

STATE OF TEXAS  
COUNTY OF HIDALGO  
CITY OF MCALLEN

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

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

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

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

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

**2. PUBLIC HEARINGS:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Measurements provided are without the benefit of a survey.

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

Staff recommended disapproval of the variance request.

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

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

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

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

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

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

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

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

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


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

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

#### ADJOURNMENT

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

  
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Carmen White, Administrative Assistant

  
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Chairperson Jose Gutierrez