

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, APRIL 2, 2025 - 4:30 PM MCALLEN DEVELOPMENT CENTER, 311 NORTH 15TH STREET EXECUTIVE CONFERENCE ROOM

At any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Zoning Board of Adjustment and Appeals under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.

CALL TO ORDER -

1. MINUTES:

- a) Minutes for the meeting held on March 19, 2025

2. PUBLIC HEARINGS:

- a) Request of Adrian Hinojosa for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 foot front yard setback for an existing carport measuring 15 feet by 25 feet at Lot 133, Colonia McAllen Subdivision, UT No. 6, Hidalgo County, Texas; 2108 South 30th ½ Street. **(ZBA2025-0006)**

3. FUTURE AGENDA ITEMS

- a) 7212 North 44th Lane
- b) 2028 Hawk Avenue

ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE ZONING BOARD OF ADJUSTMENTS AND APPEALS MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, March 19, 2025 at 4:30 p.m. in the McAllen Development Center, Executive Conference Room with the following present:

- | | | |
|-----------------------|---------------------------|---------------------------------|
| Present: | Jose Gutierrez | Chairperson |
| | Hiram A. Gutierrez | Member |
| | Hugo Avila | Member |
| | Juan Mujica | Alternate |
| | Alex Lamela | Alternate |
| | Erick Diaz | Alternate |
|
 | | |
| Absent: | Daniel Santos | Member |
| | Ivan Garcia | Member |
|
 | | |
| Staff Present: | Omar Sotelo | Planning Director |
| | Rodrigo Sanchez | Senior Planner |
| | Porfirio Hernandez | Planner II |
| | Noah Del Bosque | Technician I |
| | Carmen White | Administrative Assistant |

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on March 5, 2025

The minutes for the meeting held on March 5, 2025. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Hugo Avila seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) Request of Reyes Aguilar, for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 17.84 feet into the 25-foot front yard setback for an existing 11-foot x 20-foot metal carport at Lot 79, Idela Park Unit No. 1 Subdivision, Hidalgo County, Texas; 2716 Judith Avenue. **(ZBA2025-0004)**

Mr. Hernandez stated the applicant is requesting to encroach 17.84 feet into the 25-foot front yard setback for an existing metal carport that will be used to protect his vehicles from inclement weather and provide shade for gatherings.

The subject property is located along the north side of Judith Avenue approximately 105 feet east of North 27th Lane. The subject property is zoned R-1 (single family residential O.C.)

District.

Idela Park Unit No. 1 Subdivision was recorded on February 13, 1978. The plat states a 25-foot front yard setback. An application for a building permit has not been submitted at this

time and a special exception request were submitted on February 17, 2025.

The applicant is requesting to encroach 17.84 feet into the 25-foot front yard setback for an existing carport being used to protect his vehicle from inclement weather conditions and to provide the owner a shaded space for relaxation, which contributes to his well being and mental health. The home was constructed without a garage in 1998 since one parking space beyond the front yard setback was not required at the time of subdivision recordation.

In the past, there have been other variances and special exceptions in Idela Park Unit No. 1 Subdivision for encroachments into the front yard setbacks.

Measurements are provided without the 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 approval of the special exception request since the approval is granted solely to the present owner and does not negatively impact the existing character of the neighborhood.

Board member Mujica asked staff if there were other carports similar to this carport. Mr. Hernandez responded yes. The one next door had been approved last year.

Mr. Reyes Aguilar, 2716 Judith Avenue, the applicant stated someone else had built it four months ago. Chairperson Gutierrez asked the applicant if he was aware that he needed a permit. Mr. Aguilar stated he lived in Illinois and did not know the process for a carport here in the City.

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.

Board member Mujica asked staff how was this case brought before the Board. Mr. Hernandez stated he had received a citation. He had built a carport in the rear, which he had removed. That is when decided to build it in the front.

Following discussion, Mr. Alex Lamela **moved** to approve the Special Exception. Mr. Hugo Avila seconded the motion. The Board voted to approve Special Exception with five members present and voting.

- b)** Request of Drake Alford on behalf of Krake Investments, LLC. for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 10-foot rear yard setback and 7 feet into the 7-foot East side yard setback for an existing 9.91 feet x 18 feet detached garage at Lot 3, Block 4, Louise Addition Subdivision, Hidalgo County, Texas; 815 Cedar Avenue. **(ZBA2025-0005)**

Mr. Hernandez stated the applicant was requesting a variance to allow an encroachment of ten feet into the ten foot rear yard setback and seven feet into the seven foot east side yard setback for an existing detached garage.

The subject property was located along the south side of Cedar Avenue approximately 102.5 feet east of North 9th Street. The subject property has an area of 6,500 square feet. The property is zoned R-1 (Single Family Residential O.C.) District. The adjacent zoning is R-1 District O.C. to the North, East and West and R-2 (Duplex-Fourplex Residential O.C.) District to the South across the alley.

The Louise Addition Subdivision was officially recorded on December 11, 1921. According to Hidalgo County records, the main house and detached garage were constructed in 1968. A variance request was submitted on February 19, 2025.

The applicant intended to purchase the property and is seeking a variance request for encroachment into the rear and side yard setbacks for an existing detached garage. Approval of the variance request will allow the applicant to secure a mortgage as part of the transaction. The detached garage was considered a nonconforming structure since it was constructed under a previous zoning ordinances. The character of the subdivision was not negatively impacted by the existing encroachments. A 20-foot alley at the rear of the property serves as a buffer for the property to the south. The applicant has stated that there are no plans to modify the structure. The garage currently measures 9.91 feet x 18 feet having a total of 178.4 square feet.

No utility easements will be impacted by the encroachment.

If the variance request was approved, the structure must comply with building code requirements.

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

Staff recommended approval of the variance request since approval would allow the closing on the property.

Mr. Drake Alford, 1511 Camellia Avenue, McAllen. He was the applicant on behalf of Krake Investments, LLC. They were able to close on the property last month. He stated the title policy excludes coverage of the attached garage. The garage was built in 1962. They had no plans to modify or add to it. Their plans are to improving the interior of the existing structure.

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 the garage that built in 1962 with the carport, did it comply with the ordinances at that time. Staff stated it might have complied with the 1945-zoning ordinance at the time.

Board member Mujica asked if the garage was made of what material. Mr. Alford stated it was made of wood with stucco material. He stated correction the garage was built in 1968. Board member Mujica had concerns with the garage being out of wood materials as a fire hazard.

Following discussion, Mr. Hiram Gutierrez **moved** to approve the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to approve Variance request 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.

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

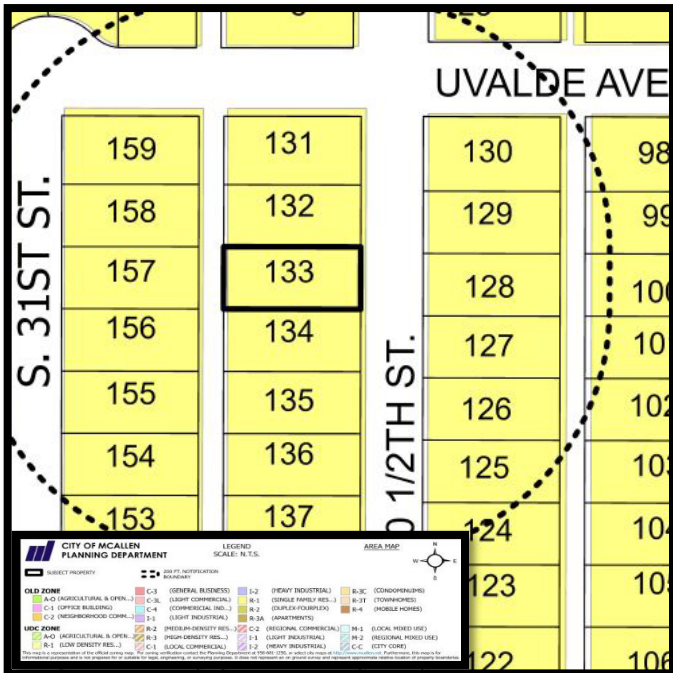
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: March 25, 2025

SUBJECT: REQUEST OF ADRIAN HINOJOSA FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 20 FOOT FRONT YARD SETBACK FOR AN EXISTING CARPORT MEASURING 15 FEET BY 25 FEET AT LOT 133, COLONIA MCALLEN SUBDIVISION, UT NO. 6, HIDALGO COUNTY, TEXAS; 2108 SOUTH 30TH ½ STREET. (ZBA2025-0006)

REASON FOR APPEAL: The applicant is requesting to encroach 15 feet into the 20 foot front yard setback for an existing carport that is proposed to be modified to comply with square footage size requirement and to be located out of the utility easement. The carport will be used to protect his vehicles from inclement weather and will provide protection for an elderly family member that lives with him.



PROPERTY LOCATION AND VICINITY: The subject property is located along the west side of South 30th ½ Street and south of Uvalde Avenue. The subject property is currently zoned R-1 (single family residential-OC) District.

BACKGROUND AND HISTORY: Colonia McAllen Unit No. 6 Subdivision was recorded on August 02, 1976. The original permit for a carport was submitted February 5, 2018. The permit was withdrawn for the carport (reason unknown) and only the concrete slab, and curb cut extension were done. A stop work order was issued June 18th, 2024 for construction without a permit. An application for a building permit for a proposed carport was submitted on July 10th, 2024 and a special exception was submitted July 11th, 2024. A special exception was disapproved for an encroachment of 20 feet into the 20 foot front yard setback with a measurement of 26 feet by 17.25 feet since the carport exceeded the 500 foot maximum and relocation was an option. A new application for a special exception request was submitted on February 28th, 2025.

ANALYSIS: The applicant is requesting to encroach 15 feet into the 20 foot front yard setback for a proposed modification of an existing carport that will be used to protect his vehicles from inclement weather and will provide protection for an elderly family member that lives with him. The home had a garage that is now enclosed.

In the past there have been other variances and special exceptions granted in Colonia McAllen Unit No. 6 Subdivision for encroachments into the front yard setback for carports.

Measurements are provided without the 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 has not received any phone calls, emails, or letters in opposition to the special exception request.

RECOMMENDATION: Staff recommends disapproval of the special exception request since the applicant has access to a traversable rear yard alley where a carport can be relocated out of the setbacks.



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15th Street
McAllen, TX 78501
P. O. Box 220
McAllen, TX 78505-0220
(956) 681-1250
(956) 681-1279 (fax)

Case Number: ZBA 2025-0006
Receipt No: 354620
Accepted by: P: SJT S: [Signature]

ZBOA Meeting: 04/02/2025
Customer Acknowledgment (Int.): AH

Routed
 Scanned

PROJECT

Legal Description

Lote #133

Subdivision Name

Col. McAllen part #6

Street Address

2108 S 30 1/2 st.

Number of lots

1

Gross acres

Existing Zoning

R1

Existing Land Use

Residente

Reason for Appeal (please use other side if necessary)

por reduccion de plus condicional del techo porque excede por lo permitido por la ciudad.

\$300.00 non-refundable filing fee + \$50.00 Recording Fee for Special Exception (carport)

Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

APPLICANT

Name

Adrian Ninoja

Phone

(956) 961 2855

Address

2108 S 30 1/2 St

E-mail

adrian67956@gmail.com

City

McAllen

State

TX

Zip

78503

OWNER

Name

Adrian Ninoja

Phone

(956) 961 2855

Address

2108 S 30 1/2 St

E-mail

adrian67956@gmail.com

City

McAllen

State

TX

Zip

78503

AUTHORIZATION

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?

Yes

No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)

OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature

[Signature]

Date

02-28-2025

Print Name

Adrian Ninoja

Owner

Authorized Agent

RECEIVED
FEB 28 2025
By NB



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: (Please use an additional page if necessary to complete responses)

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

NO porque No tengo Otro Lugar donde
Instalarlo. La propiedad de Modificacion es porque
se excede en las Pias Cuidados permitidos por la Ciudad.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

No afecta por nada a la visibilidad y a la
Seguridad de los Vecinos.

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

porque es un hecho que esta cimentado y es de larga
duracion que no afecta en caso de un desastre Natural.

4. Describe special conditions that are unique to this applicant or property:

Se Necesita porque en propiedad hay una persona
de la tercera edad y es Necesario para Seguridad
de ella. Y por las Inclemencias del tiempo para las Carros

Reason for Appeal

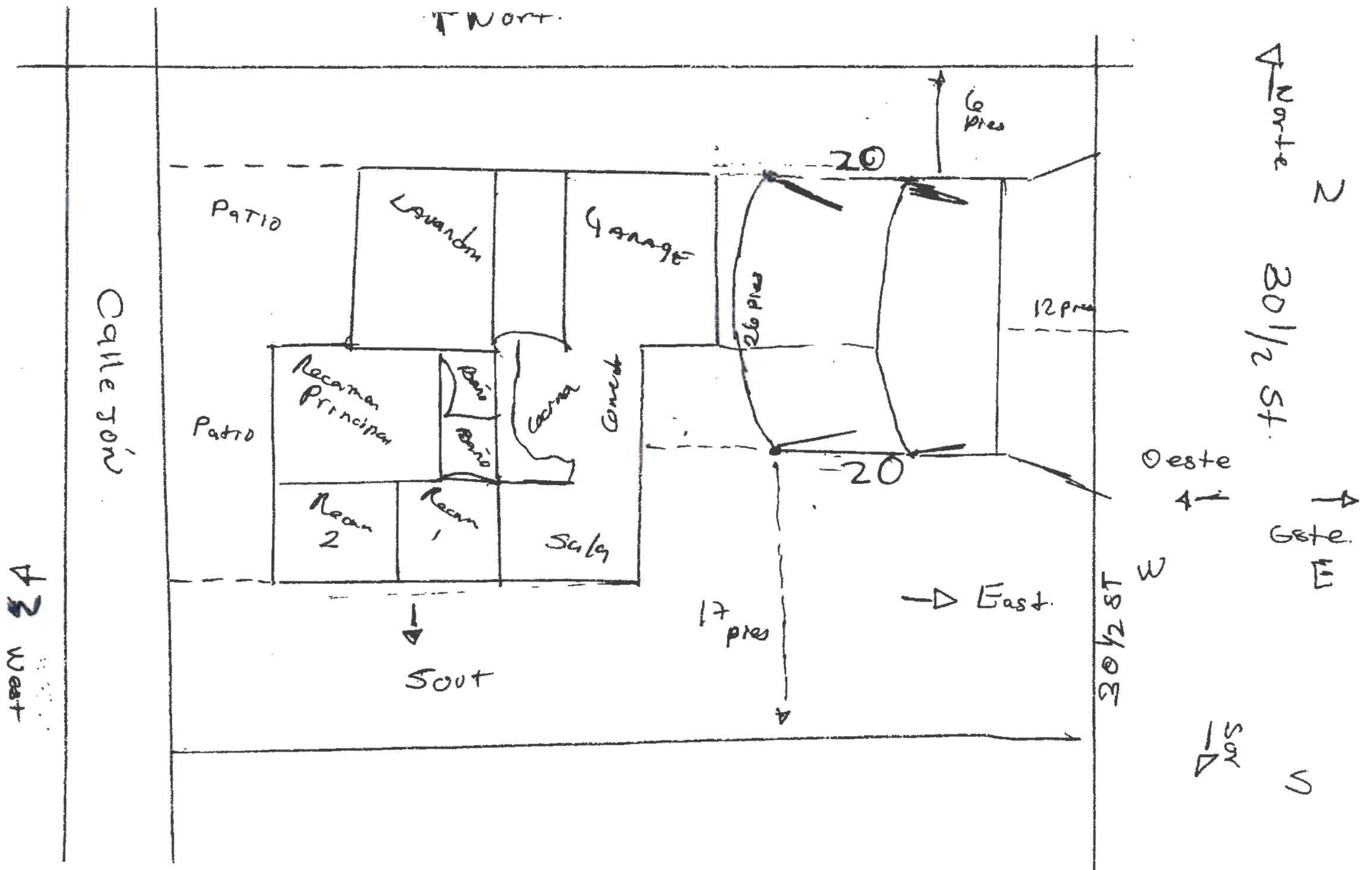
Board Action

Chairman, Board of Adjustment
Signature

Date

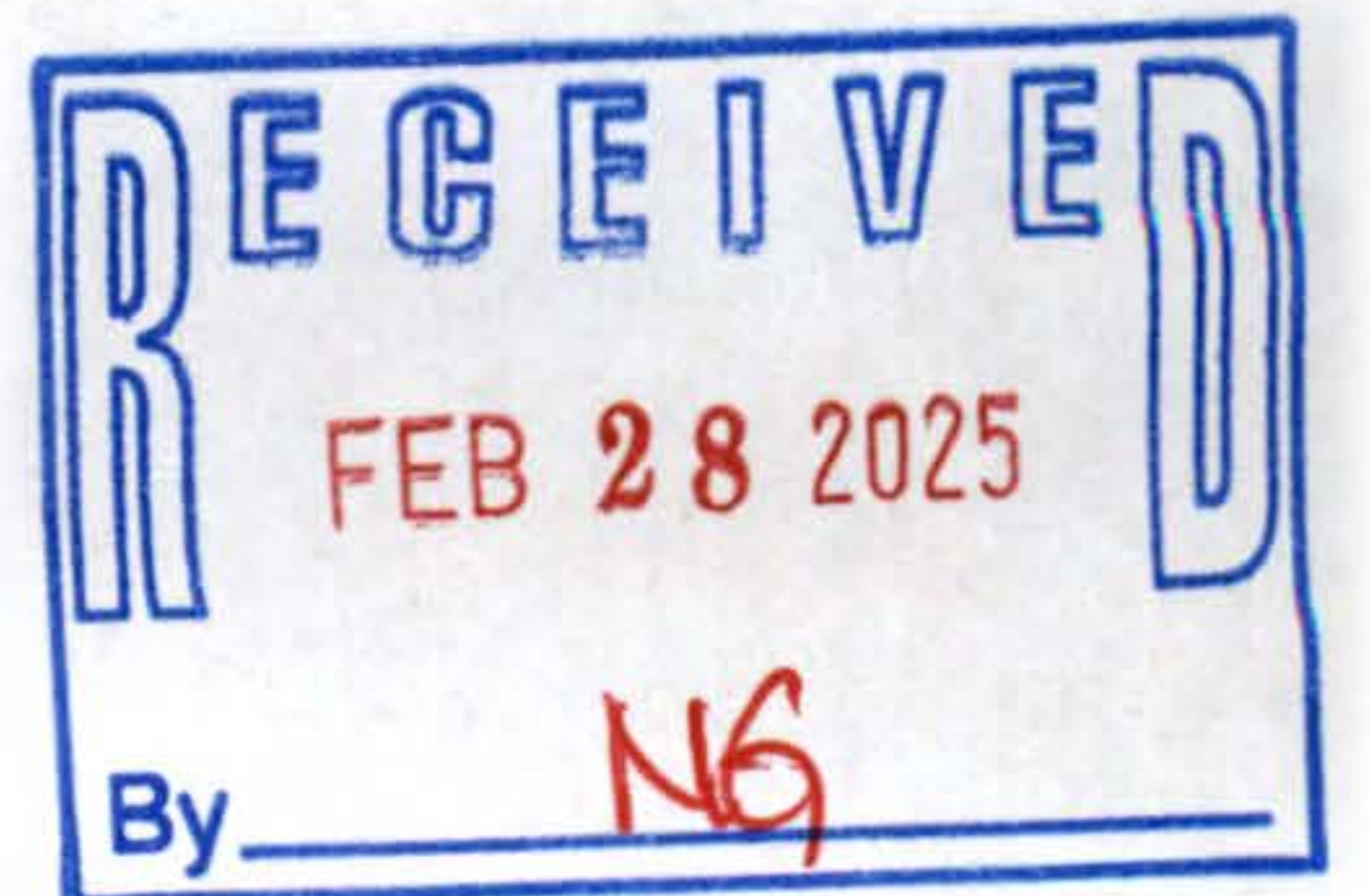
Plano Original

Existente



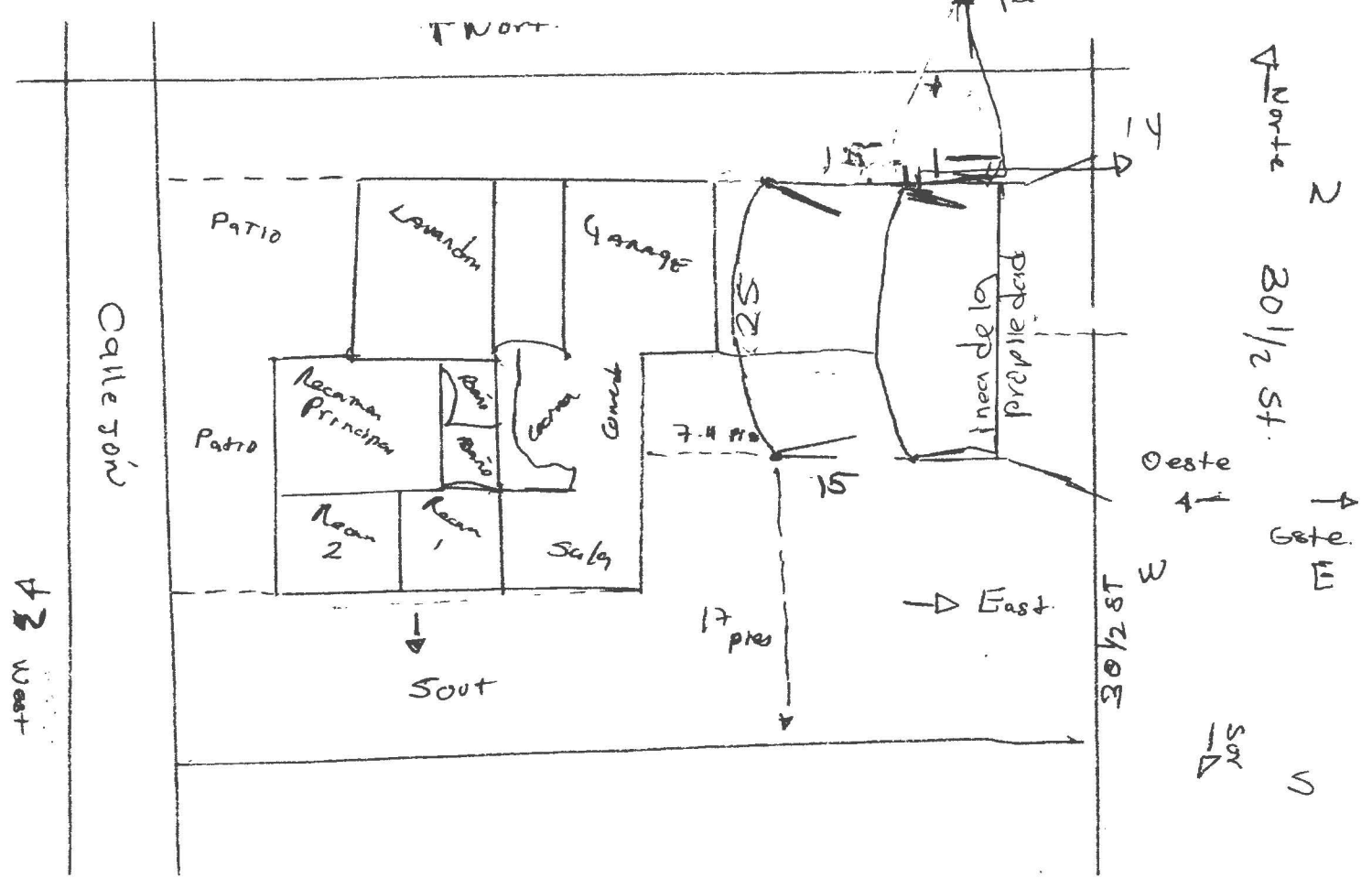
20 pies de Largo por
 26 pies de Ancho

Total = 520 pies cuadrados.

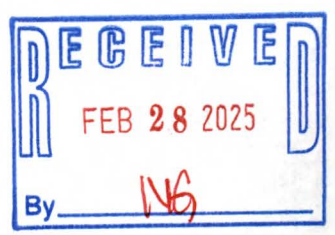


375 pies (cada lado)

15 pies de largo
 25 pies de ancho
 por



Propiedad de Medicamentos





NOTICE OF VARIANCE
APPLICANT: JIMMY L. HARRIS
FOR: TRAIL PROPERTY ZONING 2800'S 2004
