

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, FEBRUARY 4, 2026 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD 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 -

1. MINUTES:

- a) Minutes for the meeting held on January 22, 2026**

2. PUBLIC HEARINGS:

- a) Request of Jose Lopez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 19 feet into the 25-foot front yard setback for an existing metal carport at Lot 54, Idela Park Subdivision Unit No. 2, Hidalgo County, Texas; 4901 South 33rd Street. (ZBA2025-0071)**

3. FUTURE AGENDA ITEMS

- a) 802 Orange 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 Thursday, January 22, 2026 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Hugo Avila	Vice-Chairperson
	Hiram Gutierrez	Member
	Daniel Santos	Member
	Ivan Garcia	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
	Erick Diaz	Alternate
	Francisco Davila	Alternate
Staff Present:	Austin Stevenson	City Attorney
	Michelle Rivera	Deputy City Manager
	Martin Canales	Assistant City Attorney III
	Norma Borrego	Assistant City Attorney I
	Omar Sotelo	Planning Director
	Kaveh Forghanparast	Senior Planner
	Porfirio Hernandez	Planner II
	Magda Ramirez	Planner I
	Miguel Hernandez	Technician I
	Jonathan Gutierrez	Technician I
	Carmen White	Administrative Assistant
	Valerie Ramos	Administrative Clerk

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

a) Minutes for meeting held on January 7, 2026.

The minutes for the meeting held on January 7, 2026. The motion to approve the minutes were made by Vice-Chairperson Hugo Avila. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

City Attorney Stevenson stated to the Board items 2c and 2d to be discussed in Executive Session. Item 2c pursuant to Texas Government Code 551.087 and Item 2d pursuant to Texas Government Code 551.071. He asked the Board to make a motion to adjourn to Executive Session.

Vice-Chairperson Hugo Avila moved to go into Executive Session. Board member Hiram Gutierrez seconded the motion. The Board voted unanimously to go into Executive Session with five members present and voting at 4:34 p.m.

The Board reconvened at 5:00 p.m. to continue the regular meeting in session.

2. PUBLIC HEARINGS:

- a) Request of Armando Martinez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing carport, Lot 33, Idela Park Subdivision Unit 2, Hidalgo County, Texas; 3025 Norma Avenue (ZBA2025-0067)**

Ms. Ramirez stated the applicant was requesting a special exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport measuring 20 feet by 20 feet.

The subject property was located along the south side of Norma Avenue and is zoned R-1 (Low Density Residential-UDC) District.

Idela Park Unit 2 Subdivision was recorded on July 24, 1978. A single-family residential home was built on the property in 2003. The applicant submitted a building permit for a carport on November 7, 2019. The permit was rejected by Planning due to the encroachment into the front yard setback. A Stop Work Order was issued on February 14, 2023 for an addition to the exiting carport. A variance request to encroachment into a front yard setback was submitted on November 21, 2025.

The applicant is requesting a special exception for an existing 20'x20' carport that will be used to protect vehicles from the elements. An addition structure was added to the west side creating a 4 foot encroachment into the 6 foot side yard setback. The recorded plat of the subdivision requires a 25 foot front yard setback. During site visit, staff noticed that the applicant has already begun to remove the addition. Staff also noticed properties along Norma Avenue that have carports which seem to encroach into the required 25 foot front setback; and staff's research did reveal multiple records of special exception being granted for this subdivision.

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

Staff recommended approval of the special exception request since it would not impact the neighborhoods characteristics.

Mr. Armando Martinez, 3025 Norma Avenue, McAllen. He apologized for building the carport without obtaining a permit. He stated he paid the fines and he applied for the Special Exception hoping that it would be approved. He stated he had put a piece of wood on the side of the carport for protection from the sun. However, since then he had removed it. Vice-Chairperson Avila asked the applicant if the house had a garage. He stated yes they had one.

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

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

San Juana Mendoza, 3029 Norma Avenue, McAllen. She stated she was in opposition of the carport because when it rains the water goes into her yard.

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

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

Staff stated there were 25 carports in the neighborhood. Only 8 came before the Board the rest took upon themselves.

Following discussion, Vice-Chairperson Hugo Avila moved to go approve the Special Exception. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- b)** Request of Noe Amir Aguilar Flores for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25 foot rear setback for a proposed covered patio, located at Lot 283, La Floresta Phase II Subdivision, Hidalgo County, Texas; 2217 Ozark Avenue. (**ZBA2025-0070**)

Ms. Fuentes stated the applicant was requesting a variance to allow an encroachment of 15 feet into the 25-foot rear setback for an existing covered porch measuring 24 feet by 12 feet to provide shade and protection from the weather.

The subject property was located along the south side of Ozark Avenue and is zoned R-1 (Single-Family Residential-OC) District. The adjacent zoning is R-1 (Single-Family Residential-OC) in all directions. Surrounding land uses include single-family residences, commercial businesses, and vacant land.

La Floresta Phase II Subdivision was recorded on July 8, 2016. A single-family residential home was built on the property in 2022. A Stop Work Order was issued on February 14, 2023. The applicant submitted a building permit for the porch addition on December 8, 2025. The permit was rejected by Planning due to the encroachment into the rear setback required by the plat. A variance request to encroach into the rear setback was submitted on December 12, 2025.

The recorded plat requires 25-foot rear yard setbacks for a double fronting lot. Section §138-367(b) in the Zoning Ordinance states that “where lots have double frontage, ... a required front yard shall be provided on one street only.” As per the submitted site plan, the porch is respecting the 10 foot rear yard setback line as per the Zoning Ordinance.

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

Staff recommended approval of the variance request since it complies with minimum setback required by Section §138-356 of the Zoning Ordinance.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Variance request. There was no one to speak in favor of the Variance request.

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

Following discussion, Vice-Chairperson Hugo Avila moved to approve the Variance request. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- c) Request of David Chacon on behalf of ML Rhodes Ltd. for a variance to the City of McAllen Zoning Ordinance to not provide the required 70 foot maximum building height at a 52 Ac tract of land out of Section 232, Texas-Mexican Railway Company's Survey, Hidalgo County, Texas; 15400 North Shary Road. **(ZBA2025-0069)**

Mr. Hernandez stated the applicant was requesting a variance to not provide the required 70-foot maximum building height and is requesting an increase to 90 feet to accommodate a five-story medical building.

The subject property was located along and surrounding the southeast corner of North Shary Road and Monte Cristo Road. The property is zoned C-2 (Regional Commercial-UDC) District. The adjacent zoning is C-4 (Commercial Industrial-OC) District in all directions. The properties on the north side of Monte Cristo Road are outside the city limits. Surrounding land uses are single-family residences, schools and vacant land.

The property was rezoned to C-2 (Regional Commercial-UDC) by the City Commission on November 24, 2025. It is currently in the subdivision process under the name Texas General Medical Center Subdivision and received preliminary approval on December 2, 2025. This variance application was submitted on December 4, 2025.

The applicant was requesting to increase the building height to 90 feet to accommodate a five-story hospital building that will adequately serve the region. Applicant states the variance is necessary to provide sufficient bed capacity and to create a visually appealing facility that is compatible with adjacent neighborhoods, thereby enhancing service to the growing community. The subject property is not adjacent to any residentially zoned or uses. Fire and Building departments have no objection or concern regarding the variance request.

Staff had not received any emails or phone calls in opposition of the variance request.

Staff recommended approval of the variance request since it complies with fire and building code requirements.

Board member Santos asked staff what was the concern about the height increase. Staff stated there was no concern. The limit on the ordinance was that they wanted to make sure for any average development that would be the height. If any specific project they could request for more height. It would be checked with the Fire Department and Building Code, which in the case there was no concern.

Mr. David Chacon, 3505 Upas Avenue, McAllen. He had applied on behalf of the owners for a variance for the height of the hospital. It is a growing community and this would service area and in the region area.

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

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

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

- d) Request of Robert Chavez on behalf of Jaime Muriel for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 11.7 ft. into the 11.7 ft. front yard setback for an existing extension of the metal porch measuring 11.7 ft. by 34 ft. at South 25' of Lot 3 and All of Lot 4, Block 17, Ewing's Addition Subdivision, Hidalgo County, Texas; 901 & 905 North Main Street. **(ZBA2025-0068)**

Mr. Hernandez stated the applicant was requesting the following variance to allow an encroachment of 11.7 ft. into the 11.7 ft. front yard setback for an existing extension of the metal porch measuring 11.7 ft. by 34 ft. The applicant has indicated that the basis for the request is to use the existing expansion of structure as shade for front outdoor seating area of the existing restaurant known as "Mikhuna Japanese-Peruvian Cuisine".

The property is located at the northwest corner of North Main Street and Ivy Avenue, and is zoned C-3 (general business) District. Adjacent zoning is zoned is R-1 (single family residential) District to the west, and C-3 to the north, south and east. Surrounding land uses are restaurants, retail, and single family residential.

The property is located in Ewing's Addition, which was recorded on February 2, 1920. A previous owner applied for a variance request on October 13, 1983 to build the existing building 13.6 ft. back from the front property line instead of the 27.5 ft. setback required. At the Zoning Board of Adjustment and Appeal meeting of November 16, 1983 there was no one present in opposition and the board made the motion to approve the variance as long as the continuity of the front building setback remained the same with the surrounding building.

A building permit application for a metal porch measuring 11.7 ft. by 35 ft. on the north side of the property was submitted on November 25, 2019 and on May 6, 2020, the applicant applied for a variance for the proposed metal porch encroaching into the front yard setback. A building permit was issued for the construction of the metal porch on May 20, 2020, with the applicant's understanding that if the variance request is denied, he will have to come back and revise the site plan to not have the proposed metal structure in the front of the restaurant. At the Zoning Board of Adjustment & Appeal meeting of June 3, 2020, a person appeared in opposition to the request; however, after discussion, the Board voted unanimously to approve the variance request subject to the footprint as shown on the site plan.

The applicant applied for a variance request for the new expansion to the south on November 16, 2020. At the Zoning Board of Adjustment & Appeal Board meeting of December 2, 2020, the board approved the variance request subject to the footprint as shown on the site plan and with the condition to provide four additional parking spaces based on the additional dining area.

On December 2, 2025, the applicant submitted the variance application currently before the board. This item is eligible to be discussed in executive session.

The extension of the metal porch to the south is used for outdoor dining for the restaurant. The new extension of the porch to the south measures 11.7 ft. by 34 ft. for (397.8 sq. ft.) with a height of 8 ft. The material of the extension of the porch to the south is identical to the north portion that was approved by the Board on June 3, 2020; it has a metal roof with metal posts in concrete. The porch extends from the wall of the existing building toward the front property line as per survey and site plan submitted. The city adopted a new Unified Development in

December of 2024 where the front yard setback requirement for C-1 (Local Commercial) District is 10 feet and for C-2 (Regional Commercial) District is 15 feet.

Texas Local Government Code Sec. 211.009 (AUTHORITY OF BOARD)(a)(3) provides that the board of adjustment may authorize in specific cases a variance from the terms of a zoning ordinance if the variance is:

- (1) not contrary to the public interest and,
- (2) due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and
- (3) so that the spirit of the ordinance is observed and substantial justice is done.

Texas Local Government Code Sec. 211.009 (b-1) of the Local Government Code provides that, in exercising its authority under Subsection (a)(3), the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;
- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) the municipality considers the structure to be a nonconforming structure.

Staff recommended approval of the variance request for the following reasons:

1. The condition is not unique, as several properties in the surrounding area are developed in close proximity to their respective property lines, which is characteristic of the established development pattern in the neighborhood;
2. The metal porch extension does not alter the essential character of the neighborhood or negatively impact adjacent properties;
3. The addition of a covered outdoor seating area does not increase traffic, parking demand, or on-street parking impacts;
4. The structure provides functional weather protection for an existing outdoor dining area without expanding the building footprint beyond what has previously been approved;
5. The structure complies with all applicable Building Code requirements and has received the necessary permits;
6. Granting the variance is not contrary to the public interest and will not materially change the character of the surrounding area, as similar structures exist nearby;
7. Strict enforcement of the front yard setback requirement would result in an unnecessary hardship by limiting the reasonable use of an established outdoor dining area; and
8. The intent of the front yard setback requirement—to preserve visual harmony and curb appeal—is maintained despite the encroachment.

Chairperson Gutierrez asked staff if this Board goes with staff's recommendation and approves it, it would mean in the future that area could be enclosed. Staff stated yes.

Staff stated that for the record they received four letters in support of the variance, one phone

call in support of the variance, an online petition and one phone call in opposition.

Mr. Jaime Muriel, 721 North 2nd Street, McAllen. He stated he was the owner of Mikuna Restaurant. He wanted to speak about the recent judgment revoking a variance that was granted more than five years ago. He stated he respected the court's ruling, the legal process and the role the City plays in holding zoning laws and procedures. During that time the business had operated openly, responsibly and in good faith. Investments were made based on that approval. Investments in construction, jobs, vendors, taxes and improvement of the area. At no point was there an attempt to bypass rules or act irresponsibly. The court's ruling did not state that the patio or improvement was harmful, unsafe or inappropriate for the neighborhood. The judge ruled that the process used at the time was flood that distinction mattered. He stated we were now in a situation where from five years ago threatens to undo years of positive economic and community impact. He stated that in the last week along they had received hundreds of positive responses across social media platforms along with more than 1,700 signatures on community petition expressing support for the restaurant's patio. He then shared a video that showed consistent videotaping of staff and patrons, which had been experienced as disruptions to normal operations. He then showed a video of the patio and restaurant of how it exists today.

Vice-Chairperson Avila asked Mr. Muriel if they had music in the restaurant. Mr. Muriel stated yes they do and it is kept low in order for the patrons to enjoy their dinner conversations with their guests.

Chairperson Gutierrez explained to Mr. Muriel that the variance runs with the land and that anything could be built now or in the future into a small building or anything else.

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

Ms. Sandra Martin, 321 North 16th Street, McAllen. She stated that she loved the restaurant and has eaten in the patio. She attest to the fact the music is quite low. Over 1700 signatures, strong local leadership support, years of safe operations and in compliance. The patio is accessible and has been used safely by the public for years now. My family and my community strongly support this family owned business that want to see it continued.

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

Mr. Misael Mauricio, 1001 Hidden Hills Street. He was the General Manager at Mikuna Restaurant. He stated he was in support of the variance. He stated they have had great events from birthday celebrations, anniversaries even weddings and proposals at Mikuna. It creates many jobs for the employees. He as well as their current Executive Chef were U.S. Marine Veterans, which creates for Veterans.

Board member Gutierrez asked Mr. Mauricio if there are any complaints against the restaurant how they handle it. He stated there has been many every day not only by them but also by Tacos Plebe, Roosevelts all the way to Espana coming from the same person. As of two days ago, Roosevelts received a call from the police impersonating to be Mikuna. Trying to put them in conflict with their own neighbors.

Board member Santos asked Mr. Mauricio what kind of harassment and complaints. Mr. Mauricio stated at first the neighbor coming directly into the restaurant. At some point if he was not around this person would start harassing the people at the patio. It got to the point

where he would call the police and wanted to put a restraining order if it continues. The neighbor no longer comes directly into the restaurant but stands across the street where he has a video of her recording them.

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

Mr. Javier Solis, 1312 Jasmine Avenue. He stated he has lived there for 33 years and never seen or heard anything that would gravitate to having issues any of the restaurants on Main Street. He has eaten there and enjoyed their food. He stated they live in Old Town and is the way it was supposed to be like. The characteristics of most of these restaurants on Main Street are Old Town with the buildings up close. He stated he had friends from Harlingen and Brownsville who come to eat at Mikuna. There is a bike path on each side of the street so no cars can park so there is no issues there.

Board member Santos asked Mr. Solis how far he lived from the restaurant. Mr. Solis stated he lived about a block and a half from the restaurant. Santos asked if during the time he has lived there until 2020 when they built the patio was there any excessive or loud noises from, that patio. Mr. Solis stated no.

Mr. Luis Pena, 1017 north Main Street. He is the owner of Tacos Plebe. He was here in support of Mikuna. He stated that about two years ago they were in the same situation in this same room targeting them on trying to revoke their permit. They would get complaints at least three times a week. From a business owner perspective it has becomes a challenge.

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

Ms. Bernice Lopez Smith, 5200 North 16th Street, McAllen. She stated she has seen through the years Mr. Javier Muriel has done with investments worked hard. Usually he works Monday through Sunday and all of his businesses along with his wife and son. She was in support of his restaurant.

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

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

Mr. Americo Cisneros, Attorney on behalf of Mr. & Mrs. Edwards. My office address is 801 W. Pecan Blvd., McAllen. He stated that he has been to Mikuna and other restaurants owned by Mr. Muriel. He knows of the support Mr. Muriel had received from the community. Mr. Cisneros stated that many if not most of the people that have been supportive of the variance he was requesting do not live next or close to the restaurant. He also mentioned that Mr. Edwards was not trying to shut down the operation. Mr. Edwards was in opposition of the variance as he was 5 years ago when he was in opposition for the same structure. Mr. Cisneros stated the basis of the objection being that the Zoning Board of Adjustment under the new Unified Development Code does not have authority under Article 1.2 Section 1.21 to grant their requested variance. That section specifically denies the authority to the Board to reduce any building setback under the adopted building codes. The current requirement was 11 feet of 15 feet and they were requesting 11.3 or 11.7 feet. Same application for same structure, same building, and same location was submitted in

November 2020. There was a hearing by the Board and agreed to grant the variance going against Planning's recommendation. After the variance was granted, his client Mr. Edwards submitted the decision for judicial review a petition was filed in the 430th District Court. The then presiding Judge Ismael Fonseca ruled the Board's decision was an infusive discretion because the Board acted arbitrarily unreasonably and without reference to any guiding principles. The court considered it illegal, void and reversed the Board's decision. He stated the same application was submitted last month and this time the conclusion was recommendation for approval of the variance. Should the Board grant the variance; his client will seek judicial review again. He stated that there were numerous complaints from the resident about the noise as well as the Edwards. The speakers were left on throughout the night. The attorney provided a video of the music and motorcycle. Chairperson Gutierrez asked the attorney if the police had been called. Mr. Cisneros stated yes. They had submitted the police report. Chairperson Gutierrez asked if the noise had diminished since then. At this time, Mrs. Edwards approached the podium. Hilda Edwards, 1321 Jasmine Avenue. She is a block or less from Mikuna. Their porch is closer than a block to their home. She stated the three videos of the motorcycle are the Manager's. He revs his motorcycle when he passes their home at 11:00 p.m. and wakes them up. Mr. Cisneros stated he wanted to speak about the traffic and parking impact of the variance. The patio increases the parking demand and overflow parking on residential streets. There is illegal parking on bike lanes and parking on the sidewalk on the south side of the building. He stated that the applicant claimed that due to special conditions it would result a necessary hardship established by the applicant. The applicant claims that the size structure placement and interior layout of the building create a unique condition which outdoor seating is not optional but operationally necessary. He stated the building has more square footage than most of the commercial there on Main Street.

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.

Mr. Jack Edwards, 1321 Jasmine Avenue. He stated when he went on his morning, but the restaurant was not open yet. He stopped there because Channel 5 News was there and wanted to have an opportunity to speak with them. Because they lived in proximity to these places, we hear their music daily. If the music is not too loud from the inside of his house, he does not call.

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

Mrs. Hilda Edwards, 1321 Jasmine Avenue, one block north of Mikuna in a neighborhood called Old Town. She stated they purchased their home 35 years ago and have worked to restore its beauty and character. In 2022, they applied for City and Landmark Designation to protect their home from detrimental activities the City was allowing on the commercial side of Main Street. The Planning and Zoning Commission voted to deny their request because they did not know what the City wants to do with Main Street in 20 years. However, with the support of the Historic Commission of Hidalgo, Starr County, and Nueces County and their Historical Commission they were granted the Landmark. In 2024, the home became a Texas Historical Landmark. It is a Kelsey Miller home. She stated Main Street from Hackberry to Pecan is zoned R-1 on the east and C-3 on the west. Main Street only has two lanes. Loud amplified music coming from restaurants can be heard inside their homes. Limited parking, excessive traffic and speeding cars exuberates the situation. In 2023, she asked the Traffic Department for a traffic study. She stated they called her back 2 months later and were amazed at the results of the study from Hackberry Avenue to Pecan

Boulevard. The study showed traffic speeding at 80 mph at night. The cars started parking on both sides of Main Street outside their home. The bike lanes has helped. She stated in 2022, a group of them met with the members of Freeze and Nickels, the consulting firm for the City's Comprehensive Plan to voice their concerns that City officials were overlooking Historic Preservation. Their final plan Envision McAllen 2040 recommended tools of preservation that included zoning overlays conservation districts and preservation easements.

Board member Gutierrez asked counsel that the Board did not have the authority to grant the setback. Counsel stated that Mr. Cisneros was correct in this citation of the UDC in that Code provision but it is a newer Code. There were some conflicting provisions within the Code and it is their recommendation that the Board does have jurisdiction to hear this Appeal and to grant the variance request.

Board member Santos asked Mrs. Edwards based on the study they had there was there anything that ties that to the restaurant patio. If there was, any impact or evidence to support that there is an increase in speed or increase in traffic. Because of the extension of this property line. Staff stated they did not see any ties concerning that but could ask the oppositional why there were submitting the result of the traffic study.

Mrs. Edwards stated Mikuna was there before they started to have complaints. It started with Mikuna after the porch was built. They had bands and speakers blasting out. She went to speak with the Manager but did not speak with her. She asked him to turn down the volume but did not acknowledged her. She then videotaped the sound and left.

The General Manager stated to the Board that he did not have the motorcycle anymore since three years ago. He goes a different way.

Following discussion, Mr. Hiram Gutierrez moved to approve the Variance request. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve the 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 at 6:32 p.m.

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

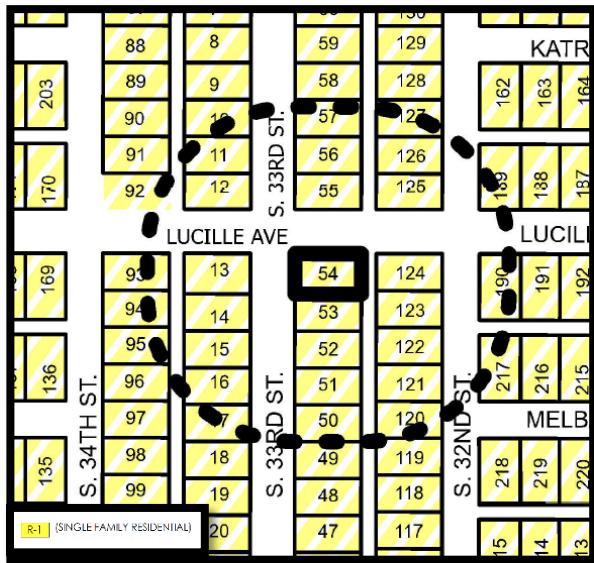
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: February 4, 2026

SUBJECT: REQUEST OF JOSE LOPEZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 19 FEET INTO THE 25 FOOT FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT AT LOT 54, IDELA PARK SUBDIVISION UNIT NO. 2, HIDALGO COUNTY, TEXAS; 4901 SOUTH 33RD STREET. (ZBA2025-0071)

REASON FOR APPEAL: The applicant is requesting a special exception to allow an encroachment of 19 feet into the 25-foot front yard setback for an existing metal carport measuring 18ft x 20ft.



PROPERTY LOCATION AND VICINITY: The subject property is located on the southeast corner of South 33rd Street and Lucille Avenue and is zoned R-1 (Low-Density Residential-UDC) District.

BACKGROUND AND HISTORY: Idela Park Subdivision Unit No. 2 was officially recorded on July 25, 1978. The recorded plat establishes a 25-foot front yard setback and a 6-foot side yard setback, with corner lots subject to a 10-foot side yard setback. A building permit for a carport along Lucille Avenue was issued on May 26, 2000. Subsequently, a right-of-way permit for a driveway along South 33rd Street was issued on May 20, 2009.

On October 16, 2023, a building permit application was submitted for a proposed carport along South 33rd Street; however, it was rejected by Planning due to setback encroachment and later cancelled by the applicant, who indicated that no structure had been built. On December 11, 2024, a notice of violation was issued for construction of a carport without a permit. The applicant then reapplied for a building permit for the carport, which was again rejected due to encroachment into the front yard setback, and the applicant was advised to seek a special exception. A request for a special exception was submitted on December 19, 2025.

ANALYSIS: The applicant is requesting a special exception to allow the existing carport to remain. The residence does not include a garage, and the carport was built to provide necessary protection for vehicles from weather related damage, sun exposure and use shaded area for relaxing and spending time with family.

Staff's research did reveal five other special exceptions and variances for carports granted within this subdivision between 2009 and 2015.

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

RECOMMENDATION: Staff recommends approval of the special exception request since the request conforms to the existing neighborhood characteristics.



**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 2025-0071 ZBOA Meeting: 2/4/26
Accepted By: P. H.

PROJECT

Legal Description Idela Park UT 2, Lot 54

Subdivision Name Idela Park UT 2

Street Address 4901 S. 33rd St.

Number of lots 1 Gross acres

Existing Zoning R-1 (Low Density) Existing Land Use Residence

Reason for Appeal (please use other side if necessary) Permiso para invadir 19 pies de los 25 pies de front setback. Carport existe de 18' x 20' (meta)

\$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 Jose Lopez Phone 956) 332-6875

Address 4901 S. 33rd St. E-mail

City McAllen State TX Zip 78503

OWNER

Name JOSE Lopez Phone 956) 332-6875

Address 4901 S. 33rd St. E-mail

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 Jose Lopez B.

Date 12-19-25

Print Name JOSE LOPEZ B.

Owner

Authorized Agent

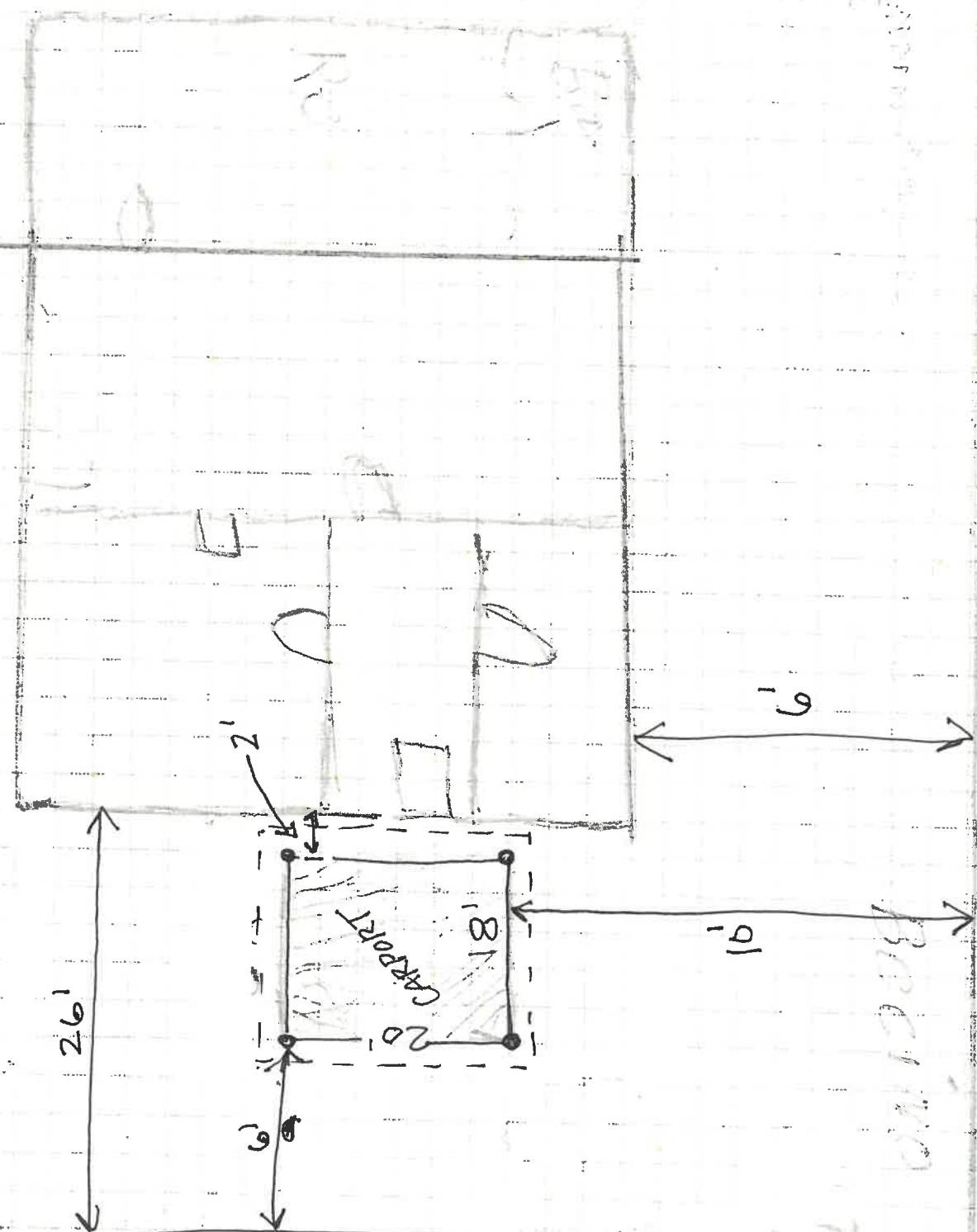
DEC 19 2025

BY: CL

Nov 3-17 2002

NORTA

1971-07-07



EE 5 106H

Wall Legend:

Existing



Proposed



Demolition

Symbol Legend:



Application and documents can be submitted electronically to
BLDGPERMITS@MCALLEN.NET

DEC 19 2025

BY: _____



4901

TEXAS
LVB-2334