

## **AGENDA**

### **ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, AUGUST 23, 2023 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR**

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 – Chairperson Jose Gutierrez**

#### **1. MINUTES:**

- a) Minutes for the Workshop meeting held on August 9, 2023
- b) Minutes for the meeting held on August 9, 2023

#### **2. PUBLIC HEARINGS:**

- a) Request of Adelina Alexander for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport measuring 19.9 feet by 22.5 feet at Lot 43, Apollo Gardens Subdivision, Hidalgo County, Texas; 2001 Hibiscus Avenue. **(ZBA2023-0047)**
- b) Request of Omar Lopez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 22 feet into the 25-foot front yard setback for an existing metal carport measuring 20 feet by 20 at Lot 23, Casa Bonita Subdivision, Hidalgo County, Texas; 2504 Fir Avenue. **(ZBA2023-0076)**
- c) Request of Itzel Sanchez on behalf of Armando Sanchez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing metal carport with canvas cover measuring 16 feet by 27 feet at Lot 81, Cielo Vista Subdivision Phase 1, Hidalgo County, Texas; 3013 Ursula Avenue. **(ZBA2023-0077)**
- d) Request of Irma G. Presas de Hdz. for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet at Lot 14, Hunter's Cove Subdivision, Unit No. 2, Hidalgo County, Texas; 5416 North 35th Street. **(ZBA2023-0074)**
- e) Request of Robert J. Worster for a Special Exception and Variance to the City of McAllen Zoning Ordinance to: **1)** allow an encroachment of 8 feet into the 10 feet rear yard setback and 4 feet into the 6 feet west side yard setback for an existing metal carport measuring 26 feet by 15 feet and **2)** to allow an encroachment of 8 feet into the 10 feet rear yard setback for an existing patio measuring 20 feet by 15 feet at Lot 10, Block 2, Heritage Manor, Hidalgo County, Texas; 325 Bluebird Avenue. **(ZBA2023-0075)**
- f) Request of Mario & Diana Alejos for a special exception to the City of McAllen Zoning Ordinance to allow: **1)** An encroachment of 20 feet into the 20 feet front yard setback and **2)** an encroachment of 6 feet into the 6 feet south side yard setback for a detached proposed carport measuring 20 feet by 20 feet, at Lot 54, Montebello Subdivision Unit No. 2, Hidalgo County, Texas; 1808 North 32nd Street. **(ZBA2023-0070) (TABLED: 08/09/2023)**

### **3. FUTURE AGENDA ITEMS**

- a) 213 East Vine Avenue
- b) 1106 North 15th Street
- c) 1909 South 39th Street
- d) 2001 Cortez Avenue
- e) 108 East Fresno 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 Workshop Meeting on Wednesday, August 9, 2023 at 3:35 p.m. in the McAllen City Hall, 1300 Houston Avenue, Commission Chambers with the following present:**

<b>Present:</b>	<b>Jose Gutierrez</b>	<b>Chairperson</b>
	<b>Ann Tafel</b>	<b>Vice-Chairperson</b>
	<b>Hugo Avila</b>	<b>Member</b>
	<b>Hiram Gutierrez</b>	<b>Member</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Austin Stevenson</b>	<b>Assistant City Attorney III</b>
	<b>Benito Alonzo</b>	<b>Assistant City Attorney I</b>
	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Omar Sotelo</b>	<b>Senior Planner</b>
	<b>Jessica Puga</b>	<b>Technician I</b>
	<b>Carmen White</b>	<b>Secretary</b>

**CALL TO ORDER – Jose Gutierrez, Chairperson**

**1. Discussion:**

**a) Discussion on Board Questions and Related Topics**

Mr. Edgar Garcia, Planning Director stated he would be going over variances, hardships and when should variances approved. There will also be a change to the way special exceptions can be approved, which was done at a City Commission meeting.

**1. When should the Board legally grant variances?**

Variances should be for applicants where compliance with zoning regulations are unreasonable or impossible due to a hardship. The hardship should relate specifically to the features of the properties. It would have to be unique to the property and was not characteristic to the area.

**2. What is considered a hardship?**

Whether the financial cost of compliance was 50% greater than the appraised value of the structure on the most recent tax roll.

The Board could also consider whether compliance with the zoning ordinances would result in the loss of the lot on which the structure was located of at least 25%. A compliance would result in an unreasonable encroachment on the next property or an

easement. Last, whether the City considered the structure to be nonconforming, staff would inform you. That could be considered a hardship.

Variances do run with the land. Common examples would be side yard setbacks and rear yard setbacks encroachments.

Special exceptions are uses that were permitted by ordinances but need special approvals. For example, carports, tree houses, parking special exceptions, those do not require a hardship. It goes to that person and are recorded. If they sell the property, the next owner would have to reapply or take down the structure.

Vice-Chairperson Ann Tafel asked who was responsible for informing the new homeowner regarding the structures that exists when buying the house. Would it be the real estate agent? Mr. Garcia stated it would be for the City to do periodic checks. However, because special exceptions are still new, the title companies should be responsible for informing the new homeowners.

Chairperson Gutierrez asked if staff could omit comments having a precedence that many carports were built in the neighborhood with approvals so that the applicant thinks he may be approved as well. Mr. Garcia stated instead of omitting rephrase it especially for carports. One of the ordinances it stated "is it characteristic of the neighborhood". He informs his staff as to not comment that other carports had been approved in the neighborhood. The Board decides on a case-by-case basis.

Vice-Chairperson Tafel had concerns about what the carports what materials should be used are they fire retardant and how far from the neighboring property. Mr. Garcia stated the State does not allows dictating what materials one can or cannot use. There are certain requirements one needs to meet but that would be a building code issue.

Chairperson Gutierrez stated that there had been a tendency to not to approve even special exceptions that went to the property limit, staff was recommending approval. Should a limit be set? Mr. Garcia stated he could possibly bring it up at the next City Commission meeting.

Mr. Garcia stated that City Commission did make one change. The Commissioners started getting worried that there were many oversized carports. There were some that were approved but most of the time disapproved. A carport should be used only for vehicles. They had capped any carport that receives a special exception at 400 square feet. After consulting with management, an applicant can propose for a 500 square feet carport, but the Board will only be looking at the encroachment. If approved, a special exception with an encroachment of 5 feet into the 25-foot front yard setback, we cannot release the permit until building permit shows it to be 400 square feet.

Board member Avila asked Mr. Garcia when site plans are submitted, how much verification does staff do? Mr. Garcia stated staff does moderate verification by measuring the structure.

Board member Avila asked if why we are not requesting a survey from the applicant. Mr. Garcia stated we do not require a survey. The cost of the application is a lot so to ask the applicant to get a survey is more of a costly burden. Mr. Avila asked if there were any physical hardships in McAllen. Mr. Garcia stated there was not really much because of their topography, geometric such as cul-de-sacs, triangle shaped properties.

At this time, 4:05 p.m., the workshop meeting had concluded.

### **ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Mr. Jose Gutierrez **moved** to adjourn the Workshop.

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Chairperson  
Jose Gutierrez

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Carmen White, Secretary

STATE OF TEXAS  
COUNTY OF HIDALGO  
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, August 9, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

<b>Present:</b>	<b>Jose Gutierrez</b>	<b>Chairperson</b>
	<b>Ann Tafel</b>	<b>Vice-Chairperson</b>
	<b>Rogelio Rodriguez</b>	<b>Member</b>
	<b>Hiram A. Gutierrez</b>	<b>Member</b>
	<b>Hugo Avila</b>	<b>Member</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Benito Alonzo</b>	<b>Assistant City Attorney I</b>
	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Omar Sotelo</b>	<b>Senior Planner</b>
	<b>Eduardo Garza</b>	<b>Planner II</b>
	<b>Samantha Trevino</b>	<b>Planner I</b>
	<b>Jessica Puga</b>	<b>Technician I</b>
	<b>Carmen White</b>	<b>Administrative Assistant</b>

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

- a) Minutes for the meeting held on July 27, 2023.

The minutes for the meeting held on July 27, 2023 were approved. The motion to approve the minutes were made by Vice-Chairperson Ann Tafel. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

**As per Chairperson Jose Gutierrez’s suggestion, the following item had been recommended for approval by staff. They are as follows:**

**2. PUBLIC HEARINGS:**

- a) Request of Duncan Architects, LLC on behalf of Wendy Hovorka for variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 12 feet into the north 30 feet minimum building setback along East Jasmine Avenue for a proposed modular medical office building measuring 14 feet by 70 feet, and **2)** an encroachment of 20 feet into the north 30 feet minimum building setback along East Jasmine Avenue for a proposed metal canopy measuring 8 feet by 12.5 feet at Lot 6A, Block 2, Market Center Subdivision, Hidalgo County, Texas; 909 North Jackson Road. **(ZBA2023-0072)**

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the variance requests. There was no one in opposition of the variance requests.

Mr. Hiram Gutierrez **moved** to approve the previously outlined variance requests listed on the agenda as **2a** as per staff’s recommendation, limited to the submitted plans corresponding to each item. Vice-Chairperson Ann Tafel seconded the motion. The Board

voted to approve with five members present and voting.

- b)** Request of Sergio Linares for a special exception to the City of McAllen Zoning Ordinance to allow: **1)** An encroachment of 20 feet into the 30 feet front yard setback and **2)** an encroachment of 1 foot into the 6 feet west side yard setback for a proposed carport measuring 10 feet by 20 feet, at Lot 40, Olivarez Subdivision Unit No.1, Hidalgo County, Texas; 2520 Pecan Avenue. **(ZBA2023-0068)**

Ms. Trevino stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 30 feet front yard setback and an encroachment of 1 foot into the 6 foot side yard setback for a proposed carport to protect the applicants vehicles from the weather elements. The applicant has a one-car garage, but needs more space for the other vehicles.

The subject property was located north of Pecan Avenue between North 24<sup>th</sup> ½ Street and North 27<sup>th</sup> street. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

Olivarez subdivision Unit No. 1 was recorded October 10, 1964. A building permit application had not been submitted since the project is being proposed. The special exception application was submitted July 6, 2023.

The applicant was requesting the special exception in order to build a carport to protect their vehicles from the weather elements.

There were no utility easements along the front of the property.

Measurements provided are without 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.

A review of Planning Department records did not reveal other special exceptions granted within the subdivision.

Site visit by staff revealed no other carport encroachments within the subdivision.

Relocation of the carport to the rear of the property may not be feasible since water runs through the rear of the property.

At the meeting of June 26, 2023 City Commission approved Ordinance 138-371(g) in reference to the maximum square footage of 400 square feet allowed for a carport.

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

Staff recommended disapproval of the request since it is not characteristic of the neighborhood.

Mr. Sergio Linares, the applicant stated he wanted to put a carport over his driveway but that the City did not allow from 28 feet from the property line to his house.

However, it would be right at his garage door. If he uses his garage, he would not be able to open his car door while in the garage.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Ms. Velma LeBeck, 2520 Pecan Avenue. She stated she had pictures of houses around the neighborhood that had carports. At this time, she showed the Board the pictures.

Ms. Trevino stated the radius when they send out notifications are not always in that subdivision, they may venture out to other subdivisions as well. She stated they wanted to put up a carport to protect their vehicles from the sun since they do not have any trees. They had no space in the back and the alley was full of potholes.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Chairperson Jose Gutierrez asked if there was anyone else present in favor of the special exception. There was no one else in favor of the special exception.

Board member Avila asked staff if there was a 30-foot setback. Ms. Trevino stated yes. She stated sometimes on the plat there would not be a plat note but will have the line and say 30 feet or line with existing.

Following discussion, Mr. Hugo Avila **moved** to approve the special exception. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the special exception with three members voting aye and three members voting nay, Chairperson Jose Gutierrez, Vice-Chairperson Ann Tafel and Mr. Rogelio Rodriguez. The special exception was disapproved.

- c) Request of Adan Longoria for a variance to the City of McAllen Zoning Ordinance to not provide one parking space beyond the front yard setback line for a garage enclosure, at Lot 23, Las Villas Del Rio Subdivision, Hidalgo County, Texas; 1903 South 48th Lane. **(ZBA2023-0069)**

Ms. Trevino stated the applicant was requesting to enclose their garage and turn it into an extra room for their growing family.

The subject property was located on a Cul-De-Sac off Sonora Avenue and South 48<sup>th</sup> Lane. The property was zoned R3-T (townhomes) District. The surrounding zones include R3-T (townhomes) to the west and south, C-3 (general business) in the rear and R-1 (single-family residential) to East.

Las Villas del Rio Subdivision was recorded April 12, 2016. A stop work order was issued May 20, 2023 for plumbing and remodeling work being done in the garage. A Building permit application was submitted May 22, 2023. The special exception application was submitted July 10, 2023.

The applicant was requesting to enclose their garage and turn it into a bedroom for their growing family. The request is to not provide one required garage space beyond the front yard setback line. According to the site plan submitted, the enclosed area is going to be

converted into a bedroom area. As per Sec. 138-394 (1) one off-street parking for single family uses shall be located beyond the front yard setback.

A review of Planning Department records did not reveal other variances granted within the subdivision.

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

Staff was recommending disapproval of the request since it is not characteristic of the neighborhood and hardship is not specified to the lot.

Board member Rodriguez asked staff if they were to add more driveway to eliminate that missing parking space. Ms. Trevino stated it would have to be located beyond the front yard setback.

Mr. Adan Longoria, the applicant stated he built a three-bedroom home not knowing that their family grew more with twins. At time, they did not want to buy a bigger house. He wanted to see about enclosing the garage for an extra bedroom.

Board member Rodriguez asked the applicant if the garage was for one or two vehicles. Mr. Longoria stated it was for two vehicles.

Board member Avila asked the applicant that they were planning to put a pool in the back. Mr. Longoria stated it was already built. Mr. Avila asked between the patio and the fence if there was any space to add a room. Mr. Longoria stated there was the garage, the patio and the pool. There was no room to expand.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the variance request. There was no one else in favor of the variance request.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the variance request. There was no one in opposition of the variance request.

Chairperson Jose Gutierrez explained to the applicant the difference between a variance request and a special exception.

Following discussion, Vice-Chairperson Ann Tafel **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.

- d) Request of Mario & Diana Alejos for a special exception to the City of McAllen Zoning Ordinance to allow: 1) An encroachment of 20 feet into the 20 feet front yard setback and 2) an encroachment of 6 feet into the 6 feet south side yard setback for a detached proposed carport measuring 20 feet by 20 feet, at Lot 54, Montebello Subdivision Unit No. 2, Hidalgo County, Texas; 1808 North 32nd Street. (ZBA2023-0070)**

Ms. Trevino stated the applicant was requesting to encroach 20 feet into the 20-foot front yard setback and 6 feet into the 6-foot side yard setback for a proposed carport measuring 20 feet by 20 feet that will be used to protect his vehicles from the harsh weather elements.

The property was located on the East side of North 32<sup>nd</sup> Street, and North of Redwood Avenue. The property was zoned R-1 (single-family residential) District. There is R-1 District in all directions.

A building permit had not been submitted. The special exception application was submitted July 11, 2023.

The applicant is requesting to encroach 20 feet into the 20-foot front yard setback and 6 feet into the 6-foot side yard setback for a proposed carport that will be used to protect his vehicles from harsh weather. The applicant does not have a garage.

Site visit by staff revealed a two other carports in the area, but no building permits or special exceptions were found.

Measurements provided are without benefit of a survey.

Special exceptions are issued to and recorded for the present applicant/owner only. The new property owners would need to apply for a new special exception request.

At the meeting of June 26, 2023 City Commission approved Ordinance 138-371(g) in reference to the maximum square footage of 400 square feet allowed for a carport.

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

Staff recommended disapproval of the special exception request since there have been no other approved carports in the subdivision, nor is it characteristic of the neighborhood.

Ms. Diana Alejos, the applicant stated she wanted to build a carport for the inclement weather to protect her vehicles. She stated they had a tree but was not enough shade to cover the vehicles. She also stated she had pictures of houses with carports in and around the subdivision. Ms. Alejos handed out pictures of her damaged vehicles.

Vice-Chairperson Ann Tafel asked staff if there were any utility easements in the front and side. Ms. Trevino stated there was none.

Chairperson Gutierrez mentioned to the applicant if the she needed to make modifications she could have the item tabled until the next meeting. Ms. Alejos agreed to have her item tabled.

Following discussion, Mr. Hugo Avila **moved** to table the special exception until the next meeting. Vice-Chairperson Ann Tafel seconded the motion. The Board voted to table the special exception with five members present and voting.

- e) Request of Daniel Rosas for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet west side yard setback for a proposed carport measuring 10 feet by 48.67 feet, at Lot 6, Block 15, Hammond Addition Subdivision, Hidalgo County, Texas; 2021 Ebony Avenue. **(ZBA2023-0071)**



Ms. Trevino stated the applicant was requesting a special exception for an encroachment of 6 feet into the 6-foot west side yard setback for a proposed carport that will allow vehicle protection from the natural weather elements.

The subject property was located along the South side of Ebony Avenue between 20th Street and 21st Street. The property had 50 feet of frontage along Ebony Avenue with a depth of 140 feet for a total area of 7,000 square feet. There was a single-family residence on the subject property as well as a rear living unit. The property was zoned R-2 (duplex-fourplex residential) District. Adjacent zoning was R-2 District in all directions

At the Zoning Board of Adjustments and Appeals meeting on April 20, 2022 the Board considered two requests. Approval was granted for a special exception request to allow an encroachment of 13 feet into the 20-foot front yard setback for a metal carport measuring 20 feet by 25 feet. A second request for an encroachment of 6 feet into the 6-foot side yard setback for a proposed carport measuring 10 feet by 64 feet was disapproved. A second application and site plan for a special exception request for an encroachment of 5 feet into the 6 foot side yard setback for a proposed metal carport measuring 9 feet by 64 feet was submitted one month later and involved a reduction of the encroachment into the side yard setback from the original first request; This request was also denied. The most recent special exception request was submitted July 11, 2023. A building permit had not been submitted.

The applicant was requesting a special exception for an encroachment of 6 feet into the 6-foot side yard setback for a carport that was measuring 10 feet by 48 feet 8 inches. The applicant stated that the carport had a gutter that will flow into their property and will not affect their neighbors.

The applicant also stated it is a unique situation due to having two living units in front of each other. Relocation of the carport was not feasible due to the second living area in the rear. Therefore, the carport would be facilitating both the front and the rear tenant's vehicles.

Measurements provided are without 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.

There were no utility easements located on the property.

At the meeting of June 26, 2023 City Commission approved Ordinance 138-371(g) in reference to the maximum square footage of 400 square feet allowed for a carport.

A review of Planning Department records did not reveal other variances granted within the subdivision.

Site visit by staff revealed several similar encroachments within the subdivision with no building permits on file.

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 of the proposed carport, due to the excessive size in length of the structure. However, if the Board approves the request it should be limited to the encroachments shown on the submitted site plan, and in compliance with 400 square foot maximum.

Mr. Daniel Rosas, the applicant stated verbally that he was proposing to reduce the carport by 80 feet to make it 400 square feet to be in compliance. He stated he wanted to receive an approval on the 6-foot encroachment into the 6-foot setback. It would be made of galvanized steel and would have a water gutter system. Mr. Rosas stated during the hailstorm in April his structure held up. He had two houses on the lot and he lived in the back. There was no entrance from the back so they have to use the one entrance in the front. He stated that Mujeres Unidas, which was next door, had no opposition to the special exception.

Board member Mujica asked the applicant if the unit in the rear encompass the full length from property line to property line. Mr. Rosas stated no. Mr. Mujica asked the applicant if he had space to park his vehicles. Mr. Rosas stated there was no space.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Following discussion, Mr. Hugo Avila **moved** to approve the special exception subject to the compliance with the new City Ordinance. No one seconded the motion.

Vice-Chairperson Ann Tafel **moved** to disapprove the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove the special exception with four members voting aye and one nay. Mr. Hugo Avila.

### **3. FUTURE AGENDA ITEMS:**

- a) 2001 Hibiscus Avenue
- b) 213 East Vine Avenue
- c) 5416 North 35<sup>th</sup> Street
- d) 325 Bluebird Avenue
- e) 2504 Fir Avenue
- f) 3013 Ursula Avenue

### **ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Chairperson Jose Gutierrez **moved** to adjourn the meeting.

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Chairperson Jose Gutierrez

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Carmen White, Administrative Assistant

## **Memo**

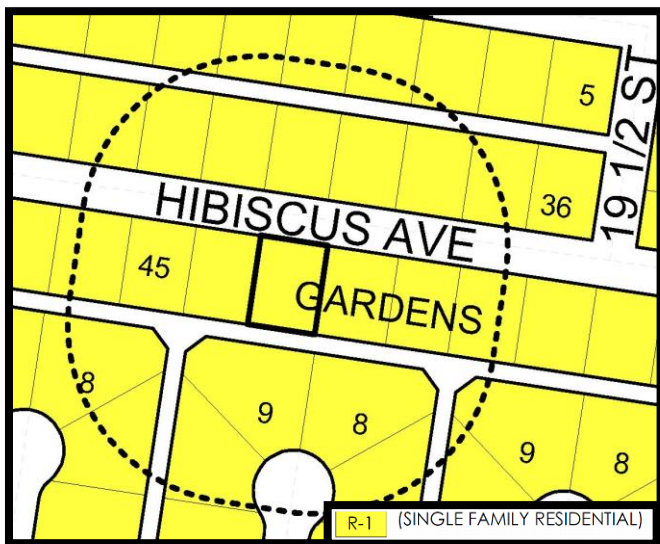
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 1, 2023

**SUBJECT:** Request of Adelina Alexander for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport measuring 19.9 feet by 22.5 feet at Lot 43, Apollo Gardens Subdivision, Hidalgo County, Texas; 2001 Hibiscus Avenue. (ZBA2023-0047)

**REASON FOR APPEAL:** The applicant is requesting the special exception for an encroachment of 20 feet into the 20 feet front yard setback in order to allow an existing metal carport to remain in its current location for protection from hail during inclement weather. The carport measures 19.9 feet by 22.5 feet.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the south side of Hibiscus Avenue. The subject property has an area of 7,500 of square feet. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 (single-family residential) District in all directions. Surrounding land uses are single-family residences.

**BACKGROUND AND HISTORY:** The Apollo Gardens Subdivision was recorded in June 1976. A stop work order was issued on June 08, 2020 for a carport built without a building permit in which the posts were erected. An application for a building permit was submitted on June 11, 2020 for an existing metal carport pending completion. An application for a special exception request was submitted to the Planning Department on November 05, 2021 for an encroachment of 20ft into the 20ft front yard setback

which was disapproved at the meeting of December 15, 2021. Application for a special exception was currently submitted in May 17, 2023 with a proposed 3ft cut back to keep it out of the right of way.

**ANALYSIS:** The applicant is requesting a special exception in order to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport measuring 19.9 feet by 22.5 feet that will be used to protect her vehicle from hail during inclement weather.

During a site visit, staff noticed other similar encroachments within Apollo Gardens subdivision. A review of Building Inspections department did reveal two building permits for structures. A review of Planning Department records did reveal two special exception requests that were granted;

At the Zoning Board of Adjustments and Appeals meeting of October 21, 2020 the Board unanimously voted to approve a special exception for an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport measuring 20 feet by 30 feet at Lot 50.

At the Zoning Board of Adjustments and Appeals meeting of October 21, 2020 the Board unanimously voted to approve a special exception for an encroachment of 20 feet into the 20 feet front yard setback for a wooden carport measuring 20 feet by 20 feet at Lot 11.

Special exceptions are issued to and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Measurements provided are without benefit of a survey.

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

**RECOMMENDATION:** Staff recommends approval of the special exception request since the customer has agreed to cut back 3ft to stay clear of the right of way.



ZBA 2023-0047

ZBA  
8/23/23



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description APOLLO GARDEN LOTE 43

Subdivision Name APOLLO GARDEN

Street Address 2001 HIBISCUS AVE

Number of lots \_\_\_\_\_ Gross acres \_\_\_\_\_

Existing Zoning R 1 Existing Land Use CASA

Reason for Appeal (please use other side if necessary) EXISTING CART PORT  
encroaching que esta 20 pies en los 20 pies. enfrente  
19.5 x 19.872.

☐ \$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 Adelina Alexander Phone 956-884-6089

Address 2001 HIBISCUS AVE E-mail \_\_\_\_\_

City McAllen State TX Zip 78501

Owner

Name Adelina Alexander Phone \_\_\_\_\_

Address 2001 HIBISCUS AVE E-mail \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

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 Adelina Alexander Date 16/05/2023

Print Name Adelina Alexander ☒ Owner ☐ Authorized Agent

Office

Accepted by AS

Payment received by \_\_\_\_\_

Date ENTERED

MAY 17 2023

Rev 09/20

Name: NM



**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:

Estoy aplicando por que esta en las limitaciones de construccion.

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

TENGO VARIOS VEICULOS y ya me hiso daño el granizo en un carro y quiero protegerlos del tiempo y tormentas.

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:

No hay ningun afecto a los vecinos.

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

Estoy aplicando por que esta en las limitaciones de construccion.

Reason for Appeal

Board Action

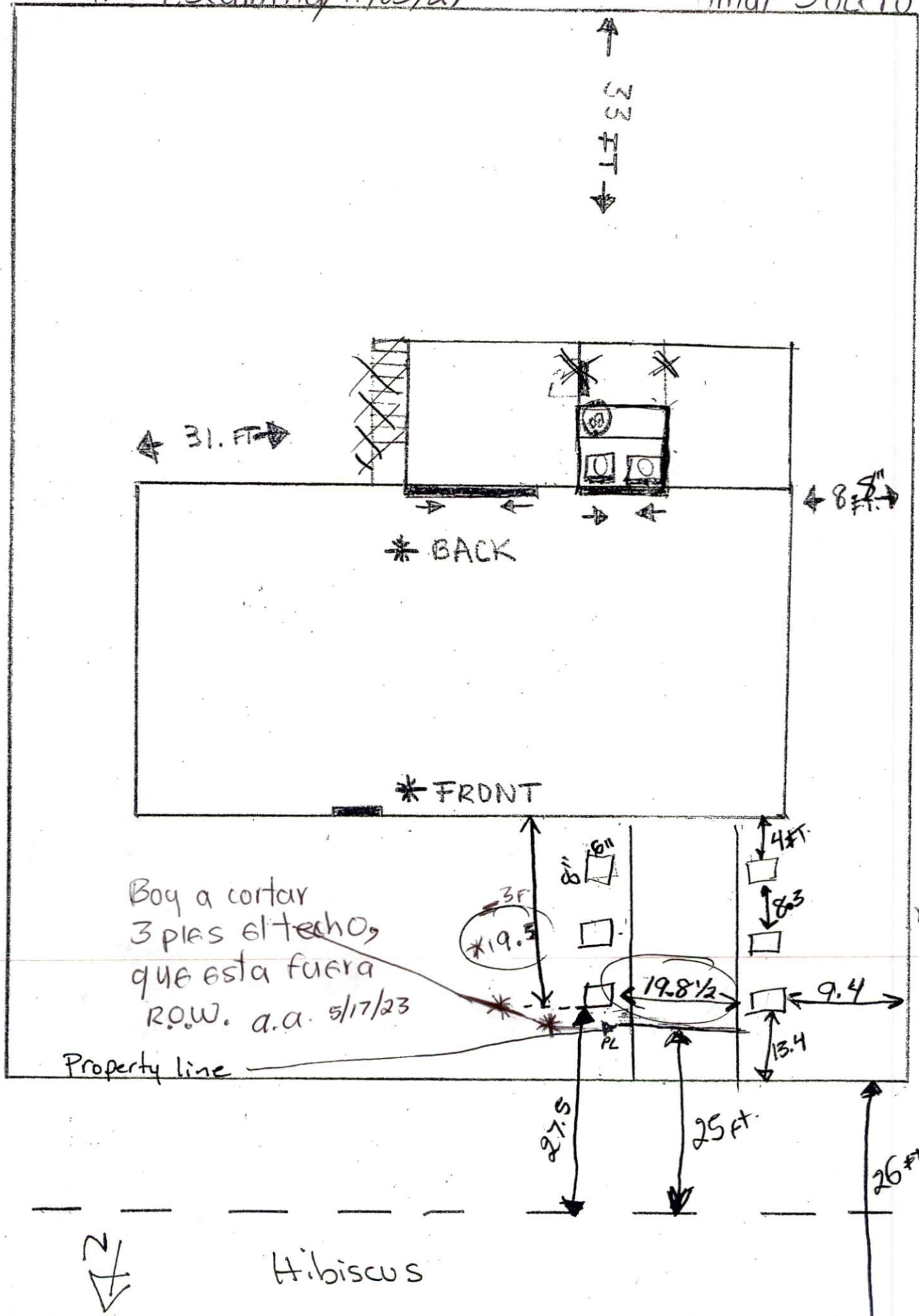
Chairman, Board of Adjustment  
Signature

Date



Mario Escamilla 11/03/21

Dmar Sotero.















NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA 2023-0047



## **Memo**

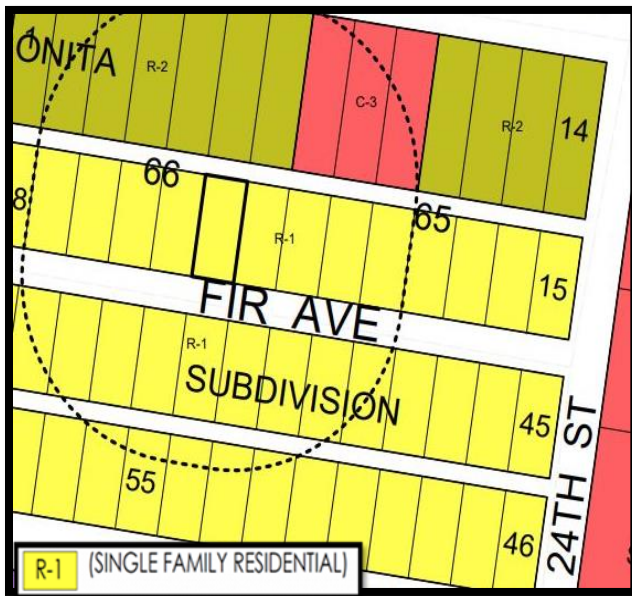
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 15, 2023

**SUBJECT: REQUEST OF OMAR LOPEZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 22 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 20 FEET BY 20 FEET AT LOT 23, CASA BONITA SUBDIVISION, HIDALGO COUNTY, TEXAS; 2504 FIR AVENUE. (ZBA2023-0076)**

**REASON FOR APPEAL:** The applicant is requesting a special exception to encroach 22 feet into the 25 feet front yard setback. Requests are for an existing metal carport constructed for protection to vehicles and for protection for his family's health.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the north side of Fir Avenue. The lot has 50 feet of frontage and 110 feet of depth for a total of 5,500 square feet. The property is zoned R-1 (single family residential) District. There is R-1 and C-3 District around the area.

**BACKGROUND AND HISTORY:** Casa Bonita Subdivision was recorded on February 14, 1967. The plat shows a 25 feet front yard setback for the subdivision. On July 14, 2023 a non compliance order was issued. On July 14, 2023 the applicant applied for a building permit. On July 25, 2023, the applicant applied for a special exception encroaching 22 feet into the 25 feet front yard setback.

**ANALYSIS:** The applicant is requesting this Special Exception to keep the carport to protect their vehicles.

Site visit by staff revealed 4 other carports in the area, which did not have permits.

At the Zoning Board Adjustment and Appeals meeting of June 17, 2021 the board unanimously voted to approved a special exception request for an encroachment of 21.75 feet into the 25 feet front yard setback measuring 18.42 feet by 23.33 feet at lot 67, Casa Bonita Subdivision.

We did receive 3 letter from neighbors in support for the applicants metal carport.

Applicant is willing to modify the carport and remove the side walls.

There is no garage in the property.

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.

Measurements provided are without benefit of a survey.

**RECOMMENDATION:** Staff is recommending approval for the Special Exception due to being characteristic to the neighborhood.

ZBA:  
8/23/2023



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA2023-0076  
311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

Project

Legal Description

COSA DONITA Lot 23

Subdivision Name

COSA BONITA

Street Address

2504 FIR AV

Number of lots

2

Gross acres

0

Existing Zoning

R-1

Existing Land Use

R-1

Reason for Appeal (please use other side if necessary)

encroaching 22 feet  
into the 25 foot front yard setback

☒ \$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

Amor Lopez

Phone

956 331 3418

Address

2504 FIR AV

E-mail

City

McAllen

State

TX

Zip

78501

Owner

Name

Amor Lopez

Phone

956 331 3418

Address

2504 FIR AV

E-mail

City

McAllen

State

TX

Zip

78501

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

Amor Lopez

Date

7/24/23

Print Name

Amor Lopez

☒ Owner

☐ Authorized Agent

Office

Accepted by

[Signature]

Payment received by

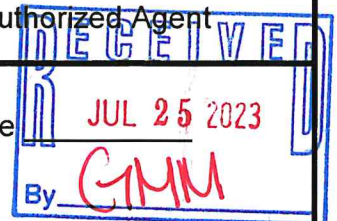
Date

JUL 25 2023

Rev 09/20

By

GMM







# 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 tengo un garaje. y por mal tiempo  
granisasos-

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

por que tengo que proteger los muebles  
que cuestan mucho para los autos y que  
se me caen a dañar

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:

no me molestaron los vecinos  
antes les daba para proteger sus  
muebles

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

mi esposa tubo Covi y por eso lo use  
cuando lo proteja del mal tiempo.




Reason for Appeal

Board Action

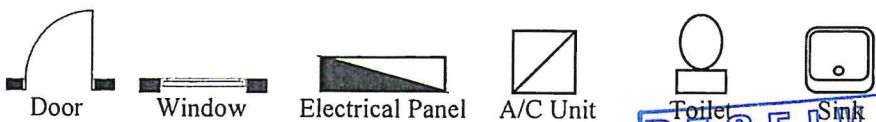
Chairman, Board of Adjustment  
Signature

Date

**Wall Legend:**

Existing	
Proposed	
Demolition	

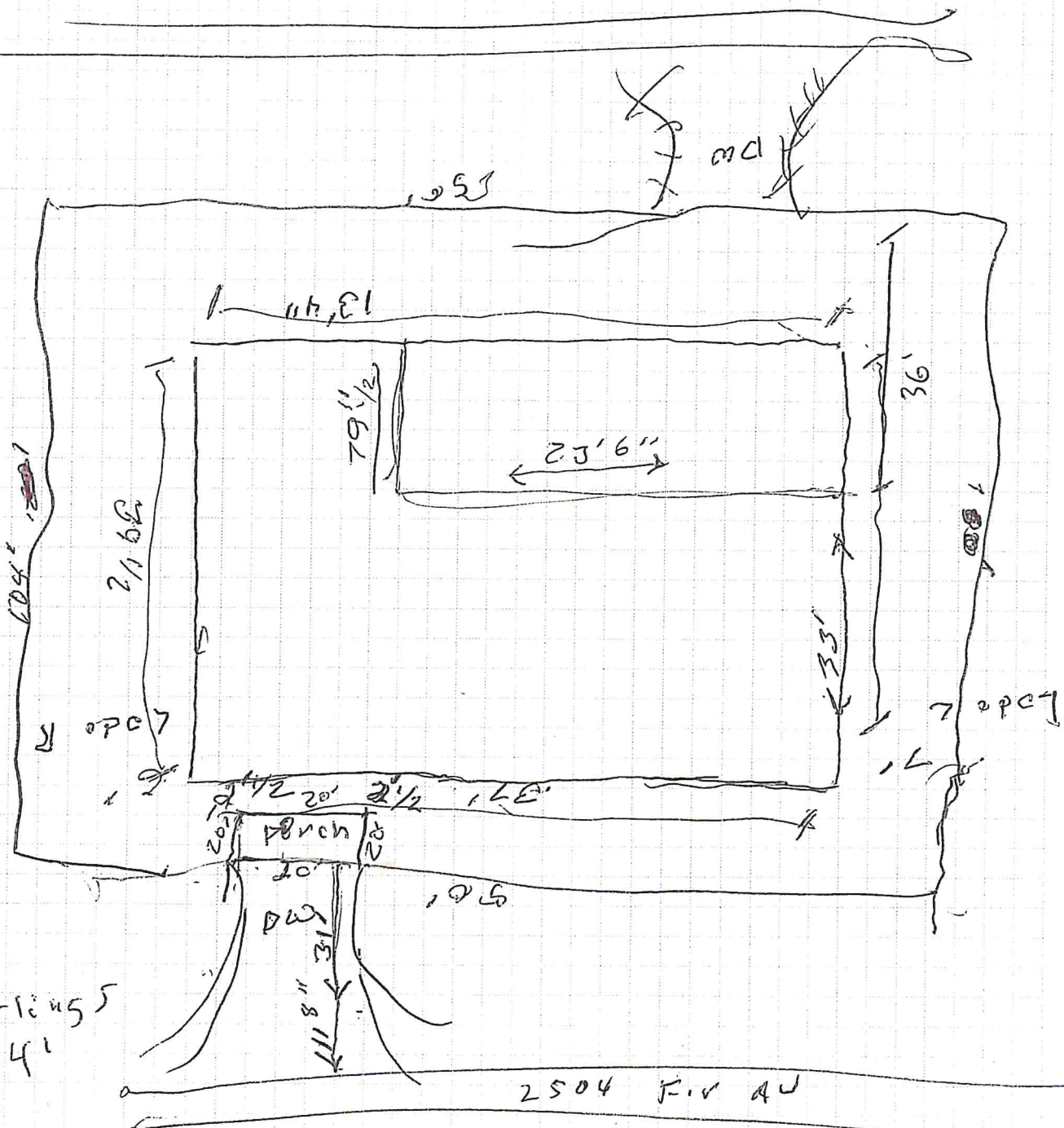
**Symbol Legend:**



Application and documents can be submitted electronically to  
[BLDGPERMITS@MCALLEN.NET](mailto:BLDGPERMITS@MCALLEN.NET)



Perkins  
 = 4'











NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0076



## Memo

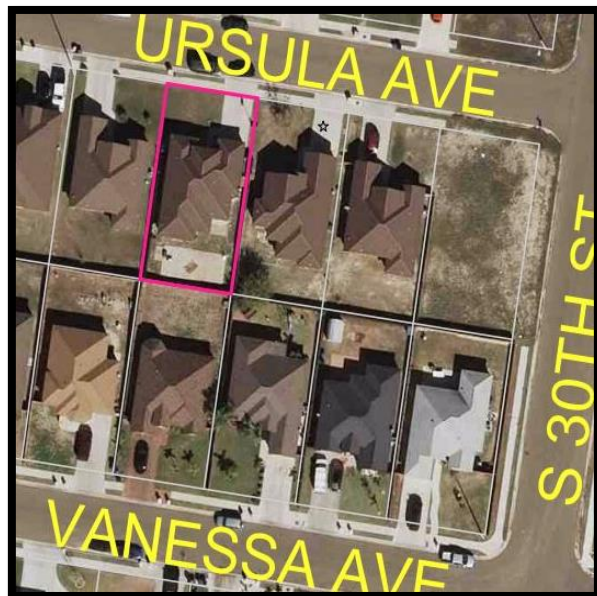
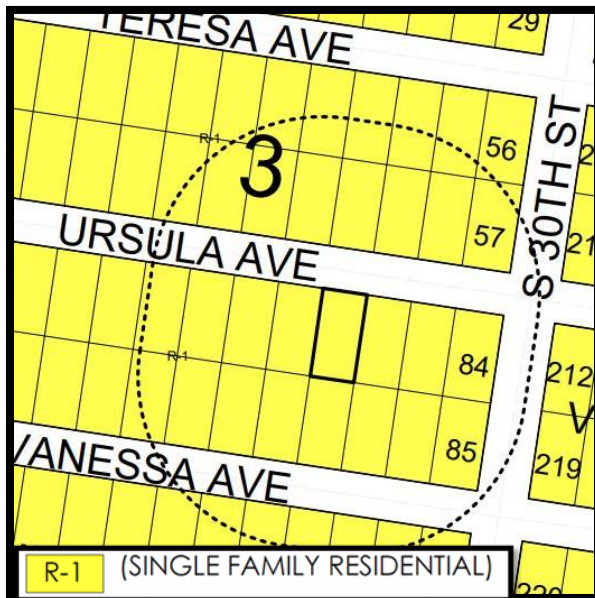
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 15, 2023

**SUBJECT:** REQUEST OF ITZEL SANCHEZ ON BEHALF OF ARMANDO SANCHEZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 25 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT WITH CANVAS COVER MEASURING 16 FEET BY 27 FEET AT LOT 81, CIELO VISTA SUBDIVISION PHASE 1, HIDALGO COUNTY, TEXAS; 3013 URSULA AVENUE. (ZBA2023-0077)

**REASON FOR APPEAL:** The applicant is requesting a special exception to encroach 25 feet into the 25 feet front yard setback. The request is for an existing metal carport with canvas cover for other vehicles and for weather protection.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the south side of Ursula Avenue. The Lot has 52 feet of frontage along Ursula avenue and a depth of 103 feet for a total square of 5,356 feet. The property is zoned R-1 (single family residential) District. There is R-1 district in all directions.

**BACKGROUND AND HISTORY:** Cielo Vista Subdivision was recorded on March 3, 2007. The plat shows 25 feet in the front yard setback with no utility easement. A non compliance notice was issued on July 12, 2023 for a carport built without a permit. A building permit application was submitted on July 14, 2023. A special exception request application was submitted on July 25, 2023.

**ANALYSIS:** The applicant is requesting to keep the existing metal carport with canvas cover for weather reasons and has multiple large vehicles.

Carport seems to be encroaching into the right of way.

There is an existing one car garage which the applicant stated she uses it for her AT4 since her vehicles are too large to fit.

Zoning Board of Adjustments has considered Special Exception requests for 6 properties within this subdivision. The Board approved six requests for Lots 2, 20, 21, 72, 75, and 78. Five of the requests were for encroachments of 25 feet into the 25 feet front yard setback and one request was for an encroachment of 24 feet into the 25 feet front yard setback.

At the meeting of June 26<sup>th</sup>, 2023 City Commission approved Ordinance 138-371(g) in reference to the maximum square footage of 400 square feet allowed for a carport.

Special Exception are issued to and recorded for the present applicant/owner only. New property owners would be responsible to apply for a new special exception if requested.

Measurement provided are without benefit of a survey.

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

**RECOMMENDATION:** Staff is recommending disapproval for the Special Exception request due to exceeding the 400 square feet max for a carport stated in ordinance 138-371(g) and may also be encroaching into the right of way.

ZBA 2023-0071

ZBA:  
8/23/2023

City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Cielo Vista PH 1 Lot 81

Subdivision Name Cielo Vista

Street Address 3013 Ursula Ave. McAllen TX 78503

Number of lots 1 Gross acres \_\_\_\_\_

Existing Zoning R-1 Existing Land Use Home

Reason for Appeal (please use other side if necessary) Encroaching 25 into the 25 front yard Setback

☒ \$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 Itzel Sanchez Phone (956) 460-4140

Address 2412 Gloria Ave E-mail itelsc92@gmail.com

City McAllen State TX Zip 78503

Owner

Name Armando E. Sanchez Phone (956) 442-63-63

Address 3013 Ursula Ave. E-mail Armando9345@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 Armando E. SanchezDate 7-25-23Print Name Armando E. Sanchez☒ Owner☐ Authorized Agent

Office

Accepted by AS

Payment received by \_\_\_\_\_

Date JUL 25 2023

Rev 09/20

BY: CW





# 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:

I have 25 feet of Setback in the front and I am not being able to build within those 25 ft.

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

For weather reasons, have multiple cars, Car is too large to fit in garage. It's only a one car garage. Need shade for kids too play in the heat.

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:

To my knowledge, No.

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

I am not able to build within the setback. I have multiple cars and only one car garage. One car is too large to fit in garage. Have had several hail storms and been is too hot for vehicles to be under the sun.

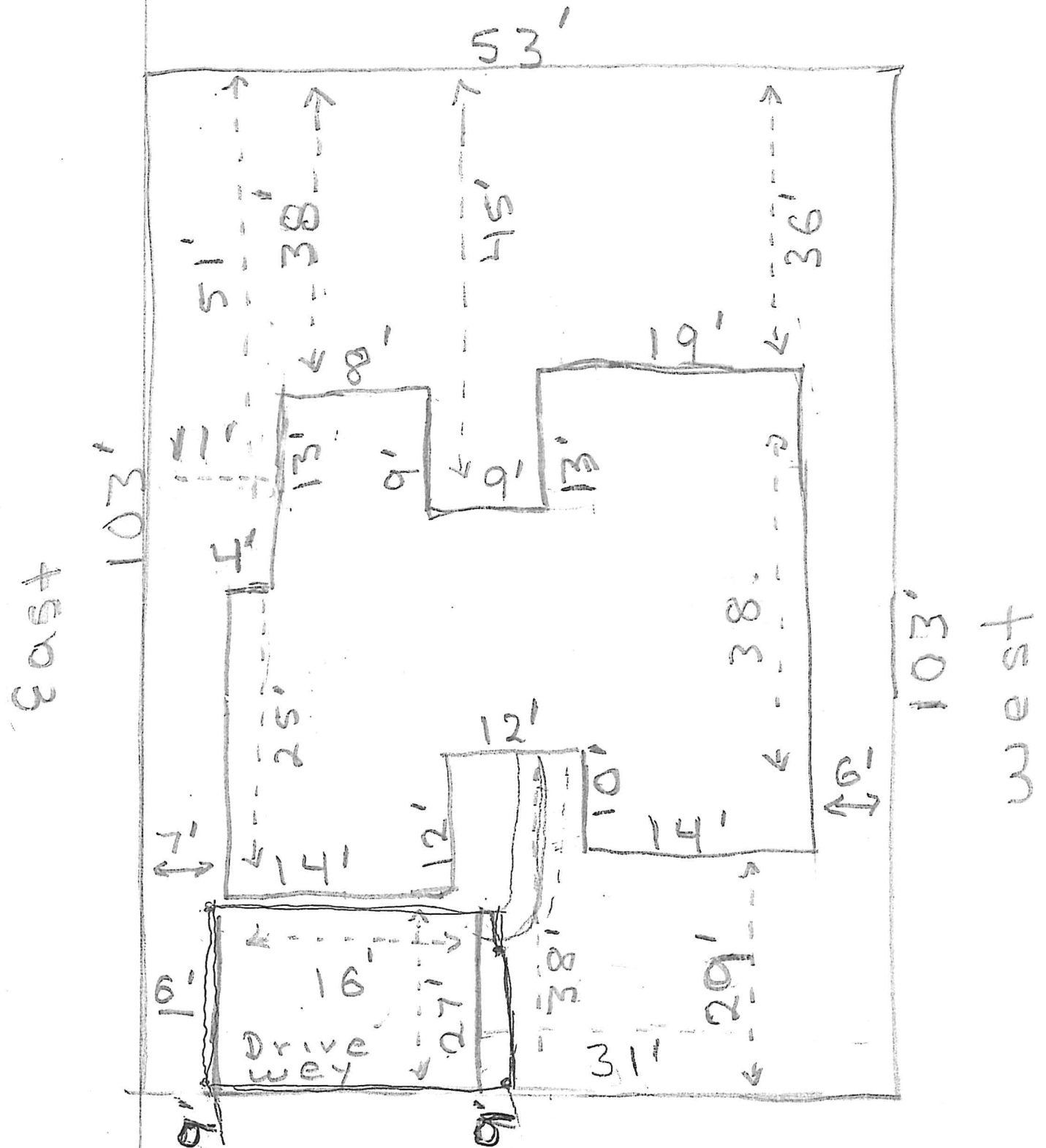
Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date

South  
~~Worte~~



~~SUR~~  
North  
3013-Ursula

TS  
7/25/23









NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0077  
CITY OF CHICAGO  
DEPARTMENT OF PLANNING AND DEVELOPMENT

3013



## **Memo**

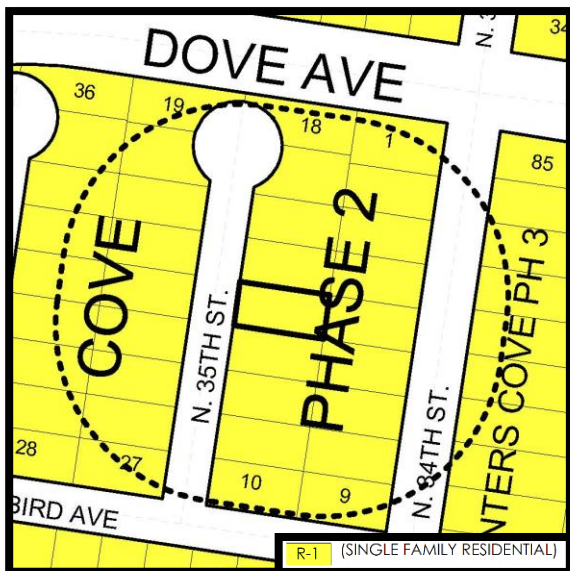
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 1, 2023

**SUBJECT:** Request of Irma G. Presas de Hdz. for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet at Lot 14, Hunter's Cove Subdivision, Unit No. 2, Hidalgo County, Texas; 5416 North 35<sup>th</sup> Street. (ZBA2023-0074)

**REASON FOR APPEAL:** The applicant is requesting a special exception for an encroachment of 20 feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet that will be used to protect her vehicle from hail during inclement weather and for protection from the sun.



**PROPERTY LOCATION AND VICINITY:** The property is located along the east side of North 35<sup>th</sup> Street just north of Bluebird Avenue. The lot has 50.0 feet of frontage and a depth of 102.0 feet for a lot size of 5,100 square feet. The property is zoned R-1 (single-family residential) District. There is R-1 district in all directions.

**BACKGROUND AND HISTORY:** Hunter's Cove Subdivision, Unit No. 2 was recorded June 16, 2006. The plat shows a 25 feet front yard setback for the subdivision. A building permit has not been submitted. A special exception request application was submitted July 20, 2023.

**ANALYSIS:** The applicant is requesting a special exception in order to allow an encroachment of 20

feet into the 25 feet front yard setback for a proposed metal carport measuring 20 feet by 20 feet that will be used to protect her vehicle from hail during inclement weather and for protection from the sun.

During a site visit, staff noticed that there were two other carports within Hunter's Cove subdivision, Unit No. 2. A review of Building Inspections Department did reveal two building permits that were rejected within the subdivision. A review of Planning Department records did not reveal any special exception requests.

Special exceptions are issued to and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Measurements provided are without benefit of a survey.

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 due to no other special exceptions approved within the neighborhood.

ZBOA:  
8/23/23



City of McAllen

Planning Department

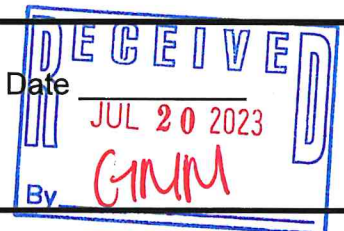
APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA2023-0074

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

Project	Legal Description	<u>Hunter's cove ut 2 Lot 14</u>		
	Subdivision Name	<u>Hunter's Cove</u>		
	Street Address	<u>5416 N 35<sup>th</sup> St. McAllen, Tx</u>		
	Number of lots	<u>1</u>	Gross acres	
	Existing Zoning	<u>R-1</u>	Existing Land Use	<u>casa</u>
	Reason for Appeal (please use other side if necessary)	<u>carport 20 x 20</u> <u>20' dentro de 25' del frente.</u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)			
	<input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
Applicant	Name	<u>Irma G. Presas de Hdz</u>		
	Address	<u>5416 N 35<sup>th</sup> Street</u>		
	City	<u>McAllen</u>	State	<u>Tx</u>
	Zip	<u>78504</u>		
Owner	Name	<u>Irma G. Presas de Hdz</u>		
	Address	<u>5416 N 35<sup>th</sup> St.</u>		
	City	<u>McAllen</u>	State	<u>Tx</u>
	Zip	<u>78504</u>		
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?			
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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	<u>[Signature]</u>		
Office	Accepted by	<u>AS</u>	Payment received by	
	Print Name	<u>Irma G. Presas.</u>		
	Date	<u>07-20-2023</u>		



AS





**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

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\*\*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:

Porque mi propiedad solo tiene 25' de limite

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

Por daños de granizo en vehículo, que queda fuera, así como el sol que da de frente desde las 12 pm hasta que se oculta ya que el frente de la casa es hacia el oeste

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:

No afecta en nada porque quedaría sobre la entrada al garage, ni afecta entrada a los lados de mi casa.

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

El poco espacio de entrada que ocasiona que debido a cambios atmosféricos y granizo que últimamente se ha registrado en el área afectando uno de los vehículos que tenemos.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date



N

Property line

20'

7'

Existing Home

7'

100'

35'

4"x4"x12'

11 gauge square tubing

20'

6x2 purlin

25'

3' underground cement

6x20 purlin

20'

5'

5416 35<sup>th</sup> Lane











**NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0074**

CITY OF MCALLEN PLANNING DEPT.  
956-681-1250  
WWW.MCALLENNET.NET



## **Memo**

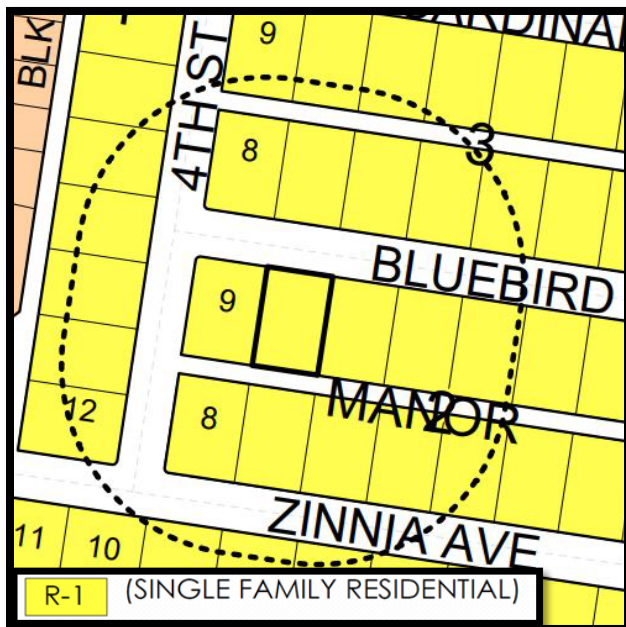
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 15, 2023

**SUBJECT: REQUEST OF ROBERT J. WORSTER FOR A SPECIAL EXCEPTION AND VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO: 1.) ALLOW AN ENCROACHMENT OF 8 FEET INTO THE 10 FEET REAR YARD SETBACK AND 4 FEET INTO THE 6 FEET WEST SIDE YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 26 FEET BY 15 FEET AND 2.) TO ALLOW AN ENCROACHMENT OF 8 FEET INTO THE 10 FEET REAR YARD SETBACK FOR AN EXISTING PATIO MEASURING 20 FEET BY 15 FEET AT LOT 10, BLOCK 2, HERITAGE MANOR, HIDALGO COUNTY, TEXAS; 325 BLUEBIRD AVENUE. (ZBA2023-0075)**

**REASON TO APPEAL:** The applicant is requesting a special exception and variance to 1. Allow an encroachment of 8 feet into the 10 feet rear yard setback and 4 feet into the 6 feet west side yard setback and encroaching of 8 feet into the 10 feet rear yard setback. Both requests are to provide shade, protect wooden custom deck, have vehicle protection and to accommodate his mother in law with health issues.



**PROPERTY LOCATION AND VICINITY:** The subject property is located on the south side of Bluebird Avenue. The Lot has a 70 feet of frontage along bluebird avenue and a depth of 105.24 feet for a total of square feet of 7, 366.80 feet. The property is zoned R-1 (single- family residential) District. There is R-1 district in all directions.



**BACKGROUND AND HISTORY:** Heritage Manor Subdivision was recorded on August 6, 1979. The plat stated that there is a 10 feet rear setback. In 2011 there was a building permit that was abandoned for a carport, but was not routed to planning. A non compliance order was issued on March 22, 2023 for a carport built without a permit. The applicant applied for a building permit July 19, 2023. A special exception and variance was submitted on July 21, 2023.

**ANALYSIS:** The applicant is requesting this Special Exception and Variance in order to keep his patio and carport.

Site visit by staff revealed 10 carports in the subdivision, which did not have permits.

During a site visit, staff noticed that the encroachment of the patio is about 6 feet into the 10 feet rear yard setback. Staff requested a new site plan showing the correct dimensions but the applicant did not provide.

Staff was not able to provide alternate solution to the existing issue since the applicant requested to proceed with the request as is.

Applicant does have a one car garage which he stated he uses for his antique vehicle.

Special exception are issued to and recorded for the present applicant/owner only. New property owners would be responsible to apply for a new special exception if requested.

Measurement provided are without benefit of a survey.

Staff did not receive any phone calls, email or letter in opposition to this special exception request.

**RECOMMENDATION:** Staff recommends disapproval for both Special Exception and Variance since there have been no other approved Variances or Special Exceptions requests in the neighborhood.

ZBA  
8/23/23

City of McAllen

## Planning Department

APPEAL TO ZONING BOARD OF

## ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project	<p>Legal Description <u>HERITAGE MANOR Lot 10 B21C 2</u></p> <p>Subdivision Name <u>HERITAGE MANOR</u></p> <p>Street Address <u>325 BLUEBIRD AVE.</u></p> <p>Number of lots <u>1</u> Gross acres _____</p> <p>Existing Zoning <u>R-1</u> Existing Land Use <u>R-1</u></p> <p>Reason for Appeal (please use other side if necessary) <u>ENCROACHING 4' INTO THE 6' SIDE YARD (WESTSIDE) PLUS 8' INTO THE 10' REAR YARD</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
	Applicant
Owner	<p>Name <u>SAME</u> Phone _____</p> <p>Address _____ E-mail _____</p> <p>City _____ State _____ Zip _____</p>
Authorization	<p>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?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>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.</p> <p>Signature <u>Robert J. Worster</u> Date <u>7-21-2023</u></p> <p>Print Name <u>ROBERT J. WORSTER</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>[Signature]</u> Payment received by _____ Date _____</p> <p>Rev 09/20 <u>07</u></p> <p>RECEIVED JUL 21 2023 By <u>NJM</u></p>



# 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:

COVERED PATIO / CARPORT TO PROVIDE SHADE  
AND PROTECT CUSTOM WOODEN DECK

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

SAME AS #1, ALSO TO ASSIST OUTSIDE AREA  
ENJOYMENT OF PATIO AREA, AND TO PROVIDE  
COVERED AREA & VEHICLE PROTECTION.

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:

PATIO COVER & CARPORT ARE VERY ATTRACTIVE TO  
THE NEIGHBORHOOD.

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

STRUCTURE HELPS IN ELDERLY, PARTICULARLY INCAPACITATED  
88 YEAR OLD MOTHER-IN-LAW RESIDENT.

Reason for Appeal

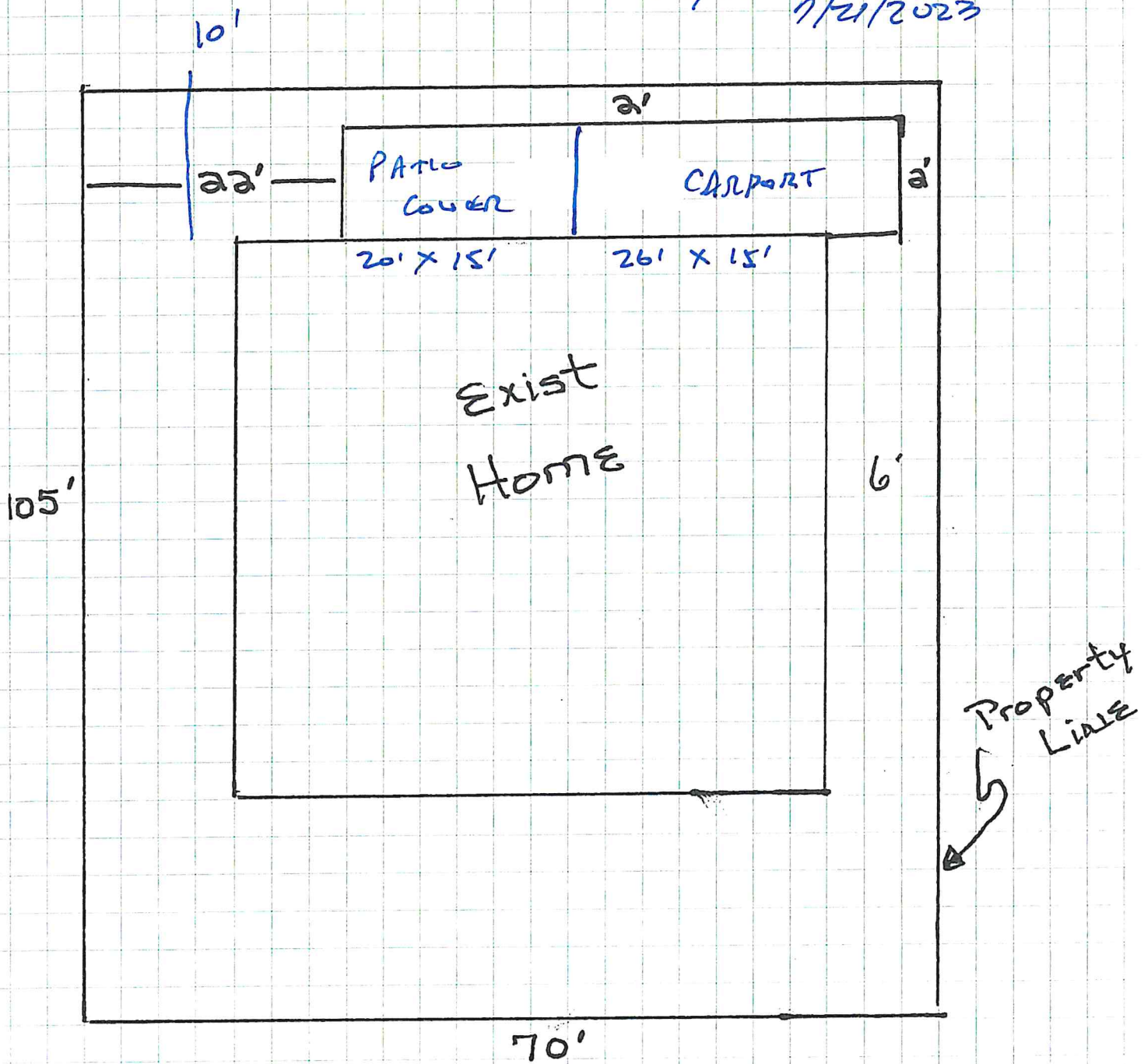
Board Action

Chairman, Board of Adjustment  
Signature

Date



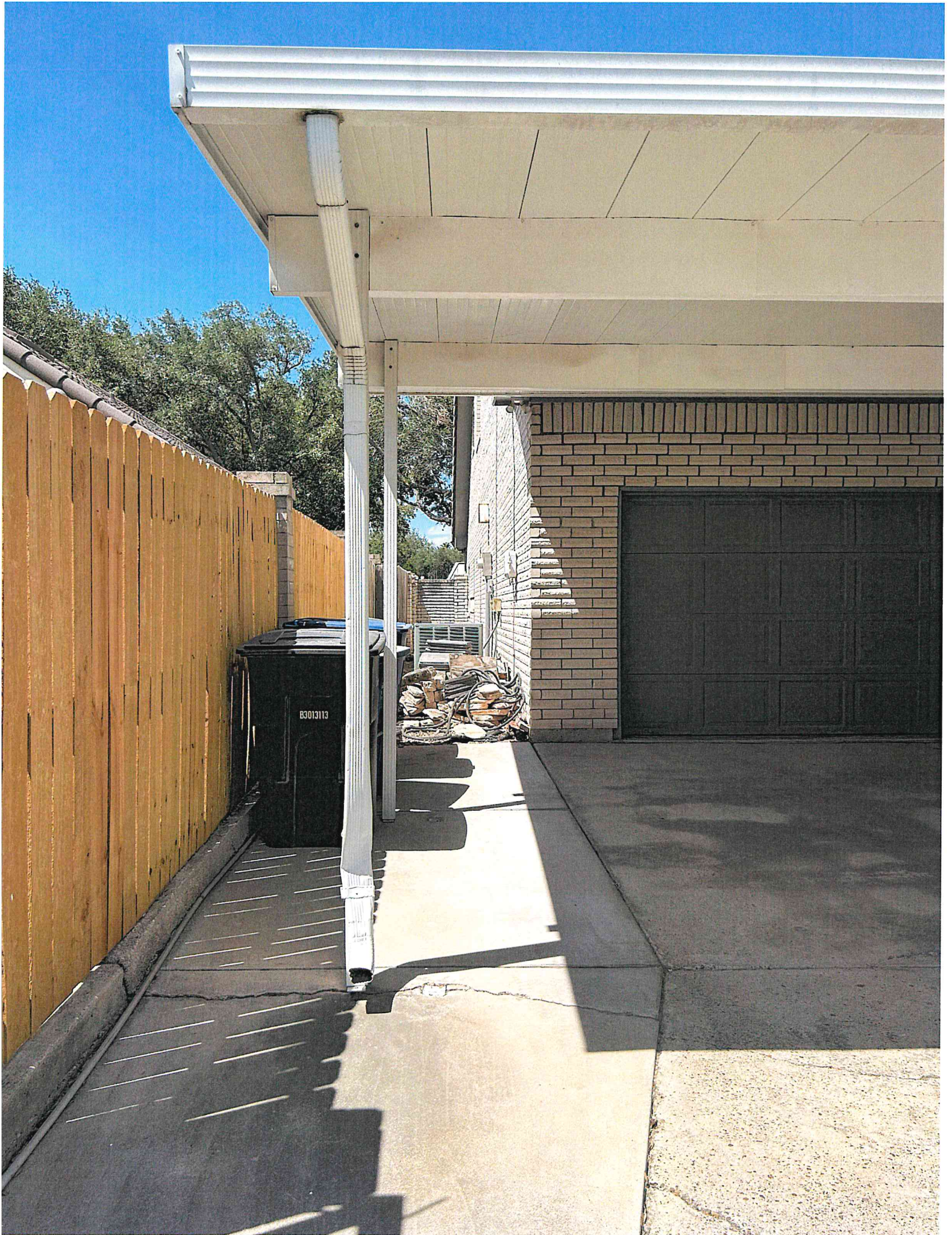
RQW 7/21/2023



325 Bluebird

N  
↓













NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2023-0075

325



## **Memo**

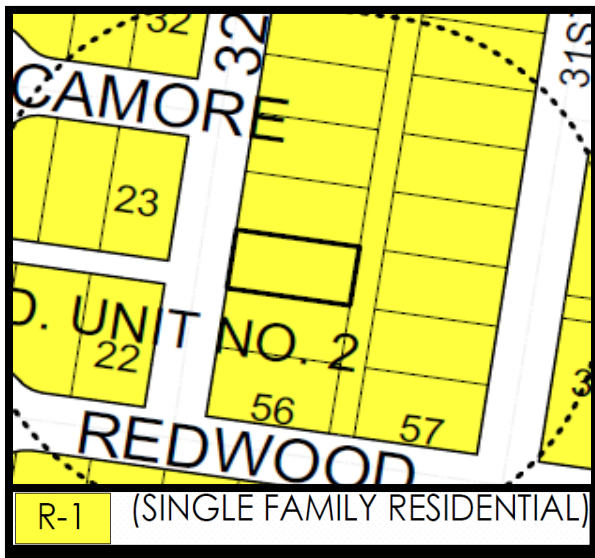
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** August 4, 2023

**SUBJECT:** REQUEST OF MARIO & DIANA ALEJOS FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW 1.) AN ENCROACHMENT OF 20 FEET INTO THE 20 FEET FRONT YARD SETBACK AND 2.) AN ENCROACHMENT OF 6 FEET INTO THE 6 FEET SOUTH SIDE YARD SETBACK FOR A DETACHED PROPOSED CARPORT MEASURING 20 FEET BY 20 FEET, AT LOT 54, MONTEBELLO SUBDIVISION UNIT NO. 2, HIDALGO COUNTY, TEXAS; 1808 NORTH 32ND STREET. (ZBA2023-0070)

**REASON FOR APPEAL:** The applicant is requesting to encroach 20 feet into the 20 foot front yard setback and 6 feet into the 6 foot side yard setback for a proposed carport measuring 20 feet by 20 feet that will be used to protect his vehicles from the harsh weather elements.



**PROPERTY LOCATION AND VICINITY:** The property is located on the East side of North 32<sup>nd</sup> Street, and North of Redwood Avenue. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

**BACKGROUND AND HISTORY:** A building permit has not been submitted. The special exception application was submitted July 11<sup>th</sup>, 2023.



**ANALYSIS:** The applicant is requesting to encroach 20 feet into the 20 foot front yard setback and 6 feet into the 6 foot side yard setback for a proposed carport that will be used to protect his vehicles from harsh weather. The applicant does not have a garage.

Site visit by staff revealed a two other carports in the area, but no building permits or special exceptions were found.

Measurements provided are without benefit of a survey.

Special exceptions are issued to and recorded for the present applicant/owner only. The new property owners would need to apply for a new special exception request.

At the meeting of June 26<sup>th</sup>, 2023 City Commission approved Ordinance 138-371(g) in reference to the maximum square footage of 400 square feet allowed for a carport.

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

**RECOMMENDATION:** Staff is recommending disapproval of the special exception request since there have been no other approved carports in the subdivision, nor is it characteristic of the neighborhood.

At the Zoning Board of Adjustments and Appeals meeting of August 8<sup>th</sup>, 2023 Mrs. Alejos the applicant, stated that she would like to make modifications to the proposed carport to have it placed farther away from the neighbors property line. The Board voted to table the special exception request to allow the applicant time to consider reductions to the proposed encroachments.

2BA2023-0070

2BA  
8/9/23

City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description

Montebello Unit #2 Lot 54

Subdivision Name

Montebello - Unit #2

Street Address

1808 N. 32nd St., McAllen, TX

Number of lots

1

Gross acres

.1171 Acre

Existing Zoning

R-1

Existing Land Use

Home

Reason for Appeal (please use other side if necessary)

Encroaching into the 20' front yard set-back and 6' into the 6' side yard set-back

☒ \$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

Maria C. &amp; Diana Alejos

Phone

(956) 225-5107

Address

1808 N. 32nd St.

E-mail

dianaalejos1952@gmail.com

City

McAllen

State

TX

Zip

78501

Owner

Name

Same as above

Phone

Address

E-mail

City

State

Zip

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

Diana E. Alejos

Date

7-11-23

Print Name

Diana E. Alejos

☒ Owner

☐ Authorized Agent

Office

Accepted by

AS

Payment received by

Date

JUL 11 2023

By

MK

Rev 09/20





# 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:

We do not have a garage. We have a drive-way only. The last hail storm we had damaged my car and the sun burnt the paint. I am having to repair my vehicles.

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

The weather changes are causing damage to our vehicles, more so to mine and I had to have my car repaired. This would keep our vehicles from getting dings from hail and damage from the sun.

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:

To my knowledge the carport would not cause any injuries to anyone or their property.

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

We have the 20' and the 6' setback that we could use with your permission to resolve a serious weather damage concern that we want to avoid. We have already suffered financial burden due to this and we want to avoid any further issues.

Reason for Appeal

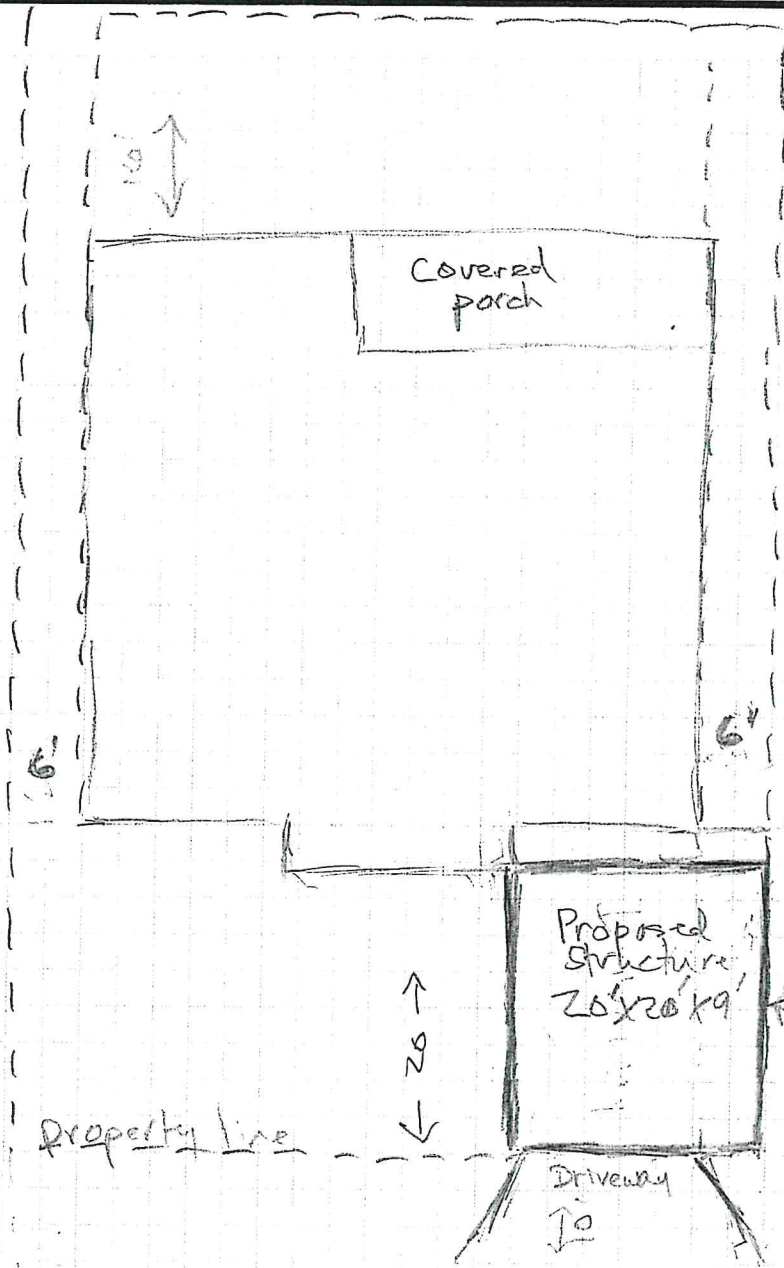
Board Action

Chairman, Board of Adjustment  
Signature

Date

(E) ↑

← (N)



Proposed carport detached from house from property line to cover the 2 cars. We already cleared with neighbor

(W) ↓

**Wall Legend:**

- Existing
- Proposed
- Demolition

**Symbol Legend:**

- Door
- Window
- Electrical Panel
- A/C Unit

Toilet Sink

**RECEIVED**

JUL 11 2023

By

Application and documents can be submitted electronically to  
[BLDGPERMITS@MCALLEN.NET](mailto:BLDGPERMITS@MCALLEN.NET)





1808

1808





1808

NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA 2023-0070  
CITY OF BEAVER PLANNING DEPT  
1000 1ST ST  
BEAVER, UT 84405

1808



## 2023 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/23	01/18/23	02/08/23	02/22/23	03/08/23	03/22/23	04/05/23	04/19/23	05/03/23	05/17/23	06/07/23	06/21/23	07/13/23	07/27/23	08/09/23	08/23/23	09/07/23	09/20/23	10/04/23	10/18/23	11/01/23	11/15/23	12/06/23	12/20/23
SYLVIA HINOJOSA-VICE-CHAIR	P	P	P	P	P	P	P	P	A	P														
JOSE GUTIERREZ- CHAIRPERSON	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P									
ANN TAFEL	P	P	P	P	A	P	P	P	P	P	P	P	P	P	P									
HUGO AVILA	P	P	P	A	P	P	P	P	P	P	P	P	P	A	P									
ROGELIO RODRIGUEZ	A	P	A	P	P	P	P	A	P	P	A	P	P	P	P									
HIRAM A. GUTIERREZ											P	A	P	P	P									
REBECCA MILLAN (ALT 1)	P																							
MARK TALBOT (ATL 2)	A																							
SAM SALDIVAR (ALT 3)	P	P	P	P	P	P	A	P	P	A	P	P	P	A										
JUAN MUJICA (ALT 4)	P	P	A	P	P	P	A	P	P	P	P	P	P	A	P									

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION









# PLANNING DEPARTMENT

311 N 15th Street McAllen, TX 78501  
Phone: 956-681-1250 Fax: 956-681-1279



## 2023 CALENDAR

### Meetings:





-  City Commission
  -  Public Utility Board
  -  Planning & Zoning Board
  -  Zoning Board of Adjustment
- HPC - Historic Preservation Council

### Deadlines:





D- Zoning/CUP Application      N - Public Notification

\* **Holiday** - Office is closed





### JANUARY 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2 <b>HOLIDAY</b>	3	4	5 N-1/17& 1/18 D-2/7 & 2/8	6	7
8	9 	10 	11	12	13	14
15	16 A-2/7 & 2/8	17	18 N-2/7 & 2/8 D-2/21 & 2/22	19	20	21
22	23 	24 	25	26 <b>HPC</b>	27	28
29	30	31				





### FEBRUARY 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 A-2/21 & 2/22	7	8 N- 2/21& 2/22 D- 3/7 & 3/8	9	10	11
12	13 	14 			17	18
19	20 A-3/2 & 3/3	21	22 N-3/7 & 3/8 D-3/21 & 3/22	23 <b>HPC</b>	24	25
26	27 	28 				





### MARCH 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 A-3/15 & 3/16	7	8 N-3/15 & 3/16 D-4/4 & 4/5	9	10	11
12	13 	14 			17	18
19	20 A-4/4 & 4/5	21	22 N-4/4 & 4/5 D-4/18 & 4/19	23	24	25
26	27 	28 	29 <b>HPC</b>	30	31	





### APRIL 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3 A-4/18 & 4/19	4	5 N-4/18 & 4/19 D-5/2 & 5/3	6	7 <b>HOLIDAY</b>	8
9	10 	11 	12	13	14	15
16	17 A- 5/2 & 5/3	18	19 N- 5/2 & 5/3 D-5/16 & 5/17	20	21	22
23	24 	25 	26	27 <b>HPC</b>	28	29
30						

### MAY 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1 A- 5/16 & 5/17	2	3 D: 6/6 & 6/7 N-5/16 & 5/17	4	5	6
1	8 	9 	10	11	12	13
8	15	16	17 D-6/20 & 6/21		19	20
15	22 	23 	24 N-6/6 & 6/7	25 <b>HPC</b>	26	27
28	29 <b>HOLIDAY</b>	30	31			

### JUNE 2023


Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5 A-6/20 & 6/21	6	7 D-7/12 & 7/13 N-6/20 & 6/21	8	9	10
11	12 	13 	14	15	16	17
18	19	20	21 D-7/26 & 7/27	22	23	24
25	26 	27 	28 N-7/12 & 7/13	29 <b>HPC</b>	30	

Deadlines and Meeting Dates are subject to change at any time. Please contact the Planning Department at (956) 681-1250 if you have any questions.



## 2023 CALENDAR








### Meetings:

-  City Commission
-  Public Utility Board
-  Planning & Zoning Board
-  Zoning Board of Adjustment
- HPC - Historic Pres Council









### Deadlines:

- D- Zoning/CUP Application
- N - Public Notification
- \* **Holiday** - Office is closed









### JULY 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	4 <b>HOLIDAY</b>	5	6	7	8
9	10  A-7/26 & 7/27	11 	12  N-7/26 & 7/27 D-8/8 & 8/9	13 	14	15
16	17	18	19	20	21	22
23	24  A-8/8 & 8/9	25 	26  N-8/8 & 8/9 D-8/22 & 8/23	27 <b>HPC</b>	28	29
30	31					









### AUGUST 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7 A- 8/22 & 8/23	8 	9  N- 8/22 & 8/23 D-9/6 & 9/7	10	11	12
13	14 	15 	16	17	18	19
20	21 A- 9/6 & 9/7	22 	23  N- 9/6 & 9/7 D-9/19 & 9/20	24 <b>HPC</b>	25	26
27	28 	29 	30	31		










### SEPTEMBER 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4 <b>HOLIDAY</b>	5	6  N-9/19 & 9/20 D-10/3 & 10/4	7 	8 A-9/19 & 9/20	9
10	11 	12 	13	14	15	16
17	18 A-10/3 & 10/4	19 	20  D-10/18 & 10/19 N-10/3 & 10/4	21	22	23
24	25 	26 	27	28 <b>HPC</b>	29	30






### OCTOBER 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 	4  N-10/17 & 10/18 D-11/1 - 11/7	5	6	7
8	9 	10 	11	12	13	14
15	16 A-11/1 ZBA	17 	18  N- 11/1 ZBA D-11/15 & 11/21	19	20	21
22	23 	24 	25	26 <b>HPC</b>	27	28
29	30 A- 11/15 ZBA	31				

### NOVEMBER 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1  N- 11/15 ZBA D-12/5 & 12/6	2	3	4
5	6 A-11/21 PZ	7 	8  N- 11/21 PZ	9	10	11
12	13 	14 	15  D-12/19 & 12/20	16	17	18
19	20 A-12/5&12/6	21 	22	23 <b>HOLIDAY</b>	24	25
26	27 	28 	29	30		

### DECEMBER 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 	6 <b>HPC</b> D-TBA N-12/19 & 12/20	7	8	9
10	11 	12 	13	14	15	16
17	18 A- TBA	19 	20  D- TBA N- TBA	21	22	23
24	25 <b>HOLIDAY</b>	26 <b>HOLIDAY</b>	27	28	29	30