

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, June 18, 2025 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

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| Present: | Jose Gutierrez | Chairperson |
| | Hiram Gutierrez | Member |
| | Daniel Santos | Member |
| | Juan Mujica | Alternate |
| | Alex Lamela | Alternate |
| | Erick Diaz | Alternate |
| Absent: | Hugo Avila | Vice-Chairperson |
| | Ivan Garcia | Member |
| | Nancy Valenzuela | Alternate |
| Staff Present: | Norma Borrego | Assistant City Attorney I |
| | Omar Sotelo | Planning Director |
| | Hilda Tovar | Planner II |
| | Samantha Trevino | Planner I |
| | Jessica Puga | Technician II |
| | Magda Ramirez | Administrative Assistant |

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on June 4, 2025 will be voted on the next meeting.

2. PUBLIC HEARINGS:

- a) Request of Edgar Chapa for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 3 1/2 feet into the 25-foot front yard setback for an existing porch measuring 8 feet by 20 feet at Lot 11, Block 21, Balboa Acres Subdivision, Hidalgo County, Texas; 3212 Covina Avenue. **(ZBA2025-0023)**

Ms. Trevino stated the applicant was requesting to encroach 3-1/2 feet into the 25-foot front yard setback for an existing front porch.

The subject property is located along the north side of Covina Avenue, east of South 33rd Street. The subject property is currently Zoned R-1 (single-family residential-OC) District.

Balboa Acres Subdivision was recorded on December 27, 1962. Several stop work orders have been issued between March 2025 and May 2025 for residential construction without a permit. A building permit was rejected May 9, 2025, for a porch encroachment. An application for a variance request was submitted on May 16, 2025.

The applicant is requesting to encroach 3 1/2 feet into the 25-foot front yard setback for an existing front porch. The applicant states that porch is needed to protect the front door from

weather elements and to prevent rain from entering the house. The recorded plat does not show any utility easements along the front of the property,

In the past there have been several variances granted in Balboa Acres Subdivision for encroachments into the front yard setback.

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

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

Mr. Edgar Chapa, 3212 Covina Avenue, McAllen. He stated he had built the porch for protection against the rain entering the house and for sun protection. He had built it 3-1/2 feet out more than the required measurements. Chairperson Gutierrez asked the applicant when the construction was finished. Mr. Chapa stated about 2 months. He also needed the variance request in order to connect light for the front porch. Chairperson Gutierrez asked the applicant if he discussed with staff about modifying the porch. He stated yes and that he was asked to reduce it back 3-1/2 feet. Board member Diaz asked the applicant if he had applied for a building permit. Mr. Chapa stated yes, for the remodeling of the house but not the porch.

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

- b) Request of Maria Morales for a variance to the City of McAllen Zoning Ordinance for a garage enclosure at Lot 26, Plantation Gap Phase I Subdivision, Hidalgo County, Texas; 4704 Toucan Avenue. (ZBA2025-0028)**

Ms. Trevino stated the applicant is requesting to enclose their garage in order to utilize the area for storage of educational materials and their washer and dryer.

The subject property was located along the North side of Toucan Avenue. The subject property is currently Zoned R-1 (single-family residential-OC) District.

Plantation Gap Phase I Subdivision was recorded on December 20, 2004. A building permit has not yet been submitted. An application for a variance request was submitted on May 21, 2025.

The applicant is requesting to enclose their garage in order to utilize the area for storage of educational materials and their washer and dryer. The applicant states that she is unable to utilize her garage because of it being too narrow to fit her SUV inside.

In the past there have been several variances granted in phase II of Plantation Gap Subdivision for garage enclosures, but none on file in Plantation Gap Phase I Subdivision.

Section 138-397 of the Zoning Ordinance required two parking spaces per dwelling unit; however, one parking space must be beyond the front yard setback. Enclosing the existing garage will prevent the subject property from complying with this requirement.

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

Staff recommended disapproval of the variance request.

Ms. Maria Morales, 4704 Toucan Avenue, McAllen. She stated needed the garage space because her house was too small for storage. She was a teacher and needed her educational materials to be stored in an a/c environment to keep from going to waste.

Board member Mujica explained the recommendation of staff was because the City has an ordinance of the amount of parking that every house needs to have. You have a driveway and there's parking outside but the garage is essentially a parking place as well. By enclosing, the garage and making it as a living space and not a garage that would put at non-compliance of the parking requirement.

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 if there were any similar variances granted in that neighborhood. Staff stated that in Phase I there was none. There were some illegal enclosures. In Phase II there was one approved about 5 years ago.

Following discussion, Mr. Daniel Santos moved to approve the Variance request against staff's recommendation. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- c) 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)**

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

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

Mr. Jerry Garza, 801 North 15th Street, McAllen. He stated they bought the property for a new home and the survey dictated all the requirements. When they tried to obtain a permit, they were given a plat with the requirements. They wanted to keep the neighboring corners, which were within 12 feet building from the back of the curb.

Ms. Daniela Hellmund, the designer for the project. She stated when they went with the survey with the standard procedure to design the home. She stated they were surprised when the City had a new rule if you had a garage in the alley the setbacks changes. There was no note on the survey. They then designed the home taking into account the survey and the City denied the permit. Ms. Hellmund stated they have space for a spare vehicle in the front. They would like a fence for the back to where they would only park in their garage.

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 the table the item until the next meeting. Mr. Daniel Santos seconded the motion. The Board voted to table the Variance request with five members present and voting.

- d) Request of Jaime Valdez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 25-foot front yard setback for a proposed carport measuring 20 feet by 20 feet at Lot 167, Lincoln Terrace UT No. 5 Subdivision, Hidalgo County, Texas; 2508 Upas Avenue. **(ZBA2025-0024)**

Ms. Trevino stated the applicant was requesting to encroach 18 feet into the 25-foot front yard setback for a proposed carport measuring 20 feet by 20 feet.

The subject property was located along the north side of Upas Avenue, west of North 25th Lane. The subject property is currently Zoned R-1 (single-family residential-OC) District.

Lincoln Terrace UT No. 5 Subdivision was recorded on October 8, 1971. A building permit was rejected May 19, 2025 for an encroachment into the front yard setback. An application for a special exception request was submitted on May 16, 2025.

The applicant is requesting to encroach 18 feet into the 25-foot front yard setback for a proposed carport measuring 20 feet by 20 feet proposed to provide shade and protection for the applicant's mother who has medical conditions as well as for shade for their vehicles. There are no utility easements that run along the front or sides of the property.

Staff did not find any special exceptions granted in Lincoln Terrace UT 5 Subdivision for encroachments into the front yard setback for carports.

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

Staff recommended disapproval of the special exception requests. If the request is approved it should be subject to the site plan provided.

Jaime Valdez, 2508 Upas Avenue. He stated that his mother-in-law resides with them and needed the carport for her medical condition and for protection against inclement weather for their vehicles.

Maria Davila, 2508 Upas Avenue. She stated her mother was in a wheelchair and made it difficult to put her into the vehicle when it is raining so having the carport would help.

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. Erick Diaz moved to go against staff's recommendation and approve the Special Exception. Mr. Juan Mujica seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- e) Request of Victor Barrera for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 3 feet into the 20-foot front yard setback for an existing porch that measures 12 feet by 12 feet at Lot 4, Block 23, Youngs Subdivision, Hidalgo County, Texas; 310 South 24th Street. **(ZBA2025-0025)**

Ms. Tovar stated the applicant was requesting a variance to allow an encroachment of 3 feet into the 20-foot front yard setback for an existing porch.

The subject property was located along the west side of South 24th Street approximately 100.0 feet north of Dallas Avenue. The subject property has an area of 7,000 square feet. The property is zoned R-2 (Duplex-Fourplex Residential O.C.) District. The adjacent zoning is R-2 District O.C. in all directions.

The Youngs Subdivision was officially recorded on 1920's. A variance request was submitted on May 16, 2025. The existing porch was built without a building permit, and a building permit for the existing porch has not been submitted yet.

The variance request is for an existing 12 ft. x 12 ft. porch in front of the house to attach to the home entrance.

The applicant stated their grandmother needed an upgraded porch in order to use the stairs that were already broken and flimsy. The existing porch would provide extra shade for their grandmother. The applicant stated that the porch was existing but 7 ft. were added to increase its size for security reasons. The front-facing entry is consistent with neighboring homes, thereby aligning the property with the prevailing neighborhood character.

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

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.

Ms. Alondra for 310 South 24th Street. Mr. Victor Barrera, 310 South 24th Street. She stated she had pictures and building permit that was obtained three weeks ago. Board member Mujica asked Mr. Barrera when they obtained the permit to construct the porch, did he build it to the permit conditions or made it larger. Mr. Barrera stated to make it 3 feet larger. He stated the posts were not there and pavement in front was larger than normal.

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. Hiram Gutierrez moved to go against staff's recommendation and approve the Variance request limited to the encroachment shown on the submitted site plan. Mr. Daniel Santos seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- f) Request of Aldo Salazar for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 20-foot front yard setback for an existing carport measuring 20 feet by 18 feet at Lot 21, Block 1, Gardenia Terrace No. 8 Subdivision, Hidalgo County, Texas; 6004 North 30th Street. **(ZBA2025-0026)**

Ms. Tovar stated the applicant was requesting a special exception for an encroachment into the front yard setback for an existing 400 square feet metal carport that measures 20 feet by 20 feet. According to the applicant, the carport is to be built to protect his vehicles from the weather elements. The applicant has also stated on his application that the carport is for medical related reasons.

The subject property is located along the East side of North 30th Street, 140 feet South of Hummingbird Avenue. The lot size is 7,700 square feet. The surrounding land use is single family residential.

Gardenia Terrace No. 8 was recorded on May 31, 1978, and the plat specifies a 20 feet front yard setback. A stop work order was issued by the Building Permits and Inspections Department on April 4, 2022. An application for a building permit was submitted on April 4, 2022 and an application for Special Exception was submitted to the Planning department

on April 11, 2022. The request was disapproved at the Zoning Board of Adjustments meeting of May 18, 2022.

The applicant is requesting a special exception to allow an encroachment of 18 feet into the 20 feet front yard setback for an existing metal carport measuring 20 feet by 20 feet built over an existing concrete driveway. 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. Approval of the request to allow the carport within the front yard may encourage future carports to be constructed in the front yard. There is an existing two-car garage that is part of the residence. The applicant stated that the garage is currently being used for storage of medical supplies. In addition, the applicant is a senior citizen and is requesting the special exception for the existing carport to protect his health. The carport will also help to protect the vehicles from excessive heat and weather conditions.

A review of Planning Department records did not reveal any variances or special exceptions granted within this subdivision.

A windshield survey of the area did not reveal any other existing carports in this area.

The construction of the existing carport appears to encroach into street right of way; however, measurements provided are without benefit of a survey.

There was no alley on the subject property that would allow for relocation of the proposed carport.

Special exceptions are issued to an individual and recorded; however, if a new owner purchases the home they will have to apply as the new owner.

Staff recommended disapproval of the special exception request. However, if the Board approves the request it should be limited to the encroachment shown in the submitted site plan.

Ms. Tovar mentioned the Special Exception was previously requested in 2022 but it was for the carport as it was currently 20 x 20 feet. The applicant was requesting to possibly reducing the carport to encroach 18 feet instead of the 20 feet.

Chairperson Gutierrez asked staff what the reason was for the person that was opposing the request. Staff stated that because there were no other carports in the neighborhood built in front and that it might trigger other neighbors to do the same.

Mr. Aldo Salazar, 6004 North 30th Street, McAllen. He stated he had pictures in the surrounding area from Ware Road to 29th Street and from Lark Avenue to Dove Avenue. Board member Mujica mentioned to the applicant that even though there are several other carports it does not mean that they obtained a building permit. Mr. Salazar stated that his truck did not fit in the garage. He stated the carport was built 3 years ago. He has resided there for 20 years and never had a problem.

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. Alex Lamela moved to go against staff's recommendation and approve the Special Exception. Mr. Erick Diaz seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- g) 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)**

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

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.

Briana Martinez, 1406 Orchid Avenue, McAllen. She stated originally when she went for the permit was for the expansion of the kitchen. They had decided to build the patio outside instead because they had water and electricity. The brown shed that was against the wall was there when they purchased the house. She was informed to do the shed as a variance as well. She stated building permits department informed her to get an engineer to approve the structure was well built but because she did not want to pay \$2000.00. Building Permits informed her as long as she gave the engineer's approval, we will clear you. She stated she had a letter from the neighbors that the shed was not disturbing them. Board member Diaz stated there could be a possible to move the shed in 6 feet from the fence to be in compliance.

Board member Mujica suggested tabling the item to discuss with her husband to possibly making some adjustments on the porch and may not have to return.

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. Erick Diaz **moved** to table the Variance request until the next meeting. Mr. Hiram Gutierrez seconded the motion. The Board voted to table the Variance request with five members present and voting.

- h) 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)**

This item was to remain tabled.

- i) 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)**

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