET FACILITIES, TEMPORARY CONSTRUCTION BARICADING/ENCLOSURE, TEMPORARY CONSTRUCTION GRADING AND DRAINAGE, CONFORMANCE TO POLLUTION AND PREVENTION CONTROL, AND TEMPORARY UTILITY FACILITIES, ETC. SHALL BE IN ACCORDANCE WITH THE CITY AS WELL AS SUBDIVISION PROPERTY OWNERS ASSOCIATION GUIDELINES.
3. BUILDER AND OWNER SHALL BE RESPONSIBLE FOR ALL TEMPORARY UTILITIES TO THE CONSTRUCTION SITE.
4. CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL GRADING ONLY. OWNER SHALL PROVIDE ALL LANDSCAPING, SOI, AND IRRIGATION SYSTEM.



LEGAL DESCRIPTION	
LOT _____	3
SUBDIVISION _____	VENDOME I
CITY _____	MCALLEN, TEXAS.

① SITE PLAN
SCALE: 3/16"=1'-0"

ENTERED

SEP 28 2021

Initials
A+M
DESIGN
ARCHITECT JEAN POGAN
PHONE: (956)703-9268

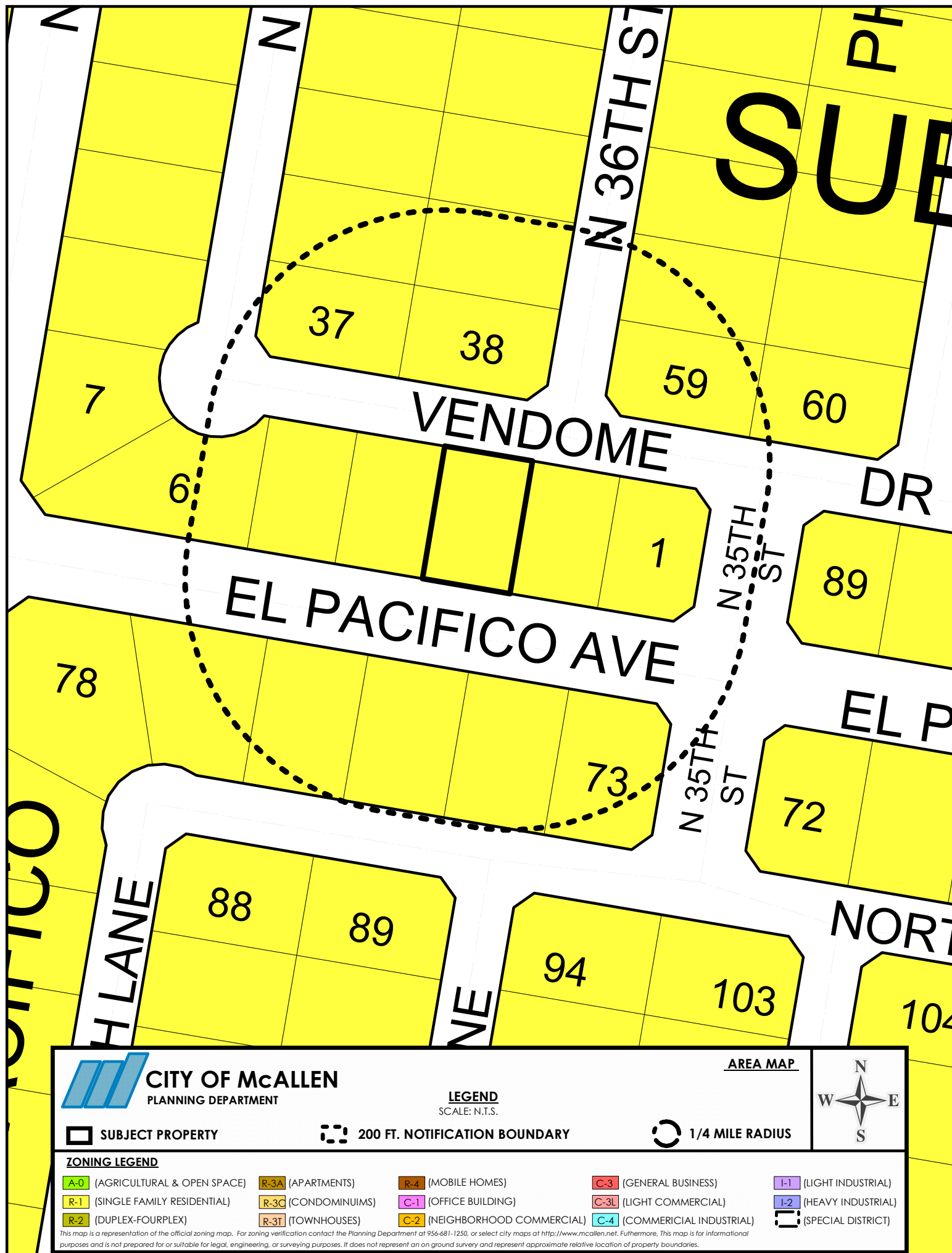
THE
HERNANDEZ
RESIDENCE
0000 VENDOME DR. MCALLEN TEXAS
LOT 3 VENDOME SUBD. PHASE I

AREAS
LIVING AREA
2,000.0'
PORCH AREA
33.0'
GARAGE AREA
361.0'
TOTAL AREA
2,394.0'

DATE: 04-20-2021

PLAN #0006-17

SHEET
C-1



37

38

59

N

VENDOME

1

N 35TH ST

EL PACIFICO AVE

73

N 35TH ST



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.



SUBJECT PROPERTY



200 FT. NOTIFICATION BOUNDARY



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ocation of property boundaries.

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0043



Case# (1925ZBA2021-0044)

chad haycraft <chadhaycraft@yahoo.com>

Mon 9/27/2021 2:03 PM

To: Katia Sanchez <ksanchez@mcallen.net>

Hi Katia,

I am requesting for my item to be tabled, as I am out of town on a work project. I am kindly requesting the item be tabled to be presented at the zoning board of adjustments on October 20, 2021

Thank you

Chad haycraft

Case# (1925ZBA2021-0044)

1925 Baylor ave

Mcallen tx 78504

[Sent from Yahoo Mail on Android](#)

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

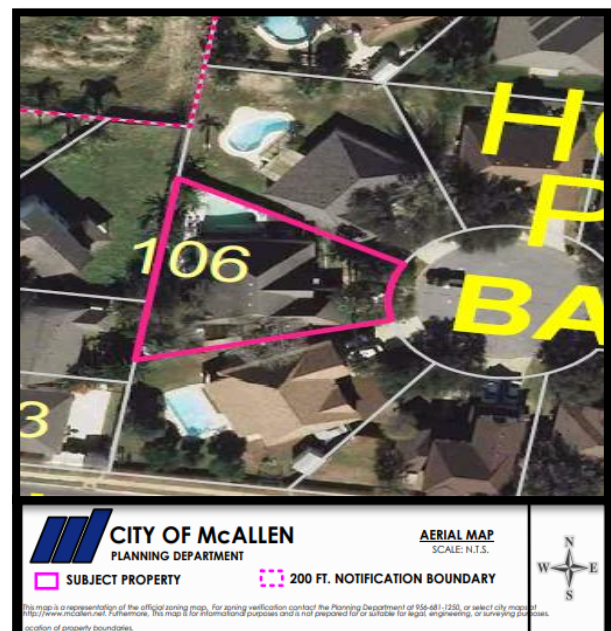
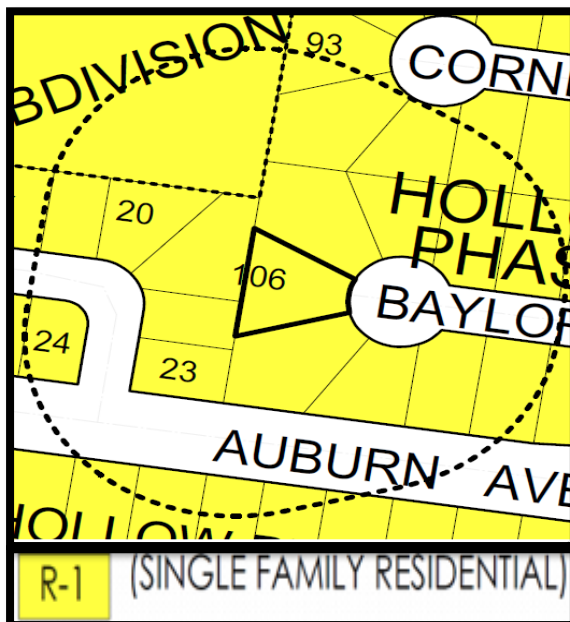
DATE: September 30, 2021

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 Ph. 3 Subdivision, Hidalgo County, Texas; 1925 Baylor Avenue. (ZBA2021-0044)

AS PER APPLICANT, THIS ITEM HAS BEEN REQUESTED TO BE TABLED

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 is 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 encroachment at the rear setback will encroach into a 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. If the existing metal storage building is to remain at its current location, the easement abandonment process needs to be undertaken. The easement abandonment process needs to be undertaken.

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. 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 needs to be undertaken for the wooden storage building inside 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 setback 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 size of the existing house, the existing swimming pool, and the 15 feet rear yard setback limit the amount of space for any accessory structures to be placed in compliance with setbacks.

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

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

RECOMMENDATION:

Variance requests #1 & #2: Staff recommends disapproval since the site plan shows an area for possible relocation by the southwest corner of the house.

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.

Memo

TO: Zoning Board of Adjustment & Appeals

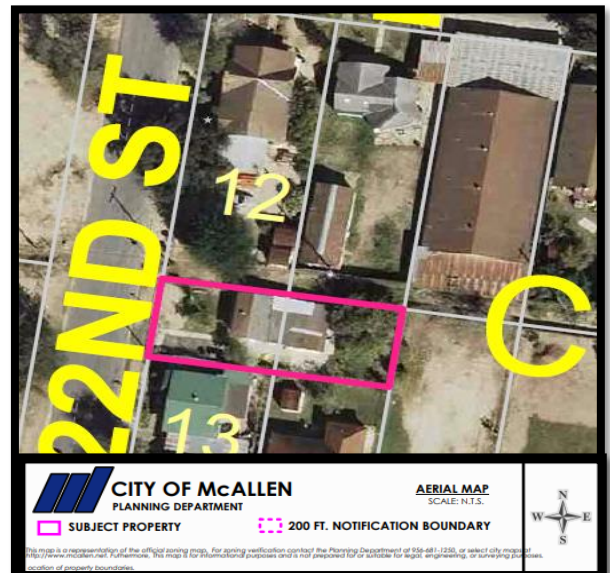
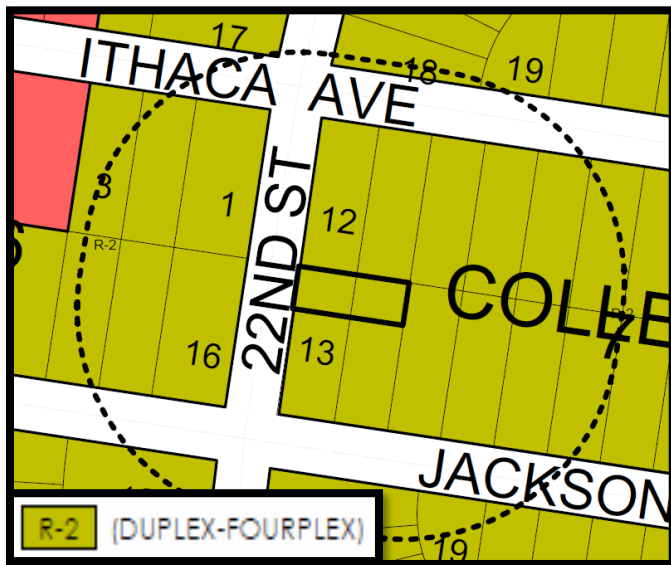
FROM: Planning Staff

DATE: September 29, 2021

SUBJECT: 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 feet 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)

REASON FOR APPEAL:

The applicant is requesting the special exception to shelter his vehicles from inclement weather.



PROPERTY LOCATION AND VICINITY:

The subject property is located along the east side of South 22nd Street, north of Jackson Avenue. The subject property has 40 feet of frontage along South 22nd Street and a depth of 100 feet for a total area of 4,000 square feet. The property is zoned R-2 (duplex-fourplex) District. The adjacent zoning is R-2 (duplex-fourplex) District in all directions. Surrounding land uses are multi-family residences.

BACKGROUND AND HISTORY:

College Heights Subdivision was recorded in 1926. According to Hidalgo County Appraisal District records a residential home was built on the property in 2019. An application for a special exception request for a carport was submitted to the Planning Department on August 30, 2021.

ANALYSIS:

The special exception request is for a proposed metal carport that will be anchored to an existing concrete driveway. The submitted site plan shows a proposed carport encroaching 25 feet into the 25 feet front yard setback. 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 tract fronts South 22nd Street while the house orientation is north. The orientation of the house does not affect the setbacks of the plat. The proposed carport will be open on all sides which will allow for visibility during egress and ingress into the street or for oncoming traffic. The residence does not have a garage. There is no alley at the rear of the property that would provide access and allow for relocation of the proposed carport to the rear yard area.

During a site visit, staff noticed other similar encroachments in the area. A review of Planning Department records revealed other variances have been approved for carports in this subdivision between 1981 and 2020.

Staff has received a phone call in opposition to this special exception request. The individual in opposition indicated that any proposed construction should comply with setback requirements.

RECOMMENDATION:

Staff recommends disapproval of the special exception request.

ZBA
10/6/2021

ZBA 2021-0045



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 COLLEGE HEIGHTS N 40' OF 13814 BLK 7

Subdivision Name COLLEGE HEIGHTS

Street Address 915 S 22nd St

Number of lots 2 Gross acres _____

Existing Zoning B2 Existing Land Use RESIDENTIAL

Reason for Appeal (please use other side if necessary) ENCROACHMENT OF FRONT SET BACK 25' OUT OF 25'

☒ \$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 FELIPE MARTINEZ Phone 956 601 3308

Address 915 S 22nd St E-mail felipemart@yahoo.com

City MCALLEN State TX Zip 78501

Owner

Name LUCIA RODRIGUEZ MARTINEZ Phone 956 601 4833

Address 915 S 22nd St E-mail lurod132@yahoo.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 Felipe Martinez Date 8-30-21

Print Name FELIPE MARTINEZ ☒ Owner ☐ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date _____

AUG 30 2021

BY: CW

Accela/L.F. ad



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:

WATER N GAS METERS ON NORTH SIDE
IF DECIDED TO DO CARPORT ON THE BACK
WOULD REQUIRE MORE WORK AND ACOMODATIONS.

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

CARPORT NEEDED FOR SAFETY SPECIALLY ON BAD WEATHER
DAYS WHEN TAKING AND PICKING OUR KIDS TO AND
FROM SCHOOL

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:

CARPORT WILL NOT INTERFERE WITH ANY
WHEEL CHAIR RAMPS, SIDE WALKS OR PASS
PROPERTY LINES

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

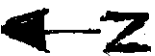
IF APPROVED, THE NORTH SIDE OF EXISTING
CONCRETE ~~AND~~ DRIVEWAY WILL BE WIDENING
ABOUT 5'

Reason for Appeal

Board Action

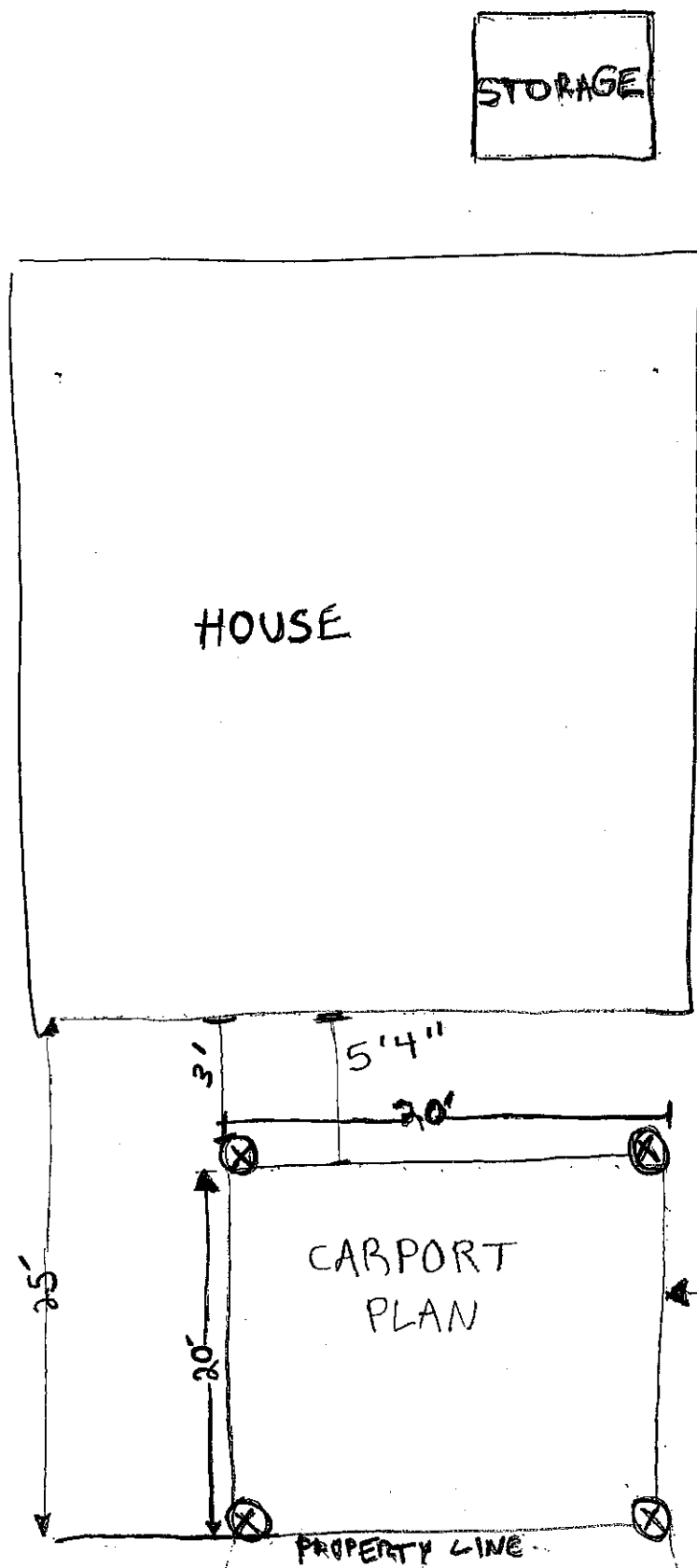
Chairman, Board of Adjustment
Signature

Date



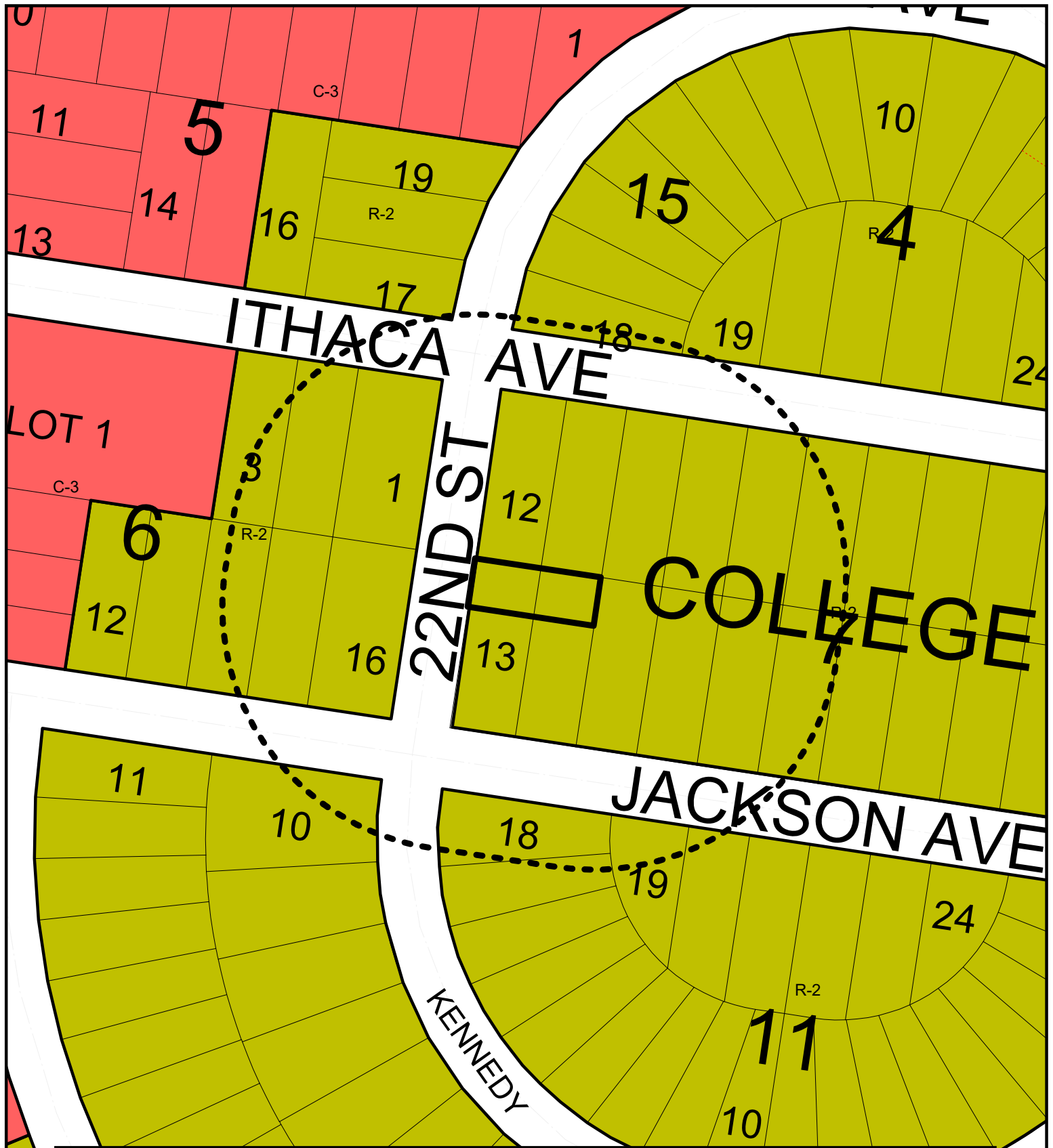
ALLEY

PROPERTY LINE



PROPERTY LINE

22nd St.



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)	(SPECIAL DISTRICT)

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

ITHACA AVE

22ND ST

COLLIER

JACKSON



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.



SUBJECT PROPERTY



200 FT. NOTIFICATION BOUNDARY



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NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2021-0045
CITY OF MCALLEN PLANNING DEPT.
366-621-1234
WWW.MCALLE.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

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Chapter 138-Zoning

Sec. 138-1. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Footnotes:

--- () ---

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

--- () ---

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

Chapter 110-Vegetation

Sec. 110-26. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 Adjustment Grants a special exception as provided in this section, the site plan and the minutes of the Zoning Board of Adjustment meeting shall be officially recorded with Hidalgo County.
- (e) Any special exception granted under this chapter is granted solely to the applicant and may not be transferred, sold, inherited, bequeathed, or devised.
- (f) A new special exception shall be required upon any change or transfer in ownership of the underlying tract; a special exception granted to a previous applicant does not confer any right to any other individual or corporation to maintain the carport without approval from the Zoning Board of Adjustment.

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

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

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

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

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

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

SIGNED this 9th day October, 2018.

CITY OF McALLEN

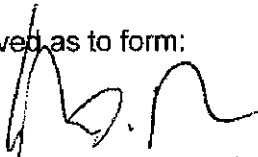
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney



2021 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/06/21	01/20/21	02/03/21	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						
JOHN MILLIN- VICECHAIRPERSON	P	A	P	P	P	P	P	P	P	P	A	P	P	A	P	A	P	P						
SYLVIA HINOJOSA	P	P	P	A	P	P	P	P	P	P	P	P	P	P	P	P	P	A						
JOSE GUTIERREZ	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						
ANN TAFEL (ALT 1)	P	P	P	P	P	P	P	P	P	A	A	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						
REBECCA MILLAN (ALT 3)	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						

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

HPC - Historic Preservation Council

Deadlines:

D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed

JANUARY 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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