

**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 9, 2025 at 4:33 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Hugo Avila	Vice-Chairperson
	Hiram Gutierrez	Member
	Alex Lamela	Alternate
	Erick Diaz	Alternate

Absent:	Daniel Santos	Member
	Ivan Garcia	Member
	Juan Mujica	Alternate

Staff Present:	Michelle Rivera	Assistant City Manager
	Omar Sotelo	Planning Director
	Kaveh Forghanparast	Senior Planner
	Hilda Tovar	Planner II
	Porfirio Hernandez	Planner I
	Samantha Trevino	Planner I
	Ariana Ale	Planning Intern
	Jessica Puga	Technician II
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

a) Minutes for the meeting held on June 4, 2025.

The minutes for the meeting held on June 4, 2025. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting

b) Minutes for the meeting held on June 18, 2025 will be submitted at the next meeting.

2. PUBLIC HEARINGS:

Chairman Jose Gutierrez made a motion to hear item 2C first. Mr. Hiram Gutierrez seconded the motion. The Board voted to with five members present and voting.

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

c) Request of Briana Martinez for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6-foot side yard setback and 10 feet into the 10-foot rear yard setback for an existing patio measuring 20 feet by 20 feet and an

existing shed measuring 6 feet by 20 feet at Lot 8, Block 3, Primrose Terrace UT No. 1 Subdivision, Hidalgo County, Texas; 1406 Orchid Avenue. **(ZBA2025-0027) (TABLED: 06/18/2025)**

Ms. Tovar stated the applicant was requesting a variance to allow an encroachment of 6 feet into the 6-foot side yard setback and 10 feet into the 10-foot rear yard setback for an existing patio measuring 20 feet by 20 feet and an existing shed measuring 6 feet by 20 feet.

The subject property is located along the north side of Orchid Avenue approximately 78.5 feet west of North Main Street. The subject property has an area of 9,420 square feet. The property is zoned R-1 (Single Family Residential-OC) District. The adjacent zoning is R-1 (Single Family Residential-OC) District in all directions except to the east across North Main Street.

The Primrose Terrace UT No. 1 Subdivision was officially recorded on April 8, 1963. A building permit was submitted in August 1, 2022 for a residential addition which included adding a "porch and a future kitchen expansion". The permit was renewed in February 18, 2025. The building permit was disapproved by planning department since the site plan did not specify if the patio and the kitchen were existing or proposed. Building department requested additional details for their review such as framings details to include location and height. A variance request is required since the existing patio and shed are encroaching into the rear and side setback. The variance request was submitted on May 20, 2025.

The variance request is for an existing patio and an existing shed, which are considered accessory structures and require to comply with setbacks. The existing patio consists of an outdoor kitchen and a bar area. The applicant built the existing patio and shed to enjoy outdoor activities.

The submitted site plan shows that the existing patio is encroaching 6 feet into the six foot side yard setback along the west side of property line and an existing shed encroaching 10 feet into the ten foot rear setback and encroaching 6 feet into the six foot side yard setback along the west side of property line. The recorded plat does not show any utility easements that would be impacted by the proposed encroachment.

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

During the meeting, it was mentioned that the building permit had been submitted on August 1, 2022. However, the building permit was disapproved and the patio was built without a building permit. The applicant also mentioned that the shed was existing prior to buying the home. It was also mentioned that the shed does not have electricity or water.

The board asked the applicant if modifying the structure of the patio would be an option. The applicant mentioned that moving the patio would require to demolish the structure and that she would have to get estimates on how much it would cost.

It was also recommended to the applicant to talk to staff and discuss other alternatives to reduce the encroachment.

After discussion, the board unanimously voted to table the item.

Staff recommended disapproval of the variance request since unnecessary hardship has

not been established. However, if the Board approves the request, it should be limited to the encroachment shown on the submitted site plan.

Chairperson Gutierrez asked staff if they discussed with the applicant if some adjustments could be made. Staff stated yes, the applicant was going to get estimates but was not able to get estimates. She also explained how the patio was built it would be very difficult to demolish it. It would be costly to demolish it and rebuild it.

Briana Martinez, the applicant stated the poles were four feet into the ground. Board member Diaz asked the applicant if the shed was on a foundation. Ms. Martinez stated they were on pavers. She would be willing to move the shed. Her main concern was the \$2000.00 for the engineers but could not get it cheaper estimate. Chairperson Gutierrez explained that the variance went with the land and anything now or in the future could be built there.

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

Luis Flores, 1412 Orchid Avenue. He was the next-door neighbor and was in favor of the variance request.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Variance request. There was no one else 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. Erick Diaz **moved** to disapprove the Variance request. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the Variance request with five members present and voting.

- a) Request of Hector & Cindy Solis for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 19 feet into the 20 foot front yard setback for a proposed carport at Lot 155, Gardenia Terrace No. 7 Subdivision, Hidalgo County, Texas; 6608 North 15th Lane. **(ZBA2025-0032)**

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 19 feet into the 20-foot front yard setback for a proposed metal carport used for protection of their vehicles from inclement weather.

The subject property was located along the east side of North 15th Lane approximately 164 feet north of Nightingale Avenue. The subject property has an area of 7,700 square feet. The property was zoned R-1 (Single Family Residential-OC) District. The adjacent zoning is R-1 (Single-Family Residential-OC) District in all directions.

Gardenia Terrace No. 7 Subdivision was officially recorded on July 11, 1977. The subdivision plat indicates a front yard setback requirement of 20 feet. A special exception request for the proposed metal carport was submitted on June 4, 2025. Submission of the building permit is contingent upon approval of the special exception.

The applicant was requesting the special exception for a proposed metal carport measuring 19 feet x 19 feet for protection of their property from severe weather. With recent hailstorms, applicant states their home sustained damages and loss of trees that provided shade and

shelter to their home and vehicles. Due to the limited size of the existing garage, the addition of the carport will provide much-needed protection for their vehicles.

In the past, there have been other special exceptions and building permits granted in Gardenia Terrace No 7 for carports.

Special exceptions are issued to and recorded for the current owner only. New property owners will 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 special exception request.

Vice-Chairperson Avila asked staff if they had a garage. Staff stated yes but their vehicles do not fit, they had a large pickup truck. Vice-Chairperson Avila if there were any utility easements. Staff stated there was none.

Cindy Solis, 6608 North 15th Lane, McAllen. She stated the structure was a metal frame with a commercial material that had been used previously with the McAllen Parks and Recreation as well as the McAllen I.S.D. The poles would be going in 4 feet deep and will cover the 19 x 19 foot in front of their garage.

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

Mr. Rolando Garza, 6701 North 15th Lane. He stated he was 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 else to speak in opposition of the Special Exception.

Following discussion, Mr. Alex Lamela moved to approve the Special Exception against staff's recommendation. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- b) Request of Jorge E. Vallina on behalf of Faith Developments and Leasing for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of: **1) 4 feet into the 10-foot corner side yard setback and 2) An encroachment of 6 feet into the 18-foot rear yard setback** feet for a proposed single family home at Lot 4A, Block 23, Ewing's Additions Subdivision, Hidalgo County, Texas; 801 North 15th Street. **(ZBA2025-0029) (TABLED: 06/18/2025)**

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

Ms. Trevino stated the applicant was requesting to encroach 4 feet into the 10-foot corner side yard setback and 6 feet into the 18-foot rear yard setback for a proposed single-family home.

The subject property is located along the west side of North 15th Street North of Hackberry

Avenue. The subject property was currently Zoned R-1 (single-family residential-OC) District.

Ewing's Addition Subdivision was recorded on February 13, 1920. A building permit was rejected April 28, 2025 for setback encroachments. An application for a variance request was submitted on May 21, 2025.

The applicant is requesting to encroach 4 feet into the 10-foot corner side yard setback, and 6 feet into the 18-foot rear yard setback for a proposed single-family home. The recorded plat does not show any utility easements that run along the either sides of the property. The recorded plat requires 10-foot rear yard setback except for garage, which required 18 feet. Section 138-356 of the Zoning Ordinance calls for a corner side yard setback to be 10 feet except when a garage or enclosed carport are proposed, then the setback becomes 18 feet from the street or alley.

In the past, there have been a couple of Variances granted in Ewing's Addition Subdivision for encroachments into the front yard setback.

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

At the Zoning Board of Adjustment and Appeals meeting of June 18, 2025, the Board tabled the item in order to give the applicant a chance to visit with City staff and submit changes to the site plan.

Staff recommended disapproval of the variance requests. If the request is approved, it should be subject to the site plan.

Staff stated they spoke with the applicant considering some changes, which they proposed. They will be giving the 18-foot rear yard setback so there was only variance proposed which would the side yard setback of 6 feet instead of 10 feet off Hackberry Avenue.

Chairperson Gutierrez asked staff if the applicant was present. Staff stated yes along with the property owner were present.

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, Vice-Chairperson Hugo Avila moved to approve the Variance requests. Mr. Erick Diaz seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- d) Request of Humberto Salinas 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 at Lot 13, Block 1, McAllen Heights Subdivision, Hidalgo County, Texas; 821 South 26th ½ Street. **(ZBA2025-0017) (TABLED: 06/04/2025) (REMAIN TABLED: 06/18/2025)**

This item was to remain tabled.

- e) Request of Gerardo Morales for a variance request to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 18-foot rear yard setback for a hot tub with a pergola at Lot 65, Spanish Oaks @ Frontera Subdivision, Hidalgo County, Texas; 705 Grambling Avenue. **(ZBA2025-0021) (TABLED: 06/04/2025) (REMAIN TABLED: 06/18/2025)**

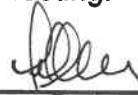
This item was to remain tabled.

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