

STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, December 18, 2024 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Hugo Avila	Member
	Hiram A. Gutierrez	Member
	Daniel Santos	Member
	Ivan Garcia	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
Absent:	Pablo Garcia	Alternate
Staff Present:	Luis Mora	Deputy Director
	Samuel Nunez	Senior Planner
	Porfirio Hernandez	Planner I
	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 December 4, 2024

The minutes for the meeting held on December 4, 2024. The motion to approve the minutes were made by Mr. Hugo Avila. Mr. Daniel Santos seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) Request of RSVP MCALLEN OWNER LLC for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 19 feet into the 50-foot front yard setback for an existing carport at Lot 1, Premier Storage Subdivision, Hidalgo County, Texas; 301 East Trenton Road. **(ZBA2024-0054)**

Ms. Martinez stated the applicant was requesting a special exception for an encroachment of 19 feet into the 50 feet front yard setback for a proposed metal (carport) measuring 21.51 feet by 44.24 feet. The new property owner for this lot is applying to obtain a new special exception for the existing carport on the property, which would be an amenity for the storage clients while they are unloading items from vehicles, especially during inclement weather.

Premier Storage Subdivision was recorded on May 17, 2022. The front yard setback is 50 feet as per plat. An application for a building permit for construction of a three-story building was submitted to the Building Permits and Inspections Department on December 20, 2022. An application for a Special Exception request by the previous property owner

was submitted to the Planning Department on June 02, 2022. The Special Exception request was approved at the Zoning Board of Adjustment & Appeals at the meeting of July 7, 2022. The current property owner submitted an application for a Special Exception request on November 25, 2024.

The request is for a special exception to allow an encroachment of 19 feet into the 50 feet front yard setback for a proposed metal (carport) measuring 21.51 feet by 44.24 feet. The applicant is applying for a special exception request to obtain new ownership for the existing carport on the property to provide a protection and convenient amenity while their clients from the storage facility load/unload items from their vehicles. No modifications have been made to the existing carport on site since a special exception was last approved.

The City of McAllen Zoning Ordinance Sec. 138-356 11(b) (3) requires a minimum of 15 feet for the front yard setback on commercial properties. However, the plat requires a 50 feet front yard setback.

There have been no calls or emails received in opposition of the Special Exception request.

Special exceptions are issued to an individual and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

Staff recommended approval of the Special Exception request since the city ordinance only requires a minimum of 15 feet for front yard setbacks on commercial properties and the request is due to a change of ownership.

Chairperson Gutierrez asked staff if there was a representative for the RSVP Owner, LLC. Staff stated they were not be able to attend the meeting but gave permission for staff to present the case.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Special Exception. There was no one to speak in favor of the Special Exception.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Special Exception. There was no one to speak in opposition of the Special Exception

Following discussion, Mr. Hugo Avila moved to approve the Special Exception as recommended by staff. Mr. Daniel Santos seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- b) Request of Juan C. Ramos to allow the following special exception and variance to the City of McAllen Zoning Ordinance: 1) A special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for a proposed metal carport measuring 20 feet by 20 feet, 2) A variance to allow an encroachment of 14.5 feet into the 25-foot front yard setback for a proposed metal porch measuring 14.5 feet by 43 feet at Lot 16, Block 13, Balboa Acres Subdivision, Hidalgo County, Texas; 2808 Helena Avenue. (ZBA2024-0052)

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for a proposed metal carport

and a variance to allow an encroachment of 14.5 feet into the 25-foot front yard setback for a proposed metal porch. Both carport and porch are to be used to ensure safe and accessible entry to his vehicle from adverse weather conditions.

The subject property is located along the north side of Helena Avenue approximately 90 feet east of South 29th Street. The lot has 90.0 feet of frontage and 107.5 feet of depth for a total of 9,675 square feet. The property is zoned R-1 (Single-Family Residential) District. The adjacent zoning is R-1 (Single-Family Residential) District in all directions.

Balboa Acres Subdivision was recorded on December 27, 1962 and indicates a 25-foot front yard setback. An application for a building permit for a "ramp cover and driveway cover" was submitted on November 13, 2024. An application for a special exception and variance for the carport and porch over ramp was submitted on November 20, 2024

The applicant is requesting a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for a proposed metal carport measuring 20 feet x 20 feet. The carport will be used to provide protection for the applicant from severe weather conditions when accessing his vehicles. The applicant needs the protection due to physical limitations from medical conditions.

The applicant is requesting a variance to allow an encroachment of 14.5 feet into the 25-foot front yard setback for a proposed metal porch to cover an existing aluminum modular ramp. The ramp was installed to assist the applicant to safely and easily enter and exit his home. The applicant in the near future may need the use of a wheelchair due to mobility issues.

Following a site visit, staff observed other carports within the neighborhood and records indicate variances/ special exceptions for carports have been approved.

No utility easements will be impacted by the encroachment.

Staff had a nearby resident come in and are in favor of the special exception and variance request.

Staff recommended disapproval of the special exception request since there is access from a rear yard alley and an existing carport/bbq area. Staff recommends disapproval of the variance request since variances run with the land and remain as a condition for future owners and new constructions.

Chairperson Gutierrez asked staff if they had discussed with the applicant about the special exception in which, there was a rear yard alley that could serve for the purpose they are requesting. Staff responded yes however, the ramp was installed in the front.

Board member Avila asked staff if they took pictures of the rear alley. Staff stated they only had the aerial image that you could see the rear covered area.

Mr. Juan Ramos, the applicant, 2808 Helena Avenue. He stated he was requesting to cover the ramp rails due to the hot weather. In addition, he needed the cover to protect him from the rain that would affect his medical condition.

Chairperson Gutierrez explained to Mr. Ramos the difference between the special exception and the variance request. Mr. Ramos stated he understood the difference but he was more interested in the approval of the ramp cover.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Special Exception/Variance request. There was one to speak in favor of the Variance request.

Ms. Marisela Ramos, 2900 Helena Avenue. She stated Mr. Ramos was her brother. She stated he needed the ramp cover to protect him from the inclement weather when he is doing errands in which it takes him a long time to get into the house.

Chairperson Jose Gutierrez asked if there was anyone else no present to speak in favor of the Special Exception/Variance request. There was one else to speak in favor of the Special Exception/Variance request.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Special Exception/Variance request. There was no one to speak in opposition of the Special Exception/Variance request.

Board member Garcia asked staff if the carport on the porch part of the same structure or was it separate one attached to the house and the other self-standing. Staff stated the applicant was proposing to have them right up against each other, two separate structures.

Following discussion, Mr. Hugo Avila moved to approve the carport as well as the porch ramp cover as presented. Mr. Daniel Santos seconded the motion. The Board voted to approve the Special Exception/Variance request with five members present and voting.

- c) Request of Francisco Pons Ballesteros for a Variance to the City of McAllen Zoning Ordinance to not provide a masonry screen eight feet in height and instead provide a six-foot cedar fence with columns for the proposed Georgetown Park Subdivision at 9.1 Acres out of Lot 1, Block 17, Steele & Pershing Subdivision and Lot 1, Block 9, A.J. McColl Subdivision, Hidalgo County, Texas; 1100 East El Rancho Road (ZBA2024-0048) (TABLED: 12/04/2024)

This item was to remain tabled until the next meeting.

- d) Request of Christopher Sebastian for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing carport measuring 20.2 feet by 23 feet at Lot 2, Ponderosa Park Phase 1 Subdivision, Hidalgo County, Texas; 3506 North 29th Lane. (ZBA2024-0050)

Ms. Martinez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing carport measuring 20.2 feet by 23 feet. The applicant was unaware that a building permit was never obtained by the previous owner at the time of purchasing the home in July 2023. The applicant would like the structure to remain because the existing carport provides shade and protection during inclement weather for their multiple vehicles.

The subject property is located north of Iris Avenue between North 29th Lane and North 29th Street. The lot along North 29th Lane has 60 feet of frontage and a depth of 102 feet with a tract size of 6,120 square feet. The property is zoned R-1 (single family residential) District. Surrounding land uses are single-family residences in all directions.

The subdivision plat for Ponderosa Park Phase I Subdivision was recorded on July 29, 1997. As per plat, the front yard setback shall be 20 feet. According to Hidalgo County Appraisal District records, the residential home was built in 1998. A stop work order was issued by Buildings and Inspections Department staff on November 11, 2024 for the construction of a carport without a building permit. An application for a building permit for a carport was submitted to the Building Permits & Inspections Department on November 12, 2024. An application for a special exception request was submitted to the Planning Department on November 13, 2024 for the existing metal carport.

The special exception request is for an existing metal carport measuring 20.2 feet by 23 feet for an area of 464.6 square feet in size. The submitted site plan shows a carport encroaching 20 feet into the 20-foot front yard setback. A survey of this property shows the carport with an encroachment of 0.9' into the street right-of-way. The survey also appears to show a slight carport encroachment into the 6-foot setback along the north property line; however, distance is not specified. The applicant proposes reduction to the size of the carport, which may resolve the depicted right-of-way encroachment and encroachment (if any) along the north side yard setback. A site plan showing proposed reductions is pending. Consideration of Special Exception requests are confined to within property line boundaries and do not include encroachments into the right of way.

There is no alley at the rear of the property where a carport could be alternatively built.

Front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Carports being granted a Special Exception shall not exceed 400 square feet in size.

There was a garage that is part of the existing residence used to park family vehicles.

Staff had not received any phone calls or emails in opposition to this variance request.

Staff recommended disapproval since approval might encourage other property owners to build similar structures after the character of the neighborhood on this block. In addition, the carport exceeds the 400 square feet maximum size stated in the ordinance.

Mr. Christopher Sebastian, 3506 North 29th Lane. He stated he tried to install solar panels on their house but did not know anything about the existing carport if it had a permit. They bought the house last July 31st. They had called the previous owners to see if they had paperwork for the carport and they stated they did not. At this time, Mr. Sebastian showed the Board members a picture of the carport.

Board member Mujica stated that before them they had a survey dated July 12, 2023 and the carport in place with dimensions of 20.2 feet by 23 feet, which was an excess of the 400 square feet ordinance.

Mr. Sebastian stated at the time they purchased the house they did not know about needing a permit for the carport. He stated they have three vehicles and it would be good for protection.

Board member Avila asked staff if the applicant was willing to reduce the carport. Staff stated yes but have not received with type of proposed dimensions but did discuss it with the applicant.

Board member Avila mentioned to give the applicant in writing and an opportunity to put a plan with the new dimensions and present it at the next meeting.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Special Exception. There was no one to speak in favor of the Special Exception.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Special Exception. There was no one to speak in opposition of the Special Exception.

Chairperson Gutierrez asked the applicant if he would be willing to table the item return with the new dimensions given by City's staff in order to comply with the ordinance. Mr. Sebastian agreed to table the item.

Following discussion, Mr. Hiram Gutierrez moved to table the Special Exception. Mr. Ivan Garcia seconded the motion. The Board voted to table the item with five members present and voting.

- e) Request of Matthew Akin for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing metal carport at Lot 118, Vine Terrace Unit No. 4 Subdivision, Hidalgo County, Texas; 2417 North 28th Street. **(ZBA2024-0053)**

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing metal carport being used for protection of his vehicles from adverse weather elements and to provide shade for the family.

The subject property is located along the west side of North 28th Street approximately 203 feet north of La Vista Avenue. The lot has 50.0 feet of frontage and 90.0 feet of depth for a total of 4,500 square feet. The property is zoned R-1 (Single-Family Residential) District. The adjacent zoning is R-1 (Single-Family Residential) District in all directions.

Vine Terrace Unit No. 4 was recorded on November 13, 1989 and indicates a 20-foot front yard setback. This home and like several homes within this subdivision were built with a single car garage. A stop work order was issued on October 22, 2024 for "construction of carport without a permit". On November 18, 2024, a second stop work order was issued. An application for a special exception for the carport was submitted on November 20, 2024. An application for a building permit has not been submitted at this time.

The applicant is requesting the special exception for an existing metal carport with an encroachment into the front yard setback. The carport was built for protection of their

vehicles and to provide shade for family gatherings. The carport currently measures 20.33 ft. x 19.5 ft. having a total of 396 sq. ft. The applicant is proposing to reduce the carport to 20.33 ft. x 13.5 ft. The reduction brings the carport into compliance with the required six-foot side yard setback and reduces the carport size to 274 sq. ft. The applicant states that the existing single car garage does not provide sufficient space even for a small car and with the approval of the special exception: the homeowner will be able to store his vehicles in a proper and secure manner.

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

Following a site visit, staff observed several carports within the neighborhood and records indicate that a special exception for one of these carports had previously been approved.

No utility easements will be impacted by the encroachment.

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

Staff recommended disapproval of the special exception request since approval of this request might encourage other property owners in this subdivision to build their own carports, altering the existing character of the subdivision.

Board member Lamela asked staff if there any existing carports in the area. Staff stated yes. Chairperson Gutierrez asked how many. Staff stated there were several more than three. There was a record that one Special Exception was approved.

Board member Mujica asked staff if between the two stop work orders was there work performed in that time. Staff stated the carport already existed.

Mr. Matthew Akin, 2417 North 28th Street. He stated he purchased the house three years ago. At that time, he decided to have a carport for the protection of his vehicle and his small child. He contacted a local company to build one like the others in the neighborhood. He gave them a layout within the property line. They built it and three years later, he received a citation. Board member Santos asked the applicant how much did he pay for carport. Mr. Akin stated at the time he paid about \$1500.00.

Board member Mujica asked staff if they had in writing from the applicant that the carport will be reduced by 6 feet. Staff stated yes, there was a revised site plan that the applicant submitted.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Special Exception. There was no one to speak in favor of the Special Exception.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Special Exception. There was no one to speak in opposition of the Special Exception.

Following discussion, Mr. Ivan Garcia moved to approve the Special Exception. Mr. Hugo Avila seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- f) Request of Rafael Ayala for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing carport at Lot 14, Schuster Acres Subdivision, Hidalgo County, Texas; 404 North 9th Street. (ZBA2024-0051)

Ms. Martinez the applicant was requesting a Special Exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing carport measuring 20 feet by 20 feet measuring a total of 400 square feet in size. The carport was proposed to provide weather protection for the applicant's vehicle.

The subject property is located along the east side of North 9th Street approximately 63 feet north of Date Palm Avenue. The lot has 60 feet of frontage along North 9th Street and 107 feet of depth for a total of 6,420 square feet. The subject property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 District in all directions.

Schuster Acres Subdivision was recorded on August 29, 2005. The plat requires a 25-foot front yard setback. According to the Hidalgo County Appraisal District, the house was built with a two-car garage in 2014. On November 12, 2024, Building and Inspections Department issued a stop work order for no permit on file for a carport on the property. On November 14, 2024, the applicant applied for a Special Exception to allow an encroachment of 20 feet into the 25-foot front yard setback. An application for a building permit has not been submitted.

The applicant is requesting a Special Exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport measuring 20 feet by 20 feet for a total of 400 square feet in size.

The applicant states the reason for the carport is to provide vehicle protection from severe weather conditions.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view.

The applicant currently does not have access to an alley to have the carport relocated at the rear of the property.

Carports being granted a Special Exception shall not exceed 400 square feet in size.

A review of Planning Department records showed no previous special exception requests granted along North 9th Street within Schuster Acres subdivision.

Special Exceptions are issued to and recorded for the present owner only. New property owners would need to apply for a new Special Exception request.

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

Staff recommended disapproval of the Special Exception request since no Special Exceptions have been approved within this subdivision and it is not compatible with the character of the neighborhood.

Mr. Rafael Ayala, 404 North 9th Street. Chairperson Gutierrez asked the applicant when the carport was built. Mr. Ayala stated about a month ago. He stated he went to the City of Donna and purchased it from a carport dealership. They had sent someone to come to his house and install it. He was not aware about obtaining a permit for the carport. He stated at one of the places where he lived before 2010 he asked his neighbors because many neighbors had carports. Mr. Ayala asked what was required. His neighbor stated nothing, just buy it and install it. The following week the City came out and cited him. Mr. Ayala then came to the Planning Department and was informed that they needed a building permit. Mr. Gutierrez asked the applicant if at the carport dealership mentioned anything about needing to obtain a permit. He stated no.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Special Exception. There was no one to speak in favor of the Special Exception.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Special Exception. There was one to speak in opposition of the Special Exception.

Ms. Manuela Flores, 500 North 9th Street. She stated she was opposing the request. It was a new neighborhood and stated it looked out of ordinance.

Chairperson Jose Gutierrez asked if there was anyone else present to speak in opposition of the Special Exception. There was anyone else to speak in opposition of the Special Exception.

Following discussion, Mr. Hiram Gutierrez moved to disapprove the Special Exception. Mr. Hugo Avila seconded the motion. The Board voted to disapprove the Special Exception with five members present and voting.

- g) Request of Carlos Jimenez for a variance to the City of McAllen Zoning Ordinance to allow the following encroachments: **1)** 2.4 feet into the 5-foot North side yard setback, for an existing garage, **2)** 2.6 feet into the 5-foot North side yard setback for an existing covered patio, and **3)** 2.6 feet into the 5-foot North side yard setback for an existing storage room, at Lot 5 Block 1, Redwood Park Addition Subdivision, Hidalgo County, Texas; 1616 North 8th Street. **(ZBA2024-0049)**

Ms. Martinez stated the applicant was requesting a variance to allow the following encroachments of **1)** 2.4 feet into the 5-foot North side yard setback, for an existing garage, **2)** 2.6 feet into the 5-foot North side yard setback for an existing covered patio, and **3)** 2.6 feet into the 5-foot North side yard setback for an existing storage room. The applicant states that they purchased the house not knowing that the construction had been done without a building permit. They wish to keep the structure so that they will not need to park on the street and do not wish to deal with a financial burden of having to cover the cost of structural removal.

The subject property was located along the east side and North 8th Street between Redwood Avenue and Pecan Boulevard. The Lot has 69 feet of frontage and a depth of 135 feet for a total Lot size of 9,315 square feet. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District on the north and east, C-3 District to the west across North 8th Street and C-1 District to the south.

The plat for Redwood Park Addition Subdivision was recorded on September 14, 1949. According to the Hidalgo Country Appraisal Records, the home was constructed in 1983.

The additions that compose the variance request were made in 2016. The application for the variance request was submitted on November 12, 2024. An application for a building permit has not been submitted.

The applicant is requesting a variance to allow the following encroachments of 1) 2.4 feet into the 5-foot North side yard setback, for an existing garage, 2) 2.6 feet into the 5-foot North side yard setback for an existing covered patio, and 3) 2.6 feet into the 5-foot North side yard setback for an existing storage room. The applicant would like the structures to remain with the encroachments.

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

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

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

Staff recommended disapproval since the structures could be modified to comply with rear and side setbacks.

Mr. Carlos Jimenez, 8424 Alison Avenue, College Station, TX. He stated back in 2020-2021 he inherited half of the house located at 1616 North 8th Street from a dear friend. He paid his share of the house to the owner. He had no idea of the variances that were in place. He stated the house was actually built in 1950. At this time, he showed a picture of the house to the Board members. The house is a three-bedroom one-bath house. He had a record where the owner wanted a permit to build a second bathroom. The garage and the casita in the back those were fully built into the house now. Mr. Jimenez asked a construction company for the value of a demolition. The demolition of the garage and casita in the back would cost him \$50,000.00.

Board member Mujica asked Mr. Jimenez when the garage was built. Mr. Jimenez stated it was built back in the 1950s.

Chairperson Gutierrez suggested tabling the item in order to obtain more information from City staff regarding and the applicant.

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

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

Following discussion, Mr. Hugo Avila moved to table the Variance request until the next meeting. Mr. Hiram Gutierrez seconded the motion. The Board voted to table Variance request with five members present and voting.

ADJOURNMENT

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



Carmen White, Administrative Assistant



Chairperson Jose Gutierrez