

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, SEPTEMBER 21, 2022 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> 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 Sylvia Hinojosa

#### 1. MINUTES:

- a) Minutes for the meeting held on September 8, 2022

#### 2. PUBLIC HEARINGS:

- a) Request of Juan Muniz for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 25-foot front yard setback for an existing single family home at Lot 220, Idela Park Unit 3, Hidalgo County, Texas; 3528 Katrina Avenue. **(ZBA2022-0054)**
- b) Request of Noelia Salazar for a special exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 26 feet into the 31 feet front yard setback for an existing metal carport measuring 25 feet by 22 feet on Lot 5, Block 4, Milmor Addition, Hidalgo County, Texas; 1717 Maple Avenue. **(ZBA2022-0058)**
- c) Request of Vicente Martinez on behalf of Maria C. Martinez 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 Lot 4, Block 38, Hammond Addition, Hidalgo County, Texas; 2011 Beaumont Avenue **(ZBA2022-0059)**
- d) Request of Aqua Mill, LLC on behalf of Velmej Investments, LLC for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 114 feet into the 120 feet front yard setback for a water kiosk on Lots 1 thru 14, Spring Glen Subdivision, Hidalgo County, Texas; 628 North McColl Road. **(ZBA2022-0060)**
- e) Request of Hilda Trevino for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing carport measuring 20 feet by 20 feet, at Lot 10, Block 1, Bluebird Subdivision, Hidalgo County, Texas; 5309 North 32nd Street. **(ZBA2022-0055)**
- f) Request of Diana Cerecedo for variance to the City of McAllen Zoning Ordinance to allow: an encroachment of 5.75 feet into the 25-foot front yard setback for a garage setback and an encroachment of .91 feet into the 25 feet front yard setback for a proposed single family home, at Lot 16 Bentsen Park subdivision, Hidalgo County, Texas; 4201 Zinnia Avenue. **(ZBA2022-0056)**
- g) Request of Diana Cerecedo for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6.4 feet into the 25-foot front yard setback for a garage setback, at Lot 4 Bentsen Park Subdivision, Hidalgo County, Texas; 4308 Avocet Avenue. **(ZBA2022-0057)**

- h) Request of David Zuniga. for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 25-foot front yard setback for a proposed single family home, at Lot 20 Blk 4 for Balboa Acres subdivision, Hidalgo County, Texas; 2400 Helena Avenue. **(ZBA2022-0052) (TABLED: 09/08/2022)**
- i) Request of Elizabeth L. Garza for the following Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 10 feet South side yard setback for an existing single family home, at Lot 124, Vendome Subdivision Phase II, Hidalgo County, Texas; 13818 North 33rd Lane. **(ZBA2022-0037) (TABLED: 07/07/2022, 07/20/2022, 08/03/2022, 08/17/2022, 8/31/2022, 09/08/2022)**

### **3. FUTURE AGENDA ITEMS**

- a) 2445 North 31st Street
- b) 1901 South 33rd Street
- c) 3112 Northwestern Avenue
- d) 2005 Newport Avenue
- e) 1516 Flamingo Avenue
- f) 6105 North 30th Street
- g) 3913 Zinnia Avenue
- h) 2205 Nyssa Avenue
- i) 10734 North 29th Lane
- j) 2309 North 31st Street
- k) 615 Dallas Avenue
- l) 407 East Vine Avenue
- m) 600 North 43rd Street
- n) 9410 North 29th Lane
- o) 2801 North 39th Street

#### **ADJOURNMENT:**

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

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

**The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, September 8, 2022 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:**

<b>Present:</b>	<b>Sylvia Hinojosa</b>	<b>Chairperson</b>
	<b>Jose Gutierrez</b>	<b>Vice-Chairperson</b>
	<b>Ann Tafel</b>	<b>Member</b>
	<b>Hugo Avila</b>	<b>Member</b>
	<b>Rogelio Rodriguez</b>	<b>Member</b>
	<b>Rebecca Millan</b>	<b>Alternate</b>
	<b>Sam Saldivar</b>	<b>Alternate</b>
<b>Absent:</b>	<b>Mark Talbot</b>	<b>Alternate</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Rodrigo Sanchez</b>	<b>Senior Planner</b>
	<b>Samuel Nunez</b>	<b>Planner I</b>
	<b>Samantha Trevino</b>	<b>Planner I</b>
	<b>Porfirio Hernandez</b>	<b>Planning Technician II</b>
	<b>Julian Hernandez</b>	<b>Planning Technician I</b>
	<b>Carmen White</b>	<b>Administrative Assistant</b>

**CALL TO ORDER –Chairperson Sylvia Hinojosa**

**1. MINUTES:**

- a) Minutes for the special meeting held on August 17, 2022.

The minutes for the special meeting held on August 17, 2022 were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Vice-Chairperson Jose Gutierrez seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Andres Montiero, Jr. for a special exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 9 feet into the 20 feet front yard setback for an existing carport measuring 14 feet by 18 feet on Lot 89, Ponderosa Park Phase II, Hidalgo County, Texas; 3221 Iris Avenue. **(ZBA2022-0045)**

**The applicant withdrew this item.**

- b) Request of Andres Montiero, Jr. for a special exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport measuring 14 feet by 18 feet on lot 89, Ponderosa Park Phase II, Hidalgo County, Texas; 3221 Iris Avenue. **(ZBA2022-0045)**

Mr. Nunez stated the applicant was requesting a special exception in order to allow an encroachment of 15 feet into the front yard setback of 20 feet for an existing metal carport measuring 14 feet by 18 feet. The applicant was appealing to keep his existing carport to protect his vehicles (3) from the weather elements, namely high temperatures, rain, and hail damage. According to the applicant, his truck (one of the three vehicles) would be too long to fit in the existing garage. The applicant had also mentioned that it provided shade while he is out doing work on his vehicles and landscaping.

The subject property was located south of Iris Avenue, approximately 420 feet east of North 34<sup>th</sup> Street. According to the subdivision plat, the property had 60 feet of frontage along Iris Avenue and a depth of 105 feet, for a lot size of 6,300 square feet. The surrounding land use is single-family residential.

The plat for Ponderosa Park Phase II Subdivision was recorded on February 24, 1998. Said plat requires 20 feet for front yard setbacks. According to Hidalgo County Appraisal District, the existing home was built in 2000. According to the applicant, the existing carport was built on July 2022.

A stop work notice was issued by the Building Permits and Inspections Department on July 13, 2022 for construction of a carport without a permit. A Building Permit application was submitted by the property owner a day after (July 14, 2022) in response to the stop work notice for the existing carport. The applicant submitted the special exception request in July 18, 2022.

Approval of the special exception request would allow an encroachment of 15 feet into the 20 feet front yard setback as shown in the applicant's submitted site plan. Approval of this request would allow the applicant to provide protection for all of his (3) vehicles by using both his garage and the existing carport.

According to the subdivision plat, there are no dedicated easements along the front of the subject property. The plat only designates a 20 feet front setback and a 20 feet utility easement on the rear of the property.

During a site visit, staff noticed similar encroachments, namely carports, located at the front yard in the area. A review of the Planning Department records revealed one approved building permit and special exception for the above mentioned carport structures.

At the Zoning Board of Adjustments and Appeals meeting of August 17, 2022, the Board approved a special exception for a proposed metal carport that would encroach 15 feet into the required 20 feet front yard setback for Lot 12 of Ponderosa Park Phase 6 Subdivision.

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

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

Staff recommended approval of the special exception request since the Board approved one special exception in the area. Approval should be limited to the encroachment

shown on the submitted site plan.

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

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

Following discussion, Mr. Ann Tafel **moved** to approve the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted to approve the special exception and variance requests with five members present and voting.

- c) Request of David Zuniga. for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 25 feet front yard setback for a proposed single family home, at Lot 20 Blk 4 for Balboa Acres subdivision, Hidalgo County, Texas; 2400 Helena Avenue. **(ZBA2022-0052)**

Ms. Trevino stated the applicant was requesting a variance to allow an encroachment of 5 feet into the 25-foot front yard setback in order to accommodate construction of a proposed single-family residence.

The subject property was located at the northwest corner of Helena Avenue and South 24<sup>th</sup> Street. The property has 95 feet of frontage along Helena Avenue and a depth of 107.5 ft., for a lot size of 1,212.5 square feet. The surrounding land use is single-family residential with a commercial use to the east across South 24<sup>th</sup> Street.

The plat for Balboa Acres Subdivision was recorded in January 1963. The subdivision was annexed into the city in 1975. The plat indicates a front yard setback of 25 feet. A building permit application for the proposed residence has not yet been submitted. The applicant submitted the special exception request on August 3, 2022.

Approval of the variance request would allow an encroachment of 5 feet into the 25 feet front yard setback. The submitted site plan shows that a garage was proposed to be built at the rear of the property and the proposed encroachment will help to accommodate the proposed garage.

During the site visit, staff noticed other homes within the subdivision that appear to have been built at the 20-foot front yard setback. The proposed setback request on the subject property would be characteristic of construction in this area.

A review of Planning Department records did not reveal any approved special exceptions or variances in the immediate area.

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

Staff recommended approval of the variance request. If the board grants approval of the request, it should be limited to the encroachment show on the submitted site plan. The proposed encroachment will not alter the essential character of the neighborhood.

Mr. David Zuniga, 5611 South 29<sup>th</sup> Street. The applicant stated he wanted to build his

house at a 20-foot setback instead of 25 ft. so that he can have his garage in the back. He wanted to make sure the rooms were an adequate size.

There were no issue with utilities and there was an alley.

The Board suggested tabling the item so the applicant can discuss with staff the possibilities of revising the proposed site plan.

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

Chairperson Sylvia Hinojosa 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 Jose Gutierrez **moved** to table the variance request until the next meeting. Mr. Rogelio Rodriguez seconded the motion. The Board voted to table the variance request with five members present and voting.

- d) Request of Harold and Nancy Guthrie for a special exception to the City of McAllen Zoning Ordinance to allow encroachments of 20 feet into the 20 feet front yard setback and 1.5 feet into the 6 feet west side yard setback for a proposed metal carport measuring 23 feet by 20 feet on Lot 7, Block 2, Crosspointe Subdivision Unit # 1, Hidalgo County, Texas; 425 East Shasta Avenue. **(ZBA2022-0050)**

Mr. Nunez stated the applicant was proposing a metal carport to protect his three vehicles from high temperature weather conditions. According to the applicant, the existing driveway and garage cannot accommodate or provide protection for all of his vehicles, especially for his truck, which does not fit inside the garage because of its length.

The subject property was located along the north side of Shasta Avenue, approximately 374 feet East of Chai Street. According to the subdivision plat, the property has 62.33 feet of frontage along East Shasta Avenue and a depth of 105 feet, for a lot size of 6,544.65 square feet. The surrounding land use is single-family residential with Valley Worship Center church adjacent to the north property line.

The plat for Crosspointe Subdivision Unit # 1 was recorded on April 1, 1993. The required front yard setback is 20 feet. According to Hidalgo County Appraisal District, the existing home was built in 1994. The applicant submitted the special exception request on July 21, 2022 for the proposed metal carport. A building permit application has not been submitted.

Approval of the special exception request would allow an encroachment of 20 feet into the 20 feet front yard setback, and 1.5 feet into the 6 feet west side yard setback, as shown in the submitted site plan.

According to the subdivision plat, no utility easements run along the front or the sides of the property lines of Lot 7. Therefore, the proposed metal carport would not be impacting any easements

During the site visit, staff did not notice similar carports (as proposed) or any other structures that appeared to be encroaching into the front yard setback. This metal carport

would be the first in the subdivision. Approval of this request may encourage other property owners in the area to build their own carports. Front yard and side 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 of properties in a subdivision.

A review of the Planning Department records did not reveal any approved special exceptions in the subdivision.

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

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

Staff recommended disapproval of the special exception request since the proposed metal carport may alter the essential character of the neighborhood. It may also encourage other property owners to build their own carports. However, if the Board grants approval of the special exception request, it should be limited to the footprint shown on the submitted site plan.

Vice-Chairperson Gutierrez asked staff if at any time this house had a garage. Mr. Nunez stated it currently had a garage but it is being used to store their vehicles. They had a larger truck that did not fit in the garage.

Mr. Harold and Nancy Guthrie stated they have been on their property since it was built in 1994. He stated they have two vehicles that were parked in the garage but his truck was parked outside. The inclement weather had done wear and tear on his truck. Mr. Guthrie also mentioned he had an elderly family member that needed to get in and out of the vehicle as well. He had spoken to his neighbors to see if there were no oppositions for their proposed carport. They were not in opposition to it.

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

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

Following discussion, Mr. Hugo Avila **moved** to approve the special exception limited to the footprint shown on the submitted site plan. Mr. Ann Tafel seconded the motion. The Board voted to approve the special exception with five members present and voting.

- e) Request of Juan M. Garza. for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback and encroachment of 2 feet into the 6ft side yard setback for a carport measuring 20 feet by 21 feet, for Lot 49, Shadow Brook UT 1, Hidalgo County, Texas; 5909 N 22<sup>nd</sup> Lane. **(ZBA2022-0053)**

Ms. Trevino stated the applicant was requesting a special exception in order to allow an encroachment of 20 feet into the front yard setback of 20 feet and an encroachment of 2 feet into the 6 feet side yard setback for an existing metal carport measuring 20 feet by 21 feet. The applicant stated the existing metal carport is to protect his 2 vehicles from the

weather elements, and also for protection for his elderly wife who has limited mobility.

The subject property was located along the west side of North 22nd Lane. The property has 50 feet of frontage along North 22nd Lane and a depth of 114.11 feet, for a lot size of 5,705.5 square feet. There is an existing single-family residence on the subject property. The surrounding land use is single-family residential with commercial use to the west across North 23<sup>rd</sup> Street.

The plat for Shadow Brook UT 1 was recorded on April 30, 1980. The plat states a 20-foot front yard setback. An application for a building permit application for the carport was submitted on July 26, 2022. An application for the special exception request was submitted on August 3, 2022.

Approval of the special exception request would allow an encroachment of 20 feet into the 20 feet front yard setback and an encroachment of 2 feet in to the 6 feet side yard setback as shown in the applicant's submitted site plan. The reason for this request is to allow the applicant to provide protection for his two vehicles, as well as protection for his wife from the weather elements.

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

During the site visit, staff noticed two other (carports) similar encroachments in the area. A review of Planning Department records did not reveal any variances or special exceptions granted for carports in the area.

The board may consider a type of hardship- the financial cost of complying with the code, if the financial cost of compliance is greater than 50 percent of the appraised value of the structure.

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

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

Staff recommended disapproval of the special exception request, since approval may encourage other property owners to build similar structures that may require special exceptions.

Mr. Juan Garza, the applicant stated they lived at their residence for 40 years. He had the carport built in June 2022 not aware they needed a building permit. Chairperson Hinojosa asked how it came before the Board. He stated the inspector came and asked him if he had permit had. Mr. Garza stated no. Vice-Chairperson Gutierrez asked the applicant who had built it. Mr. Garza stated he noticed another metal carport in the same area. He then retrieved the phone number of the builder and received an estimate. He did not ask the builder about a permit.

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



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

Following discussion, Mr. Hugo Avila **moved** to approve the special exception limited to the footprint of the submitted site plan. Ms. Ann Tafel seconded the motion. The Board voted to approve the special exception and variance requests with five members present and voting.

- f) Request of Manuel and Juana Ramirez for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 25 feet front yard setback, and a 4 feet encroachment into the 10 feet rear yard setback along the west side of property line for a single family dwelling on Lot 2, Ramirez Subdivision, Hidalgo County, Texas; 2420 South 25<sup>th</sup> Street. **(ZBA2022-0051)**

Mr. Nunez stated the applicant was requesting a variance to allow a proposed single family dwelling to encroach 10 feet into the 25 feet front yard setback, and 4 feet into the 10 feet rear yard setback along the west property line. Since the subject property is fronting a cul-de-sac, the applicant requests the setback variance in order to allow more room for the construction of the proposed single-family dwelling.

The vacant subject property was located on South 25<sup>th</sup> Street along a cul-de-sac. According to the subdivision plat, the property has a curved frontage of 107.36 feet along South 25<sup>th</sup> Street, with a total lot size of 10,857 square feet. The subject property is zoned R-1 (single family residential) District. The surrounding land use is single-family residential, with commercial districts to the north and east.

Ramirez Subdivision was recorded on October 31, 2006. The application for the variance request was submitted on August 2, 2022. A building permit application had not been submitted.

Approval of this variance request will allow encroachments of 10 feet into the 25 feet front yard setback and 4 feet into the 10 feet rear yard setback along the west side of property in order to build a one story single family residence.

The applicant had stated that the adjacent lots to the east and west are owned by the Ramirez family, so they will not be impacting other property owners. Additionally, this property is fronting a cul-de-sac on 25<sup>th</sup> Street with an alleyway separating the subject property from the residences to the south. The aforementioned facts add an element of privacy to the subject property.

If the variance request was approved, the applicant must comply with all other building and zoning ordinance requirements, including requirements from the vegetation ordinance (landscaping).

Staff had not received any phone calls, email, or letter in opposition of this request.

Staff recommended disapproval of the variance request since the lot size was adequate to fit a single-family dwelling that was designed differently in size from what was being proposed. The applicant can also propose a second floor area. However, if the Board decides to grant approval of this request, it should be limited to the footprint shown on the submitted site plan.

Vice-Chairperson Gutierrez asked staff if they had discuss the possibilities to the applicant concerning staff's recommendation. Mr. Nunez stated yes, they did mention it to applicant what staff was going to be recommending based on what they were viewing. They also discussed it with another representative as how staff was viewing this project that it could more limited in size fit or comply with the required setbacks.

Board member Avila asked staff what was the proposed square footage. Mr. Nunez stated the proposed square footage including a patio area as shown on the plan and site plan was 3,841 square feet.

Staff indicated there was no proposed garage just the parkway.

Mr. Manuel Ramirez, 2313 South 26<sup>th</sup> Street. The applicant stated the property belonged to his father. All the land from 23<sup>rd</sup> Street to 26<sup>th</sup> Street it used to be a homestead. Later on, he heard that it had been rezoned to residential. He wanted to build his house behind his family's property. He wanted his house to view the alley and not the commercial building.

Mr. Ivan Garcia, Rio Delta Engineering on behalf of Mr. Ramirez stated the house had to be turned around because of the curb appeal to having the flea market and Martinez building, which shifted the side setback to a rear setback and the front setback to a side setback on the cul-de-sac.

Vice-Chairperson Gutierrez asked if they had considered building a second floor. Mr. Ramirez stated he never thought of having a second floor mainly because of the aging process and having to use the stairs.

Board member Rodriguez asked about possibly reducing the size to be in compliance. Mr. Ramirez stated yes but in speaking with the engineers, they asked if the applicant would be satisfied with the house.

Chairperson Hinojosa asked staff looking at the rear yard setback of 4 feet, was that considered on the cul-de-sac on the side of it. Mr. Nunez stated since it was a cul-de-sac the way it was subdivided, this lot had two sides. It had a side to the east and the other side would be to the south the one facing the alley. The two rear sides, one of them was facing towards the west and the other one was facing towards the north.

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

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

Following discussion, Ms. Ann Tafel **moved** to disapprove the variance request. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted to disapprove the variance request with three members voting aye and two members, Mr. Hugo Avila and Chairperson Sylvia Hinojosa voting nay.

- g)** Request of Emma Veras for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 feet front yard setback for an existing carport measuring 12 feet by 15 feet, at Lot 47, Brookwood Unit II Subdivision, Hidalgo County, Texas; 3824 Zinnia Avenue.

**(ZBA2022-0038) (TABLED: 07/20/2022) (REMAIN TABLED: 08/03/2022, 08/17/2022) WITHDRAWN**

**The applicant withdrew this item.**

- h) Request of Elizabeth L. Garza for the following Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 10 feet South side yard setback for an existing single family home, at Lot 124, Vendome Subdivision Phase II, Hidalgo County, Texas; 13818 North 33rd Lane. **(ZBA2022-0037) (TABLED: 07/07/2022) (REMAIN TABLED: 07/20/2022, 08/03/2022, 08/17/2022)**

**This item was to remain tabled until the next meeting.**

**4. FUTURE AGENDA ITEMS:**

- a) 3528 Katrina Avenue
- b) 5309 North 32<sup>nd</sup> Street
- c) 4201 Zinnia Avenue
- d) 4308 Avocet Avenue
- e) 1717 Maple Avenue
- f) 2011 Beaumont Avenue
- g) 628 North McColl Road

**ADJOURNMENT**

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

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Chairperson Sylvia Hinojosa

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Carmen White, Administrative Assistant

## Memo

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 13, 2022

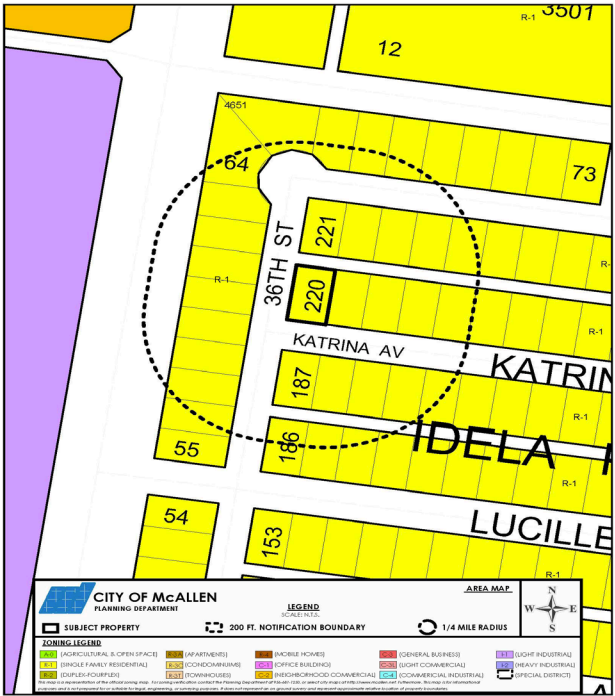
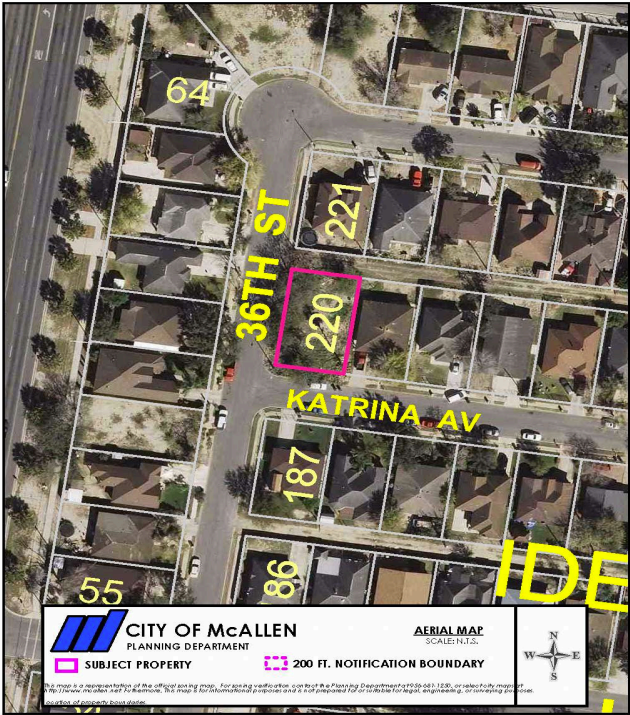
**SUBJECT: REQUEST OF JUAN MUNIZ FOR A VARIANCE TO THE CITY OF McALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 5 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR AN EXISTING SINGLE FAMILY HOME AT LOT 220, IDELA PARK UNIT 3 SUBDIVISION, HIDALGO COUNTY, TEXAS; 3528 KATRINA AVENUE (ZBA2022-0054)**

### REASON FOR APPEAL:

The variance request is to allow an encroachment of 5 feet into the 25 feet which had not undergone the permit review process by staff and showed a proposed single family home that was built based on the original site plan 20 feet front yard setback.

### PROPERTY LOCATION AND VICINITY:

The subject property is located at the northeast corner of Katrina Avenue and North 36<sup>th</sup> Street. The subject property has 55 feet of frontage along Katrina Avenue and a depth of 90 feet, for a lot size of 4,950 square feet. There is an existing single-family residence in the subject property. The surrounding land use is single-family residential.



**BACKGROUND AND HISTORY:**

Idela Park Unit 3 Subdivision was recorded on February 13,1976 and requires a 25 feet front yard setback. An application for a building permit for the single family residence was submitted on December 27, 2021, and is pending the certificate of occupancy issuance. An application for the special exception request was submitted on August 8, 2022. The plat for the subdivision shows a 25 feet front yard setback and a 10 feet rear yard setback. A 10 feet utility easement runs concurrently with the 10 feet rear yard setback.

**ANALYSIS:**

Approval of the special exception request would allow an encroachment of 5 feet into the 25 feet front yard setback as shown in the applicant's submitted revised site plan. The original site plan that was submitted showed a setback proposed at 20 feet and a rear yard setback of 15 feet. Based on an official site plan review, a revised site plan was requested and submitted with the correct setback of 25 feet. The permit was approved and issued for the construction at the required 25 feet front yard setback, but the home may have been built referencing the original site plan showing the 20 feet front yard setback.

The plat for the subdivision shows a 25 feet front yard setback and a 10 feet rear yard setback. A 10 feet utility easement runs concurrently with the 10 feet rear yard setback.

The board may consider a type of hardship- the financial cost of complying with the code, if the financial cost of compliance is greater than 50 percent of the appraised value of the structure.

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

**RECOMMENDATION:**

Staff recommends approval of the variance request since the home is already built and strict compliance with the code may represent a hardship to the property owner. If approval is granted it should be limited to the encroachment shown on the submitted site plan.

ZBA2022-0054

ZBDA. 9/21/22

**City of McAllen**  
**Planning Department**  
**APPEAL TO ZONING BOARD OF**  
**ADJUSTMENT TO MCALLEN ZONING ORDINANCE**

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

<b>Project</b>	Legal Description <u>Idela Park 3528 Katrina Av</u> <u>McAllen</u>
	Subdivision Name <u>Idela Park Unit #3</u> Street Address <u>3528 Katrina Av McAllen</u> Number of lots <u>220</u> Gross acres _____ Existing Zoning <u>R1</u> Existing Land Use <u>New House</u> Reason for Appeal (please use other side if necessary) _____
<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	
<b>Applicant</b>	Name <u>JUAN Muniz</u> Phone <u>956 491 9837</u> Address <u>3000 Zenaida Av</u> E-mail <u>Jmuniz33@yahoo.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
<b>Owner</b>	Name <u>JUAN Muniz</u> Phone <u>956 491 9837</u> Address <u>3000 Zenaida Av</u> E-mail <u>Jmuniz33@yahoo.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
<b>Authorization</b>	<p>To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?  <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.</p> <p>Signature _____ Date <u>8/8/22</u>        Print Name <u>JUAN Muniz</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
<b>Office</b>	Accepted by _____ Payment received by _____ Date <b>ENTERED</b> Rev 09/20 <span style="float: right;">AUG 08 2022</span> Initial: <u>JM</u>

RS



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

03/12/19 - ATG

\*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:

House was Built at 20 feet front set back because went with First site plan submitted. Not the revise.

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

House is already built 100% complete

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:

Other home same subdivision ~~A~~ seem to be Build at 20 Foot ~~set~~ Front yard set back

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

Home is 100% complete and to meet set back requirement need to be cut 5 feet

Board Action

Chairman, Board of Adjustment  
Signature

Date

40



**MUNIZ**  
CONSTRUCTION & FRAMING

JUAN MUNIZ  
(956) 491-9837  
jmuniz33@yahoo.com

LOT# 220  
IDELA PARK SUBDIVISION  
UNIT 3  
MCALLEN, TEXAS.

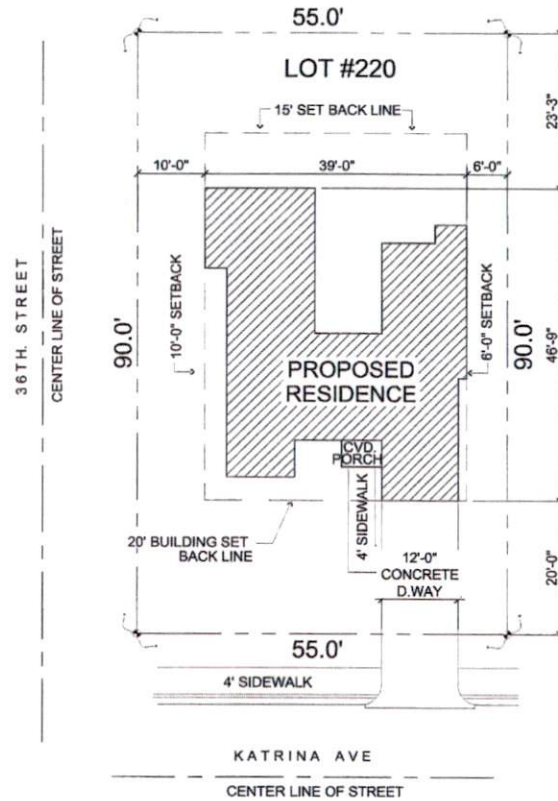
NOTES:

DATE: 12-22-2021

PLAN #0027-21

SHEET

C-1



1. VERIFY JOINT LAYOUT FOR SIDEWALKS WITH CONTRACTOR PRIOR TO CONSTRUCTION.
2. ALL SIX INCH, INCLUDING LOCATION OF WASH DUMPSTER, TEMPORARY TOILET FACILITIES, TEMPORARY CONSTRUCTION BARACADE, FENCE, CONSTRUCTION TRAILER, CLEARING PROCEDURE, GRUBBING 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 OWNER'S ASSOCIATION GUIDELINES.
3. BUILDER AND OWNER SHALL BE RESPONSIBLE FOR ALL TEMPORARY UTILITIES TO THE CONSTRUCTION SITE.
4. CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL DRAINAGE ONLY. OWNER SHALL PROVIDE ALL LANDSCAPING, EDD, AND IRRIGATION SYSTEM.

1 SITE PLAN  
SCALE: 1/8"=1'-0"

LEGAL DESCRIPTION

LOT 220  
SUBDIVISION IDELA PARK UT. 3

CITY MCALLEN, TEXAS

NORTH ARROW



**ENTERED**

AUG 08 2022

Initial:           

*CM*





3528

**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0054**

 CITY OF MCALLEN PLANNING DEPT.  
956-681-1250  
WWW.MCALLEN.NET



ACT

TEXAS  
PBH-9468  
FiestaNissan.com

**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 14, 2022

**SUBJECT: REQUEST OF NOELIA SALAZAR FOR A SPECIAL EXCEPTION REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 26 FEET INTO THE 31 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 25 FEET BY 22 FEET ON LOT 5, BLOCK 4, MILMOR ADDITION, HIDALGO COUNTY, TEXAS; 1717 MAPLE AVENUE. (ZBA2022-0058)**

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**REASON FOR APPEAL:**

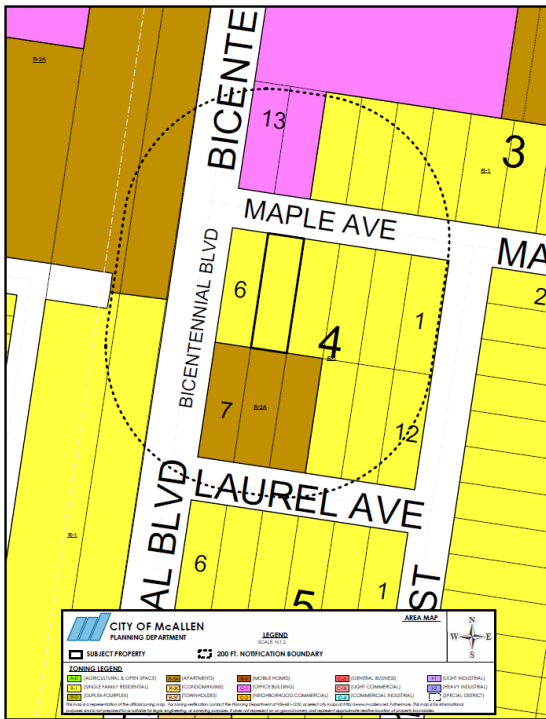
The applicant is requesting a special exception in order to allow an encroachment of 25 feet into the front yard setback of 31 feet for an existing metal carport measuring 26 feet by 22 feet. The applicant is appealing to keep her metal carport to protect her vehicles (4) from the weather elements, namely high temperatures and hail damage. According to the applicant, this carport will also serve as weather protection for her elderly mother, who she takes care of on a regular basis.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located south of Maple Avenue, approximately 50 feet east of Bicentennial Boulevard. According to the subdivision plat, the property has 50 feet of frontage along Maple Avenue with a depth of 160 feet, for a lot size of 8,000 square feet. The surrounding land use is single-family residential with a commercial use to the north across Maple Avenue and apartment use on the adjacent property to the south.

**BACKGROUND AND HISTORY:**

The plat for Milmor Addition was recorded in May 26, 1927. According to Hidalgo County Appraisal District, the existing home was built in 1995. According to the applicant, the existing carport was built on July, 2022. A non-compliance notice was issued by the Building Permits and Inspections Department in August 8, 2022 for construction of a carport without a permit on file. A Building Permit application was submitted on August 10, 2022. The special exception request on August 17, 2022.



**ANALYSIS:**

Approval of the special exception request would allow an encroachment of 26 feet into the 31 feet front yard setback as shown in the applicant’s submitted site plan.

According to Section 138-367 (a), “when 50 percent or more of the frontage on one side of a street on any one block is improved with buildings that have front yard which is greater than the required front yard in the district, no new building shall project beyond the average front yard so established...”

According to the subdivision plat, there are no dedicated easements to the front of the subject property.

During the site visit, staff noticed similar encroachments, namely carports, located at the front yard within the area (including the adjacent property). The existing carport on the subject property would be characteristic of constructions within the area. A review of the Planning Department records revealed several variance requests in the immediate area, however none for the front yard carports that were observed during the site visit (including for the adjacent property, Lot 4 of the same subdivision).

According to the applicant, the existing garage is used for storage for a room that is used to accommodate her elderly mother.

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

All measurements were taken without the benefit of a survey.  
 Staff has not received any phone calls, emails, or letters in opposition to the special exception request.

**RECOMMENDATION:**

Staff recommends approval of the special exception request, limited to the encroachment shown on the submitted site plan. Given that there are other carports within the area, the existing carport would not be breaking with the existing character of the subdivision.

ZBA 2022-0055

ZBOA  
9/21/2022

# City of McAllen Planning Department APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

**Project**

Legal Description Bluebird Lot 10. B/K 1

Subdivision Name Bluebird

Street Address 5309 N. 32 St. McAllen Texas.

Number of lots 1 Gross acres \_\_\_\_\_

Existing Zoning Residencial Existing Land Use car port.

Reason for Appeal (please use other side if necessary) 20 pies de los 20 pies de lot 10  
car port 20x20

\$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 Hilda Treviño. Phone 956-735-3088

Address 5309 N. 32 St. E-mail \_\_\_\_\_

City McAllen State Texas Zip 78504

**Owner**

Name Hilda Treviño. Phone 956-735-3088

Address 5309 N. 32 St. E-mail \_\_\_\_\_

City McAllen 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 Hilda Treviño. Date 8-10-22

Print Name Hilda Treviño.  Owner  Authorized Agent

**Office**

Accepted by ML Payment received by \_\_\_\_\_ Date AUG 10 2022

Rev 10/18 BY: CW

aw

ZBA2022-0058

ZBA  
9/21/2022



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description

Milmor Lot 5, Blk 4

Subdivision Name

Milmor

Street Address

1717 W. Maple Ave. McAllen, TX 78501

Number of lots

1

Gross acres

0.1837

Existing Zoning

Residential R-1

Existing Land Use

R-1

Reason for Appeal (please use other side if necessary)

(see back) 17.5 ft into the front 25 ft setback for the 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

Noelia Salazar

Phone

(956) 330-6186

Address

1717 W. Maple Ave.

E-mail

noelia23salazar@gmail.com

City

McAllen

State

Texas

Zip

78501

Owner

Name

Noelia Salazar

Phone

(956) 330-6186

Address

1717 W. Maple Ave.

E-mail

noelia23salazar@gmail.com

City

McAllen

State

Texas

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

Noelia Salazar

Date

08-17-2022

Print Name

Noelia Salazar

Owner

Authorized Agent

Office

Accepted by

ML

Payment received by

Date

Rev 10/18

AUG 17 2022

BY:

CW



# 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: *My husband called*

*days before & spoke a lady who assured him we did NOT need a permit because it was not going to be attached to our home. The carport is steel & metal and well anchored. Not our fault we were given wrong info!!!*

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: *the carport was built on my property mainly for the protection*

*of my elderly mother (95) as well as the protection of my 4 vehicles. In the past all of our vehicles were damaged by hail & all were less than 1yr. old. Insurance was increased. It also protects them from sun damage.*

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: *In no way, shape or form*

*is it detrimental to anybody. It was built within our property lines. EVERYBODY else on my block all have similar carports. Ours is the newest one. Nobody else got*

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

*I am a Registered Nurse & above all look to care for my patients & more so to my elderly mother who is 95 & has severe Alheimers. I will try to protect her in any way, shape or form. This was built with her in mind.*

\*

Board Action

Chairman, Board of Adjustment  
Signature

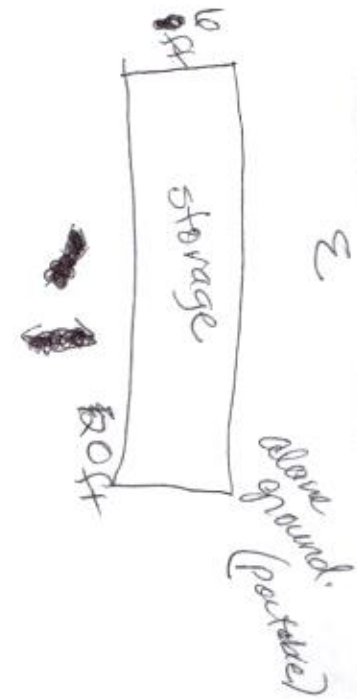
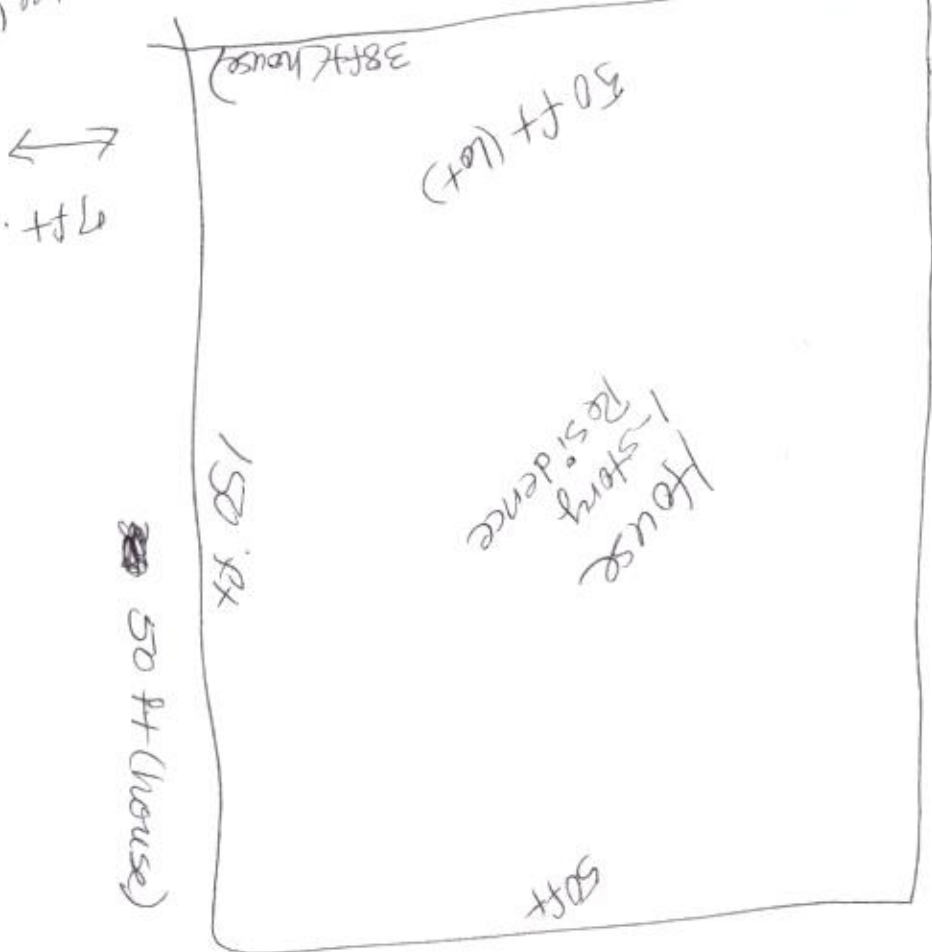
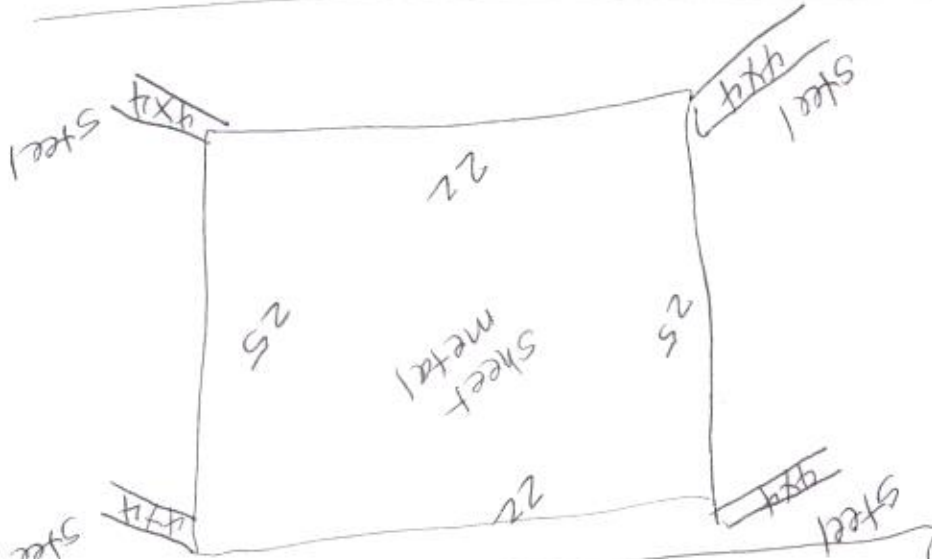
Date

\* everybody on our block needs to be investigated. All have carports & only we got cited. Be fair with everyone!

1117 W. Maple Ave  
Maple Ave, TX 75501

N

MAPLE AVE



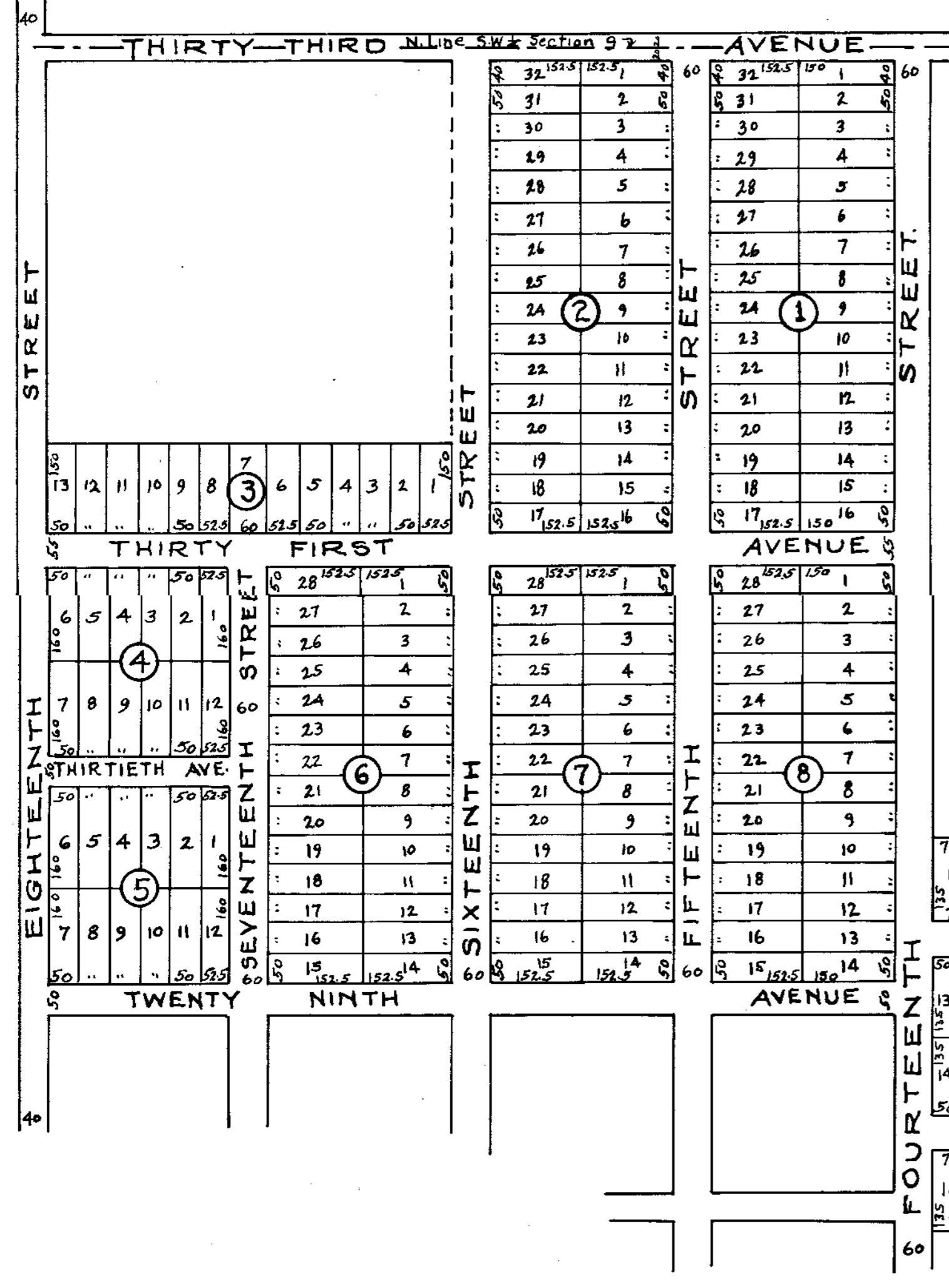
M



alley (S)







### MAP OF MILMOR ADDITION TO McALLEN, HIDALGO COUNTY TEXAS

Scale 1"=200ft February 1927.

I, E. M. Card, a Surveyor, do hereby Certify that the foregoing Map of Milmor Addition to McAllen, being a Resubdivision of Blocks 1 to 12 inclusive of Ewing's Addition to McAllen, Texas; out of the W 1/2 of the S 1/4 Section 9, and a Subdivision of 11.09 Acres Being the NE 1/4 of the NW 1/4 of the S 1/4 Section 9 and 11.09 Acres Being the NW 1/4 of the SE 1/4 of the S 1/4 Section 9, all out of Hidalgo Canal Company's Subdivision of Porciones 64-65 & 66 Hidalgo County, Texas, is a true and Correct plat of said lands as surveyed and Subdivided by me this 18 day of February 1927.

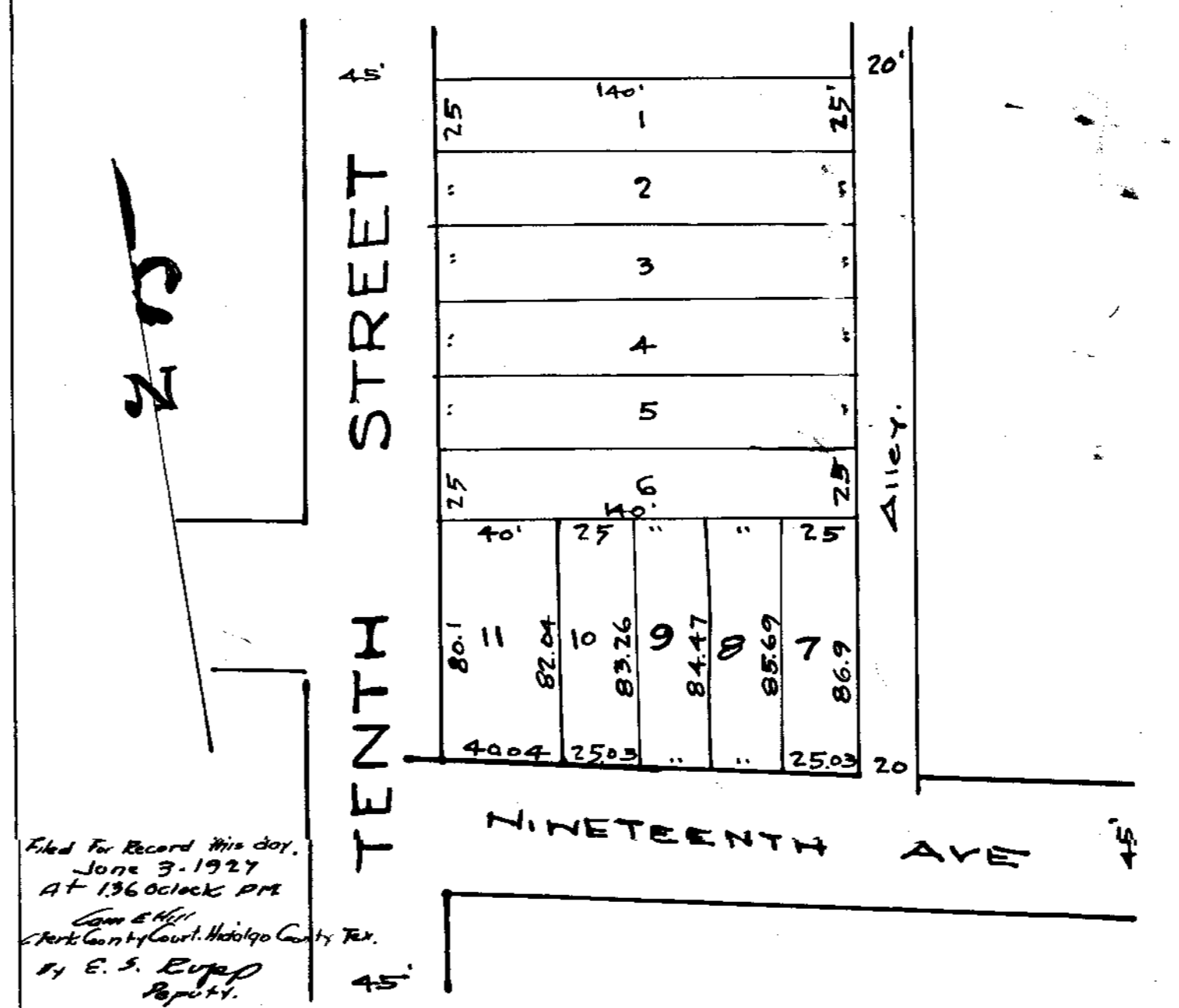
**Embard SURVEYOR.**

Subscribed and sworn to before me this 18 day of February 1927.

**V. A. Ramon**  
NOTARY PUBLIC IN AND FOR HIDALGO COUNTY TEXAS

FILED for record this day  
MAY 26 1927  
at 11:25 o'clock A.M.  
CAM. E. HILL  
Clerk County Court Hidalgo County Texas  
By **E. S. Ruff** Deputy

Recorded May 26th 1927 at 3 o'clock P.M.



### MAP OF PALM HEIGHTS BUSINESS DISTRICT

Being a Subdivision of Lots 4-6 & 8 Block 3, Palm Heights Addition to McAllen, Hidalgo County Texas

Scale 1"=50ft April 1927

I, E. M. Card, a Surveyor do hereby certify that the foregoing Map of Palm Heights Business District being a Subdivision of Lots 4-6 & 8 Block 3, Palm Heights Addition to McAllen, Hidalgo County Texas is a true and correct plat of said lands as surveyed and subdivided by me this 29 day of April 1927

**E. M. Card**  
Surveyor

Subscribed and sworn to before me this 29 day of April 1927  
**V. A. Ramon**  
Notary Public for Hidalgo County, Texas

STATE OF TEXAS }  
COUNTY OF HIDALGO }  
Know all men by these presents, That we, S. D. Morrow and H. V. Hill, sole owners of that part of Lot 14, Section 27 1/2, T. 24 N., R. 10 E., Survey, Hidalgo County, Texas, as is shown included in the Golf-Crest Subdivision on the plat attached hereto, have had said tract subdivided into lots and blocks and streets and placed and the lots and blocks, numbered and the streets named and the dimensions of lots and blocks and the width of streets given in fact, all as shown thereon and the Subdivision designated "Golf-Crest Subdivision".

We hereby authorize the certificate of J. L. Corbin, Civil Engineer, hereto attached and hereby dedicate the streets as shown on the accompanying map and plat attached hereto to the public use and benefit.

STATE OF TEXAS }  
COUNTY OF HIDALGO }  
Before me, the undersigned authority, this day personally appeared S. D. Morrow and H. V. Hill, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and in the capacities therein expressed.

Given under my hand and official seal of office, this 7th day of June AD. 1927

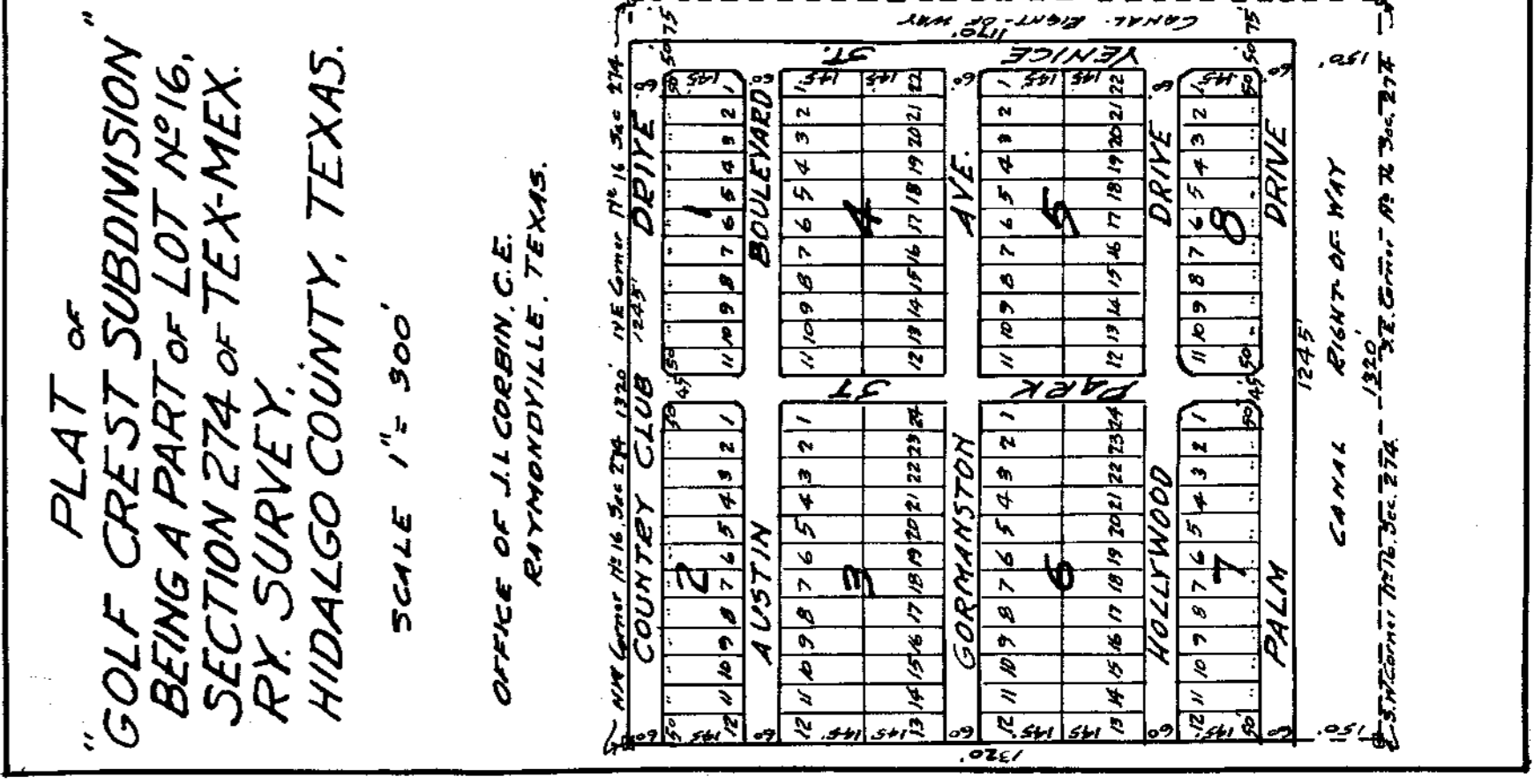
**Philip E. Dunning**  
Notary Public for Hidalgo County, Texas

STATE OF TEXAS }  
COUNTY OF HIDALGO }  
I, J. L. Corbin, Civil Engineer, do hereby certify that the foregoing map and plat of the Golf-Crest Subdivision, same being a part of Lot 14, Section 27 1/2 of the T. 24 N., R. 10 E., Survey, Hidalgo County, Texas, as is shown within the heavy boundary line on said map and plat attached hereto, is a true and correct map and boundary line of said Subdivision as plotted and surveyed by me for S. D. Morrow and H. V. Hill.

Subscribed and sworn to before me this 11th day of June AD. 1927  
**J. L. Corbin**  
Civil Engineer

Filed for record this day  
June 12, 1927 at 11:15 A.M.  
By **Walter O. Dunning**  
Clerk County Court, Hidalgo County, Texas

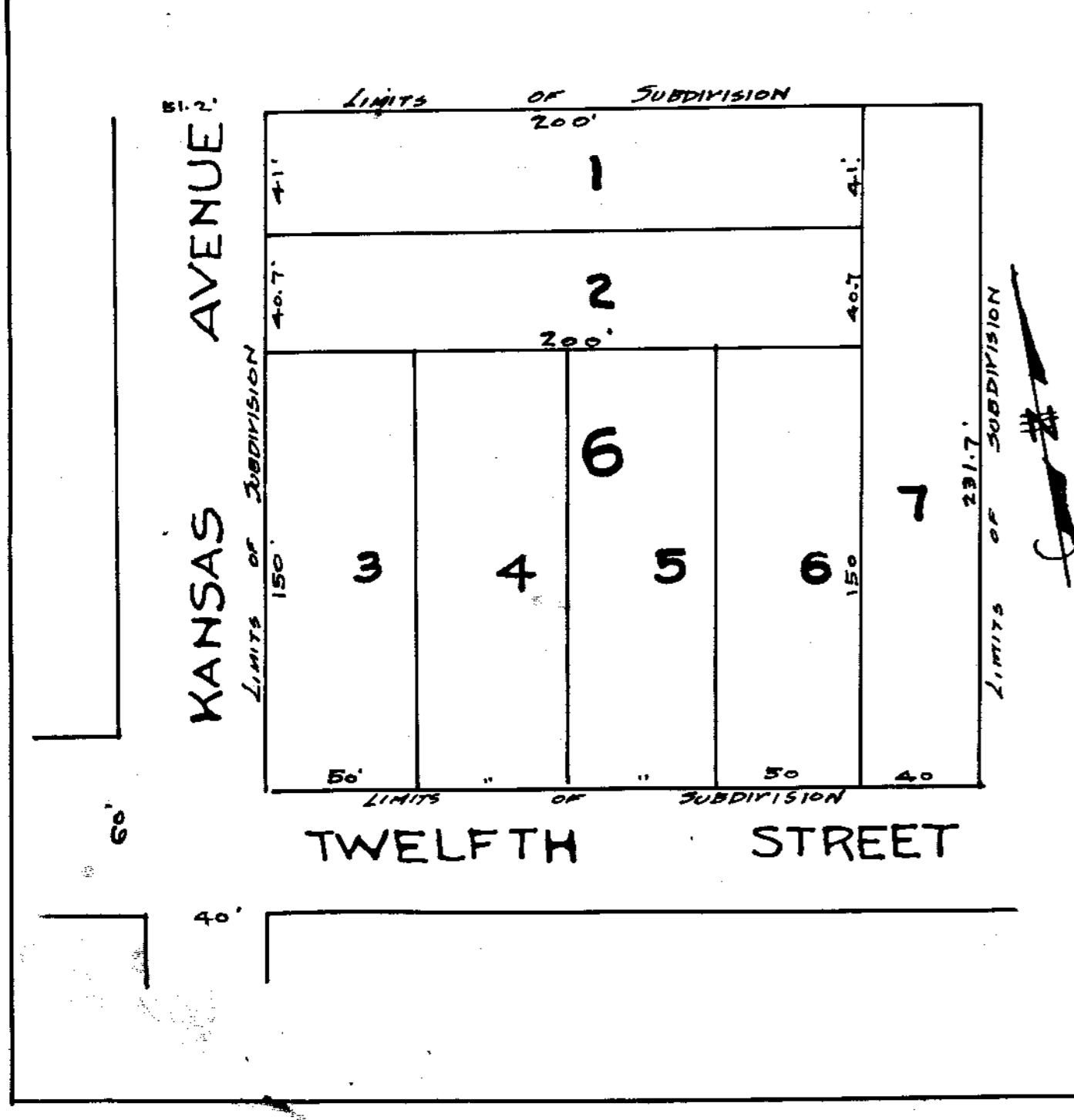
Recorded June 13, 1927 at 9:30 A.M.



"GOLF CREST SUBDIVISION" BEING A PART OF LOT NO. 16, SECTION 27 1/2 OF T. 24 N., R. 10 E., SURVEY, HIDALGO COUNTY, TEXAS.

SCALE 1"=900'

OFFICE OF J. L. CORBIN, C.E.  
RAYMONDVILLE, TEXAS.



### MAP OF W.H. GOSSAGE SUBDIVISION OF LOT "G" BLOCK "G" OF THE SAN JUAN TOWNSITE IN HIDALGO COUNTY TEXAS

SCALE 1" INCH = 50' FEET

M.B. Gore Civil Engr & Contr.

THE STATE OF TEXAS  
COUNTY OF HIDALGO  
Known all men by these presents That W.H. Gossage has caused to be surveyed subdivided and plotted by M.B. Gore Civil Engineer and Surveyor a tract of 128 acres more or less, in Hidalgo County Texas, being Lot "G" Block "G" of the San Juan Townsite according to the amended map or plat of the San Juan Townsite as the same appears of record in the office of the County Clerk of Hidalgo County, Texas.

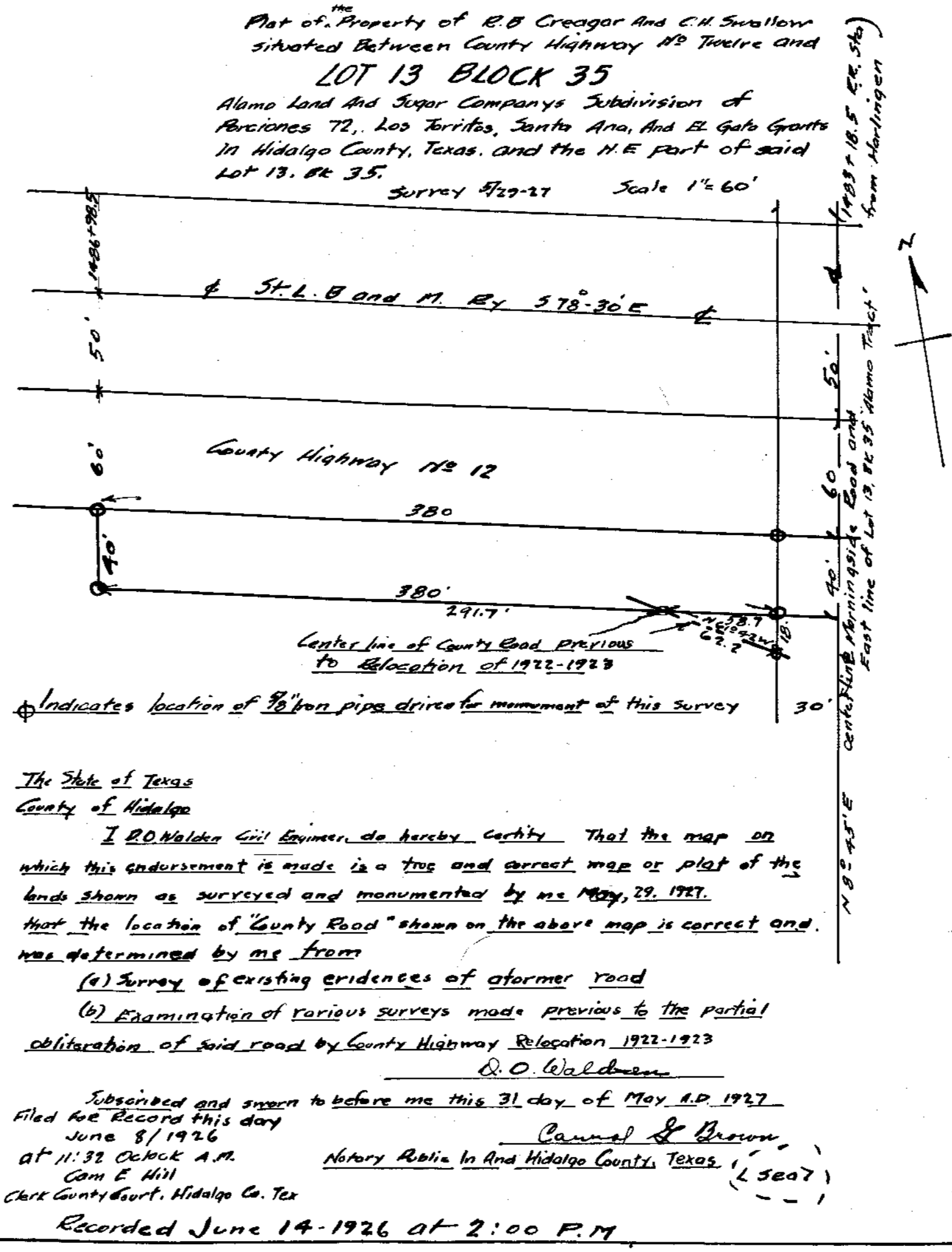
Sworn to and Subscribed before me this 7th day of January A.D. 1927  
**W.H. Gossage**  
Surveyor

THE STATE OF TEXAS  
COUNTY OF HIDALGO  
Known all men by these presents That M.B. Gore Civil Engineer and Surveyor do hereby certify that this map is a true and correct map of W.H. Gossage Subdivision in Hidalgo County, Texas, as surveyed and plotted by me during the month of January 1927, that it truly and correctly delineates all lots within the limits of said subdivision that the limits of said subdivision comprise 128 acres being the same 128 acres of land particularly described as Lot "G" Block "G" San Juan Townsite in Hidalgo County, Texas.

Sworn to and Subscribed before me this 7th day of January A.D. 1927  
**M.B. Gore**  
Civil Engineer

Filed for Record this day  
June 2, 1927  
At 10:35 o'clock A.M.  
Cam E Hill  
Clerk County Court Hidalgo County, Texas.  
By **E. S. Ruff** Deputy

Recorded June 3, 1927 at 9:00 A.M.



Plat of Property of B.B. Creager and C.H. Swallow situated between County Highway 102 1/2 and LOT 13 BLOCK 35

Alamo Land and Sugar Company's Subdivision of Porciones 72, 200 Terribles, Santa Ana, and El Gale Garts in Hidalgo County, Texas, and the NE part of said Lot 13, Bl. 35. Survey 422-27 Scale 1"=60'

Indicates location of 8" iron pipe driven to monument of this survey

The State of Texas  
County of Hidalgo  
I, B.O. Waldman, Civil Engineer, do hereby certify that the map on which this endorsement is made is a true and correct map or plat of the land shown as surveyed and monumented by me May 22, 1926, that the location of "County Road" shown on the above map is correct and was determined by me from

(a) Survey of existing evidences of former road  
(b) Examination of various surveys made previous to the partial delineation of said road by County Highway Selection 1922-1923

**B. O. Waldman**  
Civil Engineer

Subscribed and sworn to before me this 31 day of May A.D. 1927  
Filed for Record this day  
June 8, 1926  
at 11:32 o'clock A.M.  
Cam E Hill  
Clerk County Court, Hidalgo Co. Tex

**Camuel S. Brown**  
Notary Public in and for Hidalgo County, Texas (5607)

Recorded June 14-1926 at 2:00 P.M.

**NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2022-0058**

**CITY OF MCALLEN PLANNING DEPT**  
805-481-4328  
WWW.MCALLEN.NET

05/17/22  
05/18/22  
05/19/22  
05/20/22



## Memo

**TO:** Zoning Board of Adjustment & Appeals

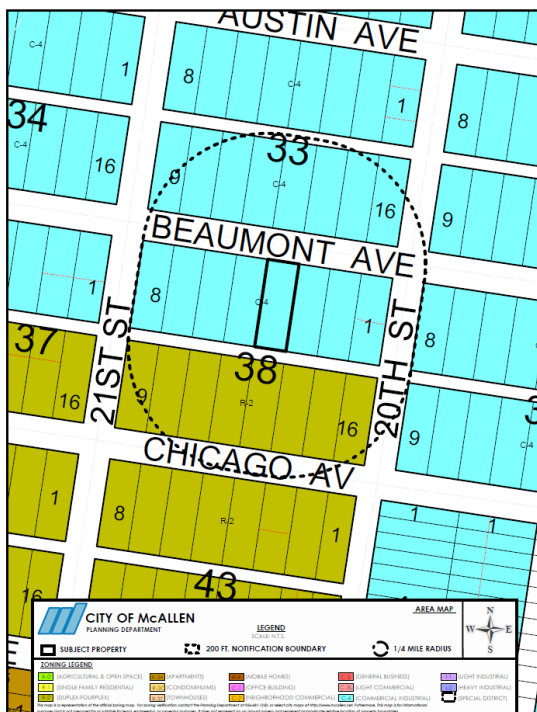
**FROM:** Planning Staff

**DATE:** September 15, 2022

**SUBJECT: REQUEST OF VICENTE MARTINEZ ON BEHALF OF MARIA C. MARTINEZ 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 LOT 4, BLOCK 38, HAMMOND ADDITION, HIDALGO COUNTY, TEXAS; 2011 BEAUMONT AVENUE. (ZBA2022-0059)**

### REASON FOR APPEAL:

The applicant is 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 an apartment dwelling located on the subject property's rear yard. The applicant claims that this variance is necessary to make the structure habitable. The structure has wear and tear due to age and has been recently vandalized.



**PROPERTY LOCATION AND VICINITY:**

The subject property is located on the south side of Beaumont Avenue, approximately 200 feet east of 21<sup>st</sup> Street. The property has 50 feet of frontage along Beaumont Avenue and a depth of 140 feet, for a lot size of 7,000 square feet. The zoning for the subject property and the adjacent properties to the north, east and west is C-4 (commercial industrial) District. There is R-2 (duplex-fourplex residential) District to the south. Surrounding land uses include single family residential.

**BACKGROUND AND HISTORY:**

According to Hidalgo County Appraisal District records, the primary residence and the apartment dwelling were built in 1972. The current owners acquired the property in 2005.

A building permit application for the remodeling of the mentioned apartment dwelling was submitted on July 28, 2022. An application for the above mentioned variance request was submitted on August 17, 2022.

**ANALYSIS:**

The variance request is to allow the continuation of the non-conforming use as a duplex. According to the submitted site plan, the apartment dwelling measures 32.5 feet by 19.5 feet for a total size of 633.75 square feet. According to the applicant, the apartment dwelling has been vacant since 2005. The applicant is proposing to remodel the current structure in order to host two tenants.

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 \$16,348. Moreover, 10% of said value would be \$1,634.80.

According to the applicant's submitted estimates, there will be a total expenditure of \$9,240 in the cost of the materials needed to remodel the apartment dwelling. Out of the total submitted cost estimates, only \$8,160 in materials would require a building permit. This estimate total would exceed the 10% replacement value of the non-conforming structure by \$6,525.20, or 39.91%.

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

All measurements were taken without the benefit of a survey.

Staff received one phone call in opposition to this request. The person in opposition stated that such a structure or use should not be permitted in the area.

**RECOMMENDATION:**

Staff recommends approval of the variance request since the proposed remodeling would make the structure to be habitable and may bring the structure closer to compliance with City codes.

ZBA2022-0059

ZBOA  
9/21/22



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

<b>Project</b>	Legal Description <u>Hammond Addition Lot 4 Block 30</u>
	Subdivision Name _____
<b>Applicant</b>	Street Address <u>2011 Braumont Ave. McAllen TX 78503</u>
	Number of lots _____ Gross acres _____
	Existing Zoning <u>C. 4</u> Existing Land Use <u>Residential del 1972</u>
	Reason for Appeal (please use other side if necessary) <u>Remodel more than 10% of structure value, non conforming structure</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	
<b>Owner</b>	Name <u>Vicente Martinez</u> Phone <u>(956) 526-2596</u>
	Address <u>5301 S. 28th</u> E-mail _____
	City <u>McAllen</u> State <u>TX</u> Zip <u>78503</u>
<b>Authorization</b>	Name <u>Maria C. Martinez</u> Phone <u>(956) 821-4205</u>
	Address <u>5301 S. 28th</u> E-mail _____
	City <u>McAllen</u> State <u>TX</u> Zip <u>78503</u>
<b>Office</b>	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>* Maria Carmen Martinez</u> Date <u>8/16/2022</u> Print Name <u>Maria C. Martinez</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by <u>MN</u> Payment received by _____ Date _____
	Rev 10/18

ENTERED

AUG 17 2022

Initial: \_\_\_\_\_

05

2020-2024

# City of McAllen Planning Department

2020-2024

## 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:

The property was purchased as apartment rentals. However, the property required repairs due to age and normal wear and tear usage, and vandalism.

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

The need for this variance is essential as the property is used for tenants. Remodde was made to ensure that property was up to the standards of the city.

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:

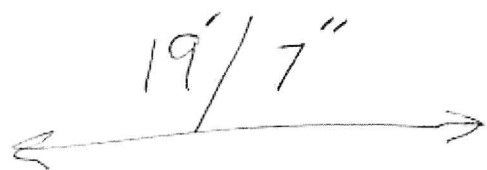
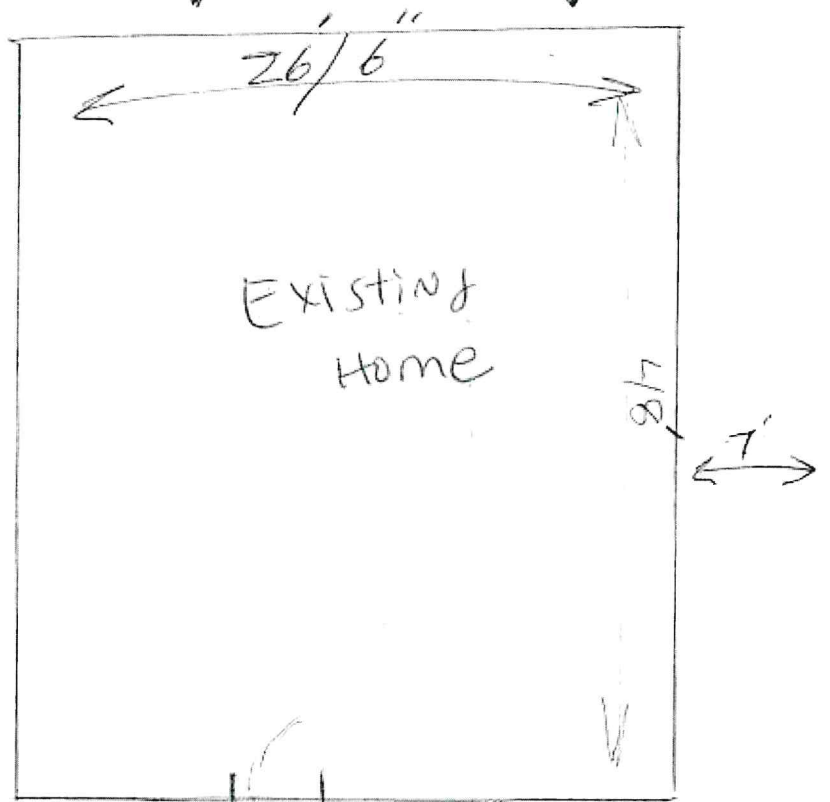
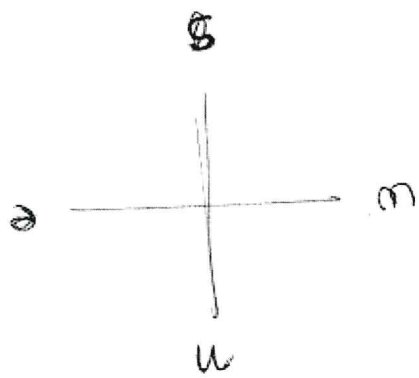
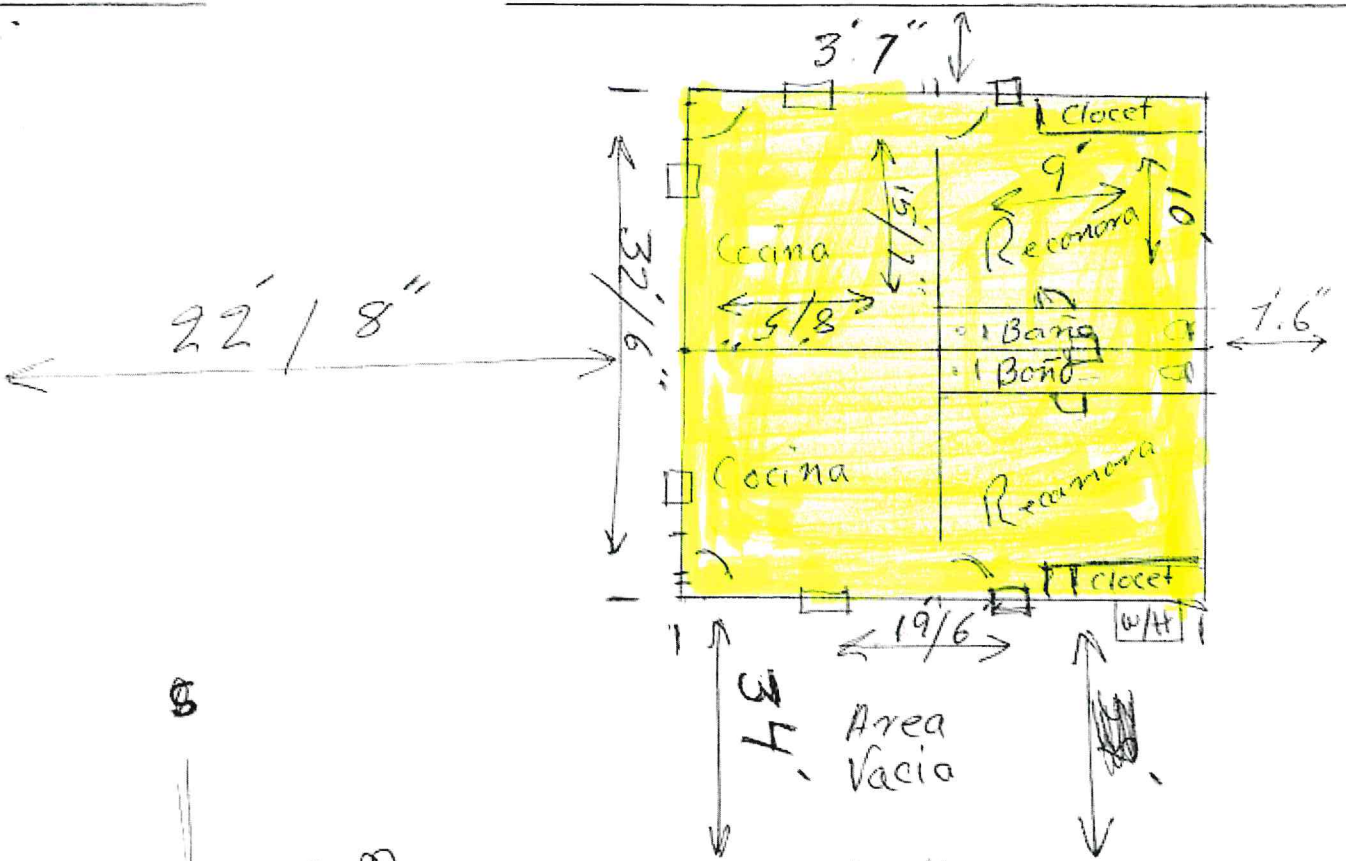
All materials used are following city standards. No part of the property will cause damage or safety issues.

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

The variance will allow us to provide affordable housing to the city community.

Board Action

Chairman, Board of Adjustment  
Signature \_\_\_\_\_ Date \_\_\_\_\_



2011 Beaumont  
 MACALLAN tx  
 78501



Beaumont



Piso	Coliche y Cemento	1,800
Luz	mofa y cableado	2,300
Plomeria	Agua	550
Plomeria	Gas	180
Insulacion	R.13 paredes	900
Insulacion	R.19 Arek	
Ventanas	Isuladas	1,480
Piso	Ceramica	680
pintura	exterior	400
Madera	2x4 y 2x6	950

---

9,240











**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0059**

CITY OF MCALLEN PLANNING DEPT.  
806-481-1258  
WWW.MCALLEN.NET



# Memo

**TO:** Zoning Board of Adjustment & Appeals

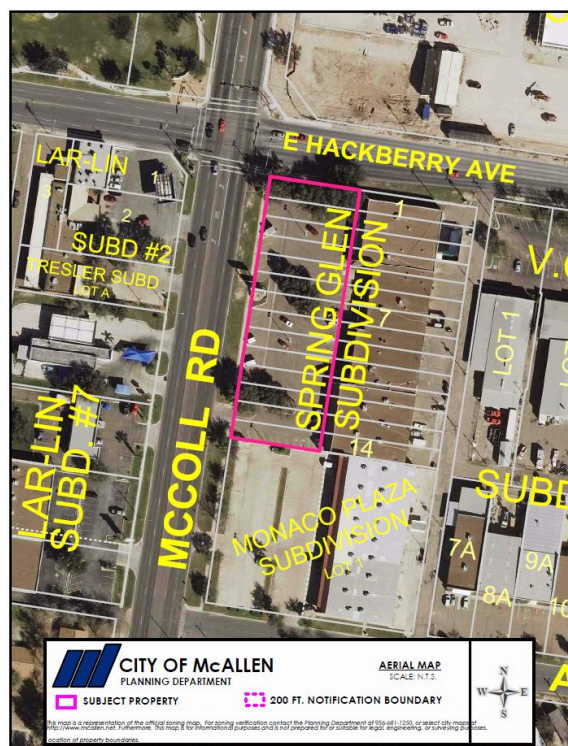
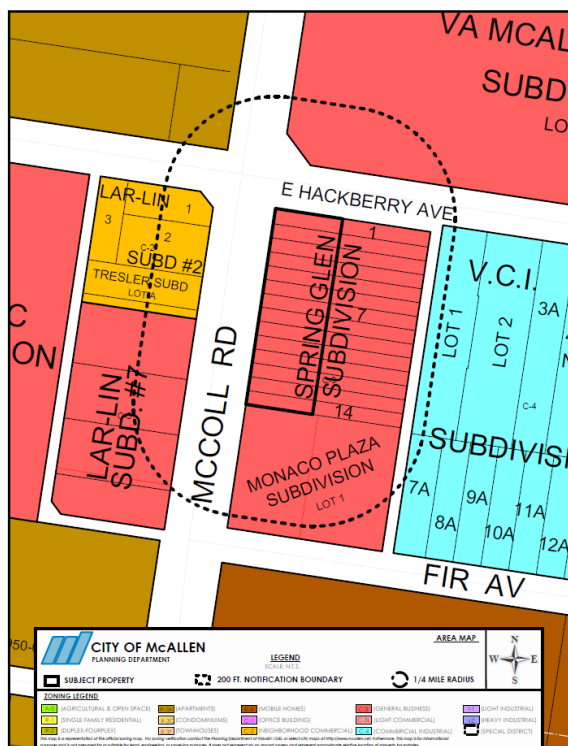
**FROM:** Planning Staff

**DATE:** September 12, 2022

**SUBJECT:** REQUEST OF AQUA MILL, LLC ON BEHALF OF VELMEJ INVESTMENTS, LLC FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 114 FEET INTO THE 120 FEET FRONT YARD SETBACK FOR A WATER KIOSK ON LOTS 1 THRU 14, SPRING GLEN SUBDIVISION, HIDALGO COUNTY, TEXAS; 628 NORTH MCCOLL ROAD. (ZBA2022-0060)

## REASON FOR APPEAL:

The applicant is requesting a variance to allow the installment of a prefabricated water kiosk that will encroach 114 feet into the required 120 feet front yard setback. The applicant claims that there would be no feasible place to install said water kiosk behind the setbacks since there is an existing commercial development that takes up most of the area.





**PROPERTY LOCATION AND VICINITY:**

The subject property is located on the southeast corner of North McColl Road and East Hackberry Avenue. According to Hidalgo County Appraisal District, the property has 159.60 feet of frontage on North McColl Road and a depth of 352.50 feet for a total property area of 56,259 square feet. The subject property is zoned C-3 (general business) District and is the location for Spring Glen Plaza. The surrounding land uses are commercial, with residential uses to the northwest and south.

**BACKGROUND AND HISTORY:**

Spring Glen Subdivision was recorded on January 18, 1983. The application for the variance request was submitted on August 17, 2022. A building permit application has not been submitted.

**ANALYSIS:**

Approval of this variance request will allow encroachments of 114 feet into the 120 feet front yard. This in turn will allow the applicant to install a prefabricated water kiosk. Said kiosk will take up one parking space in the commercial development, but this will not impact the total number of parking spaces required for the existing businesses.

If the variance request is approved, the applicant must comply with all other zoning ordinance and building code requirements that will be requested during the building permitting process.

Staff has not received any phone calls, email, or letter in opposition of this request.

**RECOMMENDATION:**

Staff recommends approval of the variance request since the proposed water kiosk will not be impacting the required number of parking spaces for the commercial development. Additionally, the water kiosk will be enhancing the commercial development by providing convenient access to drinking water for nearby residential areas.

ZBOA  
9/21/22



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

<b>Project</b>	Legal Description	<u>SPRING GLEN SUBDIVISION LOTS 1 THRU 14</u>	
	Subdivision Name	<u>Spring Glen</u>	
	Street Address	<u>628 N McColl Rd. McAllen, TX 78501</u>	
		Number of lots <u>1</u>	Gross acres <u>3.214</u>
	Existing Zoning	<u>C3</u>	Existing Land Use <u>Commercial</u>
	Reason for Appeal (please use other side if necessary)	<u>Installation of a pre-fab water kiosk over a concrete slab over the 120 ft front-yard setback required for Spring Glen Subdivision</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		

<b>Applicant</b>	Name	<u>Aqua Mill, LLC</u>	Phone	<u>(956) 960-4111</u>
	Address	<u>3407 San Fabian</u>	E-mail	<u>cerdalafuente65@gmail.com</u>
	City	<u>Mission</u>	State	<u>TX</u>
			Zip	<u>78572</u>

<b>Owner</b>	Name	<u>Velmej Investment LLC</u>	Phone	<u>(956) 793-6780</u>
	Address	<u>2601 Santa Esperanza</u>	E-mail	<u>southmccoll@aol.com</u>
	City	<u>Mission</u>	State	<u>TX</u>
		Zip	<u>78572</u>	

<b>Authorization</b>	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>8/17/2022</u>
Print Name	<u>Francisco Velazquez</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent

<b>Office</b>	Accepted by	<u>SEN</u>	Payment received by	_____	Date	<u>ENTERED</u>
	Rev 09/20					AUG 17 2022 Initial: <u>NJM</u>



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

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

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

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

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

There is an existing building at the 120 ft setback that covers the width of the lot.

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

The property use is commercial and the owner wants to continue utilizing the property as such.

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 water kiosk will be installed at an area that has no impact to the current tenants' safety and welfare nor will affect traffic within the parking. The public will benefit from having access to a vital product close to their residents.

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

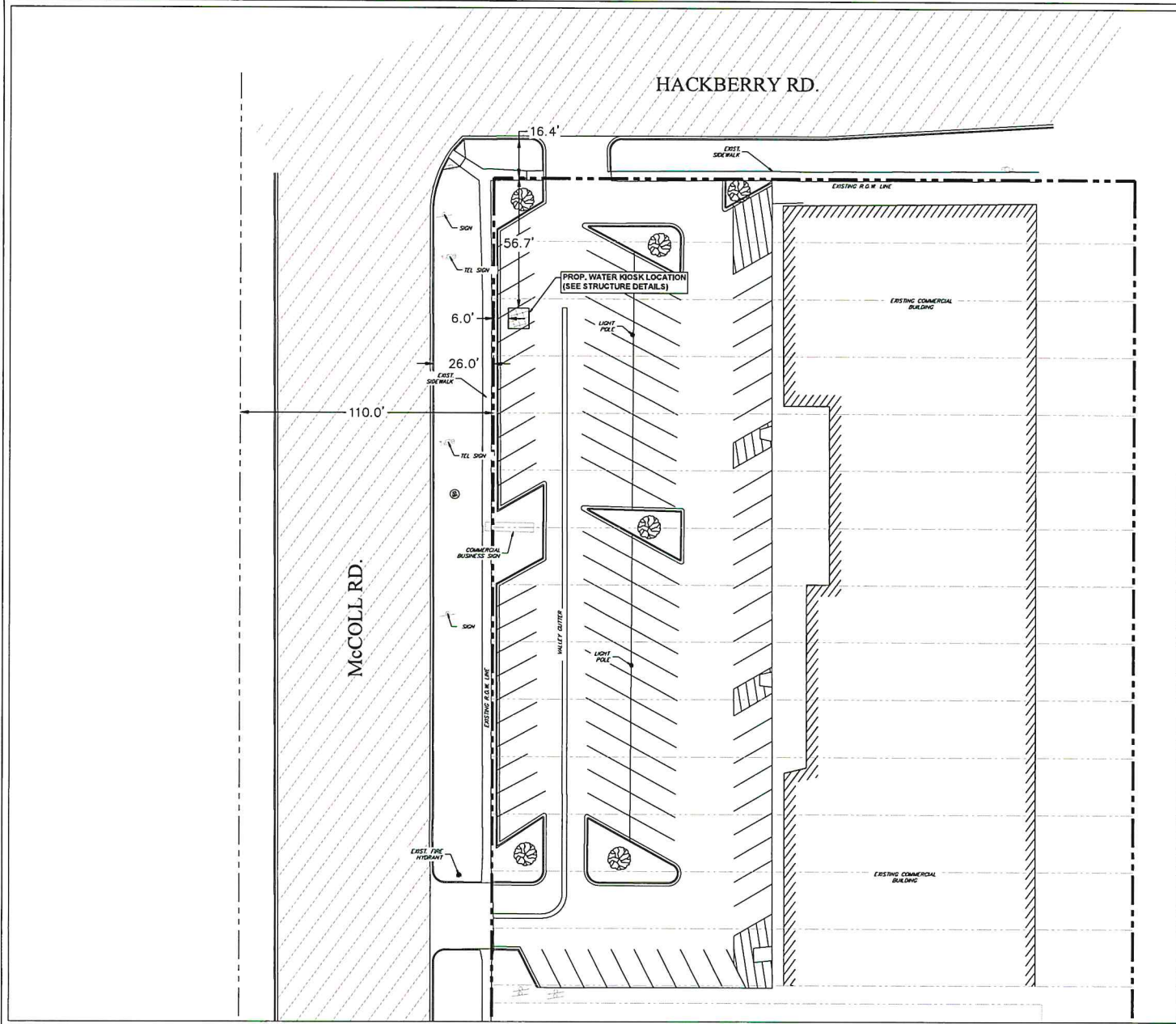
It is impossible not to be installing it within the setbacks since the existing building will not allow otherwise.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date



**LEGAL DESCRIPTION**  
 SPRING GLEN SUBDIVISION  
 VOL. 23, PG. 19 H.C.M.R.  
 BEING THE NORTHWEST 3.214 ACRES OUT  
 OF LOT 4, RANCHO DE LA FRUTA  
 SUBDIVISION No.2 HIDALGO COUNTY, TEXAS.



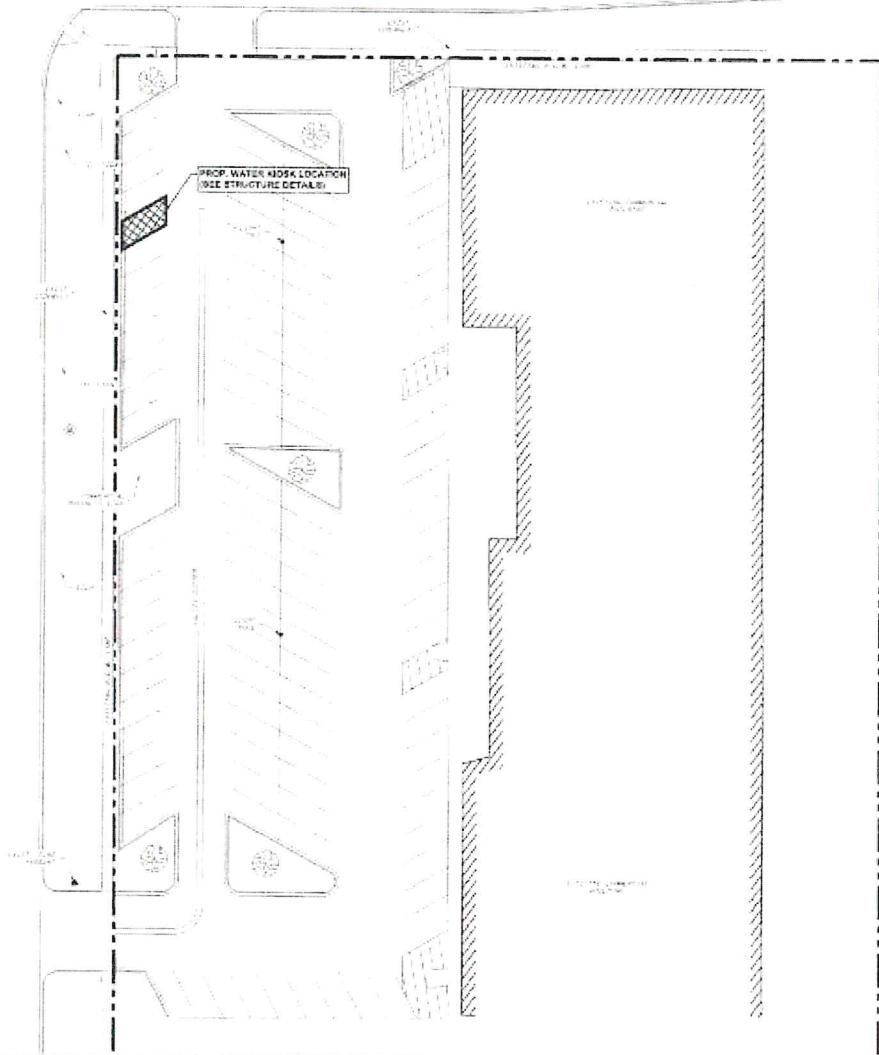
PROJECT No.	DESIGN BY	CHECKED BY	DATE	REVISED BY

PREPARED FOR:  
 FRANCISCO VELAZQUEZ  
 2601 SANTA ESPERANZA ST.  
 MISSION, TX 78574

SPRING GLEN COMMERCIAL PLAZA  
 McALLEN, TEXAS

McCOLL RD.

HACKBERRY RD.



LEGAL DESCRIPTION  
 SPRING GLEN SUBDIVISION  
 VOL. 23, PG. 19 H.C.M.R.  
 BEING THE NORTHWEST 3.214 ACRES OUT  
 OF LOT 4, RANCHO DE LA FRUITA  
 SUBDIVISION No. 2 HIDALGO COUNTY, TEXAS

PREPARED FOR  
 REAL SONS DEVELOPMENT  
 AND LAND MANAGEMENT  
 10000 W. 10TH ST.  
 McALLEN, TEXAS 78102

PROJECT NO. 14  
 PROJECT TEAM  
 PROJECT MANAGER  
 PROJECT ENGINEER  
 PROJECT ARCHITECT

REVISIONS

NO.	DESCRIPTION	DATE

SPRING GLEN COMMERCIAL PLAZA  
 McALLEN, TEXAS

**SUPREME ENGINEERING**  
 10000 W. 10TH ST.  
 McALLEN, TEXAS 78102  
 (512) 205-1100

PURIFIED ICE & WATER PURIFIED ICE & WATER



**LOT 3, BLK. 8, STEELE & PERSHING SUBD.**

**Notes:**

- Front yard setback shall be 20 ft. minimum except for lots fronting on Jonquil Avenue front setback shall be 25 ft. minimum.
- Sideway setback shall be 6 ft. minimum, except where sideway is adjacent to street increase minimum setback to 10 ft.
- Rear yard setback shall be 10.0 ft. minimum except for garages at rear, increase minimum setback to 18 ft.
- Minimum floor elevation shall be the number of inches above top of curb measured at front corner as shown on each lot.
- A 15 ft by 15 ft. corner clip for street easement is required at the corners of all lots which have intersecting street right-of-way lines.
- Central Power & Light Co. is hereby granted an easement and right-of-way on each lot in said subdivision for an underground electric service lateral together with the right of ingress and egress for such purpose at the right location where such service lateral is to be or is installed.
- Sidewalks required on both sides of Int Street one on the North side of Jonquil Avenue.
- A 10 ft by 10 ft corner clip for street easement is required at the corners of all lots which have intersecting street right-of-way and alley right-of-way lines.

CURVE	RADIUS	LENGTH	CHORD	ANGLE
A	133.78	106.72	104.31	120°07'30"
B	133.78	60.83	60.80	107°44'44"
C	133.78	37.37	37.28	8°24'00"
D	133.78	106.72	104.31	120°07'30"
E	30.00	21.88	21.31	41°24'30"
F	30.00	20.90	20.73	23°57'00"
G	150.00	53.38	51.30	63°15'00"
H	30.00	34.87	35.61	87°34'30"
I	30.00	13.34	13.30	17°48'30"
J	30.00	34.87	35.31	80°
K	30.00	34.87	35.31	80°
L	30.00	31.89	30.73	23°07'00"
M	30.00	42.09	44.42	124°07'00"
N	30.00	31.13	30.43	35°40'00"

**LAS VILLAS SUBD UNIT No. 1**  
Mc ALLEN, TEXAS

BEING A SUBDIVISION OF 1705 AC. OUT OF LOT 3, BLOCK 8, STEELE & PERSHING SUBDIVISION OF PORCIONES 66 & 67 HIDALGO COUNTY, TEXAS

CHECKED FOR DRAINAGE BY: *Wal O'Sa*

Recorded in Book 23, Page 19 of the map records of Hidalgo County, Texas. Melden and Hunt, Inc. County Surveyors.

PREPARED BY: FABIAN NELSON & MEDINA P.C. McALLEN, TEXAS

DATE: 3-10-82

TEXAS: HIDALGO: THESE PRESENTS: THAT CRAJALES & GUEVARRA, INC. A TEXAS CORPORATION, THE OWNER OF THE LAND SHOWN ON THIS PLAN AND DESIGNATED LAS VILLAS SUBDIVISION, UNIT 1 OF McALLEN, TEXAS, DOES HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, IS THEREIN SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

CRJOP, CRAJALES & GUEVARRA, INC. HAS CAUSED THESE PRESENTS TO BE EXECUTED THE DAY OF 19 1982

SECRETARY: GEORGE CRAJALES      VICE PRESIDENT: ERNESTO GUEVARRA      PRESIDENT: AMANDI CRAJALES

AS: ALSO: UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED THE ABOVE NAMED PERSONS 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 CONSIDERATION THEREIN STATED. HAND AND SEAL OF OFFICE, THIS 10th DAY OF March, 1982.

ED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF McALLER HEREBY CERTIFY THAT THIS SUBDIVISION PLAN CONFORMS TO ALL REQUIREMENTS OF THE RELATIONS OF THIS CITY WHEREIN BY APPROVAL IS REQUIRED.

AS: ALSO: I, A REGISTERED PUBLIC SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAN IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION ON THE GROUND.

ED, MAYOR OF THE CITY OF McALLER, HEREBY CERTIFY THAT THIS SUBDIVISION PLAN CONFORMS TO ALL REQUIREMENTS OF SUBDIVISION REGULATIONS OF THIS CITY WHEREIN IS REQUIRED.

APPROVED FOR RECORDING BY: COMMISSIONERS' COURT 18th day of March, 1982 J. EDGAR RUIZ, County Clerk Hidalgo County, Texas

**SPRING GLEN SUBDIVISION**

LOT 5, RANCHO DE LA FRUTA SUBD. No. 2

**Notes:**

- Front yard setback shall be 20 ft. minimum except for lots fronting on Jonquil Avenue front setback shall be 25 ft. minimum.
- Sideway setback shall be 6 ft. minimum, except where sideway is adjacent to street increase minimum setback to 10 ft.
- Rear yard setback shall be 10.0 ft. minimum except for garages at rear, increase minimum setback to 18 ft.
- Minimum floor elevation shall be the number of inches above top of curb measured at front corner as shown on each lot.
- A 15 ft by 15 ft. corner clip for street easement is required at the corners of all lots which have intersecting street right-of-way lines.
- Central Power & Light Co. is hereby granted an easement and right-of-way on each lot in said subdivision for an underground electric service lateral together with the right of ingress and egress for such purpose at the right location where such service lateral is to be or is installed.
- Sidewalks required on both sides of Int Street one on the North side of Jonquil Avenue.
- A 10 ft by 10 ft corner clip for street easement is required at the corners of all lots which have intersecting street right-of-way and alley right-of-way lines.

**SPRING GLEN SUBDIVISION**  
LOT 5, RANCHO DE LA FRUTA SUBD. No. 2  
HIDALGO COUNTY, TEXAS

BEING A SUBDIVISION OF 1705 AC. OUT OF LOT 3, BLOCK 8, STEELE & PERSHING SUBDIVISION OF PORCIONES 66 & 67 HIDALGO COUNTY, TEXAS

CHECKED FOR DRAINAGE BY: *Wal O'Sa*

Recorded in Book 23, Page 19 of the map records of Hidalgo County, Texas. Melden and Hunt, Inc. County Surveyors.

PREPARED BY: FABIAN NELSON & MEDINA P.C. McALLEN, TEXAS

DATE: 3-10-82

TEXAS: HIDALGO: THESE PRESENTS: THAT CRAJALES & GUEVARRA, INC. A TEXAS CORPORATION, THE OWNER OF THE LAND SHOWN ON THIS PLAN AND DESIGNATED LAS VILLAS SUBDIVISION, UNIT 1 OF McALLEN, TEXAS, DOES HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, IS THEREIN SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

CRJOP, CRAJALES & GUEVARRA, INC. HAS CAUSED THESE PRESENTS TO BE EXECUTED THE DAY OF 19 1982

SECRETARY: GEORGE CRAJALES      VICE PRESIDENT: ERNESTO GUEVARRA      PRESIDENT: AMANDI CRAJALES

AS: ALSO: UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED THE ABOVE NAMED PERSONS 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 CONSIDERATION THEREIN STATED. HAND AND SEAL OF OFFICE, THIS 10th DAY OF March, 1982.

ED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF McALLER HEREBY CERTIFY THAT THIS SUBDIVISION PLAN CONFORMS TO ALL REQUIREMENTS OF THE RELATIONS OF THIS CITY WHEREIN BY APPROVAL IS REQUIRED.

AS: ALSO: I, A REGISTERED PUBLIC SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAN IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION ON THE GROUND.

ED, MAYOR OF THE CITY OF McALLER, HEREBY CERTIFY THAT THIS SUBDIVISION PLAN CONFORMS TO ALL REQUIREMENTS OF SUBDIVISION REGULATIONS OF THIS CITY WHEREIN IS REQUIRED.

APPROVED FOR RECORDING BY: COMMISSIONERS' COURT 18th day of March, 1982 J. EDGAR RUIZ, County Clerk Hidalgo County, Texas



**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0060**

 CITY OF MCALLEN PLANNING DEPT.  
956-681-1250  
WWW.MCALLEN.NET





**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 14, 2022

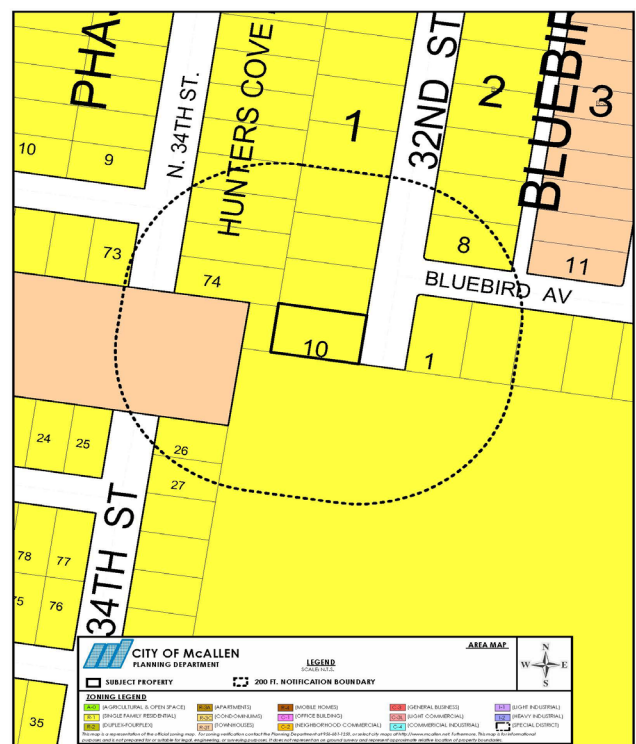
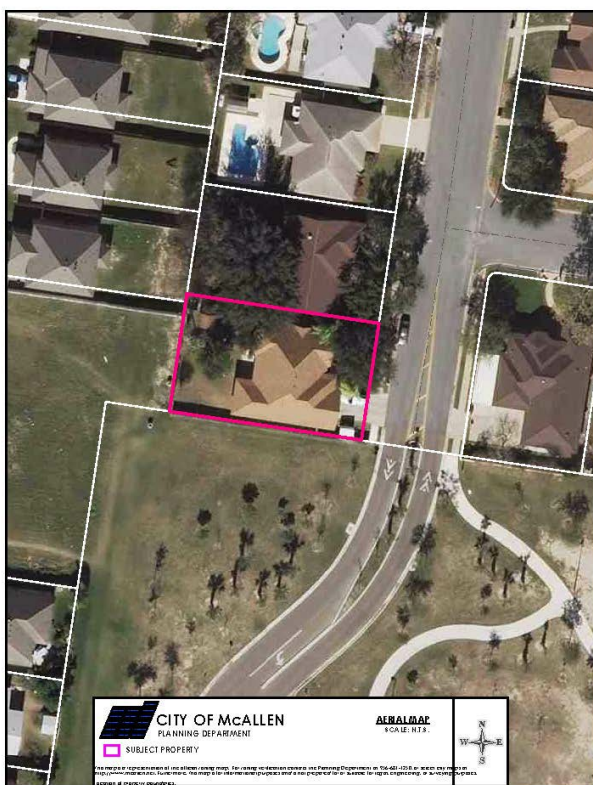
**SUBJECT: REQUEST OF HILDA TREVINO FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCHROACHMENT OF 20 FEET INTO THE 20 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 20 FEET BY 20 FEET FOR LOT 10, BLOCK 1, BLUEBIRD SUBDIVISION, HIDALGO COUNTY, TEXAS; 5309 NORTH 32ND STREET. (ZBA2022-0055)**

**REASON FOR APPEAL:**

The applicant is requesting a special exception in order to allow an encroachment of 20 feet into the front yard setback of 20 feet for an existing metal carport measuring 20 feet by 20 feet. The applicant is proposing the existing metal carport to protect her three vehicles from the weather elements.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located along the west side of North 32nd Street. According to the subdivision plat, the property has 70.15 feet of frontage along North 32nd Street and a depth of 115 feet, for a lot size of 8,067 square feet. The surrounding land use is single-family residential and Zinnia Park to the south.



**BACKGROUND AND HISTORY:**

The plat for Bluebird Subdivision was recorded in October 22, 1987 and requires 20 feet for front yard setbacks. An application for a building permit for the carport was submitted on September 22, 2022. An application for the special exception request was submitted on August 10, 2022.

**ANALYSIS:**

Approval of the special exception request would allow an encroachment of 20 feet into the 20 feet front yard setback as shown in the submitted site plan. There is a two car garage as part of the house that is used for storage and 2 of the 3 vehicles that she owns. The reason for this request is to allow the applicant to provide protection for her three vehicles from the weather elements.

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

There are no other carports in the immediate area.

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

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

**RECOMMENDATION:**

Staff recommends disapproval of the special exception request, since approval may encourage other property owners to build similar structures that may require special exceptions.

ZBA 2022-0055

ZBOA  
9/21/2022

**City of McAllen**  
**Planning Department**  
**APPEAL TO ZONING BOARD OF**  
**ADJUSTMENT TO MCALLEN ZONING ORDINANCE**

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

<b>Project</b>	Legal Description	<u>Bluebird Lot 10. B/K 1</u>	
	Subdivision Name	<u>Bluebird</u>	
	Street Address	<u>5309 N. 32 St. McAllen Texas.</u>	
	Number of lots	<u>1</u>	Gross acres _____
	Existing Zoning	<u>Residencial</u>	Existing Land Use <u>car port.</u>
	Reason for Appeal (please use other side if necessary)	<u>20 pies de los 20 pies de lot 10 car port 20x20</u>	
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" 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			

<b>Applicant</b>	Name	<u>Hilda Treviño.</u>	Phone	<u>956-735-3088</u>
	Address	<u>5309 N. 32 St.</u>	E-mail	_____
	City	<u>McAllen</u>	State	<u>Texas</u> Zip <u>78504</u>

<b>Owner</b>	Name	<u>Hilda Treviño.</u>	Phone	<u>956-735-3088</u>
	Address	<u>5309 N. 32 St.</u>	E-mail	_____
	City	<u>McAllen</u>	State	<u>Texas</u> Zip <u>78504</u>

<b>Authorization</b>	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>Hilda Treviño.</u> Date <u>8-10-22</u>
Print Name	<u>Hilda Treviño.</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	

<b>Office</b>	Accepted by	<u>ML</u>	Payment received by	_____	Date	<u>AUG 10 2022</u>
	Rev 10/18	BY: <u>CW</u>				

aw



# 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:

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

Es para proteger Los errores y nosotros nos sentamos allí y somos desahabitados. tenemos tres vehículos.

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:

No obtuye la visibilidad de nadie. Los dos estamos perdiendo la vista y somos diestros.

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

Los dos somos desahabitados mi esposo tiene operada la columna y la cadera.

Board Action

Chairman, Board of Adjustment  
Signature

Date

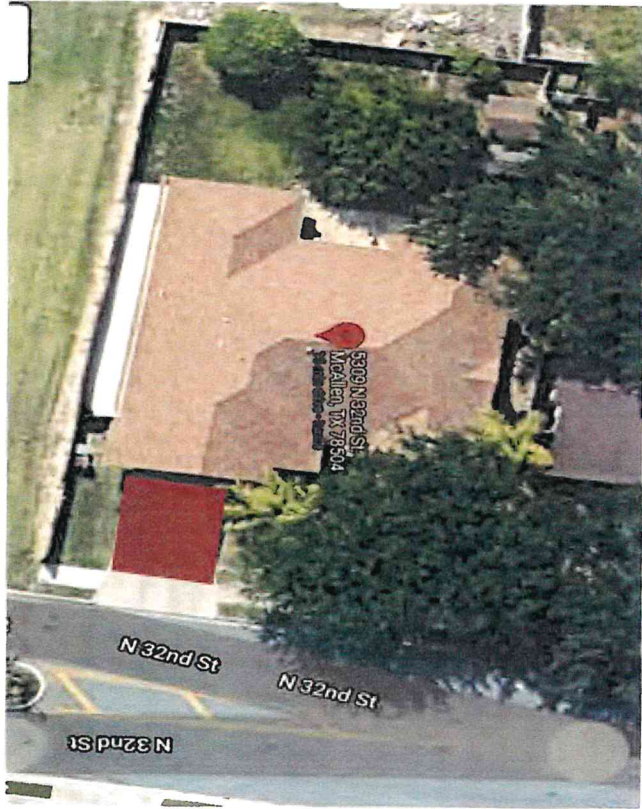
RT

**FIDEL TREVIÑO**  
5309 N 32th st; McAllen, Tx

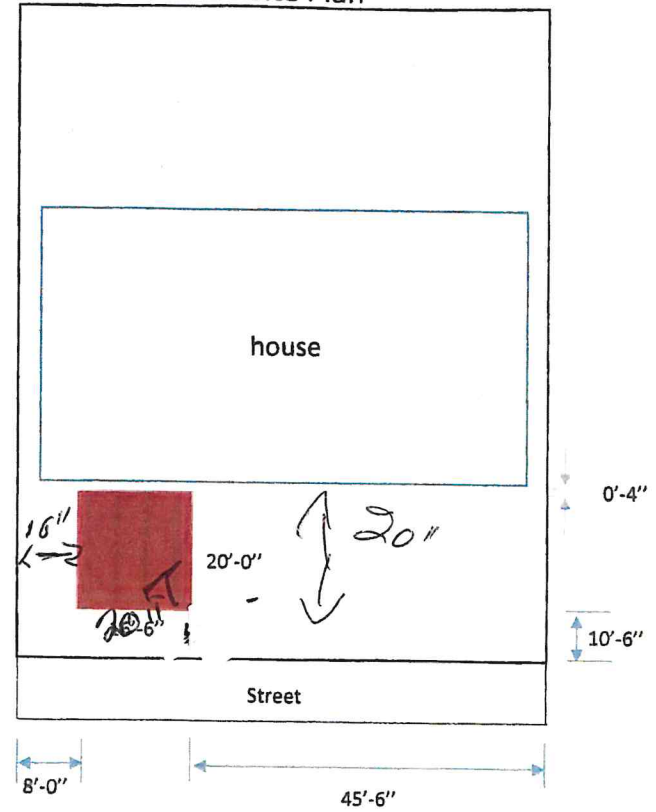
SEPT 16, 2021

Pg. 6 / 6

Structure Location



Site Plan







5309

**NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2022-0055**



CITY OF MCALLEN PLANNING DEPT.  
956-681-1250  
WWW.MCALLEN.NET



5309

**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 15, 2022

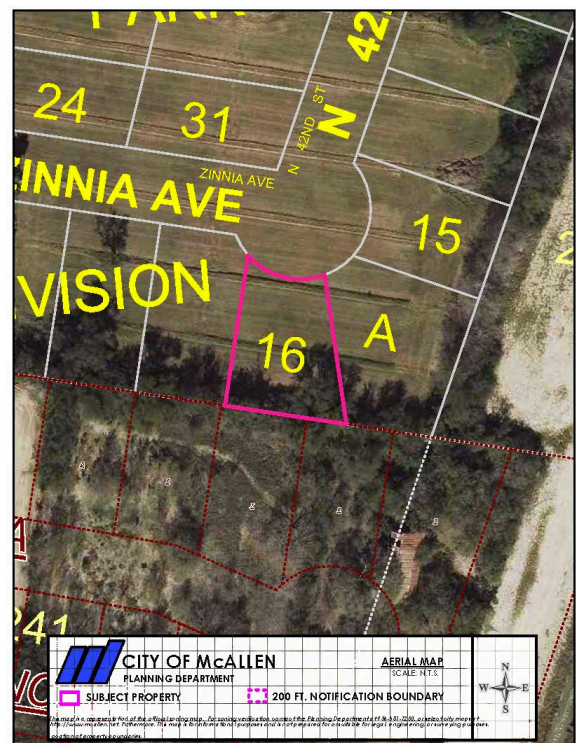
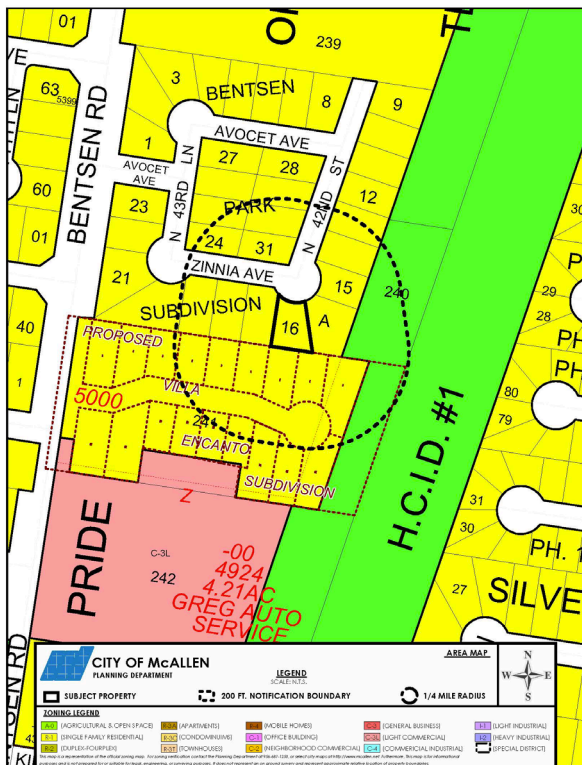
**SUBJECT: REQUEST OF DIANA CERECEDO FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 5.75 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR A GARAGE SETBACK AND AN ENCROACHMENT OF .91 FEET IN TO THE 25 FEET FRONT YARD SETBACK FOR A PROPOSED SINGLE FAMILY HOME AT LOT 16, BENTSEN PARK SUBDIVISION, HIDALGO COUNTY, TEXAS; 4201 ZINNIA AVENUE. (ZBA2022-0056)**

**REASON FOR APPEAL:**

The applicant is requesting a variance to allow an encroachment of 5.75 feet into the 25 feet front yard setback for a garage setback and an encroachment of .91 feet into the 25 feet front yard setback for a proposed single family home. The applicant is proposing the encroachments in order to accommodate construction of a proposed single-family residence.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located at the elbow intersection of Zinnia Avenue and North 42<sup>nd</sup> Street. The property has 60 feet of frontage along Zinnia Avenue and a depth of 105.99 ft at its deepest point, for a lot size of approximately 6,969 square feet. The surrounding land use is single-family residential and a detention area (Lot A) for the subdivision.





**BACKGROUND AND HISTORY:**

The plat for Bentsen Park Subdivision was recorded on May 31, 2022, and indicates a front yard setback of 25 feet. A building permit application for the proposed residence has not yet been submitted. The applicant submitted the special exception request on August 16, 2022.

**ANALYSIS:**

Approval of the variance request would allow an encroachment of 5.75 feet into the 25 feet front yard setback for a garage setback and an encroachment of .91 feet into the 25 feet front yard setback for a proposed single family home. The proposed encroachments will help to accommodate the single family home, and leave room for a rear yard area in the back of the property and for a future patio.

A review of Planning Department records did not reveal any approved special exceptions or variances in the immediate area for Bentsen Park Subdivision.

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

**RECOMMENDATION:**

Staff recommends disapproval of the variance request since the submitted site plan shows room at the rear of the subject property to relocate the proposed residence out of the front yard setback.

ZBOA  
9-21-22



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot 16, Bentsen Park subdivision

Subdivision Name Bentsen Park

Street Address 4201 Zinnia Ave

Number of lots 1 Gross acres \_\_\_\_\_

Existing Zoning R1 Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Variance on the front setback instead of 25' to be 19'3"

\$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 Diana Cerecedo Phone 956-789-0282

Address 602 Purple Bvgambilia E-mail elitehomes.tx@gmail.com

City Pharr State TX Zip 78577

Owner

Name Elite Homes LLC Phone 956-789-0282/956-414-7203

Address 602 Purple Bvgambilia E-mail elitehomes.tx@gmail.com

City Pharr State TX Zip 78577

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 08/16/2022

Print Name Diana Cerecedo  Owner  Authorized Agent

Office

Accepted by [Signature] Payment received by \_\_\_\_\_ Date **ENTERED**

0270-2608492

0270-2608492

# 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:

This lot is a cul-de-sac and its having the same setbacks as regular size lots in the subdivision. The dimensions are not very suitable to build a home to be able to have enough patio and backyard

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

If we build a house with insufficient patio and backyard we are depriving the owners the chance to be able to enjoy better space in their new home and us as builders, to build a more functional house plan.

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

The variance is not a threat nor an inconvenience to public or neighbors because it will not affect any utility easements or either the size or shape of the front side walk. Also the area that will be encroaching is not a living area, is a

4. Describe special conditions that are unique to this applicant or property: ~~part of the garage and a portion of porch~~  
We have built other properties on cul-de-sac lots and the setbacks

have been different because of its irregular size. This developer didn't include a special provision on the plat, perhaps because this is the first subdivision they develop and missed it or were not aware it can be done.

Board Action

Chairman, Board of Adjustment  
Signature

Date



ZINNIA AVE.

60.0'

5' U. ESMT.

18' G.B.S.L.

25' F.B.S.L.

105.99'

6' S.B.S.L.

55'-0"

6'-0"

20'-2"

CONCRETE DRIVE & WALKS  
944 SF

ENCROACHMENT AREA 74 SF

ENCROACHMENT AREA 18 SF

PROPOSED RESIDENCE

104.55'

6' S.B.S.L.

56'-8"

26'-2"

26'-2"

10' UTILITY EASEMENT

86.55'

Sheet Name  
**C-1.0**

Street Number  
**SITE**

Builder:



**ELITE HOMES**

Cell - (956) - 414-7203

**Innovative Designs RGV**

• Consulting • Planning • Design

Jonathan Ramirez, BSCE

19 N. 17th Street Suite "D", McAllen, TX. 78501  
(956) 467-6198 - innovativedesignsgv@yahoo.com

Legal: **Lot 16, Bentsen Park Subdivision, City of McAllen, Texas**

Date: **08-11-2022** Client:

Drawing Scale: **1" = 10'-0"** **Spec Home**





NOTICE  
VACANCY  
FOR  
THE PROPERTY  
284111 301A

**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0056**

 CITY OF MCALLEN PLANNING DEPT.  
956-681-1250  
WWW.MCALLEN.NET



**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 12, 2022

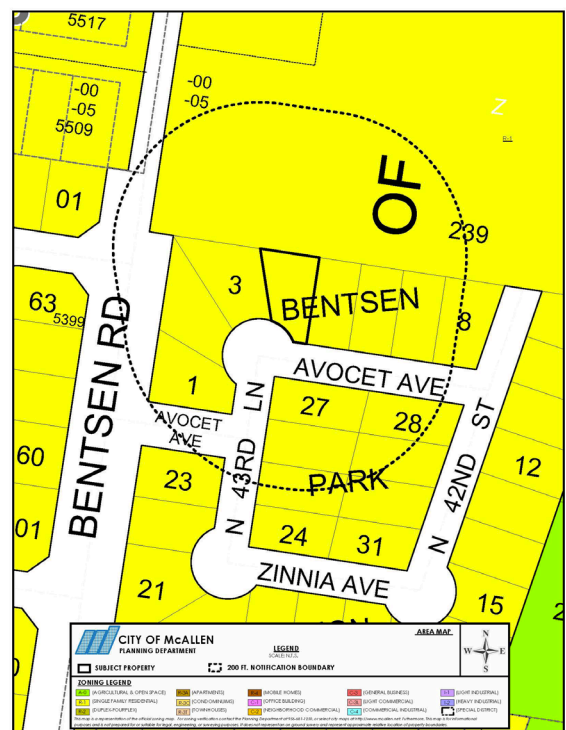
**SUBJECT: REQUEST OF DIANA CERECEDO FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 6.42 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR A GARAGE SETBACK, AT LOT 4, BENTSEN PARK SUBDIVISION, HIDALGO COUNTY, TEXAS; 4308 AVOCET AVENUE. (ZBA2022-0057)**

**REASON FOR APPEAL:**

The applicant is requesting a variance to allow an encroachment of 6.42 feet into the 25 feet front yard setback in order to accommodate construction of a garage as part of a proposed single-family residence. The lot fronts a knuckle or eyebrow intersection and the applicant states this is an irregularly shaped lot and would like room to have a back yard and a patio.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located East of North Bentsen Road. According to the subdivision plat, the property has approximately 60.72 feet of frontage along Avocet Avenue and a depth of 119.05 feet at its deepest point, for a lot size of approximately 7049 square feet. The surrounding land use is single-family residential and vacant land.



**BACKGROUND AND HISTORY:**

The plat for Bentsen Park Subdivision was recorded on May 21, 2022. The plat indicates a front yard setback of 25 feet. A building permit application for the proposed residence has not yet been submitted. The applicant submitted the special exception request on August 16, 2022.

**ANALYSIS:**

Approval of the variance request would allow an encroachment of 6.42 feet into the 25 feet front yard setback for a garage as part of a proposed single family home. The submitted site plan shows that a single-family residence is to be built on the property. The applicant states compliance with the required front yard setback will limit rear yard available space for a patio. A 10 feet rear yard setback and utility easement prevent the proposed structure to be moved further to the rear of the property in order to be in compliance.

A review of Planning Department records did not reveal any approved special exceptions or variances in the immediate area.

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

**RECOMMENDATION:**

Staff recommends disapproval of the variance request since the proposed size of the residential home may be reduced in size to be in compliance.



ZBA 2022-0057

Z-BOA  
9-21-22



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

<b>Project</b>	Legal Description <u>Lot 4, Bentsen Park subdivision</u>
	Subdivision Name <u>Bentsen Park</u>
<b>Applicant</b>	Street Address <u>4308 Avocet Ave</u>
	Number of lots <u>1</u> Gross acres _____
	Existing Zoning <u>R1</u> Existing Land Use <u>Residential</u>
	Reason for Appeal (please use other side if necessary) <u>Variance on the front setback instead of 25' to be 18'17"</u>
<input type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required	
<b>Owner</b>	Name <u>Diana Cerecedo</u> Phone <u>956-789-0282</u>
	Address <u>602 Purple Bugambilia</u> E-mail <u>elitehomes.tx@gmail.com</u>
	City <u>Pharr</u> State <u>TX</u> Zip <u>78577</u>
<b>Authorization</b>	Name <u>Elite Homes LLC</u> Phone <u>956-789-0282 / 956-414-7203</u>
	Address <u>602 Purple Bugambilia</u> E-mail <u>elitehomes.tx@gmail.com</u>
	City <u>Pharr</u> State <u>TX</u> Zip <u>78577</u>
<b>Office</b>	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>08/16/2022</u> Print Name <u>Diana Cerecedo</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Accepted by</b>	Accepted by <u>OS</u> Payment received by _____ Date <b>ENTERED</b>
	Rev 10/18

AUG 16 2022

Initial: DM



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

2021-10-10

\*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:

This lot is a cul-de-sac and its having the same setbacks as regular size lots in the subdivision. The dimensions are not very suitable to build a home to be able to have enough patio and backyard.

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

If we build a house with insufficient patio & backyard we are depriving the owners the chance to be able to enjoy better space in their new home and us as builders, to build a more functional house plan.

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

The variance is not a threat nor an inconvenience to public or neighbors because it will not affect any utility easements or either the size or shape of the front side walks. Also the area that will be encroaching is not a living area, is just a part of the garage!

4. Describe special conditions that are unique to this applicant or property: We have built other properties on cul-de-sac-lots and the setbacks

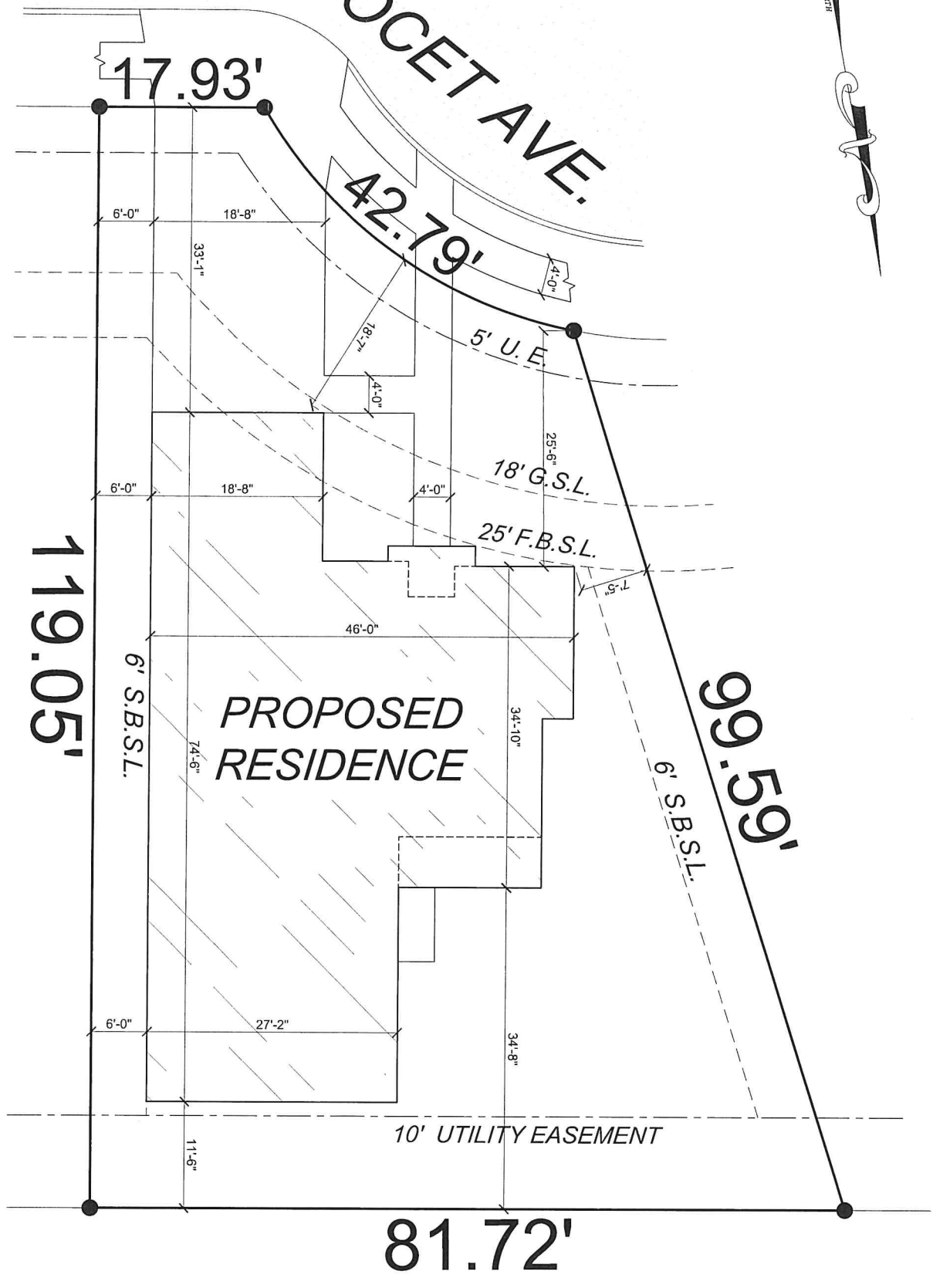
have been different because of the irregular size. This developer didn't include a special provision on the plat, perhaps because this is the first subdivision they develop and missed it or were not aware it can be done

Board Action

Chairman, Board of Adjustment  
Signature

Date

AVOCET AVE.



17.93'

42.79'

119.05'

6' S.B.S.L.

PROPOSED RESIDENCE

99.59'

6' S.B.S.L.

10' UTILITY EASEMENT

81.72'

Sheet Number  
C-1.0

Sheet Name  
SITE

Builder:  
**ELITE HOMES**  
Diana Cerecedo  
Owner  
Cell - (956)-414-7233  
elitehomes14@gmail.com

Innovative Designs RGV  
• Consulting • Planning • Design  
Jonathan Ramirez, BSCE  
19 N. 17th Street Suite "D", McAllen, TX. 78501  
(956) 467-6198 • innovativedesignsrgv@yahoo.com

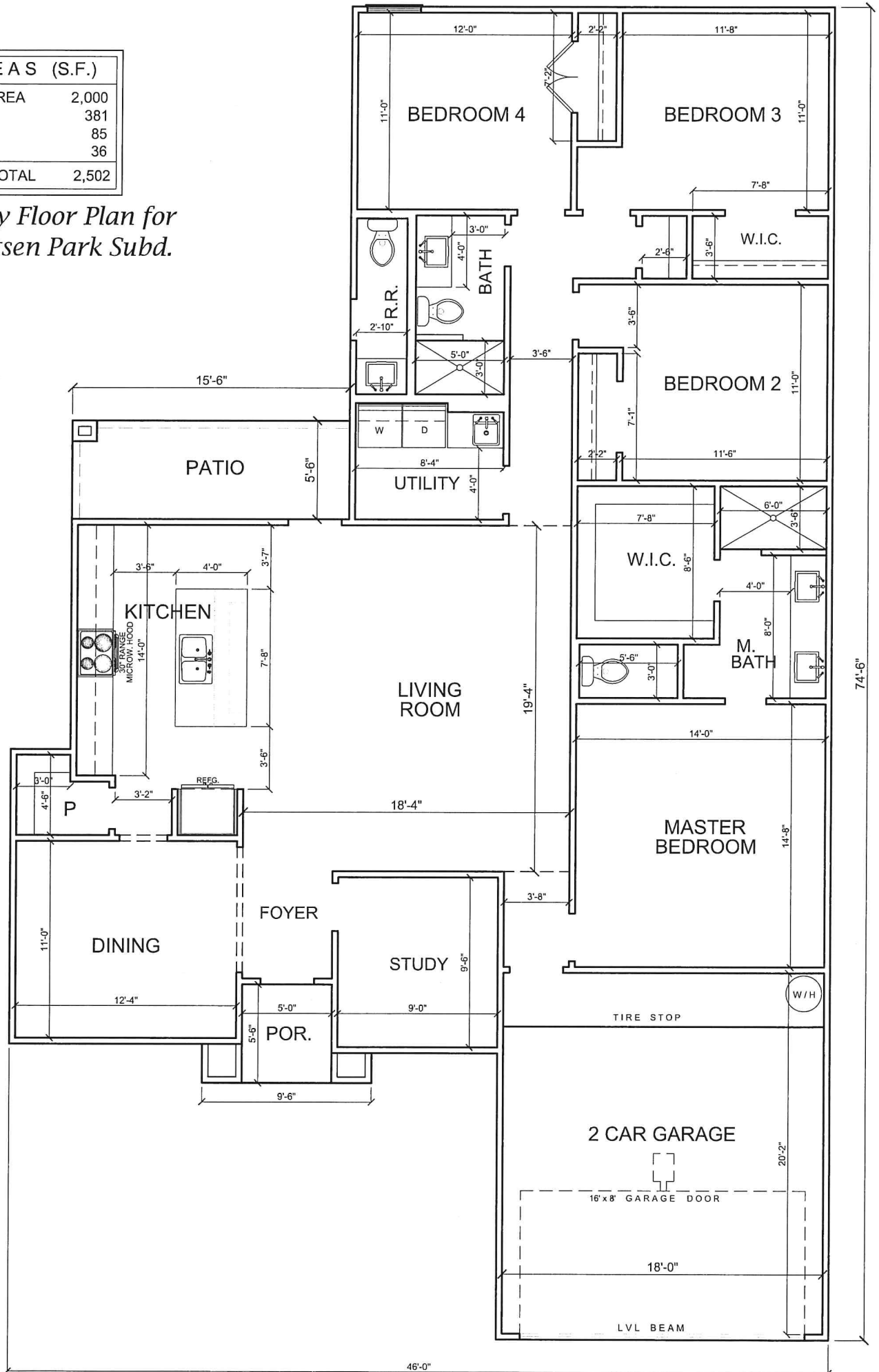
Project:  
Lot 4, Bentsen Park Subdivision,  
City of McAllen, Texas  
Date: 08-03-2022  
Drawing Scale: N.T.S.

Client:  
Spec Home



AREAS (S.F.)	
LIVING AREA	2,000
GARAGE	381
PATIO	85
PORCH	36
GRAND TOTAL	2,502

*Preliminary Floor Plan for  
Lot 4, Bentsen Park Subd.*





**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0057**

CITY OF McALLEN PLANNING DEPT.  
388-681-1259  
WWW.MCALLEN.NET



**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 30, 2022

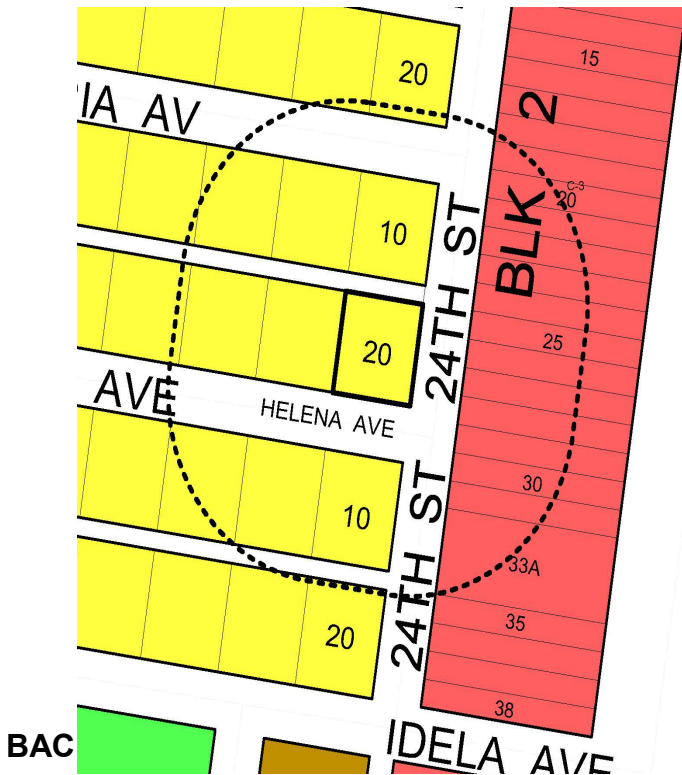
**SUBJECT: REQUEST OF DAVID ZUNIGA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCHROACHMENT OF 5 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR A PROPOSED SINGLE FAMILY HOME, AT LOT 20, BLOCK 4, BALBOA ACRES SUBDIVISION, HIDALGO COUNTY, TEXAS; 2400 HELENA AVENUE. (ZBA2022-0052)**

**REASON FOR APPEAL:**

The applicant is requesting a variance to allow an encroachment of 5 feet into the 25-foot front yard setback in order to accommodate construction of a proposed single family residence.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located at the northwest corner of Helena Avenue and South 24<sup>th</sup> Street. The property has 95 feet of frontage along Helena Avenue and a depth of 107.5 ft, for a lot size of 1,0212.5 square feet. The surrounding land use is single-family residential with a commercial use to the east across South 24<sup>th</sup> Street.



The plat for Balboa Acres Subdivision was recorded in January 1963. The subdivision was annexed into the city in 1975. The plat indicates a front yard setback of 25 feet. A building permit application for the proposed residence has not yet been submitted. The applicant submitted the special exception request on August 3, 2022.

**ANALYSIS:**

Approval of the variance request would allow an encroachment of 5 feet into the 25 feet front yard setback. The submitted site plan shows that a garage is proposed to be built at the rear of the property and the proposed encroachment will help to accommodate the proposed garage.

During the site visit, staff noticed other homes within the subdivision that appear to have been built at the 20-foot front yard setback. The proposed setback request on the subject property would be characteristic of construction in this area.

A review of Planning Department records did not reveal any approved special exceptions or variances in the immediate area.

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

**RECOMMENDATION:**

Staff recommends approval of the variance request. If the board grants approval of the request it should be limited to the encroachment shown on the submitted site plan. The proposed encroachment will not alter the essential character of the neighborhood.



ZBA2022-0052

ZBA-9/8/22



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

<b>Project</b>	Legal Description <u>Lot 20, Block 4, Balboa Acres, an Addition to the city of McAllen, Hidalgo County Texas.</u>
	Subdivision Name <u>Balboa Acres</u>
<b>Applicant</b>	Street Address <u>2400 Helena Ave.</u>
	Number of lots <u><del>2</del> 1</u> Gross acres _____
	Existing Zoning <u>R1</u> Existing Land Use <u>valido</u>
	Reason for Appeal (please use other side if necessary) <u>See Back</u>
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
<b>Owner</b>	Name <u>David Zuniga</u> Phone <u>956-867-4250</u>
	Address <u>5611 S 29</u> E-mail _____
	City <u>McAllen</u> State <u>Tx</u> Zip <u>78503</u>
<b>Authorization</b>	Name <u>Jesús Rodríguez</u> Phone <u>8991681780</u>
	Address <u>2400 Helena Ave</u> E-mail <u>Margeth_Pueca@hotmail.com</u>
	City <u>McAllen</u> State <u>tx</u> Zip <u>78503</u>
<b>Office</b>	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>David Zuniga</u> Date <u>08-02-22</u> Print Name <u>David Zuniga</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by _____ Payment received by _____ Date <b>ENTERED</b>
	Rev 09/20 <span style="float: right;">AUG 03 2022 Initial: <u>AK</u></span>



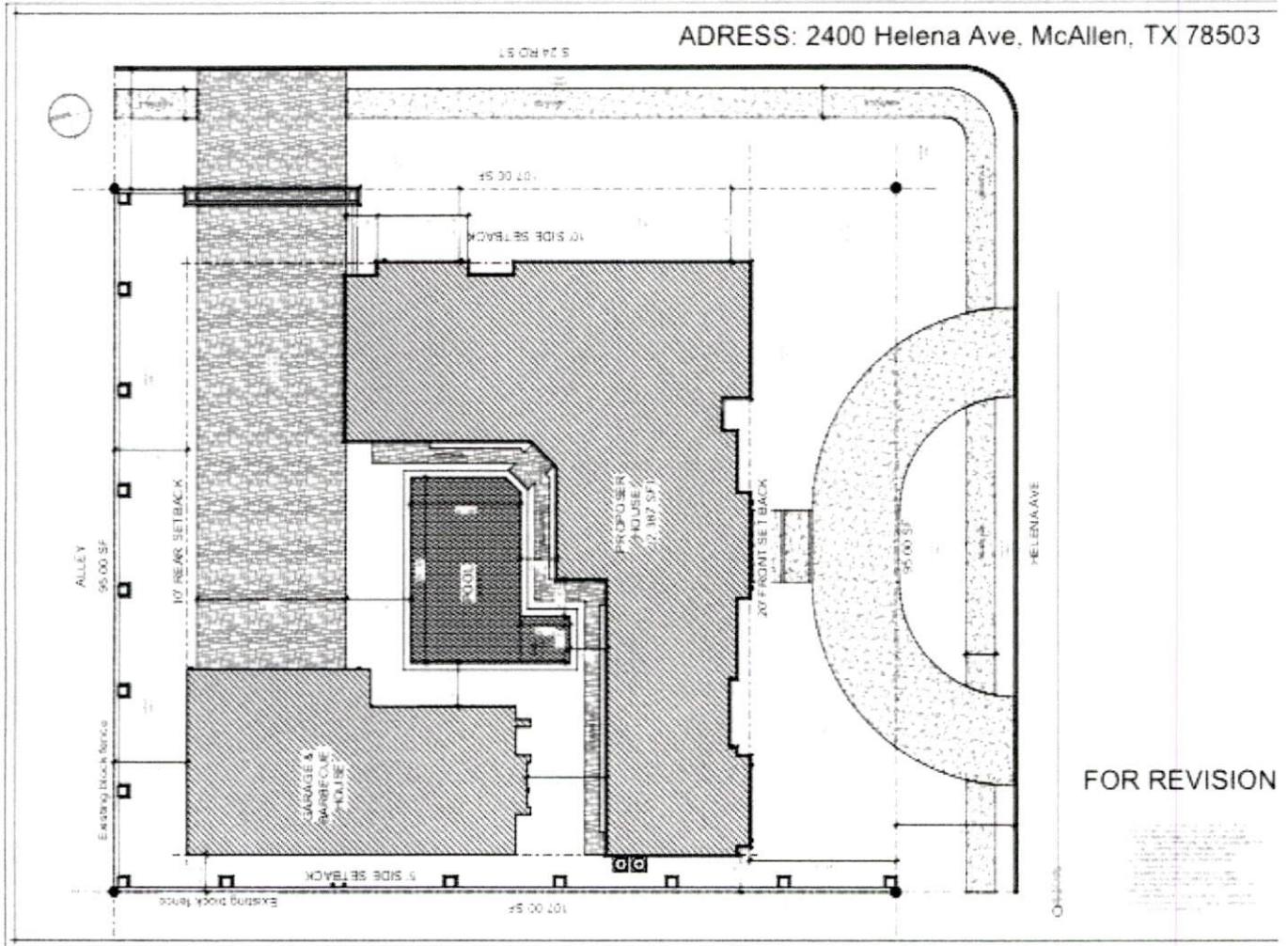
# City of McAllen

## 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 <b>any combination of</b> the following: (Please use an additional page if necessary to complete responses)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>
	<p>1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:</p> <p>I want my house to be built 20ft away from the road instead of 25ft</p>
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p> <p>My property doesn't have the 15ft sidewalk plus the 25ft, takes up way too much space in which I could build my house.</p>
	<p>3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:</p> <p>This variance does not affect anyone whatsoever. The sidewalk is big enough and 20ft from it is enough space.</p>
Board Action	<p>4. Describe special conditions that are unique to this applicant or property:</p> <p>My neighbors don't have their houses 25ft from the sidewalk either.</p>
	<p>Chairman, Board of Adjustment Signature _____</p> <p>Date _____</p>

ADDRESS: 2400 Helena Ave, McAllen, TX 78503

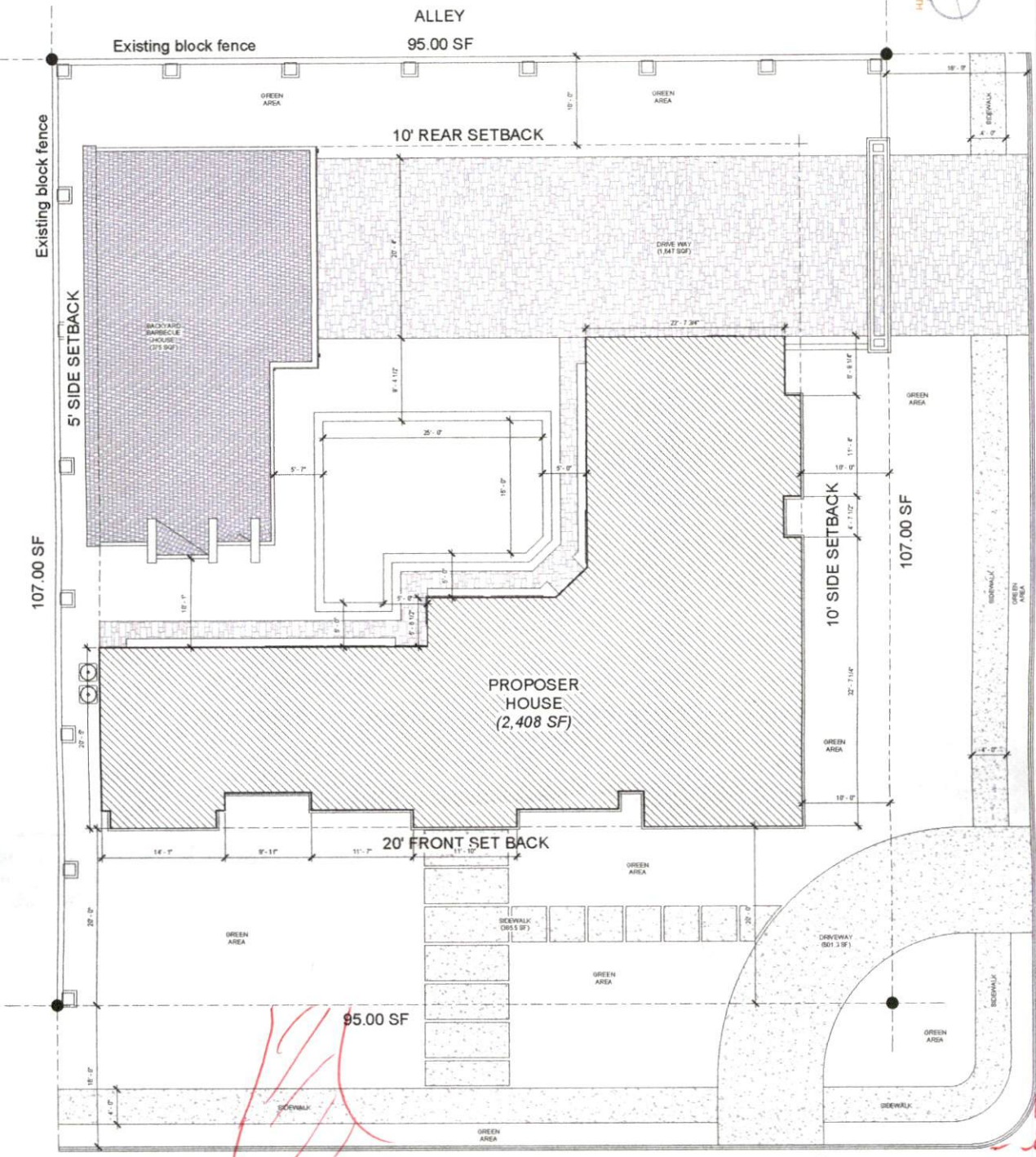


FOR REVISION

ENTERED

AUG 03 2022

Initial: Ayl



*60' (min)*  
 ① SITE PLAN  
 3/16" = 1'-0"

*Make near 12.5'*  
*25' (min)*

ADDRESS: 2400 Helena Ave, McAllen, TX 78503

THE DESIGNER ASSUMES NO LIABILITY FOR ANY AND ALL DAMAGES OR INJURIES TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS PLAN. THE DESIGNER'S RESPONSIBILITY IS LIMITED TO THE PROFESSIONAL DESIGN SERVICES PROVIDED HEREON. THE DESIGNER DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY OTHERS. THE DESIGNER'S LIABILITY IS LIMITED TO THE PROFESSIONAL DESIGN SERVICES PROVIDED HEREON. THE DESIGNER'S LIABILITY IS LIMITED TO THE PROFESSIONAL DESIGN SERVICES PROVIDED HEREON.

ARCH: JOSE LUIS FRIENTO  
**A100**

SCALE	AS SHOWN
DATE	THURSDAY 8/15/11 PM
DWG	08/15/11
REV	08/15/11
PROJECT	DRIVE PLAN

**DAVID ZUÑIGA'S HOME**  
 SITE PLAN

DAVID ZUÑIGAS HOME  
 2400 Helena Ave  
 McAllen, TX 78503



DATE: 8/15/11  
 TIME: 1:37 PM  
 PROJECT: DAVID ZUÑIGA'S HOME  
 DRAWING: DRIVE PLAN

**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2022-0052**

CITY OF McALLEN PLANNING DEPT.  
356.681-1250  
WWW.MCALLEN.NET



2i)

Remain tabled

## 2022 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/22	01/19/22	02/02/22	02/17/22	03/03/22	03/17/22	04/06/22	04/20/22	05/04/22	05/18/22	06/01/22	05/25/22	06/15/22	06/29/22	07/07/22	07/20/22	08/03/22	08/17/22	09/08/22	09/21/22	10/05/22	10/19/22	11/02/22	11/16/22	12/07/22	12/21/22
ERICK DIAZ- <b>CHAIRPERSON</b>	P																									
SYLVIA HINOJOSA-CHAIRPERSON	P	P	P	P	A	A	P	P	P	P	P	P	P	LQ	P	P	P	A	P							
JOSE GUTIERREZ-VICE-CHAIR	P	P	P	P	P	P	P	P	P	P	P	P	A	LQ	P	P	P	P	P							
ANN TAFEL	A	P	P	P	P	P	P	P	P	P	P	A	P	LQ	P	P	P	P	P							
HUGO AVILA	P	P	P	P	P	P	P	P	A	P	P	P	P	LQ	P	P	P	P	P							
ROGELIO RODRIGUEZ	P	P	P	P	P	P	A	P	P	P	A	A	P	LQ	P	P	P	A	P							
REBECCA MILLAN (ALT 1)	P	P	P	P	P	P	P	A	P	P	P	P	P	LQ	P	P	A	P	P							
MARK TALBOT (ATL 2)				P	P	A	P	P	P	A	A	A	A	LQ	P	A	P	P	P							
SAM SALDIVAR (ALT 3)				P	P	A	P	P	P	A	P	A	A	LQ	P	P	P	A	P							
JUAN MUJICA (ALT 4)				P	P	P	P	P	P	P	P	P	A	LQ	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

## 2022 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 2022

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

### FEBRUARY 2022

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

### MARCH 2022

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

### APRIL 2022

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

### MAY 2022

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

### JUNE 2022

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

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.



## 2022 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 2022

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

### AUGUST 2022

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

### SEPTEMBER 2022

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

### OCTOBER 2022

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

### NOVEMBER 2022

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

### DECEMBER 2022

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