

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, May 21, 2025 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

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

Absent:	Daniel Santos	Member
	Ivan Garcia	Member
	Nancy Valenzuela	Alternate

Staff Present:	Norma Borrego	Assistant City Attorney I
	Omar Sotelo	Planning Director
	Rodrigo Sanchez	Senior Planner
	Samantha Trevino	Planner I
	Alexis Martinez	Planner I
	Jessica Puga	Technician II
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on May 7, 2025.

The minutes for the meeting held on May 7, 2025. The motion to approve the minutes were made by Mr. Alex Lamela. Vice-Chairperson Hugo Avila seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) Request of Luis Gudino and Kimberly Gudino 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 an existing metal carport at Lot 24, Block 20, Balboa Acres Subdivision, Hidalgo County, Texas; 2912 Daytona Avenue. (ZBA2025-0013)

Ms. Martinez stated the applicant was requesting a special exception for an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport measuring 23 feet by 25 feet. The property owner for this lot is wishing to use the carport for vehicle protection.

The subject property was located north of Daytona Avenue, south of Covina Avenue, and approximately 190 feet west of North 29th Street. The lot has 96 feet of frontage along Daytona Avenue with a lot size depth of 110 feet. The property is zoned R-1 (Single Family Residential) District. Adjacent zoning is R-1 (single-family residential) District in all

directions and A-O (Agricultural and Open Space) District to the north. Surrounding land uses are single-family residences and vacant land.

Balboa Acres Subdivision was recorded on December 27, 1962. The front yard setback is 25 feet as per plat. On April 2, 2025, Code Enforcement Department issued out a stop work order for a carport not having a permit on file. A building permit for the carport was submitted April 8, 2025 and was rejected due to front yard encroachment. An application for a Special Exception request was submitted to the Planning Department on April 10, 2025. On April 15, 2025, a citation was then issued for construction without a permit by Code Enforcement Department.

The request was for a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport measuring 23 feet by 25 feet. The applicant is applying for a special exception for the existing carport on the property to provide protection to their vehicles from severe weather conditions. The applicant was under the assumption that the information provided to them by the builder of the carport about not needing to acquire a building permit was necessary and that he has built several similar structures and areas in McAllen with no issues. His assurance to the property owners did not make them aware that there was a size restriction along with a limitation of building areas on the lot regarding structures, non the less that a building permit was required until it was brought to their attention by city Staff.

This lot does have an access alley in the rear of the property; however, there is not enough room to relocate the carport in the backyard with the existing structures. The existing carport does not fall under the maximum requirement as stated in Section 138-371 (g) "No carport for which a special exception has been granted under this subsection shall exceed 400 square feet in size". However, the applicant is proposing to modify the structure to measure 20 feet by 20 feet to comply with the maximum limitation of 400 square feet. The main house was not built with a garage and is why the applicant is requesting to keep the carport subject to modifications as shown on the site plan.

There have been no calls or emails received in opposition of the Special Exception request.

Following a site visit, staff observed various other carports in the subdivision that had a similar front carport encroachments and records indicated some have not applied for permits and some have approved special exceptions with issued permits.

Special exceptions are issued to an individual and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

Staff recommended approval of the Special Exception request since approval is granted to the property owner only and will not negatively impact the existing character of the neighborhood.

Kimberly Gudino and Luis Gudino, 2912 Daytona Avenue. The applicants distributed letters of the surrounding neighbors to the Board who were in favor of the Special Exception

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.

Sylvia Alvarado, 2905 Covina Avenue stated she was in favor of the carport. She stated she would also like to build a carport for protection of her vehicle.

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

- b) Request of April Rodriguez 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 x 20 feet at Lot 74, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 4517 Thunderbird Avenue. (ZBA2025-0014)

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for a proposed metal carport.

The subject property was located along the south side of Thunderbird Avenue approximately 205.0 feet west of North 45th Street. The subject property has an area of 5,149 square feet. The property is zoned R-1 (Single Family Residential O.C.) District. The adjacent zoning is R-1 District O.C. in all directions.

Plantation Gap Phase 1 Subdivision was officially recorded on December 20, 2004. This home and like several homes within this subdivision were built with a single car garage. The subdivision plat indicates a front yard setback requirement of 25 feet. A special exception request was submitted on April 10, 2025. A building permit for the proposed metal carport was submitted on April 9, 2025.

The applicant is requesting the special exception for a proposed metal carport with an encroachment into the front yard setback. The applicant explains that their home was originally built with a single-car garage, and the proposed 20 foot x 20 foot metal carport is intended to shield their other vehicles from the extreme heat and weather conditions.

There is no rear alley access on the property that would allow the proposed carport to be relocated outside of the front yard setback.

In the past there have been other special exceptions granted in Plantation Gap Phase 1 Subdivision for encroachment into the front yard setback.

There was a 5-foot utility easement in the front but will not be impacted by the encroachment.

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

Staff recommended approval since special exception requests are granted to the property owner only and a change of ownership requires the new owner to apply for their own special exception.

Vice-Chairperson Avila asked staff regarding the house next door, which had a metal carport, was that one previously granted. Staff stated he had checked on that one and it showed that four approvals in that neighborhood.

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. Hugo Avila moved to approve the Special Exception as presented. Mr. Juan Mujica seconded the motion. The Board voted to approve Special Exception with five members present and voting.

- c) Request of Andres and Dora Hilda Benavidez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15.5 feet into the 25 foot front yard setback for an existing carport at Lot 22, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 4608 Toucan Avenue. (ZBA2025-0015)

Mr. Hernandez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport that is proposed to be modified to comply with square footage size requirement.

The subject property was located along the north side of Toucan Avenue approximately 355.0 feet west of North 45th Street. The subject property has an area of 5,199 square feet. The property is zoned R-1 (Single Family Residential O.C.) District. The adjacent zoning is R-1 District O.C. in all directions.

Plantation Gap Phase 1 Subdivision was officially recorded on December 20, 2004. This home and like several homes within this subdivision were built with a single car garage. The subdivision plat indicates a front yard setback requirement of 25 feet. A special exception request was submitted on April 14, 2025. A building permit for the proposed metal carport was submitted on January 27, 2025.

The applicant is requesting the special exception for an existing metal carport measuring 24.83 feet x 16.75 feet with a total of 416 square feet, which exceeds the 400 square foot size not allowed by ordinance. The applicant is proposing to reduce the carport size to bring into compliance. The carport currently encroaches 15.42 feet into the front yard setback. The applicant asserts that the carport is essential to accommodate her husband for medical reasons. The structure provides necessary shade and protection from extreme weather conditions, thereby enabling him to safely perform daily exercises and spend time outdoors without exposure to excessive heat or adverse weather.

There was a 5 foot utility easement in the front but will not be impacted by the encroachment.

There is no rear alley access on the property that would allow the proposed carport to be relocated outside of the front yard setback.

In the past there have been other special exceptions granted in Plantation Gap Phase 1 Subdivision for encroachment into the front yard setback.

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

Staff recommended approval since special exceptions are issued to the property owner only and any change in ownership require the new owner to apply for their own special exception.

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 approve the Variance request as presented by staff's recommendation Vice-Chairperson Hugh Avila seconded the motion. The Board voted to approve Variance request with five members present and voting.

- d) Request of CRV Construction, LLC on behalf of Reyes Ramon Ayala for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 11 feet into the 20 foot front yard setback for a proposed metal carport at Lot 73, Ware Heights Subdivision, Hidalgo County, Texas; 3412 Xanthisma Avenue. **(ZBA2025-0012)**

Ms. Trevino stated the applicant was requesting a special exception for an encroachment of 11 feet into the 20-foot front yard setback for a proposed metal carport measuring 15 feet by 20 feet. The property owner for this lot is wishing to use the carport for vehicle protection.

The subject property was located north of Xanthisma Avenue, south of Yucca Avenue, and approximately 170 feet west of North 34th Street. The lot has 50 feet of frontage along Xanthisma Avenue with a lot size depth of 98.75 feet. The property is zoned R-1 (Single Family Residential) District. Adjacent zoning is R-1 (single-family residential) District in all directions, R-3T (Multifamily Residential Townhouse) District to the north and R-3A Multifamily Residential Apartment to the south. Surrounding land uses are single-family residences and vacant land.

Ware Heights Subdivision was recorded on February 9, 1999. The front yard setback is 20 feet as per plat. An application for a Special Exception request was submitted to the Planning Department on April 3, 2025. No building permit has been applied for yet.

The request was for a special exception to allow an encroachment of 11 feet into the 20-foot front yard setback for a proposed metal carport measuring 15 feet by 20 feet. The applicant is applying for a special exception for the proposed carport on the property to provide protection to their vehicles from severe weather conditions. This lot does not have an access alley to have the carport relocated to the rear of the property. The proposed carport does fall under the maximum 400 square feet requirement as stated in Section 138-371 (g) "No carport for which a special exception has been granted under this subsection shall exceed 400 square feet in size". The current built in one car garage is being used for one vehicle; however, the applicant has additional vehicles that they would like to provide the same coverage protection with the use of the proposed carport.

There have been no calls or emails received in opposition of the Special Exception request.

In conducting research on the subdivision, staff did not find any other variances or permits issued out for carports. During a site visit, staff only saw one other carport in the subdivision that has a similar front carport encroachment into that property.

Special exceptions are issued to an individual and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

Staff recommended disapproval of the Special Exception request since it is not compatible with the character of the neighborhood.

Board member Mujica asked staff being that there were all single car garages in the neighborhood by the City's perspective that there were no other carports. Staff stated there was one other carport existing aside from this proposal that did not have a permit.

Mr. Reyes Ramon Ayala, 3412 Xanthisma Avenue. The applicant stated he waited 24 years to build this carport to protect his vehicles and to have it cooler for this garage and living room.

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.

Rosa Alaniz, 3401 Yucca Avenue. She stated she was in favor of the Special Exception.

Chairperson Jose Gutierrez asked if there was anyone else present to speak in favor of the Special Exception. There was no one else 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.

Board member Mujica wanted clarification of the measurements of the site plan that it was 11 feet into the 25-foot front setback. Staff stated yes.

Following discussion, Mr. Hiram Gutierrez moved to approve the Special Exception as presented on the site plan against staff's recommendation. Mr. Juan Mujica seconded the motion. The Board voted to approve Special Exception with five members present and voting.

- e) Request of Saul Briones for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 21 feet 8 inches into the 25 foot front yard setback for an existing carport measuring 21 feet by 19 feet at Lot 9, Derby Downs Subdivision, Hidalgo County, Texas; 2301 North 47th Street. **(ZBA2025-0016)**

Ms. Trevino stated the applicant was requesting to encroach 21 feet 8 inches into the 25-foot front yard setback for an existing carport. The carport will be used to protect his vehicles from weather related damage.

The subject property was located along the west side of North 47th Street. The subject property is currently Zoned R-1 (single-family residential-OC) District.

Derby Downs Subdivision was recorded on October 29, 2004. A building permit was rejected April 8, 2025 for carport addition. An application for a special exception request was submitted on April 15, 2025.

The applicant was requesting to encroach 21 feet 8 inches into the 25-foot front yard setback for an existing carport. There are no utility easements that run along the front of the property. The carport will be used to protect his vehicles from adverse weather as per the applicant.

In the past there have been 2 variances granted in Derby Down's Subdivision for encroachments into the rear yard setback. There have been no applications or approval for special exceptions in Derby Down's Subdivision.

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 special exception request.

Chairperson Gutierrez asked why staff recommending disapproval. Staff stated it would be the first in the subdivision. There were not any others, the only carport was in the next subdivision.

Board member Mujica asked if this was a single car garage. Staff stated no, it was a two-car garage.

Mr. Saul Briones, 2301 North 47th Street. He stated he did not know anything about building permits. He stated that the hailstorm in 2014 damaged his vehicle. Then there was the flood in 2018. Mr. Briones stated he heard on the news that they could rebuild without obtaining a permit. He received a citation afterwards.

Board member Mujica asked the applicant when the carport was built. He stated in 2018.

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. Hugo Avila moved to disapprove the Special Exception as presented on the site plan against staff's recommendation. Mr. Juan Mujica seconded the motion. The Board voted to disapprove Special Exception with five members present and voting.

- f) Request of Raudel Garcia for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 7 foot north side yard setback for a proposed irregular shaped swimming pool with an area of approximately 352 square feet at Lot 25, Block 7, Milmor Addition Subdivision, Hidalgo County, Texas; 1214 North 16th Street. (ZBA2025-0010) (TABLED: 05/07/2025)

This item was withdrawn by the applicant.

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 Assista



Chairperson Jose Gutierrez