

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, January 22, 2025 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:	Martin Canales	Assistant City Attorney III
	Luis Mora	Deputy Planning Director
	Rodrigo Sanchez	Senior Planner
	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 January 8, 2024

The minutes for the meeting held on January 8, 2024. The motion to approve the minutes were made by Mr. Hugo Avila. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

Mr. Alex Lamela made a motion to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously with five members present and voting.

- a) 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)**
(TABLED: 12/18/2024) (REMAIN TABLED: 01/08/2025)

Ms. Martinez stated 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 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 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 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.

The board members suggested that the item be tabled until the next meeting and this would allow staff to do further research as to obtain permits from filed records that would happen to have a permit for the mentioned lot that would consist of the three structures in the variance request. Subsequently to the meeting, staff did have a meeting with Building Department about obtaining records that date back to 1950 when the house was believed to have been officially built at least with the garage located on the north side of the residence. Building Department responded by telling staff that records dating before 1980's were no longer an option to locate in the filed records for building permits, this leaves staff without an option to determine exactly when the additional structures on the side setback were built in recent years at least with a permit.

Chairperson Gutierrez asked staff if the applicant was present. Staff stated he could not be present due to weather conditions but did have a representative on his behalf, the

realtor that is aware of the property.

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.

Board member Mujica stated from the last meeting the question was the garage constructed through the permitting process when the house was built. In addition, a building towards the back of the house was connected like a roof covering of an outdoor area. He suggested that since there were various variances it would be better to vote on each one separately. Board member Avila agreed.

Ms. Tracie Nicks, 6709 North 14th Lane, McAllen. She stated the storage was only less than 2 inches. Board member Mujica ask the realtor if she knew when the covered area was built. She stated she did not know but that it was constructed before Mr. Jimenez bought the house. She stated the area has a mixed use with a lot of commercial on that street. All the houses were built budding the fence on the north side.

Following discussion, Mr. Hugo Avila moved to approve the Variance request #1 as recommended by staff. Mr. Ivan Garcia seconded the motion. The Board voted to approve with five members present and voting.

Mr. Hugo Avila moved to disapprove Variance request #2. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove with four members voting aye and one nay, Mr. Ivan Garcia.

Mr. Ivan Garcia moved to approve Variance request #3. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve with four members voting aye and one nay, Mr. Hugo Avila.

- 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) (REMAIN TABLED: 12/18/2024, 01/08/2025)

Mr. Nunez stated this item had been tabled three times. Staff attempted to make contact the applicant the day before the meeting, however, he did not answer. At the last meeting of December 7, 2024, the applicant did not give an indication to continue tabling this item though he stated he would be present. Staff stated the case does need to be presented since it was not officially heard.

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

Mr. Nunez stated that the applicant was requesting a variance to not provide an eight-foot

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masonry screen along the property adjacent to an R-1 (Single Family Residential) District street frontage and instead provide a six-foot cedar fence with columns.

The subject property was located along the south side of East El Rancho Road approximately 300 feet west of South "M" Street. The property is zoned R-3T (Multifamily Residential Townhouse) District. The adjacent zoning is R-1 (Single Family Residential) District to the west and southwest, R-3T (Multifamily Residential Townhouse) District to the east and south and C-1 (Office Building) District to the north across East El Rancho Road. Surrounding land uses are single-family residences and vacant land.

This property was currently undergoing the subdivision process with the name of Georgetown Park Subdivision and received final approval on November 21, 2023. An application for this variance request was submitted on November 8, 2024.

This request was to not provide an eight-foot buffer adjacent to an R-1 (single family residential) District. Section 110-49(a) - Landscape Buffers states a masonry screen eight feet in height shall be required where a commercial, industrial or multifamily use has a side or rear property line in common with a single-family use or zone. Where such use has 200 feet or less in common with any residential use or zone, the buffer shall be eight feet in height but may be cedar planks. This does not apply since the length adjacent to single family use is approximately 814 linear feet. Alternately, the applicant proposes a six-foot cedar fence with columns.

The Planning Department had not received any emails or phone calls in opposition of the variance request.

Staff recommended disapproval of the variance request since compliance with the ordinance would not create an unnecessary hardship.

At the meeting of December 4, 2024, the applicant requested the item to be tabled until the following meeting due to being ill.

At the meeting of December 18, 2024, the applicant requested the item to be tabled once again until the following meeting due to being ill.

At the meeting of January 7, 2024, the item remained tabled.

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

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

Board member Gutierrez asked staff what was the difference between the screen and the fence if it would be a difference in cost. Staff stated they had meetings with the applicant where providing the masonry screen as opposed to a cedar plank fence would be more financially burdensome on his part. The applicant was proposing instead of providing an 8-foot masonry wall to provide a 6-foot cedar fence.

Board member Mujica asked about the adjoining property. Staff stated the adjoining to the west was a single-family home district.

Following discussion, Mr. Juan Mujica moved to disapprove the Variance request as

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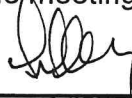
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recommended by staff. Mr. Hugo Avila seconded the motion. The Board voted to disapprove the Variance request with five members present and voting.

ADJOURNMENT

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



Chairperson Jose Gutierrez



Carmen White, Administrative Assistant