

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, JULY 27, 2023 - 4:30 PM MCALLEN DEVELOPMENT CENTER, 311 NORTH 15TH STREET EXECUTIVE CONFERENCE ROOM

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

CALL TO ORDER – Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on July 13, 2023

2. PUBLIC HEARINGS:

- a) Request of Jose De Leon for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25-foot front yard setback for an existing metal carport measuring 28 feet by 13 feet at Lot 107, Idela Park Subdivision Unit No 1, Hidalgo County, Texas; 2712 Norma Avenue. **(ZBA2023-0062)**
- b) Request of Jose G. Vela 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 an existing metal carport measuring 22 feet by 20 feet at Lot 1 and the West 22.5 feet of Lot 2, Block 3, Westway Heights Subdivision, Unit No. 1, Hidalgo County, Texas; 2021 Highland Avenue. **(ZBA2023-0063)**
- c) Request of Juan Trujillo for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25 feet front yard setback for an existing metal carport measuring 20 feet by 22 feet at the East 47.5 feet of Lot 2 & West 45 feet of Lot 3, Block 3, Westway Heights Subdivision Unit No. 1, Hidalgo County, Texas; 2017 Highland Avenue. **(ZBA2023-0064)**
- d) Request of Rogelio Lopez for the following 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 20 feet by 20 feet at Lot 11, Block 4, Colonia McAllen Unit No. 7 Subdivision, Hidalgo County, Texas; 1940 South 33rd Street. **(ZBA2023-0065)**
- e) Request of Wilberth Broca for the following 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 20 feet by 18 feet at Lot 10, Block 4, Colonia McAllen Unit No. 7 Subdivision, Hidalgo County, Texas; 1936 South 33rd Street. **(ZBA2023-0066)**
- f) Request of Eduardo Gamba for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 5 feet into the 15 feet rear yard setback for a proposed bedroom addition measuring 17.90 feet by 18.50 feet, and **2)** an encroachment of 5 feet into the 15 feet rear yard setback for a proposed swimming pool measuring 11 feet by 12.90 feet at Lot 49, Green Meadows Subdivision, Hidalgo County, Texas; 1905 Robin Avenue. **(ZBA2023-0067)**
- g) Request of Donaciano Gomez for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 23 feet into the 25 front yard setback and an encroachment of 5 feet into the 6 feet side yard setback for a metal carport measuring 20 feet by 20 feet, at Lot 1, Lincoln Terrace No. 8, Hidalgo County, Texas; 2721 Upas Avenue. **(ZBA2023-0051) (TABLED: 07/13/2023)**

- h)** Request of Mario Ferron 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 with canvas cover measuring 18 feet by 20 feet, at Lot 43, Ponderosa Park Phase 6 Subdivision, Hidalgo County, Texas; 3409 Gardenia Avenue. **(ZBA2023-0045) (TABLED: 06/21/2023) (TABLED: 07/13/2023)**

3. FUTURE AGENDA ITEMS

- a)** 2520 Pecan Avenue
- b)** 1903 South 48th Lane
- c)** 1808 North 32nd Street
- d)** 2021 Ebony Avenue
- e)** 909 North Jackson Road

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, July 13, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Hugo Avila	Member
	Rogelio Rodriguez	Member
	Hiram A. Gutierrez	Member
	Sam Saldivar	Alternate
	Juan Mujica	Alternate
Staff Present:	Austin Stevenson	Assistant City Attorney III
	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Adriana Solis	Planner II
	Samantha Trevino	Planner I
	Eduardo Garza	Planner I
	Jacob Salazar	Planning Technician I
	Jessica Pugo	Planning Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a)** Minutes for the meeting held on June 21, 2023.

The minutes for the meeting held on June 21, 2023 were approved. The motion to approve the minutes were made by Vice-Chairperson Ann Tafel. Mr. Hugo Avila seconded the motion, which carried unanimously with five members present and voting.

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

2. PUBLIC HEARINGS:

- a)** Request of Adan Pena on behalf of Thirumurugan Gopalasamy for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet and 7 inches into the 25 feet rear yard setback for a swimming pool at Lot 28, Embers, Hidalgo County, Texas; 305 Cornell Avenue. **(ZBA2023-0049)**
- b)** Request of Cynthia Zimmerman on behalf of World Gospel Mission for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 13.5 feet into the 20 feet front yard setback for a proposed carport measuring 20 feet by 20 feet, at Lots 23 and 24, Block 11, College Heights Subdivision, Hidalgo County, Texas; 2107 Jackson Avenue. **(ZBA2023-0053)**

- c) Request of George Craft for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 10 feet front yard setback for a proposed carport measuring 18 feet by 20 feet, at Lot 11, Timberhill Villa Subdivision, Hidalgo County, Texas; 9401 North 10th Street Unit 4-11. **(ZBA2023-0054)**
- d) Request of Ana G. Hinojosa De Soto for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 2.5 feet into the 10 feet rear yard setback for an existing metal carport measuring 18 feet by 16 feet at Lot 116, Arrowhead Subdivision Phase 2, Hidalgo County, Texas; 2820 North 39th Street. **(ZBA2023-0055)**
- f) Request of Roberto and Rebecca Vela for the following 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 carport measuring 26 feet by 20 feet at Lot 58, Olivarez No. 5 Subdivision, Hidalgo County, Texas; 2909 Tamarack Avenue. **(ZBA2023-0059)**

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

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

Mr. Hugo Avila moved to approve the previously outlined special exceptions listed on the agenda as 2a, 2b, 2c, 2d and 2f as per staff's recommendation, limited to the submitted plans corresponding to each item. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve with five members present and voting.

- e) Request of Manuel Villegas for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport measuring 16.83 feet by 18.83 feet at Lot 156, Del Sol Phase 2 Subdivision, Hidalgo County, Texas; 4319 North 26th Lane. **(ZBA2023-0058)**

Mr. Garza stated the applicant was requesting a special exception to encroach 15 feet into the 20 feet front yard setback for an existing metal carport. The applicant stated the existing carport was for protection of his vehicles and himself from the inclement weather.

The subject property was located along the west side of North 26th Lane, approximately 206.25 feet north of Quamasia Avenue. The Lot has 50 feet of frontage along North 26th Lane and a depth of 96 feet for a Lot size of 4,800 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

Del Sol Phase 2 Subdivision was recorded on January 10, 2001. The required front yard setback as per plat is 20 feet. A stop work order was issued for non-compliance on December 15, 2022 for a front yard carport built without a permit. An application for a building permit for a carport was submitted on December 20, 2022. An application for a special exception request was submitted on June 05, 2023.

This special exception if granted, would allow an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport that would measure 16.83 feet by 18.83 feet. The carport would provide protection for his vehicles and himself from the inclement weather.

According to the submitted survey and subdivision plat, a 5 feet utility easement runs concurrently with the 20 feet front yard setback and adjacent to the front property line. The existing metal carport also encroaches one foot into the 5 feet utility easement. The applicant has stated he will modify the carport in order to eliminate the encroachment over the 5 feet utility easement.

During a site visit, staff noticed other similar encroachments (carports) within Del Sol Phase 2 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of December 7, 2022, the Board unanimously voted to approve a special exception request along this same street for an encroachment of 15 feet into the 20 feet front yard setback for a proposed carport on Lot 152, Del Sol Phase 2.

There was an existing garage that is used to store two of his vehicles.

Special exceptions are issued and recorded for the property owner only. New owners of the subject property will have to apply for a new special exception.

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

Staff recommended approval of the special exception request since previously a similar request was approved in the same block and the applicant proposes to reduce the encroachment by cutting his carport back 1 foot in order to resolve the encroachment over the front yard utility easement.

Mr. Manuel Villegas, the applicant, confirmed the reduction to the encroachment. He stated he was proposing to reduce the carport by one foot.

Following discussion, Vice-Chairperson Ann Tafel **moved** to approve the special exception request since the applicant was reducing the carport encroachment by 1 foot so as to not encroach into the utility easement. Mr. Juan Mujica seconded the motion. The Board voted to approve the special exception request with five members present and voting.

- g)** Request of Roosevelt Alvarado for the following Special Exception to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 11 feet into the 20 feet front yard setback for a proposed carport measuring 19 feet by 20 feet and **2)** an encroachment of 6 feet into the 6 feet side yard setback for a proposed carport measuring 19 feet by 20 feet on Lot 33, Block 4, Tierra Del Sol Unit No. 1 Subdivision, Hidalgo County, Texas; 2524 Goldcrest Avenue. **(ZBA2023-0060)**

Mr. Garza stated the applicant was requesting a special exception to encroach 11 feet into the 20 feet front yard setback and 6 feet into the 6 foot east side yard setback. The applicant stated the proposed carport is for protection of his vehicles and his family (health concerns) from the weather elements.

The subject property was located along the north side of Goldcrest Avenue, approximately 70 feet east of North 25th Lane. The Lot has 60 feet of frontage along Goldcrest Avenue and a depth of 100 feet for a Lot size of 6,000 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning was R-1 District in all directions. The surrounding land use was single family residential.

Tierra Del Sol Unit No. 1 Subdivision was recorded on August 12, 1977. The required front yard setback as per plat was 20 feet. The property previously had a garage but it was enclosed in 2018. An application for a special exception request was submitted to the Planning Department on June 07, 2023.

This special exception would allow an encroachment of 11 feet into the 20 feet front yard setback for a proposed carport that would measure 19 feet by 20 feet. The carport would provide protection of his vehicles and his family (health concerns) from the weather elements.

During a site visit, staff noticed other similar encroachments (carports) within Tierra Del Sol Subdivision Unit No. 1.

At the Zoning Board of Adjustments and Appeals meeting of August 20, 2010, the Board unanimously voted to approve a variance request for an encroachment of 20 feet into the 20 feet front yard setback for an existing carport on Lot 22, Block 3, Tierra Del Sol Subdivision Unit No.1.

At the Zoning Board of Adjustments and Appeals meeting of October 17, 2018, the Board unanimously voted to approve a special exception request for an encroachment of 20 feet into the 20 feet front yard setback for an existing carport on Lot 46, Block 1, Tierra Del Sol Subdivision Unit No.1.

At the Zoning Board of Adjustments and Appeals meeting of March 20, 2019, the Board unanimously voted to approve a special exception request for an encroachment of 20 feet into the 20 feet front yard setback for a proposed carport on Lot 33, Block 1, Tierra Del Sol Subdivision Unit. No.1.

Measurements provided are without the benefit of a survey.

Special exceptions are issued and recorded for the property owner only. New owners of the subject property will have to apply for a new special exception.

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

Special Exception #1: Staff recommends approval of the special exception request for the encroachment into the front yard setback since there have been special exceptions previously approved in the subdivision.

Special Exception #2: Staff recommends disapproval of the special exception request for encroachment into the side yard setback as it would go up to the side property line, which would raise concerns of potential runoff to the adjacent property owner. However, if the Board approves the request it should be limited to the encroachment shown in the submitted site plan.

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.

Mr. Roosevelt Alvarado, the applicant stated he wanted to build a carport with gutters to protect two vehicles from the inclement weather. He stated there was a foot to the property line so the carport will not extend to the actual border. There will be two feet between him and the neighbor.

Board member Rodriguez asked staff on the footing on the actual carport he could extend an overhead two feet. Mr. Garza stated yes, unless there was an easement, which there was not.

Following discussion, Mr. Hiram Gutierrez **moved** to approve the special exception #1 and disapprove special exception #2. Vice-Chairperson Ann Tafel seconded the motion. The Board voted to approve special exception request listed as #1 and disapprove special exception request as listed #2. There were five members present and voting.

- h) Request of Rodolfo Rios for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet side yard setback for an existing metal porch at Lot 24 and E20' Lot 23, Fern Terrace, Hidalgo County, Texas; 100 Fern Avenue. (ZBA2023-0050)**

Mr. Garza stated the applicant was requesting a variance to encroach 6 feet into the 6 feet side yard setback for an existing metal porch. The applicant states the metal porch was used for shade from harsh summer heat and rain.

The subject property was located north of Fern Avenue and east of North 2nd Street. The property has 85 ft. of frontage along Fern Avenue and a depth of 127 ft. The subject property is zoned R-1 (single-family) District. Adjacent properties are zoned R-1 District. Surrounding land uses are single-family residences.

Fern Terrace was recorded in January 1973. A Stop Work order was issued by the Building Permits and Inspections Department on May 2, 2023 for construction without a building permit. A building permit was submitted May 4, 2023. A variance request was made on May 22, 2023.

This request is to allow an encroachment of 6 feet into the 6 feet side yard setback for an existing metal porch measuring 22 feet by 64 feet. As per the subdivision plat, there are no easements along the west side of the property.

The applicant stated the metal roof was constructed over the existing concrete slab in 2020. The applicant also stated they were unaware of the 6 feet side yard setback. The request was made due to harsh weather conditions. The applicant is requesting to keep the porch as they stated it would also protect the concrete slab from rain.

A review of the Planning Department records did not reveal any requested variances in the area.

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

Staff recommended disapproval of the variance request as records did not find any approved variances in the area.

Vice-Chairperson Tafel asked staff if they had explained to the applicant the difference between a variance request and a special exception. Ms. Solis stated they would explain the difference at the time of submitting and application.

Mr. Rodolfo Rios, the applicant stated he wanted to create a space for entertainment. He stated he had a cement slab on the side of his property, which was there prior to buying the property. He stated he could not do much with it since the sunsets to the west. It was 6 feet away from the wall. He did not intend to enclose the porch.

Board member Rodriguez asked the applicant what type of commodities he was currently storing in the porch. Mr. Rios stated he had a garden furniture and bar-b-que pit. Board member Rodriguez had concerns regarding combustible item inside the porch.

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 disapprove the variance request. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove the variance request with five members present and voting.

- i) Request of Donaciano Gomez for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 23 feet into the 25 front yard setback and an encroachment of 5 feet into the 6 feet side yard setback for a metal carport measuring 20 feet by 20 feet, at Lot 1, Lincoln Terrace No. 8, Hidalgo County, Texas; 2721 Upas Avenue. **(ZBA2023-0051)**

Ms. Solis stated the applicant was requesting a special exception in order to allow an encroachment of 23 feet into the 25 front yard setback and 5 feet into the 6 feet side yard setback for a metal carport measuring 20 by 20 feet. The applicant stated they have multiple vehicles and protect vehicles from weather conditions.

The subject property was located south of Upas Avenue and west of North 27th Street. The subject property is zoned R-1 (single-family) District. The adjacent properties are zoned R-1 District as well. Surrounding land uses include single-family dwellings.

The plat for Lincoln Terrace No. 8 Subdivision was recorded on October 16, 1998. The plat states a 25 feet front yard setback and 6 feet side yard setback, with a 5 feet utility easement. A citation was issued May 22, 2023. An application for a building permit for a carport was submitted on May 22, 2023. An application for the special exception request was submitted on May 23, 2023.

Approval of the special exception request would allow an encroachment of 23 feet into the 25 feet front yard setback and 5 feet into the 6 feet side yard setback. The applicant stated a carport in the backyard is not feasible as there is no room to construct a carport.

The residency consisted of a one-car garage; the applicants have three vehicles. The request was submitted due to weather conditions such as the recent hailstorm, which the applicant stated.

The west side of the property does have a 5 feet utility easement according to the plat. The 5 feet into the 6 feet, side yard setback does encroach into the 5 feet utility easement.

Planning Department records reveals one approved special exceptions within the subdivision.

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

Staff recommended disapproval of the variance request due to the encroachment into the 5 feet utility easement.

Mr. Donaciano Gomez, the applicant stated he wanted to build a carport to protect his vehicles from the inclement weather. He stated he found out there was a utility easement on the west side of the house. Mr. Gomez stated he could relocate it from the end of the property to keep the five feet he needed.

The Board suggested tabling the item until the next meeting in order to put his revised site plan in writing.

Mr. Stevenson, Legal explained to the Board the applicant on the tabling requirements.

Following discussion, Hugh Avila **moved** to table the special exception. Mr. Rogelio Rodriguez seconded the motion. The Board voted to table the special exception with five members present and voting.

Someone in the audience had a comment to make on the item above.

Vice-Chairperson Ann Tafel **moved** to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Marbella Martinez, 2700 Upas Avenue. She stated she had a neighbor behind her had a carport and was told he had to take it down. The south side of the street was all-private. The north side were the Affordable Homes. She stated she was not opposing but that it would allow others to build carports. Chairperson Gutierrez stated each case was different and there was no precedence. Ms. Martinez stated that the neighbors to the east had all requested carports and were turned down. Everyone had to build to the back of their property.

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, Vice-Chairperson Ann Tafel **moved** to table the special exception to reduce the columns back to be in compliance. Mr. Hiram Gutierrez seconded the motion. The Board voted to table the item with five members present and voting.

- j) Request of Wilfredo Charles for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 21 feet into the 25 front yard setback for an existing metal carport measuring 18 feet by 18 feet, at Lot 71, Idela Park UT No. 1, Hidalgo County, Texas; 2752 Judith Avenue. **(ZBA2023-0052)**

Ms. Solis stated the applicant was requesting a special exception in order to allow an encroachment of 21 feet into the 25 feet front yard setback for an existing metal carport measuring 18 feet by 18 feet. The applicant stated the carport was to protect their vehicles.

The subject property was located south of Idela Avenue and east of South 29th Street. The property had 50 feet of fronting Judith Avenue and a depth of 100 feet with a lot size of 5,000 square feet. The subject property was zoned R-1 (single-family) District. The adjacent was zoned R-1 District. Surrounding land uses include single-family dwellings.

The plat for Idea Park Subdivision was recorded on February 13, 1978. The plat indicated a 25 feet front yard setback line. A stop work order was issued on January 27, 2023. A building permit for a carport was submitted February 3, 2023. An application requesting the special exception was submitted on May 24, 2023.

Approval of the special exception request would allow an encroachment of 21 feet into the 25 feet front yard setback. The applicant was requesting to maintain the carport as their home does not have a garage. The carport allowed them to protect their vehicles from hail, sun, dirt, etc. Subdivisions recorded prior to 1999 did not require single-family dwellings to have a garage.

A review of the Planning Department records reveal seven approved special exceptions within the subdivision.

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

Staff recommended disapproval of the variance request as a stop work order was placed due to construction of a carport without a permit.

Board member Rodriguez asked staff looking at the picture if the side yard setback was still there. Ms. Solis stated it was encroaching into the 21 feet.

Vice-Chairperson Tafel asked if there were any utility issues. Ms. Solis stated there was a 10-foot utility in the rear but not in the front.

Board member Rodriguez asked staff if the vehicle in picture was budding with the sidewalk and how far from the sidewalk. Ms. Solis stated there was no survey provided. Without a survey, it would be about 4 feet.

Mr. Wilfredo Charles, the applicant stated the carport was built 7 years ago for the protection of his vehicle from the inclement weather. Board member Mujica asked the applicant how many vehicles he had. Mr. Charles stated three sometimes four. He did not have a garage for his vehicles.

Vice-Chairperson Tafel asked the applicant if he had one carport in the back. Mr. Charles stated yes but for only one vehicle.

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. The second motion died.

Vice-Chairperson Ann Tafel **moved** to disapprove the special exception per staff's recommendation. Mr. Rogelio Rodriguez seconded the motion. The Board voted to disapprove with five members present and voting.

- k) Request of Gilma Cuellar for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 6 feet side yard setback for an existing carport measuring 10 feet by 47 feet at Lot 24, Brookwood Subdivision, Unit 2 Hidalgo County, Texas; 4105 Zinnia Avenue. **(ZBA2023-0056)**

Ms. Trevino stated the applicant was requesting a special exception to encroach 6 feet into the 6 feet east side yard setback for an existing metal carport constructed to provide protection for the applicant from inclement weather. The applicant uses mobility aids and the carport provides protection while accessing the home or the car.

The subject property was located along the south side of Zinnia Avenue just west of North 41st Street. The property was zoned R-1 (single-family residential) District. There was R-1 district in all directions.

Brookwood Subdivision Unit 2 was recorded in December 1998. The plat shows a 6 feet side yard setback. A stop work order was posted June 3, 2022 for carport built without a permit. An application for a building permit was submitted June 27, 2022. The special exception application was submitted May 26, 2023.

The applicant is requesting a special exception in order to allow an encroachment of 6 feet into the 6 feet east side yard setback for an existing carport that was built for the protection of the applicant due to medical reasons. The applicant states she gains access to the home or the car with the use of mobility aids.

The carport was attached to the main residential structure and runs the length of the house along the east side of the property.

The carport could not be relocated to the rear of the property since there is no alley.

The side yard setback is 6 feet for the common side property line. A 6 feet wooden fence helps to screen the carport from the neighboring property.

At the Zoning Board of Adjustments and Appeals meeting of December 21, 2022 the Board approved a request for an encroachment of 16 feet into the 20 feet front yard setback for an existing carport at Lot 5.

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.

A review of aerial pictures shows two other accessory structures that appear to encroach into the rear and side yard setback as well as a 10 feet utility easement that runs concurrently adjacent to the rear property line. The applicant has decided not to include these potential encroachments as part of the request.

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

Staff recommended disapproval of the request since the required building separation (based on required side yard setbacks) is not compliant.

Vice-Chairperson Tafel asked staff if there were gutters for the water runoff. Ms. Trevino stated yes.

Board member Rodriguez asked staff if the carport was attached to the house would it still be considered a special exception. Ms. Trevino stated anytime it is a carport it is classified as a special exception.

Planning Director, Mr. Garcia stated this driveway has the Hollywood strips and it was paved underneath. So it could be used to park a vehicle. The other carport did not have a curb cut and did not have a driveway leading up to it, and could not be used as a carport. Board member Rodriguez asked if the City was allowed to have two curb cuts. It was up to the Engineering Department to issue those permits and get variances through whatever Boards they need to get.

Board member Mujica asked how this item came before the Board. Ms. Trevino stated there was a non-compliant stop work order.

Ms. Gilma Cuellar, the applicant stated the carport was built 12 or 13 years ago. She stated she had it built not so much for the inclement weather but for a medical issue concerning her back. She sometimes has to use a wheelchair. She stated the person who had built it had requested a permit but came to find out there was never a permit.

Board member Mujica asked the applicant if she parked her vehicle under the roof. Ms. Cuellar stated she does park her vehicle under the roof. That gate slides open to get out and into her vehicle.

Board member Saldivar asked the applicant if the metal gate opens manually or mechanical track. She stated it has a remote control to open it.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was someone in favor of the special exception.

Ms. Evangelina Steele, 4101 Zinnia Avenue. She stated she was in favor of the special exception and that the carport had been there for years. Ms. Steele has lived there since 2004.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was someone else in favor of the special exception.

Ms. Cynthia Villarreal, 4109 Zinnia Avenue. She was also in favor of the special exception. She has lived there since 2003-2004. The carport had been there since 2004-2005.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was someone else in favor of the special exception.

Ella Calvillo, 4105 Zinnia Avenue, the daughter of Ms. Cuellar. She stated that having the carport helped her with getting her mom in and out of the vehicle and into the house. Especially during the hail and winds.

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

- I) Request of Baldemar Sanchez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25-foot front yard setback for a proposed carport measuring 20 feet by 30 feet at Lot 46, Idela Park Subdivision, Unit 2 Hidalgo County, Texas; 5101 South 29th Street. **(ZBA2023-0057)**

Ms. Trevino stated the applicant is requesting a special exception to encroach 20 feet into the 25 feet front yard setback, for a proposed metal carport to be constructed to protect his vehicles from rain, hail, and the sun, as the house does not have a garage.

The subject property was located along the east side of South 29th Street, and north of Olga Avenue. The Lot has 50 feet of frontage along South 29th Street and a depth of 90 feet for a total square footage of 4,500. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

Idela Park Subdivision Unit 1 was recorded on February 13, 1979. The plat shows a 25 feet front yard setback. A carport previously existed at this same location for which a special exception request was processed for an encroachment of 22 feet into the 25 feet front yard setback for a carport measuring 20 feet by 30 feet, but was disapproved by the Zoning Board of Adjustment and Appeals at the meeting of November 2, 2022.

The carport was subsequently removed. A new application for a special exception request was submitted May 30, 2023 for a proposed carport measuring 20 feet by 30 feet.

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 carport in order to protect his vehicles from the weather elements.

The front yard setback is 25 feet along South 29th Street. Front yard setbacks help to keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The carport could be relocated to the rear of the property and accessed through the alley to maintain curb appeal and be closer to compliance.

At the Zoning Board of Adjustments and Appeals meeting of January 5, 2023 the Board unanimously approved an encroachment of 16 feet into the 25 feet front yard setback for a metal carport at Lot 111.

At the Zoning Board of Adjustments and Appeals meeting of February 8, 2023 the Board unanimously approved an encroachment of 23 feet into the 25 feet front yard setbacks for an existing metal carport at Lot 112.

At the Zoning Board of Adjustments and Appeals meeting of March 8, 2023 the Board unanimously approved an encroachment of 20.42 feet into the 25 feet front yard setbacks for an existing metal carport at Lot 186.

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.

The City Commission has amended Section 138-371(g) of the Code of Ordinances limiting the maximum size to 400 square feet for a carport for which a special exception had been granted.

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

Staff recommended disapproval of the request since a similar request was disapproved in 2022 at this same location and the request exceeds the maximum size permitted by ordinance for carports for which a special exception has been granted.

Chairperson Gutierrez asked staff when it was previously disapproved back in 2022, did staff speak with Mr. Sanchez regarding reducing the dimensions of the carport and possibly to be approved. Ms. Trevino stated no but was able to speak with him prior to this meeting.

Vice-Chairperson Tafel asked staff if there were any utility easements. Ms. Trevino stated not for the front.

Board member Mujica asked staff if there were other carports similar to the request along this street. Ms. Trevino stated the applicant had pictures showing along some other properties but the other three encroachments were approved in the same subdivision.

Mr. Pablo Sanchez, the applicant's son, stated the first request that was not approved, they had taken it down. He stated they were requesting another special exception with permits and reducing the dimensions of the carport. They did not have a garage so this carport will not only protect their vehicles but also for his father's use of exercising. They cannot build one in the back yard because of the utility easements.

Board member Mujica asked the applicant if the proposed reduction of this carport was 5 feet less than the previous carport. Mr. Sanchez stated yes as presented. Board member Mujica asked the applicant would there also be a difference in height. Mr. Sanchez stated the carport would be aligned with the roof of the house.

Following discussion, Vice-Chairperson Ann Tafel **moved** disapprove the special exception per staff's recommendation. 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.

- m) Request of Maria Saldana for a Special Exception to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover measuring 21 feet by 20 feet, and **2)** an encroachment of 6 feet into the 6 feet west side yard setback for an existing metal carport with canvas cover measuring 21 feet by 20 feet, at Lot 11, Los Encinos Subdivision Unit 2, Hidalgo County, Texas; 3036 Olga Avenue. **(ZBA2023-0044)**
(TABLED: 06/21/2023)

Mr. Hugo Avila **moved** to remove the item from the table. Ms. Ann Tafel seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Trevino stated the applicant was requesting a special exception to encroach 15 feet into the 20 feet front yard setback, and 6 feet into the 6 feet west side yard setback. Both requests are for an existing metal carport constructed to protect her vehicles from rain, hail, and the sun, as the house does not have a garage.

The subject property was located along the north side of Olga Avenue, and north of Sam Houston Elementary. The Lot has 50 feet of frontage along Olga Avenue and a depth of 102.70 feet for total square feet of 5,135 feet. The property is zoned R-1 (single-family residential) District. There is R-1 district in all directions.

Los Encinos Subdivision Unit 2 was recorded in June 1995. The plat shows a 20 feet front yard setback and a 6 feet side yard setback. A stop work order was posted July 8, 2022 for carport built without a permit. An application for a building permit was submitted July 26, 2022. The special exception application was submitted May 9, 2023.

The applicant was requesting a special exception in order to allow an encroachment of 15 feet into the 20 feet front yard setback and an encroachment of 6 feet into the 6 feet west side yard setback for an existing carport with canvas cover in order to protect her vehicles from the weather elements.

The applicant proposes to reduce the size of the carport by 5 feet in order to clear a 5 feet utility easement that runs concurrently with the front yard setback adjacent to the front property line. The proposed reduction will result in the carport dimensions modified to a size of 16 feet by 20 feet.

The front yard setback was 20 feet along Olga Avenue. Front yard setbacks help to keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The carport could be relocated to the rear of the property and accessed through the alley to maintain curb appeal and be closer in compliance.

The side yard setback was 6 feet for the common side property line. A 6 feet wooden wall separates the driveway from the neighboring property.

During a site visit, staff noticed that there were no other carports within Los Encinos Subdivision Unit 2.

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.

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

At the meeting of June 21, 2023, the Board recommended tabling the item so that the applicant can discuss other options for the carport in reference to cutting it back on the front as well as the side to clear the setback and utility easement.

Staff recommended disapproval of the request since there are no other carports, nor have other special exceptions been granted for Lots within Los Encinos Subdivision Unit 2.

At the Zoning Board of Adjustments and Appeals, meeting of June 21, 2023 no one appeared in opposition to the special exception request. Board member Tafel inquired as to the ability to maintain the carport without stepping into the neighbor's property. Board member Saldivar also voiced the same concern. The Board unanimously voted to table the special exception request to give the applicant time to consider modifications to the existing encroachments. There were 5 members present and voting

Vice-Chairperson Tafel was verifying that the applicant was willing to reduce the carport from the street to the house but not reducing the side. Ms. Trevino stated the main issue would be the utility easement in the front. She was still one foot away from the fence line.

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, Vice-Chairperson Ann Tafel **moved** to disapprove the special exception per staff's recommendation. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the special exception with five members present and voting.

- n) Request of Mario Ferron 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 with canvas cover measuring 18 feet by 20 feet, at Lot 43, Ponderosa Park Phase 6 Subdivision, Hidalgo County, Texas; 3409 Gardenia Avenue. **(ZBA2023-0045) (TABLED: 06/21/2023)**

Ms. Ann Tafel **moved** to remove the item from the table. Mr. Hiram Gutierrez seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting

The applicant was requesting the special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport to provide protection for an individual with health concerns.

The subject property was located along the south side of Gardenia Avenue between North 34th and North 36th Streets. The Lot had 63.50 feet of frontage and a depth of 102.00 feet for a total square footage of 6,477 feet. The property was zoned R-1 (single-family residential) District. The surrounding land use is R-1 District in all directions.

Ponderosa Park Phase 6 Subdivision was recorded March 12, 2001. The plat stated a 20 feet front yard setback. A stop work order was posted August 17, 2022. A building permit application was submitted October 10, 2022. A special exception application was submitted May 15, 2023. The applicant stated the carport was built by a contractor but without a building permit.

The applicant is requesting a special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport. The carport is to provide protection from the sun exposure for a person with health concerns.

The front yard setback is 20 feet along Gardenia Avenue. Front yard setbacks help to keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

The plat for this subdivision indicates a 5 feet utility easement adjacent to the front property line and runs concurrently with the front yard setback. The carport appears to be encroaching into the utility easement. The utility easement abandonment process would need to be undertaken in order to attempt to resolve the 5 feet carport encroachment into the utility easement.

At the Zoning Board and Adjustment and Appeals meeting of June 7, 2023 a request for an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover was approved for Lot 74, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of August 17, 2022 a request for an encroachment of 15 feet into the 20 feet front yard setback for a proposed metal carport that was approved at Lot 12, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of June 3, 2020, a request for an encroachment of 20 feet into the 20 feet, front yard setback for a proposed carport was approved for Lot 90, Ponderosa Park Phase 6 Subdivision.

There was an existing two-car garage that is part of the home that is used for storage of vehicles and other items.

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.

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

Staff recommended disapproval of the request since the carport also appears to encroach into a 5 feet utility easement adjacent to the property line.

At the Zoning Board of Adjustments and Appeals meeting of June 21, 2023 Mr. Mario Ferron the applicant, stated that years ago his wife acquired a medical conditions that does not allow her to be exposed to sunlight. She uses the garage to be able to have time with her grandchild without being in the sun. The Board voted to table the special exception request to allow the applicant time to consider reductions to the encroachment.

Board member Gutierrez asked staff if the applicant was informed that he needed more footage. Ms. Trevino stated she spoke with the applicant prior to the meeting that staff needed it on paper but did send an email stating cutting back 3 feet. After staff reviewed it they found he needed 4.2 feet to clear the 5 foot utility easement.

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, Vice-Chairperson Ann Tafel **moved** to retable the special exception to reduce the columns back 4.2 feet to be in compliance, pending owner's authorization. Mr. Hugo Avila seconded the motion. The Board voted to retable the special exception with five members present and voting.

3. FUTURE AGENDA ITEMS:

- a) 2712 Norma Avenue
- b) 2021 Highland Avenue
- c) 2017 Highland Avenue
- d) 1940 South 33rd Street
- e) 1936 South 33rd Street
- f) 1905 Robin 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.

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

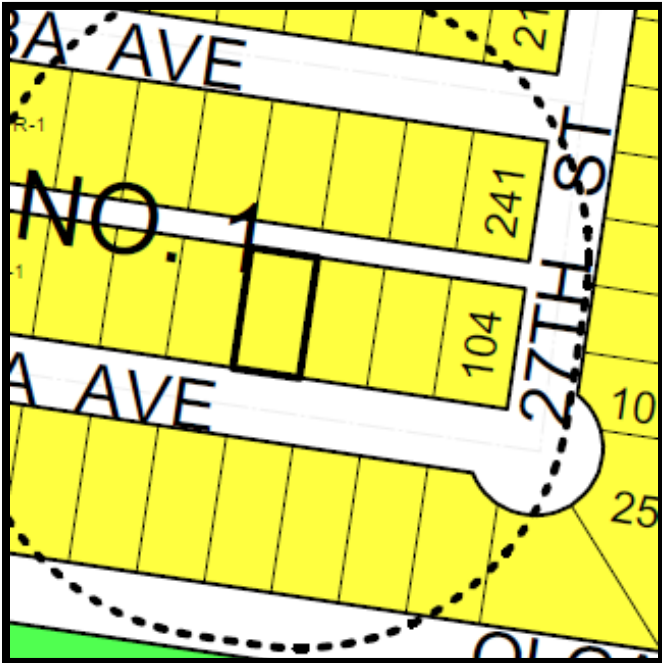
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF JOSE DE LEON FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 28 FEET BY 13 FEET AT LOT 107, IDELA PARK SUBDIVISION UNIT NO 1, HIDALGO COUNTY, TEXAS; 2712 NORMA AVENUE. (ZBA2023-0062)

REASON FOR APPEAL: The applicant is requesting a special exception for an encroachment of 15 feet into the 25 feet front yard setback for an existing metal carport that is used for protection of his family and vehicles from adverse weather.



PROPERTY LOCATION AND VICINITY: The subject property is located along the North side of Norma Avenue. The lot has 50 feet of frontage and a depth of 90 feet for a total of 4,500 square feet. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

BACKGROUND AND HISTORY: Idela Park Subdivision Unit No. 1 was recorded on February 13, 1978. The plat shows a 25 feet front yard setback. A non compliance notice was issued April 26, 2023 for a carport built without a building permit. A building permit application was submitted November 17th, 2022. A special exception application was submitted June 8, 2023.

ANALYSIS: The applicant is requesting a special exception in order to allow the existing carport to remain for use as protection for his family and his vehicles from the weather elements. There is a structure at the rear of the property that is encroaching into the 10 feet rear yard setback and utility easement. This encroachment will require a utility easement abandonment and a variance request. The applicant has decided to resolve this rear yard encroachment at a later time.

At the Zoning Board of Adjustments and Appeals meeting of January 5, 2023, the Board unanimously voted to approve a special exception request for an encroachment of 16 feet into the 25 feet front yard setback for an existing carport measuring 11.6 feet by 15.66 feet at Lot 111 of Idela Park Subdivision Unit No. 1.

At the Zoning Board of Adjustments and Appeals meeting of February 8, 2023, the Board unanimously voted to approve a special exception for an encroachment of 23 feet into the 25 feet front yard setback for an existing carport measuring 19 feet by 16.67 feet at Lot 112 of Idela Park Subdivision Unit No. 1.

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

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 there have been other similar encroachments for carports approved along the same street block.

ZBA: 7/2-1/23



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)

Project

Legal Description

Idela Park UT No. 1 LOT 107

Subdivision Name

IDECLA PARK

Street Address

2712 NORMA AVENUE

Number of lots

107

Gross acres

Existing Zoning

R-1

Existing Land Use

HOME

Reason for Appeal (please use other side if necessary)

Encroaching 15ft 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

JOSE DE LEON

Phone

(956) 655-6501

Address

2712 Norma Ave

E-mail

City

McAllen

State

Texas

Zip

78503

Owner

(SAME)

Name

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

Date

6/8/2023

Print Name

Jose De Leon Jr.

☒ Owner

☐ Authorized Agent

Office

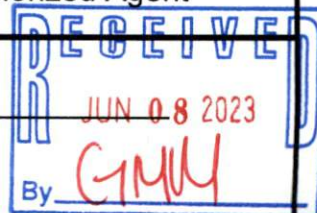
Accepted by

AS

Payment received by

Date

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:

Don't have back yard for kids to play, also have 25 ft front yard set back and no garage.

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

It will benefit for weather conditions, hail car protection, family safety on bad weather as no garage.

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:

Doesn't affect my neighbors.

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

Reason is because I don't have a backyard, don't have a garage, no easements in the front yard, also weather conditions, + kids want to be in front yard.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

Back Door

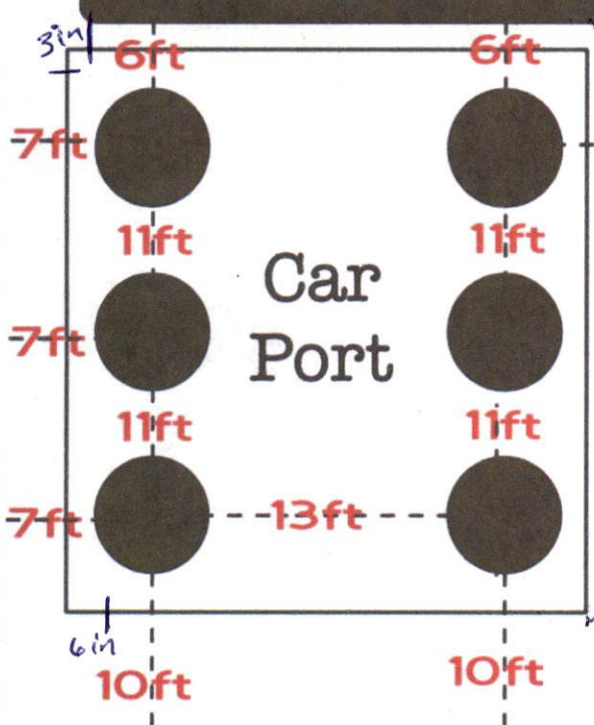


House

2712 Norma Avenue
McAllen, Texas 78503

7ft

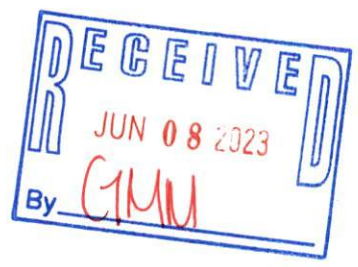
5ft



Car Port

28ft.

29ft



34 ft

Front Gate

Property Line



← NORMA AVE →



**2712 Norma
Avenue
McAllen, Texas**





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0062

2712

Memo

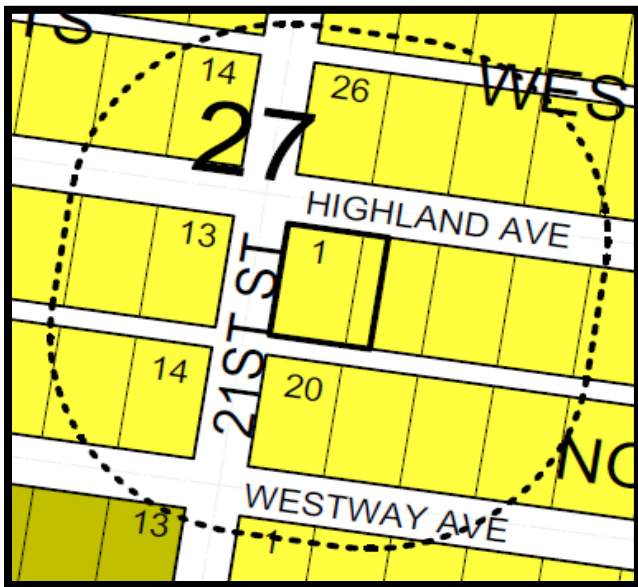
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF JOSE G. VELA 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 AN EXISTING METAL CARPORT MEASURING 22 FEET BY 20 FEET AT LOT 1 AND THE WEST 22.5 FEET OF LOT 2, BLOCK 3, WESTWAY HEIGHTS SUBDIVISION, UNIT NO. 1, HIDALGO COUNTY, TEXAS; 2021 HIGHLAND AVENUE. (ZBA2023-0063)

REASON FOR APPEAL: The applicant is requesting a special exception for an encroachment of 20 feet into the 25 feet front yard setback for an existing carport measuring 22 feet by 20 feet that is used for protection from the sun by the applicant due to health reasons and also for protection of his vehicles from inclement weather.



PROPERTY LOCATION AND VICINITY: The property is located at the southeast corner of Highland Avenue and North 21st Street. The property has 92.50 feet of frontage along Highland Avenue and a depth of 112.50 feet for a total Lot size of 10,406 square feet. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

BACKGROUND AND HISTORY: Westway Heights Subdivision, Unit No. 1 was recorded January 27, 1959. The plat shows a 25 feet front yard setback for the subdivision. A non compliance notice was issued May 27, 2023 for carport built without a permit. A building permit application was submitted on

May 31, 2023. A special exception request application was submitted June 14, 2023.

ANALYSIS: The applicant is requesting the special exception in order to allow the carport to remain.

At the Zoning Board of Adjustments and Appeals meeting of December 19, 2018 the Board unanimously voted to approve a special exception for an encroachment of 21.75 feet into the 25 feet front yard setback for an existing wooden carport measuring 18 feet by 17 feet at Lot 10 and the east 13.58 feet of Lot 9, Block 3, Westway Heights Subdivision, Unit No. 1.

At the Zoning Board of Adjustment and Appeals meeting of December 06, 2017 the Board unanimously voted to disapprove an encroachment request for 19.67 feet into the 25 feet front yard setback however alternatively voted to approve a special exception request for an encroachment of 18 feet into the 25 feet front yard setback for a proposed carport measuring 18 feet by 18 feet at Lot 19 in Westway Heights Subdivision Unit No. 1.

Measurements provided are without the benefit of a survey.

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

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

RECOMMENDATION: Staff recommends approval of the special exception request since there have been other approved special exceptions along the same street block.

ZBOA: 7/27



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA7023-0003
311 North 15th Street
McAllen, TX 78501
P. O. Box 220
McAllen, TX 78505-0220
(956) 681-1250
(956) 681-1279 (fax)

Project

Legal Description

WESTWAY HEIGHT UT NOT LOT
7 WEST 22.5

Subdivision Name

LOT 2 BLK 3

Street Address

2021 HIGHLAND AVE

Number of lots

1

Gross acres

0

Existing Zoning

R-1

Existing Land Use

R-1

Reason for Appeal (please use other side if necessary)

FOR E/SOL

20 into 25 Carport encroaching into 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

JOSE G VELA

Phone

956 739 0627

Address

2021 HIGHLAND

E-mail

City

MCALLEN

State

TX

Zip

78501

Owner

Name

JOSE G VELA

Phone

956 739 0627

Address

2021 HIGHLAND

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

Jose G Vela

Date

6/14/23

Print Name

JOSE G VELA

☒ Owner

☐ Authorized Agent

Office

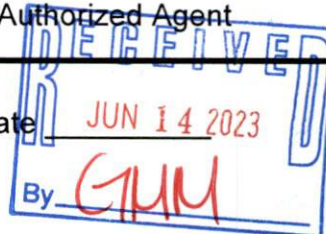
Accepted by

Payment received by

Date

JUN 14 2023

Rev 09/20



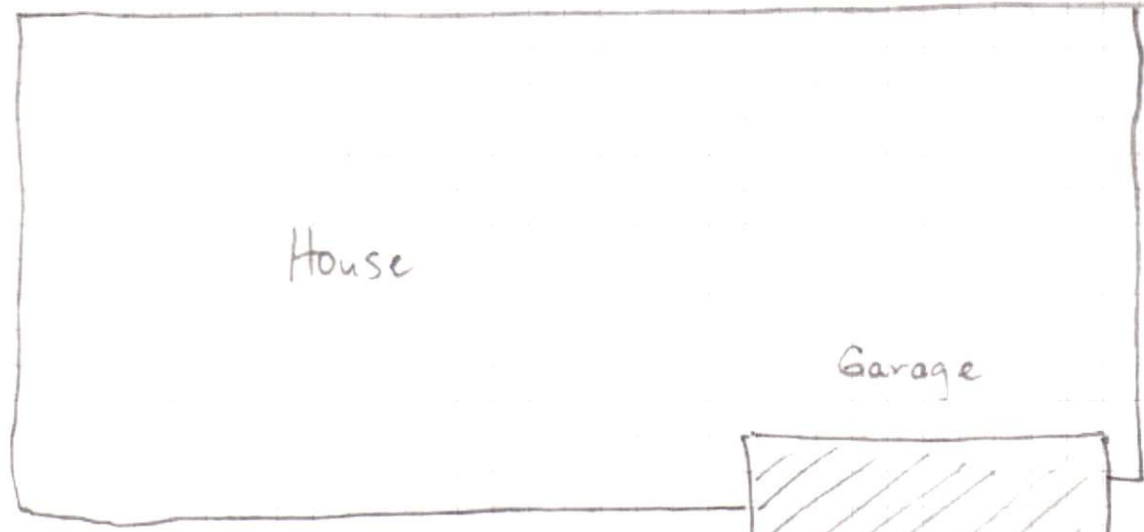


City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*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)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>	
	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:	
	POR PROTECCION DEL SOL	
	POR CUESTION MEDICA	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	POR PROTECCION DEL SOL	
	POR CUESTION MEDICA	
	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 ESTORBAN A LOS VECINOS	
	4. Describe special conditions that are unique to this applicant or property:	
	POR PROTECCION DEL SOL	
	POR CUESTION MEDICA	
Board Action		
	Chairman, Board of Adjustment Signature	Date

Rev. 9/20





Highland Ave

Wall Legend:

- Existing
- Proposed
- Demolition

Symbol Legend:

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

- Toilet
- Sink

RECEIVED

JUN 14 2023

Call

By _____

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





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0063

Memo

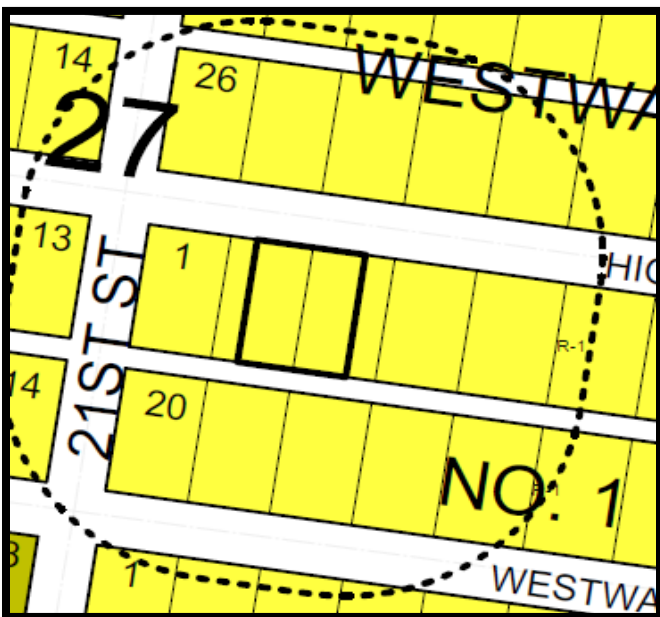
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF JUAN TRUJILLO FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 25 FEET FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 20 FEET BY 22 FEET AT THE EAST 47.5 FEET OF LOT 2 & WEST 45 FEET OF LOT 3, BLOCK 3, WESTWAY HEIGHTS SUBDIVISION, UNIT NO. 1, HIDALGO COUNTY, TEXAS; 2017 HIGHLAND AVENUE. (ZBA2023-0064)

REASON FOR APPEAL: The applicant is requesting a special exception for an encroachment of 15 feet into the 25 feet front yard setback for an existing carport measuring 20 feet by 22 feet that is used for protection of his vehicles from the weather elements. There is a garage that is part of a house but it is being used for storage. The applicant stated that the contractor that he hired informed him that a building permit for the construction of the carport was not necessary.



PROPERTY LOCATION AND VICINITY: The property is located along the south side of Highland Avenue between North Bicentennial Boulevard and North 21st Street. The lot has 92.50 feet of frontage and a depth of 112.50 feet for a Lot size of 10,406 square feet. The property is zoned R-1 (single-family residential) District. There is R-1 District in all directions.

BACKGROUND AND HISTORY: Westway Heights Subdivision, Unit No. 1 was recorded January 27, 1959. The plat shows a 25 feet front yard setback for the subdivision. A non compliance notice was was issued May 27, 2023 for carport built without a permit. A building permit application was submitted May 31, 2023. A special exception request application was submitted June 14, 2023.

ANALYSIS: The applicant is requesting the special exception in order to allow the carport to remain.

At the Zoning Board of Adjustment and Appeals meeting of December 19, 2018 the Board unanimously voted to approve a special exception request for an encroachment of 21.75 feet into the 25 feet front yard setback for an existing wooden carport measuring 18 feet by 17 feet at Lot 10 and the east 13.58 feet of Lot 9, Block 3, Westway Heights Subdivision, Unit No. 1.

At the Zoning Board of Adjustment and Appeals meeting of December 6, 2017 the Board unanimously voted to disapprove an encroachment request for 19.67 feet into the 25 feet front yard setback however alternatively voted to approve a special exception request for an encroachment of 18 feet into the 25 feet front yard setback for a proposed carport measuring 18 feet by 18 feet at Lot 19, Westway Heights Subdivision, Unit No. 1.

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.

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

RECOMMENDATION: Staff is recommending approval of the special exception request since there have been other similar carport encroachments approved along this same street block.

ZBA 2023-0064



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)

ZBA
7/27/23

Project	Legal Description <u>Two car carport Westway Heights HT</u> <u>NO. 1 E47.5' LOT 2 & W45' LOT 3 BLK 3</u>
	Subdivision Name <u>Westway Heights</u>
	Street Address <u>2017 Highland Ave</u>
	Number of lots <u>1</u> Gross acres _____
	Existing Zoning <u>Residential</u> Existing Land Use <u>Home</u>
Applicant	Name <u>Juan Trujillo</u> Phone <u>956-342-8928</u>
	Address <u>2017 Highland Ave</u> E-mail <u>j25trujillo@yahoo.com</u> City <u>McAllen</u> State <u>Texas</u> Zip <u>78501</u>
Owner	Name <u>Same</u> 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? <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>JT</u> Date <u>6.14.23</u> Print Name <u>Juan Trujillo</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
Office	Accepted by _____ Payment received by _____ Date <u>ENTERED</u>
	Rev 09/20 <u>EDG</u> <u>JUN 14 2023</u> Name: <u>DM</u>



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:

Garage is being used for storage. Carport needed for weather protection (rain, hail, heat)

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

Carport is has already been built.

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:

Structure is not affecting neighbors.

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

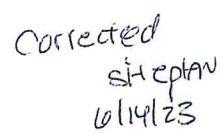
Contractor told me no permit was needed. He was wrong.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date









NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA 2023-0064

Memo

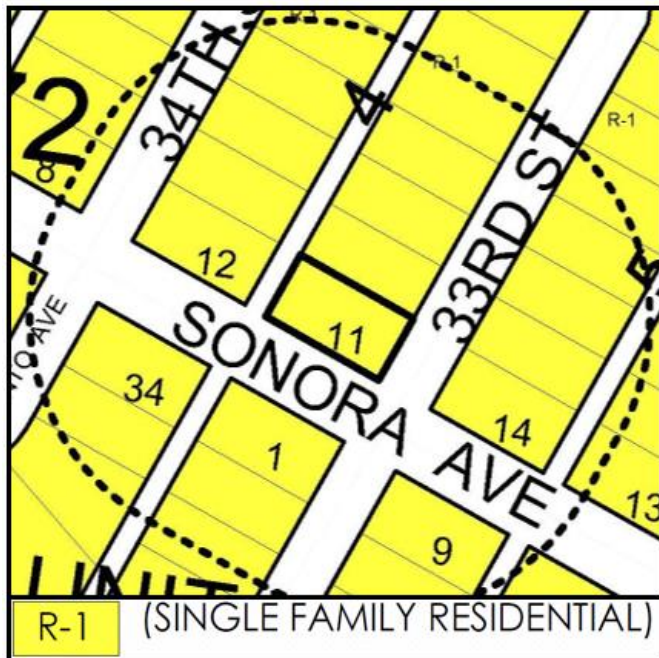
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF ROGELIO LOPEZ FOR THE FOLLOWING 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 20 FEET BY 20 FEET AT LOT 11, BLOCK 4, COLONIA MCALLEN UNIT NO. 7 SUBDIVISION, HIDALGO COUNTY, TEXAS; 1940 SOUTH 33RD STREET. (ZBA2023-0065)

REASON FOR APPEAL: The applicant is requesting a special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport. The applicant has stated that the metal carport is used to protect his vehicles, especially his truck, from the weather elements. The applicant has stated that his truck does not fit inside the existing garage due to its length. The applicant is not the property owner, but a letter has been submitted by the property owner authorizing the applicant to undertake the special exception request to allow the carport to remain. A hired contractor built the carport but with no permit.



PROPERTY LOCATION AND VICINITY: The subject property is located at the northwest corner of Sonora Avenue and South 33rd Street. The Lot has 60 feet of frontage along South 33rd Street and a depth of 110 feet for a Lot size of 6,600 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family

residential.

BACKGROUND AND HISTORY: Colonia McAllen Unit No.7 Subdivision was recorded on April 04, 1977. The required front yard setback as per plat is 20 feet. A stop work order was issued for construction without a building permit for the carport on June 06, 2023. An application for a building permit was submitted to Building Permits and Inspections Department on June 08, 2023 for a carport. An application for a special exception request was submitted to the Planning Department on June 16, 2023.

ANALYSIS: This special exception request if granted, would allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport that measures 20 feet by 20 feet. There is an existing one car garage that is used to park the applicant's vehicles. The carport was purchased and installed by a solar company but no permit was obtained by the installer. The applicant was unaware of the need for a building permit. However, the applicant has stated that his 2 light truck vehicles cannot fit in the garage due to size. The existing garage is used for storage of household items. A photograph of the existing shows that the roof of the carport extends beyond the paved driveway that leads to the garage. Any parking area must be of hard surface. The applicant has stated he will pave the surface underneath the carport that would be used for parking. The applicant has stated verbally that the carport may be encroaching 2 feet into the side yard setback adjacent to the street however if the special exception request is approved, he will move the carport to comply with the side yard setback.

During a site visit, staff noticed other similar encroachments (carports) within Colonia McAllen Unit No. 7 Subdivision. A review of Planning Department records revealed three previous approvals in this subdivision for carport encroachments into the front yard setback.

At the Zoning Board of Adjustment and Appeals meeting of September 17, 2020, the Board unanimously voted to approve a special exception request for an encroachment of 16.5 feet into the 20 feet front yard setback for an existing carport on Lot 23, Block 5, Colonia McAllen Unit No.7 Subdivision.

At the Zoning Board of Adjustment and Appeals meeting of October 05, 2022, the Board voted to approve a variance request for an encroachment of 11 feet into the 20 feet front yard setback for an existing porch on Lot 25, Block 5, Colonia McAllen Unit No. 7 Subdivision.

At the Zoning Board of Adjustment and Appeals meeting of December 07, 2022, the Board unanimously voted to approve a special exception request to allow: 1) an encroachment of 17.5 feet into the 20 feet front yard setback and 2) an encroachment of 6.5 feet into the 10 feet west side yard setback adjacent to a street for an existing metal carport on Lot 18, Block 1, Colonia McAllen Unit No.7 Subdivision.

There is an alley at the back of the property where it appears that there is a space to relocate a carport. Since the applicant is not the property owner, his ability to take liberty and main improvements is limited.

Measurements provided are without the benefit of a survey.

Special exceptions are issued and recorded for the present applicant/owner only. New owners of the subject property will have to apply for a new special exception.

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

RECOMMENDATION: Staff recommends approval of the special exception request since there have been special exceptions previously approved in the subdivision. Approval should be limited to the encroachment shown on the submitted site plan.



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)

ZBA2023-0065

Project

Legal Description colonia Mcallen UTNO. 7 LOT 11 BLK 4

Subdivision Name coloniAmcallen UTN 7

Street Address 1940 S 33 RD ST Mcallen Tx 78503

Number of lots 1 Gross acres _____

Existing Zoning R-1 Existing Land Use House carport

Reason for Appeal (please use other side if necessary) Existing 20x20 carport encroaching 20FT into the 20FT 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 Rogelio Lopez Phone 956-2212338

Address 1940 S 33 RD ST Mcallen E-mail _____

City Mcallen State Tx Zip 78503

Owner

Name Jaime moreno Phone 956-5226924

Address 1940 S 33 RD 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 Rogelio Lopez

Date 06-16-2023

Print Name Rogelio Lopez

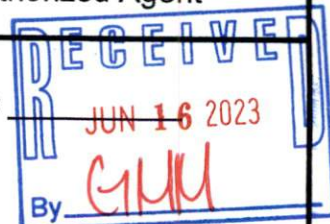
☐ Owner ☒ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date _____

Rev 09/20

EDG





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:

para proteccion de carro por Granizo
Tengo troca larga no entra en el Garage

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

SI ES muy NESESARIO para los
Carros por daños de Granizo

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 ES Al publico NO AY problema
con los vecinos

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

El Garage ES muy chico para
mi troca

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0065

Memo

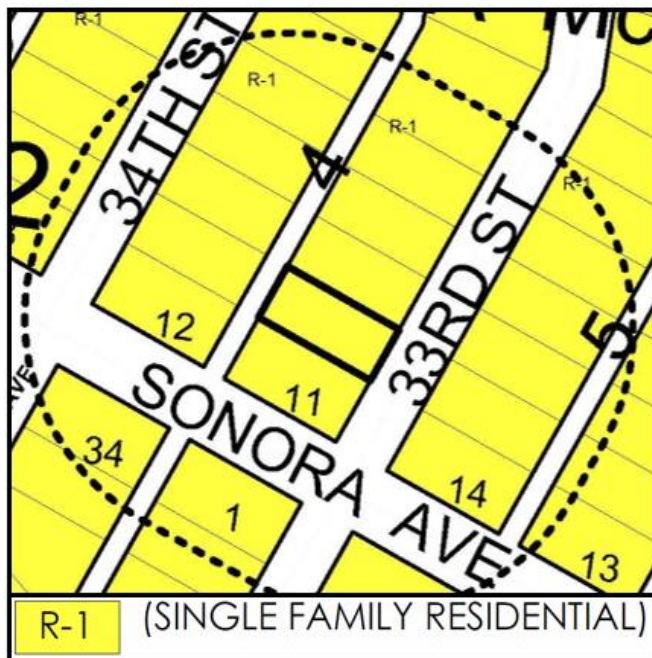
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF WILBERTH BROCA FOR THE FOLLOWING 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 20 FEET BY 18 FEET AT LOT 10, BLOCK 4, COLONIA MCALLEN UNIT NO. 7 SUBDIVISION, HIDALGO COUNTY, TEXAS; 1936 SOUTH 33RD STREET. (ZBA2023-0066)

REASON FOR APPEAL: The applicant is requesting a special exception to encroach 20 feet into the 20 feet front yard setback. The applicant have stated that the metal carport is used to protect his vehicles from the weather elements and provide shade for him and his family.



PROPERTY LOCATION AND VICINITY: The subject property is located along the west side of South 33rd Street, approximately 60 feet north of Sonora Avenue. The Lot has 50 feet of frontage along South 33rd Street and a depth of 110 feet for a Lot size of 5,500 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

BACKGROUND AND HISTORY: Colonia McAllen Unit No.7 Subdivision was recorded on April 04, 1977. The required front yard setback as per plat is 20 feet. A stop work order was issued no building permit on June 02, 2023. An application for a building permit was submitted to Building Permits and Inspections Department on June 06, 2023 for a carport. An application for a special exception request was submitted to the Planning Department on June 21, 2023.

ANALYSIS: This special exception if granted, would allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport that measures 20 feet by 20 feet. There is an existing one car garage that is used to park the applicant's vehicles. The applicant have stated that the metal carport would be used to protect his vehicles from the weather elements and provide shade for him and his family.

During a site visit, staff noticed other similar encroachments (carports) within Colonia McAllen Unit No. 7 Subdivision

At the Zoning Board of Adjustments and Appeals meeting of September 17, 2020, the Board unanimously voted to approve a special exception request for an encroachment of 16.5 feet into the 20 feet front yard setback for an existing carport on Lot 23, Block 5, Colonia McAllen Unit No.7 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of October 05, 2022, the Board voted to approve a variance request for an encroachment of 11 feet into the 20 feet front yard setback for an existing porch on Lot 25, Block 5, Colonia McAllen Unit No. 7 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of December 07, 2022, the Board unanimously voted to approve a special exception request to allow: 1) an encroachment of 17.5 feet into the 20 feet front yard setback and 2) an encroachment of 6.5 feet into the 10 feet west side yard setback adjacent to a street for an existing carport on Lot 18, Block 1, Colonia McAllen Unit No.7 Subdivision.

A photo of the existing carport shows the roof of the carport covers a larger are than the existing driveway leading to the garage. Unpaved parking areas must be of hard surface in order to use as parking area.

Measurements provided are without the benefit of a survey.

Special exceptions are issued and recorded for the present applicant/owner only. New owners of the subject property will have to apply for a new special exception.

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

RECOMMENDATION: Staff recommends approval of the special exception request since there have been other encroachments approved previously for special exceptions in the subdivision. Approval should be limited to the encroachment shown on the submitted site plan.

ZBA2023-0066

ZBA
07/27/23

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)

Project

Legal Description

Colonia McAllen UT No 7 Lote 10
BLK 4

Subdivision Name

Colonia McAllen UT No 7

Street Address

1936 S 33rd ST

Number of lots

10

Gross acres

Existing Zoning

R1

Existing Land Use

Residencia

Reason for Appeal (please use other side if necessary)

Para una invasion de 20 pies
dentro de los 20 pies de restriccion del patio delantero para una
carport que mide 18 x 20 pies☒ \$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

Wilberth Broca

Phone

(956)-929-4502

Address

1936 S 33rd ST

E-mail

City

McAllen

State

TX

Zip

78503

Owner

Name

Claudia Cardenas

Phone

(956)984-9995

Address

3308 San Fabian Ct

E-mail

cardenasclaudia@yahoo.com

City

Mission

State

TX

Zip

78572

Authorization

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

☒ Yes☒ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature

[Signature]

Date

6/20/23

Print Name

Claudia Cardenas

☒ Owner☐ Authorized Agent

Office

Accepted by

SEN

Payment received by

Date

ENTERED

Rev 09/20

OS

JUN 21 2023

NM

Name:



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:

Para una invasión de 20 pies dentro de los 20 pies de restricción del patio delantero para una cochera que mide 18 X 20 pies.

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

compro este Corpot porque necesito Profesar mis carros del Granizo y al mal tiempo que hay y del sol intenso.

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:

El cuerpo de la estructura esta anclado con 6 varillas de 32 pulgadas y no afecta problemas para mis vecinos.

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

Chairman, Board of Adjustment
Signature

Date

North

OE

Casa

Garage

E

29 ft storage



S



6 ft
14 ft
20 ft

8 ft

street name

33 rd S





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2023-0066

Memo

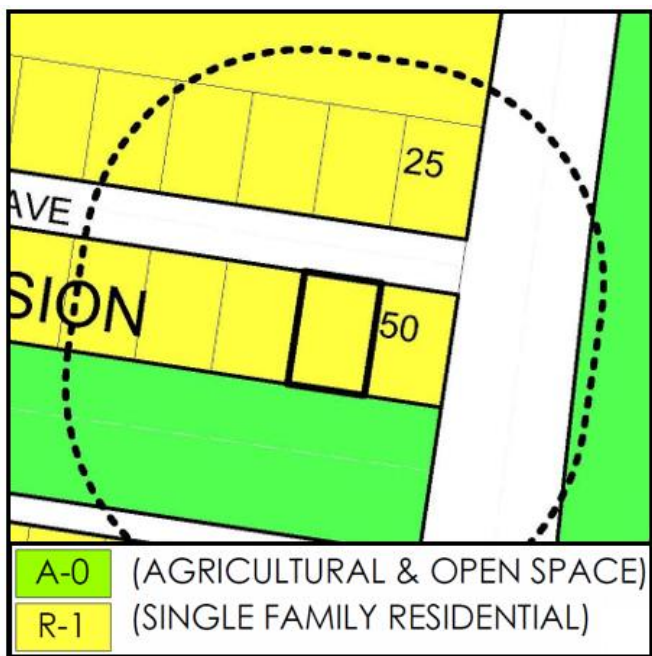
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF EDUARDO GAMBA FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 5 FEET INTO THE 15 FEET REAR YARD SETBACK FOR A PROPOSED BEDROOM ADDITION MEASURING 17.90 FEET BY 18.50 FEET, AND 2) AN ENCROACHMENT OF 5 FEET INTO THE 15 FEET REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL MEASURING 11 FEET BY 12.90 FEET AT LOT 49, GREEN MEADOWS SUBDIVISION, HIDALGO COUNTY, TEXAS; 1905 ROBIN AVENUE. (ZBA2023-0067)

REASON FOR APPEAL: The applicant is requesting a variance to: 1) encroach 5 feet into the 15 feet rear yard setback for a proposed bedroom addition measuring 17.90 feet by 18.50 feet, and 2) an encroachment of 5 feet into the 15 feet rear yard setback for a proposed swimming pool measuring 11 feet by 12.90 feet. The applicant states that the encroachment is necessary to to accommodate the additions to the house while still respecting the 10 feet utility easement along the rear of the property.



PROPERTY LOCATION AND VICINITY: The subject property is located along the south side of Robin Avenue, approximately 770 feet east of North 21st Street. The Lot has 70 feet of frontage along Robin Avenue and a depth of 102.20 feet for a Lot size of 7,154 square feet. The property is zoned R-1 (single-

family residential) District. Adjacent zoning is R-1 (single family residential) District to the east, north, and west and A-O (agricultural and open space) District to the south. The surrounding land use is single family residential.

BACKGROUND AND HISTORY: Green Meadows Subdivision was recorded on March 11, 1982. The required rear yard setback as per plat is 15 feet. An application for a building permit has not been submitted. An application for a variance request was submitted on June 22, 2023.

ANALYSIS: The request is for a variance to: 1) encroach 5 feet into the 15 feet rear yard setback for a proposed bedroom addition measuring 17.90 feet by 18.50 feet, and 2) encroach 5 feet into the 15 feet rear yard setback for a proposed swimming pool measuring 11 feet by 12.90 feet. The applicant states that the encroachment is necessary to accommodate the additions to the house while still respecting the 10 feet utility easement along the rear of the property.

A 10 feet utility easement is located adjacent to the rear property line and runs concurrently with the 15 feet rear yard setback. The proposed swimming pool and bedroom addition would not encroach into the 10 feet utility easement.

The submitted survey shows the area to the south of the subject property as City of McAllen drain ditch right of way.

A review of Planning Department records did not reveal any variances granted for this subdivision in the past.

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

RECOMMENDATION: Staff recommends approval of the variance requests since the 10 feet utility easement remains protected and the standard rear yard setback in the R-1 District is 10 feet.

ZBOA: 8/9/23



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA 2023-00007

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

Project

Legal Description Green Meadows LOT 49

Subdivision Name Green Meadows Subdivision

Street Address 1905 Robin Ave.

Number of lots 1 Gross acres 0.164

Existing Zoning Residential (R1) Existing Land Use House

Reason for Appeal (please use other side if necessary) House Expansion into the backyard
To build an extension to the existing house, encroaching 5 feet within the 15 foot restriction of the backyard, without encroaching on the designated 10 foot easement in the same backyard.

☒ \$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 Eduardo Gamba Phone (956) 605-0230

Address 1905 Robin Ave E-mail egamball@gmail.com

City McAllen State Texas Zip 78504-3835

Owner

Name Eduardo Gamba Phone (956) 605-0230

Address 1905 Robin Ave E-mail egamball@troyocg.net

City McAllen State Texas Zip 78504-3835

Authorization

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

☒ Yes ☐ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature [Signature] Date 06 / 22 / 2023

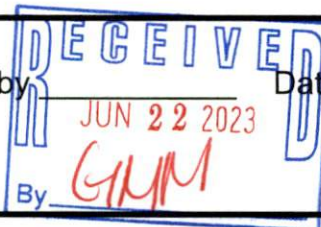
Print Name Eduardo Gamba ☒ Owner ☐ Authorized Agent

Office

Accepted by KS Payment received by [Signature] Date 6/22/23

Rev 10/18

[Signature]





City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*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: <i>(Please use an additional page if necessary to complete responses)</i></p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>
	<p>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:</p>
	<p>The subdivision currently has a construction area or setback limit of 15 feet in the rear back setback.</p>
	<p>WE want to grow our house a bit and we'd like to be able to spread out such that the setback will adjust to just 10 feet, without affecting what is currently already allocated as a utility easement.</p>
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p>
	<p>We want to have more space in the living area and build a pool in the backyard to be able to use it on hot days, which are very frequent in the Rio Grande Valley.</p>
	<p>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:</p>
	<p>The approval of the variance that we request will not affect any of our neighbors, or any general service facility, since the assigned 10-foot utility easement that was established since the subdivision was developed will continue to be respected.</p>
	<p>4. Describe special conditions that are unique to this applicant or property:</p>
	<p></p>
Board Action	
	<div>Chairman, Board of Adjustment Signature</div> <div>Date</div>



All Designs contained in these Drawings are property of CONSTRUENDO. Any use of this material or reproduction of these drawings is expressly prohibited except as CONSTRUENDO may otherwise agree in writing.

REVISIONS	DATE

1001

ION

VE
UBDIVIS

BIN A
DOWS S
EN, TX

05 RO
EN MEA
MCALL190
* 49 GRE

LOT

--	--

SHEET CONTENT:	
POOL DETAIL	
PROJECT No.	

DATE	06/21/2023
DRAWN BY	I. MCINERZ

J MENDEZ
CHECKED BY:
SHEET No.

--	--

MCCALLEN, TX

SECRET No.

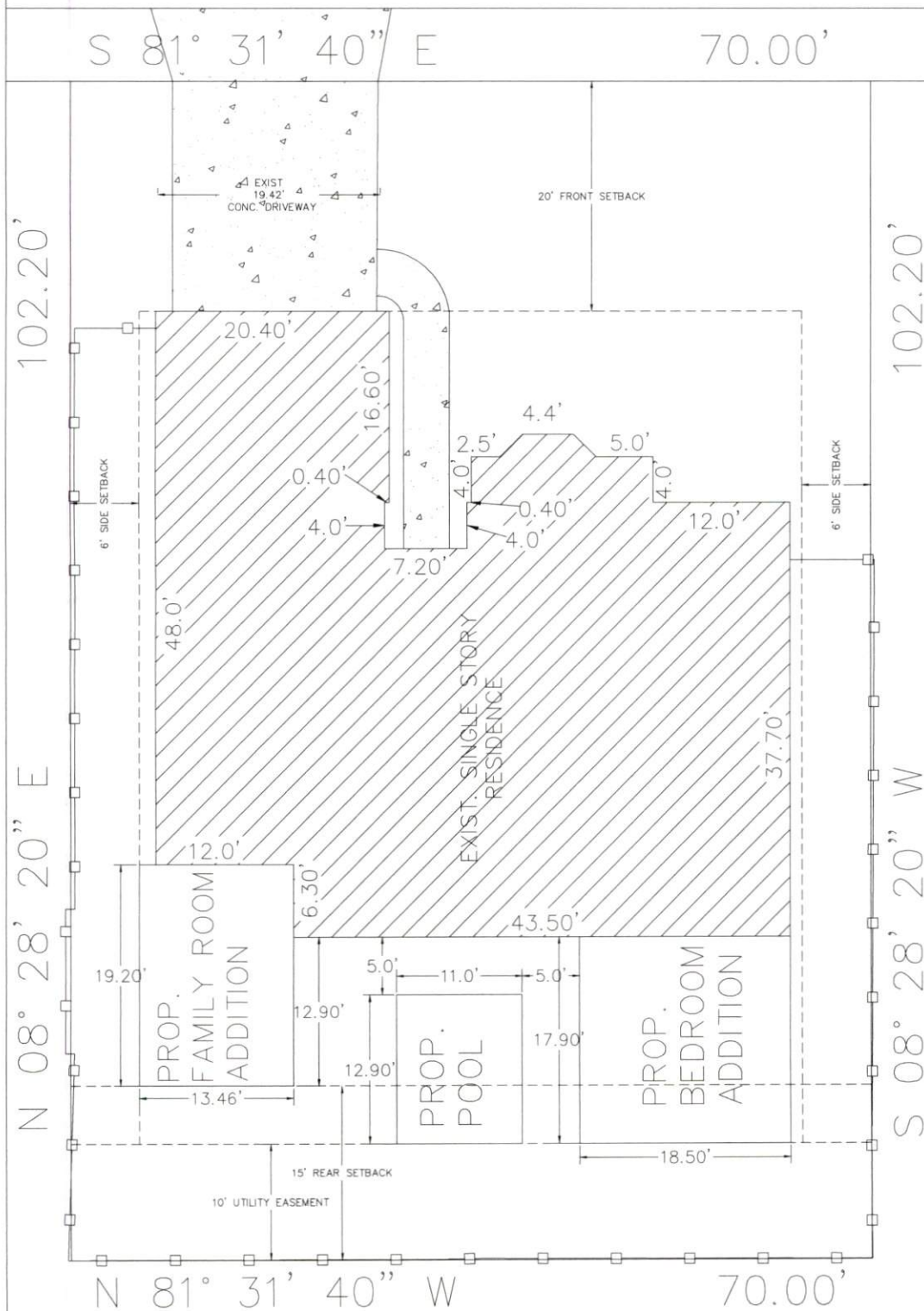
POOL
SEATING



ROBIN AVE.
(50.0' ROAD R.O.W.)

EXIST. CURB & GUTTER

APPARENT EXIST.
SOUTH R.O.W.







1905

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA 2023-0067

1905

Memo

TO: Zoning Board of Adjustment & Appeals

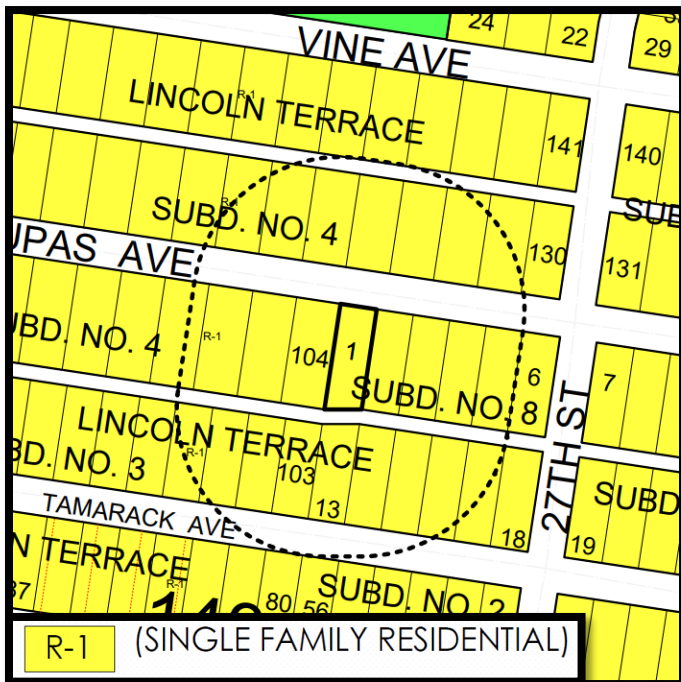
FROM: Planning Staff

DATE: July 13, 2023

SUBJECT: Request of Donaciano Gomez for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 23 feet into the 25 front yard setback and an encroachment of 5 feet into the 6 feet side yard setback for a metal carport measuring 20 feet by 20 feet, at Lot 1, Lincoln Terrace No. 8, Hidalgo County, Texas; 2721 Upas Avenue. (**ZBA2023-0051**)

REASON FOR APPEAL: The applicant is requesting a special exception in order to allow an encroachment of 23 feet into the 25 front yard setback and 5 feet into the 6 feet side yard setback for a metal carport measuring 20 by 20 feet. The applicant stated they have multiple vehicles and protect vehicles from weather conditions.

PROPERTY LOCATION AND VICINITY: The subject property is located south of Upas Avenue and west of North 27th Street. The subject property is zoned R-1 (single-family) District. The adjacent properties are zoned R-1 District as well. Surrounding land uses include single-family dwellings.



BACKGROUND AND HISTORY: The plat for Lincoln Terrace No. 8 Subdivision was recorded on October 16, 1998. The plat states a 25 feet front yard setback and 6 feet side yard setback, with a 5 feet utility easement. A citation was issued May 22, 2023. An application for a building permit for a carport was submitted on May 22, 2023. An application for the special exception request was submitted on May 23, 2023.

ANALYSIS: Approval of the special exception request would allow an encroachment of 23 feet into the 25 feet front yard setback and 5 feet into the 6 feet side yard setback. The applicant stated a carport in the backyard is not feasible as there is no room to construct a carport. The residency consists of a one car garage, the applicants have three vehicles. The request was submitted due to weather conditions such as the recent hail storm, which the applicant stated.

The west side of the property does have a 5 feet utility easement according to the plat. The 5 feet into the 6 feet side yard setback does encroach into the 5 feet utility easement.

Planning Department records reveals one approved special exceptions within the subdivision.

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

RECOMMENDATION: Staff recommends disapproval of the variance request due to the encroachment into the 5 feet utility easement.

ZONING BOARD OF ADJUSTMENT AND APPEALS RECOMMENDATION: The board moved to table the item on July 13, 2023 with discussion. The applicant initial requested an encroachment of 23 feet into the 25 feet yard setback and 5 feet into the 6 feet side yard setback. The side yard does have a 5 feet utility easement. The applicant discussed with the board to relocate the carport out of the side yard setback, only encroaching 23 feet into the 25 feet front yard setback. The carport remains 20 feet by 20 feet.



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

2BA2023-0051

311 North 15th Street

McAllen, TX 78501

P. O. Box 220

McAllen, TX 78505-0220

(956) 681-1250

(956) 681-1279 (fax)

Project	Legal Description	<u>Lincoln Terrace No. 8 Lot 1</u>		
	Subdivision Name	<u>Lincoln Terrace #18</u>		
	Street Address	<u>2721 UPAS ave</u>		
	Number of lots	<u>1</u>	Gross acres	
	Existing Zoning	<u>Residential</u>	Existing Land Use	<u>Residential</u>
Applicant	Reason for Appeal (please use other side if necessary)	<u>Metal Carport 20x20</u> <u>23Ft into 25' Setback on Front and 5' into 6' Sideyard.</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			
	Name	<u>Donaciano Gomez</u>	Phone	<u>(956) 328-2440</u>
	Address	<u>2721 UPAS ave</u>	E-mail	<u>chanogomez67@yahoo.com</u>
Owner	City	<u>Mc Allen</u>	State	<u>TX</u> Zip <u>78501</u>
	Name	<u>Donaciano Maria Gomez</u>	Phone	<u>(956) 240-6030</u>
	Address	<u>2721 UPAS ave</u>	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?			
	<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><i>Maria M. Gomez</i></u>	Date	<u>June 11, 2023</u>
	Print Name	<u>Maria M. Gomez</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
Office	Accepted by	<u>MR</u>	Payment received by	
	Rev 09/20		<div>RECEIVED MAY 23 2023 BY <u>MR</u></div>	



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:

Back yard Prevents construction (No Room)

Need room for 3 cars. House only has 1 car garage

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

Protect vehicles from recent hail storm that we've been having.

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:

It's an open structure. No visibility obstruction.

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

Chairman, Board of Adjustment
Signature

Date

SUBDIVISION PLAT OF LINCOLN TERRACE NO. 3

(APPROVED AS McALLEN AFFORDABLE HOMES AT 27TH & TAMARACK SUBDIVISION)

BEING 4948 ACRES OF LAND SITUATED IN HIDALGO COUNTY, TEXAS AND BEING ALL OF LOT 9, CLYDESDALE ACRES SUBDIVISION AS PER MAP RECORDED IN VOLUME 5, PAGE 9 OF THE HIDALGO COUNTY MAP RECORDS.

PREPARED BY: K K ENGINEERING CONSULTANTS
DATE: DEC. 18, 1997
OWNER: McALLEN AFFORDABLE HOMES INC.
600 S. 11TH ST.
ALONZO CANTU, PRESIDENT
McALLEN, TEXAS 78501

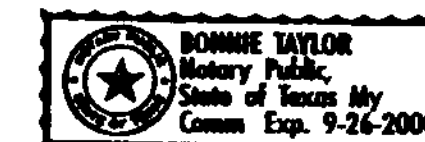
STATE OF TEXAS
COUNTY OF HIDALGO

I (WE), THE UNDERSIGNED, OWNER (S) OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS THE LINCOLN TERRACE NO. 3 SUBD. TO THE CITY OF McALLEN, TEXAS, AND WHOSE NAME (S) IS (ARE) SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, SEWER LINES, WATER COURSES, STORM SEWERS, FIRE HYDRANTS AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I (WE) WILL CAUSE TO BE INSTALLED THEREON SHOWN OR NOT SHOWN IF REQUIRED OTHERWISE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF McALLEN ALL THE SAME FOR THE PURPOSES HEREIN EXPRESSED, EITHER ON THE PLAT HEREOF OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF McALLEN.

OWNER: McALLEN AFFORDABLE HOMES INC.
ALONZO CANTU, PRESIDENT

STATE OF TEXAS
COUNTY OF HIDALGO
BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED ALONZO CANTU KNOWN TO ME TO BE THE PERSON (S) WHOSE NAME (S) IS (ARE) SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE (THEY) EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 14th DAY OF September 19 98



Bonnie Taylor
NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS
MY COMMISSION EXPIRES 9-26-2000

I, THE UNDERSIGNED, MAYOR OF THE CITY OF McALLEN HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

MR. LEO MONTALVO
MAYOR, CITY OF McALLEN, TEXAS.

STATE OF TEXAS
COUNTY OF HIDALGO
THIS SUBDIVISION PLAT OF LINCOLN TERRACE NO. 3 HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF McALLEN, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION.

DATED THIS 13th DAY OF OCTOBER 1998
A. D. [Signature]
CHAIRMAN

HIDALGO COUNTY DRAINAGE DISTRICT No. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEX. WATER CODE §49.21(C). THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT No. 1
BY: [Signature]

STATE OF TEXAS
COUNTY OF HIDALGO

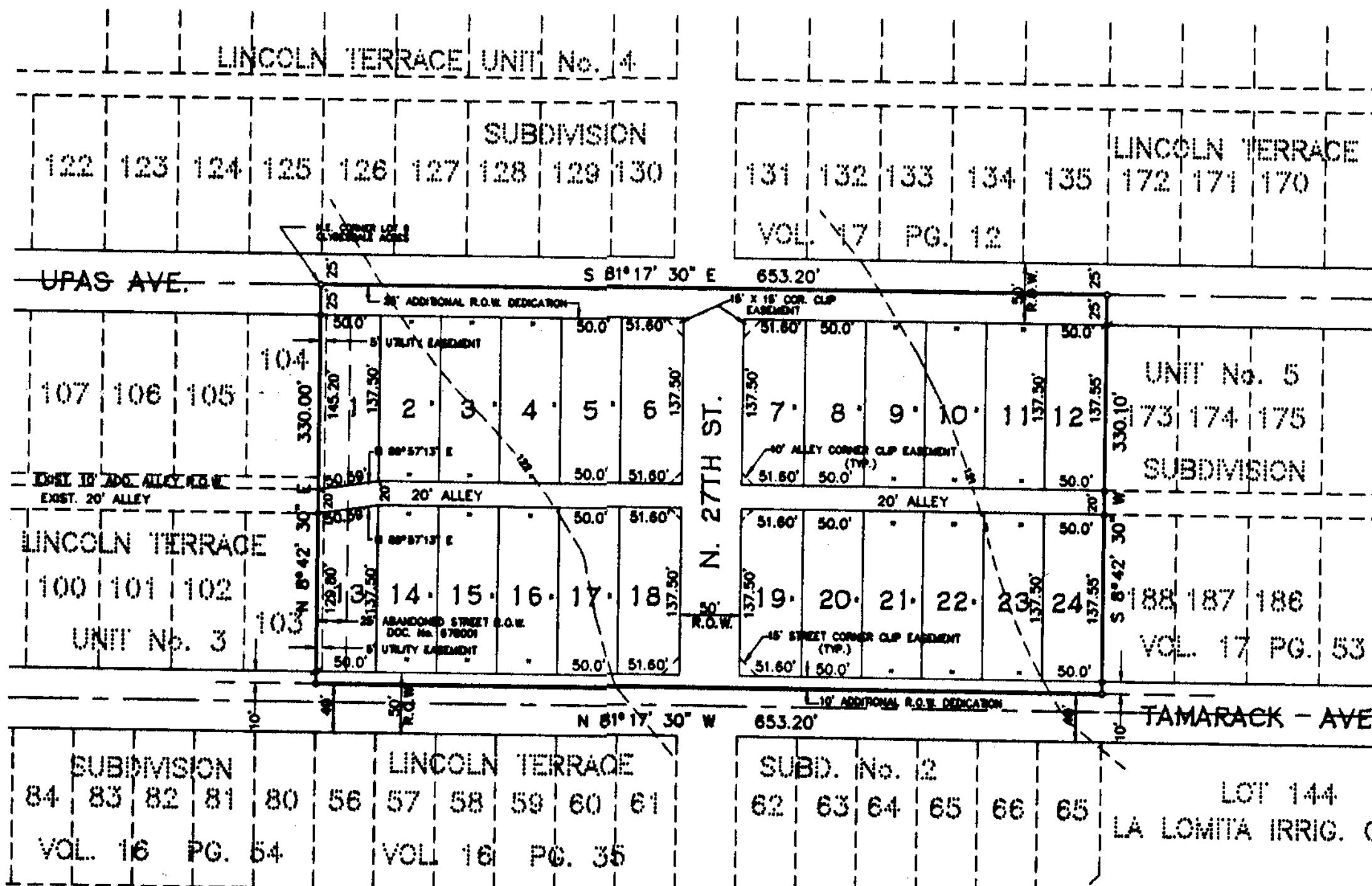
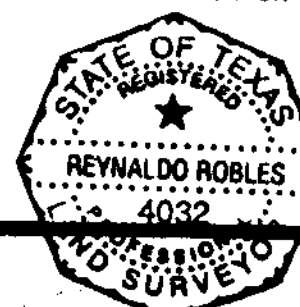
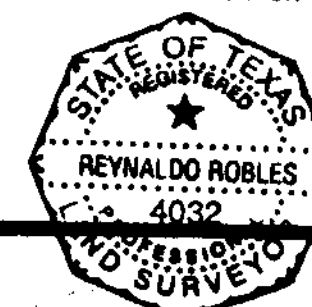
I, KAMBIZ S. KHADEMI, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

KAMBIZ S. KHADEMI, P.E.
REG. PROFESSIONAL ENGINEER No. 57767

STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL SURVEYOR No. 4032 IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

REYNALDO ROBLES
REGISTERED PROFESSIONAL LAND SURVEYOR No. 4032
P.O. BOX 476
WESLACO, TEXAS 78599



SCALE: 1" = 100'

LEGEND

- FOUND 1/2" IRON PIPE
- FOUND 3/4" IRON PIPE
- SET COTTON PICKER SPINDLE

Recorded in Volume 33 Page 159B
of the map records of Hidalgo
County, Texas
Melden and Hunt, Inc.

AREAS (SQ. FT.) OF IRREGULAR LOTS:	
LOT No.	NET AREA (SQ. FT.)
1	7,067.50
13	6,682.50

METES AND BOUNDS DESCRIPTION

BEING 4.948 ACRES OF LAND SITUATED IN HIDALGO COUNTY, TEXAS, AND BEING ALL OF LOT 9, CLYDESDALE ACRES SUBDIVISION AS PER MAP RECORDED IN VOLUME 5, PAGE 9 OF THE HIDALGO COUNTY MAP RECORDS, AND SAID 4.948 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A COTTON PICKER SPINDLE SET FOR THE NORTHWEST CORNER OF SAID LOT 9 AND THE NORTHWEST CORNER OF SAID TRACT HEREIN DESCRIBED;

THENCE, SOUTH 81°17'30" EAST, 653.20 FEET (MAP 640 FEET), WITH THE NORTH LINE OF SAID LOT 9 TO A COTTON PICKER SPINDLE SET FOR THE NORTHEAST CORNER OF SAID TRACT HEREIN DESCRIBED;

THENCE, SOUTH 8°42'30" WEST, WITH THE EAST LINE OF SAID LOT 9, AND WITH THE WEST LINE OF LINCOLN TERRACE UNIT NO. 3, AS PER MAP RECORDED IN VOLUME 17, PAGE 83 OF THE HIDALGO COUNTY MAP RECORDS, AT A DISTANCE OF 25.00 FEET PASS A 3/4-INCH IRON PIPE FOUND FOR REFERENCE ON THE SOUTH RIGHT OF WAY LINE OF UPAS AVENUE, AT A DISTANCE OF 330.00 FEET PASS A 1/2-INCH IRON PIPE FOUND FOR REFERENCE ON THE NORTH RIGHT OF WAY LINE OF TAMARACK AVENUE AND CONTINUING FOR A TOTAL DISTANCE OF 330.00 FEET TO A COTTON PICKER SPINDLE SET FOR THE SOUTHEAST CORNER OF SAID TRACT HEREIN DESCRIBED;

THENCE, NORTH 81°17'30" WEST, 653.20 FEET (MAP 640 FEET), WITH THE SOUTH LINE OF SAID LOT 9 TO A COTTON PICKER SPINDLE SET FOR THE SOUTHWEST CORNER OF SAID TRACT HEREIN DESCRIBED;

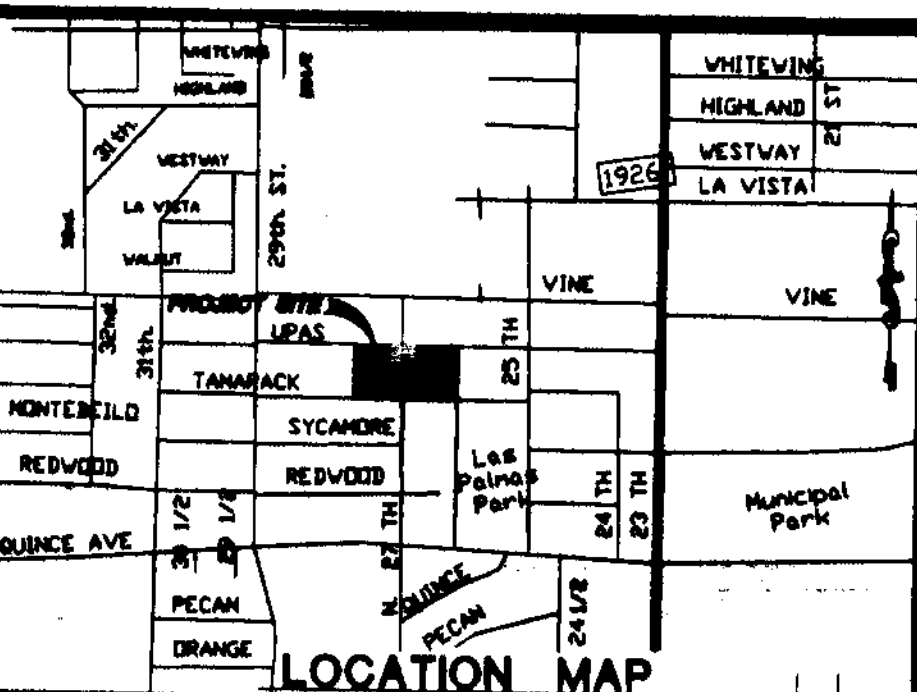
THENCE, NORTH 8°42'30" EAST, WITH THE WEST LINE OF SAID LOT 9 AND WITH THE EAST LINE OF LINCOLN TERRACE UNIT NO. 3 AS PER MAP RECORDED IN VOLUME 17, PAGE 83, AND WITH THE EAST LINE OF LINCOLN TERRACE UNIT NO. 4 AS PER MAP RECORDED IN VOLUME 17, PAGE 12, AT A DISTANCE OF 10.00 FEET PASS A 3/4-INCH IRON PIPE FOUND FOR REFERENCE ON THE NORTH RIGHT OF WAY LINE OF SAID TAMARACK AVENUE, AT A DISTANCE OF 308.00 FEET PASS A 1/2-INCH IRON PIPE FOUND FOR REFERENCE ON THE SOUTH RIGHT OF WAY LINE OF SAID UPAS AVENUE AND CONTINUING FOR A TOTAL DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 4.948 ACRES OF LAND MORE OR LESS.

GENERAL PLAT NOTES:

- MINIMUM FLOOR ELEVATION SHALL BE T/C + 18" FOR EACH LOT.
- THE SUBDIVISION IS IN ZONE "B" ON A FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 480334-0425-C REVISED NOVEMBER 16, 1983.
- MINIMUM BUILDING SETBACK FOR BLOCK 2 SHALL BE AS FOLLOWS:
FRONT: 25.0'
REAR: 10.00'
SIDE: 8.0'
SIDE CORNER LOT: 7.0 FEET
- A TOTAL OF 0.55 ACRE FEET OF DETENTION IS REQUIRED FOR THIS SUBDIVISION AND ENGINEERING DETENTION PLAN WILL BE SUBMITTED PRIOR TO BUILDING PERMIT.
- THE CITY OF McALLEN TO HAVE A 10'X10' CORNER CLIP EASEMENT AT STREET INTERSECTIONS AND A 10'X20' CORNER CLIP AT ALL ALLEY/STREET INTERSECTIONS.

Filed for Record in:
Hidalgo County, Texas
by Jose Elroy Pulido
County Clerk
On: Oct 16, 1998 at 03:57P
As a
Map - Small
Document Number: 717498
Total Fees: 48.50
Receipt Number - 179864
Bea Cruz By,

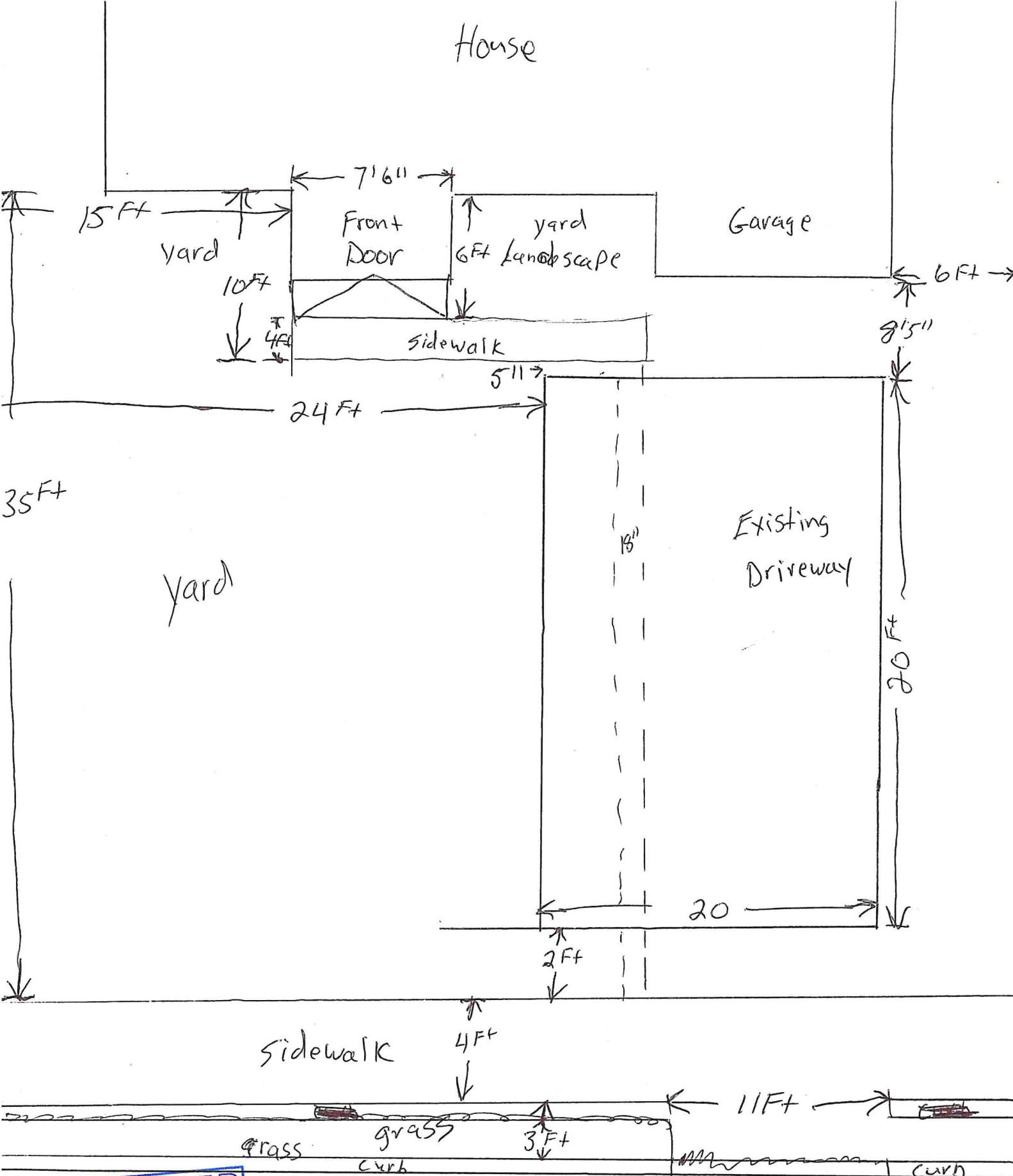
PREPARATION DATE: DECEMBER 18, 1997



K K Engineering Consultants
GENERAL PROFESSIONAL CIVIL ENGINEERING SERVICES
Kambiz Khademi, P.E.
Principal

(5221 N. McCOLL RD.)
P.O. BOX 3422
McALLEN, TEXAS 78502
(956) 630-2125
FAX (956) 631-7866





Street

Memo

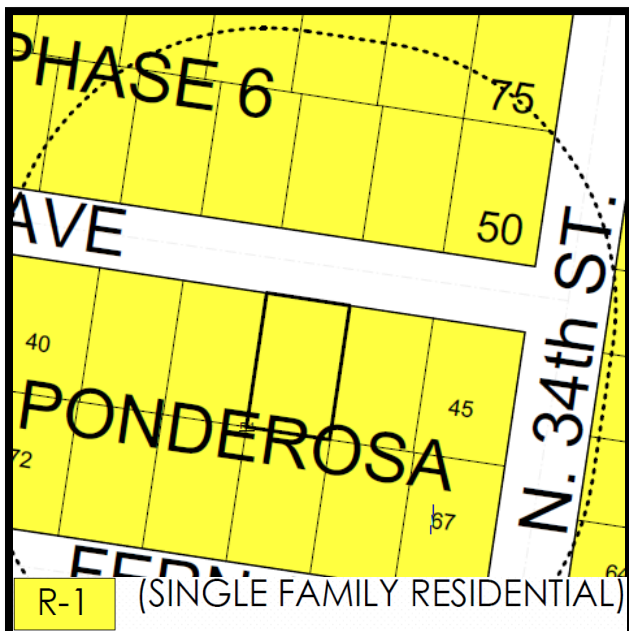
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: July 19, 2023

SUBJECT: REQUEST OF MARIO FERRON 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 WITH CANVAS COVER MEASURING 18 FEET BY 20 FEET, AT LOT 43, PONDEROSA PARK PHASE 6 SUBDIVISION, HIDALGO COUNTY, TEXAS; 3409 GARDENIA AVENUE (ZBA2023-0045)

REASON FOR APPEAL: The applicant is requesting the special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport to provide protection for an individual with health concerns.



PROPERTY LOCATION AND VICINITY: The subject property is located along the south side of Gardenia Avenue between North 34th and North 36th Streets. The Lot has 63.50 feet of frontage and a depth of 102.00 feet for a total square footage of 6,477 feet. The property is zoned R-1 (single-family residential) District. The surrounding land use is R-1 District in all directions.

BACKGROUND AND HISTORY: Ponderosa Park Phase 6 Subdivision was recorded March 12, 2001. The plat states a 20 feet front yard setback. A stop work order was posted August 17, 2022. A building permit application was submitted October 10th, 2022. A special exception application was submitted May 15th, 2023. The applicant states the carport was built by a contractor but without a building permit.

ANALYSIS: The applicant is requesting a special exception to encroach 20 feet into the 20 feet front yard setback for an existing metal carport. The carport is to provide protection from the sun exposure for a person with health concerns.

The front yard setback is 20 feet along Gardenia Avenue. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

The plat for this subdivision indicates a 5 feet utility easement adjacent to the front property line and runs concurrently with the front yard setback. The carport appears to be encroaching into the utility easement. The utility easement abandonment process would need to be undertaken in order to attempt to resolve the 5 feet carport encroachment into the utility easement.

At the Zoning Board and Adjustment and Appeals meeting of June 7, 2023 a request for an encroachment of 15 feet into the 20 feet front yard setback for an existing metal carport with canvas cover was approved for Lot 74, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of August 17, 2022 a request for an encroachment of 15 feet into the 20 feet front yard setback for a proposed metal carport that was approved at Lot 12, Ponderosa Park Phase 6 Subdivision.

At the Zoning Board of Adjustments and Appeals meeting of June 3, 2020, a request for an encroachment of 20 feet into the 20 feet front yard setback for a proposed carport was approved for Lot 90, Ponderosa Park Phase 6 Subdivision.

There is an existing two car garage that is part of the home that is used for storage of vehicles and other items.

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.

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

RECOMMENDATION: Staff recommends disapproval of the request since the carport also appears to encroach into a 5 feet utility easement adjacent to the property line.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF JULY 13, 2023:

At the Zoning Board of Adjustment and Appeals meeting of July 13, 2023 Mr. Mario Ferron, the applicant, stated that 3 years ago his wife acquired a medical condition that does not allow her to be exposed to sunlight. She uses the garage to be able to have time with her grandchild without being in the sun. The Board voted to table the special exception request to allow the applicant time to acquire a survey and consider reductions to the encroachment.

ZBA2023-0045

ZBA2023-0045
6/12/23



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)

Project

Legal Description

PONDEROSA PARK PHASE 6
LOT 43

Subdivision Name

PONDEROSA PARK PHASE 6

Street Address

3409 W. GARDENIA AVE

Number of lots

1

Gross acres

Existing Zoning

R-1

Existing Land Use

RESIDENCE

Reason for Appeal (please use other side if necessary)

EXISTING CANOPY

13 FT ENCROACHMENT INTO
THE 20 FT FYSB FOR A CARPORT/CANOPY 13X20

☒ \$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 MARIO FERRON

Phone (956) 638-6101

Address 3409 W. GARDENIA AVE

E-mail DR.MARIO.FERRON01@gmail.com

City McAllen

State TX

Zip 78501

Owner

Name MARIO FERRON

Phone (956) 638-6101

Address 3409 W. GARDENIA AVE

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

Date

5/15/23

Print Name

MARIO FERRON

☒ Owner

☐ Authorized Agent

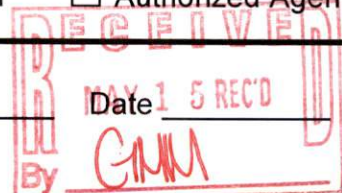
Office

Accepted by

Payment received by

Date

Rev 09/20





City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*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)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>	
	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:	
	13 FE ENCROACHMENT INTO THE 20ft FYSB FOR A	
	CARPORT/CANOPY 13X20	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	THE VARIANCE IS NECESSARY TO AFFORD PERSONS WITH	
	DISABILITIES AN EQUAL OPPORTUNITY TO USE AND ENJOY A DWELLING.	
	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:	
	STRUCTURE IS WELL BUILT.	
	4. Describe special conditions that are unique to this applicant or property:	
Board Action	PERSON WITH DISABILITIES HEALTH CONCERNS DUE TO	
	SUN EXPOSURE.	
	Chairman, Board of Adjustment Signature	
	Date	

28 ft
24 ft

1 STORY RESIDENCE

7 ft 9 in

7 ft 9 in

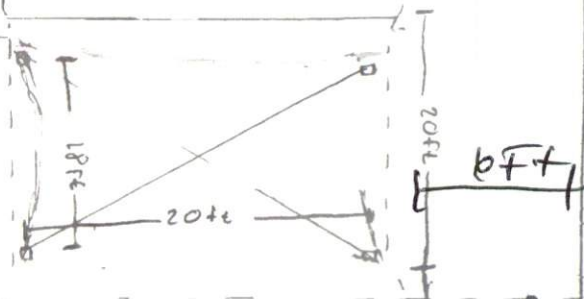
ELECTRICAL

GARAGE

WALKWAY



PROPERTY LINE



DRIVEWAY

GARDENIA AVE.
PROPERTY LINE

NOT WITHIN 5 ft





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA 2023-0045

3409

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	08/17/23	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											
ANN TAFEL	P	P	P	P	A	P	P	P	P	P	P	P	P											
HUGO AVILA	P	P	P	A	P	P	P	P	P	P	P	P	P											
ROGELIO RODRIGUEZ	A	P	A	P	P	P	P	A	P	P	A	P	P											
HIRAM A. GUTIERREZ											P	A	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											
JUAN MUJICA (ALT 4)	P	P	A	P	P	P	A	P	P	P	P	P	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
 -  Planning & Zoning Board
 -  Public Utility 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 HOLIDAY	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 HPC	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 HPC	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 HPC	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 HOLIDAY	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 HPC	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
7	8 	9 	10	11	12	13
14	15	16	17 D-6/20 & 6/21		19	20
21	22 	23 	24 N-6/6 & 6/7	25 HPC	26	27
28	29 HOLIDAY	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 HPC	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 HOLIDAY	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 HPC	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 HPC	25	26
27	28 	29 	30	31		










SEPTEMBER 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4 HOLIDAY	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 HPC	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 HPC	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 HOLIDAY	24	25
26	27 	28 	29	30		

DECEMBER 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 	6 HPC 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 HOLIDAY	26 HOLIDAY	27	28	29	30
31						