

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, NOVEMBER 6, 2024 - 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 – Jose Gutierrez, Chairperson

#### 1. MINUTES:

- a) Minutes for the meeting held on October 23, 2024

#### 2. PUBLIC HEARINGS:

- a) Request of Guadalupe Hernandez and Raquel Hinojosa for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 8 feet into the 10-foot rear yard setback for an existing metal carport at Lot 6, Block 4, Highland Park Subdivision, Hidalgo County, Texas; 901 Sycamore Avenue. **(ZBA2024-0043)**
- b) Request of Martin Villanueva for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 feet into the 25-foot front yard setback for a proposed single family residence at Lot 62, Villanueva Estates at Trinity Oaks Subdivision, Hidalgo County, Texas; 10321 North 31st Street. **(ZBA2024-0042)**
- c) Request of Anita Moon on behalf of Greater McAllen Association of Realtors for the following variance to the City of McAllen Zoning Ordinance to allow an accessory building with a one-foot separation to the main building instead of the required five feet for rear yard structures at Lot B1, Aim Media Subdivision, Hidalgo County, Texas; 1324 East Nolana Avenue. **(ZBA2024-0036) (TABLED: 10/09/2024) (REMAIN TABLED: 10/23/2024)**

#### 3. FUTURE AGENDA ITEMS

- a) 4520 West Maple Avenue
- b) 4709 Sweetwater Avenue
- c) 709 North 16<sup>th</sup> 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, October 23, 2024 at 4:32 p.m. in the McAllen Development Center, 311 North 15<sup>th</sup> Street with the following present:**

<b>Present:</b>	<b>Jose Gutierrez</b>	<b>Chairperson</b>
	<b>Hugo Avila</b>	<b>Member</b>
	<b>Hiram A. Gutierrez</b>	<b>Member</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
	<b>Alex Lamela</b>	<b>Alternate</b>
	<b>Daniel Santos</b>	<b>Alternate</b>
<b>Absent:</b>	<b>Pablo Garcia</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Austin Stevenson</b>	<b>Interim Deputy City Attorney</b>
	<b>Luis Mora</b>	<b>Deputy Planning Director</b>
	<b>Rodrigo Sanchez</b>	<b>Senior Planner</b>
	<b>Samuel Nunez</b>	<b>Senior Planner</b>
	<b>Samantha Trevino</b>	<b>Planner I</b>
	<b>Porfirio Hernandez</b>	<b>Planner 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 October 9, 2024

The minutes for the meeting held on October 9, 2024. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Hugo Avila seconded the motion, which carried unanimously with four members present and voting.

At this time, Board member Hiram Gutierrez arrived at 4:36 p.m.

**2. PUBLIC HEARINGS:**

- a) Request of Julio Mercado 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 metal carport measuring 20 feet by 20 feet at Lot 80, Idela Park Unit No. 1 Subdivision, Hidalgo County, Texas; 2712 Judith Avenue. **(ZBA2024-0041)**

Ms. Trevino stated the applicant was requesting to encroach 20 feet into the 25-foot front yard setback for a proposed carport that will be used to protect his vehicles from inclement weather and will provide the same protection to the applicant while getting in and out of his car.

The subject property was located along the north side of Judith Avenue between Idela Avenue and Judith Avenue. The subject property was zoned R-1 (single family

residential) District.

Idela Park Unit No. 1 Subdivision was recorded on February 13, 1978. The plat states a 25-foot front yard setback. An application for a building permit and a special exception request were submitted on September 24, 2024.

The applicant is requesting to encroach 20 feet into the 25-foot front yard setback for a proposed carport that will be used to protect his vehicles from inclement weather conditions. The home was constructed without a garage in 2018 since one parking space beyond the front yard setback was not required at the time of subdivision recordation.

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

Measurements are provided without the benefit of a survey.

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

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

Staff recommended approval of the special exception request since the approval was granted solely to the present owner and will not alter the essential character of Idela Park No. 1 Subdivision.

Ms. Trevino stated the applicant was present.

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.

Being no discussion, Mr. Hugo Avila **moved** to approve the Special Exception as recommended by staff. Mr. Alex Lamela seconded the motion. The Board voted to approve the Special Exception with five members present and voting.

- b) Request of Eugenio Garcia to allow a Variance to the City of McAllen Zoning Ordinance: Accessory use(s) without a primary use for a proposed covered terrace, swimming pool with jacuzzi and a guesthouse at Lot 48, The Embers Subdivision, Hidalgo County, Texas; 304 Cornell Avenue. (ZBA2024-0038) (TABLED: 10/09/2024)**

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

Mr. Hernandez stated the applicant was requesting a variance to build a covered terrace, a swimming pool with jacuzzi and a guest house as accessory uses but without a primary residence on Lot 48. The main use, a single-family residence is located on the adjacent

Lot 49. Both lots are owned by the same property owner.

The subject property is vacant and located along the north side of Cornell Avenue, 102 feet west of North 3<sup>rd</sup> Street. The Lot has 98 feet of frontage along Cornell Avenue and 112.5 feet of depth for a total Lot size of 11,025 square feet. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions.

The Embers Subdivision was recorded in June 2016. An application for a variance request was submitted on September 9, 2024.

The applicant is requesting a variance to build a covered terrace, a swimming pool with jacuzzi and a guest house as accessory uses but without a primary residence on Lot 48. The main use, a single-family residence is located on the adjacent Lot 49. Both lots are owned by the same property owner. A 12-foot drain easement runs concurrently with the six-foot setback adjacent to the east and west property line of Lot 49 and 48, respectively. This drain easement prevents continuous building of the Lot with the main use to Lot 48. The applicant states due to an easement, the main house could not span both lots, leaving one lot vacant for this purpose.

An accessory building means a subordinate building, located on the same lot as the main building, the use of which is clearly incidental to and customarily found in connection with the main building or principle use of the property. Accessory uses of buildings are located on a lot occupied by the main use conforming to setback and other regulations concerning location.

The submitted site plan illustrates that the proposed structures will not impact the utility easement and will comply with the required setbacks.

A block wall surrounds both lots and makes for one buildable area.

City Engineering department staff had stated that approval for abandoning the drainage easement is unlikely, as it contains an active drain line.

Measurements provided are without benefit of a survey.

Staff recommended approval of the variance request since the drainage easement prevents the property owner from building across the Lot lines.

Mr. Hernandez stated Gustavo Acediz was present on behalf of Eugenio Garcia.

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

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

Being no discussion, Mr. Hiram Gutierrez **moved** to approve the Variance request as recommended by staff. Mr. Alex Lamela seconded the motion. The Board voted to approve the Variance request with five members present and voting.

c) Request of Anita Moon on behalf of Greater McAllen Association of Realtors for the

following variance to the City of McAllen Zoning Ordinance to allow an accessory building with a one-foot separation to the main building instead of the required five feet for rear yard structures at Lot B1, Aim Media Subdivision, Hidalgo County, Texas; 1324 East Nolana Avenue. **(ZBA2024-0036) (TABLED: 10/09/2024)**

This item will remain tabled per the applicant.

**ADJOURNMENT**

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

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Chairperson Jose Gutierrez

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Carmen White, Administrative Assistant

## Memo

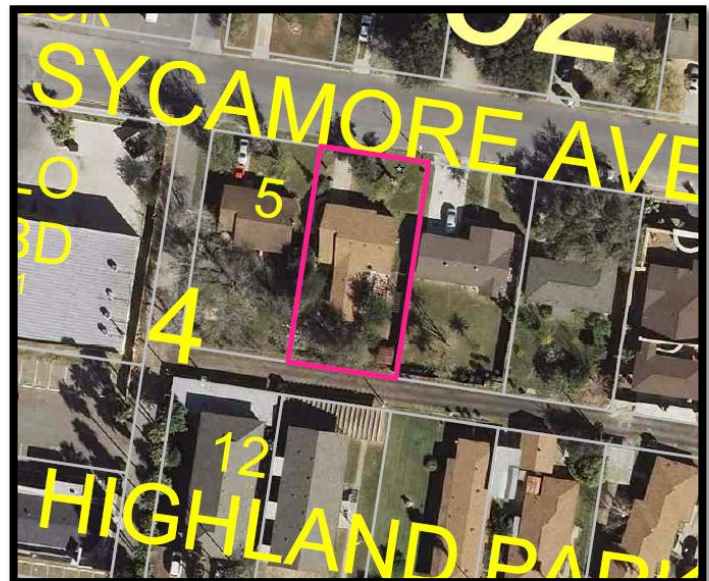
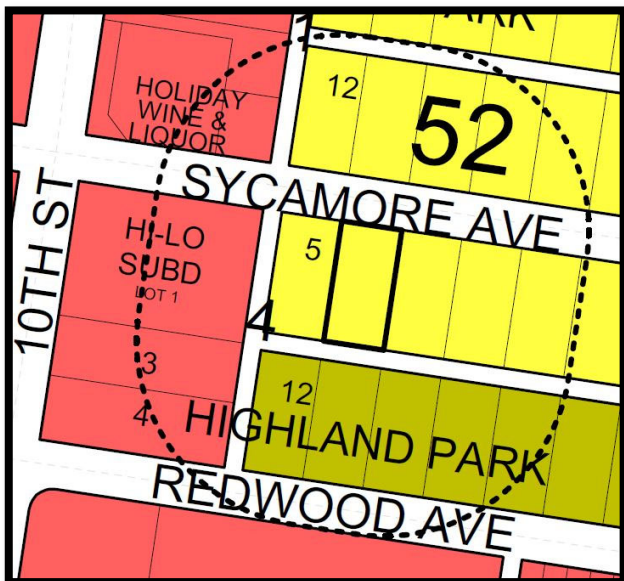
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** October 28, 2024

**SUBJECT: REQUEST OF GUADALUPE HERNANDEZ AND RAQUEL HINOJOSA FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF EIGHT FEET INTO THE TEN FOOT REAR YARD SETBACK FOR AN EXISTING METAL CARPORT AT LOT 6, BLOCK 4, HIGHLAND PARK SUBDIVISION, HIDALGO COUNTY, TEXAS; 901 SYCAMORE AVENUE. (ZBA2024-0043)**

**REASON FOR APPEAL:** The applicant is requesting a special exception to allow an encroachment of eight feet into the ten foot rear yard setback for an existing metal carport being used for protection of their cars from adverse weather elements and to provide shade for the family.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the south side of Sycamore Avenue approximately 285 feet east of North 10<sup>th</sup> Street. The subject property has an area of 8,450 square feet. The property is zoned R-1 (Single Family Residential) District. The adjacent zoning is R-1 District to the North, East and West and R-2 (Duplex-Fourplex Residential) District to the South.

**BACKGROUND AND HISTORY:** Highland Park Subdivision was recorded on March 10, 1950. A stop work order was issued for no building permit on September 10, 2024. An application for a building permit was submitted on September 13, 2024. An application for the variance request was submitted on October 7, 2024.

**ANALYSIS:** The applicant is requesting the encroachment into the rear yard setback for an existing metal carport for protection of their vehicles, provide shade for family gatherings and ongoing home and art projects from inclement weather. The carport currently measures 26 ft. x 18 ft. and exceeds the 400 sq. ft. size not allowed by ordinance. The applicant is proposing to reduce the carport size to 22 ft. x 18 ft. which brings the carport into compliance with the required five foot sideyard setback and concurrently reducing the total square footage to 396 sq. ft.

No utility easements will be impacted by the encroachment.

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

**RECOMMENDATION:** Staff recommends approval of the special exception request as its location in the rear of the property will help to maintain the neighborhood's front yard aesthetic character.

ZBA 2024-0043

ZBA: 11/6/24



# City of McAllen

## Planning Department

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

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

<b>Project</b>	Legal Description	<u>Highland Park Lot 6, Block 4</u>
	Subdivision Name	<u>Highland Park</u>
	Street Address	<u>901 Sycamore Ave</u>
	Number of lots	<u>1</u> Gross acres _____
	Existing Zoning	<u>R-1</u> Existing Land Use <u>Home</u>
	Reason for Appeal (please use other side if necessary)	<u>We appeal for approval due to our investment in creating a private and secure space for our belongings. This well-constructed carport enhances the functionality of our backyard while protecting from the elements. Encroaching 8 feet into 10 feet rear yard.</u>

\$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

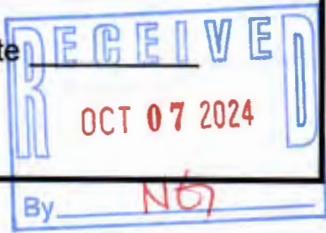
<b>Applicant</b>	Name	<u>Guadalupe Hernandez</u>	Phone	<u>956 250 5973</u>
	Address	<u>901 Sycamore Ave</u>	E-mail	<u>hinnovationsart@gmail.com</u>
	City	<u>McAllen</u>	State	<u>TX</u> Zip <u>78501</u>

<b>Owner</b>	Name	<u>Raquel Hinojosa</u>	Phone	<u>956 309 8352</u>
	Address	<u>901 Sycamore Ave</u>	E-mail	<u>hinnovationsart@gmail.com</u>
	City	<u>McAllen</u>	State	<u>TX</u> Zip <u>78501</u>

<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?	
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.	
	Signature	<u>[Signature]</u> Date <u>October 7, 2024</u>

Print Name Raquel Hinojosa  Owner  Authorized Agent

<b>Office</b>	Accepted by	<u>AS</u>	Payment received by	_____	Date	_____
	Rev 09/20	<u>SEN</u>				








# 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 <b>any combination</b> 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>
	<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 special circumstances affecting our property include the need to protect our valuable and ongoing home and art projects from harsh weather conditions. Strict adherence to the regulation would limit our ability to utilize the land effectively, depriving us of reasonable use and protection for our investments.</p>
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: The variance is essential for the preservation and enjoyment of our property rights as it provides crucial protection of our belongings from harsh and extreme weather, as well as debris. Additionally, the carport serves as a family gathering space for celebrations, fostering privacy and reducing noise, which respects the comfort of our neighbors.</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: The carport features robust 4x4" metal mounting posts securely anchored and covered with cement. It is topped with galvanized steel roof panels, expertly fastened for stability. The entire structure is finished black Rust-Oleum, professional paint, ensuring long lasting protection against corrosion.</p>
	<p>4. Describe special conditions that are unique to this applicant or property: The special conditions unique to our property the elegant design and high quality materials of the carport, which enhance its value. While we do not contribute to noise pollution, the carport serves as a buffer for our neighbors. Most importantly, it protects our valuables, reducing costs and creating savings for property upkeep and improvements. We respectfully request approval for our carport, as it has proven to be an extremely useful asset for our property.</p>
Board Action	<p>Chairman, Board of Adjustment Signature</p> <p>_____</p>
	<p>Date</p> <p>_____</p>

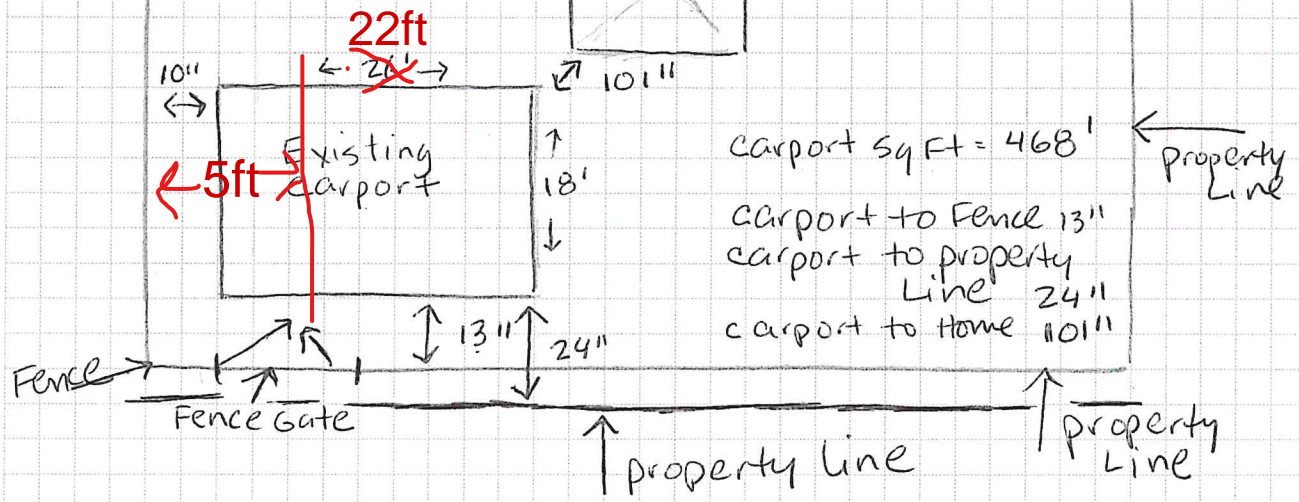
Sycamore Ave 

House Front

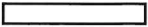


**New Proposed Carport Changes**  
to accommodate 5ft Setback from  
West Side Property  
Lupe Hernandez

Property Line 

Property Line 



**Wall Legend:**

- Existing 
- Proposed 
- Demolition 

**Symbol Legend:**

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

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

RECEIVED  
OCT 07 2024  
By   NB



CITY OF MCALLEN  
Planning Department

# Permit request

LEGAL DESCRIPTION: Highland Park Lot 6, Block 4

PROPERTY ADDRESS: 901 Sycamore Ave, McAllen 78501

BUILDING PERMIT NO.: \_\_\_\_\_

### HOLD HARMLESS AGREEMENT

#### **MUST BE SIGNED BY THE PROPERTY OWNER**

TO THE FULLEST EXTENT PERMITTED BY LAW, THE UNDERSIGNED APPLICANT AGREES TO INDEMNIFY, DEFEND AND SAVE HARMLESS THE CITY OF MCALLEN AND ITS COMMISSIONERS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, EXPENSES, COSTS, INJURIES AND LIABILITIES OF ANY NATURE (INCLUDING BUT NOT LIMITED TO CLAIMS FOR BODILY INJURY, DEATH, BUSINESS INTERRUPTION AND/OR PROPERTY DAMAGE) RELATING TO, ARISING OUT OF OR RESULTING FROM THE GRANTING AND/OR IMPLEMENTATION OF THE PERMIT REQUESTED HEREIN TO RECEIVE A BUILDING PERMIT BEFORE PLAT RECORDING.

Applicant's Signature [Signature]

Print Name Raquel Hinojosa

Address 901 Sycamore Ave

McAllen 78501

Phone 9563098352 e-mail hinnovationsart@gmail.com









**Memo**

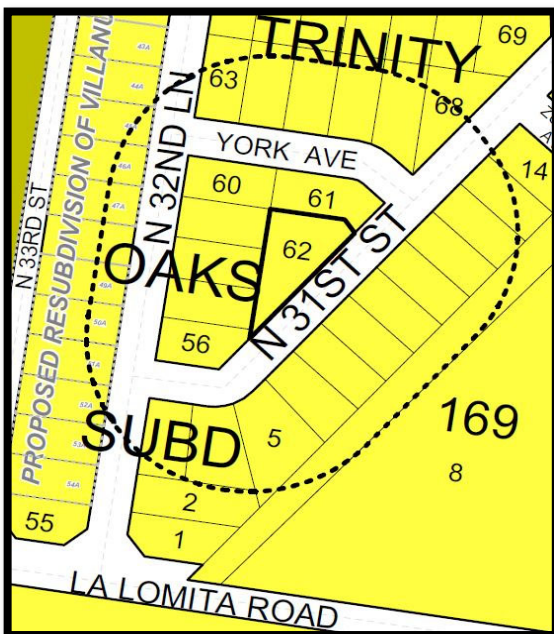
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** October 28, 2024

**SUBJECT: REQUEST OF MARTIN VILLANUEVA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF FIVE FEET INTO THE 25 FOOT FRONT YARD SETBACK FOR A PROPOSED SINGLE FAMILY RESIDENCE AT LOT 62, VILLANUEVA ESTATES AT TRINITY OAKS SUBDIVISION, HIDALGO COUNTY, TEXAS; 10321 NORTH 31<sup>ST</sup> STREET. (ZBA2024-0042)**

**REASON FOR APPEAL:** The applicant is requesting a variance to encroach five feet into the 25 foot front yard setback for the proposed construction of a single family residence.



**PROPERTY LOCATION AND VICINITY:** The subject property is vacant and is located along the west side of North 31<sup>st</sup> Street approximately 54 feet south of York Avenue. The irregular shaped lot has 188.81 feet of frontage along North 31<sup>st</sup> Street and a depth of 114.19 feet at its deepest point for a total lot size of 9,898 square feet. The property is zoned R-1 (Single Family Residential) District. The adjacent zoning is R-1 District in all directions.

**BACKGROUND AND HISTORY:** Villanueva Estates at Trinity Oaks was recorded on August 6, 2018. An application for the variance request was submitted on October 3, 2024.

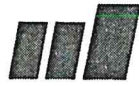
**ANALYSIS:** The applicant is proposing to construct a single family home on the property. However, due to the irregular shape of the lot and the required minimum building setbacks of the property, the

house cannot be constructed in a manner that allows for construction of the home with a front porch and enhanced space for the backyard. Approval of a five foot encroachment will accommodate the property owner's proposed concept for construction. The owner's situation is unique and not commonly experienced by others in the neighborhood. Additionally, the proposed use to be authorized by the variance will not change the fundamental character of the area.

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

**RECOMMENDATION:** Staff recommends approval of the variance request since the irregular shape of the Lot in essence may represent a unique plight of the owner.





# 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: ZBA2024-0042 ZBOA Meeting: 11/6/24  Routed  
Receipt No: 399212  Scanned  
Accepted by: P: P.H. S: CV Customer Acknowledgment (Int.): E.G.

#### PROJECT

Legal Description \_\_\_\_\_  
Subdivision Name VILLANUEVA ESTATES AT TRINITY OAKS LOT 62  
Street Address 10321 N 31st St. McAllen, TX 78504  
Number of lots 1 Gross acres \_\_\_\_\_  
Existing Zoning R-1 Existing Land Use Vacant  
Reason for Appeal (please use other side if necessary) 5 Ft. Front Variance to be able to fully utilize lot.  
Requesting a 20ft. Front yard setback instead of the 25ft. 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 Martin Villanueva Phone 956-686-7636  
Address 3528 Buddy Owens Ave. E-mail drafter@villanuevahomes.com  
City McAllen State TX Zip 78504

#### OWNER

Name Villanueva Properties & Investments, LLC Phone 956-686-7636  
Address 3528 Buddy Owens Ave. E-mail drafter@villanuevahomes.com  
City McAllen State TX Zip 78504

#### 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 10-2-24  
Print Name Martin Villanueva  Owner  Authorized Agent

OCT 03 2024  
CV

RY.



# 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:

The lot in question is an irregular triangular shape, the setbacks significantly

impacts the available area that I am allowed to build on.

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

Granting a 5ft front variance would allow the ability for a front porch and gain space in the backyard.

It would enable the use of the property to enhance the livability and enjoyment of the home.

This would align with the neighborhood aesthetics and characteristics.

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:

I assure that safety is in mind an my request will not interfere with any infrastructure and will adhere

to the propert building codes. To prevent any issues with parking, I am committed to widening

the driveway to provide ample parking. This request does not affect neighbors in any way.

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

The lot is uniquely configured minimizing the allowable building space.

With a 5ft front variance, it would allow the space to be used efficiently and harmoniously

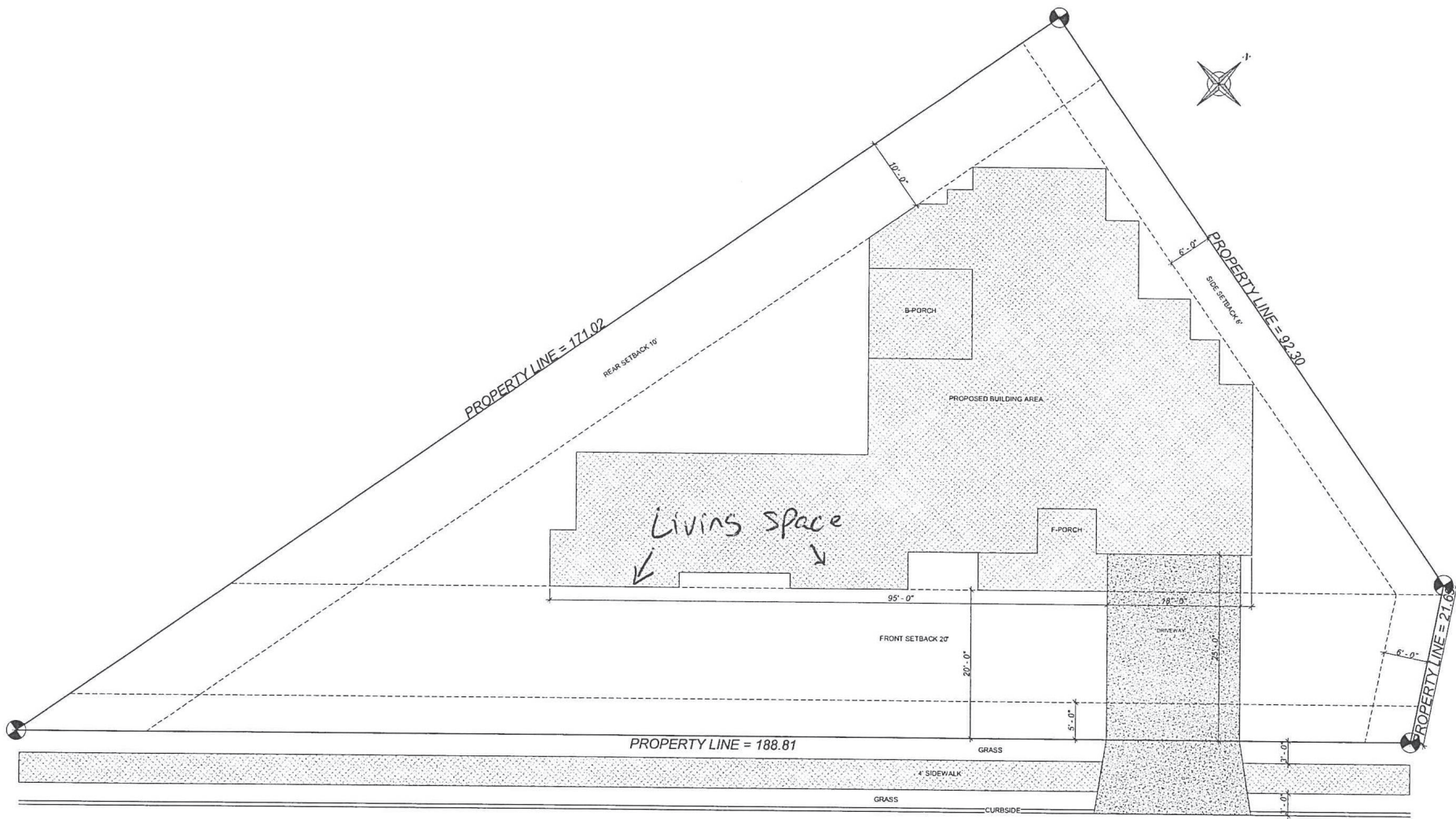
within the community.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date





## Martin Villanueva Construction, LLC.

❖ 3528 Buddy Owens Ave ❖ McAllen, TX 78504 ❖ Tel. (956) 686-7636 ❖ Fax (956) 686-7264

October 1st, 2024

Martin Villanueva Construction  
3528 Buddy Owens  
McAllen, Tx 78504

To whom it may concern:

I, Martin Villanueva, hereby authorize Edurado Garza from Villanueva Construction to act on my behalf in creating new accounts and or applying for anything needed with the City of McAllen planning department.

Please feel free to contact me at the provided contact information should you require any further information or have any concerns regarding this authorization. (956)686-7636

Martin Villanueva







**Memo**

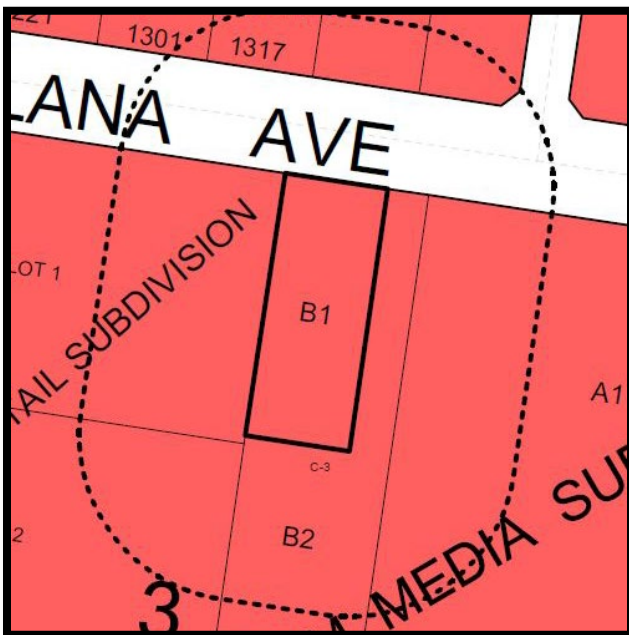
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** November 1, 2024

**SUBJECT: REQUEST OF ANITA MOON ON BEHALF OF GREATER MCALLEN ASSOCIATION OF REALTORS FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ACCESSORY BUILDING WITH A ONE FOOT SEPARATION TO THE MAIN BUILDING INSTEAD OF THE REQUIRED FIVE FEET FOR REAR YARD STRUCTURES AT LOT B1, AIM MEDIA SUBDIVISION, HIDALGO COUNTY, TEXAS; 1324 EAST NOLANA AVENUE. (ZBA2024-0036)**

**REASON FOR APPEAL:** The applicant is requesting to allow an accessory building with a one foot separation to the main building instead of the required five feet. The portable building (shed) measures 8 feet long and 16 feet wide for a total of 128 square feet in total.



**PROPERTY LOCATION AND VICINITY:** The subject property is located on the south side of Nolana Avenue between North K Center street and North Jackson Road. The property is zoned C-3 (general business) District. The surrounding land use include Oriely's Auto Parts, KRGV Channel 5 News, retails stores and The Monitor.

**BACKGROUND AND HISTORY:** Aim Media Subdivision was recorded on August 9, 2013. A variance application was submitted on September 05, 2024.



**ANALYSIS:** The applicant is requesting to allow an accessory building with a one foot separation instead of the required 5 foot separation to the main building. The accessory building is used for storage of outdoor equipment, picnic tables, chairs, event signs and sign holders.

The Planning Department will require a Conditional Use Permit for portable buildings greater than a 10 x 12 for commercial properties. This application will be heard by the Planning and Zoning Commission Board.

On July of 2021, the previous applicant submitted an application for one portable building greater than a 10 x 12 that measures 160 sqft total, which was approved by the Planning and Zoning Commission board following the requirements. The CUP (conditional use permit) has been renewed yearly since. On August 20, 2024 the application was submitted for life of the use for two portable buildings greater than 10 x 12. However, when staff conducted a site visit, the second portable building was found to be one foot separated to the main structure instead of the required 5 feet for rear yard structures. Moreover, staff was not able to find a building permit on file for the installation of the second portable building. As per Google Earth Imagining, the structure has been in place since 2019. When asked about the second structure, the applicant stated that they were not aware that a permit was required for the installation.

As per section 138-369, "...An accessory building shall be no closer than five feet to the main building except where a firewall is provided".

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

Staff has not received any calls in opposition to the variance request.

**RECOMMENDATION:** Staff recommends disapproval of the variance request since the accessory building does not comply with the city ordinance.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF OCTOBER 9, 2024:**

At the Zoning Board of Adjustment and Appeals meeting of October 9, 2024, no one appeared in opposition to the variance request. Following discussion, the Board voted to table the variance request in order to allow time for the applicant to consider other alternatives. There were five Board Members present and voting.



**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: ZBA2024-0036 ZBOA Meeting: 10/9/24  Routed  
 Receipt No: 1056952  Scanned  
 Accepted by: P: NM S: SN Customer Acknowledgment (Int.): ✓

**PROJECT**

Legal Description Lot B1  
 Subdivision Name ATM Media  
 Street Address 1324 E Nolana Ave  
 Number of lots 1 Gross acres \_\_\_\_\_  
 Existing Zoning C3 Existing Land Use General Business  
 Reason for Appeal (please use other side if necessary) For a storage building not being 5 feet away from main building.  
 \$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 Greater McAllen Association <sup>of Realtors</sup> Phone 956-682-4119  
 Address 1324 E Nolana Ave E-mail Billings@gmar.org  
 City McAllen State TX Zip 78504

**OWNER**

Name Greater McAllen Assoc of Realtors Phone 956-682-4119  
 Address 1324 E Nolana Ave E-mail Billings@gmar.org  
 City McAllen State TX Zip 78504

**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 9-4-24

Print Name Anita Moon  Owner  Authorized Agent

SEP 05 2024

RV.

CW



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

\*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:

Storage space

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 will not affect anyone. The shed is used for storing tables, chairs, event signs and sign holders

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

This shed has been in place for years and no one mentioned that we need a permit for this shed at any point when we were obtaining permit for 2nd shed purchased in 2021.

Board Action

Chairman, Board of Adjustment  
Signature

Date

N

Map pulled from Hidalgo County Appraisal District



896141

8 feet from building

16 feet wide

8 feet deep

12 feet from property line

34 feet from building

12 feet from property line

20 feet wide

8 feet deep







NOTICE  
OF VARIANCE  
FOR  
THIS PROPERTY  
ZBA2024-0036

GREATER McALLEN  
ASSOCIATION OF REALTORS