

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, SEPTEMBER 12, 2024 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

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

CALL TO ORDER – Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on August 21, 2024
- b) Minutes for the Special meeting held on August 30, 2024

2. PUBLIC HEARINGS:

- a) Request of Michael & Iris Hines for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 11.4 feet into the 20-foot front yard setback for an existing metal carport measuring 24 feet by 19 feet at Lot 23, Arthur Terrace Subdivision, Hidalgo County, Texas; 5916 North 36th Lane. **(ZBA2024-0030)**
- b) Request of Armando Hernandez for variances to the City of McAllen Zoning Ordinance to allow the following encroachments: 1) 6.73 feet into the 10-foot rear yard setback, and 2) 4.98 feet into the South 10-foot side yard setback at Lot 13, Block 5, McAllen Heights Subdivision, Hidalgo County, Texas; 821 South 27th ½ Street. **(ZBA2024-0031)**

3. FUTURE AGENDA ITEMS

- a) 409 Cornell Avenue
- b) 3104 Ozark Avenue
- c) 4401 South "M" Street

ADJOURNMENT:

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

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, August 21, 2024 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Hugo Avila	Member
	Hiram A. Gutierrez	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
	Daniel Santos	Alternate
Absent:	Rogelio Rodriguez	Member
	Pablo Garcia	Alternate
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Michelle Rivera	Assistant City Manager
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Samuel Nunez	Senior Planner
	Alexis Martinez	Planner I
	Jessica Puga	Planning Technician II
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on August 7, 2024

The minutes for the meeting held on August 7, 2024 were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Vice-Chairperson Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) Request of Gary Eddington, for a Variance to the City Of McAllen Landscaping Ordinance to not provide one tree in the front yard at Lot 13, Frontera Estates Subdivision, Hidalgo County, Texas; 2004 Jefferson Avenue. **(ZBA2024-0028)**

Ms. Trevino stated the applicant was requesting to not provide one tree in the front yard of an existing home.

The subject property was located on the north side of Jefferson Avenue between North 19th street and North 21st Street. The property is zoned R-1 (single-family residential) District. The surrounding land use is R-1 (single-family residential) District in all directions.

Frontera Estates Subdivision was recorded September 21, 2004. The lot has a frontage

of 64 feet, which requires one tree to be placed within the front yard. A tree is currently located in the front yard of the home. The variance application was submitted July 31, 2024.

The applicant is requesting to remove the existing tree in the front yard and not replace it. As per the vegetation ordinance Sec. 110-51(8) "Single-family residential development shall provide a minimum of one non-palm tree for the first 50 feet of lot frontage and one additional non-palm tree for each additional 25 feet of lot frontage. Trees required for single-family residential development shall be located within the front yard." The applicant stated that he is a senior citizen and that it has become expensive to properly maintain the tree. The tree produces an abundance of acorns that stain his sidewalk and white landscaping stones, and if the acorns are not removed from the ground, they will germinate and grow. He stated that replacing the tree would create a financial hardship since he would have to buy a new tree, pay someone to pick it up, dig a hole and plant the tree, as well as relocate the sprinkler system. He stated removing the tree completely and not providing a replacement would be ideal since it would only require a onetime expense.

A review of Planning Department records did not reveal other landscape variances granted within the subdivision.

Staff received one phone call in opposition to the special exception request.

Staff recommended disapproval of the variance request since one tree is required by ordinance, in the front yard.

Board member Rodriguez asked staff if the City had a list that might provide the applicant to get a tree, which might not grow as tall. Staff stated they did have a list of approved trees and shrubs. It would need to be at least 10 feet high and 2 ½-caliper trunk at time of planting.

Vice-Chairperson Tafel asked staff if this would be something Keep McAllen Beautiful could help him as far as planting a replacement tree for him. Staff stated she was not sure but she would find out for the applicant.

Mr. Gary Eddington, 2004 Jefferson Avenue. Mr. Eddington, the applicant stated the tree was planted in 2004 little did he know it was an oak tree, which was a female tree. Over time, it produces an abundance of acorns. He stated during the fall and winter season, they stain the landscape and driveway. Mr. Eddington stated to plant another tree; he would require relocating his water lines for his sprinkler, which would be an additional cost. Mr. Eddington stated he was trying to reduce the economic impact for him as a senior citizen. Chairperson Gutierrez asked the applicant how much it would be to remove the tree. Mr. Eddington stated he had a person who was going to remove the tree to ground level for \$500.00.

Board member Mujica mentioned to the applicant that the point of the ordinance was to beautify not only this neighborhood but also the entire City. It creates a character of the neighborhood.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the Variance

request. There was no one in favor of the Variance request.

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

Board member Mujica asked staff the person who made the phone call in opposition of the request lived within the same neighborhood. Staff stated legal notices were sent out within a 200-foot radius and only complaints from those asking about the requests.

Following discussion, Vice-Chairperson Ann Tafel **moved** to disapprove the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- b)** Request of Josue Barroso on behalf of the McAllen North Spanish Congregation of Jehovah's Witnesses for a variance to the City of McAllen Zoning Ordinance to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use at 0.815 of an acre, out of Lot 243, Pride O' Texas Subdivision, Hidalgo County, Texas; 4300 Kingdom Avenue. **(ZBA2024-0025) (TABLED: 08/07/2024)**

Mr. Hugo Avila **moved** to remove from the item from the table. Mr. Juan Mujica seconded the motion. The Board voted to remove the item from the table with five members present and voting.

Mr. Nunez stated the applicant was requesting a variance to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use in order to remodel a building on the subject property. The applicant claims the variance is necessary to bring the building in compliance with current safety and ADA accessibility standards.

The subject property was located along the north side of Kingdom Avenue approximately 400 ft. east of North Bentsen Road. The property is zoned R-1 (single family residential) District. The surrounding zoning includes R-1 (single family residential) District to the south and west, A-O (agricultural & open space) District to the north and east, and C-3L (light commercial) District to the northwest of the subject property.

Pride O' Texas Subdivision was filed for record on November 4, 1929. According to Hidalgo County Appraisal District records, the primary building was built in 1995. The current owner acquired the property in 1983.

On November 23, 2015, a building permit for a remodel of a parsonage was submitted. A Commercial building permit for the current proposed remodel was submitted on June 7, 2024.

The variance request is to allow the remodeling of the church building and to bring it into compliance with current safety standards.

The tract is unsubdivided property and Planning department records do not show a Conditional Use Permit (CUP) for the operation of a church at this location.

According to Section 138-89 (a) "on any nonconforming structure or portion of a structure containing a nonconforming use, no work may be done in any period of 12 consecutive

months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing to an extent exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, as the case may be.”

The proposed remodeling will not increase the square footage of the current structure. The proposed remodeling however will exceed the replacement value of the non-conforming structure in excess of 10%.

According to Hidalgo County Appraisal District, the current value of the non-conforming structure is \$211,453. Ten percent of the value is \$21,145.

According to the submitted estimates, the total cost of repairs to the main building would be \$214,400. This estimate total would exceed the 10% replacement value by 101.4%.

Measurements provided are without the benefit of a survey.

There had been no calls or emails received in opposition of the variance request.

Staff recommended disapproval of the variance request.

At the Zoning Board of Adjustments and Appeals, meeting of August 7, 2024 no one appeared in opposition of the request. After staff presented their analysis and recommendation of disapproval, the Board made a request to speak to anyone present at the meeting who was against the request. There was no one present in opposition of the request. After this, the Board requested to speak to anyone who was present in favor of the request. Mr. Jose Barroso, Jeffry Howell, and Abel Peña all spoke in turn to present the scope of the proposed work and their reasons for why this request should be approved. After the Board had some discussion amongst themselves and with staff, the Board then made a motion to table this request in order to allow staff more time to further discuss options with the applicant. Since the last meeting, the applicant has submitted estimate reports that reflect the replacement cost of the proposed scope of work for the existing church building. Staff has also found an alteration permit that was issued on December 8, 2015 that states that the subdivision process will be required if any additional constructions are added to the property.

Board member Rodriguez asked Mr. Nunez when calculating to verify the value amount of the construction, does staff use the building code calculations. Mr. Nunez stated when staff runs the request of the work being proposed the numbers or estimates through the Building Department to determine which of those proposed workings would require a building permit.

Chairperson Gutierrez asked for a motion to adjourn to Executive Session.

Board member Hugo Avila made a motion to adjourn to Executive Session. Vice-Chairperson Ann Tafel seconded the motion. The Board voted with five members present and voting.

At 4:56 p.m., the Board adjourned to Executive Session.

At 5:22 p.m., the Board reconvened back to regular meeting in progress.

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

Mr. Josue Barroso, project representative, 1327 Felix Street, Alamo, Texas. He stated that J.J. Cantu would like to speak on behalf of the elderly members. Mr. Barroso stated the way they interpreted Section 138-98(a) of the Code, that it called for this project to be allowed to follow the 10% through a span of years in speaking with Mr. Nunez until the project was completed. He understood that if it did not go over the 10% of the current replacement cost and not the appraised value. However, Mr. Barroso was in disagreement with how the City was interpending replacement cost.

Mr. Jose J. Cantu, 412 North 41st Street, McAllen, Texas. He stated he was a long time member of the congregation and was in favor of approving the request on behalf of the elderly members.

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

Following discussion, Vice-Chairperson Ann Tafel **moved** to disapprove the Variance request. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove the Variance request with four members voting aye and one member-voting nay, Mr. Hugo Avila.

ADJOURNMENT

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

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Special Meeting on Thursday, August 30, 2024 at 4:40 p.m. in the McAllen Development Center, 311 North 15th Street, Executive Conference Room with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Hugo Avila	Member
	Rogelio Rodriguez	Member
	Alex Lamela	Alternate
Absent:	Hiram A. Gutierrez	Member
	Juan Mujica	Alternate
	Pablo Garcia	Alternate
	Daniel Santos	Alternate
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Samuel Nunez	Senior Planner
	Samantha Trevino	Planner I
	Carmen White	Administrative Assistant

CALL TO ORDER –Vice-Chairperson Ann Tafel

1. PUBLIC HEARINGS:

- a) Request of Hollywood Development and Construction, for Variances to the City of McAllen Off-Street Parking and Loading Ordinance to not provide one parking space beyond the front yard setback at Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27 and 28, Imperio Estates Subdivision, Hidalgo County, Texas; 2813, 2809, 2805, 2801, 2721, 2717, 2713, 2709, 2705, 2704, 2708, 2712, 2716, 2720, 2800, 2804, 2812, 2816, 2820, and 2824 Indian Hill Avenue **(ZBA2024-0029)**

Mr. Trevino stated the applicant was requesting to not provide one parking beyond the front yard setback for various Lots within Imperio Estates Subdivision.

The subject properties were located on the east side of North 29th street within a two street subdivision. The properties are zoned R-1 (single-family residential) District. The surrounding land use is R-1 (single-family residential) District to the east and A-O (agricultural and open space) District to the north and south.

Imperio Estates Subdivision was recorded on June 28, 2024. The variance application was submitted July 31, 2024.

The applicant was requesting to not provide one parking space beyond the front yard setback. Section 138-394(1) states, "Single-family, mobile/modular home, townhouse

and duplex: Two parking spaces per dwelling unit. One off-street parking for single-family uses shall be located beyond the front yard setback. Parking on landscape development areas required by section 110-48 is prohibited..." The applicants state that their request is based on unique dimensions of their lots (56x90.5). Although the Lot sizes meet the minimum requirement, the lot depths are more constrained compared to standard residential lots. The limitation of space requires modifications to the floor plans.

The proposed site plan for the mentioned lots show two-car driveways. The applicant states buyers will be able to choose between designs with built in garages as an integral part of the original house or homes without a garage. The request if granted may encourage future special exception requests for front yard carports since no covered parking areas would be provided, as well as result in on-street parking for owners who may own more than two vehicles. Moreover, upon further review of the proposed site plan, staff believes that the lots are not being used to their maximum potential since the proposed dwellings are show to provide more distance than the required minimum side and rear yard setbacks. The applicant states that moving the house further back would significantly reduce the available patio space for homeowners.

A review of Planning Department records did not reveal other variances granted within the subdivision since this is a new subdivision this would be the first request.

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

Staff recommended disapproval of the variance request since one parking space is required beyond the front yard setback as per the ordinance, and the site plans can be modified to meet that requirement. They currently have applied for and received 2 permits complying with this requirement. Further, no hardship exists since the plat can still be changed to accommodate requirement.

Board member Avila asked staff to clarify the one parking beyond the front yard setback. Staff stated the ordinance after 1999 City required one parking space to be located beyond the front yard setback to accommodate to limit the off-street parking. The older houses that were built without garages does not comply but after since the 1999 ordinance they require either a garage, carport or even a driveway for some parking beyond the house.

Mr. Jorge Valdez, owner of Hollywood Development and Construction and Imperio Estates Subdivision, 2201 West Dove Avenue, McAllen, Texas. He stated he was requesting for a two-car driveway being 40 x 20 not 20 x 40. It would not go beyond the front yard setback.

Mr. Rafael Mendoza, 2201 West Dove Avenue. He stated some houses have garages so they will not need on the dimensions for a two-car driveway. For the newer generations coming in with a different type of house so they want to keep their options open for opportunities for new homebuyers. This would include a substantial size for the backyard and not having to push the house further back.

Ms. Trevino stated she spoke with Ana of Hollywood Development a site plan similar to this one. There was space on either side to move it over and accommodate for one car to be put on the side. Concrete can go over setbacks. It not an issue but an option.

Chairperson Jose Gutierrez arrived at 4:45 p.m. while in progress.

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

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

Chairperson Gutierrez asked how far back they would go back for the limit the space for families to have more room. Mr. Barroso stated 18 feet; instead of 33 feet in the back, they would only have 15 feet. Chairperson Gutierrez asked if the construction were for one or two floors. Mr. Barroso stated one floor. Chairperson Gutierrez asked if two floors the back could have 33 feet. Mr. Barroso stated yes however, it would not be feasible for economic financial situation but it could be.

Mr. Aaron Herrera, 2201 North Dove Avenue, McAllen, Texas. He asked if they could build concrete over the easements and setbacks because he was informed that they needed greenery on each side.

Following discussion, Mr. Alex Lamela **moved** to go with staff's recommendation and disapprove the Variance request. Mr. Hugo Avila seconded the motion. The Board voted to disapprove the Variance request with five members present and voting.

ADJOURNMENT

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

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

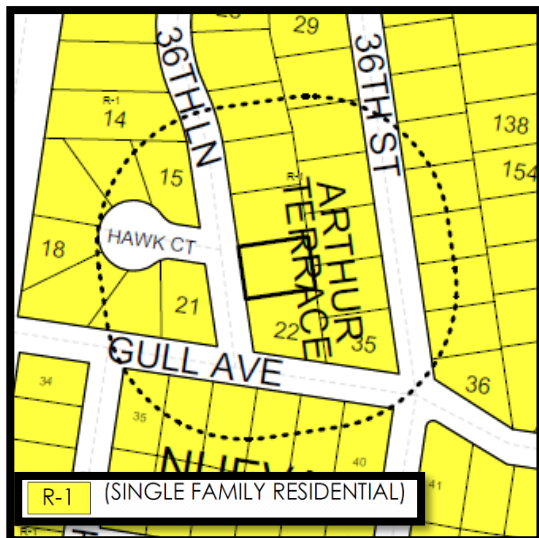
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 3, 2024

SUBJECT: REQUEST OF MICHAEL & IRIS HINES FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 11.4 FEET INTO THE 20 FOOT FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 24 FEET BY 19 FEET AT LOT 23, ARTHUR TERRACE SUBDIVISION, HIDALGO COUNTY, TEXAS; 5916 NORTH 36TH LANE. (ZBA2024-0030)

REASON FOR APPEAL: The applicants are requesting a Special Exception to allow an encroachment of 11.4 feet into the 20 foot front yard setback for an existing metal carport measuring 24 feet by 19 feet totaling 456 square feet in size. The reason for the request is for protection of the vehicles from severe weather elements. Vehicle protection is needed because one of the vehicles hauls a travel trailer, which is used to provide sleeping, cooking, bathing and medical safety accommodations for a kidney transplant recipient as they travel frequently to out of town doctor appointments.



PROPERTY LOCATION AND VICINITY: The subject property is located along the east side of North 36th Lane approximately 76 feet north of Gull Avenue. The Lot has 75 feet of frontage along North 36th Lane and a depth of 100 feet for a total Lot size of 7,500 square feet. The subject property is zoned R-1 (single family residential) District and there is R-1 District in all directions.

BACKGROUND AND HISTORY: Arthur Terrace Subdivision was recorded on June 22, 1982. The plat states a front yard setback of 20 feet. According to Hidalgo County Appraisal District, the house was built in 1990 with a two car garage. A building permit application was submitted on July 26, 2024 but did not receive approval since the carport was shown to be encroaching into the 20 foot front yard setback. A Special Exception request application was then submitted on August 1, 2024 to allow an encroachment of 11.4 feet into the 20 foot front yard setback for the existing metal carport.

ANALYSIS: The Special Exception request is for an existing metal carport measuring 24 feet by 19 feet totaling 456 square feet in size. It encroaches 11.4 feet into the 20 feet front yard setback. The applicants would like for the carport to remain for protection of the two vehicles from adverse weather conditions. The family owns two large Dodge Ram trucks that do not fit into their built-in house garage. One of the vehicles hauls a travel trailer for a family member with a medical condition. The carport provides protection for the individual as they access the vehicle to and from doctor appointments.

The current built-in two car garage is used in part for storage and parking for a smaller truck.

The property owner states that a contractor was hired in 2022 for the construction of the carport and assured the applicants that he would take care of obtaining the permit himself. Subsequently, the residents learned that a building permit had not been obtained.

Building Permits and Inspections Staff issued a stop work order on July 25, 2024 for the carport being built without a permit.

During a site visit of Arthur Terrace Subdivision, Staff noticed one other carport with an encroachment along North 36th Street. A review of Planning Department records revealed a Special Exception was previously requested to allow an encroachment of 20 feet into the 20 foot front yard setback for an existing carport for Lot 53. The request was disapproved at the Zoning Board of Adjustments and Appeals meeting on December 20, 2023.

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

Zoning ordinance Sec. 138-371(g) for Special Exceptions of carports states that no carport for which a Special Exception has been granted under this subsection shall exceed 400 square feet in size. The carport on the subject property is 456 square feet.

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

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

Special Exceptions are issued to and recorded for the present applicants only. A change in property ownership would require the new owner to apply for a new Special Exception.

Measurements provided are with the benefit of a survey.

RECOMMENDATION: Staff recommends disapproval of the Special Exception request since there are no other carports built with an issued building permit in this subdivision. In addition, the carport exceeds 400 square feet in size.



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)

Case Number: 23A2024-0030 ZBOA Meeting: 9/12/24
Receipt No: _____
Accepted by: P: AN S: E Customer Acknowledgment (Int.): _____

☐ Routed
☐ Scanned

PROJECT

Legal Description

Carport added in front of garage door.

Subdivision Name

Arthur Terrace

Street Address

5916 N. 36th LANE

Number of lots

23

Gross acres

Existing Zoning

R-1

Existing Land Use

Residence

Reason for Appeal (please use other side if necessary)

Carport is necessary to protect necessary vehicle to haul sleeping accommodations for kidney →

☒ \$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 Michael + Iris Hines

Phone 956-279-8198

Address 5916 N. 36th LANE

E-mail nicoleynette@gmail.com

City Mc Allen

State Texas

Zip 78504

OWNER

Name Michael + Iris Hines

Phone 956-279-8198
956-279-8262

Address 5916 N. 36th LANE

E-mail michaelrocky1116@gmail.com

City Mc Allen

State Texas

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

Michael A. Hines

Date

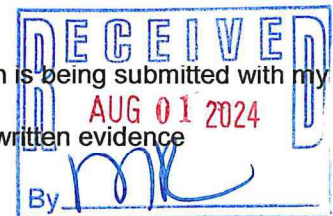
8/1/2024


Print Name

Michael A. Hines

☒ Owner

☐ Authorized Agent





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:

The special circumstance is for safety. We are trying to adhere to Michael's Kidney Transplant doctor's requests to not come into contact with germ carrying people, so we use his truck to haul our own

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: I, Michael Hines, own a Dodge 2500 pickup truck which I use to haul our little travel trailer. I am a kidney transplant recipient and my kidney doctors here and in Galveston do not want me to catch anything. My anti-rejection medicines lower my immunity so that my body does not reject my transplant. So sleeping and bathing in my own RV seemed to be the safest way to travel.

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:

Most of my neighbors and friends are very happy for me that I am able to travel. When you are on dialysis you cannot. Your blood has to be cleaned by machines every other day. Thus, my building a carport to protect my truck from hail damage does not present any harm.

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

We, my wife and I, are retired teachers on a fixed income. We were raised with traditional values. We were taught to take care of our things, so we decided to protect our truck with a carport. This truck does not fit in our garage. In recent years, we have had several hail storms that have damaged a lot of

vehicles and homes. We have insurance, but coming up with the deductible is not easy, so we decided to be proactive and logical and protect our new vehicle.

Chairman, Board of Adjustment
Signature

Date

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.
- (g) No carport for which a special exception has been granted under this subsection shall exceed 400 square feet in size.

(Ord. No. 2018-70, § I, 10-8-18; Ord. No. 2023-85, § I, 6-27-23)



ART SALINAS

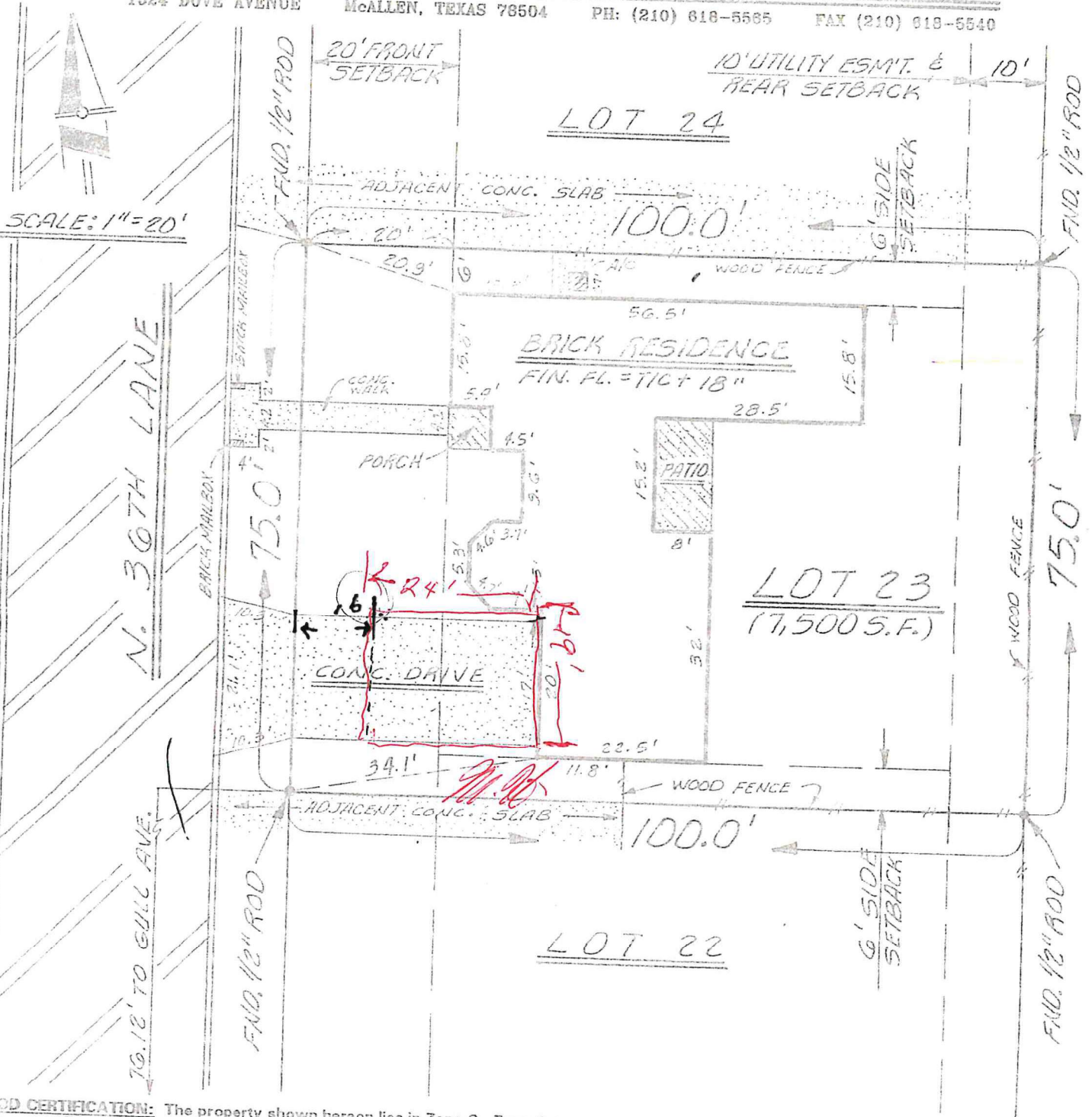
ENGINEERING & SURVEYING

1524 DOVE AVENUE

McALLEN, TEXAS 78504

PH: (210) 618-5585

FAX (210) 618-5540



FLOOD CERTIFICATION: The property shown hereon lies in Zone C. Zone C areas are areas of "minimal flooding" and are not designated flood prone areas as per F.E.M.A. Flood Insurance Rate Map No. 480343-0005-C dated 11-02-82.

PLAT NOTES:

1. There are no discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or any overlapping of improvements except as shown on this plat.
2. Easement agreement with CENTRAL POWER & LIGHT COMPANY, recorded in Volume 1792, Page 454, Deed Records, Hidalgo County, Texas to furnish, maintain and operate underground electric cables and other facilities as may appear upon the map attached thereto. (Blanket)
3. Easements, Rules, Regulations and Rights in favor of Hidalgo County Irrigation District No. 1. (Blanket)
4. Easement and right of way granted to Central Power & Light Company on each lot in said subdivision for an underground electric service lateral together with the right of ingress & egress for such purpose at the right location where such service lateral is to be or is installed and maintained





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2024-0030

Memo

TO: Zoning Board of Adjustment & Appeals

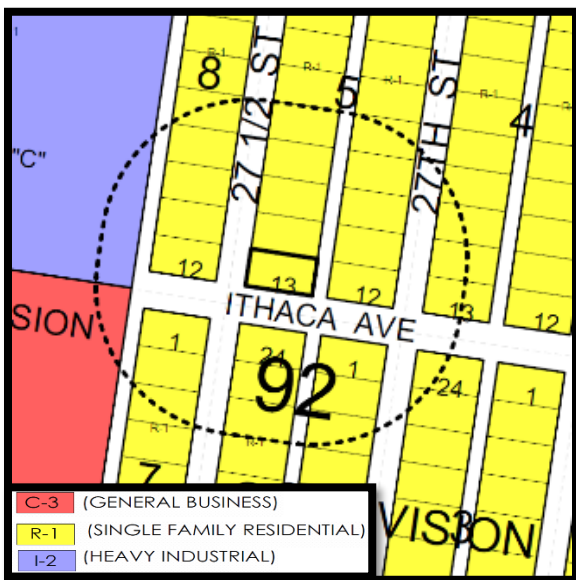
FROM: Planning Staff

DATE: September 6, 2024

SUBJECT: Request of Armando Hernandez for variances to the City of McAllen Zoning Ordinance to allow the following encroachments: 1) 6.73 feet into the 10 foot rear yard setback for an addition; 2) 1.98 feet into the South 7 foot side yard setback; and 3) an encroachment of 14.73 feet into the 18 foot garage setback at Lot 13, Block 5, McAllen Heights Subdivision, Hidalgo County, Texas; 821 South 27th ½ Street. **(ZBA2024-0031)**

REASON FOR APPEAL: The applicant is requesting a variance to allow the above mentioned encroachments for a master bedroom, bathroom, closet, safe space, kitchen and enclosed two-car garage for the first floor. Two bedrooms, bathroom, flex space, balcony, and entertainment room for the second floor addition that will update the current residence for a more modern appearance to suit the space needed for the applicant's son who is law enforcement personnel and intends to accommodate his work equipment and necessities to the additional structures.

PROPERTY LOCATION AND VICINITY: The subject property is located at the northeast corner of South 27th ½ Street and Ithaca Avenue. The lot has 50 feet of frontage and a depth of 90 feet for a total lot size of 4,500 square feet. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions.



BACKGROUND AND HISTORY: The plat for McAllen Heights Subdivision was recorded in January

1959. According to the Hidalgo Country Appraisal Records, the home was constructed in 1980. The application for the variance request was submitted on August 7, 2024.

ANALYSIS: Variance #1 – the applicant proposes to construct an addition that will encroach 6.73 feet into the 10-foot rear yard setback. The portion of the addition that will encroach into the rear yard setback consists of a bathroom, walk-in closet, safe space, entertainment room, balcony and flex space. The plat for this subdivision does not indicate a utility easement along the rear of the subject property. A 20-foot alley at the rear of the subject property provides separation that serves as a buffer to the buildings to the south.

Variance #2 - The applicant has submitted a “site plan” for the existing structure that indicates a 10-foot side yard setback along Ithaca Avenue. The applicant proposes an addition to the existing two-story home that would expand 4.98 feet into the side yard setback along the south property line. The proposed construction encroachment will consist of a kitchen, master bedroom, flex space, bedrooms and bathroom areas. Section 138-368 Side Yards (a) of the Zoning Ordinance states that on a corner lot in all districts, the width of the side yard along the street shall not be less than ten feet provided that the buildable width of such a lot of record shall not be reduced to less than 38 feet. Strict application of the 10-foot setback requirement will reduce the buildable width to 35 feet. In the past, the practice to achieve compliance with the ordinance requirements has been to allow for 7-foot corner yard setbacks in cases where the buildable width is less than 38 feet. Thus, the setback requirement compliant with the ordinance is 7 feet along Ithaca Avenue. Approval of the variance request for a 1.98 feet encroachment into the 7-foot side yard setback will allow a 5.02 side yard setback to remain. A 5-foot side yard setback on corner lots may be present on properties with setbacks from the previous Zoning Ordinance. The plat for this subdivision does not indicate utility easements along the rear of sides of the property. The alley serves as a buffer to structures on the adjacent property to the south.

Variance #3 – Is an encroachment of 14.73 into the 18-foot garage setback for a two-car garage proposed as an addition to the existing home. A proposed double-driveway is in order to comply with the required number of parking spaces for a residence. A 20-foot alley at the rear of the subject property will provide access to the proposed garage. The Zoning Ordinance requires that entrances to a garage shall be a minimum of 18 feet from alleys in the R-1 District. The site plan shows the distance from the rear property line to the proposed garage at 3.27 feet. The plat for this subdivision does not indicate a utility easement along the rear of the property. The alley serves as a buffer to structures on the adjacent property to the south. The car garage is an accessory use and not living area. An enclosed garage built close to the property line may present concerns regarding all-around sight visibility while a vehicle is maneuvering into the alley right of way.

The applicant has not provided a survey to determine the encroachments in a specific way.

Although there were other lots in the subdivision that appeared to have similar property building encroachments, a review of Planning Department records did not reveal any approved permits or variances in the immediate area.

If the variance request is approved the applicant must comply with all other building and zoning ordinance requirements.

Staff has received one email in favor of the variance request.

RECOMMENDATION:

Staff recommends approval of variance request #1 since a 20-foot alley at the rear of the subject property provides separation that serves as a buffer to the buildings to the south.

Staff recommends approval of variance request #2 since 5-foot side yard setbacks on corner lots are still a practice on properties with setbacks from the previous Zoning Ordinance.

Staff recommends disapproval of variance request #3 since an enclosed garage built close to the property line may present visibility concerns as a vehicle maneuvers into the alley right of way.



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)

Case Number: 2024-0031

ZBOA Meeting: 9/12/24

☐ Routed

Receipt No: 340297

☒ Scanned

Accepted by: P: EL S: EL

Customer Acknowledgment (Int.): EL

PROJECT

Legal Description McAllen Heights Lot 13 Blk 5

Subdivision Name McAllen Heights Sub Division

Street Address 821 S. 27 1/2 St

Number of lots 1 Gross acres .10

Existing Zoning R-1 Existing Land Use Home

Reason for Appeal (please use other side if necessary) Encroachment of 6.73' into the (East side) 10' rear setback and 4.98' into the 10' side yard setback. (South side)

☒ \$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 Armando Hernandez Phone (956) 369-6164

Address 1105 S. Shary Blvd E-mail linda1753@sbcglobal.net

City Alton State TX Zip 78573

OWNER

Name Linda Hernandez Phone (956) 369-4545

Address 1105 S. Shary Blvd E-mail linda1753@sbcglobal.net

City Alton State TX Zip 78573

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.

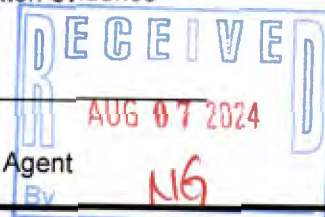
Signature Armando Hernandez

Date 8/7/2024

Print Name Armando Hernandez

☐ Owner

☒ Authorized Agent





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:

The old structure is small in size and an addition is needed to update the kitchen area and add a master bedroom to include an enclosed garage.

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

The 5' variance requested on the south side of the property would provide the necessary width for a modern kitchen and the necessary appliances.

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

The new structure will not interfere with the public's view, health or wellbeing once its constructed. The new addition will improve the neighborhood and beautify the area.

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

The new addition to the structure will be of modern design unlike the old wooden frame homes in the area. A great improvement will be added to our community.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

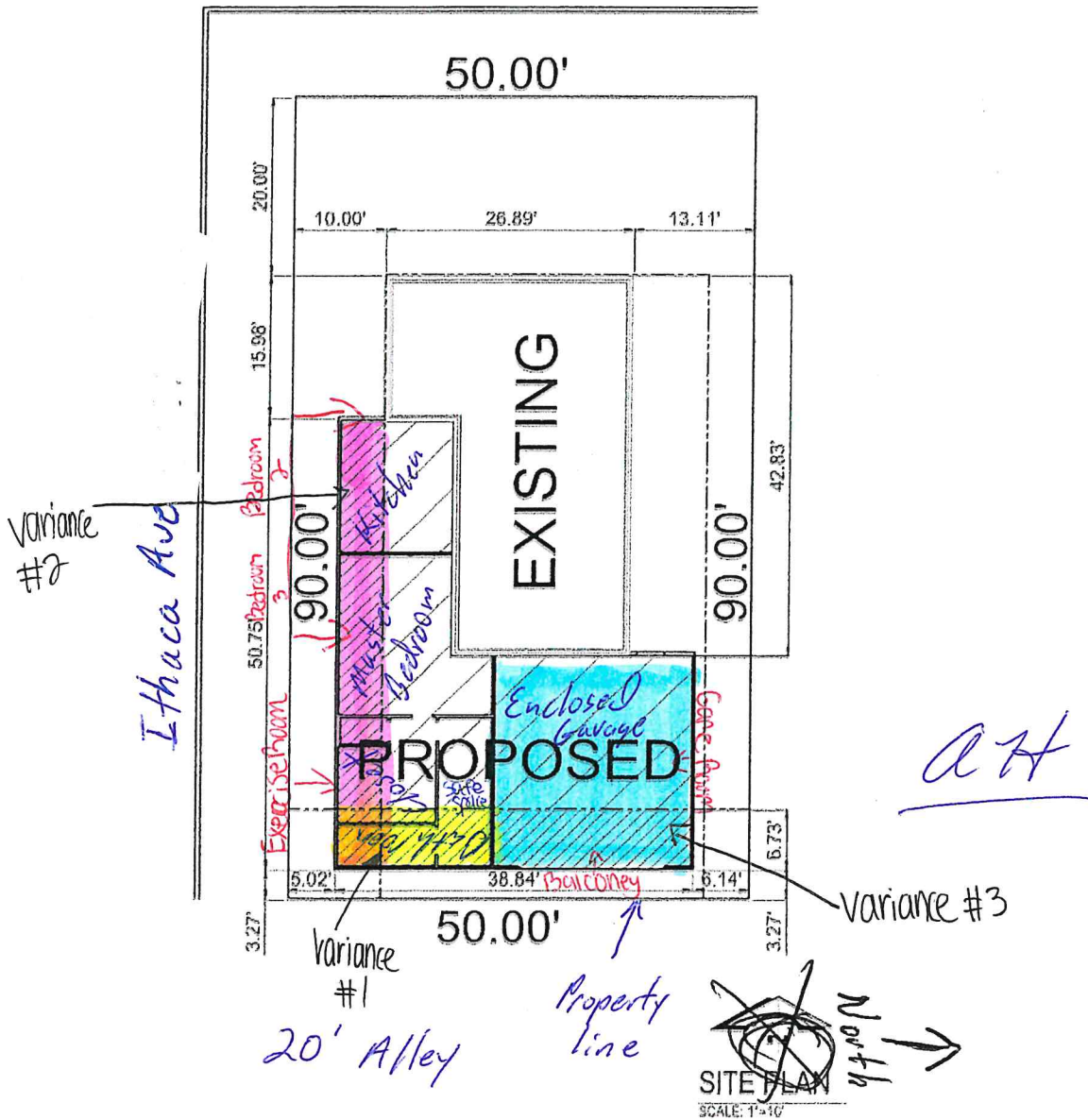
1:48



Lot 13 Blk 5 Mcallen Heigh...



821 S 27 1/2 STREET



SHEET:

1

HOME DESIGN FOR
MR. AND MRS.
HERNANDEZ

PLAN ID # 3300

DESIGNED BY: David A. Farnsworth
DRAWN BY: David A. Farnsworth
CHECKED BY: David A. Farnsworth

APPROVED BY:

APPROVED BY:

APPROVED BY:

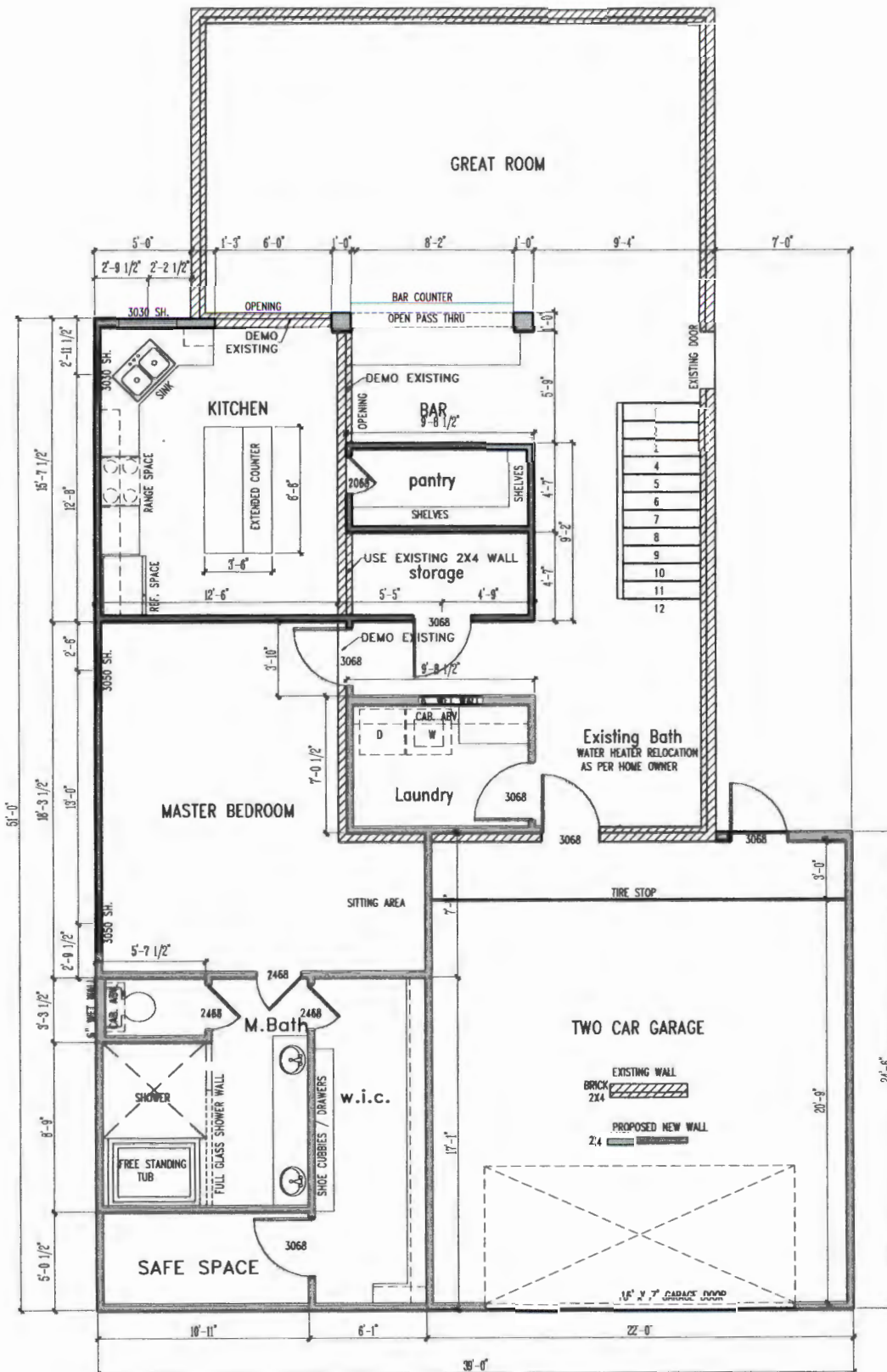
DATE:
3/31/24

AUG 07 2024

NG







**1ST FLOOR
ADDITION PLAN**
SCALE: 1/8" = 1'-0"

DATE:
8-1-24

DRAWN BY: Frank X. Castaneda
EMAIL: FrankXCastaneda@yahoo.com
Phone No: 956-225-4191
AUDITED BY:
APPROVED BY:

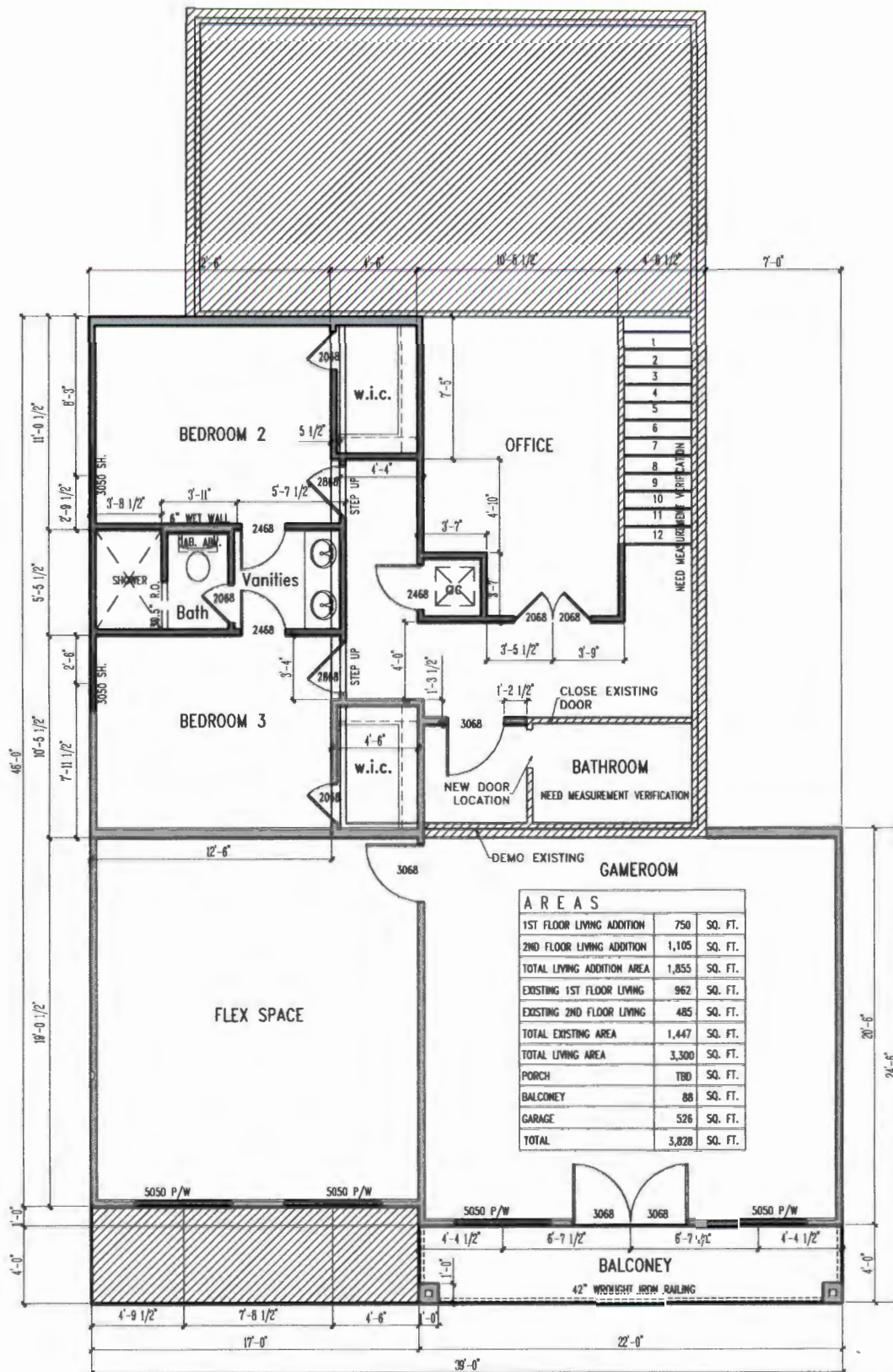
HOME DESIGN FOR
MR. AND MRS. HERNANDEZ
PLAN ID # 3300

SHEET:

2

AUG 07 2024

By



**2ND FLOOR
ADDITION PLAN**
SCALE: 1/8" = 1'-0"

DATE:
8-1-24

DRAWN BY: Frank X. Castaneda
EMAIL: Frank.X.Castaneda@Yahoo.com
Phone No: 956-225-4191
AUDITED BY:
APPROVED BY:

**HOME DESIGN FOR
MR. AND MRS.
HERNANDEZ** PLAN ID # 3300

SHEET:

3



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2024-0031

NO
TRESPASSING

824