

## AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING  
SEPTEMBER 17, 2015 - 5:30 PM  
MCALLEN MUNICIPAL BUILDING - 1300 HOUSTON AVENUE  
CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR

### CALL TO ORDER – ROBERT MOREHEAD, CHAIRPERSON

#### 1. MINUTES:

- a) Minutes for regular meeting held on September 2, 2015

#### 2. PUBLIC HEARINGS:

- a) Request of Ariel Salinas for a variance to the City of McAllen Zoning Ordinance to allow a side yard setback of 6 feet instead of 10 feet for a residential structure encroachment measuring 4 feet by 64.17 feet, for lot 27, Frontera Estates Subdivision, Hidalgo County, Texas; 2017 Harvard Avenue **(ZBA2015-0037)**
- b) Request of Jake Trevino for variances to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 22 feet instead of 25 feet for an existing porch measuring 12 feet by 14.41 feet, **2)** a rear yard setback of 10 feet instead of 25 feet for a proposed swimming pool measuring 19 feet by 30 feet, for Lot 57, Tiffany Estates Subdivision, Hidalgo County, Texas; 6102 North 44<sup>th</sup> Lane. **(ZBA2015-0040)**
- c) Request of Gladys and Guadalupe Silva for variance requests to the City of McAllen Zoning Ordinance to allow: **1)** a front yard setback of 0 feet instead of 20 feet for a carport measuring 12.5 feet by 14.25 feet, **2)** a front yard setback of 16 feet instead of 20 feet for a porch measuring 5.75 feet by 5.83 feet, **3)** a side yard setback of 1 foot instead of 6 feet for an aluminum carport measuring 18 feet by 20 feet, **4)** a side yard setback of 4.08 feet instead of 6 feet for a storage building measuring 8.16 feet by 8.08 feet, for the east 57 feet and 7 ½ inches of the south 58 feet 3 inches of Lot 4, Block 2, Golden Acres Retirement Subdivision No. 1, Hidalgo County, Texas; 405 North 37<sup>th</sup> ½ Street. **(ZBA2015-0032) (TABLED: 8/19/2015 UNTIL 9/2/2015) REMAIN TABLED UNTIL 9/17/2015)**
- d) Request of Patricia Hernandez for variance requests to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 0 feet instead of 10 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **2)** a side yard setback along the east property line of 0 feet instead of 6 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **3)** a side yard setback along the west property line of 0 feet instead of 6 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **4)** A rear yard setback of 0 feet instead of 10 feet for a storage building measuring 6 feet by 6 feet for Lot 8, **5)** A side yard setback of 0 feet instead of 6 feet along the east lot line for a storage building measuring 6 feet by 6 feet for Lot 8, **6)** 1 foot instead of 12 feet building separation for an accessory structure to the main building for a covered patios on Lots 8 & 9, **7)** A rear yard setback of 0 feet instead of 10 feet for a covered patio measuring 44 feet by 10 feet, for Lot 9, **8)** A side yard setback along the east

property line of 0 feet instead of 6 feet for a covered patio measuring 44 feet by 10 feet, for Lot 9, Idela Park Unit No. 4, Hidalgo County, Texas; 2429 & 2433 Lucille Avenue. **(ZBOA2015-0028) (TABLED: 8/19/2015 UNTIL 9/17/2015)**

- e) Request of Jose Luis Galindo to allow the following variance requests to the City of McAllen Zoning Ordinance: **1) side yard setback of 2.25 feet instead of 5 feet for a carport measuring 24.16 feet by 25.25 feet, 2) front yard setback of 2.41 feet instead of 25 feet for a carport measuring 24.16 feet by 25.25, for Lot 18, Block 3, McAllen Heights Subdivision, Hidalgo County, Texas; 1009 South 27<sup>th</sup> Street. (ZBA2014-0026) (TABLED: 11/19/2014 UNTIL MEETING OF 1/21/2015) (TABLED UNTIL JULY 15, 2015) (TABLED: 7/15/2015) (REMAIN TABLED UNTIL 9/2/2015) (REMAIN TABLED UNTIL 9/17/2015)**
- f) Request of Daniel R. Valdez to allow the following variance requests to the City of McAllen Zoning Ordinance: **1) a front yard setback of .5 feet instead of 20 feet for a carport measuring 19.75 feet by 19.66 feet, 2) a side yard setback of 0 feet instead of 6 feet for a storage building measuring 10 feet by 12.83 feet, 3) a side yard setback of 0 feet instead of 6 feet for a pool pump storage building measuring 7 feet by 4.16 feet, 4) a rear yard setback of 0 feet instead of 15 feet for a water fountain measuring 4 feet by 4.41 feet, for Lot 94, Oak Terrace Subdivision, Hidalgo County, Texas; 1924 North 34<sup>th</sup> Street.(ZBA2014-0041) (TABLED: UNTIL JANUARY 7, 2015) (ITEM #1: TABLED: 1/7/2015 UNTIL JULY 15, 2015) (TABLED: 7/15/2015 UNTIL 9/17/2015)**
- g) Request of Armando Sotelo for a variance request to the City of McAllen Zoning Ordinance to allow: **1) a rear yard setback of 11.83 feet instead of 60 feet for a storage building measuring 8 feet by 40 feet, 2) a special exception for 51 parking spaces instead of 56 parking spaces for Lot 2, Jackson Triangle Subdivision, Hidalgo County, Texas; 1409 East Expressway 83. (ZBA2015-0035) (TABLED: 8/19/2015 UNTIL 10/21/2015)**

### 3. DISCUSSION:

### 4. EXECUTIVE SESSION, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH ATTORNEY)

### ADJOURNMENT

IF ANY ACCOMMODATION FOR A DISABILITY IS REQUIRED, NOTIFY THE PLANNING DEPARTMENT AT (956) 681-1250 SEVENTY-TWO (72) HOURS PRIOR TO THE MEETING DATE. WITH REGARD TO ANY ITEM, THE ZONING BOARD OF ADJUSTMENT AND APPEALS MAY TAKE VARIOUS ACTIONS INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR A FUTURE DATE OR TIME.

STATE OF TEXAS  
COUNTY OF HIDALGO  
CITY OF McAllen

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, September 2, 2015 at 5:35 p.m. in the City Commission Meeting Room with the following present:

<b>Present:</b>	<b>Robert Morehead</b>	<b>Chairperson</b>
	<b>Mike Hovar</b>	<b>Vice-Chairperson</b>
	<b>Rolando Ayala</b>	<b>Member</b>
	<b>Jorge Salinas</b>	<b>Member</b>
	<b>Jose R. Gutierrez</b>	<b>Alternate</b>
	<b>Terry L. Perez</b>	<b>Alternate</b>
<b>Absent:</b>	<b>Mike Harms</b>	<b>Member</b>
	<b>Shavi Mahtani</b>	<b>Alternate</b>
	<b>Sylvia Hinojosa</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Victor Flores</b>	<b>Assistant City Attorney</b>
	<b>Edgar Taylor</b>	<b>Senior Planner</b>
	<b>Rodrigo Sanchez</b>	<b>Planner II</b>
	<b>Carmen White</b>	<b>Secretary</b>

**CALL TO ORDER – Robert Morehead, Chairperson**

**1. MINUTES:**

a) Minutes for Regular Meeting held on August 19, 2015.

The minutes for the meeting held on August 19, 2015 were approved. The motion to approve the minutes was made by Ms. Terry Perez. Mr. Jorge Salinas seconded the motion which carried unanimously with five members present and voting.

**2) PUBLIC HEARINGS:**

- a) Request of Adriana Garcia for variance requests to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 3 feet instead of 10 feet for an aluminum carport with steel supports measuring 46.99 feet by 22.33 feet, **2)** a side yard setback along the east property line of 1.5 feet instead of 15 feet for an aluminum carport with steel supports measuring 46.99 feet by 22.33 feet, for Lot 4, Kimberley Estates No. 3 Subdivision, Hidalgo County, Texas; 137 East Gardenia Avenue. **(ZBA2015-0036)**

Mr. Sanchez stated the applicant requested a variance for an existing carport built 20 years ago encroaching into the rear and side yard setbacks. The applicant wishes to

keep the structure at the location constructed. The property was located along the northwest corner of North Cynthia Street and Gardenia Avenue. The tract had approximately 80 feet of frontage along Gardenia Avenue with a depth of 130 feet at its deepest point. The property was zoned R-1 (single family residential) District. The surrounding land uses include single family residences. There was an existing single family residence on the subject property. Kimberley Estates No. 3 Subdivision was recorded in October 1981. The plat indicated a 15 foot corner side yard setback, and a 10 foot rear yard setback. According to the tax records the applicant obtained the residence in 1989. A building permit application had not been submitted at this time. The metal carport encroached 7 feet into the rear yard setback with the posts located 3 feet from the property line with an overhang of 6 inches. There was a 20 foot alley at the rear of the property. There were two wooden storage units encroaching 6 feet into the side yard setbacks, one used for household objects and the other houses the pool pump. An application for the enclosing of an existing garage for a game room and patio for a utility room was submitted in July 2015 but the carport was not included. Variance #1: The metal carport was currently encroaching into the rear yard setback. The carport could be reduced by 7 feet to clear the encroachment into the 10 foot rear yard setback although the steel posts on concrete would need to be relocated. Variance #2: The metal carport building encroached 13.5 feet into the corner side yard setback. The metal carport could be reduced in size to reduce or eliminate the corner side yard encroachment. Standard corner side yard setbacks were 10 feet.

Staff recommended disapproval of the variance requests.

Ms. Adriana Garcia, the applicant, stated the house was built in 1989-1990. She decided to enclose the back yard, install an electric gate for security purposes and added a carport for protection of vehicles. Ms. Garcia hired a reputable contractor who did the gate and a proposal for the carport. She thought he would take care of the necessary paperwork. Ms. Garcia was unaware of the setbacks. When she came to apply for a permit to remodel the home she was made aware the carport was not in compliance.

Chairperson Robert Morehead inquired if there was anyone else present to speak in favor to the variance requests. There was no one else to speak in favor of the variance requests.

Chairperson Robert Morehead inquired if there was anyone else present to speak against the variance requests. There was no one else to speak against the variance requests.

Mr. Rolando Ayala moved to approve the variance requests limited to the footprint of the existing structure. Mr. Jorge Salinas seconded the motion. The board voted unanimously with five members present and voting.

- b) Request of Antonia Mendoza for variance requests to the City of McAllen Zoning Ordinance to allow: 1) a front yard setback of 9.83 feet instead of 25

feet for an existing aluminum carport measuring 16.41 feet by 20 feet, **2)** a side yard setback along the west property line of 1.16 feet instead of 6 feet for an existing aluminum carport measuring 16.41 feet by 20 feet, for Lot 110, Idela Park Unit 2 Subdivision, Hidalgo County, Texas; 3032 Norma Avenue **(ZBA2015-0031)**

Mr. Sanchez stated the applicant was requesting a variance in order to allow an existing aluminum carport to encroach into the front and side yard setback. The applicant stated that she needs the carport to protect her vehicles. The property was located along the north side of Norma Avenue between 30th Street and 31<sup>st</sup> Street. The property was zoned R-1 (single family residential) District. The surrounding land uses include single family residences. There was an existing single family residence on the subject property. Idela Park Subdivision was recorded in July 1978. The front yard setback was 25 feet as per plat. A citation (#20154) was issued for building without a permit and encroachment into the setbacks. An application for a building permit was submitted on February 4, 2015 but the permit was pending a variance to the setbacks. An existing wood storage building was located at the rear of the property but the applicant decided not to include in the request. Variance #1: The front yard setback was 25 feet along Norma Avenue. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The carport could be located on the rear of the property and accessed through the alley to maintain curb appeal and be closer in compliance. An existing one car garage was used for storage. This request did not meet the criteria for granting of a variance. Variance #2: The side yard setback was 6 feet for the common side property line. A block wall separated the driveway from the neighboring property.

Staff recommended disapproval of the variance request.

Ms. Antonia Mendoza, the applicant, stated the carport was built a year ago by a gentleman from Edinburg due to the hailstorm of 2012 and the nature of her husband's work. The board inquired of the applicant if there were other houses with similar structures in her neighborhood. She responded yes. Mr. Ayala inquired of the applicant the structure in the back of the house. She indicated they use it for storage of tools and had been there for 20 years. She was inquired if there was an access from the alley. Ms. Mendoza responded yes and said they recently built a wooden fence.

Chairperson Robert Morehead inquired if there was anyone else present to speak in favor to the variance requests. There was no one else to speak in favor of the variance requests.

Chairperson Robert Morehead inquired if there was anyone else present to speak against the variance requests. There was no one else to speak against the variance requests.

Mr. Jorge Salinas **moved** to approve the variance requests limited to the footprint of the existing structure. Ms. Terry Perez seconded the motion. The board voted unanimously

with five members present and voting. Chairperson Robert Morehead voted against the variance requests. 4 ayes and 1 nay.

- c) Request of Marco Leal for variances to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 0 feet instead of 10 feet for a carport measuring 22 feet by 22 feet, **2)** a side yard setback along the south property line of 2 feet instead of 7 feet for a carport measuring 22 feet by 22 feet, **3)** a side yard setback along the north property line of 3 feet instead of 5 feet for a gazebo measuring 10 feet by 10 feet, **4)** a rear yard setback of 1 foot instead of 10 feet for a gazebo measuring 10 feet by 10 feet, for Lot 4, Block 24, North McAllen Addition, Hidalgo County, Texas; 507 North 17<sup>th</sup> Street. **(ZBOA2015-0027) (TABLED: 8/5/2015) (TABLED: 8/29/2015 UNTIL 9/2/2015)**

Vice-Chairperson Mike Hovar motioned to remove item from the table. Mr. Jose Gutierrez seconded the motion. The board voted unanimously with five members present and voting.

Mr. Sanchez stated the applicant requested a variance to allow a rear yard setback of 0 foot instead of 10 feet and a side yard setback of 2 feet instead of 7 feet for a carport; a side yard setback of 3 feet instead of 5 feet, and a rear yard setback of 1 foot instead of 10 feet for a gazebo. The applicant indicated that he was unaware that a permit was required for the carport and gazebo. The property was located along the west side of North 17th Street north of Ebony Avenue. The tract consisted of one lot, with 55 feet of frontage along North 12<sup>th</sup> Street, and a depth of 140 feet for a tract size of 7,700 square feet. The property was zoned R-2 (duplex-fourplex residential) District. The surrounding land use was single family residential. The property contained three accessory structures that was a garage, a gazebo and a carport. North McAllen Addition was recorded in 1907 prior to the 1945 zoning ordinance. A stop work order was issued on April 24, 2015. Accessory buildings were allowed a rear setback of 3 feet under the 1945 zoning ordinance. The rear yard setback of 10 feet for R-2 District was adjusted in 1979 without any provisions for accessory buildings. The existing carport gazebo encroaches 2 feet into the rear setback based upon the 1945 zoning ordinance. The nonconforming commercial building to the south had a rear setback of 0 feet.

Staff recommended disapproval of the variance requests and alternatively approval of rear setback of 3 feet. At the meeting of August 5, 2015 no one appeared in opposition of the variance requests. The applicant indicated that there was no room in the rear yard to relocate the structures out of the setbacks. Chairman Robert Morehead recommended that the variance requests be tabled to allow the applicant time to provide photos of the structures. Board member Hovar agreed saying that he would like to see the structures and how they fit into the neighborhood. The Board then unanimously voted to table the variance requests until the next meeting in order for the applicant to provide photos of the structures. There were 5 members present and voting.

Mr. Sanchez submitted a site plan provided by staff to the board which showed the measurements as clarified by staff.

Chairperson Robert Morehead inquired if there was anyone else present to speak in favor to the variance requests. There was no one else to speak in favor of the variance requests.

Chairperson Robert Morehead inquired if there was anyone else present to speak against the variance requests. There was no one else to speak against the variance requests.

Vice-Chairperson Mike Hovar **moved** to approve all variance requests and as modified for variance requests #1 and #4 limited to the footprint of the existing structure. Mr. Jose Gutierrez seconded the motion. The board voted unanimously with five members present and voting.

- d) Request of Jose Luis Galindo to allow the following variance requests to the City of McAllen Zoning Ordinance: **1)** side yard setback of 2.25 feet instead of 5 feet for a carport measuring 24.16 feet by 25.25 feet, **2)** front yard setback of 2.41 feet instead of 25 feet for a carport measuring 24.16 feet by 25.25, for Lot 18, Block 3, McAllen Heights Subdivision, Hidalgo County, Texas; 1009 South 27<sup>th</sup> Street. **(ZBA2014-0026) (TABLED: UNTIL 1/21/2015) (TABLED UNTIL JULY 15, 2015) (TABLED: 7/15/2015 UNTIL SEPTEMBER 2, 2015) (REMAIN TABLED UNTIL 9/17/2015)**

The applicant requested by phone that this item to remain tabled until September 17, 2015 due to medical reasons.

- e) Request of Gladys and Guadalupe Silva for variance requests to the City of McAllen Zoning Ordinance to allow: **1)** a front yard setback of 0 feet instead of 20 feet for a carport measuring 12.5 feet by 14.25 feet, **2)** a front yard setback of 16 feet instead of 20 feet for a porch measuring 5.75 feet by 5.83 feet, **3)** a side yard setback of 1 foot instead of 6 feet for an aluminum carport measuring 18 feet by 20 feet, **4)** a side yard setback of 4.08 feet instead of 6 feet for a storage building measuring 8.16 feet by 8.08 feet, for the east 57 feet and 7 ½ inches of the south 58 feet 3 inches of Lot 4, Block 2, Golden Acres Retirement Subdivision No. 1, Hidalgo County, Texas; 405 North 37<sup>th</sup>½ Street. **(ZBA2015-0032) (TABLED: 8/19/2015 UNTIL 9/2/2015) (REMAIN TABLED UNTIL 9/17/2015)**

Mr. Victor Flores, City's legal counsel, stated the applicant's legal counsel was unable to attend the meeting but would like the item to remain tabled for the public hearing of those variance requests for the meeting of September 17, 2015.

- f) Request of Patricia Hernandez for variance requests to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 0 feet instead of 10 feet

for a covered patio measuring 50 feet by 10 feet for Lot 8, **2)** a side yard setback along the east property line of 0 feet instead of 6 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **3)** a side yard setback along the west property line of 0 feet instead of 6 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **4)** A rear yard setback of 0 feet instead of 10 feet for a storage building measuring 6 feet by 6 feet for Lot 8, **5)** A side yard setback of 0 feet instead of 6 feet along the east lot line for a storage building measuring 6 feet by 6 feet for Lot 8, **6)** 1 foot instead of 12 feet building separation for an accessory structure to the main building for a covered patios on Lots 8 & 9, **7)** A rear yard setback of 0 feet instead of 10 feet for a covered patio measuring 44 feet by 10 feet, for Lot 9, **8)** A side yard setback along the east property line of 0 feet instead of 6 feet for a covered patio measuring 44 feet by 10 feet, for Lot 9, Idela Park Unit No. 4, Hidalgo County, Texas; 2429 & 2433 Lucille Avenue. **(ZBOA2015-0028) (TABLED: 8/19/2015 UNTIL 9/17/2015)**

- g)** Request of Daniel R. Valdez to allow the following variance requests to the City of McAllen Zoning Ordinance: **1)** a front yard setback of .5 feet instead of 20 feet for a carport measuring 19.75 feet by 19.66 feet, **2)** a side yard setback of 0 feet instead of 6 feet for a storage building measuring 10 feet by 12.83 feet, **3)** a side yard setback of 0 feet instead of 6 feet for a pool pump storage building measuring 7 feet by 4.16 feet, **4)** a rear yard setback of 0 feet instead of 15 feet for a water fountain measuring 4 feet by 4.41 feet, for Lot 94, Oak Terrace Subdivision, Hidalgo County, Texas; 1924 North 34<sup>th</sup> Street. **(ZBA2014-0041) (TABLED: 12/3/2014) (ITEM #1 TABLED: 1/7/2015 UNTIL JULY 15, 2015)**
- h)** Request of Armando Sotelo for a variance request to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 11.83 feet instead of 60 feet for a storage building measuring 8 feet by 40 feet, **2)** a special exception for 51 parking spaces instead of 56 parking spaces for Lot 2, Jackson Triangle Subdivision, Hidalgo County, Texas; 1409 East Expressway 83. **(ZBA2015-0035) (TABLED: 8/29/2015 UNTIL 10/21/2015)**

**DISCUSSION:** The board had extended compliments on the improvements concerning the viewing of packets on the tablets.

## **ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Ms. Terry Perez **moved** to adjourn the meeting. Mr. Jorge Salinas seconded the motion which carried unanimously with five members present and voting.

The meeting was adjourned at 6:20 p.m.

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Chairperson  
Robert Morehead

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Carmen White, Secretary

**Memo**

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

**FROM:** Planning Staff

**DATE:** September 11, 2015

**SUBJECT: REQUEST OF ARIEL SALINAS FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW A SIDE YARD SETBACK OF 6 FEET INSTEAD OF 10 FEET FOR A RESIDENTIAL STRUCTURE ENCROACHMENT MEASURING 4 FEET BY 64.17 FEET, FOR LOT 27, FRONTERA ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 2017 HARVARD AVENUE. (ZBA2015-0037)**

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**GOAL:**

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

**REASON FOR APPEAL**

The applicant requests a variance to allow a side yard setback of 6 feet instead of 10 feet for the east side yard setback for a proposed residence.

**PROPERTY LOCATION AND VICINITY:**

The property is located at the southwest corner of North 21<sup>st</sup> Street and Harvard Avenue and along the north side of Frontera Avenue. The property is an irregularly shaped lot and has 50 feet of frontage along Harvard Avenue. The depth for this property is 191.74 feet at its deepest point for a tract size of approximately 14,200 square feet. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. Surrounding land use is single family residential. The subject property is vacant and a single family structure is proposed.

**BACKGROUND AND HISTORY:**

Frontera Estates Subdivision was recorded on September 21, 2004. The plat for this subdivision indicates a 10 foot side yard setback for Lot 27 and a 10 foot utility easement runs concurrently along the east side. A request for abandonment of the west 4 feet of a 10 foot utility easement was approved on August 24, 2015 by the Board of Commissioners. An application for a building permit has been submitted August 4, 2015 with a side yard setback of 6 feet for the construction of a 5,310 square feet single family residence. An application for the variance was submitted August 12, 2015.

**ANALYSIS:**

Standard side yard setbacks as per zoning ordinance is 6 feet. The plat note for a side yard setback of 10 feet was based upon the 10 foot utility easement. The abandonment of the west 4 feet of the easement reduces the necessity of a 10 foot side yard setback by 4 feet.

**RECOMMENDATION:**

Staff recommends approval of the variance request.

9/17/15

ZBA 2015-0035

# City of McAllen Planning Department

1300 Houston Avenue  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

## APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

<b>Project</b>	Legal Description <u>Lot # 27 Frontera Estates, McAllen, TX</u>
	Subdivision Name <u>Frontera Estates</u>
<b>Project</b>	Street Address <u>2017 Harvard Ave, McAllen, TX 78504</u>
	Number of lots <u>1</u> Gross acres <u>14,198 SF.</u>
	Existing Zoning <u>R-1</u> Existing Land Use <u>vacant</u>
	Reason for Appeal (please use other side if necessary) <u>The <sup>proposed</sup> house requires ample space for the width of the house as well as a wide driveway</u>
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee <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>Applicant</b>	Name <u>Ariel Salinas</u> Phone <u>956-369-1024</u>
	Address <u>110 W. Jackson Ave.</u>
	City <u>Pharr</u> State <u>TX</u> Zip <u>78577</u>
<b>Owner</b>	Name <u>- same -</u> Phone _____
	Address _____
	City _____ State _____ Zip _____
<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>8-12-2015</u> Print Name <u>Ariel Salinas</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by <u>[Signature]</u> Payment received by _____ Date _____

pd w/c.c.

RECEIVED  
REVISED 9/11  
AUG 12 2015  
BY: [Signature]



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

on the west side of the lot. Regarding the East side 10' utility easement, it was not used in its entire. No pipes run through the center of this easement, they (only one 8" pipe) run on the exterior property line as illustrated in the attached survey. So with this information I went through the Planning Dept. and was asked to apply for those four feet that I needed (see the attached survey). All the utility companies and all the City of McAllen Departments gave us the "ok" to build 4 feet into the easement. City of McAllen and myself have been doing business together for the last 10 years. It has been a pleasure to work with the city, by far the most organized city in the valley!  
Thank you!

Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

\_\_\_\_\_





CITY OF McALLEN PERMIT APPLICATION

REV. 10/2011

P.O. BOX 220 McALLEN, TEXAS 78505-0220 APPLICATION MUST BE COMPLETE (Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER

ME2015-04295

APPLICANT

NAME Carolina Custom Homes LLC PHONE 956-369-1024 ADDRESS 110 W. Jackson Ave. CITY Pharr STATE TX ZIP 78577 CONTACT NAME Arnel Salinas PHONE 956-369-6004 OWNER [checked] CONTRACTOR [ ] TENANT [ ] OTHER [ ]

OWNER

NAME - Same - PHONE ADDRESS E-MAIL CITY STATE ZIP

BLDG NEW [checked] BLDG ADDITION [ ] BLDG REMODELING [ ] CHANGE OF USE [ ] SIGN [ ] MOVE [ ] DEMO [ ] SWM [ ] POOL 9 BLDG HGT 2 NO. OF FLOOR BLDG/SPACE/SIGN SQ. FT 5310 NO. PARKING SPACES 2 SQ. FT LOT 14198 SF LOT FRONT 50 FLOOR EL ABOVE CURB 18" EXISTING USE empty lot NEW USE OF LOT/BLDG residential home IMPROVEMENT VALUE \$ 220,000.00 SCOPE OF WORK TO BE DONE new two story street home.

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS 1 NO BDRMS 5 NO BATHRMS 4.5 SQ. FT. NON-LIVING 951 SQ. FT. LIVING 4359.

FOR SIGN USE ONLY TYPE OF SIGN MIN. WIND LOAD 105 MPH HEIGHT O.A. FT ILLUMINATED SIGN [ ] NON-ILLUMINATED SIGN [ ]

FOUNDATION [checked] CONCRETE SLAB [ ] CONCRETE PIER [ ] CONCRETE BLOCK [ ] CONCRETE BEAM [ ] WOOD POSTS [ ] EXT WALL [checked] MASONRY VENEER [ ] MASONRY SOLID [ ] METAL SIDING [ ] COMPOSITION [ ] WOOD [ ] ROOF [checked] WOOD SHINGLE [ ] COMPOSITION [ ] METAL [ ] BUILD UP [ ] SPECIAL CONDITIONS [ ] FIRE SPRINKLER SYSTEM [ ] FIRE ALARM SYSTEM [ ] TYPE OF CONSTRUCTION [ ] ASBESTOS SURVEY [ ] EABPR/JA/#: [ ] CONDEMNED [ ]

LOT 27 BLOCK SUBDIVISION Frontera Estates SITE ADDRESS ST. NO. 2017 ST. NAME Harvard Ave.

CITY USE ONLY

ZONING PARK DEV. ZONE # [ ] PERMIT FEE \$ PERMIT REVIEW FEE \$ PARK DEVELOPMENT FEE \$ REC'D BY DATE TIME

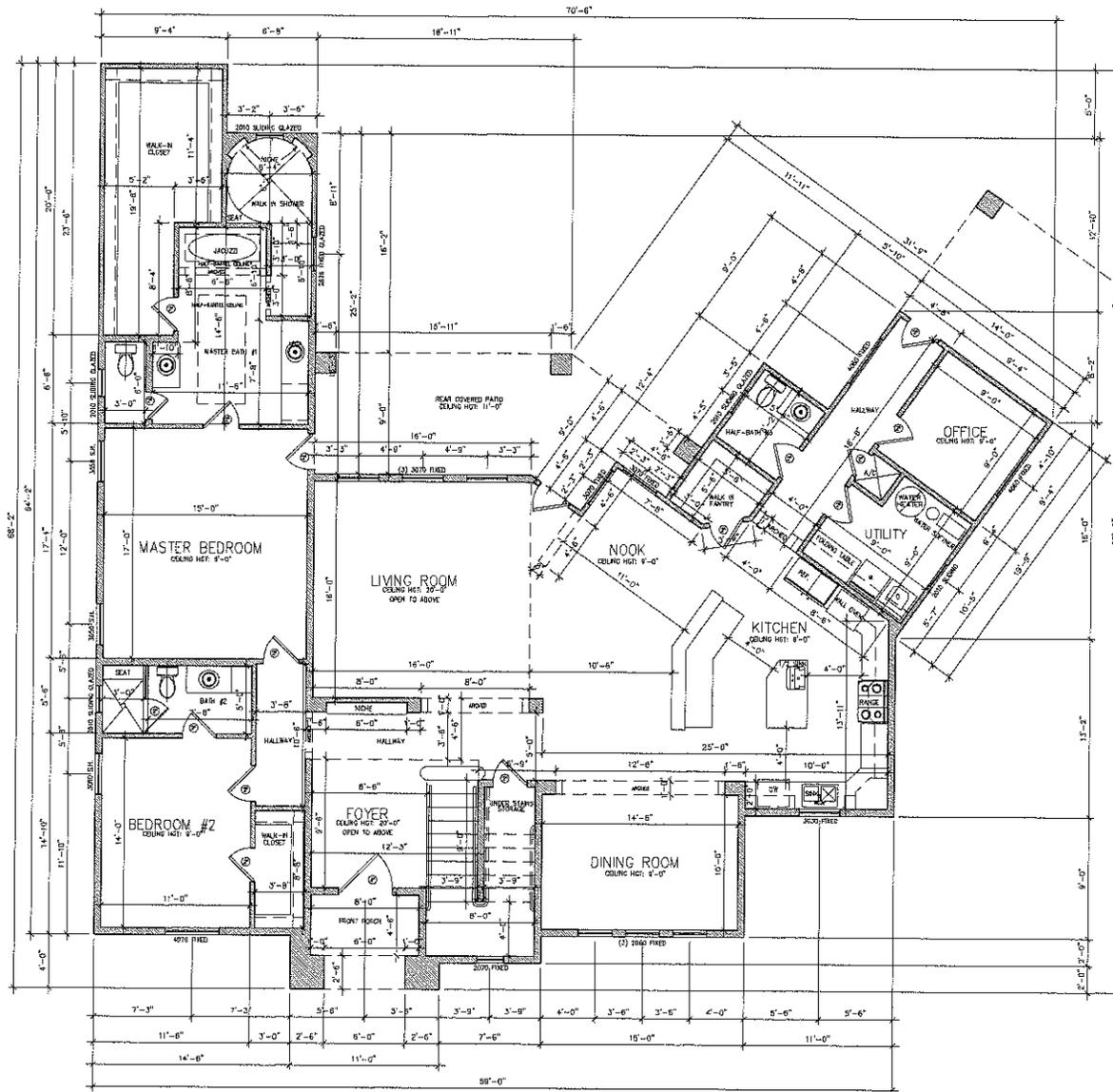
The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

Arnel Salinas [signature] avisalinas@hotmail.com 8-4-15 PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE

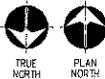




DRAWN BY:  
**RUBEN SALINAS**  
 956-457-7576



① 1ST FLOORPLAN  
 SCALE: 1/4" = 1'-0"



AREA CALCULATION	
1ST FLOOR:	2,581 SQFT
2ND FLOOR:	995 SQFT
TOTAL LIVING:	3,576 SQFT
FRONT PORCH:	65 SQFT
REAR PATIO:	231 SQFT
TOTAL AREA:	3,872 SQFT

CARPORI:	655 SQFT
GAMEROOM:	783 SQFT

PROJECT:

**SALINAS RESIDENCE**

OWNER: ARIEL SALINAS

DATE: 7/28/15

ADDRESS:

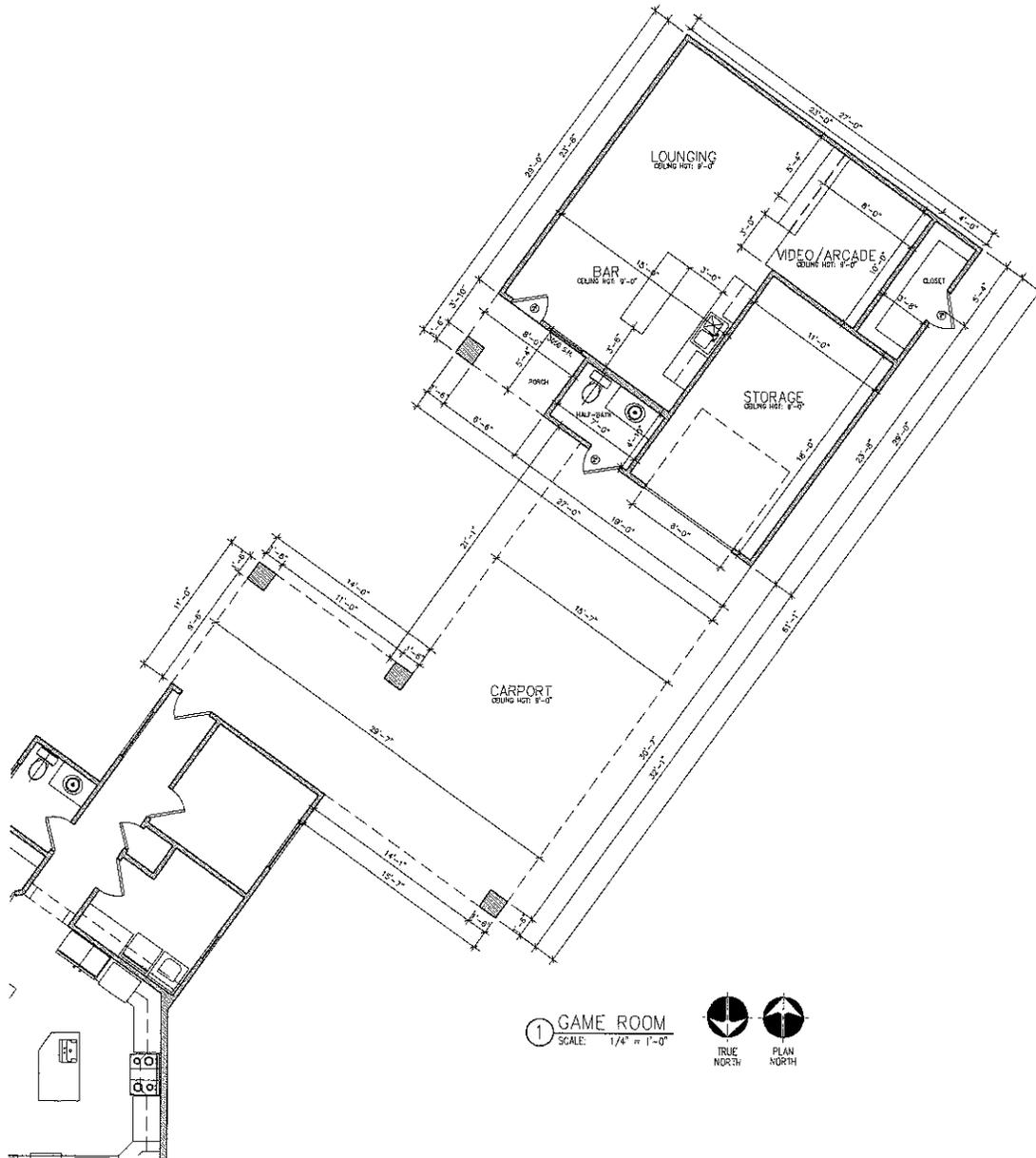
LOT 27 @ FRONTERA ESTATES, McALLEN, TX

SHEET:

**1.0**



DRAWN BY:  
**RUBEN SALINAS**  
 956-457-7576



① GAME ROOM  
 SCALE: 1/4" = 1'-0"



AREA CALCULATION	
1ST FLOOR:	2,581 SQFT
2ND FLOOR:	995 SQFT
TOTAL LIVING:	3,576 SQFT
FRONT PORCH:	65 SQFT
REAR PATIO:	231 SQFT
TOTAL AREA:	3,872 SQFT

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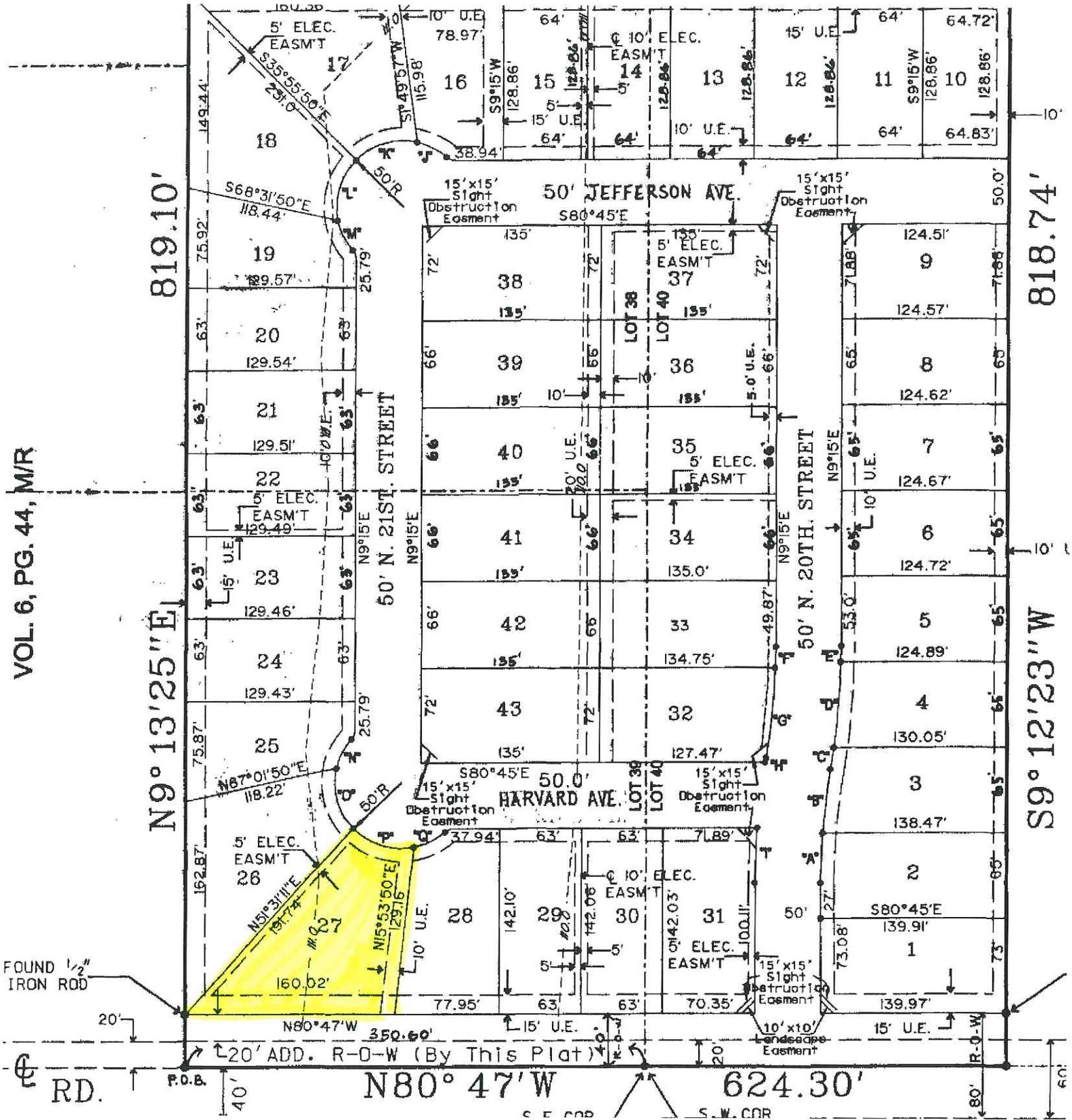
PROJECT:	<b>SALINAS RESIDENCE</b>	
	OWNER: ARIEL SALINAS	DATE: 7/28/15
	ADDRESS: LOT 27 @ FRONTERA ESTATES, McALLEN, TX	
SHEET:		<b>1.2</b>

819.10'

N9°13'25"E

818.74'

S9°12'23"W



FOUND 1/2" IRON ROD

RD.

P.O.B.

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# MAP OF FRONTERA ESTATES

McALLEN, TEXAS

BEING A SUBDIVISION OF A 11.73 AC. TRACT OF LAND, OUT OF LOTS 38, 39 AND 40, EBONY HEIGHTS CITRUS GROVES, UNIT No. 2, HIDALGO COUNTY, TEXAS RECORDED IN VOL. 6, PG. 44, M/R HIDALGO COUNTY, TEXAS (APPROVED AS NORTHGATE CROSSING)



LOCATION MAP

BASIS OF BEARING IS THE NORTH LINE OF LOT 36, EBONY HEIGHTS CITRUS GROVE No. 2 VOL. 6, PG. 44, M/R

LEGEND  
SET 1/2" DIAM. IRON RODS AT ALL LOT CORNERS

### CURVE DATA

Curve No.	Radius	Length	Angle	Chord
2	518.75'	38.03'	4°12'03"	N11°21'02"E- 38.03'
3	518.75'	48.22'	5°10'36"	N18°06'51"E- 48.21'
4	568.75'	17.34'	1°44'47"	N17°54'55"E- 17.33'
5	568.75'	65.24'	6°34'19"	N13°44'42"E- 65.20'
6	568.75'	12.00'	1°12'32"	N6°51'16"E- 12.00'
8	518.75'	16.13'	1°48'52"	S10°08'20"W- 16.12'
8	518.75'	70.13'	7°44'46"	S14°54'15"W- 70.08'
8	568.75'	2.29'	0°13'51"	S18°39'43"W- 2.28'
8	568.75'	41.91'	4°13'21"	S11°21'40"W- 41.90'
15	50.00'	29.04'	33°16'23"	S15°42'20"W- 29.03'
17	50.00'	50.01'	57°18'15"	S82°53'53"W- 47.85'
18	50.00'	50.00'	57°17'45"	S28°38'53"W- 47.94'
19	50.00'	29.04'	33°16'23"	S19°41'11"E- 28.83'
25	50.00'	29.04'	33°16'23"	S39°11'17"W- 28.83'
26	50.00'	50.01'	57°18'15"	S07°08'07"E- 47.85'
27	50.00'	50.00'	57°17'45"	S84°24'07"E- 47.94'
28	50.00'	29.04'	33°16'23"	N70°18'49"E- 28.83'

SPOR ENGINEERING CONSULTANTS, INC.  
202 S. 4TH ST. FAY  
1986103-1000 McALLEN, TEXAS 78501 1956143-1002  
SCALE: 1"=100' DATE: 3-19-04

### METES & BOUNDS

A 11.73 ACRE TRACT OF LAND OUT OF LOTS 38, 39 AND 40, EBONY HEIGHTS CITRUS GROVES, UNIT No. 2, HIDALGO COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOL. 6, PAGE 44, MAP RECORDS, HIDALGO COUNTY, TEXAS.

BEGINNING at a point on the South line of Lot 39, North 80 Deg. 47 Min. West, 350.60 feet from its Southeast corner, for the Southwest corner of the following described tract of land: said point located on Frontera Road; THENCE, parallel to the East line of Lots 39 and 38, North 9 Deg. 13 Min. 25 Sec. East, at 20.0 feet pass the North line of Frontera Road, at 435.10 feet pass the common East corner of Lots 39 and 38 and at 819.10 feet in all to a 1/2" diam. iron rod set for the Northwest corner hereof; THENCE, with the North line of Lots 38 and 40, South 80 Deg. 45 Min. East, 624.05 feet to all 1/2" diam. iron rod found at the Southeast corner of Lot 35, for the Northeast corner hereof; THENCE, South 9 Deg. 12 Min. 23 Sec. West at 798.74 feet pass the North line of Frontera Road and at 818.74 feet in all to the Southeast corner hereof; THENCE, with the South line of Lots 40 and 39, In Frontera Road, North 80 Deg. 47 Min. West, at 273.70 feet pass the common South corner of Lots 39 and 40 and at 624.30 feet in all the POINT OF BEGINNING, Containing 11.73 acres of land, more or less, of which the South 20.0 ft. comprising 0.29 acre lies in Frontera Road.

FILED FOR RECORD IN:  
HIDALGO COUNTY  
BY J.D. SALINAS, III  
COUNTY CLERK  
ON: 3/21/04 AT 2:20 AM  
AS A RECORDING NUMBER 138388  
J. Salinas III  
County Clerk

STATE OF TEXAS:  
COUNTY OF HIDALGO:

I, (WE), THE UNDERSIGNED, OWNER(S) OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED AS THE FRONTERA ESTATES SUBDIVISION TO THE CITY OF McALLEN, TEXAS, AND WHOSE NAME(S) IS (ARE) SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, WATER LINES, SEWER LINES, STORM SEWERS, FIRE HYDRANTS AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I (WE), WILL CAUSE TO BE INSTALLED THEREON SHOWN OR NOT SHOWN IF REQUIRED OTHERWISE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF McALLEN, ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED EITHER ON THE PLAT HEREOF OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF McALLEN.

STATE OF TEXAS:  
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED J.M. MOFFITT, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED, GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 26th DAY OF July, 2004.

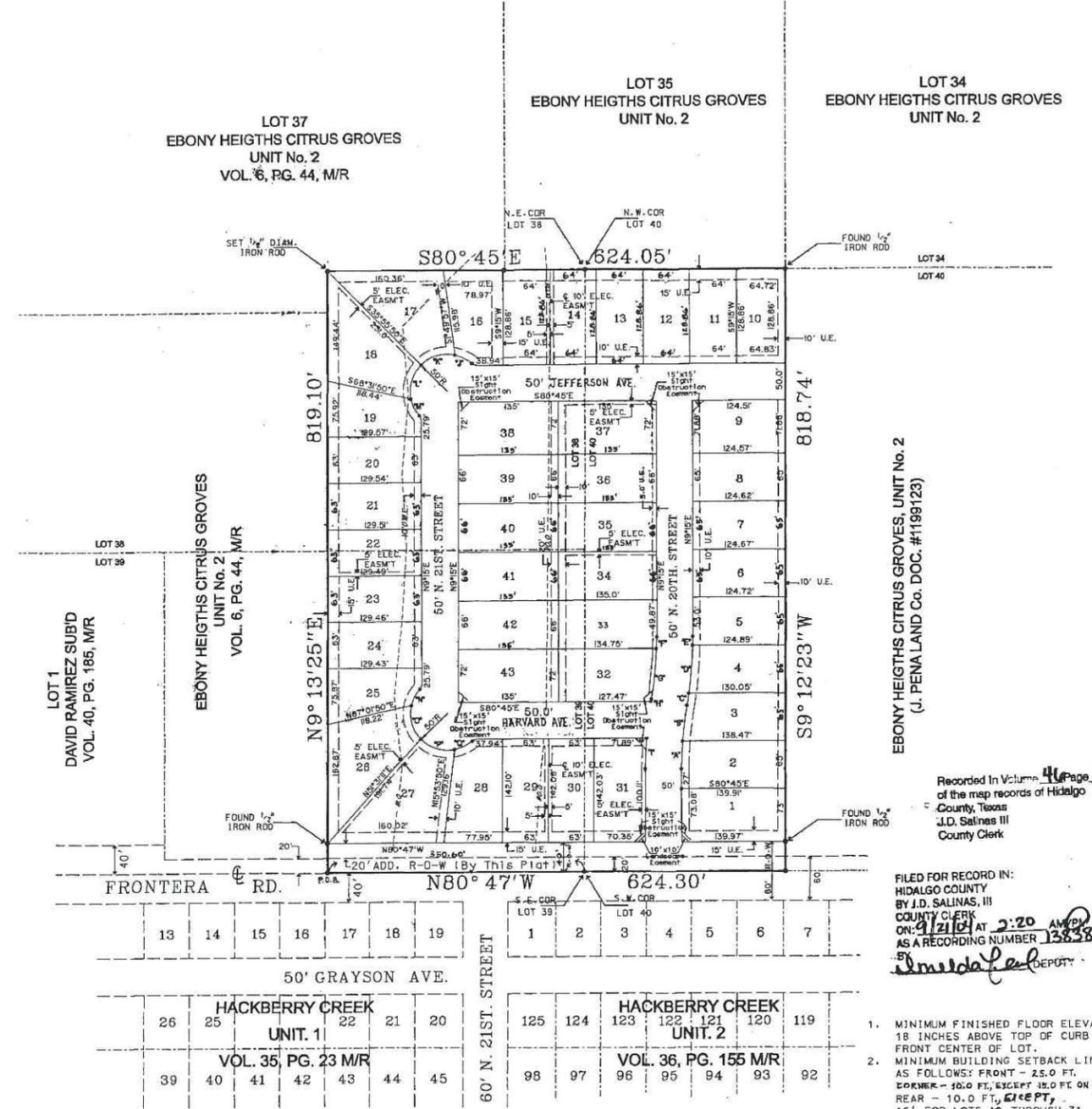
STATE OF TEXAS:  
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR # 5242 IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

STATE OF TEXAS:  
COUNTY OF HIDALGO:

I, STEPHEN SPOR, REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

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



HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEX. WATER CODE 49.211(c) THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
BY: [Signature] 3/22/04

STATE OF TEXAS  
COUNTY OF HIDALGO  
I, WE, THE UNDERSIGNED, HOLDER(S) OR DULY AUTHORIZED OFFICERS OF THE HOLDER(S) OF A SECURITY INTEREST IN THE ABOVE DESCRIBED PROPERTY, BEING THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS FRONTERA ESTATES SUBDIVISION OF THE CITY OF McALLEN, TEXAS, DO HEREBY CONSENT TO THE SUBDIVISION OF THE PROPERTY AS PROVIDED FOR UNDER THE PLAT AND DO HEREBY PROVIDE THAT ANY FORECLOSURE RELATING TO THE SECURITY INTEREST ON THE ABOVE DESCRIBED PROPERTY SHALL BE SUBJECT TO THE PLATTING OF THE PROPERTY AS PROVIDED FOR HEREIN.

TEXAS STATE BANK, McALLEN  
BY: [Signature] President  
DOUGLAS BREADY TITLE PRESIDENT

STATE OF TEXAS  
COUNTY OF HIDALGO  
BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED DOUGLAS BREADY, PRESIDENT, TEXAS STATE BANK, McALLEN KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN STATED, GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 21st DAY OF July, 2004.

GILMA CAYAZOS  
Notary Public State of Texas  
My Comm. Exp. 10-16-2004

## Hidalgo CAD

### Property Search Results > 689290 MOFFITT JAMES M for Year 2014

#### Property

##### Account

Property ID: 689290 Legal Description: FRONTERA ESTATES LOT 27  
 Geographic ID: F7550-00-000-0027-00 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

##### Location

Address: 2017 HARVARD AVE Mapsco:  
 MCALLEN, TX  
 Neighborhood: FRONTERA ESTATES & FRONTERA ESTATES PH 2 Map ID: CML VOL 46 PG 15  
 Neighborhood CD: F755000

##### Owner

Name: MOFFITT JAMES M Owner ID: 510201  
 Mailing Address: 1128 PECAN BLVD % Ownership: 100.000000000000%  
 MCALLEN, TX 78501-4348

Exemptions:

#### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$59,640	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
<hr/>			
(=) Market Value:	=	\$59,640	
(-) Ag or Timber Use Value Reduction:	-	\$0	
<hr/>			
(=) Appraised Value:	=	\$59,640	
(-) HS Cap:	-	\$0	
<hr/>			
(=) Assessed Value:	=	\$59,640	

#### Taxing Jurisdiction

Owner: MOFFITT JAMES M  
 % Ownership: 100.000000000000%  
 Total Value: \$59,640

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$59,640	\$59,640	\$0.00
CML	CITY OF MCALLEN	0.431300	\$59,640	\$59,640	\$257.23
DR1	DRAINAGE DISTRICT #1	0.095700	\$59,640	\$59,640	\$57.08
GHD	HIDALGO COUNTY	0.590000	\$59,640	\$59,640	\$351.88
JCC	SOUTH TEXAS COLLEGE	0.150000	\$59,640	\$59,640	\$89.46
R15	ROAD DIST 15	0.000000	\$59,640	\$59,640	\$0.00
SML	MCALLEN ISD	1.165000	\$59,640	\$59,640	\$694.81
SST	SOUTH TEXAS SCHOOL	0.049200	\$59,640	\$59,640	\$29.34
Total Tax Rate:		2.481200			

Taxes w/Current Exemptions:	\$1,479.80
Taxes w/o Exemptions:	\$1,479.79

**Improvement / Building**

No improvements exist for this property.

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.3260	14200.00	0.00	0.00	\$59,640	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016	N/A	N/A	N/A	N/A	N/A	N/A
2015	\$0	\$44,730	0	44,730	\$0	\$44,730
2014	\$0	\$59,640	0	59,640	\$0	\$59,640
2013	\$0	\$38,766	0	38,766	\$0	\$38,766

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/13/2014 12:00:00 AM	GWD	GEN. W/D	MOFFITT JAMES M	CAROLINA CUSTO			2522451

**Tax Due**

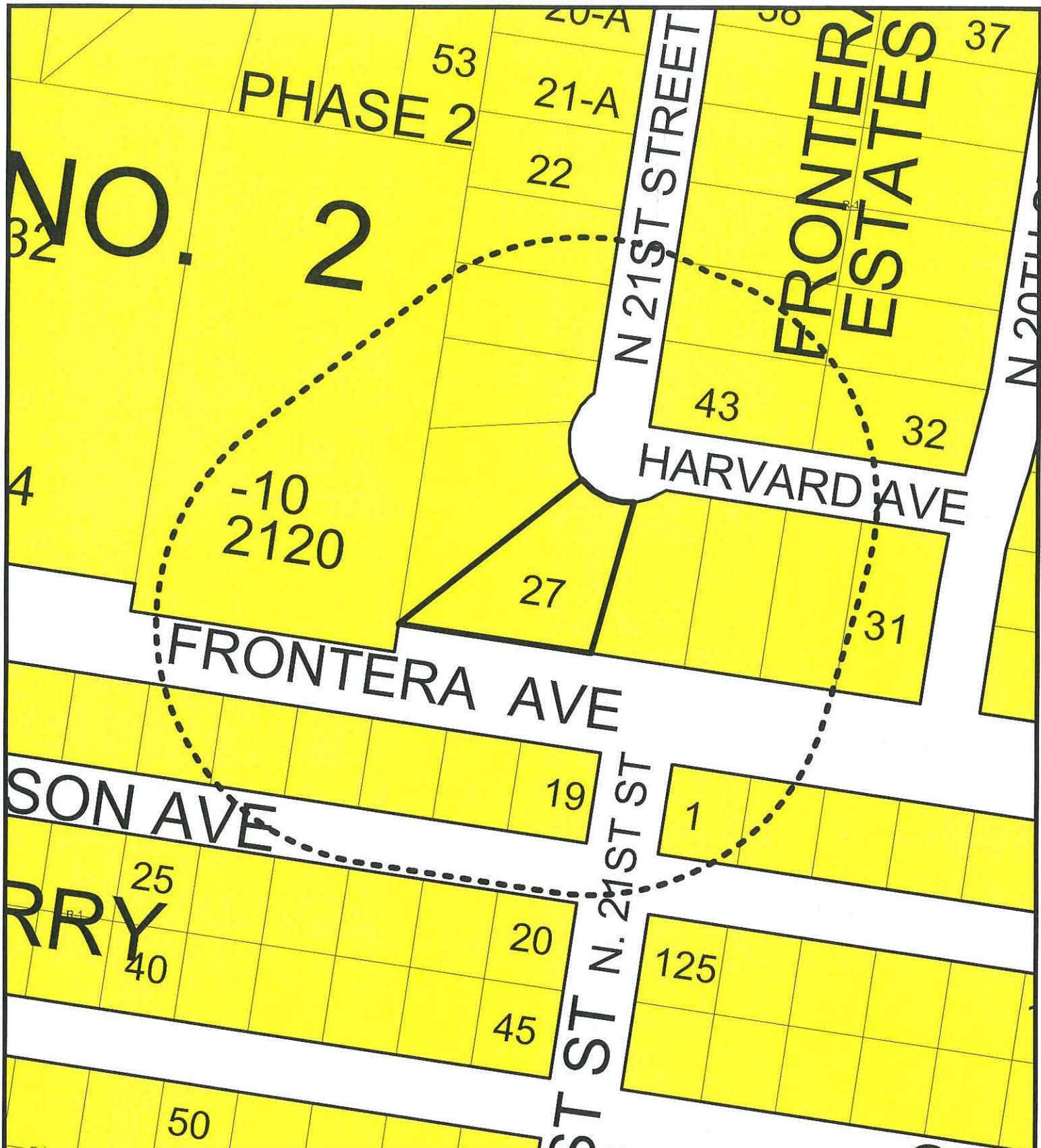
Property Tax Information as of 08/25/2015

Amount Due if Paid on:  ↓

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

**Questions Please Call (956) 381-8466**





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: N.T.S.

**AREA MAP**



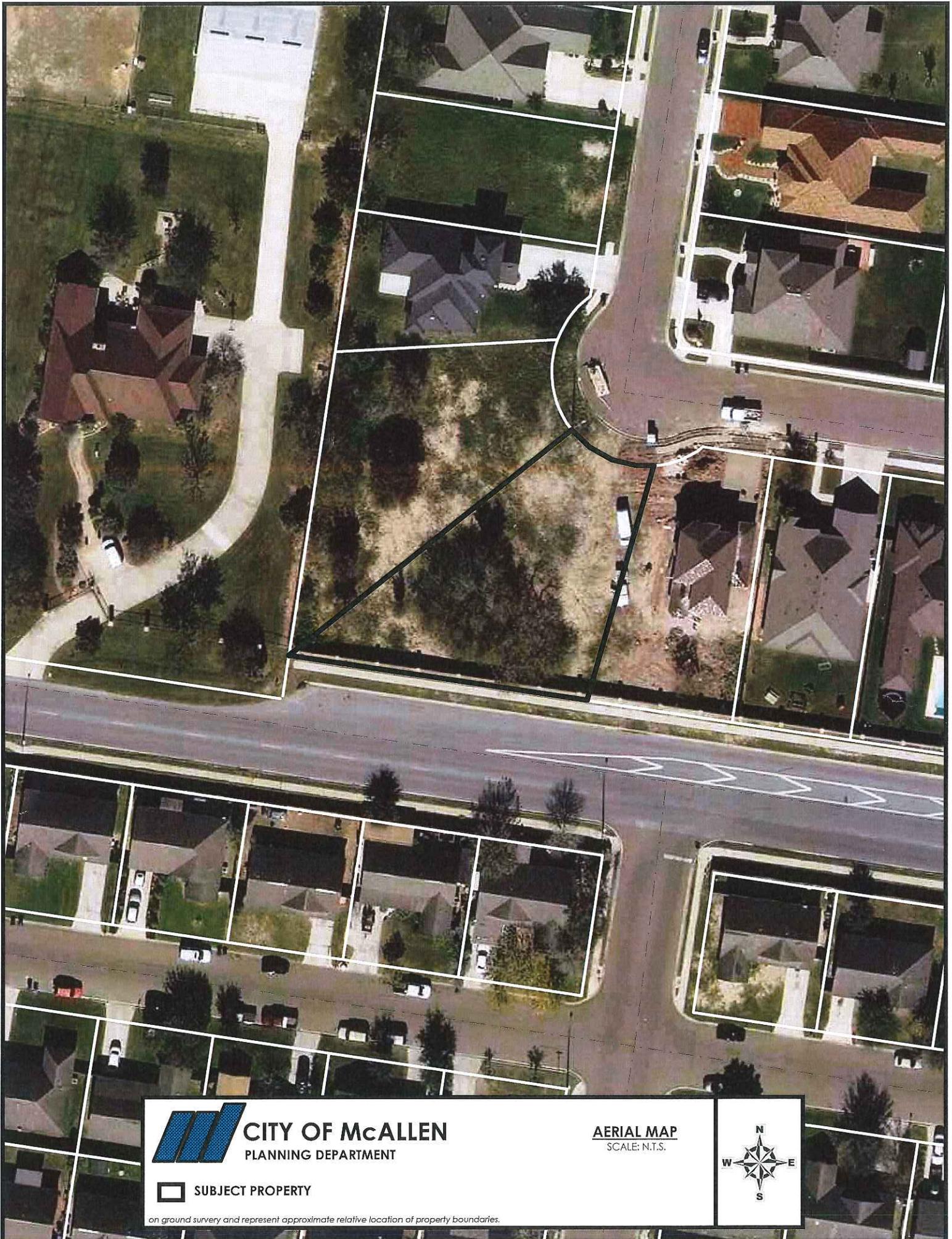
 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

 A-0 (AGRICULTURAL & OPEN SPACE)	 R-3A (APARTMENTS)	 R-4 (MOBILE HOMES)	 C-3 (GENERAL BUSINESS)	 I-1 (LIGHT INDUSTRIAL)
 R-1 (SINGLE FAMILY RESIDENTIAL)	 R-3C (CONDOMINIUMS)	 C-1 (OFFICE BUILDING)	 C-3L (LIGHT COMMERCIAL)	 I-2 (HEAVY INDUSTRIAL)
 R-2 (DUPLIX-FOURPLEX)	 R-3T (TOWNHOUSES)	 C-2 (NEIGHBORHOOD COMMERCIAL)	 C-4 (COMMERCIAL INDUSTRIAL)	 (SPECIAL DISTRICT)

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



**CITY OF McALLEN**  
PLANNING DEPARTMENT

**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**

*on ground survey and represent approximate relative location of property boundaries.*

**Memo**

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

**FROM:** Planning Staff

**DATE:** September 11, 2015

**SUBJECT: REQUEST OF JAKE TREVINO FOR VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) A REAR YARD SETBACK OF 22 FEET INSTEAD OF 25 FEET FOR AN EXISTING PORCH MEASURING 12 FEET BY 14.41 FEET, 2) A REAR YARD SETBACK OF 10 FEET INSTEAD OF 25 FEET FOR A PROPOSED SWIMMING POOL MEASURING 19 FEET BY 30 FEET, FOR LOT 57, TIFFANEY ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 6102 NORTH 44<sup>TH</sup> LANE. (ZBA2015-0040)**

---

**GOAL:**

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

**REASON FOR VARIANCE REQUEST**

The applicant requests rear yard setback variances to allow rear yard setback of 22 feet instead of 25 feet for an existing porch as required per plat and a rear yard setback of 10 feet instead of 25 feet for a proposed swimming pool.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located along the east side of North 44<sup>th</sup> Lane and is a double fronting lot between with frontage along North Bentsen Road. The properties is zoned R-1 (single family residential) District. The surrounding land use is single family residential. There is an existing home on the subject property.

**BACKGROUND AND HISTORY:**

Tiffany Estates Subdivision was recorded in July 2006. The plat indicates a 25 foot front yard setback and a 25 foot rear yard setback for as required for double fronting lots. A building permit application with double fees for construction without a permit is pending the variance request. The actual construction was with a setback of 22 feet. The building permit application does not include a swimming pool as this is a future project. In September 2012 several properties in this subdivision received a variance request to reduce the front yard setback from 25 feet to 15 feet in order to allow for more buildable area.

**ANALYSIS:**

The patio cover supports are located 22 feet from the rear property line or an encroachment of 3 feet. The applicant is requesting a variance to allow a future planned swimming pool located with a setback of 10 feet or an encroachment of 15 feet. In September 2012 several properties in this subdivision received a variance request to reduce the front yard setback from 25 feet to 15 feet in order to allow for more buildable area. Setbacks shown on the subdivision plat can only be changed by a vacate and resubdivision process approved by the Planning and Zoning Commission.

**RECOMMENDATION:**

Staff recommends disapproval of the variance requests.

ZBA 2015-0040

ZBDA  
9/17/15

# City of McAllen Planning Department

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)

## APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

**Project**

Legal Description LOT 57

Subdivision Name TIFFANEY ESTATES

Street Address 6102 N 44 LN MCALLEN TX 78504

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

Existing Zoning RESIDENTIAL Existing Land Use RESIDENTIAL

Reason for Appeal (please use other side if necessary) \_\_\_\_\_  
SEE ATTACHED

\$300.00 non-refundable filing fee

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

**Applicant**

Name JAKE TREVIÑO Phone (210) 807-2615

Address 6102 N 44 LN E-mail \_\_\_\_\_

City MCALLEN State TX Zip 78504

**Owner**

Name JAKE + SHERA TREVIÑO Phone 210 807-2615

Address SAME AS ABOVE E-mail \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Authorization**

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?  
 Yes  No

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

Signature [Signature] Date 8-18-15

Print Name JAKE + SHERA TREVIÑO  Owner  Authorized Agent

**Office**

Accepted by [Signature] Payment received by \_\_\_\_\_

RECEIVED Date AUG 18 2015

BY: [Signature]



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

~~SHADE + RECREATION~~ SHADE + RECREATION FOR PATIO  
POOL WILL BE DONE IN THE FUTURE WHEN I  
HAVE MORE MONEY

Board Action

Chairman, Board of Adjustment  
Signature

Date



GC100422  
BUILDING PERMIT APPLICATION

REV. 11/2013

P.O. BOX 220 McALLEN, TEXAS 78505-0220  
APPLICATION MUST BE COMPLETE  
(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER Res2015-041224 <sup>5119</sup>

**APPLICANT**

NAME JAKE TRUVINO PHONE 210 - 807 - 2615  
 ADDRESS 6102 N 44 LN  
 CITY MCALLEN STATE TX ZIP 78504  
 CONTACT NAME: JAKE TRUVINO PHONE 210 807 2615

OWNER     CONTRACTOR     TENANT     OTHER

**OWNER**

NAME JAKE TRUVINO PHONE 210 807 2615  
 ADDRESS SAME  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

NEW     ADDITION     REMODELING     REPAIR     MOVE     REMOVE    \_\_\_\_\_ BLDG. HGT.    \_\_\_\_\_ NO. OF FLOORS

BLDG SQ. FT. 200 NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ FLOOR EL. ABOVE CURB \_\_\_\_\_  
 EXISTING USE OF LOT RESIDENCE NEW USE SAME IMPROVEMENT VALUE \$ 3,000.00

SCOPE OF WORK TO BE DONE patio over existing slab

**PROJECT**

FOR RESIDENTIAL USE ONLY    NO. OF UNITS \_\_\_\_\_ NO. BDRMS \_\_\_\_\_ NO. BATHRMS \_\_\_\_\_ SQ. FT. NON-LIVING \_\_\_\_\_ SQ. FT. LIVING \_\_\_\_\_

FOUNDATION	EXT WALL	ROOF	SPECIAL CONDITIONS
<input type="checkbox"/> CONCRETE SLAB	<input type="checkbox"/> MASONRY VENEER	<input type="checkbox"/> WOOD SHINGLE	<input type="checkbox"/> FIRE SPRINKLER SYSTEM
<input type="checkbox"/> CONCRETE PIER	<input type="checkbox"/> MASONRY SOLID	<input checked="" type="checkbox"/> COMPOSITION	<input type="checkbox"/> FIRE ALARM SYSTEM
<input type="checkbox"/> CONCRETE BLOCK	<input type="checkbox"/> METAL SIDING	<input type="checkbox"/> METAL	<input type="checkbox"/> TYPE OF CONSTRUCTION _____
<input type="checkbox"/> CONCRETE BEAM	<input type="checkbox"/> COMPOSITION	<input type="checkbox"/> BUILD UP	<input type="checkbox"/> ASBESTOS SURVEY
<input type="checkbox"/> WOOD POSTS	<input type="checkbox"/> WOOD	<input type="checkbox"/> _____	<input type="checkbox"/> EABPRJAB/1: _____
<input checked="" type="checkbox"/> EXCESS	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> _____	<input type="checkbox"/> CONDEMNED STRUCTURE

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ SUBDIVISION \_\_\_\_\_

SITE ADDRESS ST. NO. 6102 ST. NAME N 44 LN

**CITY USE ONLY**

ZONING \_\_\_\_\_ PERMIT FEE \$ 302.40 DOUBLE FEE \$ 90.00 REC'D BY [Signature]  
 PERMIT REVIEW FEE \$ \_\_\_\_\_ DATE 07/07/15  
 PARK DEV.  TOTAL PERMIT FEE \$ 30.00 TIME 10:57:48  
 ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

JAKE TRUVINO PRINT (AUTHORIZED AGENT/OWNER)    [Signature] SIGNATURE    TREV323@AOL.COM EMAIL ADDRESS (required)    07-07-15 DATE



**GENERAL NOTES**

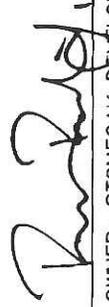
1. NO STRUCTURES PERMITTED OVER ANY EASEMENTS.
2. MINIMUM BUILDING SETBACK ARE AS FOLLOWS:  
 FRONT..... 25 FEET  
 REAR..... 10 FEET OR GREATER FOR EASEMENT;  
 25 FEET FOR LOTS 53-60 AND 77-88  
 SIDE..... 6 FEET (EXCEPT 10 FEET ON EAST SIDE OF LOTS 61, 68, 69 AND 76 AND 15 FEET ON THE EAST SIDE OF LOT 77 AND 10 FEET ON THE WEST SIDE OF LOTS 48 AND 49).
3. SIDE CORNER..... 10 FEET  
 GARAGE..... 18 FEET (EXCEPT WHERE GREATER REQUIRED)
3. THIS PROPERTY IS LOCATED IN ZONE "C" ON A FLOOD INSURANCE RATE MAP - COMMUNITY PANEL No. 480334 0400 C; REVISED NOV. 16, 1982.
4. DEVELOPER SHALL PROVIDE AN ENGINEERED DETENTION PLAN, APPROVED BY THE ENGINEERING DEPARTMENT PRIOR TO AN APPLICATION FOR A BUILDING PERMIT.
5. DRAINAGE DETENTION REQUIRED OF 3.25 ACRE FEET AND OR 1,180 CUBIC FEET PER LOT.
6. MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATION SHALL BE 18" ABOVE TOP OF CURB AT MID POINT OF EACH LOT.
7. BENCHMARK: ELEVATION =123.20 TOP OF DRAIN MANHOLE LOCATED ±130 FEET SOUTH OF THIS PROPERTY ALONG THE WEST ROW OF BENTSEN ROAD. MC 53.
8. A 25 x 25 FOOT CORNER CLIP EASEMENT IS HEREBY DEDICATED AT ALL STREET INTERSECTIONS.
9. A 4 FOOT SIDEWALK IS REQUIRED ALONG THE SOUTH SIDE OF LARK AVENUE, WEST SIDE OF N. BENTSEN ROAD AND BOTH SIDES OF ALL INTERIOR STREETS.
10. SET 1/2" Ø IRON ROD ON ALL LOT CORNERS UNLESS OTHERWISE NOTED.
11. NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ON LARK AVENUE AND N. BENTSEN ROAD.
12. A 6' BUFFER IS REQUIRED ALONG LARK AVENUE, N. BENTSEN ROAD, FROM ANY ADJACENT COMMERCIAL ZONE/USE.
13. ALL IRRIGATION EASEMENTS ARE EXCLUSIVE TO UNITED IRRIGATION DISTRICT, AND THE DISTRICT ALLOWS NO OTHER UTILITIES OR USE WITHOUT EXPRESS APPROVAL.
14. NO UTILITY COMPANY OR OTHER PERSON IS ALLOWED TO CROSS ABOVE OR BELOW GROUND ANY DISTRICT EASEMENT OR RIGHT OF WAY WITH LINES, POLES, OPEN DITCHES OR OTHER USE WITHOUT FIRST OBTAINING A CROSSING PERMIT FROM THE DISTRICT.
15. NO PERMANENT STRUCTURE, (EXAMPLE, FENCES OR DRIVEWAY OF ANY CONSTRUCTION) WILL BE ALLOWED TO BE CONSTRUCTED OR EXIST ON ANY DISTRICT EASEMENT OR RIGHT OF WAY WITHOUT WRITTEN APPROVAL BY THE DISTRICT. ANY UNAUTHORIZED STRUCTURE IN THE EASEMENT AREA IS SUBJECT TO REMOVAL.

# SUBDIVISION PLAT OF TIFFANEY ESTATES SUBDIVISION

A TRACT OF LAND CONTAINING 29.98 ACRES, SITUATED IN HIDALGO COUNTY, TEXAS LOT 368, JOHN H. SHARY SUBDIVISION AND ALSO BEING A PART OR PORTION OF, MAP REFERENCE: VOLUME 1, PAGE 17 AND 42, HIDALGO COUNTY MAP RECORDS.

**STATE OF TEXAS  
COUNTY OF HIDALGO**

I, THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS TIFFANEY ESTATES SUBDIVISION, AN ADDITION TO THE CITY OF MCALLEN, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, SEWER LINES, WATER COURSES, STORM SEWERS, FIRE HYDRANTS, AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I WILL CAUSE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF MCALLEN, ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, EITHER ON THE PLAT OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF MCALLEN.

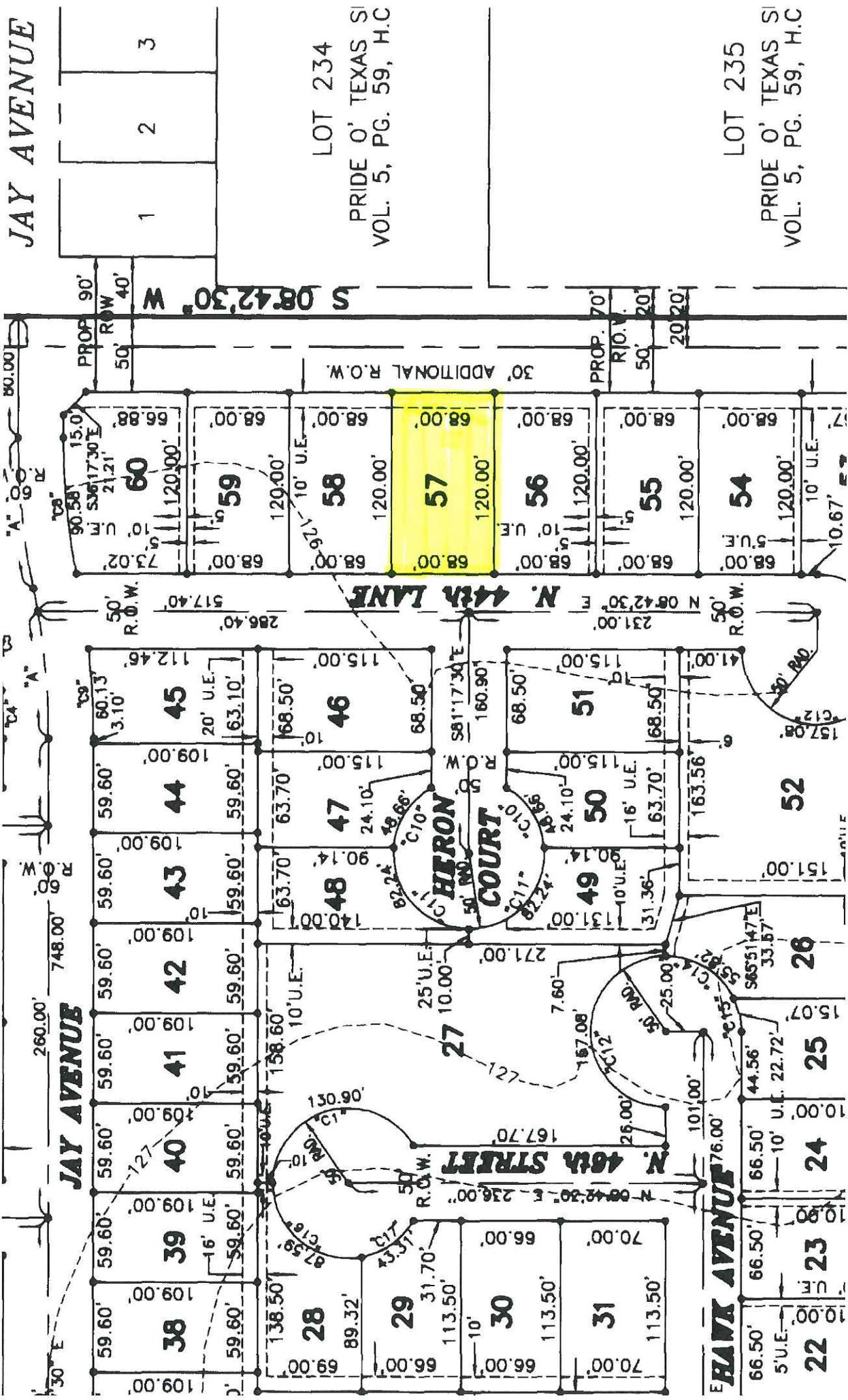


OWNER: STONEOAK DEVELOPMENT, LTD, A TEXAS LIMITED PARTNERSHIP BY ITS GENERAL PARTNER; STONE RIVER INVESTMENTS, LIG.  
 1429 E. TAMARACK AVENUE  
 MCALLEN, TEXAS 78501  
 BY: ROMEO RENDON, PRESIDENT

STATE OF TEXAS  
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, ROMEO RENDON PERSONALLY APPEARED AND PROVED, THROUGH HIS DEPARTMENT OF PUBLIC SAFETY DRIVER'S LICENSE, TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT. FURTHERMORE, AFTER BEING DULY SWORN BY ME, HE DECLARED THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE AND CORRECT, AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREBY EXPRESSED. ALL GIVEN UNDER MY HAND AND

JAY AVENUE



LOT 234  
PRIDE O' TEXAS S  
VOL. 5, PG. 59, H.C

LOT 235  
PRIDE O' TEXAS S  
VOL. 5, PG. 59, H.C

JAY AVENUE

HANK AVENUE

N. 44th LANE

N. 46th STREET

HERON COURT

S 08°42'30" W

N 08°42'20" E 236.00'

N 08°42'30" E 231.00'

90.00'

748.00'

260.00'

76.00'

80.00'

PROP. 90'

R.O.W. 50'

R.O.W. 50'

PROP. 70'

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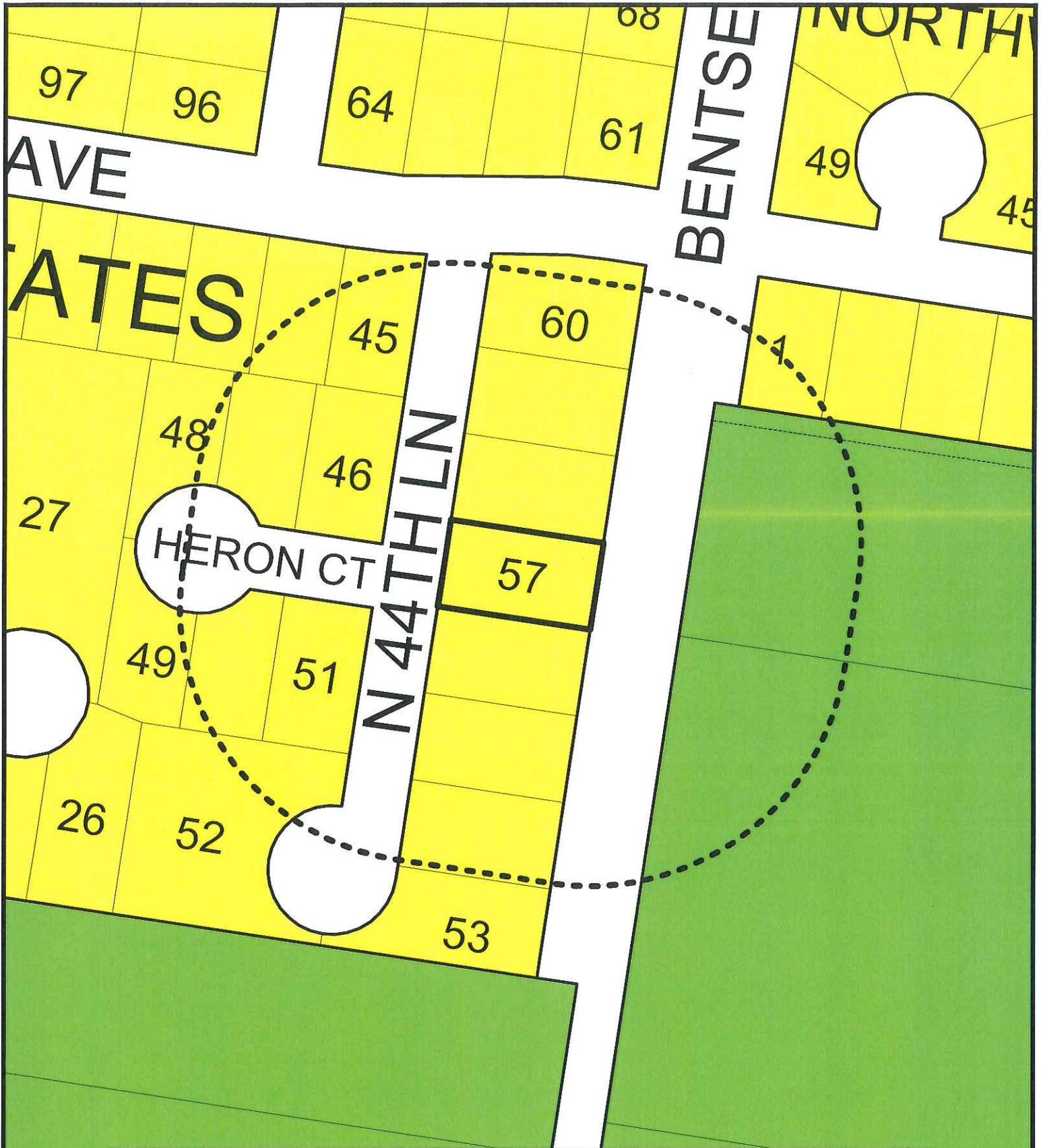
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**CITY OF McALLEN**  
PLANNING DEPARTMENT

AREA MAP

**LEGEND**  
SCALE: 1" = 500'

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS



**ZONING LEGEND**

A-0 (AGRICULTURAL & OPEN SPACE)  
 R-1 (SINGLE FAMILY RESIDENTIAL)  
 R-2 (DUPLIX-FOURPLEX)

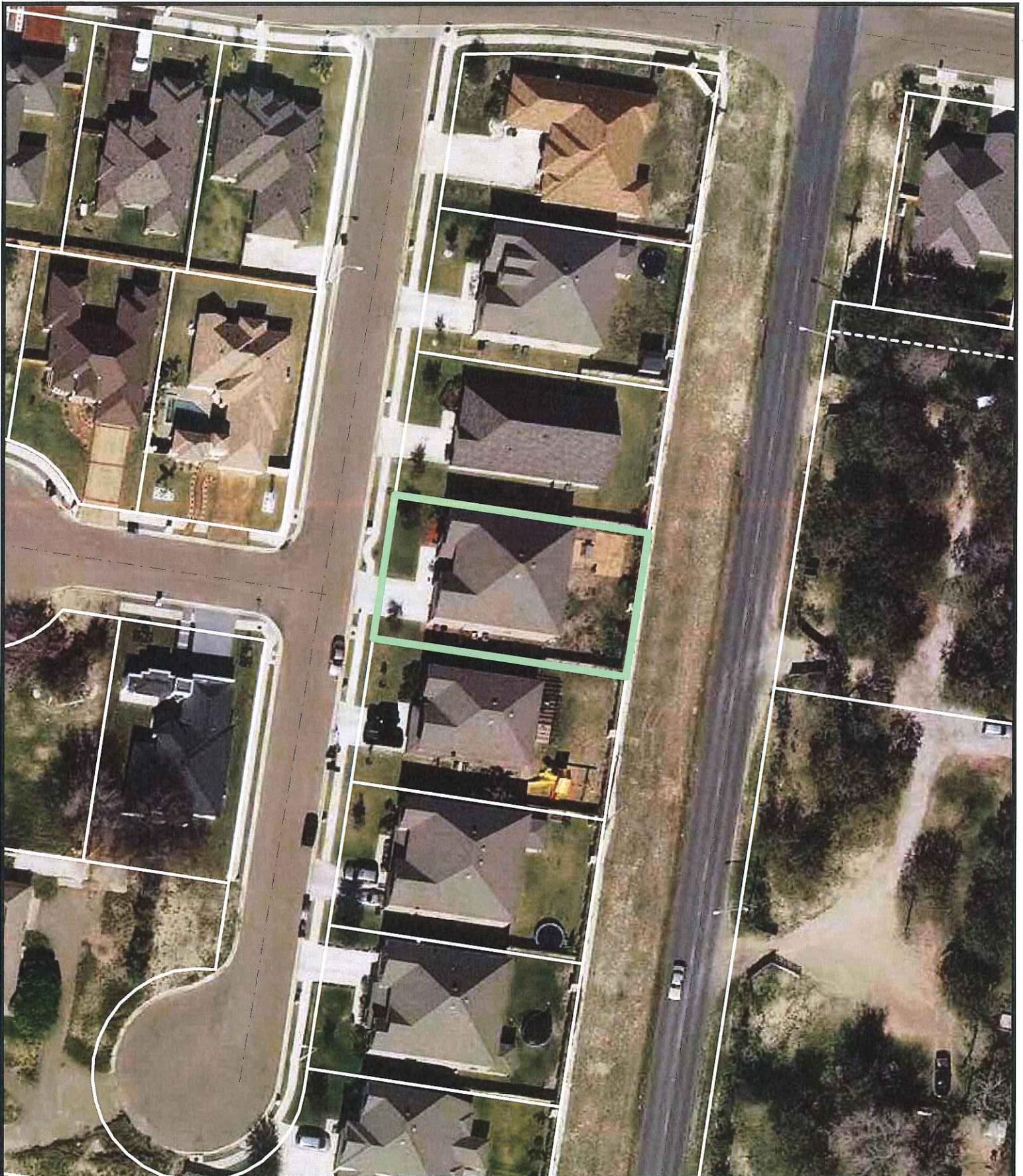
R-3A (APARTMENTS)  
 R-3C (CONDOMINIUMS)  
 R-3T (TOWNHOUSES)

R-4 (MOBILE HOMES)  
 C-1 (OFFICE BUILDING)  
 C-2 (NEIGHBORHOOD COMMERCIAL)

C-3 (GENERAL BUSINESS)  
 C-3L (LIGHT COMMERCIAL)  
 C-4 (COMMERCIAL INDUSTRIAL)

I-1 (LIGHT INDUSTRIAL)  
 I-2 (HEAVY INDUSTRIAL)  
 S (SPECIAL DISTRICT)

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



**CITY OF McALLEN**  
PLANNING DEPARTMENT



**SUBJECT PROPERTY**

*on ground survey and represent approximate relative location of property boundaries.*

**AERIAL MAP**  
SCALE: N.T.S.



## Hidalgo CAD

### Property Search Results > 708816 CANALES ELOY for Year 2013

#### Property

##### Account

Property ID: 708816 Legal Description: TIFFANEY ESTATES LOT 57  
 Geographic ID: T5443-00-000-0057-00 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

##### Location

Address: 6102 N 44TH LN Mapsco:  
 MCALLEN, TX  
 Neighborhood: TIFFANEY ESTATES Map ID: CML VOL 51 PG 6  
 Neighborhood CD: T544300

##### Owner

Name: CANALES ELOY Owner ID: 932522  
 Mailing Address: 6102 N 44TH LN % Ownership: 100.000000000000%  
 MCALLEN, TX 78504-5560  
 Exemptions:

#### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$227,736	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$32,640	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$260,376	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$260,376	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$260,376	

#### Taxing Jurisdiction

Owner: CANALES ELOY  
 % Ownership: 100.000000000000%  
 Total Value: \$260,376

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$260,376	\$260,376	\$0.00
CML	CITY OF MCALLEN	0.431300	\$260,376	\$260,376	\$1,123.00
DR1	DRAINAGE DISTRICT #1	0.095700	\$260,376	\$260,376	\$249.18
GHD	HIDALGO COUNTY	0.590000	\$260,376	\$260,376	\$1,536.22
JCC	SOUTH TEXAS COLLEGE	0.150000	\$260,376	\$260,376	\$390.56
R12	ROAD DIST 12	0.000000	\$260,376	\$260,376	\$0.00
SSL	SHARYLAND ISD	1.285500	\$260,376	\$260,376	\$3,347.13
SST	SOUTH TEXAS SCHOOL	0.049200	\$260,376	\$260,376	\$128.10
W14	UNITED IRR WTR DIST	0.000000	\$260,376	\$260,376	\$0.00
Total Tax Rate:		2.601700			
Taxes w/Current Exemptions:					\$6,774.19

Taxes w/o Exemptions: \$6,774.20

**Improvement / Building**

Improvement #1: RESIDENTIAL State Code: A1 Living Area: 4606.0 sqft Value: \$227,736

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	BRKAV	DBRK	2009	2365.0
MA2	MAIN 2ND FL	BRKAV		2009	1500.0
MA2	MAIN 2ND FL	BRKAV		2009	741.0
GAR	GARAGE	BRKAV		2009	400.0
POR	PORCH (COVERED)	BRKAV		2009	96.0
HC	HIGH CEILING	BRKAV		2009	340.0
HC	HIGH CEILING	BRKAV		2009	184.0

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.0000	8160.00	68.00	120.00	\$32,640	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016		N/A	N/A	N/A	N/A	N/A
2015	\$211,605	\$32,640	0	244,245	\$0	\$244,245
2014	\$225,364	\$32,640	0	258,004	\$0	\$258,004
2013	\$227,736	\$32,640	0	260,376	\$0	\$260,376

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	2/20/2014 12:00:00 AM	SVD	SPEC WD/VEN LIEN	CANALES ELOY	CONFIDENTIAL			2487702
2	2/19/2010 12:00:00 AM	GVL	GENERAL WD/VENDOR'S LIEN	BELLAIRE-HAGEN	CANALES ELOY			2076662
3	9/19/2006 12:00:00 AM	GWD	GEN. W/D	STONEOAK DEVEL	BELLAIRE-HAGEN			1664909

**Tax Due**

Property Tax Information as of 08/25/2015

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
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NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

**Questions Please Call (956) 381-8466**





**Memo**

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

**FROM:** Planning Staff

**DATE:** August 28, 2015

**SUBJECT:** REQUEST OF GLADYS AND GUADALUPE SILVA FOR VARIANCE REQUESTS TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) A FRONT YARD SETBACK OF 0 FEET INSTEAD OF 20 FEET FOR A CARPORT MEASURING 12.5 FEET BY 14.25 FEET, 2) A FRONT YARD SETBACK OF 16 FEET INSTEAD OF 20 FEET FOR A PORCH MEASURING 5.75 FEET BY 5.83 FEET, 3) A SIDE YARD SETBACK OF 1 FOOT INSTEAD OF 6 FEET FOR AN ALUMINUM CARPORT MEASURING 18 FEET BY 20 FEET, 4) A SIDE YARD SETBACK OF 4.08 FEET INSTEAD OF 6 FEET FOR A STORAGE BUILDING MEASURING 8.16 FEET BY 8.08 FEET, FOR THE EAST 57 FEET AND 7 ½ INCHES OF THE SOUTH 58 FEET 3 INCHES OF LOT 4, BLOCK 2, GOLDEN ACRES RETIREMENT SUBDIVISION NO. 1, HIDALGO COUNTY, TEXAS; 405 NORTH 37<sup>TH</sup> ½ STREET. (ZBA2015-0032)

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**GOAL:**

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

**REASON FOR VARIANCE REQUEST**

The applicant is requesting variance requests in order allow a carport, and porch to encroach into the front yard setback. The request is also to allow an aluminum carport and storage building to encroach into the side yard setback. The applicant would like to keep the carport and porch structures to serve as an area for shade for family member with a medical situation.

**PROPERTY LOCATION AND VICINITY:**

The property is located along the west side of North 37 1/2 Street west of Ware Road. Each tract has 57.63 feet of frontage along North 37 ½ Street with a depth of 58.25 feet for a tract size of 3,356.9 square feet each. The property is zoned R-2 (duplex-fourplex residential) District. The surrounding land use includes fourplexes that have been sold as single unit "townhouse" and duplexes. There is an existing "townhouse" on the subject property.

**BACKGROUND AND HISTORY:**

Golden Acres Retirement Subdivision No. 1 was recorded on March 7, 1981 with a shared 5 foot

utility easement along the south side of Lot 4 and setbacks as per zoning ordinance are 20 foot front yard and 6 foot side yard. A citation (#20175) for construction of a carport without a building permit and encroachment was issued on June 3, 2015. Carport shown on the survey had been previously enclosed. An application for abandonment of the 2 ½ foot utility easement has not been submitted.

**ANALYSIS:**

This is a property which was bought as a split property and is not a complete lot.

Variance #1: The existing carport encroaches into the front yard setback. Front yard setbacks help keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The carport would have to be demolished in order to be in compliance with the required front setback.

Variance #2: The porch encroaches 4 feet into the 20 foot front yard setback. This lot resembles a townhouse residential lot in size and which have a 10 foot front yard setback. To reduce the setback, the structure would have to be modified by cutting back 4 feet.

Variances #3 & #4: The applicant has indicated that they are willing to move the storage building and aluminum carport to be in compliance with the required setback.

**RECOMMENDATION:**

Staff recommends disapproval of the variance requests.

1000  
8/5/15

# City of McAllen

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)

## Planning Department

### APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project

Legal Description GOLDEN ACRES RETIREMENT  
S 58.3' - E 57' 7 1/2" LOT 4 BIK 2  
 Subdivision Name GOLDEN ACRES RETIREMENT  
 Street Address 405 N 37TH 1/2 ST  
 Number of lots 1 Gross acres .0758  
 Existing Zoning \_\_\_\_\_ Existing Land Use RESIDENTIAL  
 Reason for Appeal (please use other side if necessary) \_\_\_\_\_  
CARPORT & STORAGE ROOM

\$300.00 non-refundable filing fee  
 Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name OWNER Phone \_\_\_\_\_  
 Address \_\_\_\_\_ E-mail \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Owner

Name GLADYS AND GUADALUPE SILVA Phone (956) 994-1607  
 Address 405 N. 37th 1/2 ST E-mail \_\_\_\_\_  
 City MCALLEN State TX Zip 78501

Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?  
 Yes  No

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

Signature Gladys Silva Date 6-18-15  
 Print Name Gladys Silva  Owner  Authorized Agent

Office

Accepted by TS Payment received by \_\_\_\_\_ Date JUN 23 2015  
 REVISÉD 9/11

RECEIVED  
 JUN 23 2015  
 BY: aw



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Car. Port 8 pies en lugar de 20 pies  
ADD Patio 1 Pies en lugar de los 6 Pies  
Storage ADD 5 Pies en lugar de los 6 Pies

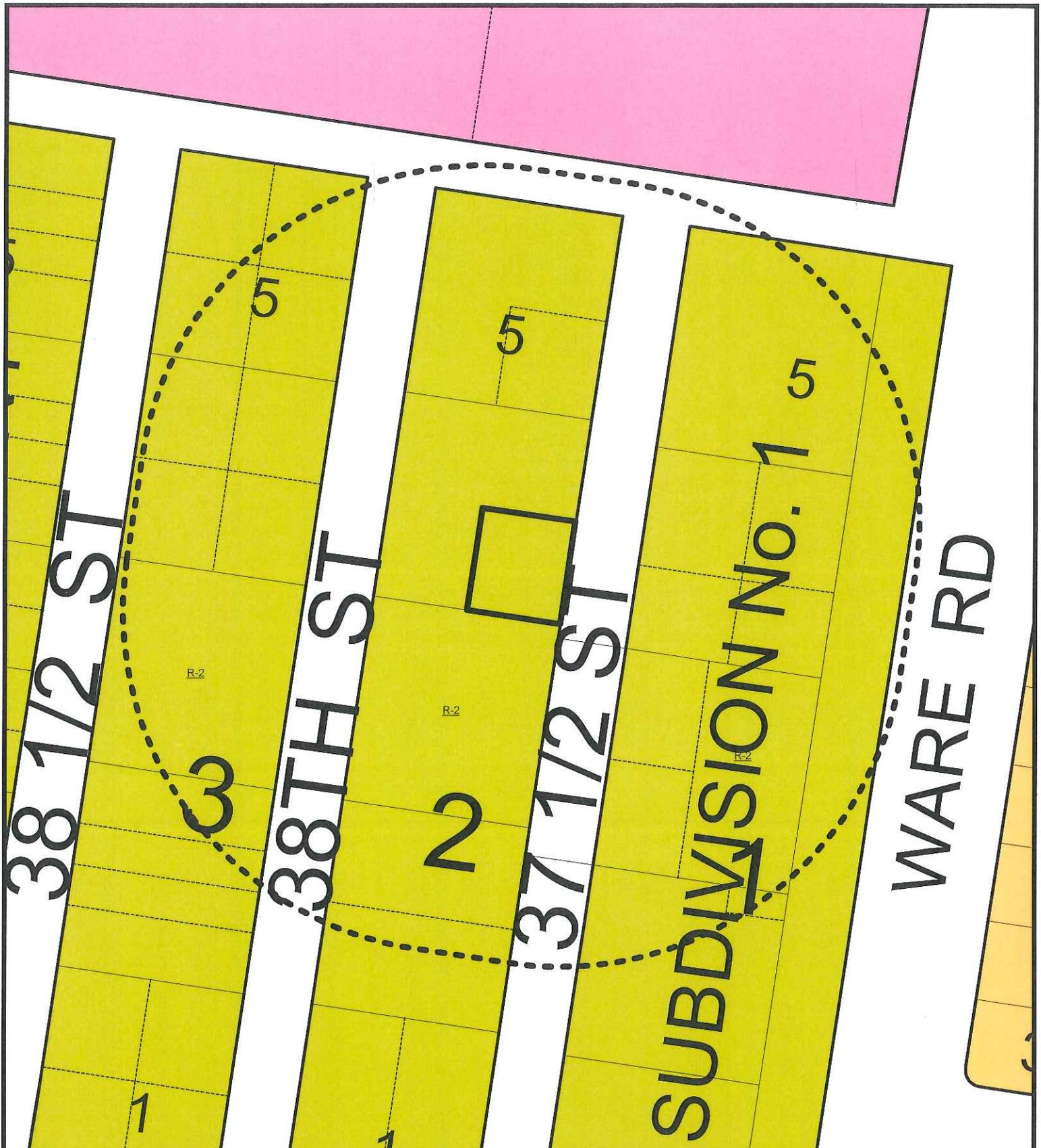
Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

\_\_\_\_\_





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: N.T.S.

AREA MAP



 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND			
 (AGRICULTURAL & OPEN SPACE)	 (APARTMENTS)	 (MOBILE HOMES)	 (GENERAL BUSINESS)
 (SINGLE FAMILY RESIDENTIAL)	 (CONDOMINIUMS)	 (OFFICE BUILDING)	 (LIGHT COMMERCIAL)
 (DUPLEX-FOURPLEX)	 (TOWNHOUSES)	 (NEIGHBORHOOD COMMERCIAL)	 (COMMERCIAL INDUSTRIAL)
			 (LIGHT INDUSTRIAL)
			 (HEAVY INDUSTRIAL)
			 (SPECIAL DISTRICT)

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

CE

11

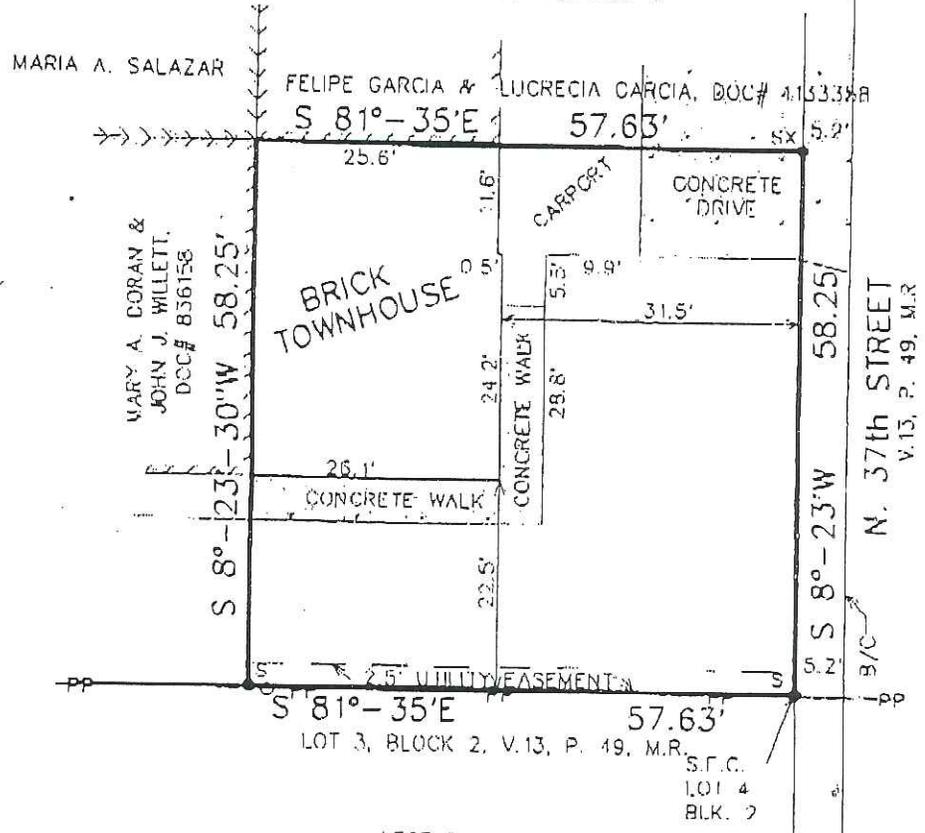
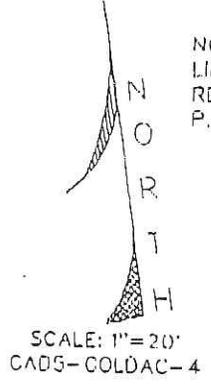
36

**PEÑA ENGINEERING**  
 1001 WHITEWING · P.O. BOX 4320  
 (956) 882-8812 · McALLEN, TEXAS 78502 · FAX (956) 631-PENA

6828819

NOTE. BASIS OF BEARING IS THE EAST LINE OF LOT 4, BLOCK 2, GOLDEN ACRES - RETIREMENT SUBDIVISION, NO. 1, V.13, P. 49, M.R.

NOTES:  
 1.) EASEMENTS, RIGHTS, RULES AND REGULATIONS IN FAVOR OF HIDALGO COUNTY IRRIGATION DISTRICT NO. 1.



- LEGEND**
- F1 - FOUND 1/2" DIAMETER IRON ROD
  - SX - SET "X" CUT IN CONC.
  - S - SET 1/2" DIAMETER IRON ROD
  - B/C - BACK OF CONCRETE CURB & CUTTER
  - C.W. - CONCRETE WALK
  - PP-PP - POWER POLE LINE
  - - POWER POLE

BUYER'S NAME: FELIPE GARCIA

FLOOD ZONE: By GRAPHICAL PLOTTING Community Panel No. 480343 0005 C  
 Map Revised: Nov. 2, 1982

- Zone "A" - This is to certify that this property is in a flood prone area.
- Zone "B" - This is to certify that this property is not in a flood prone area. However limits between the 100 year and 500 year flood are subject to flooding with average depths less than one foot.
- Zone "C" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements except as shown on this plat. © copyright 2003 PEÑA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon. In conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this survey. Survey valid only if print has original seal and signature.

ADDRESS: \_\_\_\_\_  
 LEGAL DESCRIPTION: The EAST 57 feet and 7-1/2 inches of the SOUTH 58 feet 3 inches, of Lot FOUR (4), BLOCK TWO (2), GOLDEN ACRES RETIREMENT SUB'D., NO. 1, an addition to the City of McAllen, Hidalgo County, Texas

ACCORDING TO THE MAP RECORDED IN VOLUME 13 PAGE 48  
 OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

AUG/05/2003  
 DATE

*Paul Peita*  
 REG. PROFESSIONAL LAND SURVEYOR

**RECORDED**  
 JUL 14 2015  
 BY: *aw*

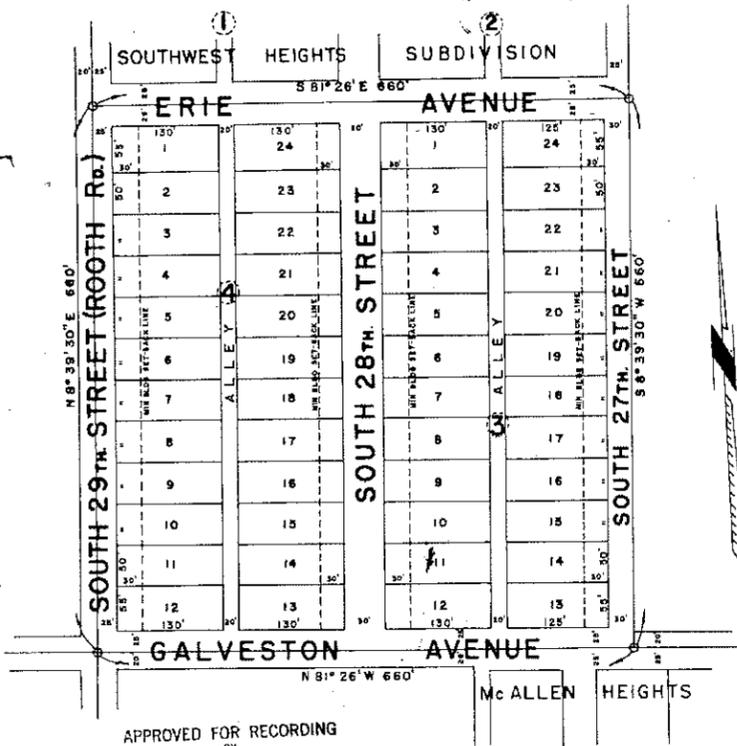


56832

FILED FOR RECORD THIS DATE  
At 10:47 o'clock A. M.

APR 1 1961

Geo. L. Anderson  
COUNTY CLERK, HIDALGO COUNTY, TEXAS



APPROVED FOR RECORDING  
BY  
COMMISSIONERS' COURT  
This the 28 day of March, 1961  
GEO. L. ANDERSON, County Clerk  
By *Lucas S. Bush* Deputy

**MAP  
OF  
SOUTHWEST HEIGHTS SUBDIVISION NO. 2  
Mc ALLEN, TEXAS**

BEING A SUBDIVISION OF LOT 89, Mc ALLEN THIRD SUBURBAN CITRUS GROVES  
SUBDIVISION, A RESUBDIVISION OF LOTS AND PARTS OF LOTS 154, 155, 156, 157,  
158, & 168, LA LOMITA IRRIGATION & CONSTRUCTION CO.'S SUBDIVISION, OF  
PORCIONES 61, 62, & 65, HIDALGO COUNTY, TEXAS.

SCALE: 1"=100'

DATE: 3-2-61

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

**APPROVED  
FOR RECORDING**  
Hidalgo Co. Right of Way Dept.  
3-25-61

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



STATE OF TEXAS:  
COUNTY OF HIDALGO:

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

*Bomar Moore*  
BOMAR MOORE

STATE OF TEXAS:  
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED BOMAR MOORE,  
OWNER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING  
INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CON-  
SIDERATIONS THEREIN EXPRESSED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE  
25th DAY OF August A.D. 1960.



*Carlene H. Kruger*  
NOTARY PUBLIC IN AND FOR  
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS THE 13 DAY  
OF Sept A.D. 1960.

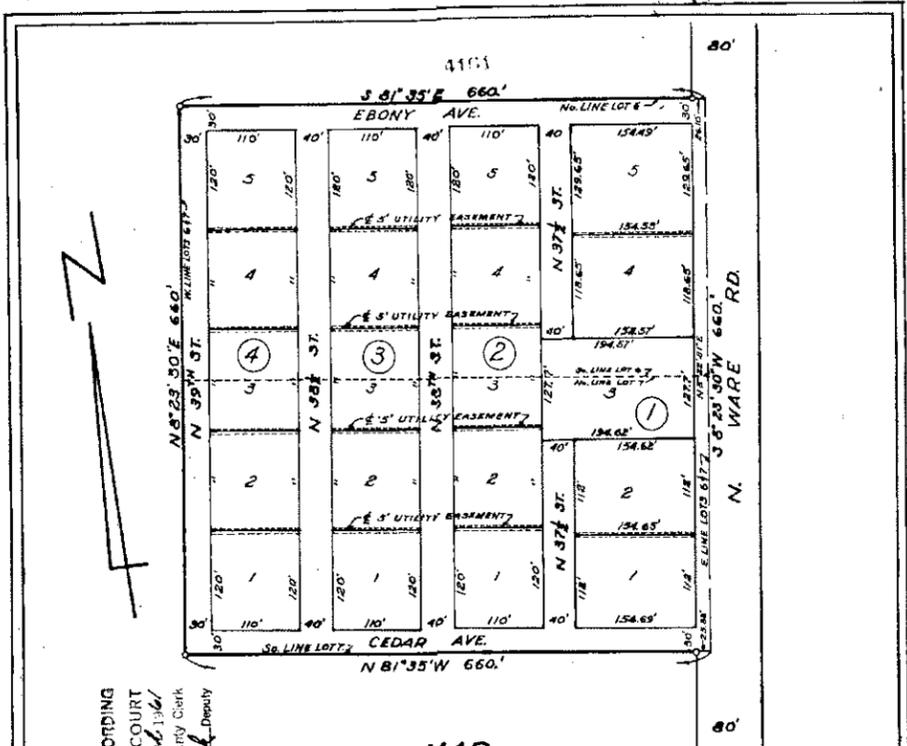
MC ALLEN ZONING AND PLANNING BOARD  
BY *V. E. Cook, Jr.*  
V. E. COOK, JR., CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS, ON THIS  
THE 14 DAY OF Oct A.D. 1960.



*Phillip Boye*  
R. HENSLEY, CITY SECRETARY

*Phillip Boye*  
PHILLIP BOEYE, MAYOR



APPROVED FOR RECORDING  
COMMISSIONERS' COURT  
This the 7th day of March, 1961  
GEO. L. ANDERSON, County Clerk  
By *Lucas S. Bush* Deputy

**MAP  
OF  
GOLDEN ACRES RETIREMENT  
SUBDIVISION No. 1  
MC ALLEN, TEXAS**

BEING A SUBDIVISION OF LOTS 617, EUREKA PARK;  
A SUBDIVISION OF LOTS 14, 78, 79, 80, 86 & 87, BLOCK 2,  
HAMMOND SUBDIVISION, OF PORCIONES 61, 62 & 63,  
HIDALGO COUNTY, TEXAS

Scale: 1"=100'

Date: 1-8-61

FILED FOR RECORD THIS DATE  
At 11:23 o'clock A. M.

MAR 7 - 1961

GEO. L. ANDERSON  
COUNTY CLERK, HIDALGO COUNTY, TEXAS  
By *Lucas S. Bush* Deputy

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

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

STATE OF TEXAS:  
COUNTY OF HIDALGO:

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

*C. A. Weseman*  
C. A. WESSEMAN

STATE OF TEXAS:  
COUNTY OF HIDALGO:

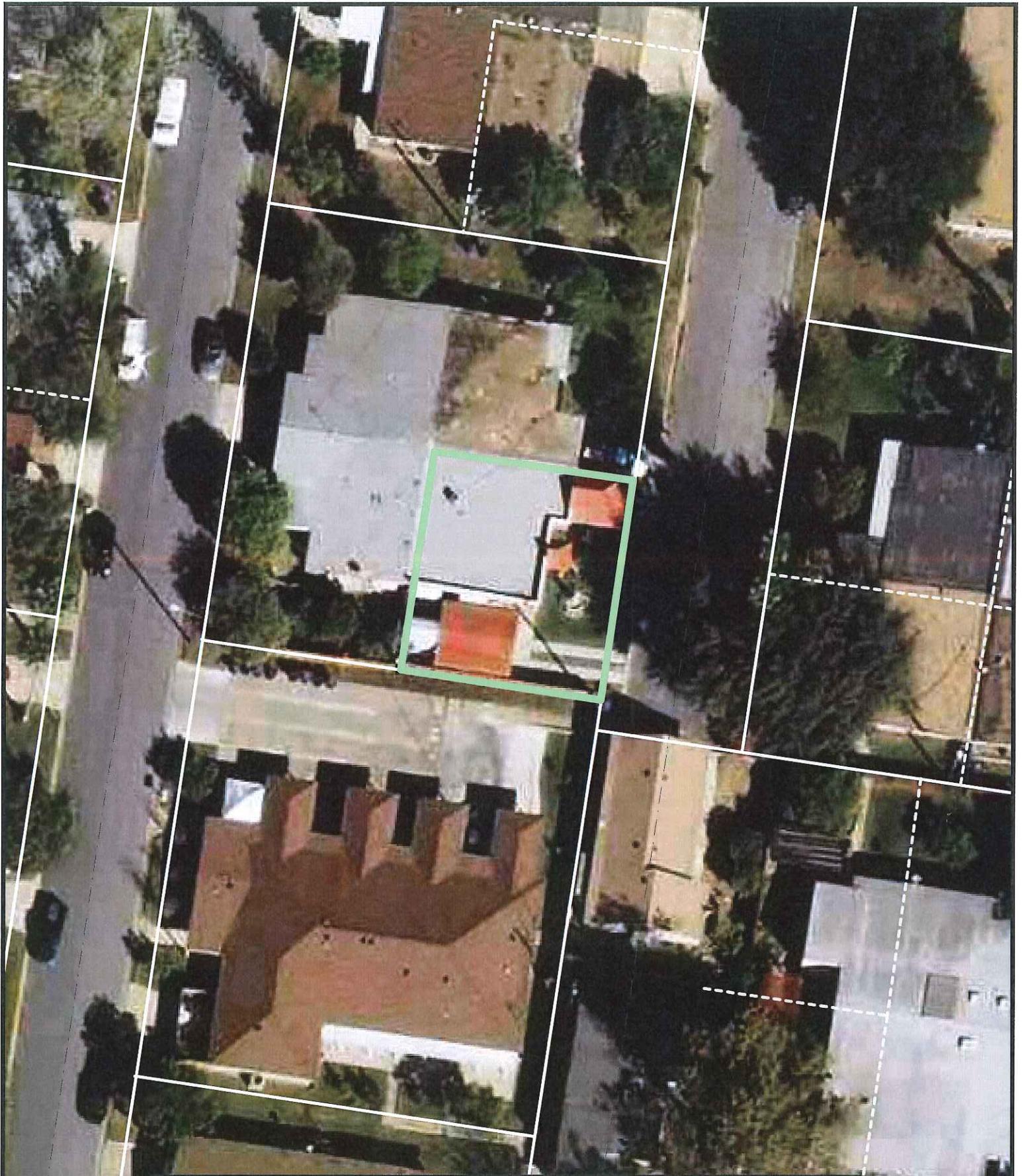
BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED C. A. WESSEMAN,  
KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND  
ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.  
GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE 7th DAY OF January A.D. 1961.



*John R. ...*  
NOTARY PUBLIC IN AND FOR  
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS THE 19th DAY OF  
January A.D. 1961.

MC ALLEN ZONING AND PLANNING BOARD  
BY *V. E. Cook, Jr.*  
V. E. COOK, JR., CHAIRMAN



**CITY OF McALLEN**  
PLANNING DEPARTMENT

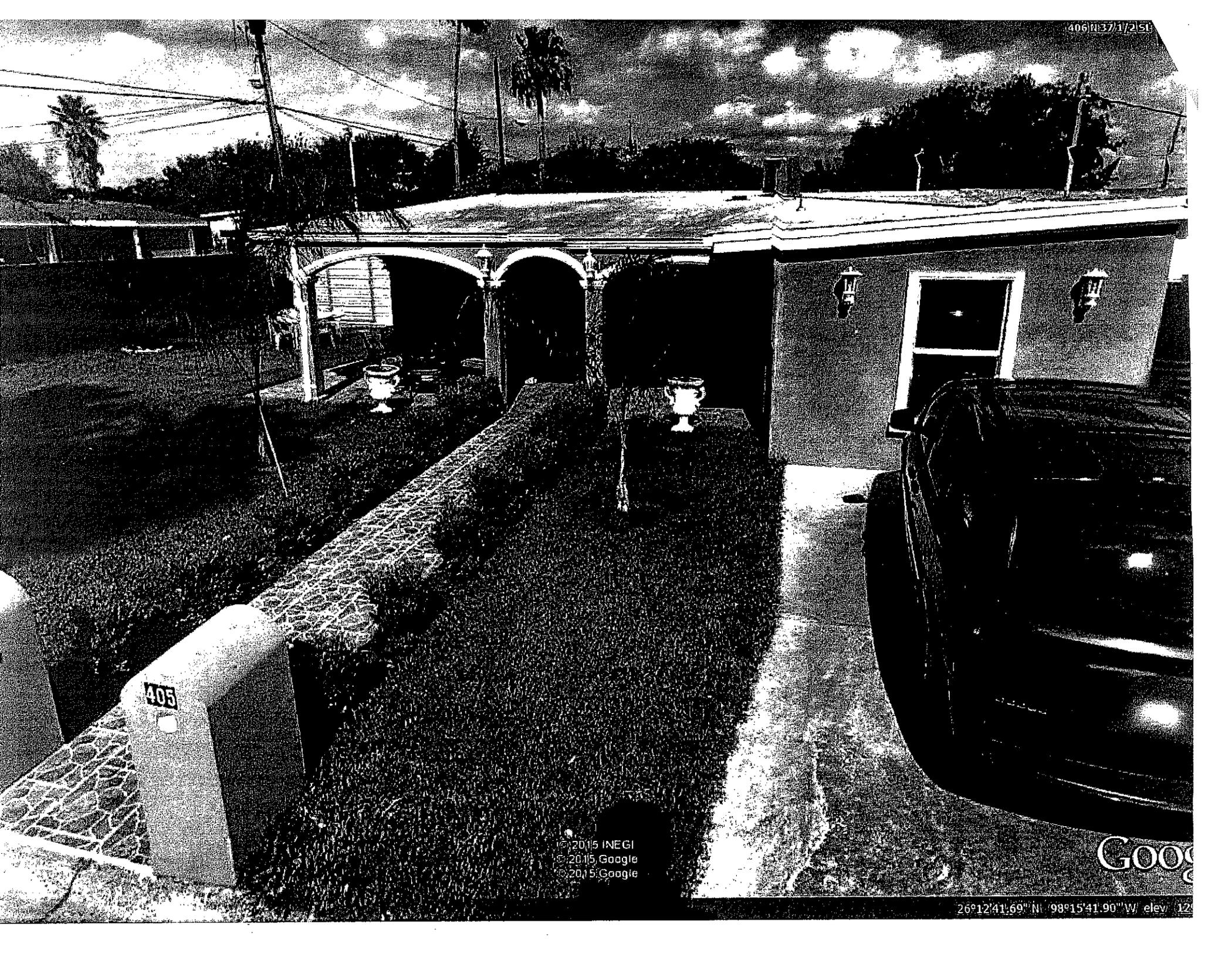
**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**



*on ground survey and represent approximate relative location of property boundaries.*



© 2015 INEGI  
© 2015 Google  
© 2015 Google

GOO









**Hidalgo CAD**

**Property Search Results > 179863 SILVA GUADALUPE & GLADYS for Year 2015**

**Property**

**Account**

Property ID: 179863 Legal Description: GOLDEN ACRES RETIREMENT S58.3'-E57' 7 1/2" LOT 4 BLK 2  
 Geographic ID: G4800-00-002-0004-01 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

**Location**

Address: 405 N 37TH 1/2 ST Mapsco:  
 MCALLEN, TX  
 Neighborhood: GOLDEN ACRES RETIREMENT, #2, & #5 Map ID: CMLVOL13 PG49  
 Neighborhood CD: G480000

**Owner**

Name: SILVA GUADALUPE & GLADYS Owner ID: 663772  
 Mailing Address: 405 N 37 1/2 ST % Ownership: 100.000000000000%  
 MCALLEN, TX 78501-8102  
 Exemptions: HS

**Values**

(+) Improvement Homesite Value: + \$40,700  
 (+) Improvement Non-Homesite Value: + \$0  
 (+) Land Homesite Value: + \$10,725  
 (+) Land Non-Homesite Value: + \$0 Ag / Timber Use Value  
 (+) Agricultural Market Valuation: + \$0 \$0  
 (+) Timber Market Valuation: + \$0 \$0  
 -----  
 (=) Market Value: = \$51,425  
 (-) Ag or Timber Use Value Reduction: - \$0  
 -----  
 (=) Appraised Value: = \$51,425  
 (-) HS Cap: - \$0  
 -----  
 (=) Assessed Value: = \$51,425

**Taxing Jurisdiction**

Owner: SILVA GUADALUPE & GLADYS  
 % Ownership: 100.000000000000%  
 Total Value: \$51,425

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$51,425	\$51,425	\$0.00
CML	CITY OF MCALLEN	0.476300	\$51,425	\$51,425	\$244.94
DR1	DRAINAGE DISTRICT #1	0.095700	\$51,425	\$51,425	\$49.21
GHD	HIDALGO COUNTY	0.590000	\$51,425	\$51,425	\$303.41
JCC	SOUTH TEXAS COLLEGE	0.185000	\$51,425	\$51,425	\$95.14
R12	ROAD DIST 12	0.000000	\$51,425	\$51,425	\$0.00
SML	MCALLEN ISD	1.165000	\$51,425	\$26,425	\$307.85
SST	SOUTH TEXAS SCHOOL	0.049200	\$51,425	\$51,425	\$25.30
Total Tax Rate:		2.561200			
Taxes w/Current Exemptions:					\$1,025.85
Taxes w/o Exemptions:					\$1,317.10

**Improvement / Building**

Improvement #1:	RESIDENTIAL	State Code:	A1	Living Area:	1116.0 sqft	Value:	\$40,700
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA	MAIN AREA	12M	DBRK	1969	840.0		
POR	PORCH (COVERED)	12M		1969	36.0		

ENC	ENCLOSED ADD	12M	1969	180.0
ENC	ENCLOSED ADD	12M	1969	96.0
CPT	CARPORT	12M	2012	55.4
POR	PORCH (COVERED)	12M	2012	9.0
CAN	CANOPY	*	2012	378.0
STG	STORAGE	*	2012	64.0

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.0758	3300.00	60.00	55.00	\$10,725	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2015		\$40,700	\$10,725	0	51,425	\$0 \$51,425
2014		\$39,597	\$10,725	0	50,322	\$0 \$50,322
2013		\$39,597	\$10,725	0	50,322	\$622 \$49,700
2012		\$32,053	\$9,900	0	41,953	\$0 \$41,953

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	2/15/2008 12:00:00 AM	CWV	CRTN WD/VEND LIEN	SILVA GUADALUPE	SILVA GUADALUPE			1857141
2	7/30/2007 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	GARCIA FELIPE & I	SILVA GUADALUPE			1788414
3	9/8/2003 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	YOUNG BULA M	GARCIA FELIPE & I			1240910

**Tax Due**

Property Tax Information as of 07/09/2015

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
------	---------------------	---------------	----------	-----------------	--------------	-------------------------------	---------------	------------

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

**Questions Please Call (956) 381-8466**

Agosto 19, 115

Estimados Vecinos:

Nosotros el Sr. Guadalupe y Gladys Silva, necesitamos de su apoyo por la siguiente petición, para que haya una excepción de poder seguir manteniendo el porche de nuestra casa, el cual nos es indispensable ya que tenemos un joven con necesidades especiales y lo utilizamos para estacionar el vehículo en el que lo trasladamos y nos es indispensable por las inelencencias del tiempo.

De antemano les damos las más sinceras gracias.

Sr. y Sra. Silva  
Guadalupe Silva  
Gladys Silva

Lizbeth Rodriguez  
Luis Antonio Rodriguez  
Maria de Jesus Rodriguez  
WARR. Rd.  
#405  
McAllen TX 78501

Elvia E. Benavides  
410 N. 37 $\frac{1}{2}$   
McAllen, TX 78501

Siegfredo Garcia  
Saverio Corcino  
Abigail Corcino

409 N. 37 $\frac{1}{2}$  St  
McAllen TX 78501

SEP 02 2015  
BY: 

Regandis Silerie

411 N. 38st. McAllen, TX 78501

Dominga Cedillo

Briana Garcia

401 N 38th

McAllen TX 78501

Maria G along

402 Nte 38 1/2 McAllen Texas  
78501

Budweiser, J. Garcia

311 N 37 1/2 ST

McAllen TX 78501

Amelia D Rodriguez

F. R. Sun

415 N. 37 1/2

McAllen, TX 78501

Elia S Flores

311 N. 38 ST  
McAllen Texas 78501

Juan J. Garcia

404 N. 37 1/2 ST

McAllen TX 78501

~~Juan J. Garcia~~

408 N. 37 1/2 St.

McAllen TX. 78501.

Elodia Garcia

404 N. 37 1/2 ST

McAllen TX 78501

J. Garcia

ERIC SORIO GARCIA

404 N. 37 1/2 ST.

McAllen TX 78501

Agosto 19, '15

Para: Sr. Rodrigo Sánchez

De: Sr. Guadalupe Silva y Sra.

Por medio de la presente le comunicamos nuestro acuerdo de mover 5 pies el porche (movible) y un pie el cuartito si realmente fuera necesario, ya que éste nos es mucho más indispensable para las terapias en agua de nuestro hijo Bryan Silva.

Guadalupe Silva

Guadalupe Silva

RECEIVED  
SEP 02 2015  
BY: 

**Memo**

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

**FROM:** Planning Staff

**DATE:** August 14, 2015

**SUBJECT:** REQUEST OF PATRICIA HERNANDEZ FOR VARIANCE REQUESTS TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) A REAR YARD SETBACK OF 0 FEET INSTEAD OF 10 FEET FOR A COVERED PATIO MEASURING 50 FEET BY 10 FEET FOR LOT 8, 2) A SIDE YARD SETBACK ALONG THE EAST PROPERTY LINE OF 0 FEET INSTEAD OF 6 FEET FOR A COVERED PATIO MEASURING 50 FEET BY 10 FEET FOR LOT 8, 3) A SIDE YARD SETBACK ALONG THE WEST PROPERTY LINE OF 0 FEET INSTEAD OF 6 FEET FOR A COVERED PATIO MEASURING 50 FEET BY 10 FEET FOR LOT 8, 4) A REAR YARD SETBACK OF 0 FEET INSTEAD OF 10 FEET FOR A STORAGE BUILDING MEASURING 6 FEET BY 6 FEET FOR LOT 8, 5) A SIDE YARD SETBACK OF 0 FEET INSTEAD OF 6 FEET ALONG THE EAST LOT LINE FOR A STORAGE BUILDING MEASURING 6 FEET BY 6 FEET FOR LOT 8, 6) 1 FOOT INSTEAD OF 12 FEET BUILDING SEPARATION FOR AN ACCESSORY STRUCTURE TO THE MAIN BUILDING FOR A COVERED PATIO ON LOTS 8 & 9, 7) A REAR YARD SETBACK OF 0 FEET INSTEAD OF 10 FEET FOR A COVERED PATIO MEASURING 44 FEET BY 10 FEET, FOR LOT 9, 8) A SIDE YARD SETBACK ALONG THE EAST PROPERTY LINE OF 0 FEET INSTEAD OF 6 FEET FOR A COVERED PATIO MEASURING 44 FEET BY 10 FEET, FOR LOT 9, IDELA PARK UNIT NO. 4 SUBDIVISION, HIDALGO COUNTY, TEXAS; 2429 & 2433 LUCILLE AVENUE. (ZBA2015-0028)

---

**GOAL:**

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

**REASON FOR VARIANCE REQUEST**

The applicant is requesting variance requests in order allow covered patios on lots 8 and 9. The applicant indicates that the covered patio on Lot 8 was built in 2003 but was damaged by the hail storm and reconstructed in 2012 without a permit. The covered patio on Lot 9 was built in 2014 without a building permit. They did not know a permit was required. The porch structures serve as an area for shade and security.

**PROPERTY LOCATION AND VICINITY:**

The properties are located along the south side of Lucille Avenue between South 26<sup>th</sup> Street and South 24<sup>th</sup> Street. Each tract has 50 feet of frontage along Lucille Avenue with a depth of 90 feet for a tract size of 4,500 square feet each. The property is zoned R-1 (single family residential) District. The surrounding land use includes single family residences. There is an existing single family residence on the subject properties.

**BACKGROUND AND HISTORY:**

Idela Park Unit No. 4 Subdivision was recorded on February 25, 1980 with a rear setback of 10 feet and side yard setbacks of 6 feet. A citation (#17434) for construction of a covered patio without a building permit was issued on March 21, 2014. An application for abandonment of the 10 foot utility easement was submitted in March 2014. The abandonment was not approved by AT&T however they were granted an encroachment letter.

**ANALYSIS:**

The proposed covered patio encroaches 10 feet into the rear yard setback for the entire length of Lot 8, as well as into the side yard setbacks. The porch on Lot 9 covers a width of the east 44 feet of the rear property line and the 6 feet into the east side yard setback. The structures also do not maintain the 12 foot building separation for an accessory building to the main structure but may be connected to the main building. The storage building at the southeast corner of Lot 8 may be relocated out of the east side yard setback and attached to the residence to provide a 4 foot rear yard setback.

**RECOMMENDATION:**

Staff recommends disapproval of the variance requests.

ZBA  
7-15-15

ZBA 2015-0028



# City of McAllen Planning Department

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)

## APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

**Project**

Legal Description Lot 8 and lot 9

Subdivision Name Idela Park, Unit No. 4

Street Address 2429<sup>2433</sup> Lucille Ave. McAllen, Tx.

Number of lots 2 Gross acres \_\_\_\_\_

Existing Zoning \_\_\_\_\_ Existing Land Use \_\_\_\_\_

Reason for Appeal (please use other side if necessary) This roof was there when we bought this house. We only fixed and extended due to fragility

\$300.00 non-refundable filing fee

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

**Applicant**

Name Patricia Hernandez Phone (956) 212-8480

Address 2429 Lucille Ave. E-mail jaimie8808@aol.com

City McAllen, Tx. State Texas Zip 78503

**Owner**

Name Patricia Hernandez Phone (956) 212-8480

Address 2429 Lucille Ave. E-mail jaimie8808@aol.com

City McAllen, Tx State Texas Zip 78503

**Authorization**

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

Yes  No

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

Signature [Signature] Date 6/9/15

Print Name Patricia Hernandez  Owner  Authorized Agent

**Office**

Accepted by [Signature] Payment received by \_\_\_\_\_

REVISÉD 9/11

RECEIVED  
Date  
JUN 09 2015

Ad by C.C. 144301

BY: CW



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

It was for security and safety issues. We needed a family leisure area for evenings. This was the only place outdoors available.

Board Action

Chairman, Board of Adjustment  
Signature

Date



**BUILDING PERMIT APPLICATION**

REV. 11/2013

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

APPLICATION MUST BE COMPLETE

PERMIT APPLICATION REFERENCE NUMBER

ME2014 01442

(Please type or print in black or blue ink)

APPLICANT

NAME Patricia Hernandez PHONE 956 - 212 - 8480  
 ADDRESS 2429 Lucille Ave.  
 CITY McAllen, Tx STATE Tx ZIP 78503  
 CONTACT NAME: (mismo) PHONE 956 664 0882  
 OWNER  CONTRACTOR  TENANT  OTHER

OWNER

NAME Jaime Hernandez PHONE 956 212 8480  
 ADDRESS (mismo)  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

NEW  ADDITION  REMODELING  REPAIR  MOVE  REMOVE BLDG. HGT. \_\_\_\_\_ NO. OF FLOORS \_\_\_\_\_  
 BLDG SQ. FT. \_\_\_\_\_ NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ FLOOR EL. ABOVE CURB \_\_\_\_\_  
 EXISTING USE OF LOT caso NEW USE \_\_\_\_\_ IMPROVEMENT VALUE \$ 10,000 1.00

SCOPE OF WORK TO BE DONE encerrar el patio, terraza para 2 closets y de Expanded Bedroom (Already Done) 2 banos

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS \_\_\_\_\_ NO. BDRMS \_\_\_\_\_ NO. BATHRMS \_\_\_\_\_ SQ. FT. NON-LIVING \_\_\_\_\_ SQ. FT. LIVING \_\_\_\_\_

<b>FOUNDATION</b> <input type="checkbox"/> CONCRETE SLAB <input type="checkbox"/> CONCRETE PIER <input type="checkbox"/> CONCRETE BLOCK <input type="checkbox"/> CONCRETE BEAM <input type="checkbox"/> WOOD POSTS <input type="checkbox"/> _____	<b>EXT. WALL</b> <input checked="" type="checkbox"/> MASONRY VENEER <input type="checkbox"/> MASONRY SOLID <input type="checkbox"/> METAL SIDING <input type="checkbox"/> COMPOSITION <input type="checkbox"/> WOOD <input type="checkbox"/> _____	<b>ROOF</b> <input type="checkbox"/> WOOD SHINGLE <input type="checkbox"/> COMPOSITION <input type="checkbox"/> METAL <input type="checkbox"/> BUILD UP <input type="checkbox"/> _____	<b>SPECIAL CONDITIONS</b> <input type="checkbox"/> FIRE SPRINKLER SYSTEM <input type="checkbox"/> FIRE ALARM SYSTEM <input type="checkbox"/> TYPE OF CONSTRUCTION _____ <input type="checkbox"/> ASBESTOS SURVEY <input type="checkbox"/> EABPRJA/B#: _____ <input type="checkbox"/> CONDEMNED STRUCTURE
---	--	---	--

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ SUBDIVISION \_\_\_\_\_

SITE ADDRESS ST. NO. 2429 ST. NAME Lucille Ave. McAllen, Tx.

CITY USE ONLY

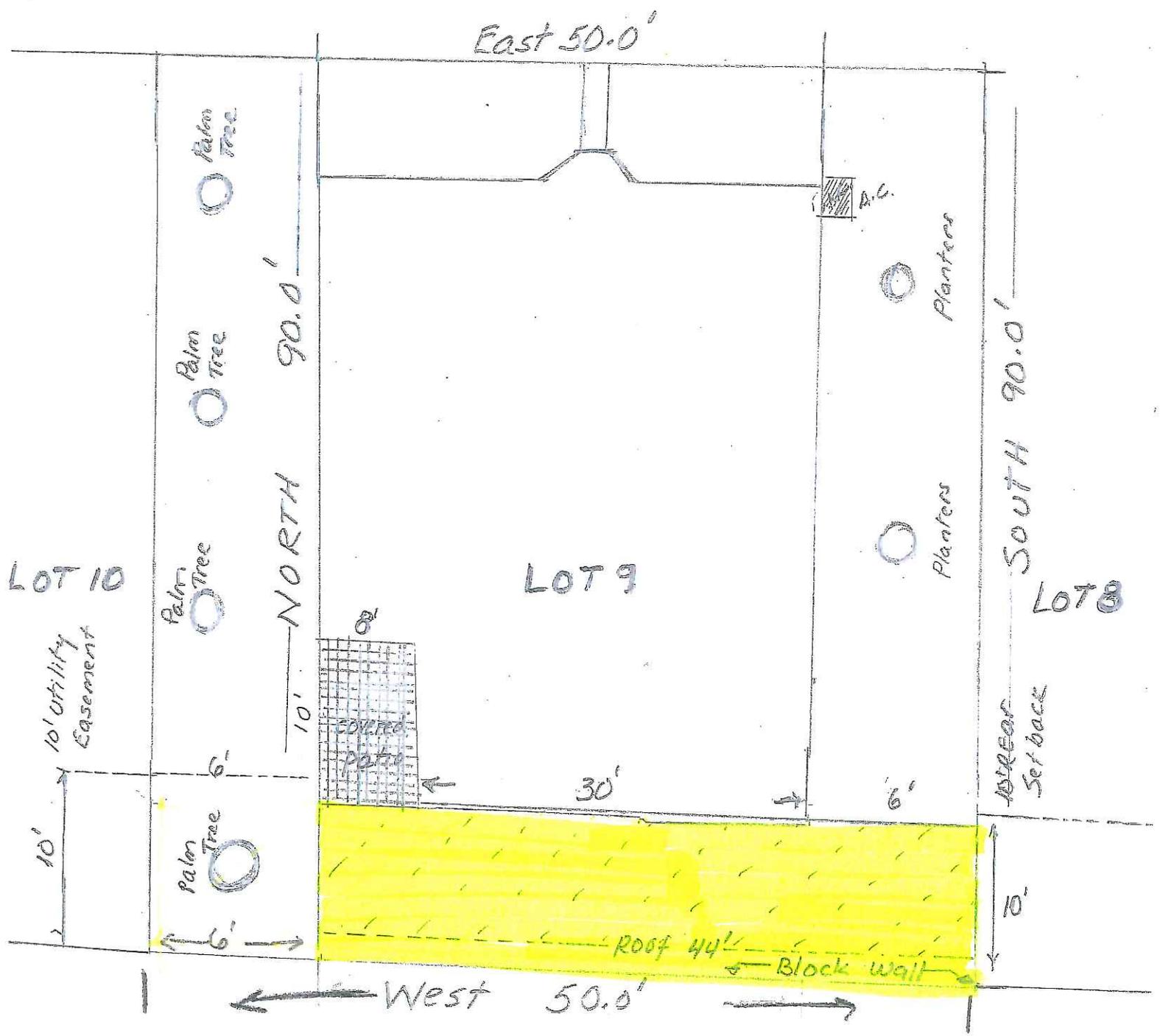
ZONING \_\_\_\_\_ PERMIT FEE \$ 50.00 DOUBLE FEE \$ 50.00 REC'D BY EGC  
 PERMIT REVIEW FEE \$ \_\_\_\_\_ DATE 2/13/14  
 PARK DEV. TOTAL PERMIT FEE \$ 100.00 TIME 11:00  
 ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. If it is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

Jaime Hernandez jaime888@aol.com  
 PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE

2433 Lucille Ave  
McAllen, TX.

Lot 9 Block  
Idela Park Subdiv. Unit #4



20' ALLEY R.O.W.

2429 Lucille



# ART SALINAS ENGINEERING & SURVEYING

1524 DOVE AVENUE, McALLEN, TEXAS 78504 PH: (956) 618-5565 FAX: (956) 618-5540  
B.O.C. B.O.C.

## LUCILLE AVE.

(VOL. 21, PG. 69, H.C.M.R.)

SCALE:  
1" = 20'

EAST 50.0'

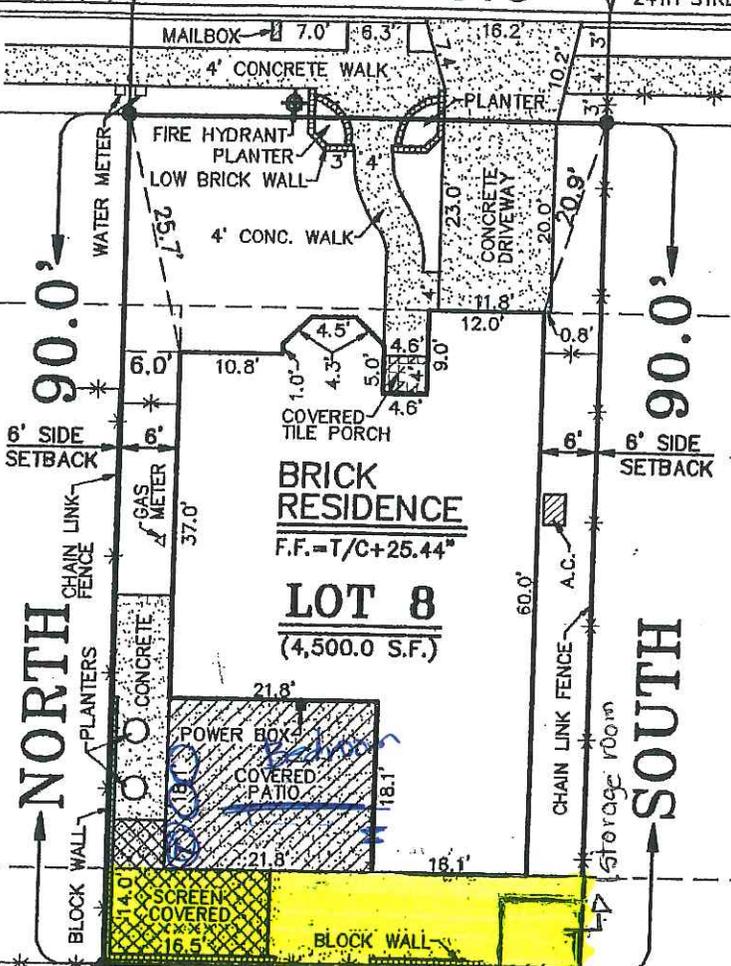
355.24' TO  
24TH STREET

LOT 9

LOT 7

LOT 8  
(4,500.0 S.F.)

BRICK  
RESIDENCE  
F.F. = T/C + 25.44"



LEGEND

- DENOTES FOUND 1/2" ROD
- DENOTES NO MONUMENT

20' ALLEY R.O.W.  
(VOL. 21, PG. 69, H.C.M.R.)

WEST 50.0'

**FLOOD ZONE DESIGNATION:** The property shown hereon lies in Zone AH. Zone AH areas are areas of shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined as per F.E.M.A. Flood Insurance Rate Map Panel No. 480343-0010-C dated 11-02-82.

- T NOTES:**
- There are no discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or any overlapping of improvements except as shown on this plat.
  - Easements for roadways, telephone poles, lines and laterals and drainage ditched as shown by instruments dated February 28, 1918, recorded in Volume 70, Page 205; dated July 19, 1917, recorded in Volume 90, Page 227 and dated December 15, 1918, recorded in Volume 84, Page 151, all in the Deed Records of Hidalgo County, Texas. (Blanket)
  - Easements for electric transmission lines in favor of Central Power & Light Company as shown by instruments dated July 9, 1952, recorded in Volume 750, Page 297; dated January 7, 1960, recorded in Volume 970, Page 333; and dated February 25, 1971, recorded in Volume 1282, Page 469, all in Deed Records of Hidalgo County, Texas. (Blanket)
  - This plat is for the exclusive use of the borrower named hereon, the title company in connection with G.E.# 67,822, and the same shall be subject to the provisions of the underlying instrument.

UNIT NO. 3  
ROOSEVELT

A-0

15

R-1

16

66

IDELEA PARK

MELBA AV

46

R-1

55

R-1

45

UNIT NO

36



CITY OF McALLEN  
PLANNING DEPARTMENT

AREA MAP

LEGEND

SCALE: N.T.S.

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY



ZONING LEGEND

A-0 (AGRICULTURAL & OPEN SPACE)  
 R-1 (SINGLE FAMILY RESIDENTIAL)  
 R-2 (DUPLEX-FOURPLEX)

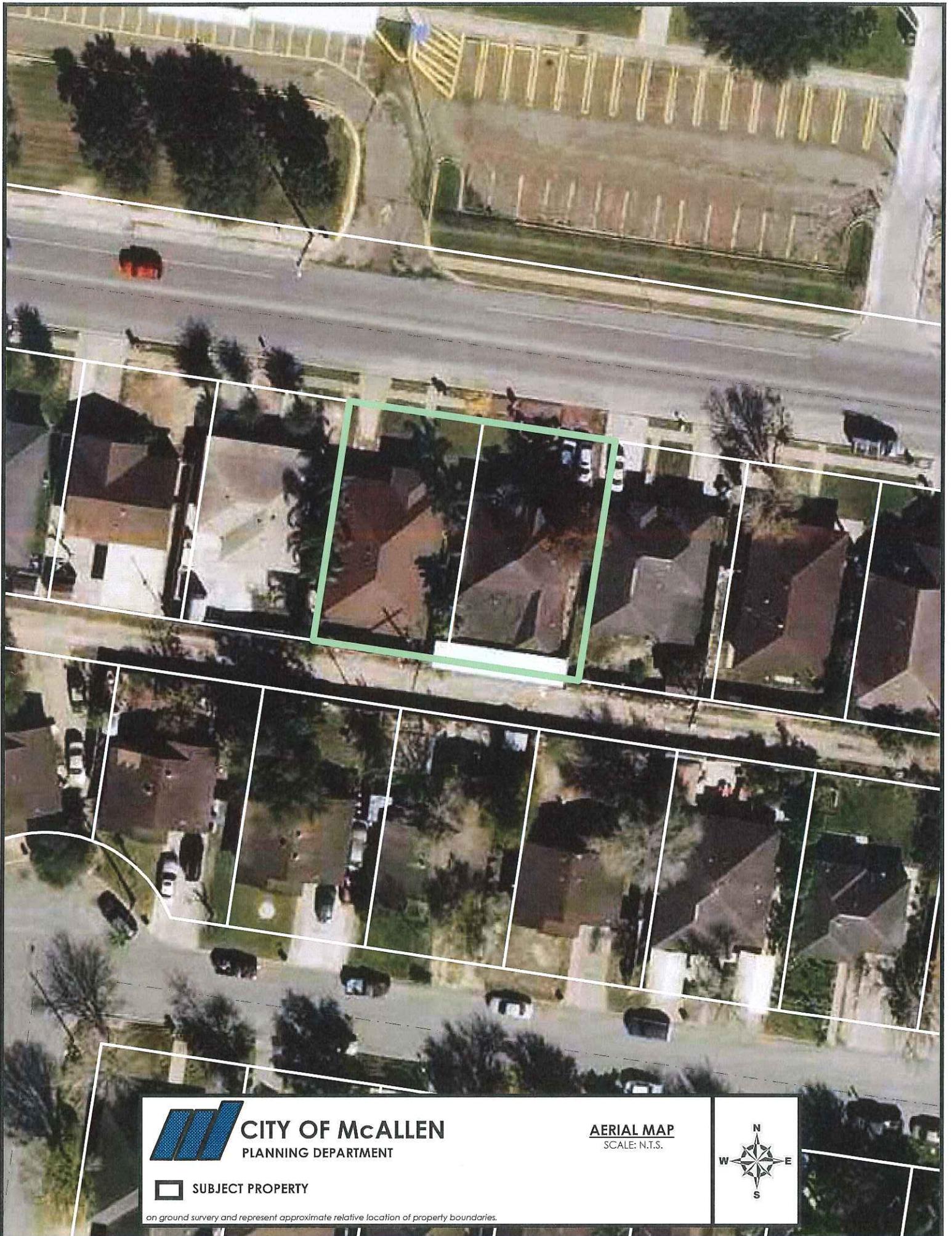
R-3A (APARTMENTS)  
 R-3C (CONDOMINIUMS)  
 R-3T (TOWNHOUSES)

R-4 (MOBILE HOMES)  
 C-1 (OFFICE BUILDING)  
 C-2 (NEIGHBORHOOD COMMERCIAL)

C-3 (GENERAL BUSINESS)  
 C-3L (LIGHT COMMERCIAL)  
 C-4 (COMMERCIAL INDUSTRIAL)

I-1 (LIGHT INDUSTRIAL)  
 I-2 (HEAVY INDUSTRIAL)  
 (SPECIAL DISTRICT)

This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 955-681-1250, or select city maps at <http://www.mcalen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on-ground survey and represent approximate relative location of property boundaries.



**CITY OF McALLEN**  
PLANNING DEPARTMENT

**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**

*on ground survey and represent approximate relative location of property boundaries.*

McAllen Municipal Court  
 1601 N. Bicentennial Blvd.  
 McAllen, TX 78501  
 (956) 681-2900

Warning

Ticket #  
 17434

Date: 3/21/14 Time: 4:12pm Issuer: PATRICIA M RENOVA ID #: 10763  
 Location/Block/Street: 2429 Lucille Ave License Plate:

Permits	Health	Zoning
<input checked="" type="checkbox"/> Building	<input type="checkbox"/> Weedy Lot	<input type="checkbox"/> Sign Placed In ROW
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Accumulation of trash	<input type="checkbox"/> Signs w/o Permit
<input type="checkbox"/> Electrical	<input type="checkbox"/> Stagnant Water	<input type="checkbox"/> Erecting Signs w/o Permit
<input type="checkbox"/> Mechanical	<input type="checkbox"/> Illegal Dumping	<input type="checkbox"/> Proh. Portable Signs
<b>Work w/o Inspection</b>	<input type="checkbox"/> Gross Unsanitary Cond.s	<input type="checkbox"/> Front Yard Parking
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Deposit of Wastes	<input type="checkbox"/> Fail to Obtain C.U.P.
<input type="checkbox"/> Electrical	<b>Food/Retail</b>	<input type="checkbox"/> Expired C.U.P.
<input type="checkbox"/> Mechanical	<input type="checkbox"/> No Certified Manager	<input type="checkbox"/> Violation of C.U.P. Cond.
<input type="checkbox"/> Construction (com./res)	<input type="checkbox"/> No Food Handling Cert.	<b>Animal</b>
<b>Performing Work w/o Lic.</b>	<input type="checkbox"/> Hazardous Foods	<input type="checkbox"/> Leash Law
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Selling Food w/o Permit	<input type="checkbox"/> No Vaccinations
<input type="checkbox"/> Electrical	<input type="checkbox"/> Business on Sidewalks	<b>Fire</b>
<input type="checkbox"/> Mechanical	<input type="checkbox"/> Display/Sale on St/Sidewalk	<input type="checkbox"/> Exceed Occupancy
	<input type="checkbox"/> Proh. Outdoor Display/Sale of Merch.	<input type="checkbox"/> Blocked Exits
	<input type="checkbox"/> No Garage Sale Permit	<input type="checkbox"/> Fail to Maintain Fire Alarm

Violation/Offense: **NOTE: ROOM ADDED WITHOUT PERMIT**

Violation/Offense: **NOTE: REAR PATIO WITHOUT PERMIT**

Last Name: HERNANDEZ First Name: PATRICIA Middle: ONIDIA

Street Address: 2429 Lucille City: McAllen TX State: TX Zip: 78503

Res. Phone: (956) 212 8480 Sex: F DOB: 8/18/67 Age: 46 D.L. #: 01799832 State: TX

Occupation: Teacher Employer: Valleyview ISD Phone:

Business Address: City: State: Zip:

I HEREBY PROMISE TO APPEAR BEFORE THE MUNICIPAL COURT ON OR BEFORE

\* April 4th, 2014

Signature: *[Handwritten Signature]*

YOUR FAILURE TO APPEAR MAY CAUSE A CRIMINAL COMPLAINT TO BE FILED AGAINST YOU AND A WARRANT FOR YOUR ARREST WILL BE ISSUED.



AT&T Texas  
7602 Spring Cypress Drive  
Room 226  
Spring, TX 77379-3113

T: 281.379.7524  
F: 281.374.3318

February 11, 2015

Jaime P. Hernandez  
2433 Lucille Avenue  
McAllen, Texas 785031

**RE: "Consent to Encroach"** located at the address known as 2433 and 2429 Lucille Avenue, Hidalgo County, Texas. (R.O.W. Job # MU 01214-M)

Dear Mr. Hernandez,

Southwestern Bell Telephone Company, (SWBT) offers "**No Objection**" to the encroachment of a roof overhang and various improvements into the 10' wide Utility Easement, located along the south side of the subject tract, being Lot 8 & Lot 9 of Idela Park Subdivision, Unit IV, an addition to the City of McAllen, Hidalgo County, Texas, as recorded in Volume 21, Page 69 in the map records of Hidalgo County Courthouse, Hidalgo County, Texas.

It will be necessary for you to take all precautions to prevent damages to any existing facilities that may exist within the easement. It is understood that Southwestern Bell Telephone Company accepts no responsibility for damage to the encroachments both present and future, due to the existence of any facilities which may presently exist or those which may be placed within the easement. In addition, the owner may be liable for any additional costs incurred by SWBT during construction and/or maintenance of its facilities due to the existence of the encroachment within the above described easement situated on the property.

I have included a "Consent to Encroachment" document that is yours to keep for your records. It is your responsibility to have the document recorded in the Hidalgo County, Courthouse. Should you have any questions or comments concerning this matter please feel free to contact me at Phone: (281) 379-7524

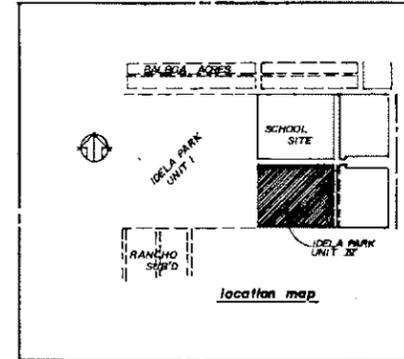
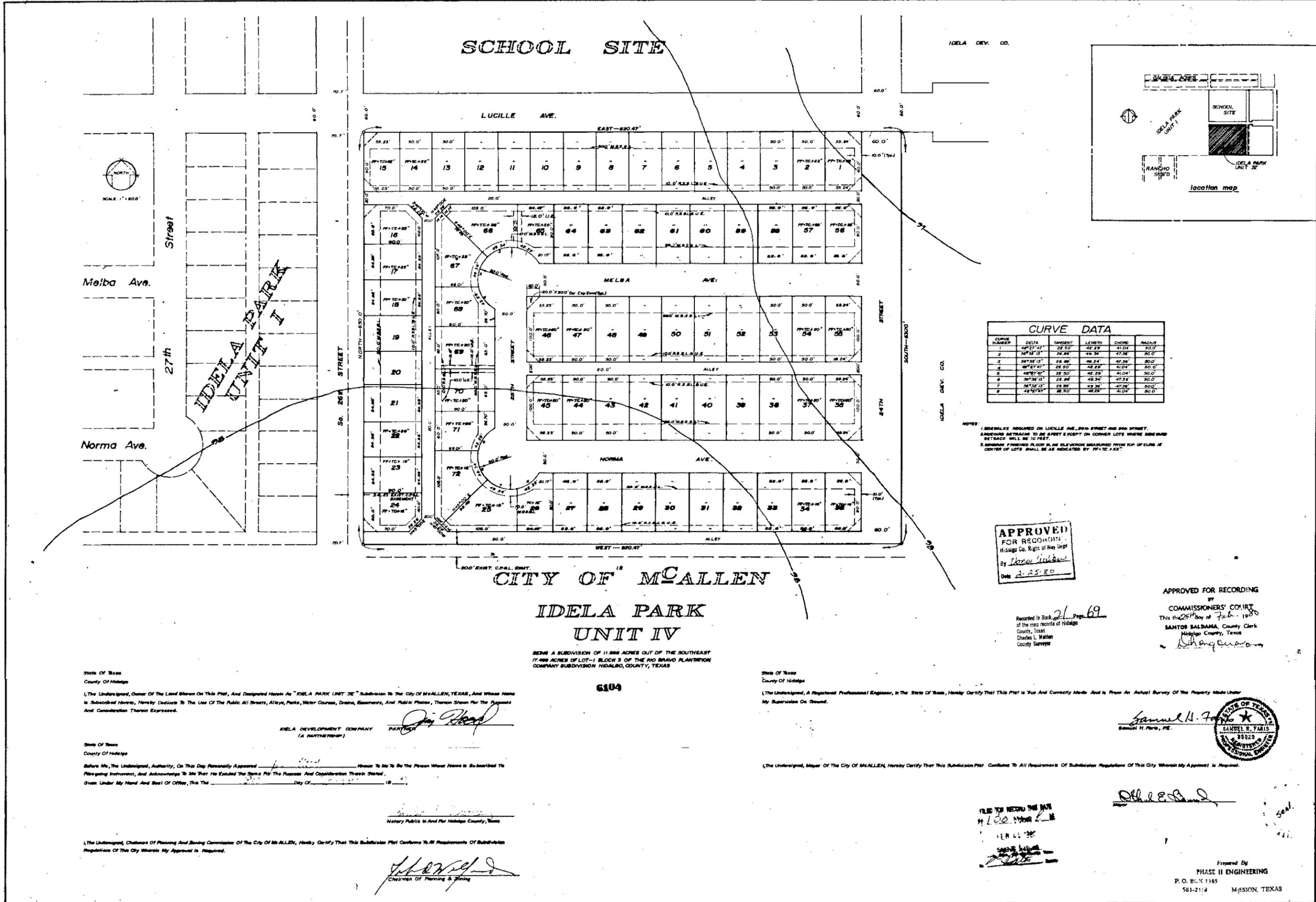
Sincerely,

Jerry Ray  
Manager-Engineering Right-of-Way

Attachment:

RECEIVED  
'APR 06 2015  
BY:





**CURVE DATA**

CURVE NUMBER	DELTA	TANGENT	LENGTH	CHORD	RADIUS
1	48°23'47"	22.50'	42.28'	41.04'	50.0'
2	54°52'13"	22.50'	42.28'	41.04'	50.0'
3	54°52'13"	22.50'	42.28'	41.04'	50.0'
4	48°23'47"	22.50'	42.28'	41.04'	50.0'
5	48°23'47"	22.50'	42.28'	41.04'	50.0'
6	36°36'11"	22.50'	42.28'	41.04'	50.0'
7	36°36'11"	22.50'	42.28'	41.04'	50.0'
8	48°23'47"	22.50'	42.28'	41.04'	50.0'

NOTES:  
 1. SIDEWALKS REQUIRED ON LUCILLE AVE., 27TH STREET AND 50TH STREET.  
 2. SIDEWALKS SETBACKS TO BE 5 FEET EXCEPT ON CORNER LOTS WHERE 20 FEET SETBACK SHALL BE 10 FEET.  
 3. MINIMUM FINISHED FLOOR SLAB ELEVATION MEASURED FROM TOP OF CURB AT CENTER OF LOTS SHALL BE AS INDICATED BY "FF" TO "FIN".

**APPROVED FOR RECORDING**  
 Hidalgo Co. Right of Way Dept.  
 By: *[Signature]*  
 Date: 2-25-80

**APPROVED FOR RECORDING**  
 BY COMMISSIONERS' COURT  
 This the 25th day of Feb. 1980  
 SANTOS BALDANA, County Clerk  
 Hidalgo County, Texas  
*[Signature]*

Recorded in Book 21 Page 69  
 of the map records of Hidalgo County, Texas  
 Charles L. Mason  
 County Surveyor

**CITY OF McALLEN**

**IDELA PARK UNIT IV**

BEING A SUBDIVISION OF 11.888 ACRES OUT OF THE SOUTHEAST 17.888 ACRES OF LOT-1 BLOCK 3 OF THE RIO BRAVO PLAYGROUND COMPANY SUBDIVISION HIDALGO COUNTY, TEXAS

6104

State of Texas  
 County of Hidalgo  
 I, The Undersigned, Owner of the Land Shown on This Plat, and Designated herein as "IDELA PARK UNIT IV" Subdivision to the City of McALLEN, TEXAS, and whose Name is Subscribed Herein, hereby Dedicates to the Use of the Public All Streets, Alleys, Parks, Water Courses, Drains, Easements, and Public Places, Therein Shown for the Purpose and Consideration Therein Expressed.

IDELA DEVELOPMENT COMPANY (A PARTNERSHIP)  
*[Signature]*

State of Texas  
 County of Hidalgo  
 Before Me, The Undersigned, Authority, on This Day Personally Appeared \_\_\_\_\_, known to Me to be the Person whose Name is Subscribed to the foregoing Instrument, and Acknowledges to Me that He Executed the Same for the Purpose and Consideration Therein Stated.  
 Given Under My Hand and Seal of Office, this the \_\_\_\_\_ Day of \_\_\_\_\_, 19\_\_\_\_.

*[Signature]*  
 Notary Public in and for Hidalgo County, Texas

I, The Undersigned, Chairman of Planning and Zoning Commission of the City of McALLEN, hereby Certify that This Subdivision Plat Complies with Requirements of Subdivision Regulations of This City wherein My Approval is Required.

*[Signature]*  
 Chairman of Planning & Zoning

State of Texas  
 County of Hidalgo  
 I, The Undersigned, A Registered Professional Engineer, in the State of Texas, hereby Certify that This Plat is True and Correctly Made and is From an Actual Survey of the Property Made Under My Supervision or Record.

*[Signature]*  
 Samuel H. Farris, P.E.  
 REGISTERED PROFESSIONAL ENGINEER

I, The Undersigned, Mayor of the City of McALLEN, hereby Certify that This Subdivision Plat Complies with All Requirements of Subdivision Regulations of This City wherein My Approval is Required.

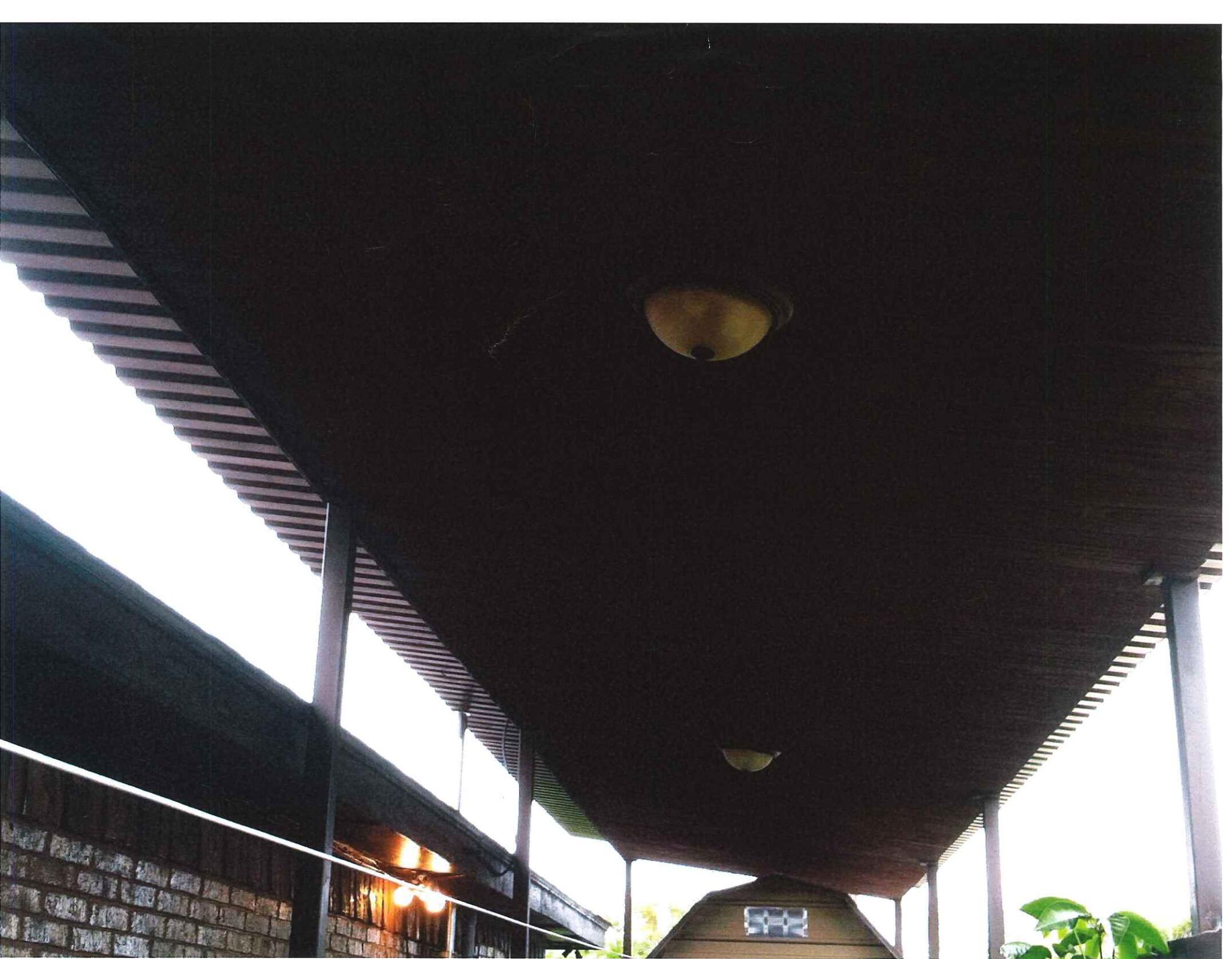
*[Signature]*

FILED FOR RECORD THE DATE  
 FEB 25 1980  
 COUNTY CLERK  
 HIDALGO COUNTY, TEXAS

Prepared By  
**PHASE II ENGINEERING**  
 P. O. BOX 1385  
 581-2124  
 MESSON, TEXAS









**Memo**

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

**FROM:** Planning Staff

**DATE:** August 14, 2015

**SUBJECT: REQUEST OF JOSE LUIS GALINDO TO ALLOW THE FOLLOWING VARIANCE REQUESTS TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) SIDE YARD SETBACK OF 2.25 FEET INSTEAD OF 5 FEET FOR A CARPORT MEASURING 24.16 FEET BY 25.25 FEET, 2) FRONT YARD SETBACK OF 2.41 FEET INSTEAD OF 25 FEET FOR A CARPORT MEASURING 24.16 FEET BY 25.25 FEET, FOR LOT 18, BLOCK 3, MCALLEN HEIGHTS SUBDIVISION, HIDALGO COUNTY, TEXAS; 1009 SOUTH 27<sup>TH</sup> STREET. (ZBA2014-0026)**

---

**GOAL:**

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

**REASON FOR APPEAL**

The applicant requests a variance to allow a side yard setback of 2.25 feet instead of 5 feet for a metal carport measuring 24.16 feet by 25.25 feet and a front yard setback of 2.41 feet instead of 25 feet for a carport measuring 24.16 feet by 25.25 feet. The property owner has built the 610 square foot carport in front of the residence.

**PROPERTY LOCATION AND VICINITY:**

The property is located along the east side of South 27<sup>th</sup> Street 255 feet north of Lindberg Avenue. The property is zoned R-1 (single family residential) District. The surrounding land use is single family residences. There is an existing single family residence on the subject property.

**BACKGROUND AND HISTORY:**

McAllen Heights Subdivision was recorded on January 28, 1959. The front yard setback is 20 feet or in line with existing structures as per ordinance. An existing carport is built 2.5 feet from the front property line. The applicant indicates that the carport was built

in May 2014. The applicant built the carport himself. The construction was noticed by Building Permit and Inspections staff while in the area. The applicant received a stop work order and a citation (#12727) for construction without a permit on May 30, 2014 from the Building Permit and Inspections Department. A building permit application was submitted June 2, 2014 and is pending the variance request.

**ANALYSIS:**

The purpose of the front yard setback is to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties within the subdivision.

Variance #1 is a side yard setback of 2.25 feet. The roof has a pitch that will cause rainfall runoff to spill into the neighboring property.

Variance #2 is the front yard setback of 2.41 feet. The carport is of metal construction unlike the house. The size and height of the carport is not compatible with the single family construction along the street.

The variance request is not due to special conditions nor is the plight of the owner unique. The request does not meet the criteria for approval.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request. At the Zoning Board of Adjustment and Appeals meeting of November 19, 2014 no one appeared in opposition of the variance requests. Jose Luis Galindo, the applicant, stated that during the hailstorm of 2012 his vehicles had been damaged and this was one of the reasons for constructing his carport. The applicant stated that the carport remains unfinished. Ms. Gloria Galindo stated that the carport had also been constructed for her since she needed the protection from inclement weather due to medical reasons. The applicant presented pictures of other carport structures in the area. Chairman Jose Gonzalez left the meeting at approximately 6 PM and board member Rolando Ayala stated that he would have to abstain from the consideration of this case. The number of members remaining would not constitute a full board. The Board unanimously voted with 5 members present and voting, to table the variance requests until the meeting of January 21, 2015 so that the requests may be heard by a full Board and to provide additional information with regards to the applicant's medical need for the carport. At the Zoning Board of Adjustments and Appeals meeting of January 21, 2015 the Board voted to table the variance requests until the meeting of July 15, 2015 in order to allow the City Commission to consider a medical reason as a special exception. At the Zoning Board of Adjustment and Appeals meeting of July 15, 2015 no one appeared in opposition of the variance requests. The Board voted to table the variance requests until the meeting of August 5, 2015 in order for the requests to be heard by a full Board.

There were three members present and voting. At the meeting of August 5, 2015 no one appeared to speak in opposition of the variance request. The Board unanimously voted to table the variance requests in order to allow the applicant time to consider a reduction in the building setback encroachments. There were five members present and voting.

ZBA 2014-0026

# City of McAllen Planning Department

1300 Houston Avenue  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

## APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

**Project**

Legal Description Carport 24 X 24  
Lot 18 BIK 3

Subdivision Name McAllen Heights

Street Address 1009 S. 27th St.

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

Existing Zoning R1 Existing Land Use House

Reason for Appeal (please use other side if necessary) Carport already  
Build cost \$3000 due to damage to cars during  
hail storm.

\$300.00 non-refundable filing fee

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

**Applicant**

Name Jose Luis Galindo Phone 956-537-9254

Address 1009 S. 27th St

City McAllen State TX Zip 78501

**Owner**

Name Jose Luis & Gloria Galindo Phone 537-9254

Address 1009 S. 27th St

City McAllen State TX Zip 78501

**Authorization**

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?  
 Yes  No

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

Signature [Signature] Date 6-6-14

Print Name Jose Luis Galindo  Owner  Authorized Agent

**Office**

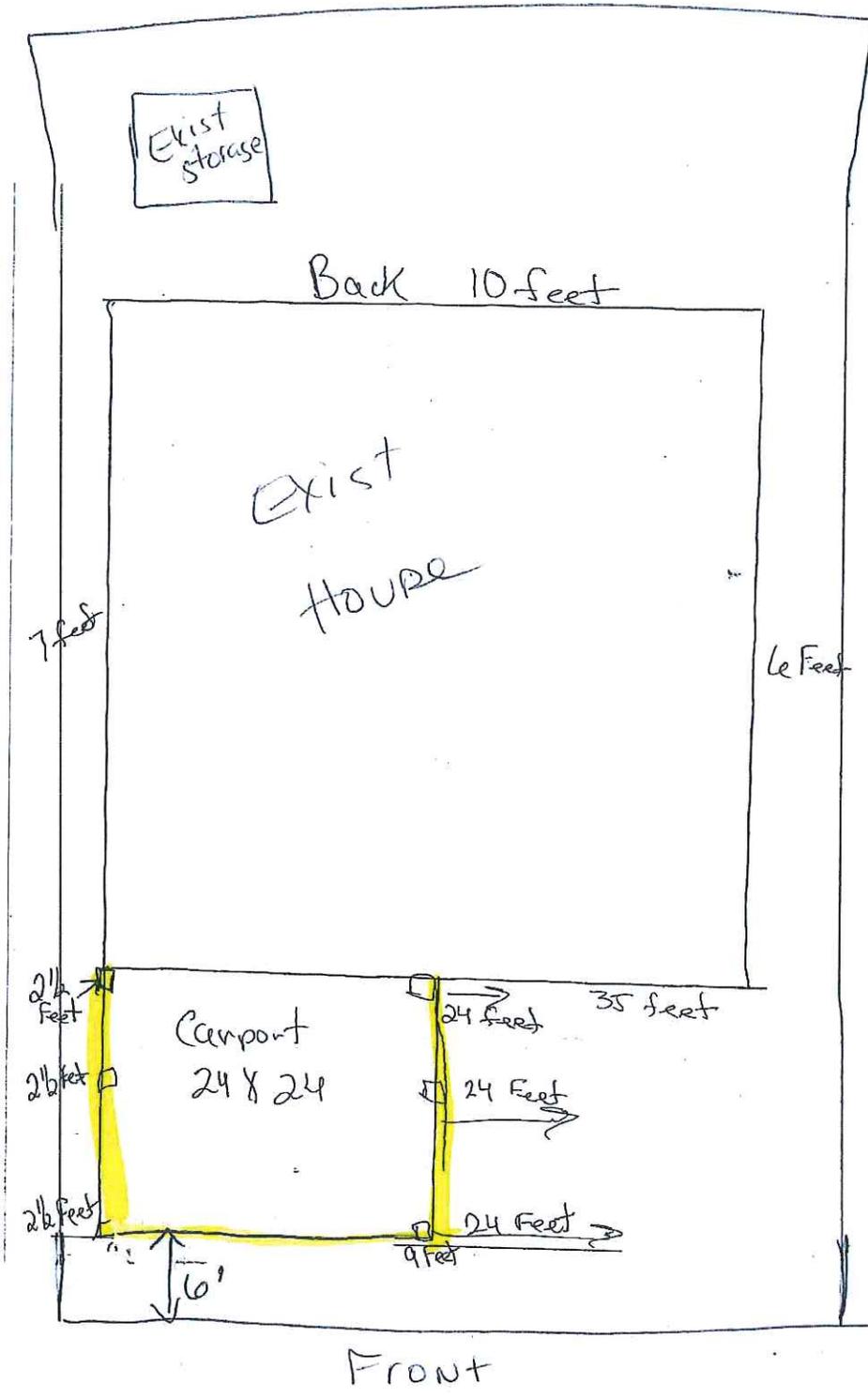
Accepted by [Signature] Payment received by \_\_\_\_\_ Date \_\_\_\_\_

Scanned + approved

RECEIVED  
JUL 18 2014  
BY: aw

Ret # 218, 588 ✓





9-4

McAllen Municipal Court  
1601 N. Bicentennial Blvd.  
McAllen, TX 78501  
(956) 681-2900

Warning

Ticket #  
12727

Date: <u>May 30/14</u>	Time: <u>10:09</u>	Issuer: <u>Jose Daniel Gonzalez</u>	ID # <u>9099</u>
Location/Block/Street: <u>1009 S. 27th</u>		License Plate:	

Permits	Health	Zoning
<input checked="" type="checkbox"/> Building	<input type="checkbox"/> Weedy Lot	<input type="checkbox"/> Sign Placed in ROW
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Accumulation of trash	<input type="checkbox"/> Signs w/o Permit
<input checked="" type="checkbox"/> Electrical	<input type="checkbox"/> Stagnant Water	<input type="checkbox"/> Erecting Signs w/o Permit
<input type="checkbox"/> Mechanical	<input type="checkbox"/> Illegal Dumping	<input type="checkbox"/> Proh. Portable Signs
<b>Work w/o Inspection</b>	<input type="checkbox"/> Gross Unsanitary Cond.s	<input type="checkbox"/> Front Yard Parking
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Deposit of Wastes	<input type="checkbox"/> Fail to Obtain C.U.P.
<input type="checkbox"/> Electrical	<b>Food/Retail</b>	<input type="checkbox"/> Expired C.U.P.
<input type="checkbox"/> Mechanical	<input type="checkbox"/> No Certified Manager	<input type="checkbox"/> Violation of C.U.P. Cond.
<input type="checkbox"/> Construction (com./res)	<input type="checkbox"/> No Food Handling Cert.	<b>Animal</b>
<b>Performing Work w/o Lic.</b>	<input type="checkbox"/> Hazardous Foods	<input type="checkbox"/> Leash Law
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Selling Food w/o Permit	<input type="checkbox"/> No Vaccinations
<input type="checkbox"/> Electrical	<input type="checkbox"/> Business on Sidewalks	<b>Fire</b>
<input type="checkbox"/> Mechanical	<input type="checkbox"/> Display/Sale on S/Sidewalk	<input type="checkbox"/> Exceed Occupancy
	<input type="checkbox"/> Proh. Outdoor Display/Sale of Merch.	<input type="checkbox"/> Blocked Exits
	<input type="checkbox"/> No Garage Sale Permit	<input type="checkbox"/> Fail to Maintain Fire Alarm

Violation/Offense: Construction of Cartport

Violation/Offense:

Last Name: Galindo First Name: Jose Middle: Luis

Street Address: 1009 S. 27th City: McAllen State: TX Zip: 78501

Res. Phone: Sex: M DOB: 8/24/59 Age: D.L. # 29487493 State: TX

Occupation: Self Employer: Phone:

Business Address: City: State: Zip:

I HEREBY PROMISE TO APPEAR BEFORE THE MUNICIPAL COURT ON OR BEFORE:

10th June, 2014

Signature: [Handwritten Signature]

YOUR FAILURE TO APPEAR MAY CAUSE A CRIMINAL COMPLAINT TO BE FILED AGAINST YOU AND A WARRANT FOR YOUR ARREST WILL BE ISSUED.



**BUILDING PERMIT APPLICATION**

REV. 11/2013

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

APPLICATION MUST BE COMPLETE  
(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER

RES201403593

APPLICANT

NAME Jose Luis Galindo PHONE 956 537 9254  
 ADDRESS 1009 S. 27th St  
 CITY McAllen STATE TX ZIP 78501  
 CONTACT NAME Jose Luis Galindo PHONE 956 227 6177  
 OWNER  CONTRACTOR  TENANT  OTHER

OWNER

NAME Jose Luis & Gloria Galindo PHONE 956 537 9254  
 ADDRESS 1009 S. 27th St  
 CITY McAllen STATE TX ZIP 78501

NEW  ADDITION  REMODELING  REPAIR  MOVE  REMOVE BLDG. HGT. \_\_\_\_\_ NO. OF FLOORS \_\_\_\_\_  
 BLDG SQ. FT. 24x24 NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ LOT FRONT \_\_\_\_\_ FLOOR EL. ABOVE CURB \_\_\_\_\_  
 EXISTING USE OF LOT House NEW USE \_\_\_\_\_ IMPROVEMENT VALUE \$ 3,000 1.00

SCOPE OF WORK TO BE DONE Carport

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS 1 NO BDRMS \_\_\_\_\_ NO BATHRMS \_\_\_\_\_ SQ. FT. NON-LIVING \_\_\_\_\_ SQ. FT. LIVING \_\_\_\_\_

FOUNDATION  CONCRETE SLAB  CONCRETE PIER  CONCRETE BLOCK  CONCRETE BEAM  WOOD POSTS  \_\_\_\_\_  
 EXT WALL  MASONRY VENEER  MASONRY SOLID  METAL SIDING  COMPOSITION  WOOD  \_\_\_\_\_  
 ROOF  WOOD SHINGLE  COMPOSITION  METAL  BUILD UP  \_\_\_\_\_  
 SPECIAL CONDITIONS  FIRE SPRINKLER SYSTEM  FIRE ALARM SYSTEM  TYPE OF CONSTRUCTION \_\_\_\_\_  ASBESTOS SURVEY  EABPR/JAB#: \_\_\_\_\_  CONDEMNED STRUCTURE

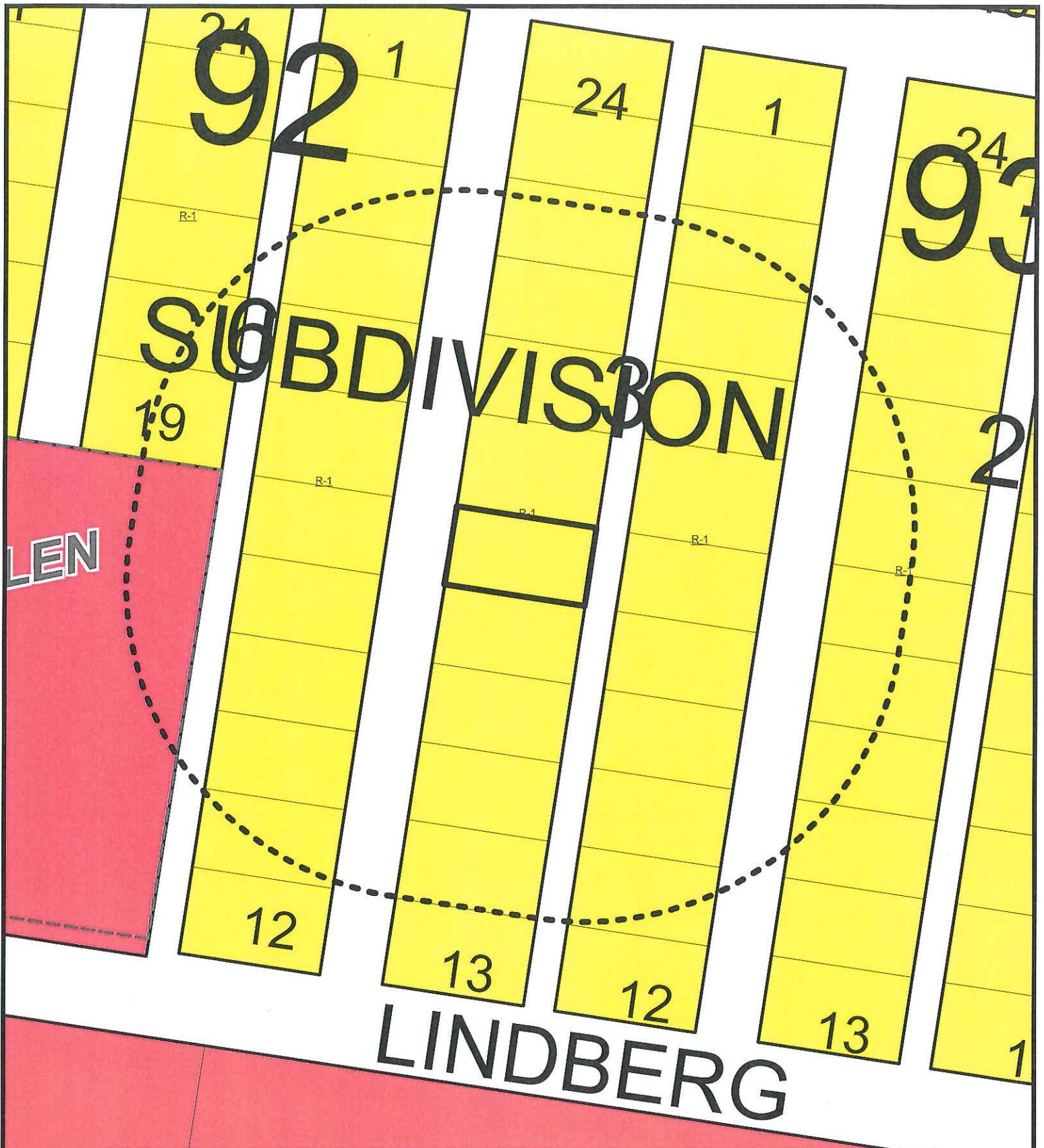
Carport  
 LOT 18 BLOCK 5 SUBDIVISION McAllen Heights  
 SITE ADDRESS 1009 S. 27th St. ST. NO. 27th ST. NAME 27th St.

CITY USE ONLY

ZONING \_\_\_\_\_ PERMIT FEE \$ 74.88 DOUBLE FEE \$ 74.88 REC'D BY SEK  
 PARK DEV.  PERMIT REVIEW FEE \$ \_\_\_\_\_ DATE 6/2/14  
 ZONE # \_\_\_\_\_ TOTAL PERMIT FEE \$ 149.76 TIME 1:55  
 PARK DEVELOPMENT FEE \$ \_\_\_\_\_

The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

[Signature] PRINT (AUTHORIZED AGENT/OWNER) Jose L. Galindo SIGNATURE gloragalindo715e EMAIL ADDRESS (required) 6/2/14 DATE  
shglobal.net





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: N.T.S.

**AREA MAP**



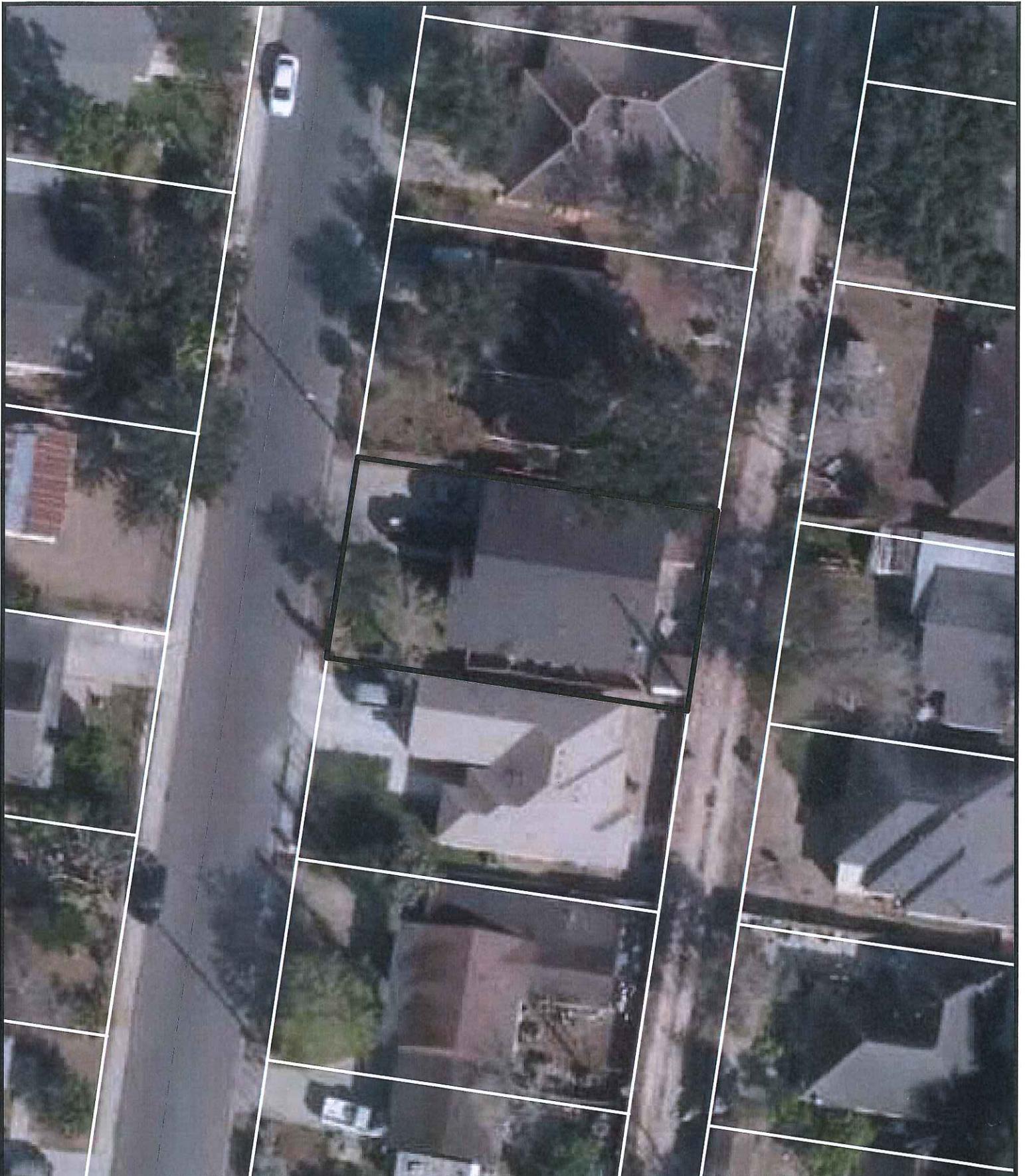
 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

 (AGRICULTURAL & OPEN SPACE)	 (APARTMENTS)	 (MOBILE HOMES)	 (GENERAL BUSINESS)	 (LIGHT INDUSTRIAL)
 (SINGLE FAMILY RESIDENTIAL)	 (CONDOMINIUMS)	 (OFFICE BUILDING)	 (LIGHT COMMERCIAL)	 (HEAVY INDUSTRIAL)
 (DUPLEX-FOURPLEX)	 (TOWNHOUSES)	 (NEIGHBORHOOD COMMERCIAL)	 (COMMERCIAL INDUSTRIAL)	 (SPECIAL DISTRICT)

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



**CITY OF McALLEN**  
PLANNING DEPARTMENT



**SUBJECT PROPERTY**

**AERIAL MAP**  
SCALE: N.T.S.



*on ground survey and represent approximate relative location of property boundaries.*







## Hidalgo CAD

### Property Search Results > 230316 GALINDO JOSE LUIS & GLORIA for Year 2014

#### Property

##### Account

Property ID: 230316 Legal Description: MCALLEN HEIGHTS LOT 18 BLK 3  
 Geographic ID: M2150-00-003-0018-00 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

##### Location

Address: 1009 S 27TH ST Mapsco:  
 MCALLEN, TX  
 Neighborhood: MCALLEN HEIGHTS Map ID:  
 Neighborhood CD: M215000

##### Owner

Name: GALINDO JOSE LUIS & GLORIA Owner ID: 139070  
 Mailing Address: 1009 S 27TH ST % Ownership: 100.0000000000%  
 MCALLEN, TX 78501-8322  
 Exemptions: DP, HS

#### Values

(+) Improvement Homesite Value:	+	\$35,820	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$13,500	
(+) Land Non-Homesite Value:	+	\$0	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$49,320	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$49,320	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$49,320	

#### Taxing Jurisdiction

Owner: GALINDO JOSE LUIS & GLORIA  
 % Ownership: 100.0000000000%  
 Total Value: \$49,320

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	Tax Ceiling
CAD	APPRAISAL DISTRICT	0.000000	\$49,320	\$49,320	\$0.00	
CML	CITY OF MCALLEN	0.431300	\$49,320	\$39,320	\$125.52	\$125.52
DR1	DRAINAGE DISTRICT #1	0.095700	\$49,320	\$49,320	\$47.20	
GHD	HIDALGO COUNTY	0.590000	\$49,320	\$49,320	\$234.78	\$234.78
JCC	SOUTH TEXAS COLLEGE	0.150000	\$49,320	\$49,320	\$59.33	\$59.33
R12	ROAD DIST 12	0.000000	\$49,320	\$49,320	\$0.00	
SML	MCALLEN ISD	1.165000	\$49,320	\$24,320	\$172.34	\$172.34
SST	SOUTH TEXAS SCHOOL	0.049200	\$49,320	\$49,320	\$24.27	

Total Tax Rate:	2.481200	Taxes w/Current Exemptions:	\$663.44
		Taxes w/o Exemptions:	\$1,223.73

**Improvement / Building**

<b>Improvement #1:</b>	<b>RESIDENTIAL</b>	<b>State Code:</b>	<b>A1</b>	<b>Living Area:</b>	<b>1666.0 sqft</b>	<b>Value:</b>	<b>\$35,820</b>
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA	MAIN AREA	BRKFA	DBRK	1960	1468.0		
POR	PORCH (COVERED)	BRKFA		1960	112.0		
ENC	ENCLOSED ADD	BRKFA		1960	198.0		

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1033	4500.00	50.00	90.00	\$13,500	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2015	N/A	N/A	N/A	N/A	N/A	N/A
2014	\$35,820	\$13,500	0	49,320	\$0	\$49,320
2013	\$35,820	\$13,500	0	49,320	\$0	\$49,320
2012	\$37,235	\$13,500	0	50,735	\$0	\$50,735
2011	\$37,235	\$13,500	0	50,735	\$2,586	\$48,149
2010	\$37,235	\$13,500	0	50,735	\$6,963	\$43,772
2009	\$37,234	\$13,500	0	50,734	\$10,941	\$39,793
2008	\$37,234	\$13,500	0	50,734	\$14,559	\$36,175
2007	\$41,055	\$13,500	0	54,555	\$21,669	\$32,886
2006	\$22,021	\$7,875	0	29,896	\$0	\$29,896
2005	\$22,820	\$7,875	0	30,695	\$0	\$30,695
2004	\$25,400	\$7,875	0	33,275	\$0	\$33,275
2003	\$24,366	\$7,875	0	32,241	\$0	\$32,241

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/8/1979 12:00:00 AM	WD	WARRANTY DEED	GALINDO JOSE LU	GALINDO JOSE LU			18452
2		CONV	CONVERSION	Unknown	GALINDO JOSE LU			

**Tax Due**

Property Tax Information as of 08/12/2014

Amount Due if Paid on:  ↓

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
------	---------------------	---------------	----------	-----------------	--------------	-------------------------------	---------------	------------

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

**Questions Please Call (956) 381-8466**

## Planning Department

### Memo

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

**FROM:** Planning Staff 

**DATE:** July 9, 2014

**SUBJECT:** REQUEST OF DANIEL R. VALDEZ TO ALLOW THE FOLLOWING VARIANCE REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) A FRONT YARD SETBACK OF 0.5 FEET INSTEAD OF 20 FEET FOR CARPORT MEASURING 19.75 FEET BY 19.66 FEET, 2) A SIDE YARD SETBACK OF 0 FEET INSTEAD OF 6 FEET FOR A STORAGE UNIT MEASURING 10 FEET BY 12.83 FEET, AND 3) A SIDE YARD SETBACK OF 0 FEET INSTEAD OF 6 FEET FOR A POOL PUMP STORAGE UNIT MEASURING 7 FEET BY 4.16 FEET, 4) A REAR YARD SETBACK OF 0 FEET INSTEAD OF 15 FEET FOR A WATER FOUNTAIN MEASURING 4 FEET BY 4.41 FEET, FOR LOT 94, OAK TERRACE SUBDIVISION, HIDALGO COUNTY, TEXAS; 1924 NORTH 34<sup>TH</sup> STREET (ZBA2014-0041)

---

#### GOAL:

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

#### REASON FOR VARIANCE REQUEST

The applicant requested a variance for an existing carport encroaching 19.5 feet into the front yard setback and wishes to keep the structure as currently constructed.

#### PROPERTY LOCATION AND VICINITY:

The property is located along the east side of North 34<sup>th</sup> Street approximately 50 feet south of Tamarack Avenue. The tract has 50 feet of frontage along North 34<sup>th</sup> Street with a depth of 123.42 feet. The property is zoned R-1 (single family residential) District. The surrounding land uses include single family residences. There is an existing single family residence on the subject property.

#### BACKGROUND AND HISTORY:

Oak Terrace Subdivision was recorded in November 1990. The plat indicates a 20 foot front yard setback, a 6 foot side yard setback, and a 15 foot rear yard setback. According to the tax records the applicant obtained the residence in 1991. The applicant received a Stop Work Order on October 13, 2014 from the Building Inspections and Permit Department for

construction of a carport without a permit. A building permit application has not been submitted at this time. The metal carport encroaches 19.5 feet into the front yard setback with the posts located 5.25 feet from the property line with an overhang of 4.75 feet. There is a 5 foot utility easement in the front of the property. There are two wooden storage units encroaching 6 feet into the side yard setbacks, one used for household objects and the other houses the pool pump. An application for the swimming pool was submitted in 1998 but was never finalized. A structure referred to as an incomplete water fountain encroaches 15 feet into the rear yard setback and rear utility easement.

**ANALYSIS:**

Variance #1: The metal carport is currently encroaching into the front yard setback and front utility easement. The overhang could be eliminated to clear the encroachment of the 5 foot utility easement. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The metal carport as constructed is not in character with the existing wood and brick residence therefore it does not maintain the curb appeal of the subdivision.

Variance #2 and #3: The two storage buildings encroach 6 feet into the side yard setback. The storage unit measuring 10 feet by 12.83 feet is attached to an existing covered patio which is attached to the residence. The pool pump storage unit measuring 7 feet by 4.16 feet could be removed. Pool equipment is permitted within the side yard setback however by enclosing the pool pump with walls and a ceiling the structure is not in compliance. A building permit is not required for an accessory structure less than 200 square feet.

Variance #4: The water fountain encroaches in the 15 foot rear yard setback and 15 foot utility easement. The structure would have to be removed completely without an abandonment of the utility easement. The applicant has been advised by staff that an abandonment of both easements would be required should the variance be approved as requested. Setbacks shown on the subdivision plat can only be changed by a vacate and replat process approved by the Planning and Zoning Commission.

**RECOMMENDATION:**

Staff recommends disapproval of the variance requests.

At the Zoning Board of Adjustment and Appeals meeting of December 3, 2014 the applicant was present and there was no one in opposition of the variance requests. After a brief discussion the Board voted to table the request for one month to allow the applicant time to meet with staff to consider alternative options for Variances #3 and #4 with five members present and voting. At the Zoning Board of Adjustment and Appeals meeting of January 7, 2015 variance #1 was tabled in order to allow the City Commission to discuss the issue of medical conditions as special exceptions. Variance #2 was approved with a side yard setback of 5 feet instead of 6 feet limited to the footprint of the storage building. Variances #3 and #4 were withdrawn by the applicant.

11/19/14  
ZBA

ZBA 2014-0041

# City of McAllen

1300 Houston Avenue  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

## Planning Department

### APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

**Project**

Legal Description \_\_\_\_\_

Subdivision Name OAK Terrace Lot 94

Street Address 1924 N 34th

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

Existing Zoning \_\_\_\_\_ Existing Land Use \_\_\_\_\_

Reason for Appeal (please use other side if necessary) car port see backs

\$300.00 non-refundable filing fee

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

**Applicant**

Name Daniel R Valdez Phone 956-821-8278

Address 1924 North 34th

City Mc Allen State Tx Zip 78501

**Owner**

Name Same Phone \_\_\_\_\_

Address Same

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Authorization**

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

Yes  No

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

Signature Daniel R Valdez Date 10-20-2014

Print Name Daniel R Valdez  Owner  Authorized Agent

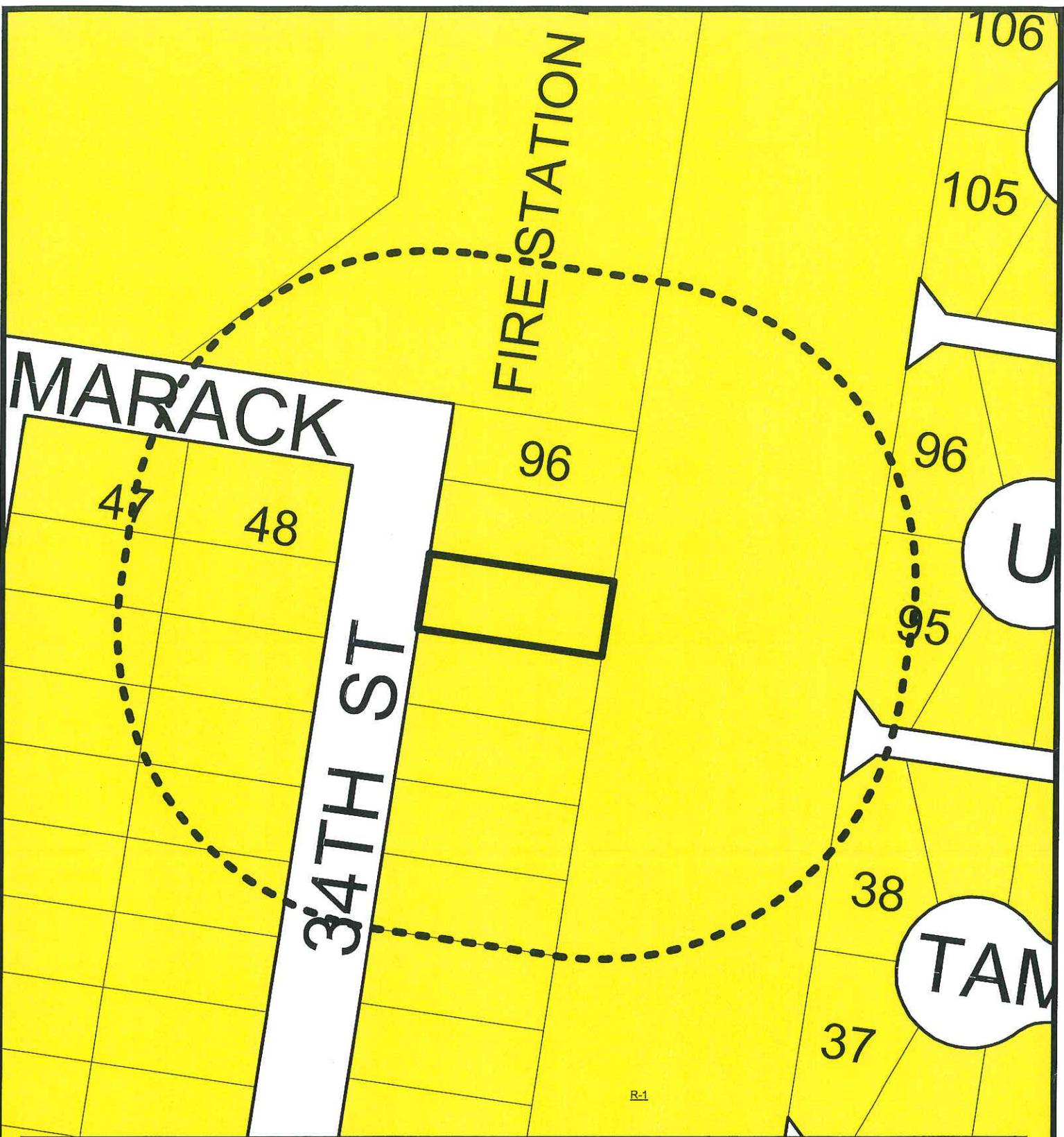
**Office**

Accepted by \_\_\_\_\_ Payment received by \_\_\_\_\_ Date \_\_\_\_\_

02/13  
R# 239105

RECEIVED  
OCT 20 2014  
BY: [Signature]





**CITY OF McALLEN**  
PLANNING DEPARTMENT

AREA MAP

**LEGEND**  
SCALE: N.T.S.



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLEX-FOURPLEX)	R-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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**CITY OF McALLEN**  
PLANNING DEPARTMENT



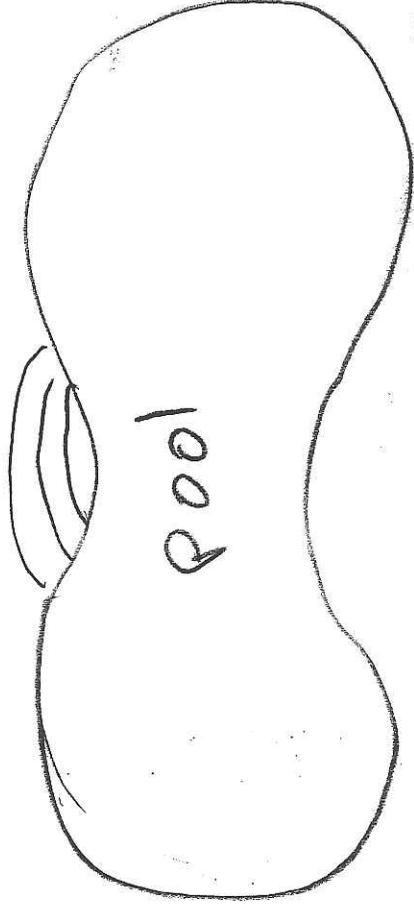
**SUBJECT PROPERTY**

**AERIAL MAP**  
SCALE: N.T.S.

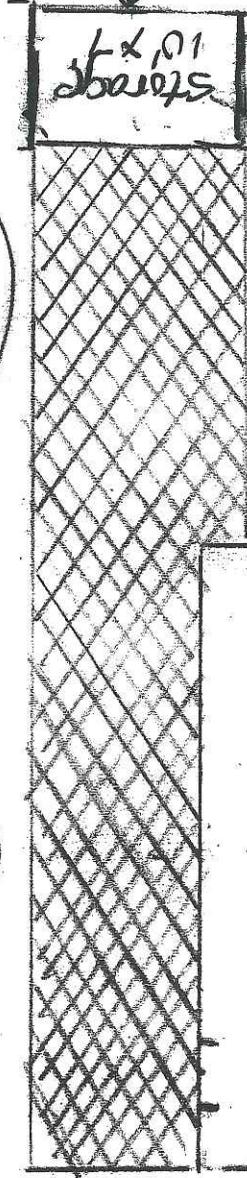


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Water Fall  
4x4



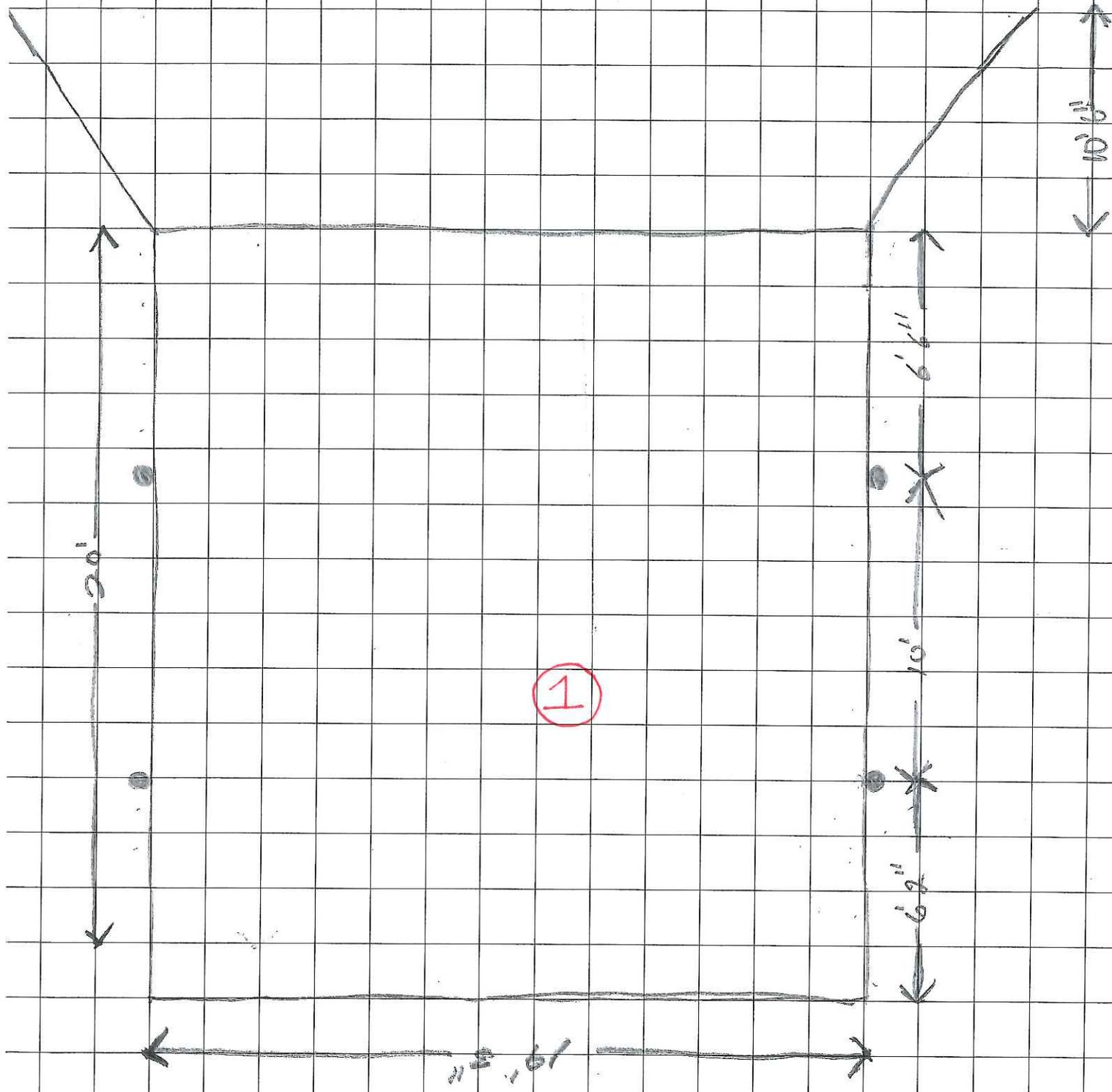
Pool pump  
7x4



6' 38' 6'



15' 19' 8" 5'

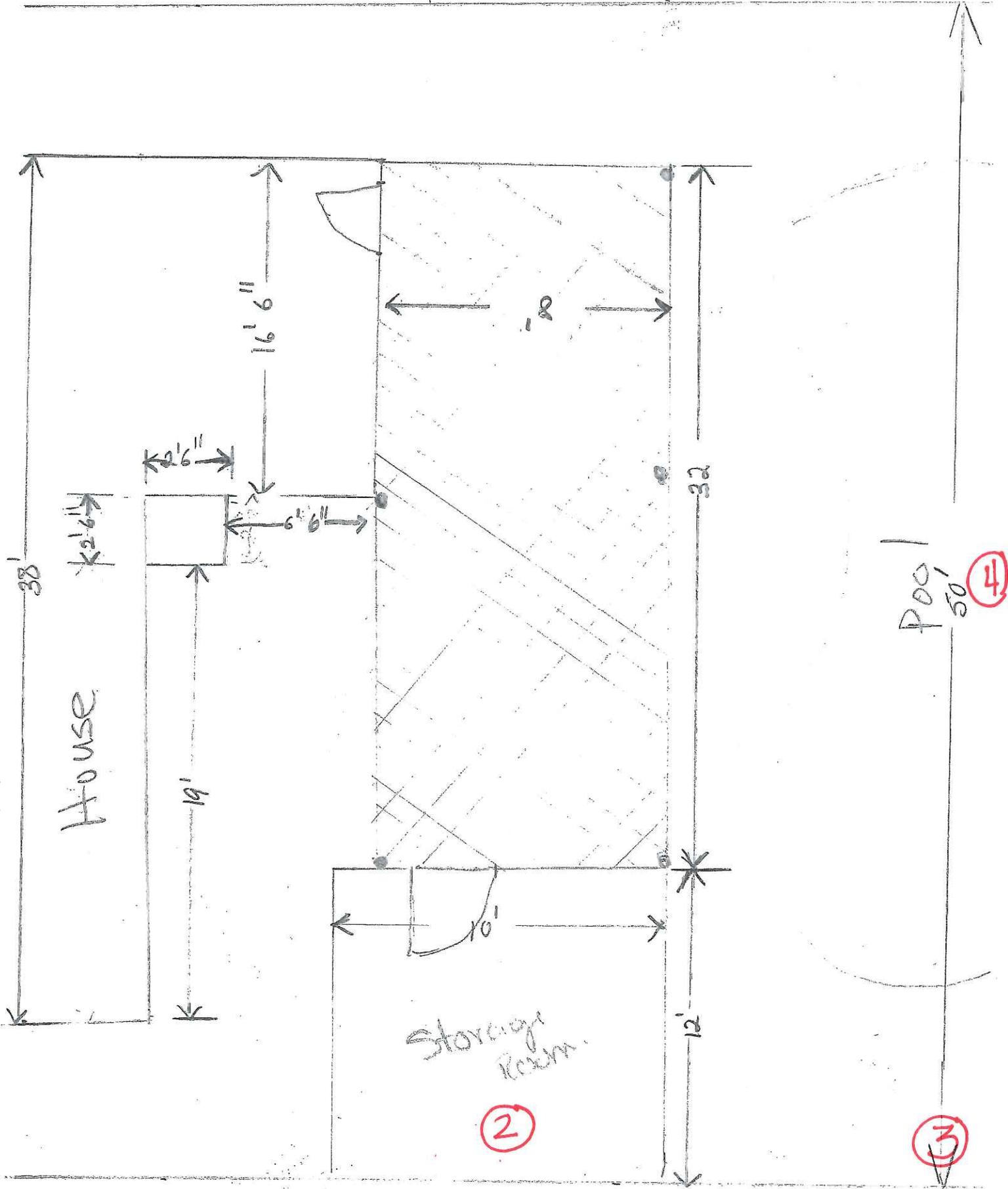


house

David Valdez

1924 W. 34th

McAllen Tx 78501



Property Search Results > 498302 VALDEZ DANIEL & MARIA G for Year 2015

**Property**

**Account**

Property ID: 498302 Legal Description: OAK TERRACE, LOT 94  
 Geographic ID: O0650-00-000-0094-00 Agent Code: ID:931438  
 Type: Real  
 Property Use Code: WD  
 Property Use Description: WITHDRAWALS

**Location**

Address: 1924 N 34TH ST Mapsco:  
 MCALLEN, TX  
 Neighborhood: OAK TERRACE Map ID: CML VOL 26 PG 174  
 Neighborhood CD: O065000

**Owner**

Name: VALDEZ DANIEL & MARIA G Owner ID: 257107  
 Mailing Address: 1924 N 34TH ST % Ownership: 100.000000000000%  
 MCALLEN, TX 78501-3528  
 Exemptions: HS

**Values**

(+) Improvement Homesite Value: + N/A  
 (+) Improvement Non-Homesite Value: + N/A  
 (+) Land Homesite Value: + N/A  
 (+) Land Non-Homesite Value: + N/A Ag / Timber Use Value  
 (+) Agricultural Market Valuation: + N/A N/A  
 (+) Timber Market Valuation: + N/A N/A  
 -----  
 (=) Market Value: = N/A  
 (-) Ag or Timber Use Value Reduction: - N/A  
 -----  
 (=) Appraised Value: = N/A  
 (-) HS Cap: - N/A  
 -----  
 (=) Assessed Value: = N/A

**Taxing Jurisdiction**

Owner: VALDEZ DANIEL & MARIA G  
 % Ownership: 100.000000000000%  
 Total Value: N/A

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	N/A	N/A	N/A	N/A
CML	CITY OF MCALLEN	N/A	N/A	N/A	N/A
DR1	DRAINAGE DISTRICT #1	N/A	N/A	N/A	N/A
GHD	HIDALGO COUNTY	N/A	N/A	N/A	N/A
JCC	SOUTH TEXAS COLLEGE	N/A	N/A	N/A	N/A
R12	ROAD DIST 12	N/A	N/A	N/A	N/A
SML	MCALLEN ISD	N/A	N/A	N/A	N/A
SST	SOUTH TEXAS SCHOOL	N/A	N/A	N/A	N/A
Total Tax Rate:		N/A			
Taxes w/Current Exemptions:					N/A

Taxes w/o Exemptions: N/A

**Improvement / Building**

Improvement #1: RESIDENTIAL State Code: A1 Living Area: 1965.0 sqft Value: N/A

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	BRKAV	DBRK	1991	1181.0
GAR	GARAGE	BRKAV		1991	462.0
ENC	ENCLOSED ADD	BRKAV		1991	148.0
UTY	UTILITY ROOM	BRKAV		1991	60.0
POR	PORCH (COVERED)	BRKAV		1991	35.0
MA2	MAIN 2ND FL	BRKAV		1991	636.0
SWPA8-9	SWP AVG CL 8M-9P	BRKAV		1998	80.0
STG	STORAGE	*		2012	100.0

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1417	6171.00	50.00	123.42	N/A	N/A

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2015	N/A	N/A	N/A	N/A	N/A	N/A
2014	\$76,921	\$19,747	0	96,668	\$0	\$96,668
2013	\$79,002	\$19,747	0	98,749	\$0	\$98,749
2012	\$92,295	\$19,747	0	112,042	\$4,122	\$107,920

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/12/1991 12:00:00 AM	CONV	CONVERSION	AFFORDABLE HOM	VALDEZ DANIEL & M	3103	241	

**Tax Due**

Property Tax Information as of 10/29/2014

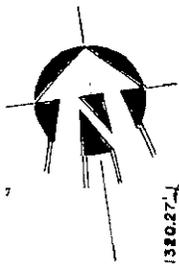
Amount Due if Paid on:  ↓

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

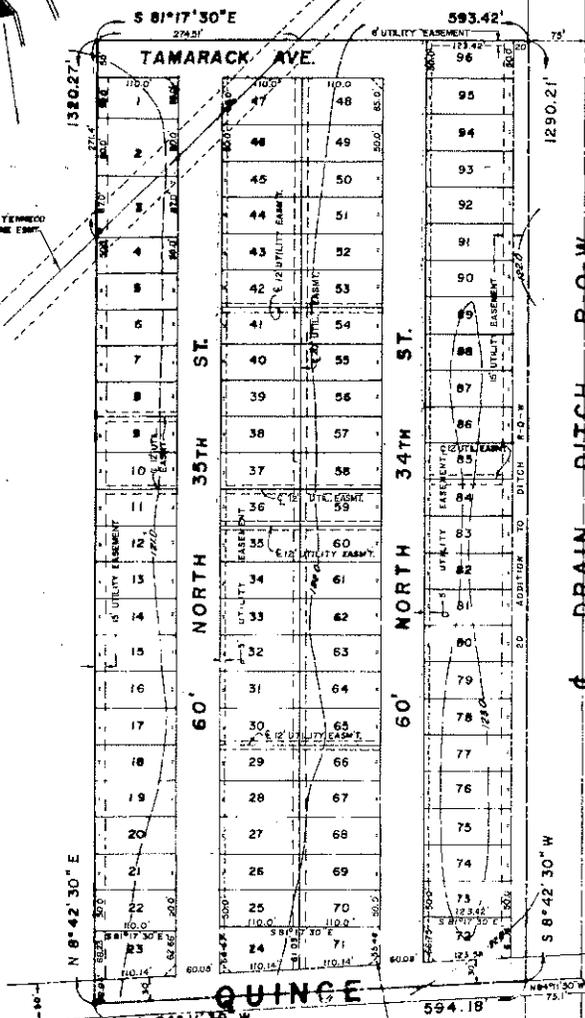
**Questions Please Call (956) 381-8466**

**This year is not certified and ALL values will be represented with "N/A".**



LOT 141  
LA LOMITA IRRIG. & CONST.  
CO. SUBDIVISION

LOT 141 LA LOMITA IRRIG. & CONST. CO.

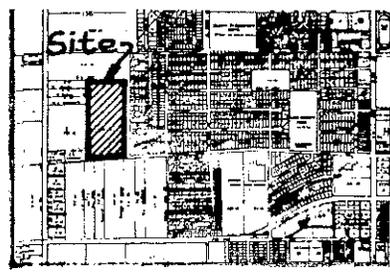


DRAIN DITCH R.O.W.

MONTEBELLO  
SUBD. No. 3

MONTEBELLO  
SUBD. No. 2

MONTEBELLO  
SUBD. No. 1



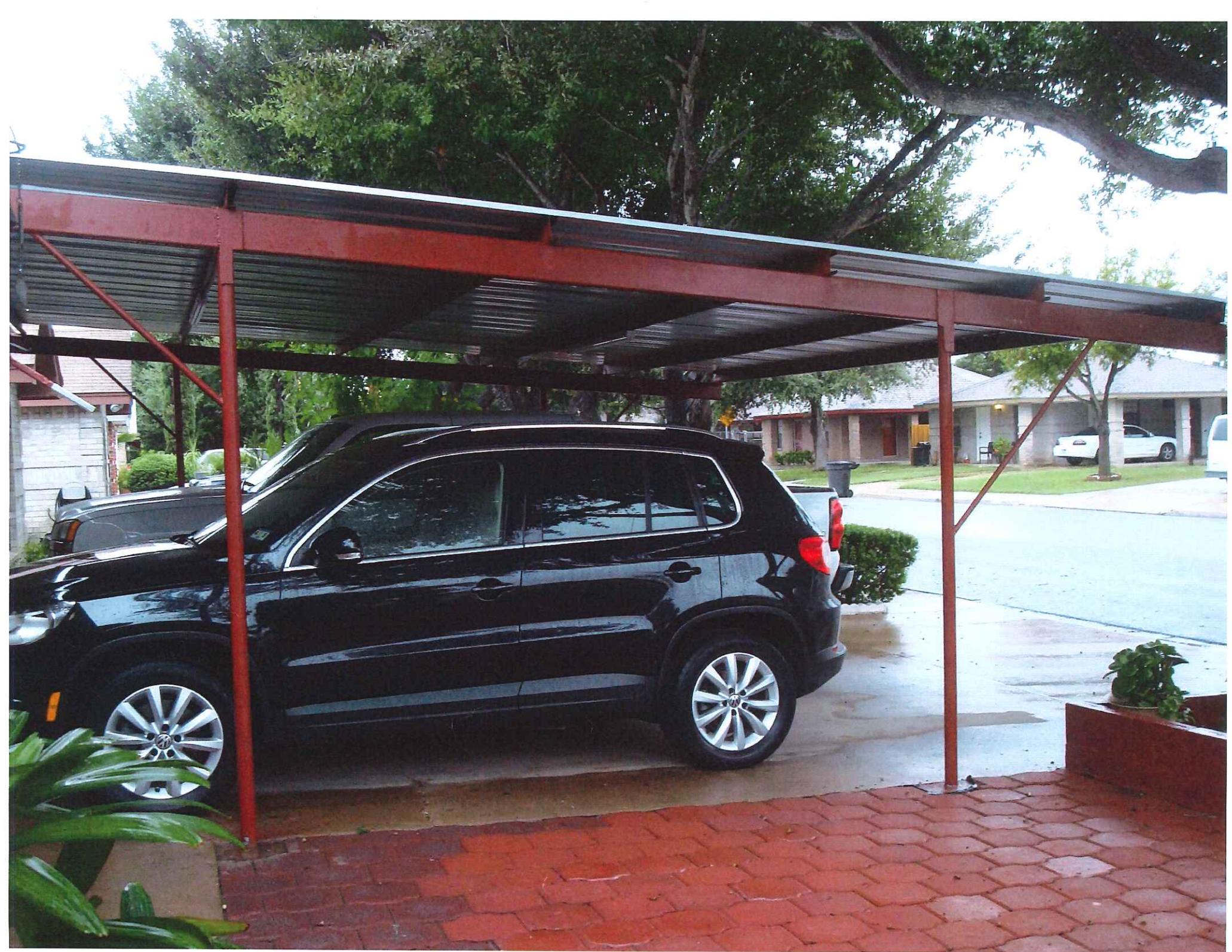
**DEED & MAPS**  
A PARCEL OF LAND OUT OF LOT 141, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY'S SUBDIVISION, OF PORTIONS A1, A2 & A3, MIDLAND COUNTY, TEXAS.  
COMMENCING at a point in 40 foot Buine Avenue; said point being the Southeast corner of Lot 141 and the Southwest corner of Lot 142;  
THENCE, with the South line of Lot 141, in Quince Avenue, North 84 Deg. 11 Min. 30 Sec. West, 75.1 feet for the point of beginning of this parcel and Southwest corner hereof;  
THENCE, with the South line of Lot 141, in Buine Avenue, North 84 Deg. 11 Min. 30 Sec. West, 294.28 feet to a point for the Southwest corner hereof;  
THENCE, parallel to the East line of Lot 141, North 8 Deg. 42 Min. 30 Sec. East, 293.42 feet to a point for the Northeast corner hereof; said point being South 8 Deg. 42 Min. 30 Sec. West, 842.23 feet and North 81 Deg. 17 Min. 30 Sec. West, 75.0 feet from the Northeast corner of Lot 141;  
THENCE, parallel to the East line of Lot 141, South 2 Deg. 42 Min. 30 Sec. West, 1290.21 feet to a point for the PLACE OF BEGINNING. Containing 17.78 acres, of which 0.27 acre is in Buine Avenue right of way.

- NOTES:**
- MINIMUM BUILDING SETBACKS SHALL BE AS FOLLOWS:  
A. FRONT - 20 FT.  
B. SIDE - 6 FT. EXCEPT WHERE ADJACENT TO STREET, INCREASE TO 10 FT.  
C. REAR - 15 FT.
  - RAINFALL RETENTION REQUIRED ON THIS SUBDIVISION SHALL BE 0.69 AC. FT., AS APPROVED BY CITY COMMISSION.
  - DEVELOPER TO PROVIDE AN ENGINEERED DETENTION PLAN APPROVED BY THE ENGINEERING DEPT. PRIOR TO APPLICATION FOR A BUILDING PERMIT.
  - 6' SIDEWALK REQUIRED ON BOTH SIDES OF 34TH & 35TH ST., SOUTH SIDE OF TAMARACK AVE., AND NORTH SIDE OF QUINCE AVE.
  - LOTS 23, 24, 71, AND 72 SHALL HAVE NO ACCESS OR FRONTAGE ON QUINCE AVE.
  - LOTS 1, 47, AND 48 SHALL HAVE NO ACCESS OR FRONTAGE ON TAMARACK AVE.
  - THIS PROPERTY FALLS IN ZONE "B" OF THE FLOOD INSURANCE RATE MAP COMMUNITY - PANEL NUMBER 480343 0003 C, DATED NOVEMBER 2, 1987.

LOT 4, BLOCK 2  
C. E. HAMMOND'S SUB'D.

MAP  
OF  
**OAK TERRACE**  
McALLISTER, TEXAS.





**2g) 1409 EAST EXPRESSWAY 83  
(ZBA2015-0035)**

**TABLED UNTIL OCTOBER 21, 2015**

## Exceptions Cited within the Zoning Ordinance

### Exceptions pertaining to front yard setbacks:

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

### Exceptions pertaining to rear yard setbacks:

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

Exceptions pertaining to side yard setbacks:

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

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

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

## Exceptions as per Planning Department Policy

By policy the following are permitted:

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

Legal opinions:

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

## CRITERIA FOR ZBOA DETERMINATIONS

### APPEALS

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

### SPECIAL EXCEPTIONS

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

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

#### **Ord. Sec. 138-86. – GENERAL POLICY.**

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

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

## VARIANCES

Authorized only when ALL of the following applies:

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

# ZONING BOARD OF ADJUSTMENT AND APPEALS

## RULES AND PROCEDURES

### CITY OF MCALLEN

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

#### **I. ORGANIZATION AND OFFICERS**

##### **A. Members**

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

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

##### **B. Officers**

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

##### **C. Duties and Officers**

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

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

## **II. POWERS OF THE BOARD**

### **A. General Powers**

The Board has those powers specified in Section 211.009 and 241.033 of the Code, and those powers granted by the City Commission under Chapter 138 (Zoning Ordinance) and Chapter 110 (Vegetation Ordinance) of the City Code, and those powers granted to the Board by ordinance.

### **B. Specified Powers**

As per city ordinance and state statute, the Board has those powers described in Section 211.009 of the Code and Section 138-43 of the City Code. Those powers described in Section 138-43 are:

1. Hear and decide appeals that allege an error in any order, requirement, decision or determination made by an administrative official or agency in the enforcement of applicable provisions of the Local Government Code, the City Ordinance;
2. Authorize variances to specific cases from the terms of the City Code as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of City Ordinance will result in unnecessary hardship, and so that the spirit of ordinances shall be observed and substantial justice done;
3. Grant special exception to waive or reduce parking and loading requirements whenever the character and use of the building is such as to make unnecessary the full provisions of parking or loading, or where such regulations would impose an unreasonable hardship upon the use of the lot; and
4. Hear and decide any other matters authorized by the City Commission through ordinance.

## **III. DUTIES OF BOARD MEMBERS**

### **A. General Duties of Members**

1. All members of the Board should attempt to inspect the premises of each case which is under consideration at each meeting and become generally familiar with each case prior to Board meetings.
2. All members shall attend all meetings, provided, however, the member must provide 72 hours prior notice to the Executive Secretary in the event the member cannot attend.
3. All members of the Board shall arrive at a logical and fair decision on each case, except where a conflict may preclude a vote on the case.

### **B. Disqualification/Conflict of Interest**

All members of the Board of Adjustment are subject to the City of McAllen Ethics Ordinance (Chapter 2 of the City Code).

In all cases before the Board where a member of the Board has a conflict as described in the Ethics Ordinance, the member shall refrain from any discussion, deliberation or vote. When applicable, the member shall complete and submit a City Conflict of Interest form, but in all cases alert the Executive Secretary at least 72 hours prior to the meeting on which the conflict is at issue. The Executive Secretary shall submit all notices of conflict to the City's attorney.

#### **IV. A BASIS FOR ACTION**

The Board shall decide each case based on the following:

1. Facts filed with application.
2. Testimony presented at the public hearing on the appeal.
3. The Planning Department's technical report on the appeal.
4. The Board's findings in its field inspection of the property may question all witnesses to assist the Board in arriving at a correct, logical and fair decision.
5. The applicable standards of review described in Section 138-43 of the City Code and Sections II.A., II.B. and VI. of these Rules.
6. All decisions shall be made on the Basis for Action. Neither the Board nor the individual members may use personal, first hand knowledge of any facts to make a determination, if such information has not been entered into the record or made available at the public hearing.

#### **V. APPLICANTS**

##### **A. Legally Vested Interest**

The Board shall not consider an application from any applicant who does not have a vested legal or equitable interest in the property in question. Applicants may appear on their own behalf or may be represented by counsel or agent. Any representation by someone other than an applicant must be accompanied with a written designation by the applicant for the agent to act on behalf of the applicant. (For example, the representative may produce a letter from the applicant to the Planning Department to authorize the representative to speak on behalf of the applicant; or, the representative may submit an application on behalf of a verifiable power of attorney.)

##### **B. Applications**

All applications for consideration by the Board must be on the prescribed form approved by the Planning Department and acceptable to the Board. The Board shall not consider applications for a variance or a special exception or any other Board action, if the application is not on a designated form. The Board shall approve the official application and the Chair shall implement it.

All applications for variances and special exceptions to commercial properties must be submitted with a current, valid "on the ground" survey. An applicant must submit a pauper form with their application if

they cannot proffer a valid survey; provided, however, the applicant illustrates their property with setbacks and encroachments as a survey would.

### C. **Meetings**

Applicants have the right to be heard at all meetings where their applications are considered for a dispositive vote. Applicants not able to be present at the scheduled meeting to consider their application may submit to the Planning Department a written request for the Board to table the application. The Board will decide whether or not to grant the applicant's request to table. No application may be tabled at the request of applicant for more than two meetings prior to being considered for a dispositive vote. However, if the applicant requests for his/her application to be tabled because there are only four (4) board members present, such request shall not be counted against applicant's two (2) opportunities to table his/her request. Board action may proceed on any application despite the request of any applicant to table the application. The Board shall note on the record the reason(s) for the tabling of an agenda item. The reason(s) for each tabling, as well as the number of times an agenda item has been tabled, shall be reflected in an activity log in the meeting minutes at the end of each agenda item.

### D. **Evidence**

Applicants should be prepared to present evidence necessary to prove their application. The burden of persuasion on seeking a remedy from the Board remains with the applicant at all times.

## VI. **HARDSHIP**

A. For an "unnecessary hardship" to apply to a variance, it must relate to the very property for which the variance is sought and be a condition unique, oppressive, and uncommon to other properties. An unnecessary hardship may not be self-created, or be solely financial.

B. "Hardship" must be based on hardship resulting from sharp changes in topography or unusual terrain features. The applicant may prove the topography with a plot plan which includes topographic information related to known base points or surveys, and profiles or particular problems involved, including relationships to topographic features of adjoining properties.

C. There is no unnecessary hardship if the property is suitable and useable for the uses permitted in the district in which it lies, although there will be a loss of profit or other economic disadvantage on account of such use.

## VII. **MEETINGS**

### A. **Texas Public Information Act and Open Meetings Act.**

Except as permitted under the advice of the Board's attorney, all meetings of the Board are subject to the Texas Public Information Act and shall be open to the public. The minutes of the Board's meetings and records of its examination or other official actions are public records, unless excepted under law.

## **B. Quorum**

A quorum consists of seventy-five percent (75%) of the full complement of members. For a full complement of five (5) members, therefore, four (4) members present constitute a quorum. The Chair may declare a quorum does not exist fifteen (15) minutes following a posted meeting time, having found at least four (4) members and alternate members are not present; provided however, the Chair may not declare a quorum thirty (30) minutes from the posted time, should at least members and alternate members not be present.

## **C. Regular Meetings**

Regular meetings shall be held every first and third Wednesday at 5:30 P.M., or at other times as determined by the Board, in the City Commission Chambers. The Board by majority vote may change the place, day, and hour of the meetings; provided that, notice complies with the Texas Open Meetings Act (Chapter 511 of the Texas Government Code).

## **D. Special Meetings**

The Chair may call a special meeting. A special meeting shall have a lawful purpose and members and public shall be given at least seventy-two (72) hours notice prior to the meeting.

## **E. Order of Business**

The usual order of business shall be:

1. Call to Order
2. Approval of Minutes
3. Open Public Hearing
4. Other Statements
5. Introduction: New Information Recommendation
  - a) Presentation of recommendation by City Staff.
  - b) The Chair shall call the applicant or his representative(s) to present the case and answers any questions. If the applicant or representative is not present when called, the Chair may move a case to the end of the agenda.
  - c) The Chair shall then inquire if there are others who wish to address the Board in support of the case.
  - d) The Chair shall then inquire if there are those present who wish to address the Board who are opposed to the case.
  - e) The applicant or his representative may then give a rebuttal to any opposition.
  - f) If new facts are presented during this rebuttal, opposition shall be given the opportunity for rebuttal
  - g) Staff shall then have an opportunity to provide additional information, clarification or address questions from the Board.
  - h) Board discussion.
  - i) The Chair shall then declare that the discussion of the case is closed.

- j) In order to achieve an unambiguous decision, motions should be made in affirmative manner when possible.
  - k) Any motion by a member shall require a second. After a motion has been made and duly seconded, discussion of the motion may be held for a reasonable time. Discussion shall terminate whenever a member shall call for a vote upon the question or whenever the Chair shall so rule.
  - l) Vote on a motion.
6. The Chair may move a case out of regular agenda order.
  7. Staff Report
  8. Other Business posted on the Agenda
  9. Adjournment

**F. Staff Recommendations**

City staff shall provide recommendations on each case before the Board.

**G. Action by the Board**

The super-majority concurring vote of seventy-five percent of the full board compliment, i.e., four affirming members of the Board, shall be necessary to reverse an order, requirement, decision or determination of an administrative official or agency; to decide in favor of an applicant on a matter upon which the Board is required to pass under any such ordinance or regulation; to authorize a variation; or to recommend to the Director of Planning to uphold or modify the interpretation of the City Code. All other matters shall be decided by a majority vote, unless otherwise specified in the City Code. The Board on its own motion may table an application when an applicant does not appear; provided however, in no case may the board table an application, for failure of the applicant to appear, more than twice without taking a dispositive vote.

**H. Minutes of the Board**

The Board, through its designated appointee, shall keep minutes of all meetings that indicate the vote of each member on every question on which it is required to act, or the fact that a member is absent or fails to vote. The minutes shall be filed in the office of the Planning Department and are public record.

**VIII. DECISIONS OF THE BOARD**

**A. Precedent**

There is not precedent. Any one case does not set a precedent for any future case. Each case shall be decided on its own merits and upon the circumstances of the case.

**B. Public Statements**

No Board member shall release any official statement to the public or the press. Only the Director of the Planning Department or her designated representative may make official statements on behalf of the Board.

**B. Parliamentary Procedure**

Any question regarding parliamentary procedure not covered by these rules shall be decided according to the latest edition of Robert's Rules of Order.

**IX. WITHDRAWAL OF APPEAL**

Any appeal or application may be withdrawn by the applicant upon written notice to the Director of Planning.

**X. ATTENDANCE**

Excessive absences cannot be tolerated, as the Board depends on a super majority of attendance in order to exercise decisions on applications for a variance. Three absences or more in a six-month period are excessive. If a Board member is excessively absent from regularly scheduled meetings, the Board may recommend to City Commission, by majority vote, that the Commission appoint an immediate replacement.

**XI. AMENDEMENT PROCEDURE**

Amendment to these rules and procedures may be made by the Board at any meeting, upon the affirmative vote of five (5) members, provided any such amendment is proposed at a preceding meeting and entered into the minutes of such meeting. However, board members may adopt through unanimous consent of all members an amendment at the meeting at which it was introduced; provided, however, the amendment shall not become effective until the next regular meeting.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014 as affirmed by the designated Executive Secretary assigned by the Planning Department of the City of McAllen.

\_\_\_\_\_  
**Executive Secretary**

## 2015 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/07/15	01/21/15	02/04/15	02/18/15	03/04/15	03/18/15	04/01/15	04/15/15	05/06/15	05/20/15	06/03/15	06/17/15	07/01/15	07/15/15	08/05/15	08/19/15	09/02/15	09/17/15	10/07/15	10/21/15	11/04/15	11/18/15	12/02/15	12/17/15
JOSE GONZALEZ	P	A	P	A	A																			
ROBERT MOREHEAD	P	A	P	P	P	P	P	P	A	P	P	P	A	A	P	P	P							
MIKE HOVAR	P	A	P	P	P	A	P	P	A	P	P	P	P	A	P	P	P							
MIKE HARMS	P	P	A	P	P	A	P	A	P	A	P	P	P	A	P	P	A							
ROLANDO AYALA	P	P	A	A	P	P	A	A	P	A	P	A	A	P	P	P	P							
JORGE SALINAS						P	P	P	P	P	P	A	P	P	P	A	P							
SYLVIA HINOJOSA (ALTERNATE 3)	P	P	P	P	P	P	P	P	A	A	A	P	A	A	P	P	A							
JOSE R. GUTIERREZ (ALTERNATE 1)	P	P	P	P	P	P	P	P	P	P	P	P	A	A	P	P	P							
SHAVI MAHTANI (ALTERNATE 2)	A	P	A	P	P	A	A	A	A	A	A	P	P	A	P	A	A							
TERRY L. PEREZ (ALTERNATE 4)	A	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							

P - PRESENT

A - ABSENT

■ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO REGULAR MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

## 2015 CALENDAR

<b>Meetings:</b>  City Commission  Planning & Zoning Board  Public Utility Board  Zoning Board of Adjustment HPC - Historical Preservation Council							<b>Deadlines:</b> D- Zoning/CUP Application      N - Public Notification						
<b>JULY 2015</b>							<b>AUGUST 2015</b>						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 N - 7/21 P&Z	2	3 HOLIDAY	4							1
5	6	7 AD - 8/4 & 8/5	8 D - 8/4 & 8/5	9	10	11	2	3	4 AD - 9/1 & 9/2	5 D - 9/1 & 9/2	6	7	8
12	13	14 AD - 8/18 & 8/19	15 N - 8/18 & 8/19	16	17	18	9	10 AD - 9/1 & 9/2	11 AD - 9/16 & 9/17	12 N - 9/1 & 9/2	13	14	15
19	20	21 AD - 8/18 & 8/19	22 D - 8/18 & 8/19	23 HPC	24	25	16	17	18 AD - 9/16 & 9/17	19 D - 9/16 & 9/17	20	21	22
26	27	28 AD - 8/18 & 8/19	29 N - 8/18 & 8/19	30	31		23	24 AD - 9/16 & 9/17	25 AD - 9/16 & 9/17	26 HP	27	28	29
							30	31		N - 9/16 & 9/17			
<b>SEPTEMBER 2015</b>							<b>OCTOBER 2015</b>						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 AD 10/6 & 10/7	2 D - 10/6 & 10/7	3	4 AD 10/6 & 10/7	5					1	2	3
5	7 HOLIDAY	8	9 N - 10/6 & 10/7	10	11	12	4	5	6 AD 11/3 & 11/4	7 D - 11/3 & 11/4	8	9	10
13	14	15 AD 10/20&10/21	16 D 10/20&10/21	17	18	19	11	12 AD 11/3 & 11/4	13 AD 11/3 & 11/4	14 N 11/3&11/4	15	16	17
20	21 AD 10/20&10/21	22	23 N 10/20&10/21	24 HPC	25	26	18	19	20 AD 11/17&11/18	21 D - 11/17&11/18	22	23	24
27	28	29 AD 11/17 & 11/18	30				25	26 AD 11/17 & 11/18	27 AD 11/17 & 11/18	28 HP	29	30	31
										N 11/17 & 11/18			
<b>NOVEMBER 2015</b>							<b>DECEMBER 2015</b>						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 AD 12/1 & 12/2	4 D 12/1 & 12/2	5	6	7			1 AD 1/19&1/20	2 D - 1/5 & 1/6	3 HP	4	5
8	9 AD 12/1 & 12/2	10 AD 12/1 & 12/2	11 N 12/1 & 12/2	12	13	14	6	7 AD - 1/5 & 1/6	8	9 N - 1/5 & 1/6	10	11	12
15	16	17 AD 12/16 & 12/17	18 D 12/16 & 12/17	19	20	21	13	14	15 AD 1/19&1/20	16 D 1/19 & 1/20	17	18	19
22	23 AD - 12/16 & 12/17	24 AD 12/16 & 12/17	25 N 12/16 & 12/17	26 HOLIDAY	27	28	20	21 AD 1/19&1/20	22	23 N - 1/19 & 1/20	24 HOLIDAY	25 HOLIDAY	26
29	30						27	28	29	30	31		

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.