

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, July 22, 2026, 2026 at 4:31 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Hugo Avila	Vice-Chairperson
	Juan Mujica	Alternate
	Alex Lamela	Alternate
	Erick Diaz	Alternate
 Absent:	 Hiram Gutierrez	 Member
	Daniel Santos	Member
	Ivan Garcia	Member
	Francisco Davila	Alternate
 Staff Present:	 Norma Borrego	 Assistant City Attorney I
	Omar Sotelo	Planning Director
	Kaveh Forghanparast	Senior Planner
	Noah Del Bosque	Planner III
	Magdalena Ramirez	Planner I
	Jessica Puga	Technician II
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a)** Minutes for meeting held on July 8, 2026.

The minutes for the meeting held on July 8, 2026. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Erick Diaz seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a)** Request of Oscar Falcon, on behalf of Mauricio de Leon, for two variances to allow: **1)** an encroachment of 15 feet into the 25-foot front setback, and **2)** an encroachment of 4 feet into the 10-foot rear setback for Lot 7, Bocage Estates Subdivision, Hidalgo County, Texas; 708 South Cynthia Street (**ZBA2026-0028**)

Ms. Ramirez stated the applicant was requesting two variances in order to build a single-family home on the subject property. First variance is to allow 15 ft. encroachment into the 25 ft. front setback. The second variance is to allow a 4ft. encroachment into the 10 ft. rear setback.

The subject property was located along the northwest corner of East Houston Avenue and South Cynthia Street. The surrounding land use includes single-family residences and vacant land.

Bocage Estates Subdivision was recorded on May 18, 2023. No previous requests have been submitted for the subject property or the subdivision.

The applicant was requesting two variances: (1) to allow a 15-foot encroachment into the required 25-foot front setback, and (2) to allow a 4-foot encroachment into the required 10-foot rear setback. The purpose of these requests is to increase the buildable area of the lot and accommodate the proposed residential structure. The submitted application states that the property is subject to two front setbacks along the east and the south sides. However, the front setback is only required along the east side, where the lot fronts South Cynthia Street. The south side setback requirement is 20 ft., due to the 20 ft. utility easement dedicated by the recorded plat. The recorded plat of the subdivision requires minimum 25 ft. front setback and 10 ft. rear setback.

As per Section 6.4.1.F., the Zoning Board of Adjustment shall not approve a variance unless it finds that:

- a. The variance is not contrary to the public interest;
- b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
- c. The spirit of the varied provision is observed and substantial justice is done.

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

Staff recommended disapproval of the variance request due to noncompliance with plat note requirements.

Board member Diaz asked staff there were two front yards because it was a corner. Mr. Sotelo stated the narrowest part of the lot would Cynthia Street. The entrance was off Cynthia Street.

Mr. Oscar Falcon, 5212 North McColl Road. He stated the lot was a very irregular shaped lot. It had two possible fronts. The one that faces east were not going with the design because the house would be much wider if they faced the house south. The east side had a 25-foot setback and so did the south side. They were requesting the east side to be a 10-foot setback and not the 25 foot that was required. On the west side, they were requesting a 4-foot variance to alleviate that and extend the house to make a little bit deeper to maximize the size of the property.

Board member Mujica asked the applicant when the design on this particular house were the setbacks and easements available to the designer. Mr. Falcon stated yes, they were trying to maximize the use of the property especially on the east side to make the house wider and more compliance with the sizes of the houses that already exist. On the front, it was a triangular shape going down and it would be a very narrow house if it was facing east versus if it faces south it would get a very much wider house.

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 Mujica asked staff regarding the cul-de-sacs that amount that was left over once they remove the setbacks and easements but still have adequate space to have a single-family residence with some yard would that not be the case. Mr. Forghanparast stated normally when there is a cul-de-sac; the issue on this lot was mainly there was a 24-foot utility on the south side. It was already limiting 20 foot on the south side. They were requesting the Board to consider instead the front in the cul-de-sac for the side, which was on Houston Avenue as the front so use that 20 feet as part of the 25 foot front setback. In doing so, using that as a front setback then flipping so the side of the cul-de-sac would be the side.

Director Sotelo stated with cul-de-sacs, the majority of new subdivisions always asks for variances for the cul-de-sacs to be closer to the front. The engineer on this particular lot did not request for one but should have asked just like all the other cul-de-sacs so now the homeowner was going to have to request it. The other houses that were there are maintaining their setbacks but they look closer because it was so tight.

Mr. Falcon stated that from the pictures from that existing subdivision, there was already an existing front fence, block fence with rod iron as an accent and it runs along the perimeter of the property.

Following discussion, Mr. Erick Diaz **moved** to go against staff's recommendation and approve Variance requests. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve with five members present and voting.

b) Request of Ricardo Daniel Martinez on behalf of Habitat Development Group, for a variance to allow 3-foot side setbacks on the west, for Lots 3, 7, 12, 17, 32, and 36, Habitat at Ware Phase I Subdivision, Hidalgo County, Texas; 3709, 3717, 3807, 3819, 4009, and 4017 Jay Avenue. (ZBA2026-0024) (TABLED: 06/17/2026) (REMAIN TABLED: 07/08/2026)

Mr. Alex Lamela made a motion to remove the item from the table. Vice-Chairperson Hugo Avila seconded the motion. The Board voted unanimously with five members present and voting.

Mr. Del Bosque stated the applicant was requesting a variance to allow 3-foot side setbacks to the west side of Lots 3, 7, 12, 17, 32, and 36 of Habitat at Ware Phase I Subdivision. The applicant intends to build townhomes that do not share a wall, creating a walkable hallway between the townhomes.

The subject properties are located along the south side of Jay Avenue, west of North Ware Road. The surrounding land uses include single-family residences, institutional uses, commercial uses, and vacant land.

Habitat at Ware Phase I Subdivision was recorded on February 12, 2026. According to the plat notes, the subject properties west side setbacks are in accordance with the Zoning Ordinance which is six feet where a townhouse is not separated from an adjacent structure by a firewall. A previous subdivision variance request to allow a three and a half foot side setback on the east side of Lots 2 through 15 and Lots 17 through 18 was approved by the Planning and Zoning Commission on August 20, 2024 as part of the subdivision process

The subject properties will have a proposed total separation of six and a half feet from the west side of their proposed structures. The applicant stated that a one-hour firewall will be added to prevent the spread of fire.

As per Section 6.4.1.F., the Zoning Board of Adjustment shall not approve a variance unless it finds that:

- a. The variance is not contrary to the public interest;
- b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship; and
- c. The spirit of the varied provision is observed and substantial justice is done.

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

Staff recommended disapproval of the variance request due to noncompliance with plat requirements and zoning ordinance.

Board member Mujica asked staff if the applicant provided any type of site plan or visual representation of the request. Mr. Forghanparast stated they did not receive any other documents. The applicant was contacted multiple times. They thought they would be able to attend this meeting. From what was understood from the request was that these lots they were requesting are wider lots and wanted to use the same floor plan that they had for other lots on these lots but would not work. According to the plat notes, they had to go zero or leave 6 feet. He asked the applicant to provide some documents to show hardships.

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.

Following discussion, Mr. Juan Mujica moved to go against staff's recommendation and approve Variance request. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve 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 at 4:45 p.m.

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant