

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, MAY 7, 2025 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR

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

#### CALL TO ORDER -

#### 1. MINUTES:

- a) Minutes for the meeting held on April 23, 2025

#### 2. PUBLIC HEARINGS:

- a) Request of Raudel Garcia for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 7-foot north side yard setback for a proposed irregular-shaped swimming pool with an area of approximately 352 square feet at Lot 25, Block 7, Milmor Addition Subdivision, Hidalgo County, Texas; 1214 North 16th Street. **(ZBA2025-0010)**
- b) Request of Gilberto Gutierrez for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5.5 feet into the 20-foot front yard setback for a proposed porch measuring 5.5 feet x 10 feet at Lot 3, Block 9, Colonia McAllen Unit No. 7 Subdivision, Hidalgo County, Texas; 1952 South 33rd Street. **(ZBA2025-0009)**
- c) Request of Tomas Rios Jr. for a Variance to the City of McAllen Zoning Ordinance to allow a lot frontage width of 39.67 feet instead of the 50-foot minimum requirement along the west front property line for a proposed single family dwelling at a 0.19 Acre Tract of Land, More or Less, Out of Lot 6, Block 16, Steele And Pershing Subdivision (Proposed Lot 1, De Rios Subdivision), Hidalgo County, Texas; 3021 South "J" Street. **(ZBA2025-0011)**

#### 3. FUTURE AGENDA ITEMS

- a) 3412 Xanthisma Avenue
- b) 2912 Daytona Avenue
- c) 4517 Thunderbird Avenue
- d) 4608 Toucan Avenue
- e) 2301 North 47th Street

#### ADJOURNMENT:

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

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

**The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, April 23, 2025 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:**

- |                       |                         |                                  |
|-----------------------|-------------------------|----------------------------------|
| <b>Present:</b>       | <b>Jose Gutierrez</b>   | <b>Chairperson</b>               |
|                       | <b>Hugo Avila</b>       | <b>Member</b>                    |
|                       | <b>Daniel Santos</b>    | <b>Member</b>                    |
|                       | <b>Juan Mujica</b>      | <b>Alternate</b>                 |
|                       | <b>Alex Lamela</b>      | <b>Alternate</b>                 |
|                       | <b>Nancy Valenzuela</b> | <b>Alternate</b>                 |
| <br>                  |                         |                                  |
| <b>Absent:</b>        | <b>Hiram Gutierrez</b>  | <b>Member</b>                    |
|                       | <b>Ivan Garcia</b>      | <b>Member</b>                    |
|                       | <b>Erick Diaz</b>       | <b>Alternate</b>                 |
| <br>                  |                         |                                  |
| <b>Staff Present:</b> | <b>Nancy Borrego</b>    | <b>Assistant City Attorney I</b> |
|                       | <b>Omar Sotelo</b>      | <b>Planning Director</b>         |
|                       | <b>Rodrigo Sanchez</b>  | <b>Senior Planner</b>            |
|                       | <b>Samantha Trevino</b> | <b>Planner I</b>                 |
|                       | <b>Noah Del Bosque</b>  | <b>Technician I</b>              |
|                       | <b>Carmen White</b>     | <b>Administrative Assistant</b>  |

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

- a) Minutes for the meeting held on April 2, 2025.

The minutes for the meeting held on April 2, 2025. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Juan Mujica seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Rolando Solis for a special exception to the City of McAllen Zoning Ordinance to allow a proposed encroachment of 20 feet into the 25 foot front yard setback for an existing carport at Lot 4, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 7212 North 44th Lane. **(ZBA2025-0007)**

Ms. Trevino stated the applicant was requesting to encroach 20 feet into the 25-foot front yard setback for an existing carport that is proposed to be modified to comply with square footage size requirement and to be located out of the 5-foot utility easement. The carport will be used to protect his vehicles from inclement weather and will provide protection for the applicant and his wife who have multiple health issues.

The subject property was located along between North 44<sup>th</sup> Lane and North Bentsen Road. The subject property was currently Zoned R-1 (single-family residential-OC) District.

Plantation Gap Phase 1 Subdivision was recorded on December 20, 2004. A building permit was submitted June 2, 2022 for a carport addition and was denied for encroaching into the front yard setback and 5-foot utility easement. A stop work order was issued February 24, 2023 for carport construction without a permit. An application for a special exception request was submitted on March 13, 2025.

The applicant was requesting to encroach 20 feet into the 25-foot front yard setback for an existing carport. The carport will be used to protect his vehicles from inclement weather and will provide protection for the applicant and his wife who have multiple health issues.

In the past, there have been other variances and special exceptions granted in Plantation Gap Phase 1 Subdivision for encroachments into the front yard setback for carports.

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

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

Staff recommended disapproval of the special exception request

Chairperson Gutierrez asked staff why they were recommending disapproval. Ms. Trevino stated since it did not comply with setbacks currently so standard recommendation for staff was usually disapproval.

Board member Mujica asked staff if there were other carports in the neighborhood. Ms. Trevino stated there were currently that were approved in that subdivision and eight that were illegally constructed. Most of the carports were made of metal. There was one wooden carport but did not have a permit.

Mr. Rolando Solis, 7212 North 44<sup>th</sup> Lane, McAllen. The applicant stated the carport had been built in 2022. He stated he was encroaching into the setback. Staff indicated to him to reduce it 5 feet from the property line. Board member Avila asked the applicant if he received a stop work order. Mr. Solis stated he did but continued to build it. He stated Engineering and Building Permits Departments had approved it but did not know about the Planning Department. Board member Mujica asked who built the carport. Mr. Solis stated he hired someone to build it. He stated he did not remember the person's name. The builder told him that they built carports all the time. Mr. Solis went to the Building Department and gave him measurements of 24 by 18 so he went by those measurements. Ms. Trevino stated the applicant was willing to reduce it back to meet the square footage requirement and to clear the five-foot utility easement per the proposed plan.

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

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

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

- b) Request of Carla Cantu on behalf of Jose Vasquez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 foot front yard setback for an existing carport measuring 20 feet by 20 feet at Lot 140, Shadow Brook Subdivision Unit No.1, Hidalgo County, Texas; 2028 Hawk Avenue. **(ZBA2025-0008)**

Ms. Trevino stated the applicant was requesting to encroach 20 feet into the 20-foot front yard setback for an existing carport. The carport will be used to protect his vehicles from inclement weather and will provide protection for the elderly homeowners who have health issues and mobility restraints.

The subject property was located along the intersection of North 21<sup>st</sup> Street and Hawk Avenue. The subject property was currently Zoned R-1 (single-family residential-OC) District.

Shadow Brook Unit 1 Subdivision was recorded on February 13, 1979. A building permit was rejected January 22, 2014 for carport addition. A stop work order was issued March 28, 2014 for a garage enclosure and building a carport without a permit. A special exception was applied for and denied on April 15, 2014. A new application for a special exception request was submitted on March 20, 2025.

The applicant was requesting to encroach 20 feet into the 20-foot front yard setback for an existing carport. There are no utility easements that run through the front. The carport will be used to protect his vehicles from inclement weather and will provide protection for the elderly homeowners who have health issues and mobility restraints. The home had a garage that was enclosed back in 2014.

In the past, there have been other variances and special exceptions granted in Shadow Brook UT 1 Subdivision for encroachments into the front yard setback for carports.

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

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

Staff recommended disapproval of the special exception request.

Chairperson Gutierrez asked staff why they were recommending disapproval. Ms. Trevino stated since it did not comply with setbacks currently so standard recommendation for staff was usually disapproval. It was encroaching into the front yard setback.

Board member Mujica stated on the aerial view picture the property adjacent seemed to have a carport and another one across the street two houses down. Ms. Trevino those two carports were approved by ZBOA.

Ms. Carla Cantu, 709 East Carol Road, San Juan. She stated she was representing Mr. Jose Vasquez who is in his late 70's. She stated that Mr. Vasquez though the special exception was approved but when in fact it was disapproved in 2014. Ms. Cantu was customer experience for Solar. She was trying to help him get him solar panels and get this project moving on for him. His carport was needing a permit to be issued.

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

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

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

#### **ELECTION OFFICERS:**

Mr. Alex Lamela nominated to re-elect Mr. Jose Gutierrez as Chairperson. Mr. Hugo Avila seconded the motion. The Board voted unanimously with five members present and voting.

Chairperson Jose Gutierrez nominated Mr. Hugo Avila for Vice-Chairperson. Mr. Alex Lamela seconded the motion. The Board voted unanimously with five members present and voting.

#### **ADJOURNMENT**

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

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Chairperson Jose Gutierrez

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Carmen White, Administrative Assista

**Memo**

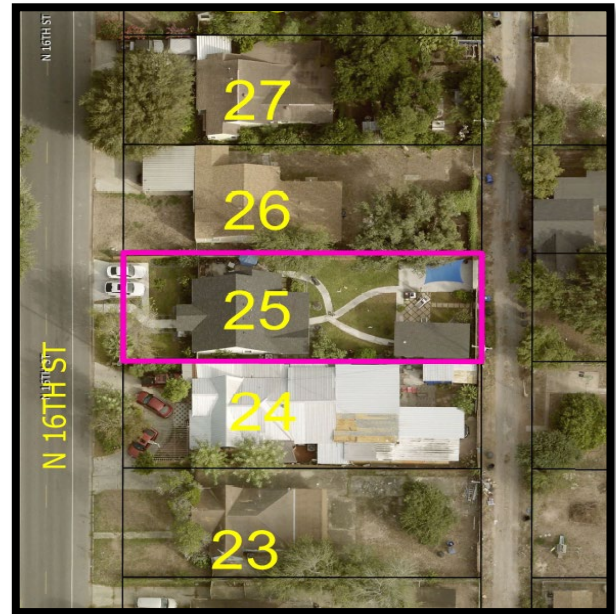
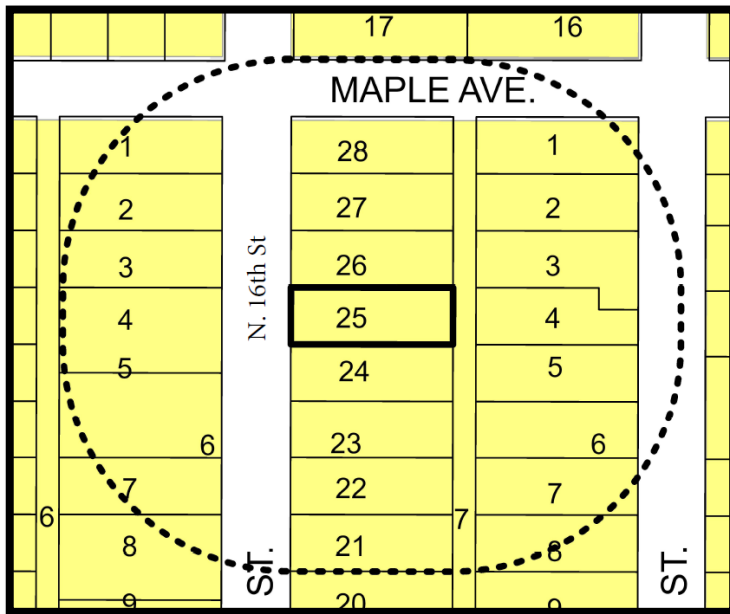
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** April 16, 2025

**SUBJECT: REQUEST OF RAUDEL GARCIA ON BEHALF OF YVONNE MORALES FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 4 FEET INTO THE 7 FOOT NORTH SIDE YARD SETBACK FOR A PROPOSED IRREGULAR SHAPED SWIMMING POOL WITH AN AREA OF APPROXIMATELY 352 SQUARE FEET AT LOT 25, BLOCK 7, MILMOR ADDITION SUBDIVISION, HIDALGO COUNTY, TEXAS; 1214 NORTH 16TH STREET. (ZBA2025-0010)**

**REASON FOR APPEAL:** The applicant is requesting a variance to allow an encroachment of four feet into the seven foot north side yard setback for a proposed irregular shaped pool.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the east side of North 16<sup>th</sup> Street approximately 150.0 feet south of Maple Avenue. The subject property has an area of 7,625 square feet. The property is zoned R-1 (Single Family Residential O.C.) District. The adjacent zoning is R-1 District O.C. in all directions.

**BACKGROUND AND HISTORY:** The Milmor Addition Subdivision was officially recorded on May 26, 1927. A variance request was submitted on April 1, 2025. A building permit for a pool has not been submitted at this time.

**ANALYSIS:** The variance request is for a proposed swimming pool which is considered an accessory structure and requires compliance with setbacks. The applicant proposes to build a swimming pool to be used to enjoy outdoor activities.

The submitted site plan shows a proposed swimming pool encroaching four feet into the seven foot side yard setback along the north property line and indicates that the proposed pool placement takes into account the existing walkways, positioning the pool in a way that appears to minimize their removal. The applicant acknowledged that some portions of the walkways would be removed for the construction of the proposed pool. There are no utility easements that would be impacted by the proposed encroachment

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

**RECOMMENDATION:** Staff recommends disapproval of the variance request since unnecessary hardship has not been established. However, if the Board approves the request, it should be limited to the encroachment shown on the submitted site plan.

\*\* The customer indicated they would address the other matter at a later time

Had these sidewalks not been placed in their current location, the pool could likely be constructed in compliance with zoning requirements and without the need for a variance.

While the walkways are existing, the proposed pool location is still not in compliance with applicable zoning requirements. Staff has determined that alternative configurations may exist that would allow for the installation of a pool without the need for a variance or with less deviation from the required setbacks.

As the applicant has not demonstrated that strict application of the zoning code results in an unnecessary hardship—beyond the presence of existing conditions—staff recommends disapproval of the variance request.





# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Case Number: ZBA2025-0010 ZBOA Meeting: 5/7/25  
Accepted By: \_\_\_\_\_

#### PROJECT

Legal Description Lot 25, Block 7, Milmor  
Subdivision Name Milmor  
Street Address 1214 N. 16th Street  
Number of lots 1 Gross acres 50ft. X 152.5ft.  
Existing Zoning R-1 Single Family Existing Land Use Home  
Reason for Appeal (please use other side if necessary) I request a variance to reduce the northside 7' setback and requesting 4' to accommodate pool. Encroaching 4ft into the 7' North side 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 Raudel Garcia Phone 956 703-0270  
Address 4300 N. 27th Street E-mail rawdypools78@yahoo.com  
City McAllen State Texas Zip 78504

#### OWNER

Name Yvonne Morales Phone 956.624-5227  
Address 1214 N. 16th E-mail Yvonne.teclc@gmail.com  
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

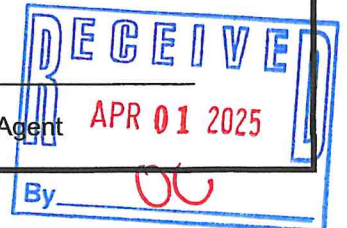
I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)

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

Signature [Signature]  
Print Name Yvonne Morales

Date 4-1-2025

Owner  Authorized Agent





# 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:

My lot is 50' wide, and 7' setback leaves insufficient space for a pool.

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

We request a 4' setback instead of the required 7' setback on the northside of the lot for an inground swimming pool. It will not impede any utilities.

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:

The variance won't negatively affect neighbors or safety. The Pool will be fence per code, and reduced setbacks won't impact drainage or neighbor's privacy.

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

My lot is 50' wide by 152.50' long with a narrow width that limits pool placement options. The required 7' setback on the northside of the property significantly reduces the usable space for an inground pool.

Reason for Appeal

Board Action

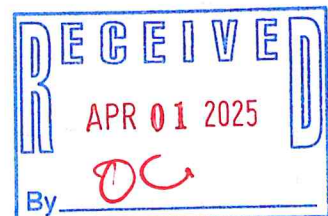
Chairman, Board of Adjustment  
Signature

Date

I, Yvonne Mondtes, give authorization  
to ~~Randy~~ ~~Raude~~ Garcia, to make decisions  
on this appeal 1244 N. 16<sup>th</sup>, McAllen TX  
78501 for the construction of the swimming pool  
and other jobs

YV

Yvonne Mondtes  
4-1-2025





NOTE: SURVEY PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT WHICH MAY SHOW EASEMENTS OF RECORDS THAT MAY AFFECT THIS PROPERTY

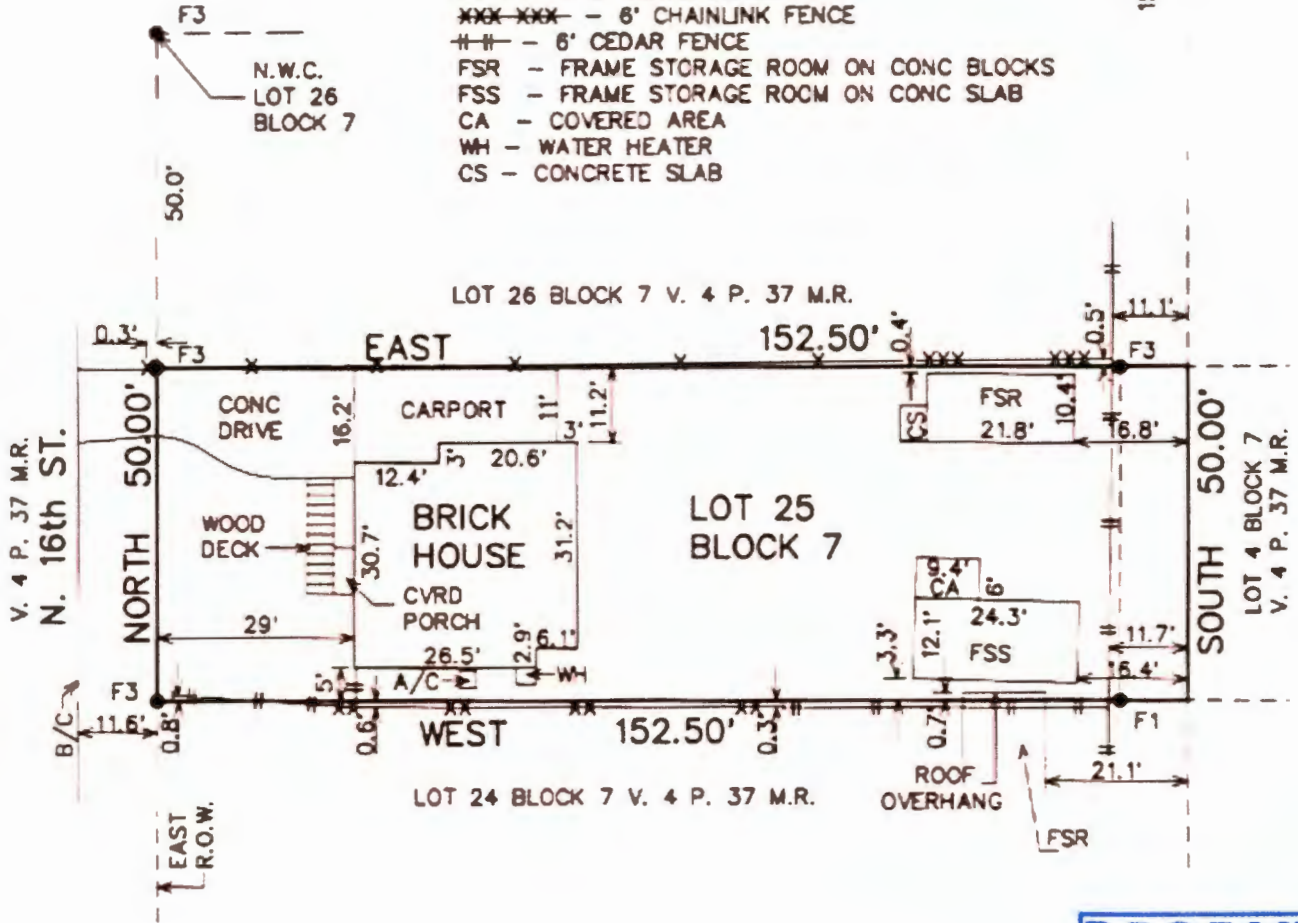
SCALE: 1"=30'  
CAD: MILMORADD25-7M  
JOB: 76053

V. 4 P. 37 M.R.  
**MAPLE AVENUE**  
SOUTH R.O.W.

NOTE: BASIS OF BEARING IS THE NORTH LINE OF LOTS 25-26 BLOCK 7 MILMOR ADDITION V. 4 P. 37 MAP RECORDS

**LEGEND**

- F1 - FOUND 1/2" DIAMETER IRON ROD
- F3 - FOUND 1/2" DIAMETER IRON PIPE
- B/C - BACK OF CONCRETE CURB & GUTTER
- R.O.W. - RIGHT OF WAY
- XX - 4' CHAINLINK FENCE
- XXX - 8' METAL FENCE
- XXX-XXX - 6' CHAINLINK FENCE
- - 6' CEDAR FENCE
- FSR - FRAME STORAGE ROOM ON CONC BLOCKS
- FSS - FRAME STORAGE ROOM ON CONC SLAB
- CA - COVERED AREA
- WH - WATER HEATER
- CS - CONCRETE SLAB



**RECEIVED**  
MAR 31 2025  
By NG

BUYER'S NAME: Yvonne Morales

FLOOD ZONE: By GRAPHICAL PLOTTING Community Panel Number 480343 0005 C  
Map Revised: November 2, 1982

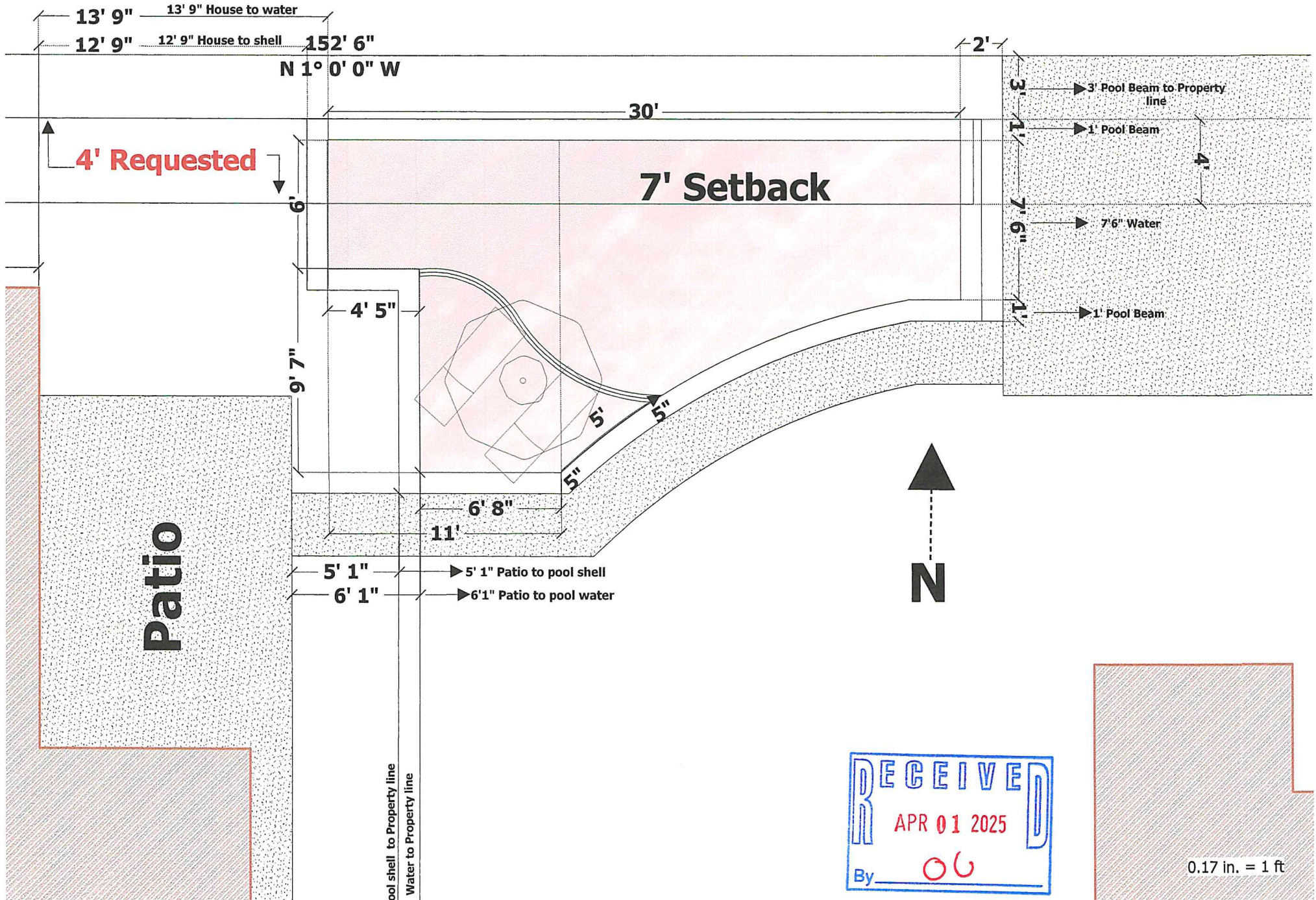
- Zone "A" - This is to certify that this property is in a flood prone area.
- Zone "B" - This is to certify that this property is not in a flood prone area. However limits between the 100 year and 500 year flood are subject to flooding with average depths less than one foot.
- Zone "C" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown, © copyright 2022 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon, in conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this Survey. Survey valid only if print has original seal and signature.

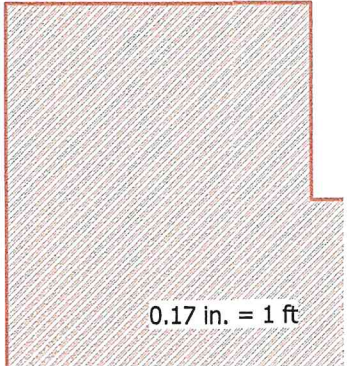
ADDRESS: 1214 N. 16th St. McAllen, TX 78501

LEGAL DESCRIPTION: Lot 25 Block 7 MILMOR ADDITION, an addition to





RECEIVED  
 APR 01 2025  
 By 06





**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2025-0010**

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



1214

**Memo**

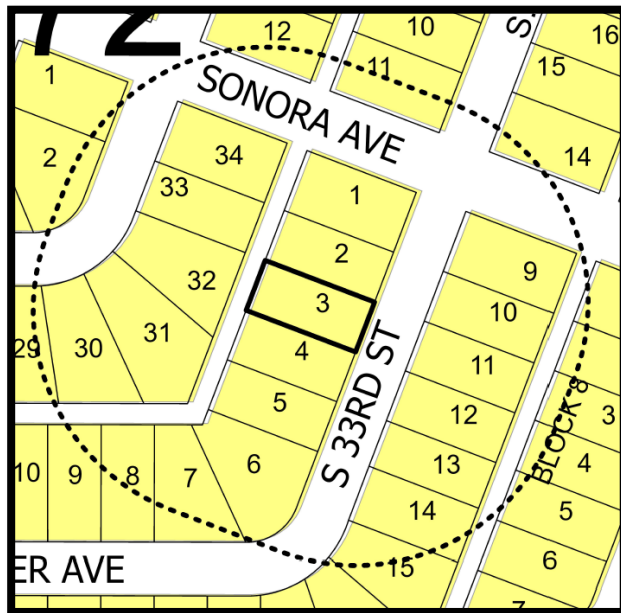
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** April 29, 2025

**SUBJECT: REQUEST OF GILBERTO GUTIERREZ FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 5.5 FEET INTO THE 20 FOOT FRONT YARD SETBACK FOR A PROPOSED PORCH MEASURING 5.5 FEET X 10 FEET AT LOT 3, BLOCK 9, COLONIA MCALLEN UNIT NO. 7 SUBDIVISION, HIDALGO COUNTY, TEXAS; 1952 SOUTH 33RD STREET. (ZBA2025-0009)**

**REASON FOR APPEAL:** The applicant is requesting a variance to allow an encroachment of 5.5 feet into the 20 foot front yard setback for a proposed porch.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the west side of South 33<sup>rd</sup> Street approximately 110.0 feet south of Sonora Avenue. The subject property has an area of 5,500 square feet. The property is zoned R-1 (Single Family Residential O.C.) District. The adjacent zoning is R-1 District O.C. in all directions.

**BACKGROUND AND HISTORY:** The Colonia Mcallen Unit No. 7 Subdivision was officially recorded on April 4, 1977. A variance request was submitted on March 27, 2025. A building permit for the addition has not been submitted at this time.



**ANALYSIS:** The variance request is for a proposed 5.5 ft x 10 ft wood porch in front of the house to relocate the home entrance.

The applicant states safety concerns, as the current side-door entry limits visibility of the street and may pose a security risk. The proposed porch would allow for a front-facing entry consistent with neighboring homes, thereby aligning the property with the prevailing neighborhood character. The applicant states that this addition not only improves personal safety but will also contribute to the neighborhood's overall appearance.

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

**RECOMMENDATION:** Staff recommends disapproval of the variance request since unnecessary hardship has not been established. However, if the Board approves the request, it should be limited to the encroachment shown on the submitted site plan

ZBA 2025-0009

**City of McAllen**  
**Planning Department**

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

**APPEAL TO ZONING BOARD OF  
ADJUSTMENT TO MCALLEN ZONING ORDINANCE**

Case Number: \_\_\_\_\_ ZBOA Meeting: 5/7/2025  Routed  
Receipt No: 110 2206  Scanned  
Accepted by: P: ARXIS MRS: \_\_\_\_\_ Customer Acknowledgment (Int.): [Signature]

**PROJECT**

Legal Description colonia McAllen UT No. 7 lot 36/ka  
Subdivision Name Colonia McAllen UT No. 7  
Street Address 1952 S. 33rd St. McAllen TX 78503  
Number of lots 1 Gross acres \_\_\_\_\_  
Existing Zoning R-1 Existing Land Use residential  
Reason for Appeal (please use other side if necessary) need to relocate door entrance and to include a front porch.  
 \$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 Gilberto Gutierrez Phone 956 534-4200  
Address 1952 S 33rd St E-mail GIL7277@hotmail.com  
City McAllen State TX Zip 78503

**OWNER**

Name same as above Phone \_\_\_\_\_  
Address \_\_\_\_\_ E-mail \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**AUTHORIZATION**

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

Yes  No

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

Signature [Signature]

Date 3-27-25

MAR 27 2025

Print Name Gilberto Gutierrez

Owner  Authorized Agent

CW



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

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

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

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

this is the only house in the neighborhood that has the entrance door on the side. All other houses have it in front. Enhances neighborhood

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

\_\_\_\_\_

Date

\_\_\_\_\_



# City of McAllen

## Planning Department

### REASON FOR APPEAL

1. Describe the special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

Not having a view to the street from the safety of my home is a safety concern to me. I would have to open the door thereby putting myself in potential harms way, to assess the outside front area of my home.

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

This variance would allow me to have the same rights as my neighbors by having a more functional home that has a view to the street. In the near future, the house will undergo a modified home addition that

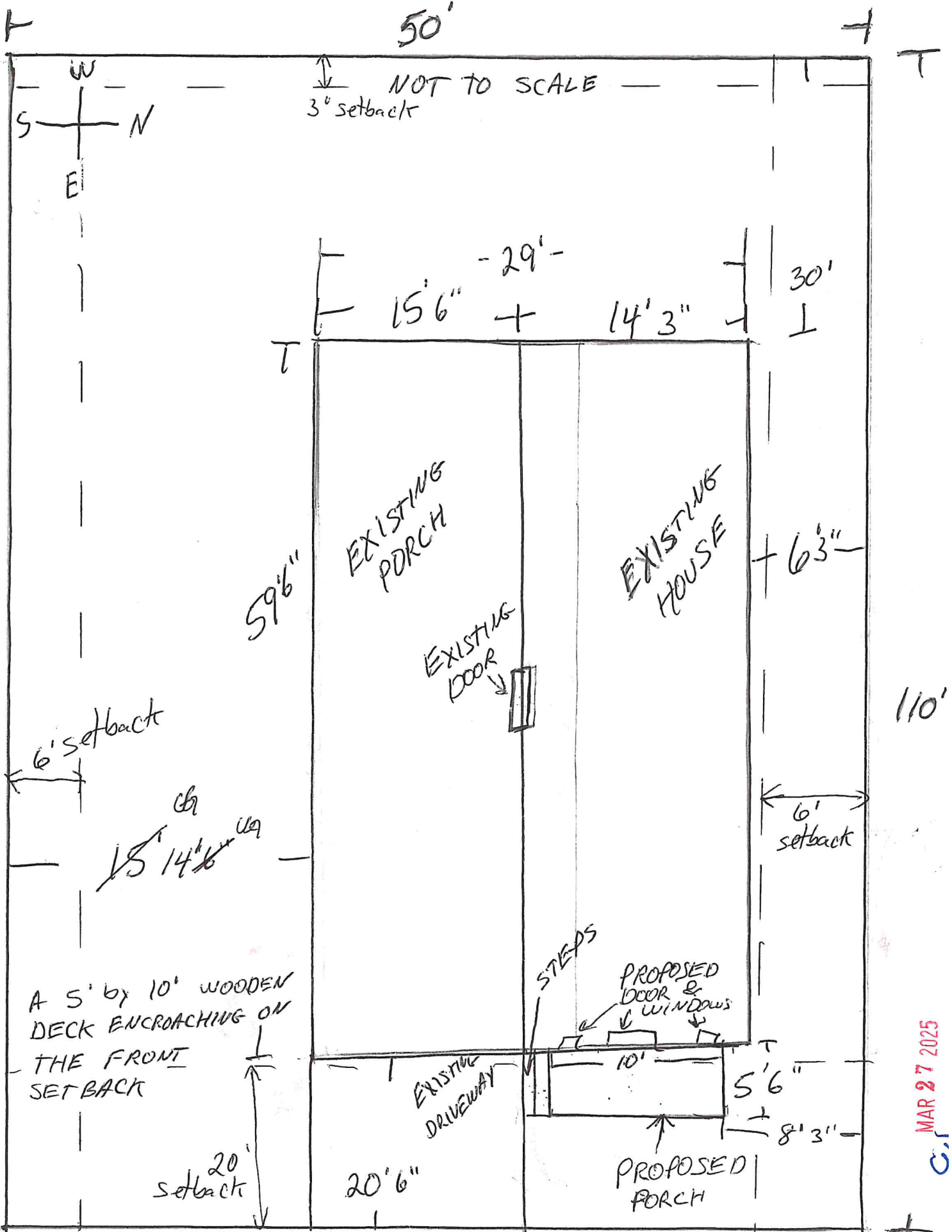
3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area.

The variance would not be detrimental to the public health because of the materials used. Also, my neighbors have fences to the front of the street that prevents human traffic from the side, only front to back.

This variance will ~~enhance~~ enhance the characteristics of the neighborhood. There are no other potential land areas for development around my home.

will require the relocation of the existing door to the front of the house.

Reason for Appeal



MAR 27 2025  
 G.S.

PREPARED BY: GILBERTO GUTIERREZ, OWNER

1952 S. 33<sup>rd</sup> St. McAllen TX 78503





1952

**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2025-0009**



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



## Memo

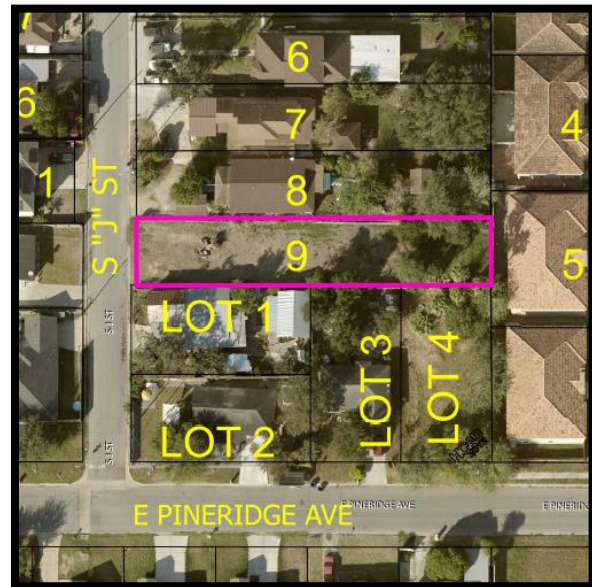
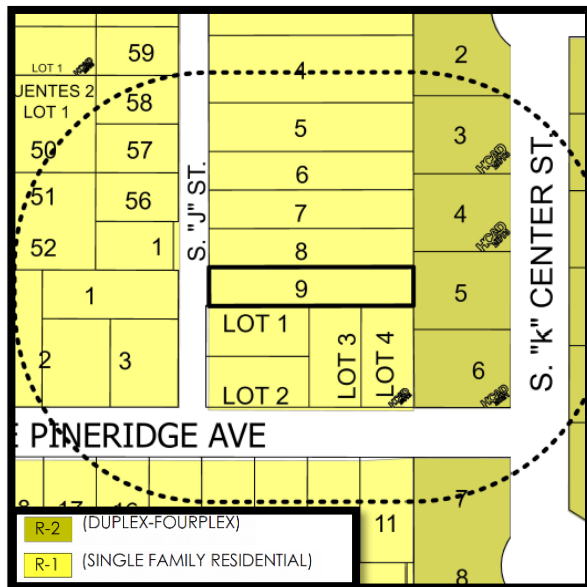
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** April 30, 2025

**SUBJECT:** REQUEST OF TOMAS RIOS JR. FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW A LOT FRONTAGE WIDTH OF 39.67 FEET INSTEAD OF THE 50 FOOT MINIMUM REQUIREMENT ALONG THE WEST FRONT PROPERTY LINE FOR A PROPOSED SINGLE FAMILY DWELLING AT A 0.19 ACRE TRACT OF LAND, MORE OR LESS, OUT OF LOT 6, BLOCK 16, STEELE AND PERSHING SUBDIVISION (PROPOSED LOT 1, DE RIOS SUBDIVISION), HIDALGO COUNTY, TEXAS; 3021 SOUTH “J” STREET. (ZBA2025-0011)

**REASON FOR APPEAL:** The applicant is requesting to provide a 39.67 feet frontage width instead of the 50 foot required minimum lot width along the front of the property for a proposed family residential dwelling.



**PROPERTY LOCATION AND VICINITY:** The subject property is located north of East Pineridge Avenue and east of South “J” Street. The subject property is currently Zoned R-1 (single family residential-OC) District and is vacant. The property is currently vacant.

**BACKGROUND AND HISTORY:** An application for a Variance request was submitted on April 3, 2025. Steele and Pershing Subdivision was the initial subdivision for the subject property, however, there was an application for a Subdivision Plat Review (De Rios Subdivision) submitted on March 28, 2025 and was approved with conditions, one being a lot frontage variance, by the Planning and



Zoning Commission on the meeting of April 22, 2025.

**ANALYSIS:** The applicant is requesting to provide a 39.67 feet frontage width instead of the 50 foot required minimum lot width along the front of the property for a proposed family residential dwelling.

According to the current McAllen Zoning Ordinance Section 138-179 (c) states "Any use of property that does not meet the required minimum lot size; front, side and rear yard dimensions; and/or lot width; or exceeds the maximum height, building coverage or density per gross acre as required in section 138-356" which states in the Table of Height and Yard Requirements for a "Minimum Lot Width Along Front located in an R-1 Single Family Residential District is 50 feet.

In the past there have been residential building permits issued along South "J" Street, some lots in which contained the same hardship of not meeting the 50 foot minimum lot width along the front of a property. One recorded plat north of the subject property, "El Rancho Santa Cruz Subdivision Phase I", Lot 6, shows that it was platted containing a lot frontage of 39.67 feet which is similar in size to this current request and was permitted a single family dwelling onto that property.

Should the Zoning Board of Adjustment & Appeals grant approval of the request, the applicant would be subject to comply with any further Building and Developmental Code Regulations to proceed with the single family dwelling construction.

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

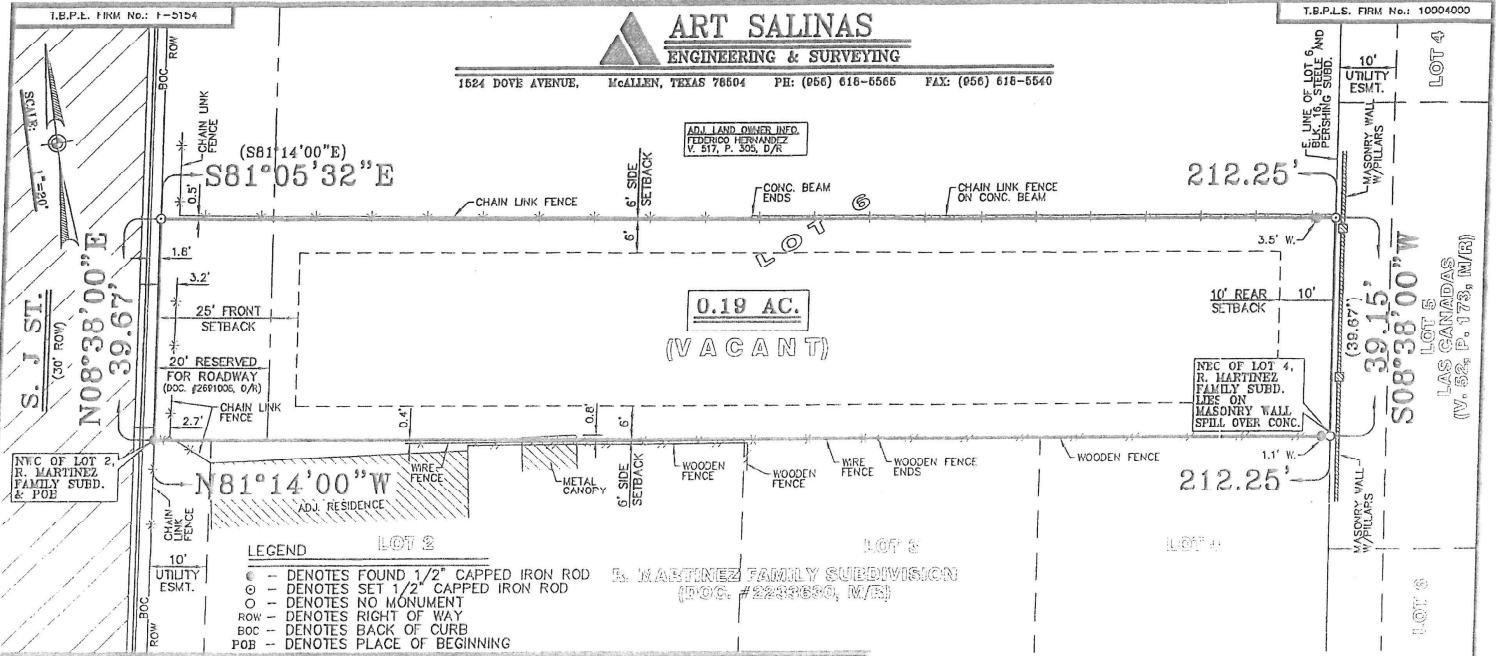
**RECOMMENDATION:** Staff recommends disapproval of the Variance request since it does not meet the minimum lot width along the front of the property according to the Zoning Ordinance requirement.

T.B.P.E. FIRM No.: 1-5154

T.B.P.L.S. FIRM No.: 10004000

# ART SALINAS ENGINEERING & SURVEYING

1524 DOYE AVENUE, McALLEN, TEXAS 76804 PH: (956) 618-6565 FAX: (956) 618-6540



THIS IS TO CERTIFY THAT I HAVE, THIS DATE, PREPARED A SURVEY ON THE GROUND WHICH IS LOCATED AT 3021 S. J ST., in McALLEN, TEXAS, DESCRIBED AS FOLLOWS:  
 BEING 0.19 ACRE TRACT OF LAND OUT OF LOT 6, BLOCK 16, STEELE AND PERSHING SUBDIVISION, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 8, PAGE 115, DEED RECORDS, HIDALGO COUNTY, TEXAS. (SEE METES AND BOUNDS DESCRIPTION)

24-67892 Job No. 08-29-24 Date  
 ©COPYRIGHT 2024 ART SALINAS ENGINEERING INC. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS SOLELY FOR THE USE OF THE BORROWER NAMED HEREON. NO LICENSE HAS BEEN CREATED, EXPRESSED OR IMPLIED TO COPY THIS SURVEY.



- FLOOD ZONE DESIGNATION:** The property shown hereon lies in Zone "B". Zone "B" areas lie between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood as per T.E.W.A. Flood Insurance Rate Map Panel No. 46063-2016-C dated 02-22-24.
- PLAT NOTES:**
- There are no discrepancies, conflicts, shortages in area or boundary lines encroachments overlapping of improvements or visible apparent easements, except as shown on this plat.
  - This survey was prepared without the benefit of a Title Report or Commitment. Easement research is not within the scope of this survey.
  - This survey must comply with an embossed seal and an original signature to be valid as per Section 661.4E and Section E63.15 of the Professional Land Surveying Practices Act.
  - This is a standard survey and does not include the location or subsurface installation of underground utility, irrigation, sewer, gas lines, easements, rights, rules and regulations in favor of Hidalgo County Irrigation District No. 2 (Blissket).
  - Building setback lines as per City zoning ordinances.
  - This property has not been formally subdivided and may be subject to City subdivision rules and regulations. The owner is advised to consult with the City regarding this matter.
  - Subject to any oil, gas and mineral lease of record.
  - Beaving Back: "W" line of a 6" x 6" post referenced in document #2261336, C/W.
  - Client: Tomas Rios, Jr.

**RECEIVED**  
 APR 03 2025  
 By: [Signature]

Registered Professional Land Surveyor No. 4802

**VARIANCE TO LOT FRONTAGE**  
**PROPOSED "DE RIOS" SUBDIVISION**  
**METES AND BOUNDS DESCRIPTION**

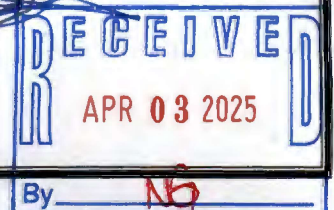
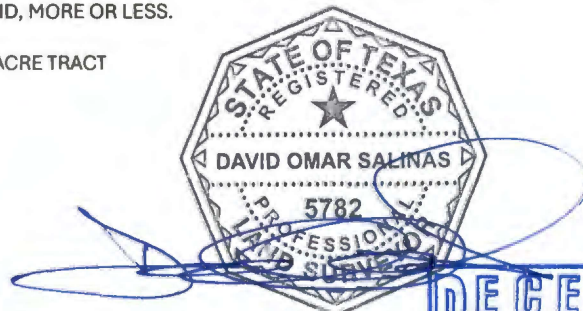
BEING A 0.19 ACRE TRACT OF LAND, MORE OR LESS, OUT OF LOT 6, BLOCK 16, STEELE AND PERSHING SUBDIVISION, HIDALGO COUNTY, TEXAS, AS PER THE MAP OR PLAT THEREOF RECORDED IN VOLUME 08, PAGE 115, DEED RECORDS OF HIDALGO COUNTY, TEXAS, LOCATED NORTH OF AND CONGRUENT WITH THE NORTH LINE OF R. MARTINEZ FAMILY SUBDIVISION, MCALLEN, HIDALGO COUNTY, TEXAS, AS PER INSTRUMENT NO. 2233630, MAP RECORDS OF HIDALGO COUNTY, TEXAS; SAID 0.19 ACRE TRACT OF LAND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 2 OF SAID R. MARTINEZ FAMILY SUBDIVISION FOR THE SOUTHWEST CORNER AND **POINT OF BEGINNING** OF THIS HEREIN DESCRIBED TRACT;

- (1) THENCE, NORTH 08 DEGREES 38 MINUTES EAST, A DISTANCE OF 39.67 FEET TO A ½ INCH DIAMETER IRON ROD FOUND FOR THE NORTHWEST CORNER OF THIS HEREIN DESCRIBED TRACT;
- (2) THENCE, SOUTH 81 DEGREES 05 MINUTES 32 SECONDS EAST, A DISTANCE OF 212.25 FEET TO A ½ INCH DIAMETER IRON ROD FOUND FOR THE NORTHEAST CORNER OF THIS HEREIN DESCRIBED TRACT;
- (3) THENCE, SOUTH 08 DEGREES 38 MINUTES WEST, A DISTANCE OF 39.15 FEET TO A POINT ON THE NORTHEAST CORNER OF LOT 4 OF SAID R. MARTINEZ FAMILY SUBDIVISION FOR THE SOUTHEAST CORNER OF THIS HEREIN DESCRIBED TRACT; SAID POINT IS MONUMENTED BY A ½ INCH DIAMETER IRON ROD FOUND NORTH 81 DEGREES 14 MINUTES WEST, A DISTANCE OF 1.10 FEET FROM SAID POINT;
- (4) THENCE, NORTH 81 DEGREES 14 MINUTES WEST, COINCIDENT WITH THE NORTH LINE OF SAID R. MARTINEZ FAMILY SUBDIVISION, A DISTANCE OF 212.25 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.19 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARING: SURVEY BY ART SALINAS, RPLS, ON SAID 0.19 ACRE TRACT  
N:\SUBDIVISIONPLATS\DE RIOS SUBD\0.19.032725

**SALINAS ENGINEERING & ASSOCIATES**  
2221 DAFFODIL AVE., MCALLEN, TEXAS, 78501  
(956) 682-9081  
dsalinas@salinasengineering.com





**NO  
DUMPING**  
PRIVATE PROPERTY

**NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2025-0011**

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