

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, July 13, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Hugo Avila	Member
	Rogelio Rodriguez	Member
	Hiram A. Gutierrez	Member
	Sam Saldivar	Alternate
	Juan Mujica	Alternate
Staff Present:	Austin Stevenson	Assistant City Attorney III
	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Adriana Solis	Planner II
	Samantha Trevino	Planner I
	Eduardo Garza	Planner I
	Jacob Salazar	Planning Technician I
	Jessica Pugo	Planning Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on June 21, 2023.

The minutes for the meeting held on June 21, 2023 were approved. The motion to approve the minutes were made by Vice-Chairperson Ann Tafel. Mr. Hugo Avila seconded the motion, which carried unanimously with five members present and voting.

As per Chairperson Jose Gutierrez’s suggestion, the following items had been recommended for approval by staff. They are as follows:

2. PUBLIC HEARINGS:

- a) Request of Adan Pena on behalf of Thirumurugan Gopalasamy for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet and 7 inches into the 25 feet rear yard setback for a swimming pool at Lot 28, Embers, Hidalgo County, Texas; 305 Cornell Avenue. (ZBA2023-0049)
- b) Request of Cynthia Zimmerman on behalf of World Gospel Mission for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 13.5 feet into the 20 feet front yard setback for a proposed carport measuring 20 feet by 20 feet, at Lots 23 and 24, Block 11, College Heights Subdivision, Hidalgo County, Texas; 2107 Jackson Avenue. (ZBA2023-0053)

- c) Request of George Craft for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 10 feet front yard setback for a proposed carport measuring 18 feet by 20 feet, at Lot 11, Timberhill Villa Subdivision, Hidalgo County, Texas; 9401 North 10th Street Unit 4-11. **(ZBA2023-0054)**
- d) Request of Ana G. Hinojosa De Soto for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 2.5 feet into the 10 feet rear yard setback for an existing metal carport measuring 18 feet by 16 feet at Lot 116, Arrowhead Subdivision Phase 2, Hidalgo County, Texas; 2820 North 39th Street. **(ZBA2023-0055)**
- f) Request of Roberto and Rebecca Vela for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed carport measuring 26 feet by 20 feet at Lot 58, Olivarez No. 5 Subdivision, Hidalgo County, Texas; 2909 Tamarack Avenue. **(ZBA2023-0059)**

Chairperson Jose Gutierrez asked if there was anyone present in favor of these special exceptions. There was no one else in favor of these special exceptions.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of these special exceptions. There was no one in opposition of these special exceptions.

Mr. Hugo Avila moved to approve the previously outlined special exceptions listed on the agenda as 2a, 2b, 2c, 2d and 2f as per staff's recommendation, limited to the submitted plans corresponding to each item. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve with five members present and voting.

- e) Request of Manuel Villegas for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport measuring 16.83 feet by 18.83 feet at Lot 156, Del Sol Phase 2 Subdivision, Hidalgo County, Texas; 4319 North 26th Lane. **(ZBA2023-0058)**

Mr. Garza stated the applicant was requesting a special exception to encroach 15 feet into the 20 feet front yard setback for an existing metal carport. The applicant stated the existing carport was for protection of his vehicles and himself from the inclement weather.

The subject property was located along the west side of North 26th Lane, approximately 206.25 feet north of Quamasia Avenue. The Lot has 50 feet of frontage along North 26th Lane and a depth of 96 feet for a Lot size of 4,800 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

Del Sol Phase 2 Subdivision was recorded on January 10, 2001. The required front yard setback as per plat is 20 feet. A stop work order was issued for non-compliance on December 15, 2022 for a front yard carport built without a permit. An application for a building permit for a carport was submitted on December 20, 2022. An application for a special exception request was submitted on June 05, 2023.

Zoning Board of Adjustment & Appeals

July 13, 2023

Page 3

This special exception if granted, would allow an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport that would measure 16.83 feet by 18.83 feet. The carport would provide protection for his vehicles and himself from the inclement weather.

According to the submitted survey and subdivision plat, a 5 feet utility easement runs concurrently with the 20 feet front yard setback and adjacent to the front property line. The existing metal carport also encroaches one foot into the 5 feet utility easement. The applicant has stated he will modify the carport in order to eliminate the encroachment over the 5 feet utility easement.

During a site visit, staff noticed other similar encroachments (carports) within Del Sol Phase 2 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of December 7, 2022, the Board unanimously voted to approve a special exception request along this same street for an encroachment of 15 feet into the 20 feet front yard setback for a proposed carport on Lot 152, Del Sol Phase 2.

There was an existing garage that is used to store two of his vehicles.

Special exceptions are issued and recorded for the property owner only. New owners of the subject property will have to apply for a new special exception.

Staff did not receive any phone calls, emails or letters in opposition to this special exception request.

Staff recommended approval of the special exception request since previously a similar request was approved in the same block and the applicant proposes to reduce the encroachment by cutting his carport back 1 foot in order to resolve the encroachment over the front yard utility easement.

Mr. Manuel Villegas, the applicant, confirmed the reduction to the encroachment. He stated he was proposing to reduce the carport by one foot.

Following discussion, Vice-Chairperson Ann Tafel moved to approve the special exception request since the applicant was reducing the carport encroachment by 1 foot so as to not encroach into the utility easement. Mr. Juan Mujica seconded the motion. The Board voted to approve the special exception request with five members present and voting.

- g) Request of Roosevelt Alvarado for the following Special Exception to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 11 feet into the 20 feet front yard setback for a proposed carport measuring 19 feet by 20 feet and 2) and encroachment of 6 feet into the 6 feet side yard setback for a proposed carport measuring 19 feet by 20 feet on Lot 33, Block 4, Tierra Del Sol Unit No. 1 Subdivision, Hidalgo County, Texas; 2524 Goldcrest Avenue. (ZBA2023-0060)

Mr. Garza stated the applicant was requesting a special exception to encroach 11 feet into the 20 feet front yard setback and 6 feet into the 6 foot east side yard setback. The applicant stated the proposed carport is for protection of his vehicles and his family (health concerns) from the weather elements.

Zoning Board of Adjustment & Appeals

July 13, 2023

Page 4

The subject property was located along the north side of Goldcrest Avenue, approximately 70 feet east of North 25th Lane. The Lot has 60 feet of frontage along Goldcrest Avenue and a depth of 100 feet for a Lot size of 6,000 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning was R-1 District in all directions. The surrounding land use was single family residential.

Tierra Del Sol Unit No. 1 Subdivision was recorded on August 12, 1977. The required front yard setback as per plat was 20 feet. The property previously had a garage but it was enclosed in 2018. An application for a special exception request was submitted to the Planning Department on June 07, 2023.

This special exception would allow an encroachment of 11 feet into the 20 feet front yard setback for a proposed carport that would measure 19 feet by 20 feet. The carport would provide protection of his vehicles and his family (health concerns) from the weather elements.

During a site visit, staff noticed other similar encroachments (carports) within Tierra Del Sol Subdivision Unit No. 1.

At the Zoning Board of Adjustments and Appeals meeting of August 20, 2010, the Board unanimously voted to approve a variance request for an encroachment of 20 feet into the 20 feet front yard setback for an existing carport on Lot 22, Block 3, Tierra Del Sol Subdivision Unit No.1.

At the Zoning Board of Adjustments and Appeals meeting of October 17, 2018, the Board unanimously voted to approve a special exception request for an encroachment of 20 feet into the 20 feet front yard setback for an existing carport on Lot 46, Block 1, Tierra Del Sol Subdivision Unit No.1.

At the Zoning Board of Adjustments and Appeals meeting of March 20, 2019, the Board unanimously voted to approve a special exception request for an encroachment of 20 feet into the 20 feet front yard setback for a proposed carport on Lot 33, Block 1, Tierra Del Sol Subdivision Unit. No.1.

Measurements provided are without the benefit of a survey.

Special exceptions are issued and recorded for the property owner only. New owners of the subject property will have to apply for a new special exception.

Staff did not receive any phone calls, emails or letters in opposition to this special exception request.

Special Exception #1: Staff recommends approval of the special exception request for the encroachment into the front yard setback since there have been special exceptions previously approved in the subdivision.

Special Exception #2: Staff recommends disapproval of the special exception request for encroachment into the side yard setback as it would go up to the side property line, which would raise concerns of potential runoff to the adjacent property owner. However, if the Board approves the request it should be limited to the encroachment shown in the submitted site plan.

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

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

Mr. Roosevelt Alvarado, the applicant stated he wanted to build a carport with gutters to protect two vehicles from the inclement weather. He stated there was a foot to the property line so the carport will not extend to the actual border. There will be two feet between him and the neighbor.

Board member Rodriguez asked staff on the footing on the actual carport he could extend an overhead two feet. Mr. Garza stated yes, unless there was an easement, which there was not.

Following discussion, Mr. Hiram Gutierrez moved to approve the special exception #1 and disapprove special exception #2. Vice-Chairperson Ann Tafel seconded the motion. The Board voted to approve special exception request listed as #1 and disapprove special exception request as listed #2. There were five members present and voting.

- h) Request of Rodolfo Rios for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet side yard setback for an existing metal porch at Lot 24 and E20' Lot 23, Fern Terrace, Hidalgo County, Texas; 100 Fern Avenue. (ZBA2023-0050)

Mr. Garza stated the applicant was requesting a variance to encroach 6 feet into the 6 feet side yard setback for an existing metal porch. The applicant states the metal porch was used for shade from harsh summer heat and rain.

The subject property was located north of Fern Avenue and east of North 2nd Street. The property has 85 ft. of frontage along Fern Avenue and a depth of 127 ft. The subject property is zoned R-1 (single-family) District. Adjacent properties are zoned R-1 District. Surrounding land uses are single-family residences.

Fern Terrace was recorded in January 1973. A Stop Work order was issued by the Building Permits and Inspections Department on May 2, 2023 for construction without a building permit. A building permit was submitted May 4, 2023. A variance request was made on May 22, 2023.

This request is to allow an encroachment of 6 feet into the 6 feet side yard setback for an existing metal porch measuring 22 feet by 64 feet. As per the subdivision plat, there are no easements along the west side of the property.

The applicant stated the metal roof was constructed over the existing concrete slab in 2020. The applicant also stated they were unaware of the 6 feet side yard setback. The request was made due to harsh weather conditions. The applicant is requesting to keep the porch as they stated it would also protect the concrete slab from rain.

A review of the Planning Department records did not reveal any requested variances in the area.

Staff had not received any phone calls, email or letters in opposition to this request.

Staff recommended disapproval of the variance request as records did not find any approved variances in the area.

Vice-Chairperson Tafel asked staff if they had explained to the applicant the difference between a variance request and a special exception. Ms. Solis stated they would explain the difference at the time of submitting and application.

Mr. Rodolfo Rios, the applicant stated he wanted to create a space for entertainment. He stated he had a cement slab on the side of his property, which was there prior to buying the property. He stated he could not do much with it since the sunsets to the west. It was 6 feet away from the wall. He did not intend to enclose the porch.

Board member Rodriguez asked the applicant what type of commodities he was currently storing in the porch. Mr. Rios stated he had a garden furniture and bar-b-que pit. Board member Rodriguez had concerns regarding combustible item inside the porch.

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

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

Following discussion, Mr. Hugo Avila moved to disapprove the variance request. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove the variance request with five members present and voting.

- i) Request of Donaciano Gomez for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 23 feet into the 25 front yard setback and an encroachment of 5 feet into the 6 feet side yard setback for a metal carport measuring 20 feet by 20 feet, at Lot 1, Lincoln Terrace No. 8, Hidalgo County, Texas; 2721 Upas Avenue. **(ZBA2023-0051)**

Ms. Solis stated the applicant was requesting a special exception in order to allow an encroachment of 23 feet into the 25 front yard setback and 5 feet into the 6 feet side yard setback for a metal carport measuring 20 by 20 feet. The applicant stated they have multiple vehicles and protect vehicles from weather conditions.

The subject property was located south of Upas Avenue and west of North 27th Street. The subject property is zoned R-1 (single-family) District. The adjacent properties are zoned R-1 District as well. Surrounding land uses include single-family dwellings.

The plat for Lincoln Terrace No. 8 Subdivision was recorded on October 16, 1998. The plat states a 25 feet front yard setback and 6 feet side yard setback, with a 5 feet utility easement. A citation was issued May 22, 2023. An application for a building permit for a carport was submitted on May 22, 2023. An application for the special exception request was submitted on May 23, 2023.

Approval of the special exception request would allow an encroachment of 23 feet into the 25 feet front yard setback and 5 feet into the 6 feet side yard setback. The applicant stated a carport in the backyard is not feasible as there is no room to construct a carport.

The residency consisted of a one-car garage; the applicants have three vehicles. The request was submitted due to weather conditions such as the recent hailstorm, which the applicant stated.

The west side of the property does have a 5 feet utility easement according to the plat. The 5 feet into the 6 feet, side yard setback does encroach into the 5 feet utility easement.

Planning Department records reveals one approved special exceptions within the subdivision.

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

Staff recommended disapproval of the variance request due to the encroachment into the 5 feet utility easement.

Mr. Donaciano Gomez, the applicant stated he wanted to build a carport to protect his vehicles from the inclement weather. He stated he found out there was a utility easement on the west side of the house. Mr. Gomez stated he could relocate it from the end of the property to keep the five feet he needed.

The Board suggested tabling the item until the next meeting in order to put his revised site plan in writing.

Mr. Stevenson, Legal explained to the Board the applicant on the tabling requirements.

Following discussion, Hugh Avila moved to table the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted to table the special exception with five members present and voting.

Someone in the audience had a comment to make on the item above.

Vice-Chairperson Ann Tafel moved to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Marbella Martinez, 2700 Upas Avenue. She stated she had a neighbor behind her had a carport and was told he had to take it down. The south side of the street was all-private. The north side were the Affordable Homes. She stated she was not opposing but that it would allow others to build carports. Chairperson Gutierrez stated each case was different and there was no precedence. Ms. Martinez stated that the neighbors to the east had all requested carports and were turned down. Everyone had to build to the back of their property.

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

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

Following discussion, Vice-Chairperson Ann Tafel moved to table the special exception to reduce the columns back to be in compliance. Mr. Hiram Gutierrez seconded the motion. The Board voted to table the item with five members present and voting.

- j) Request of Wilfredo Charles for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 21 feet into the 25 front yard setback for an existing metal carport measuring 18 feet by 18 feet, at Lot 71, Idela Park UT No. 1, Hidalgo County, Texas; 2752 Judith Avenue. (ZBA2023-0052)

Ms. Solis stated the applicant was requesting a special exception in order to allow an encroachment of 21 feet into the 25 feet front yard setback for an existing metal carport measuring 18 feet by 18 feet. The applicant stated the carport was to protect their vehicles.

The subject property was located south of Idela Avenue and east of South 29th Street. The property had 50 feet of fronting Judith Avenue and a depth of 100 feet with a lot size of 5,000 square feet. The subject property was zoned R-1 (single-family) District. The adjacent was zoned R-1 District. Surrounding land uses include single-family dwellings.

The plat for Idea Park Subdivision was recorded on February 13, 1978. The plat indicated a 25 feet front yard setback line. A stop work order was issued on January 27, 2023. A building permit for a carport was submitted February 3, 2023. An application requesting the special exception was submitted on May 24, 2023.

Approval of the special exception request would allow an encroachment of 21 feet into the 25 feet front yard setback. The applicant was requesting to maintain the carport as their home does not have a garage. The carport allowed them to protect their vehicles from hail, sun, dirt, etc. Subdivisions recorded prior to 1999 did not require single-family dwellings to have a garage.

A review of the Planning Department records reveal seven approved special exceptions within the subdivision.

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

Staff recommended disapproval of the variance request as a stop work order was placed due to construction of a carport without a permit.

Board member Rodriguez asked staff looking at the picture if the side yard setback was still there. Ms. Solis stated it was encroaching into the 21 feet.

Vice-Chairperson Tafel asked if there were any utility issues. Ms. Solis stated there was a 10-foot utility in the rear but not in the front.

Board member Rodriguez asked staff if the vehicle in picture was budding with the sidewalk and how far from the sidewalk. Ms. Solis stated there was no survey provided. Without a survey, it would be about 4 feet.

Zoning Board of Adjustment & Appeals

July 13, 2023

Page 9

Mr. Wilfredo Charles, the applicant stated the carport was built 7 years ago for the protection of his vehicle from the inclement weather. Board member Mujica asked the applicant how many vehicles he had. Mr. Charles stated three sometimes four. He did not have a garage for his vehicles.

Vice-Chairperson Tafel asked the applicant if he had one carport in the back. Mr. Charles stated yes but for only one vehicle.

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

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

Following discussion, Mr. Hugo Avila moved to approve the special exception. The second motion died.

Vice-Chairperson Ann Tafel moved to disapprove the special exception per staff's recommendation. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove with five members present and voting.

- k) Request of Gilma Cuellar for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet side yard setback for an existing carport measuring 10 feet by 47 feet at Lot 24, Brookwood Subdivision, Unit 2 Hidalgo County, Texas; 4105 Zinnia Avenue. (ZBA2023-0056)

Ms. Trevino stated the applicant was requesting a special exception to encroach 6 feet into the 6 feet east side yard setback for an existing metal carport constructed to provide protection for the applicant from inclement weather. The applicant uses mobility aids and the carport provides protection while accessing the home or the car.

The subject property was located along the south side of Zinnia Avenue just west of North 41st Street. The property was zoned R-1 (single-family residential) District. There was R-1 district in all directions.

Brookwood Subdivision Unit 2 was recorded in December 1998. The plat shows a 6 feet side yard setback. A stop work order was posted June 3, 2022 for carport built without a permit. An application for a building permit was submitted June 27, 2022. The special exception application was submitted May 26, 2023.

The applicant is requesting a special exception in order to allow an encroachment of 6 feet into the 6 feet east side yard setback for an existing carport that was built for the protection of the applicant due to medical reasons. The applicant states she gains access to the home or the car with the use of mobility aids.

The carport was attached to the main residential structure and runs the length of the house along the east side of the property.

The carport could not be relocated to the rear of the property since there is no alley.

The side yard setback is 6 feet for the common side property line. A 6 feet wooden fence helps to screen the carport from the neighboring property.

At the Zoning Board of Adjustments and Appeals meeting of December 21, 2022 the Board approved a request for an encroachment of 16 feet into the 20 feet front yard setback for an existing carport at Lot 5.

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

A review of aerial pictures shows two other accessory structures that appear to encroach into the rear and side yard setback as well as a 10 feet utility easement that runs concurrently adjacent to the rear property line. The applicant has decided not to include these potential encroachments as part of the request.

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

Staff recommended disapproval of the request since the required building separation (based on required side yard setbacks) is not compliant.

Vice-Chairperson Tafel asked staff if there were gutters for the water runoff. Ms. Trevino stated yes.

Board member Rodriguez asked staff if the carport was attached to the house would it still be considered a special exception. Ms. Trevino stated anytime it is a carport it is classified as a special exception.

Planning Director, Mr. Garcia stated this driveway has the Hollywood strips and it was paved underneath. So it could be used to park a vehicle. The other carport did not have a curb cut and did not have a driveway leading up to it, and could not be used as a carport. Board member Rodriguez asked if the City was allowed to have two curb cuts. It was up to the Engineering Department to issue those permits and get variances through whatever Boards they need to get.

Board member Mujica asked how this item came before the Board. Ms. Trevino stated there was a non-compliant stop work order.

Ms. Gilma Cuellar, the applicant stated the carport was built 12 or 13 years ago. She stated she had it built not so much for the inclement weather but for a medical issue concerning her back. She sometimes has to use a wheelchair. She stated the person who had built it had requested a permit but came to find out there was never a permit.

Board member Mujica asked the applicant if she parked her vehicle under the roof. Ms. Cuellar stated she does park her vehicle under the roof. That gate slides open to get out and into her vehicle.

Board member Saldivar asked the applicant if the metal gate opens manually or mechanical track. She stated it has a remote control to open it.

Zoning Board of Adjustment & Appeals

July 13, 2023

Page 11

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was someone in favor of the special exception.

Ms. Evangelina Steele, 4101 Zinnia Avenue. She stated she was in favor of the special exception and that the carport had been there for years. Ms. Steele has lived there since 2004.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was someone else in favor of the special exception.

Ms. Cynthia Villarreal, 4109 Zinnia Avenue. She was also in favor of the special exception. She has lived there since 2003-2004. The carport had been there since 2004-2005.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was someone else in favor of the special exception.

Ella Calvillo, 4105 Zinnia Avenue, the daughter of Ms. Cuellar. She stated that having the carport helped her with getting her mom in and out of the vehicle and into the house. Especially during the hail and winds.

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

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

Following discussion, Mr. Hiram Gutierrez moved to approve the special exception. Vice-Chairperson Ann Tafel seconded the motion. The Board voted to approve the special exception with four members voting aye and one nay, Mr. Rogelio Rodriguez.

- I) Request of Baldemar Sanchez 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 a proposed carport measuring 20 feet by 30 feet at Lot 46, Idela Park Subdivision, Unit 2 Hidalgo County, Texas; 5101 South 29th Street. (ZBA2023-0057)

Ms. Trevino stated the applicant is requesting a special exception to encroach 20 feet into the 25 feet front yard setback, for a proposed metal carport to be constructed to protect his vehicles from rain, hail, and the sun, as the house does not have a garage.

The subject property was located along the east side of South 29th Street, and north of Olga Avenue. The Lot has 50 feet of frontage along South 29th Street and a depth of 90 feet for a total square footage of 4,500. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

Idela Park Subdivision Unit 1 was recorded on February 13, 1979. The plat shows a 25 feet front yard setback. A carport previously existed at this same location for which a special exception request was processed for an encroachment of 22 feet into the 25 feet front yard setback for a carport measuring 20 feet by 30 feet, but was disapproved by the Zoning Board of Adjustment and Appeals at the meeting of November 2, 2022.

The carport was subsequently removed. A new application for a special exception request was submitted May 30, 2023 for a proposed carport measuring 20 feet by 30 feet.

The applicant is requesting a special exception in order to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed carport in order to protect his vehicles from the weather elements.

The front yard setback is 25 feet along South 29th Street. 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 relocated to the rear of the property and accessed through the alley to maintain curb appeal and be closer to compliance.

At the Zoning Board of Adjustments and Appeals meeting of January 5, 2023 the Board unanimously approved an encroachment of 16 feet into the 25 feet front yard setback for a metal carport at Lot 111.

At the Zoning Board of Adjustments and Appeals meeting of February 8, 2023 the Board unanimously approved an encroachment of 23 feet into the 25 feet front yard setbacks for an existing metal carport at Lot 112.

At the Zoning Board of Adjustments and Appeals meeting of March 8, 2023 the Board unanimously approved an encroachment of 20.42 feet into the 25 feet front yard setbacks for an existing metal carport at Lot 186.

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

The City Commission has amended Section 138-371(g) of the Code of Ordinances limiting the maximum size to 400 square feet for a carport for which a special exception had been granted.

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

Staff recommended disapproval of the request since a similar request was disapproved in 2022 at this same location and the request exceeds the maximum size permitted by ordinance for carports for which a special exception has been granted.

Chairperson Gutierrez asked staff when it was previously disapproved back in 2022, did staff speak with Mr. Sanchez regarding reducing the dimensions of the carport and possibly to be approved. Ms. Trevino stated no but was able to speak with him prior to this meeting.

Vice-Chairperson Tafel asked staff if there were any utility easements. Ms. Trevino stated not for the front.

Board member Mujica asked staff if there were other carports similar to the request along this street. Ms. Trevino stated the applicant had pictures showing along some other properties but the other three encroachments were approved in the same subdivision.

Zoning Board of Adjustment & Appeals

July 13, 2023

Page 13

Mr. Pablo Sanchez, the applicant's son, stated the first request that was not approve, they had taken it down. He stated they were requesting another special exception with permits and reducing the dimensions of the carport. They did not have a garage so this carport will not only protect their vehicles but also for his father's use of exercising. They cannot build one in the back yard because of the utility easements.

Board member Mujica asked the applicant if the proposed reduction of this carport was 5 feet less than the previous carport. Mr. Sanchez stated yes as presented. Board member Mujica asked the applicant would there also be a difference in height. Mr. Sanchez stated the carport would be aligned with the roof of the house.

Following discussion, Vice-Chairperson Ann Tafel moved disapprove the special exception per staff's recommendation. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove the special exception with four members voting aye and one nay, Mr. Hugo Avila.

- m) Request of Maria Saldana for a Special Exception to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover measuring 21 feet by 20 feet, and 2) an encroachment of 6 feet into the 6 feet west side yard setback for an existing metal carport with canvas cover measuring 21 feet by 20 feet, at Lot 11, Los Encinos Subdivision Unit 2, Hidalgo County, Texas; 3036 Olga Avenue. (ZBA2023-0044) (TABLED: 06/21/2023)

Mr. Hugo Avila moved to remove the item from the table. Ms. Ann Tafel seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Trevino stated the applicant was requesting a special exception to encroach 15 feet into the 20 feet front yard setback, and 6 feet into the 6 feet west side yard setback. Both requests are for an existing metal carport constructed to protect her vehicles from rain, hail, and the sun, as the house does not have a garage.

The subject property was located along the north side of Olga Avenue, and north of Sam Houston Elementary. The Lot has 50 feet of frontage along Olga Avenue and a depth of 102.70 feet for total square feet of 5,135 feet. The property is zoned R-1 (single-family residential) District. There is R-1 district in all directions.

Los Encinos Subdivision Unit 2 was recorded in June 1995. The plat shows a 20 feet front yard setback and a 6 feet side yard setback. A stop work order was posted July 8, 2022 for carport built without a permit. An application for a building permit was submitted July 26, 2022. The special exception application was submitted May 9, 2023.

The applicant was requesting a special exception in order to allow an encroachment of 15 feet into the 20 feet front yard setback and an encroachment of 6 feet into the 6 feet west side yard setback for an existing carport with canvas cover in order to protect her vehicles from the weather elements.

The applicant proposes to reduce the size of the carport by 5 feet in order to clear a 5 feet utility easement that runs concurrently with the front yard setback adjacent to the front property line. The proposed reduction will result in the carport dimensions modified to a size of 16 feet by 20 feet.

The front yard setback was 20 feet along Olga 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 relocated to the rear of the property and accessed through the alley to maintain curb appeal and be closer in compliance.

The side yard setback was 6 feet for the common side property line. A 6 feet wooden wall separates the driveway from the neighboring property.

During a site visit, staff noticed that there were no other carports within Los Encinos Subdivision Unit 2.

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

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

At the meeting of June 21, 2023, the Board recommended tabling the item so that the applicant can discuss other options for the carport in reference to cutting it back on the front as well as the side to clear the setback and utility easement.

Staff recommended disapproval of the request since there are no other carports, nor have other special exceptions been granted for Lots within Los Encinos Subdivision Unit 2.

At the Zoning Board of Adjustments and Appeals, meeting of June 21, 2023 no one appeared in opposition to the special exception request. Board member Tafel inquired as to the ability to maintain the carport without stepping into the neighbor's property. Board member Saldivar also voiced the same concern. The Board unanimously voted to table the special exception request to give the applicant time to consider modifications to the existing encroachments. There were 5 members present and voting

Vice-Chairperson Tafel was verifying that the applicant was willing to reduce the carport from the street to the house but not reducing the side. Ms. Trevino stated the main issue would be the utility easement in the front. She was still one foot away from the fence line.

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

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

Following discussion, Vice-Chairperson Ann Tafel **moved** to disapprove the special exception per staff's recommendation. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the special exception with five members present and voting.

- n) Request of Mario Ferron for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport with canvas cover measuring 18 feet by 20 feet, at Lot 43, Ponderosa Park Phase 6 Subdivision, Hidalgo County, Texas; 3409 Gardenia Avenue. (ZBA2023-0045) (TABLED: 06/21/2023)

Zoning Board of Adjustment & Appeals

July 13, 2023

Page 15

Ms. Ann Tafel moved to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting

The applicant was requesting the special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport to provide protection for an individual with health concerns.

The subject property was located along the south side of Gardenia Avenue between North 34th and North 36th Streets. The Lot had 63.50 feet of frontage and a depth of 102.00 feet for a total square footage of 6,477 feet. The property was zoned R-1 (single-family residential) District. The surrounding land use is R-1 District in all directions.

Ponderosa Park Phase 6 Subdivision was recorded March 12, 2001. The plat stated a 20 feet front yard setback. A stop work order was posted August 17, 2022. A building permit application was submitted October 10, 2022. A special exception application was submitted May 15, 2023. The applicant stated the carport was built by a contractor but without a building permit.

The applicant is requesting a special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport. The carport is to provide protection from the sun exposure for a person with health concerns.

The front yard setback is 20 feet along Gardenia 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 plat for this subdivision indicates a 5 feet utility easement adjacent to the front property line and runs concurrently with the front yard setback. The carport appears to be encroaching into the utility easement. The utility easement abandonment process would need to be undertaken in order to attempt to resolve the 5 feet carport encroachment into the utility easement.

At the Zoning Board and Adjustment and Appeals meeting of June 7, 2023 a request for an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover was approved for Lot 74, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of August 17, 2022 a request for an encroachment of 15 feet into the 20 feet front yard setback for a proposed metal carport that was approved at Lot 12, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of June 3, 2020, a request for an encroachment of 20 feet into the 20 feet, front yard setback for a proposed carport was approved for Lot 90, Ponderosa Park Phase 6 Subdivision.

There was an existing two-car garage that is part of the home that is used for storage of vehicles and other items.

Measurements provided are without benefit of a survey.

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

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

Staff recommended disapproval of the request since the carport also appears to encroach into a 5 foot utility easement adjacent to the property line.

At the Zoning Board of Adjustments and Appeals meeting of June 21, 2023 Mr. Mario Ferron the applicant, stated that years ago his wife acquired a medical conditions that does not allow her to be exposed to sunlight. She uses the garage to be able to have time with her grandchild without being in the sun. The Board voted to table the special exception request to allow the applicant time to consider reductions to the encroachment.

Board member Gutierrez asked staff if the applicant was informed that he needed more footage. Ms. Trevino stated she spoke with the applicant prior to the meeting that staff needed it on paper but did send an email stating cutting back 3 feet. After staff reviewed it they found he needed 4.2 feet to clear the 5 foot utility easement.

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

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

Following discussion, Vice-Chairperson Ann Tafel moved to retable the special exception to reduce the columns back 4.2 feet to be in compliance, pending owner's authorization. Mr. Hugo Avila seconded the motion. The Board voted to retable the special exception with five members present and voting.

3. FUTURE AGENDA ITEMS:

- a) 2712 Norma Avenue
- b) 2021 Highland Avenue
- c) 2017 Highland Avenue
- d) 1940 South 33rd Street
- e) 1936 South 33rd Street
- f) 1905 Robin Avenue

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