

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, OCTOBER 9, 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 – Chairperson Jose Gutierrez

#### 1. MINUTES:

- a) Minutes for the meeting held on September 26, 2024

#### 2. PUBLIC HEARINGS:

- a) Request of Blanca Benavides for a Variance to the City Of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 25-foot rear yard setback for a proposed swimming pool at Lot 93, Falcon’s Crossing Subdivision Phase II, Hidalgo County, Texas; 2500 Denton Creek Avenue. **(ZBA2024-0040)**
- b) Request of Jorge Ancer for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of up to 5 feet into the 20-foot rear yard setback for a proposed spa at Lot 20, Lago Vista Subdivision, Hidalgo County, Texas; 4401 South “M” Street. **(ZBA2024-0034) (TABLED: 09/26/2024)**
- c) 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 guest house at Lot 48, The Embers Subdivision, Hidalgo County, Texas; 304 Cornell Avenue. **(ZBA2024-0038)**
- d) Request of Maria C. Cruz on behalf of Yolanda Cruz Rios, for a Special Exception to the City Of McAllen Zoning Ordinance to allow an encroachment of 14 feet into the 30-foot front yard setback for a proposed carport at E42' Lot 3 & W28' Lot 4 Blk 1, West Harvey Addition Unit No. 1 & Unit No. 2, Hidalgo County, Texas; 2017 Daffodil Avenue. **(ZBA2024-0035)**
- e) Request of Jose H. Moreno on behalf of Leonardo Marquez Ponce, for a Special Exception to the City Of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 20-foot front yard setback for two proposed carport structures with encroachment areas measuring six feet by eighteen feet each at, Lot 5, Block 2, Las Cañadas Subdivision, Hidalgo County, Texas; 3016 South K Center Street. **(ZBA2024-0039)**
- f) Request of Michael Garcia for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport measuring 20 feet by 20 feet at Lot 136, Plantation Gap Phase I Subdivision, Hidalgo County, Texas; 4417 Thunderbird Avenue. **(ZBA2024-0037)**
- g) 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)**

#### 3. FUTURE AGENDA ITEMS

- a) 2712 Judith Avenue

#### ADJOURNMENT:

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

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

**The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, September 26, 2024 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:**

|                       |                           |                                 |
|-----------------------|---------------------------|---------------------------------|
| <b>Present:</b>       | <b>Jose Gutierrez</b>     | <b>Chairperson</b>              |
|                       | <b>Ann Tafel</b>          | <b>Vice-Chairperson</b>         |
|                       | <b>Hugo Avila</b>         | <b>Member</b>                   |
|                       | <b>Juan Mujica</b>        | <b>Alternate</b>                |
|                       | <b>Alex Lamela</b>        | <b>Alternate</b>                |
| <b>Absent:</b>        | <b>Rogelio Rodriguez</b>  | <b>Member</b>                   |
|                       | <b>Hiram A. Gutierrez</b> | <b>Member</b>                   |
|                       | <b>Pablo Garcia</b>       | <b>Alternate</b>                |
|                       | <b>Daniel Santos</b>      | <b>Alternate</b>                |
| <b>Staff Present:</b> | <b>Austin Stevenson</b>   | <b>Deputy City Attorney</b>     |
|                       | <b>Edgar Garcia</b>       | <b>Planning Director</b>        |
|                       | <b>Rodrigo Sanchez</b>    | <b>Senior Planner</b>           |
|                       | <b>Samuel Nunez</b>       | <b>Senior Planner</b>           |
|                       | <b>Alexis Martinez</b>    | <b>Planner I</b>                |
|                       | <b>Jessica Puga</b>       | <b>Planning Technician II</b>   |
|                       | <b>Carmen White</b>       | <b>Administrative Assistant</b> |

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

- a) Minutes for the meeting held on September 12, 2024

The minutes for the meeting held on September 12, 2024. The motion to approve the minutes were made by Vice-Chairperson Ann Tafel. Mr. Alex Lamela seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Melinda Garza on behalf of Bilal Nazif/Reem Alanbari, for a Variance to the City Of McAllen Zoning Ordinance to allow and encroachment of 10 feet into the 25-foot rear yard setback for a proposed single family home at Lot 3, The Embers Subdivision (gated community), Hidalgo County, Texas; 409 Cornell Avenue. **(ZBA2024-0032)**

Ms. Trevino stated the applicants were requesting a variance to a double fronting lot for a proposed home. The applicants are requesting the variance in order to create more buildable space for the proposed home.

The subject property was located west of North 4<sup>th</sup> Street, between Cornell Avenue and Wisconsin Road. The subject property has 98.0 feet of frontage along both streets and a depth of 112.5 feet for a lot size of 11,025 SF. The adjacent zoning is R-1 (single family

residential) District in all directions. Surrounding land use include single-family residential houses and vacant land.

The Embers Subdivision was recorded on June 6, 2016. The plat specifies that double fronting lots (Lots 1- 5) have a 25 ft. rear yard setback. An application for a variance request for encroachment for a proposed house was submitted to the Planning Department on August 15, 2024.

The variance request was to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for proposed house. The plat for the subdivision specifies a 25 ft. rear yard setback for double fronting lots. City Ordinance Section 138-267(b) states, "where lots have double frontage... a required front yard shall be provided on one street only." The submitted site plan shows the proposed residence will be in compliance with the 25 feet front yard setback along Cornell Avenue. However, an approved variance is still necessary to resolve the plate note setback requirement of 25 feet for the rear yard. Standard rear yard setback in R-1 Districts is 10 ft. There is a 15 ft. Utility Easement at the rear of the lot that will not be impacted by the proposed encroachment. Furthermore, the plat for this subdivision (note 10) states "no curb cut, access, or Lot frontage permitted along North 2<sup>nd</sup> street and along Wisconsin Road."

There are several other similar variance requests on file that were approved in this subdivision at Lots 2, 5, 23, 24, 25, 27, and Lot 28 between 2019 and 2023 that were also double fronting lots.

Staff had not received any phone calls or concerns in regards to the variance request.

Staff recommended approval of the variance request since the required front yard as proposed at 25 feet along Cornell Avenue (and upon issuance of the building permit) will be in compliance with the City of McAllen Zoning Ordinance requirement for double fronting lots.

Ms. Melinda Garza with Monarch Homes, 3818 W. Freddy Gonzalez, Edinburg. She was present on behalf of the property owner and as the potential builder of the home. She stated the property owner had the 25 feet in the front and was requesting for an additional 10 feet in the rear out of the 25 feet that was stated on the plat. The other homes on the same street have the same measurements.

Board member Mujica asked Ms. Garza if this was the design from her company and were they aware of the setbacks. Ms. Garza stated yes. She stated they did one with the 25-foot setback and one with a 15-foot setback. She informed this to the property owner. Board member Mujica asked should this be denied would there be a plan utilized to offer a 25-foot setback. Ms. Garza stated they would have to design it but it would not be what the owner wanted.

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

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

Following discussion, Vice-Chairperson Ann Tafel **moved** to approve the Variance request per staff's recommendation. Mr. Hiram Gutierrez seconded the motion. The Board voted to table the request with five members present and voting.

- b) Request of Jorge Ancer for a Variance to the City of McAllen Zoning Ordinance to allow an encroachment of up to 5 feet into the 20-foot rear yard setback for a proposed spa at Lot 20, Lago Vista Subdivision, Hidalgo County, Texas; 4401 South "M" Street. (ZBA2024-0034)**

Ms. Martinez stated the applicant was requesting to encroach up to 5 feet into the 20-foot rear yard setback for a proposed spa. The reason for the variance request is for the property owners to have as much space as possible for their backyard area and allow for more distance between the proposed swimming pool and the main house.

The subject property was located along South "M" street and fronts a partial cul-de-sac at the intersection of South "M" Street and Helena Avenue. The subject property is vacant and is zoned R-1 (single family residential) District. There is R-1 District in all directions except for the area to the East across South Jackson Road, which is in the city limits of Pharr.

Lago Vista Subdivision was recorded on October 31, 2006. An application for a variance request was submitted on August 20, 2024.

The variance request is to allow an encroachment of up to 5 feet (for the proposed spa) into the 20-foot rear yard setback and the actual encroachment area was estimated to be approximately 30 square feet. The spa is part of a proposed swimming pool. The purpose of the variance request is to increase the available backyard area as well as allow for more distance between the proposed swimming pool and the main house.

The plat for this subdivision shows a 10-foot utility easement adjacent to the rear property line that runs concurrently with the 20-foot rear yard setback but the utility easement will not be impacted.

To the East of the property there is a R.O.W. easement. As per the Engineering Department, there are no plans for future expansion to Jackson Road at this specific location.

The subject property is a double frontage lot. City ordinance Section 138-367 (b) states, "where lots have double frontage, a required front yard shall be provided on one street only." A submitted site plan shows the proposed residence will be in compliance with the 25 foot front yard setback.

The standard rear yard setback in an R-1 District was 10 feet as per current Code of Ordinance.

A review of Planning Department records revealed no other variance requests granted within the subdivision.

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



Staff recommended approval since the lot is an irregular shaped lot and the angle of the adjacent right of way to the east results in a setback that prevents building construction placement to be unlike construction placement in a standard rectangular lot.

Ms. Dulce Pablos, 4401 South "M" Street, Lago Vista Subdivision. She was the property owner. Chairperson Gutierrez informed the owner of the reason for the requirement of the variance. She spoke in favor of the request.

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

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

Since the subject, property backs up to Jackson Road, a state highway, Board members Ann Tafel and Juan Mujica stated concerns in the event of future road expansion. Board member Daniel Santos stated in the event that might happen, the property owner(s) run that risk. Board member Tafel stated the proposed pool and spa can be re-designed.

Following discussion, Mr. Hiram Gutierrez **moved** to approve the Variance request per staff's recommendation. Mr. Daniel Santos seconded the motion. The Board voted with two members voting ayes and three nays, Mr. Juan Mujica, Vice-Chairperson Ann Tafel and Chairperson Jose Gutierrez. The motion did not pass.

At this time, the applicant, Jorge Ancer arrived the meeting while discussion was in progress. He asked permission to address the Board after the vote took place. Mr. Jorge Ancer, pool designer, 3805 E. St. Francis Avenue, stated he understood the concerns of the Board that if variance was granted, anything could be built in the future. Chairperson Gutierrez clarified to Mr. Ancer regarding the variance goes with the land. He stated the owner may not have plans to build anything else but the next owner has the ability to build anything there. He stated even without modifying the design putting the pool closer to the house would fit. Mr. Ancer stated the owner was trying to avoid putting the pool against the house.

Following further discussion, Ms. Ann Tafel **moved** to disapprove the request. Mr. Alex Lamela seconded the motion. The Board voted with two ayes and three-nays. The motion did not pass.

Following discussion, Vice-Chairperson Ann Tafel **moved** to table the request in order to allow the applicant time for consideration of site plan modification. Mr. Hiram Gutierrez second the motion. The Board voted unanimously to table the request with five members present and voting.

- c) Request of Rafael Ibanez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 21 feet into the 25-foot front yard setback for a proposed carport measuring 20 feet by 20 feet at Lot 68, Saddle Creek Unit 2 Subdivision, Hidalgo County, Texas; 3104 Ozark Avenue. **(ZBA2024-0033)**

Ms. Martinez stated the applicant was requesting a Special Exception to allow an encroachment of 21 feet into the 25-foot front yard setback for a proposed metal carport measuring 20 feet by 20 feet. The carport is proposed to provide adverse weather

protection for the applicant's vehicle and shade for a family member with a medical condition.

The subject property was located along the North side of Ozark Avenue approximately 61 feet west of North 31<sup>st</sup> Street. The lot has 60.10 feet of frontage along Ozark Avenue and 83.25 feet of depth for a total lot size of 5,003 square feet. The subject property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 District in all directions.

Saddle Creek Unit 2 Subdivision was recorded February 10, 2003 and requires a 25-foot front yard setback. According to the Hidalgo County Appraisal District, the house was built with a one-car garage in 2005. On August 15, 2024, the applicant submitted an application for a building permit for the proposed carport; however, the site plan shows the carport with an encroachment into the 25-foot front yard setback. On August 19, 2024, the applicant applied for a Special Exception for an encroachment of 21 feet into the 25-foot front yard setback.

The applicant was requesting a Special Exception to allow an encroachment of 21 feet into the 25-foot front yard setback for a proposed metal carport measuring 20 feet by 20 feet for a total of 400 square feet in size.

The applicant stated that the following are reasons for the request: **1)** the proposed metal carport is to provide vehicle protection from severe weather conditions. **2)** the one-car garage that was built with the house does not provide sufficient space to allow adequate egress/ingress for a family member with medical conditions and **3)** the proposed carport will provide shade for this family member.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view.

The applicant does not have access to an alley to have the proposed carport constructed at the rear of the property.

Special Exceptions are issued to and recorded for the present owner only. New property owners would need to apply for a new Special Exception request.

Staff had not received any phone calls or emails with concerns in regards to the Special Exception request.

Staff recommended disapproval of the request since there are no other carports constructed along this block. Approval of the request may encourage other property owners to build similar structures.

Mr. Rafael Ibanez, the applicant, 3104 Ozark Avenue, stated the purpose for the carport was for his father who suffers from lung disease and required the use of an oxygen tank does not have enough space in the existing garage allow proper access to the car.

Board member Mujica asked the applicant who was going to build the carport. Mr. Ibanez stated he was going to hire a contractor.

Chairperson Jose Gutierrez asked if there was anyone else present to speak in favor of

the Special Exception request. There was no one else to speak in favor of the Special Exception request.

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

Following discussion, Vice-Chairperson Ann Tafel **moved** to approve the Special Exception request. Mr. Hiram Gutierrez seconded the motion. The Board voted to approve the request with five members present and voting.

- d) Request of Michael & Iris Hines for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 11.4 feet into the 20 foot front yard setback for an existing metal carport measuring 24 feet by 19 feet at Lot 23, Arthur Terrace Subdivision, Hidalgo County, Texas; 5916 North 36th Lane. **(ZBA2024-0030)**  
**(TABLED: 09/12/2024)**

Mr. Daniel Santos **moved** to remove the item from the table. Mr. Alex Lamela seconded the motion. The Board voted unanimously with five members present and voting.

Ms. Martinez stated the applicants were requesting a Special Exception to allow an encroachment of 11.4 feet into the 20-foot front yard setback for an existing metal carport measuring 24 feet by 19 feet totaling 456 square feet in size. The reason for the request is for protection of the vehicles from severe weather elements. Vehicle protection is needed because one of the vehicles hauls a travel trailer, which was used to provide sleeping, cooking, bathing and medical safety accommodations for a kidney transplant recipient as they travel frequently to out of town doctor appointments.

The subject property was located along the east side of North 36<sup>th</sup> Lane approximately 76 feet north of Gull Avenue. The Lot had 75 feet of frontage along North 36<sup>th</sup> Lane and a depth of 100 feet for a total Lot size of 7,500 square feet. The subject property was zoned R-1 (single family residential) District and there is R-1 District in all directions.

Arthur Terrace Subdivision was recorded on June 22, 1982. The plat states a front yard setback of 20 feet. According to Hidalgo County Appraisal District, the house was built in 1990 with a two-car garage. A building permit application was submitted on July 26, 2024 but did not receive approval since the carport was shown to be encroaching into the 20-foot front yard setback. A Special Exception request application was then submitted on August 1, 2024 to allow an encroachment of 11.4 feet into the 20-foot front yard setback for the existing metal carport.

The Special Exception request was for an existing metal carport measuring 24 feet by 19 feet totaling 456 square feet in size. It encroaches 11.4 feet into the 20 feet front yard setback. The applicants would like the carport to remain for protection of the two vehicles from adverse weather conditions. The family owns two large Dodge Ram trucks that do not fit into their built-in house garage. One of the vehicles hauls a travel trailer for a family member with a medical condition. The carport provides protection for the individual as they access the vehicle to and from doctor appointments.

The current built-in two-car garage is used in part for storage and parking for a smaller truck.

The property owner states that a contractor was hired in 2022 for the construction of the carport and assured the applicants that he would take care of obtaining the permit himself. Subsequently, the residents learned that a building permit had not been obtained.

Building Permits and Inspections Staff issued a stop work order on July 25, 2024 for the carport being built without a permit.

During a site visit of Arthur Terrace Subdivision, Staff noticed one other carport with an encroachment along North 36<sup>th</sup> Street. A review of Planning Department records revealed a Special Exception was previously requested to allow an encroachment of 20 feet into the 20-foot front yard setback for an existing carport for Lot 53. The request was disapproved at the Zoning Board of Adjustments and Appeals meeting on December 20, 2023.

Front yard setbacks help keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

Zoning ordinance Sec. 138-371(g) for Special Exceptions of carports states that no carport for which a Special Exception has been granted under this subsection shall exceed 400 square feet in size. The carport on the subject property was 456 square feet.

There is no alley at the rear of the property that would allow for relocation of the carport out of the front yard setback.

Staff had not received any phone calls or concerns in regards to the Special Exception request.

Special Exceptions are issued to and recorded for the present applicants only. A change in property ownership would require the new owner to apply for a new Special Exception.

Measurements provided are with the benefit of a survey.

Staff recommended disapproval of the Special Exception request since there are no other carports built with an issued building permit in this subdivision.

### **Zoning Board of Adjustment and Appeals, meeting of September 12, 2024**

At the Zoning Board of Adjustment and Appeals, meeting of September 12, 2024 no one appeared in opposition of the special request. Board member Mujica stated his biggest concern with this request was the size of the carport, which exceeded 400 square feet. Mrs. Iris Hines, the applicant, stated she had understood the encroachment to be 9 feet instead of 11.4 feet as presented by staff. Austin Stephenson, Deputy City Attorney, advised the Board to consider tabling the request in order to allow time for the applicants and staff to clarify the measurements. The Board voted to table the request with five Board members present and voting.

Subsequent to the meeting, the applicants met with staff to clarify the carport dimensions and encroachment. The applicants confirmed that the encroachment and dimensions as presented by staff were correct. Staff also conveyed to the applicant that the Board had stated a concern regarding the size of the carport exceeding 400 square feet. Subsequent to this, the applicants submitted a revised site plan showing the

carport with dimensions of 19 feet by 21 feet. The new reduced carport size in area was 399 square feet. The new revised proposed encroachment is 8.4 feet representing a reduction in the encroachment by 3 feet.

Chairperson Gutierrez asked staff if the applicants signed a document stating that they were going to reduce the carport. Staff stated there was a revised site plan showing the new measurements.

Mr. & Mrs. Michael & Iris Hines, the applicants, 5916 North 36<sup>th</sup> Lane. Chairperson Gutierrez asked them that they had accepted to reduce the size of the carport. They responded yes. She reiterated to the Board members who were not present at the last meeting regarding her husband's medical condition and the events leading up the building of the existing carport.

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

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

Following discussion, Mr. Hiram Gutierrez **moved** to approve the Special Exception request with the revised plan showing the size reduction to 399 square feet and a reduced encroachment of 8.4 feet into the 20-foot front yard setback. Mr. Alex Lamela seconded the motion. The Board voted to approve the request with five members present and voting.

#### **ADJOURNMENT**

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

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Chairperson Jose Gutierrez

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Carmen White, Administrative Assistant

**Memo**

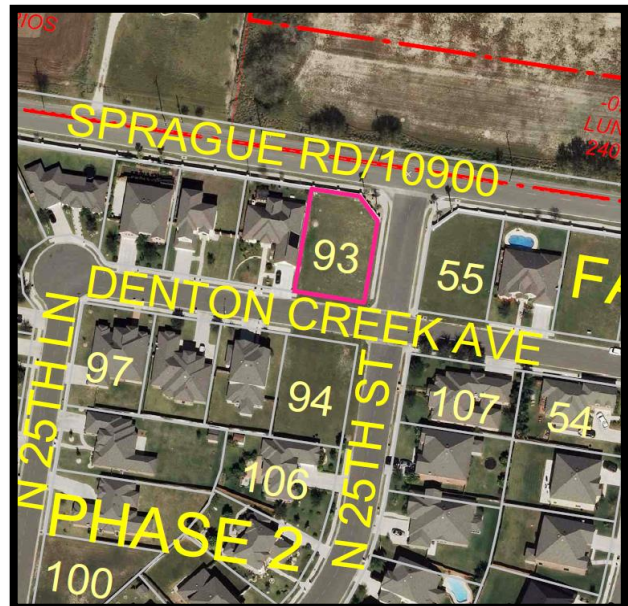
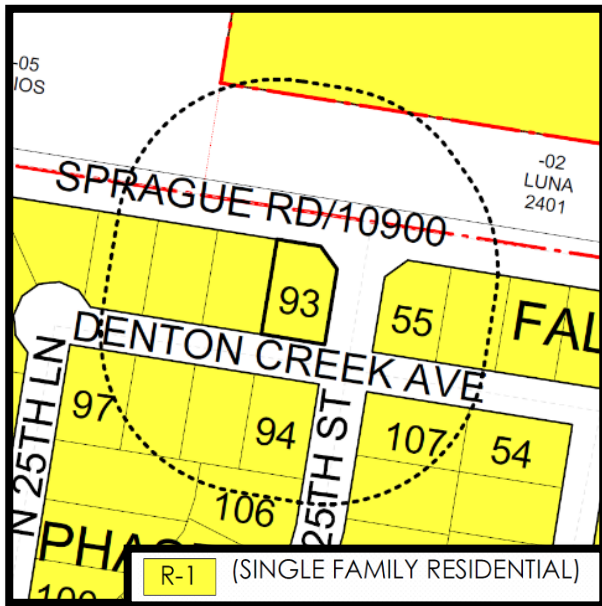
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 30, 2024

**SUBJECT: REQUEST OF BLANCA BENAVIDES FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FEET INTO THE 25 FOOT REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL AT LOT 93, FALCON'S CROSSING SUBDIVISION PHASE II, HIDALGO COUNTY, TEXAS; 2500 DENTON CREEK AVENUE. (ZBA2024-0040)**

**REASON FOR APPEAL:** The applicant is requesting to encroach 10 feet into the 25 foot rear yard setback in order to accommodate construction of a proposed swimming pool.



**PROPERTY LOCATION AND VICINITY:** The subject property is located at the southwest corner of Sprague Road and North 25<sup>th</sup> Street. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions.

**BACKGROUND AND HISTORY:** Falcon's Crossing Subdivision Phase II was recorded August 24, 2005. The plat shows a 15 foot electrical and utility easement adjacent to the rear property line that runs concurrently with the 25 foot rear yard setback for double fronting lots. An application for a swimming pool permit was submitted September 4, 2024, but was disapproved due to the rear setback encroachment of 10 feet into the 25 foot rear yard setback. An application for a Variance

request was submitted September 18, 2024.

**ANALYSIS:** The variance request is to allow an encroachment of 10 feet into the 25 foot rear yard setback for the construction of a swimming pool with a spa.

The plat for this subdivision shows a 15 foot utility easement adjacent to the rear property line that runs concurrently with the 25 foot rear yard setback but the utility easement will not be impacted.

The subject property is a double frontage lot. City ordinance Section 138-367 (b) states, “where lots have double frontage, a required front yard shall be provided on one street only.” A submitted site plan shows the proposed residence will be in compliance with the 25 foot front yard setback along Denton Creek Avenue. However, an approved variance is still necessary to resolve the plat note setback requirement of 25 feet for the rear yard. Furthermore, a plat note (#12) of the plat for this subdivision states “no curb cut, access, or lot frontage permitted onto Sprague Road”.

The standard rear yard setback in an R-1 District is 10 feet as per current Code of Ordinance.

A review of Planning Department records revealed one other similar variance request granted within Falcon’s Crossing Subdivision Phase II at Lot 94.

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 front yard as proposed at 25 feet along Denton Creek Avenue will be in compliance with the City of McAllen Zoning Ordinance requirement for double fronting lots.



25A2024-10040

250A-10/19/2024



# 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)

Contract # 9565251968

|                |  |  |                                      |
|----------------|--|--|--------------------------------------|
| <b>Project</b> | Legal Description                                      | <u>lot 93 Falcon Crossing Phase II</u>       |                                      |
|                | Subdivision Name                                       | <u>Falcon Crossing</u>                       |                                      |
|                | Street Address   | <u>2500 Denton Creek Ave</u>                 |                                      |
|                | Existing Zoning  | Number of lots <u>1</u> Gross acres _____    | Existing Land Use <u>Residential</u> |
|                | Reason for Appeal (please use other side if necessary) | <u>Swimming pool on setback 10' into 25'</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

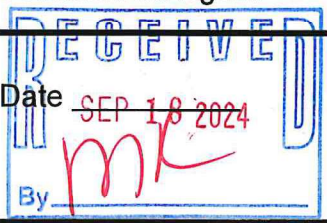
|                  |         |                              |        |                            |
|------------------|---------|------------------------------|--------|----------------------------|
| <b>Applicant</b> | Name    | <u>Blanca Benavides</u>      | Phone  | <u>956 337 6338</u>        |
|                  | Address | <u>2500 Denton Creek Ave</u> | E-mail | <u>karmaculh@lyhoa.com</u> |
|                  | City    | <u>McAllen</u>               | State  | <u>TX</u> Zip <u>78504</u> |

|              |         |             |     |       |
|--------------|---------|-------------|-----|-------|
| <b>Owner</b> | Name    | <u>same</u> |     |       |
|              | Address | _____       |     |       |
|              | City    | State       | Zip | _____ |

|                      |   |                     |
|----------------------|---|---------------------|
| <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 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   | Date <u>9-18-24</u> |

Print Name Blanca Benavides  Owner  Authorized Agent

|               |                                |                           |                         |
|---------------|--------------------------------|---------------------------|-------------------------|
| <b>Office</b> | Accepted by <u>[Signature]</u> | Payment received by _____ | Date <u>SEP 18 2024</u> |
|               | Rev 09/20                      |                           | By <u>[Signature]</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.

Reason for Appeal

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:

Swimming pool to be built 10' into setback of 20'

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

would build swimming pool (enjoyment) w/o variance!

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:

other pools in subdivision already exist

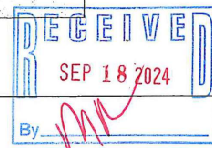
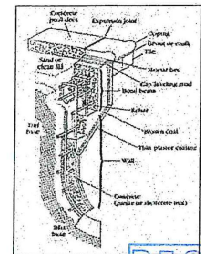
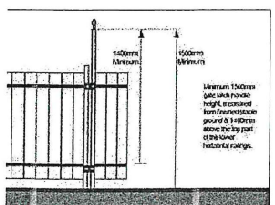
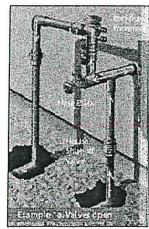
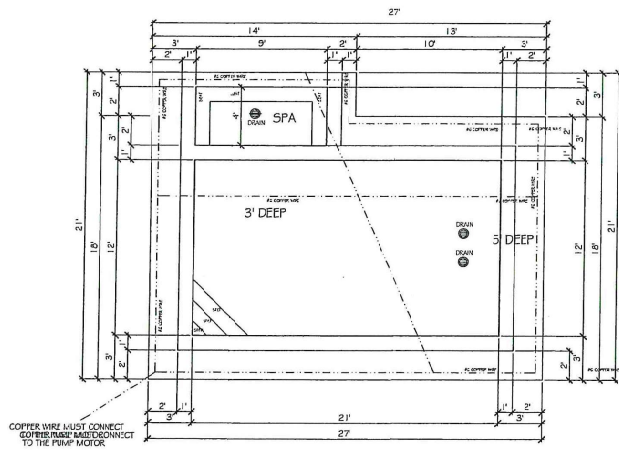
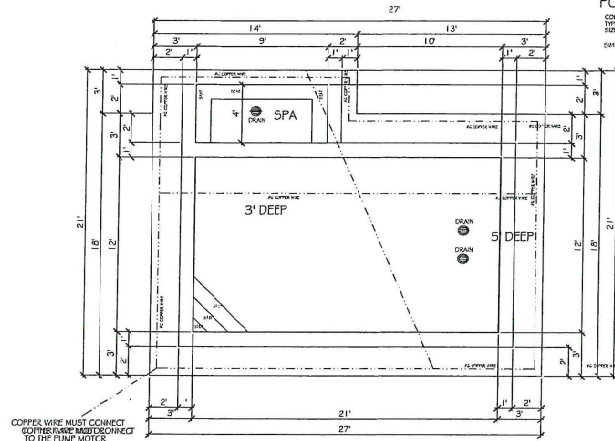
4. Describe special conditions that are unique to this applicant or property:

None

Board Action

Chairman, Board of Adjustment  
Signature

Date



**ANDREE MODERN POOLS**  
 ANDREEMODERNPOOLS@GMAIL.COM  
 956-558-9794

BUILT BY:

**Exclusive & Elegant**  
 COMMERCIAL DESIGNS  
 RESIDENTIAL & COMMERCIAL  
 CELL NUMBER 956-778-0023  
 1512 E HARRISBURG AVE  
 HOUSTON, TEXAS 77028  
 CUSTOM PLANS COMMERCIAL PLANS  
 RESPECTIVE COMMERCIAL

DESIGN BY:

**Exclusive & Elegant**  
 COMMERCIAL DESIGNS  
 RESIDENTIAL & COMMERCIAL  
 CELL NUMBER 956-778-0023  
 1512 E HARRISBURG AVE  
 HOUSTON, TEXAS 77028  
 CUSTOM PLANS COMMERCIAL PLANS  
 RESPECTIVE COMMERCIAL

CUSTOMERS:

PROJECT DATA:  
 LOT#493  
 FALCON'S CROSSING PH 2  
 2500 DENTON CREEK AVE  
 MCALLEN  
 HIDALGO COUNTY

PROJECT NUMBER: 09/04/2024  
 SHEET NO: BP-1







## Memo

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

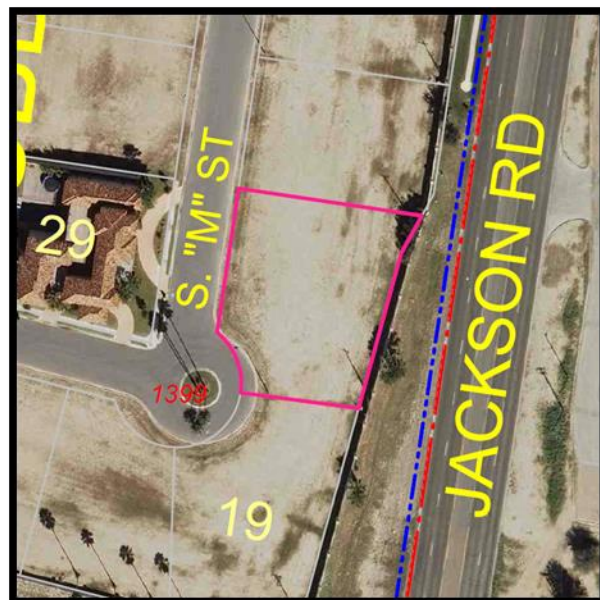
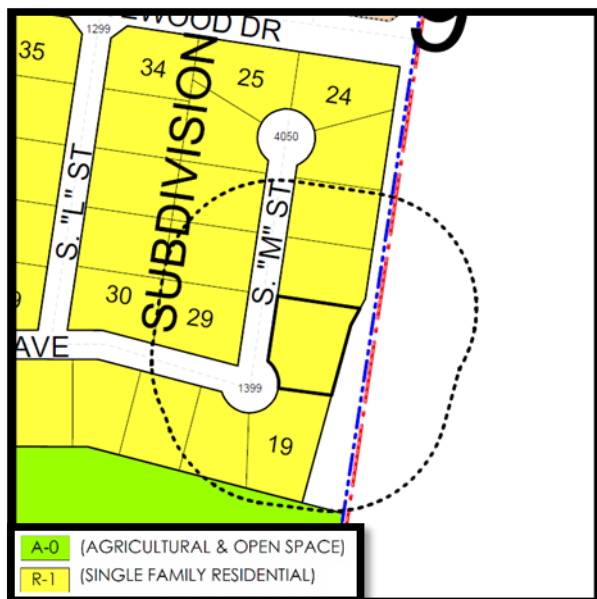
**FROM:** Planning Staff

**DATE:** October 01, 2024

**SUBJECT: REQUEST OF JORGE ANCER FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF UP TO 5 FEET INTO THE 20 FOOT REAR YARD SETBACK FOR A PROPOSED SPA AT LOT 20, LAGO VISTA SUBDIVISION, HIDALGO COUNTY, TEXAS; 4401 SOUTH "M" STREET. (ZBA2024-0034)**

**REASON FOR APPEAL:** The applicant is requesting to encroach up to 5 feet into the 20-foot rear yard setback for a proposed spa. The reason for the variance request is for the property owners to have as much use of space as possible for their backyard area and allow for more distance between the proposed swimming pool and the main house.

**PROPERTY LOCATION AND VICINITY:** The subject property is located along South "M" street and fronts a partial cul-de-sac at the intersection of South "M" Street and Helena Avenue. The subject property is vacant and is zoned R-1 (single family residential) District. There is R-1 District in all directions except for the area to the East across South Jackson Road, which is in the city limits of Pharr.



**BACKGROUND AND HISTORY:** Lago Vista Subdivision was recorded on October 31, 2006. An application for a variance request was submitted on August 20, 2024.

**ANALYSIS:** The variance request is to allow an encroachment of up to 5 feet (for the proposed spa) into the 20-foot rear yard setback for a triangular shaped area. The spa is part of a proposed swimming pool. The purpose of the variance request is to make use of the available backyard area as well as allow for more distance between the proposed swimming pool and the main house. The plat for this subdivision shows a 10-foot utility easement adjacent to the rear property line that runs concurrently with the 20-foot rear yard setback. The utility easement is not impacted.

To the East of the property there is a R.O.W. easement. As per the Engineering Department, there are no plans for future expansion to Jackson Road at this specific location.

The subject property is a double frontage Lot. City ordinance Section 138-367 (b) states, “where lots have double frontage, a required front yard shall be provided on one street only.” A submitted site plan shows the proposed residence in compliance with the 25-foot front yard setback along South “M” Street. The variance as requested is not a deviation from what the zoning ordinance allows for double fronting Lots. It maintains the intention of the required rear yard setback by the plat and complies with the standard 10-foot rear yard setback required in the R-1 District.

In the past, the Board has approved variance requests for encroachments into the rear yard setback on double fronting Lots for accessory uses but not for living areas.

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

**RECOMMENDATION:** Staff recommends approval since the Lot has an irregular shape and the angle of the adjacent right of way to the east results in a setback that prevents building construction placement to be unlike construction placement in a standard rectangular Lot. The circumstance may constitute a unique physical limitation of the property. Also, the required front yard has 25 feet along South “M” Street and is in compliance with the City of McAllen Zoning Ordinance requirement for double fronting Lots. If the Board grants the variance request, it may be limited to the encroachment shown on the submitted site plan.

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF SEPTEMBER 26, 2024:**

At the Zoning Board of Adjustment and Appeals meeting of September 26, 2024 no one appeared in opposition to the variance request. Since the subject property backs up to Jackson Road, a state highway, Board members Ann Tafel and Juan Mujica stated concerns in the event of future road expansion. Board member Daniel Santos stated in the event that might happen, the property owner(s) run that risk. Following further discussion, the Board voted on a motion to approve the request and the vote was two ayes and three nays. The motion did not pass. The Board then voted on a motion to disapprove the request and the vote was three ayes and two nays. The motion did not pass. The Board then voted to table the variance request in order to allow the applicant time for consideration of site plan modification. The vote was 5-0 with five members present and voting.



**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: ZBA2024-0034 ZBOA Meeting: 9/26/24  Routed  
Receipt No: 1054006  Scanned  
Accepted by: P: P.H. S: Ch Customer Acknowledgment (Int.): [Signature]

**PROJECT**

Legal Description Lago vista lot 20  
Subdivision Name Lago Vista  
Street Address 4401 S M stre  
Number of lots \_\_\_\_\_ Gross acres \_\_\_\_\_  
Existing Zoning R1 Existing Land Use Residential  
Reason for Appeal (please use other side if necessary) Variance to encroach  
5' into the 20' Rear yard setback for construction of pool, and  
pool deck on  
 \$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 Jorge Ancor Phone 956-522-3299  
Address P.O Box 1198 E-mail \_\_\_\_\_  
City Mission State Tx Zip 78573

**OWNER**

Name Eduardo Fablos Velez Phone \_\_\_\_\_  
Address 8304 Las Palmas dv E-mail \_\_\_\_\_  
City Pharr State Tx Zip 78577

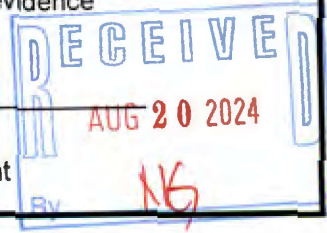
**AUTHORIZATION**

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 Eduardo Fablos Velez

Date 8/19/24  
 Owner  Authorized Agent





# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

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

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

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

Owners would like to have as much space as possible for use of their backyard.

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

The variance will help not to have the pool too close to the dwelling, as owners would like to be able to have more use of the backyard.

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:

This variance does not have any adjoining neighbors directly.

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

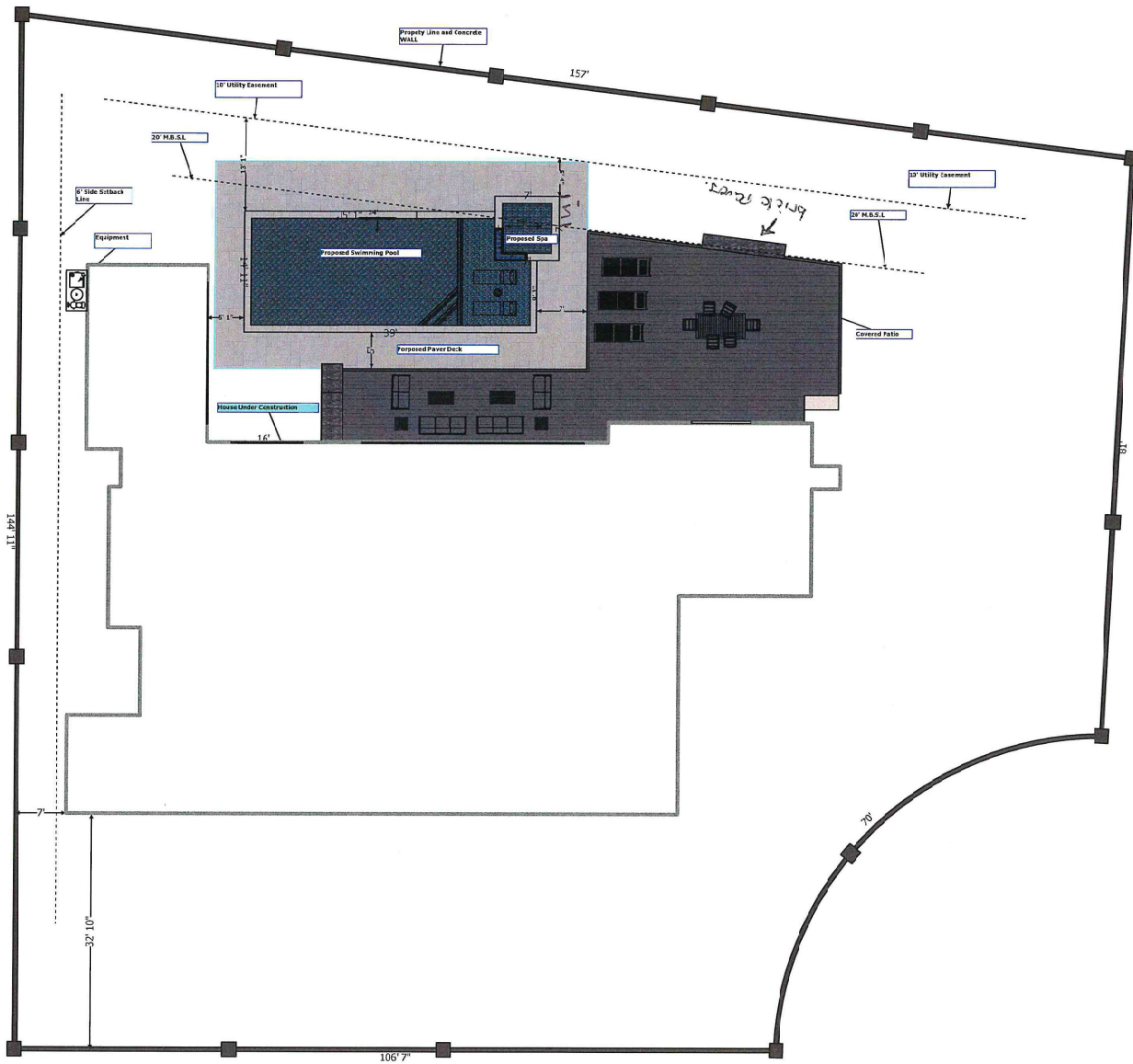
Reason for Appeal

Board Action

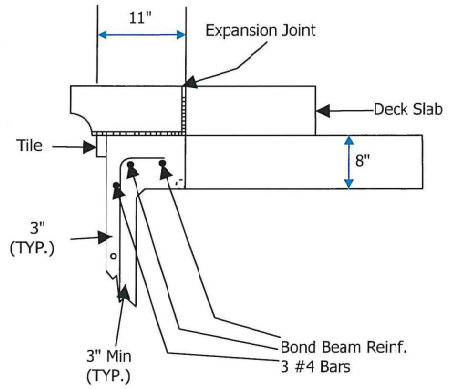
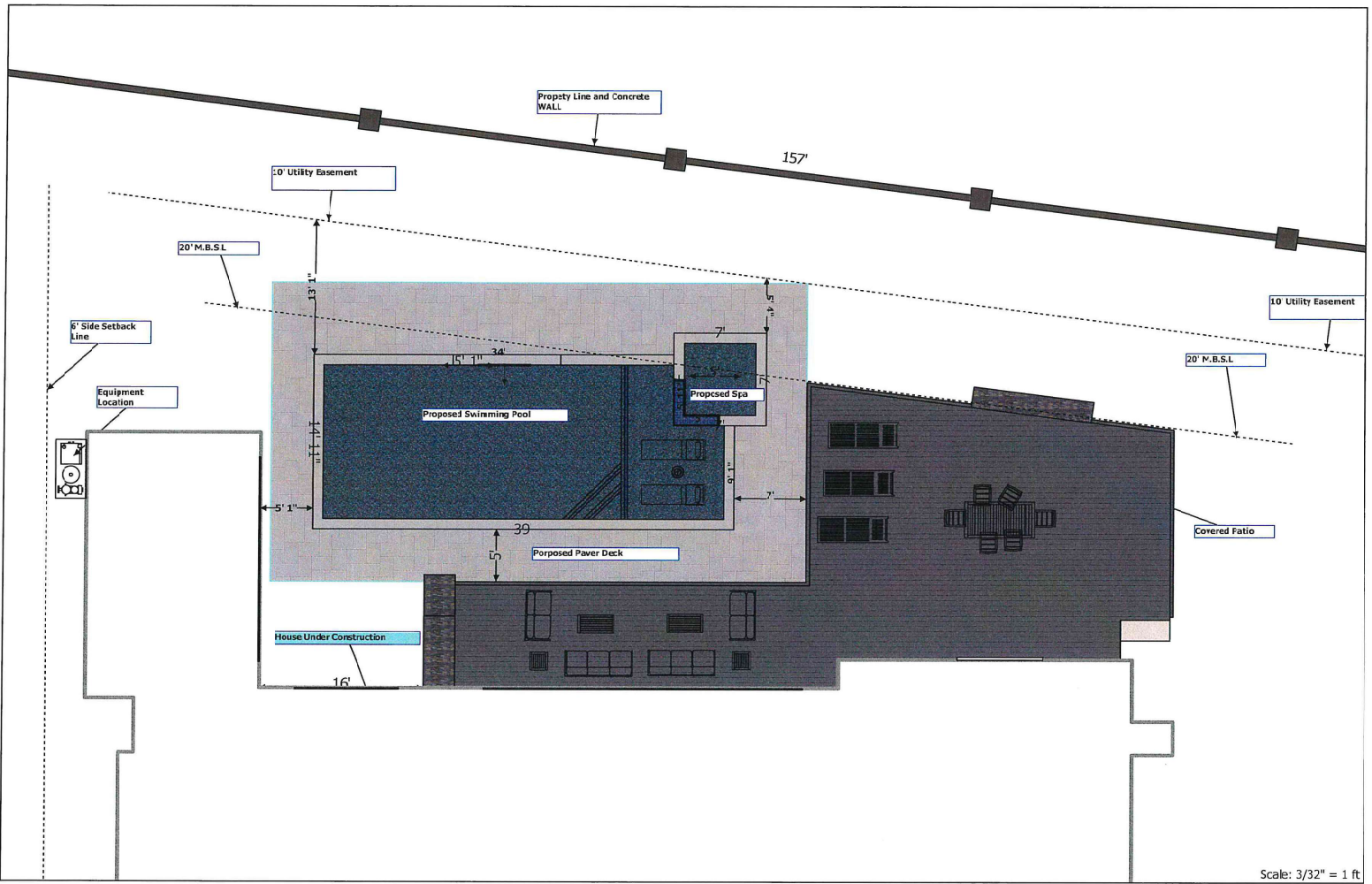
Chairman, Board of Adjustment  
Signature

Date





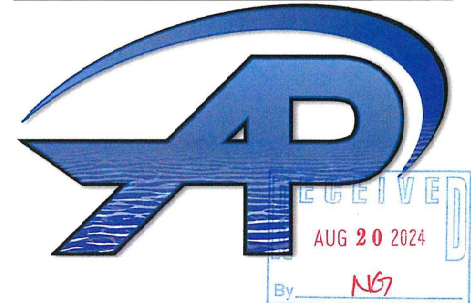
RECEIVED  
 AUG 20 2024  
 By NG

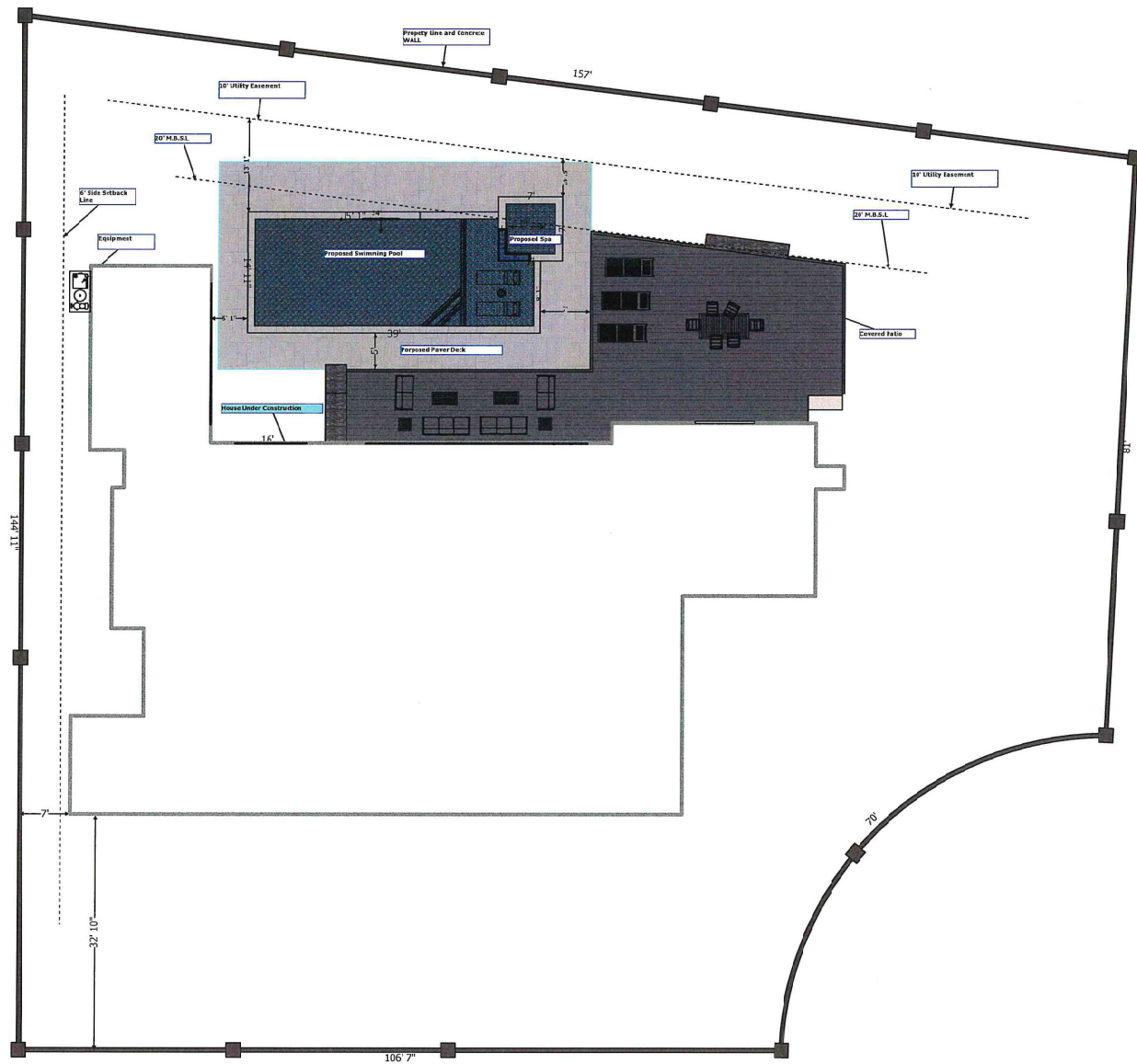


- Pool Rebar #4 12" o.c
- Spa Rebar #3 12" o.c.
- #6 Cooper Wire for Bonding
- 5000 p.s.i Concrete Gunite
- Sch 40 Pvc Pipes
- D.E Filter
- Dual Safety Drains and vgb covers
- 1 1/2 Hp pump

Owner: Eduardo Velez State: Tx.  
 Address: 4401 S. M st Zip: \_\_\_\_\_  
 City: Mcallen . Lot 20 Lago Vista  
 Phone: \_\_\_\_\_

Designer: Ancer Pools LLC  
 Address: PO Box 1198  
 City: Mission  
 State/Zip: Tx.78573  
 Phone: \_\_\_\_\_  
 Cell: 956-522-3299  
 Email: jorge@ancerpools.com  
 Alternate Contact: \_\_\_\_\_  
 License #: \_\_\_\_\_





RECEIVED  
 AUG 20 2024  
 By NG







NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2024-0034  
CITY OF HOUSTON PLANNING DEPT.  
HOUSTON, TEXAS

WOOD SHEETROCK APPLIANCES BRANCHES  
NO DIRT  
NO CONCRETE  
JUNK PRO RENT ME (956) 219-6608  
UNIT 3



**Memo**

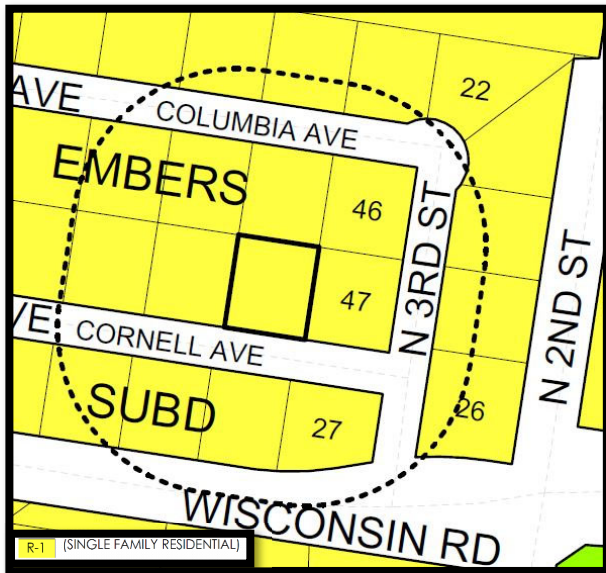
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 30, 2024

**SUBJECT: 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 GUEST HOUSE AT LOT 48, THE EMBERS SUBDIVISION, HIDALGO COUNTY, TEXAS; 304 CORNELL AVENUE. (ZBA2024-0038)**

**REASON FOR APPEAL:** 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.



**PROPERTY LOCATION AND VICINITY:** 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.

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

**ANALYSIS:** 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 couldn't 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 with 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 has 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.

**RECOMMENDATION:** Staff recommends approval of the variance request since the drainage easement prevents the property owner from building across the Lot lines.

ZBA2024-0038

ZBA 10/9/24

# City of McAllen Planning Department

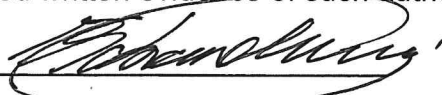
311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)


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


|                |  |
|----------------|--|
| <b>Project</b> | Legal Description <u>Lot # 48 The Embers Subdivision, McAllen TX 78504</u>   |
|                | Subdivision Name <u>THE EMBERS SUBDIVISION</u>   |
|                | Street Address <u>304 N CORNELL AVE, MCALLEN TX 78504</u>  |
|                | Number of lots <u>1</u> Gross acres <u>0.25 ACRES</u>  |
|                | Existing Zoning <u>RESIDENTIAL</u> Existing Land Use <u>VACANT</u>   |
|                | Reason for Appeal (please use other side if necessary) <u>Construction of terrace, pool and guest house in a Lot with no main Residence on it that will be connected with main house in an adjacent lot #49.</u> |
|                | <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input 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   |

|                  |  |
|------------------|--|
| <b>Applicant</b> | Name <u>EUGENIO GARCIA</u> Phone <u>956-821-8440</u>                     |
|                  | Address <u>1320 N 10TH ST, SUITE 20</u> E-mail <u>eugenio@gmg-dc.com</u> |
|                  | City <u>MCALLEN</u> State <u>TX</u> Zip <u>78501</u>                     |

|              |   |
|--------------|---|
| <b>Owner</b> | Name <u>DR. DAVID SCHNAIDERMAN</u> Phone <u>956-802-5476</u>      |
|              | Address <u>4631 S JACKSON RD</u> E-mail <u>dr.s@fmgcenter.com</u> |
|              | City <u>EDINBURG</u> State <u>TX</u> Zip <u>78539</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?<br><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></u> Date <u>09/09/2024</u><br>Print Name <u>DAVID SCHNAIDERMAN</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent   |

|               |   |
|---------------|---|
| <b>Office</b> | Accepted by <u></u> Payment received by _____ Date _____ |
|               | Rev 10/18   |

**RECEIVED**  
 SEP 09 2024  
 By 





# 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.

Reason for Appeal

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:

Owner has two adjacent lots for the project of his New Residential home. Both lots have a drain Easement along the property line between them. Under this circumstance the Main house was not possible locate above the two lots and it had to be located just in one of the lots (#49), leaving the other lot (#48) for the recreational use of the project: Pool, Terrace, Guest House and Backyard.

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

The Variance is needed in order to allow have the Residence with exterior areas according to the size of the Dwelling. If not the residence size will be occupying the area permitted but without patio and backyard.

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:

Instead to be detrimental for the Subdivision neighborhood, this approach will allow to increase the green area at the same time will decrease the building construction density in the area

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

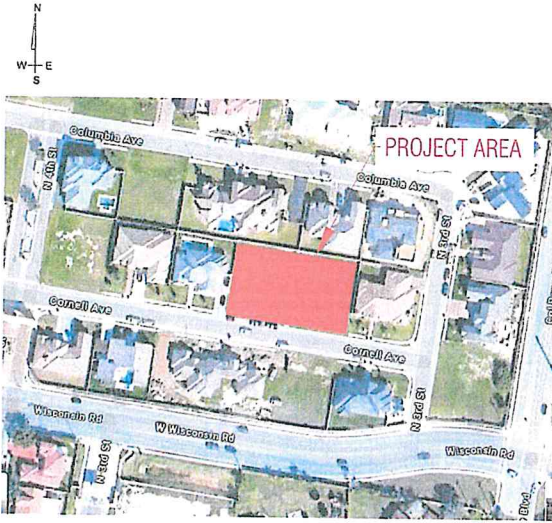
The Covenants of the Subdivision allow Owners to buy two lots for One-Family Residence.

There are other cases in the Subdivision where one House has been Built over two lots. But they had no easement between them.

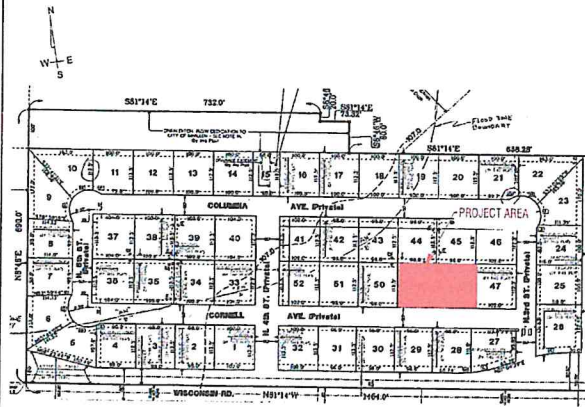
Board Action

Chairman, Board of Adjustment  
Signature

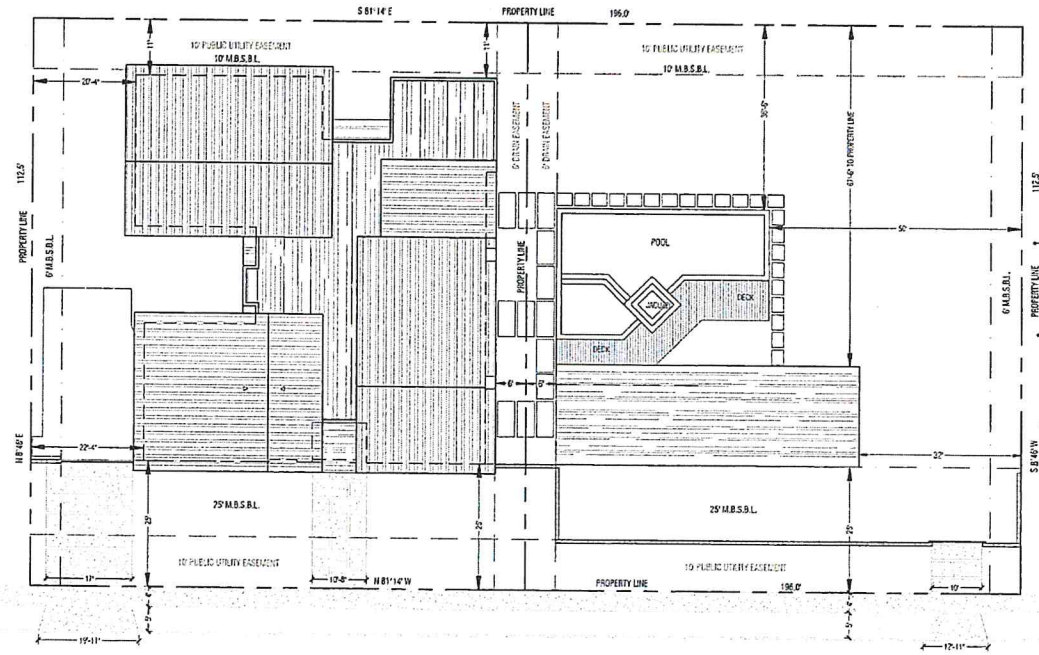
Date



**LOCATION MAP**  
NOT TO SCALE



**SITE PLAN**  
NOT TO SCALE



**SITE PLAN**  
SCALE: 3/32"=1'-0"

**APPROVED**  
 11/09/2024  
 11104 The Hill, #170, McAllen, TX, 78501  
 Phone: 361-652-4023  
 Fax: 361-652-4023  
 P.O. Box 1727, McAllen, TX 78503  
 By: *[Signature]*

**PROPOSED PROJECT**  
 Dr. David Schindlerman Residence  
 508 H Cornell Ave. Lot # 48 & 49  
 THE EMBERS SUBDIVISION  
 McAllen, TX, 78504

|              |                  |
|--------------|------------------|
| DESIGNED BY: | L. J. REASSEMBLE |
| CHECKED BY:  | E. C. CANTRELL   |
| COMPUTER:    | MAN              |

**SITE PLAN**  
 SCALE: 3/32"=1'-0"

SHEET NO.  
 1-13







**Memo**

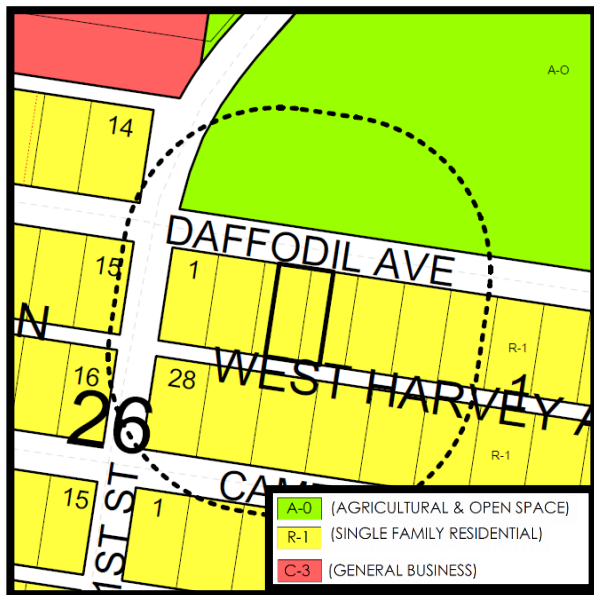
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 30, 2024

**SUBJECT: REQUEST OF MARIA C. CRUZ ON BEHALF OF YOLANDA CRUZ RIOS, FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 14 FEET INTO THE 30 FOOT FRONT YARD SETBACK FOR A PROPOSED CARPORT AT E42' LOT 3 & W28' LOT 4 BLK 1, WEST HARVEY ADDITION, UNIT NO. 1 & UNIT NO. 2, HIDALGO COUNTY, TEXAS; 2017 DAFFODIL AVENUE. (ZBA2024-0035)**

**REASON FOR APPEAL:** The applicant is requesting a Special Exception to allow an encroachment of 14 feet into the 30 foot front yard setback for a proposed metal carport measuring 18 feet by 18 feet for a total size of 324 square feet. The carport is proposed to provide weather protection for the applicant’s vehicle.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the South side of Daffodil Avenue east of North 21<sup>st</sup> Street. The lot has 70 feet of frontage along Daffodil Avenue and 120 feet of depth for an estimated total size of 8,400 square feet. The subject property is zoned R-1 (single-family residential) District. The adjacent zoning is A-0 (Agricultural & open space) district to the North and R-1 District to the East, South and West.

**BACKGROUND AND HISTORY:** West Harvey Addition, Unit No. 1 & Unit No. 2 was recorded in February 1958. The plat shows a 30 foot front yard setback. According to the Hidalgo County Appraisal District, the house was built with a one-car garage in 1970. An application for a special exception request was submitted on September 5, 2024.

**ANALYSIS:** The applicant is requesting a Special Exception to allow an encroachment of 14 feet into the 30 foot front yard setback for a proposed metal carport measuring 18 feet by 18 feet for a total of 324 square feet in size.

The proposed carport is to provide protection for the applicant's vehicle(s) from severe weather conditions.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view.

There is a 20 foot alley which can be used to provide access at the rear of the property so that the proposed carport could be located in that area. An aerial view of the property seems to show there may be enough room to construct a carport out of the setbacks.

A review of Planning Department records showed no other special exception requests within West Harvey Addition, Unit No. 1 & Unit No. 2 subdivision.

Special Exceptions are issued to and recorded for the present owner only. New property owners would need to apply for a new Special Exception request.

Staff has not received any phone calls or emails with concerns in regards to the Special Exception request.

**RECOMMENDATION:** Staff recommends disapproval of the special exception request, since the plight of the owner is not unique, and there is room for building a carport out of the setbacks in the rear yard.



ZBA2024-0035

ZBOA  
10/9/2024



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description 43.0 FEET OF LOT THREE (3) AND THE WEST  
28.0 FEED OF LOT FOUR (4) BLOCK ONE (1) WEST  
Subdivision Name HARVEY ADDITION, UNIT NO. 2  
Street Address 2017 DAFFODIL AVE MCALLEN TEXAS 78501  
Number of lots 1 Gross acres \_\_\_\_\_  
Existing Zoning R1 Existing Land Use RESIDENCIA  
Reason for Appeal (please use other side if necessary) PARA UNA INUACION DE  
14 PIES DENTRO DE LA RESTRICION DE 30 PIES PATIO DELANTERO  
 \$300.00 non-refundable filing fee +  \$50.00 Recording Fee for Special Exception (carport)  
 Current Survey and Metes and Bounds (if the legal description of the tract is a  
portion of a lot) is required

Applicant

Name MARIA C. CRUZ Phone 956 348 9647  
Address 2017 DAFFODIL AVE E-mail 956 348 9479  
City MCALLEN State TEXAS Zip 78501

Owner

Name YOLANDA CRUZ RIOS Phone 782 122 5025  
Address 2017 DAFFODIL AVE E-mail Yolandacruz209@hotmail.com  
City MCALLEN State TEXAS Zip 78501 @h

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 Agosto 28 de 2024  
Print Name Yolanda Cruz Rios  Owner  Authorized Agent

Office

Accepted by JEN Payment received by \_\_\_\_\_ Date SEP 05 2024

Rev 09/20

BY: CW



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

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

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

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

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

PARA UNA INVASION DE 14' PIES DENTRO DE  
LOS 30 PIES DE RESTRICION PARA UNA COCHERA  
DE TEJA DE 18' X 18' PATIO DELANTERO

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

PARA PROTECCION DE AUTOMOVILES

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:

SE VA A CONSTRUIR BIEN LA ESTRUCTURA

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

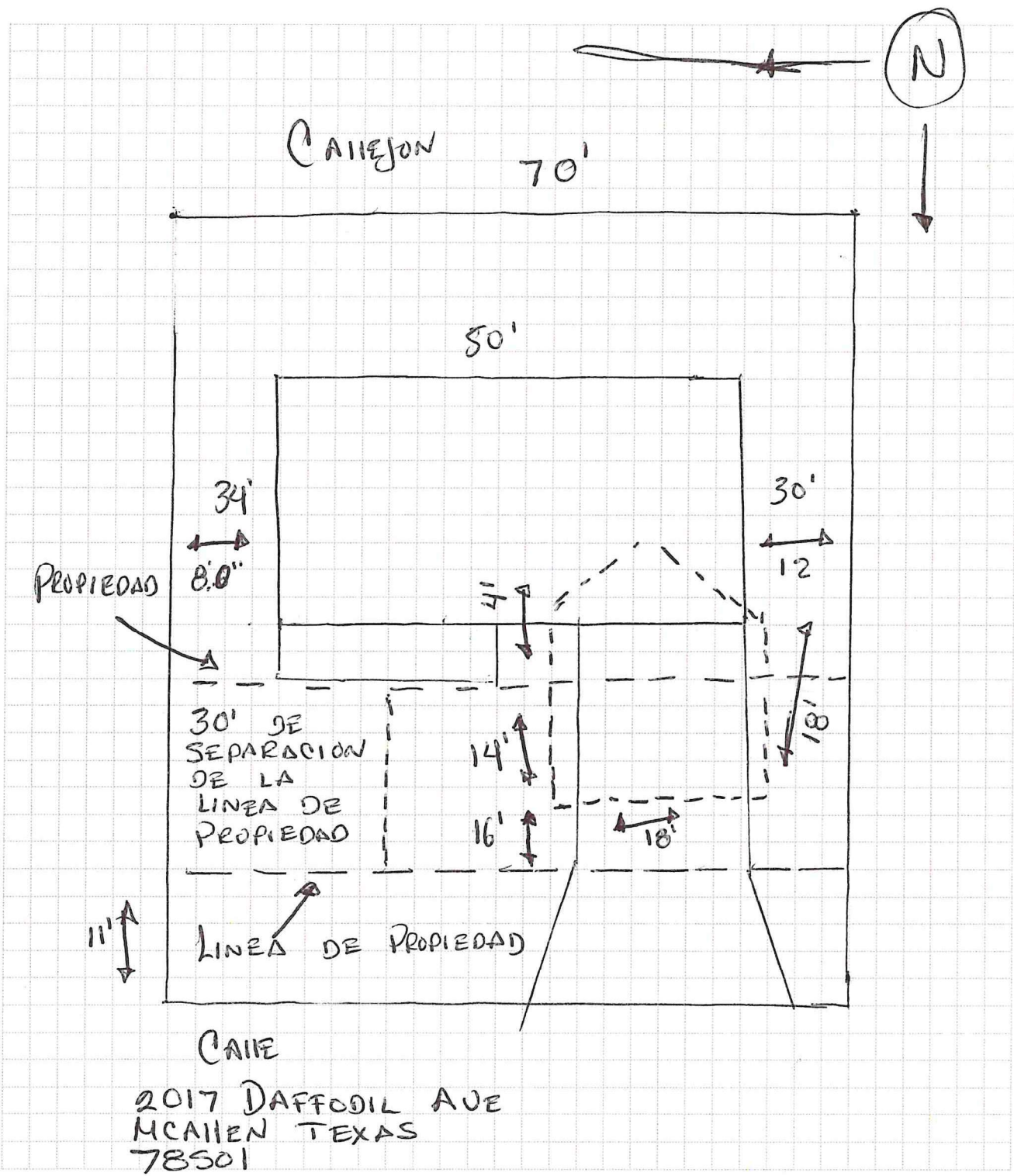
Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date





**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)







NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA 2024 0035

**Memo**

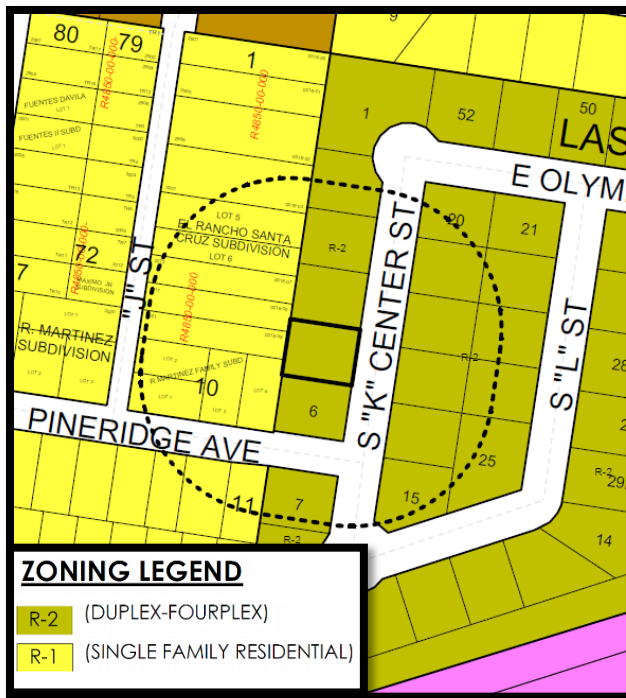
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 26, 2024

**SUBJECT:** Request of Jose H. Moreno on behalf of Leonardo Marquez Ponce, for a Special Exception to the City Of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 20 foot front yard setback for two proposed carport structures with encroachment areas measuring six feet by eighteen feet each at, Lot 5, Block 2, Las Cañadas Subdivision, Hidalgo County, Texas; 3016 South K Center Street. (ZBA2024-0039)

**REASON FOR APPEAL:** The applicants are requesting a Special Exception to allow an encroachment of 6 feet into the 20-foot front yard setback for two metal carports measuring 18 feet by 27 feet totaling 486 square feet in size. The reason for the request is for protection of the vehicles from severe weather elements.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the west side of South K Center Street approximately 98 feet north of Pineridge Avenue. The subject property is zoned R-2 (Duplex-Fourplex Residential) District this zone extends in all directions except to west side where there is an R-1 (Single Family Residential) District.

**BACKGROUND AND HISTORY:** Las Cañadas was recorded on March 23th, 2007. The variance application was submitted on September 12, 2024.

**ANALYSIS:** The applicant is requesting to encroach 6 feet in to the 20 feet front yard setback. Two parallel carport are being built on 3016 South K center. In accordance to the site plan submitted, the parallel-proposed structures have a size of 486 square feet each. The proposed structures will be built using metal material. The main purpose for building the carport is to protect the vehicles from excessive heat. During the site visit, staff did not notice any other encroachments or similar structures along the front or rear yards within Las Cañadas Subdivision. A review of the Planning Department records did not reveal any other similar variances or special exceptions approved in this area.

Measurements provided are without benefit of a survey.

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

**RECOMMENDATION:** Staff recommends disapproval of the special exception request since it does not present any undue hardship and the proposed carport will not align with the existing character of the subdivision.



23A 2024-0039

230A  
10/9/24



# 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)

**Project**

Legal Description Lascañadas Lot 5 BLK 2

Subdivision Name Las cañadas

Street Address 3016 St Center, I.

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

Existing Zoning R-2 Existing Land Use four plex

Reason for Appeal (please use other side if necessary) Encroaching 6' into 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 H. Moreno Phone 956 239 2727

Address 4703 N. 10 St. E-mail jose@kadesignandbuild.com

City McAllen State Tx Zip 78504

**Owner**

Name Leonardo Marquez Ponce Phone +52 944 1998094

Address 424 Canary Ave. E-mail leo.peran-78@hotmail.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.

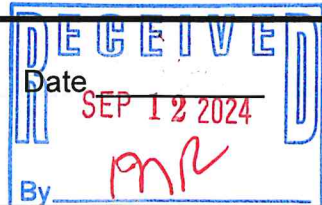
Signature [Signature] Date 9/11/24

Print Name Jose H Moreno  Owner  Authorized Agent

**Office**

Accepted by [Signature] Payment received by \_\_\_\_\_

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:

Yo Jose Moreno (KChomes) por medio de mi cliente que quiere CARPORTS con la razon de el calor, yo Jose Moreno el builder hablo con el dueño de la subdivisa (Eddie Conto)

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

La razon solamente es por el calor que tenemos en South Texas. Yo hablo con Eddie Conto y el me dijo que va haber problema sob tenia que hablar con Ciudad

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:

Este no afecta a los vecinos en nada.

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

La unica razon por que queremos tener Carports es por el fuerte calor del Valle y para ofrecer un plus a nuestros renters y yo voy a rentar uno para mi familia.

Reason for Appeal

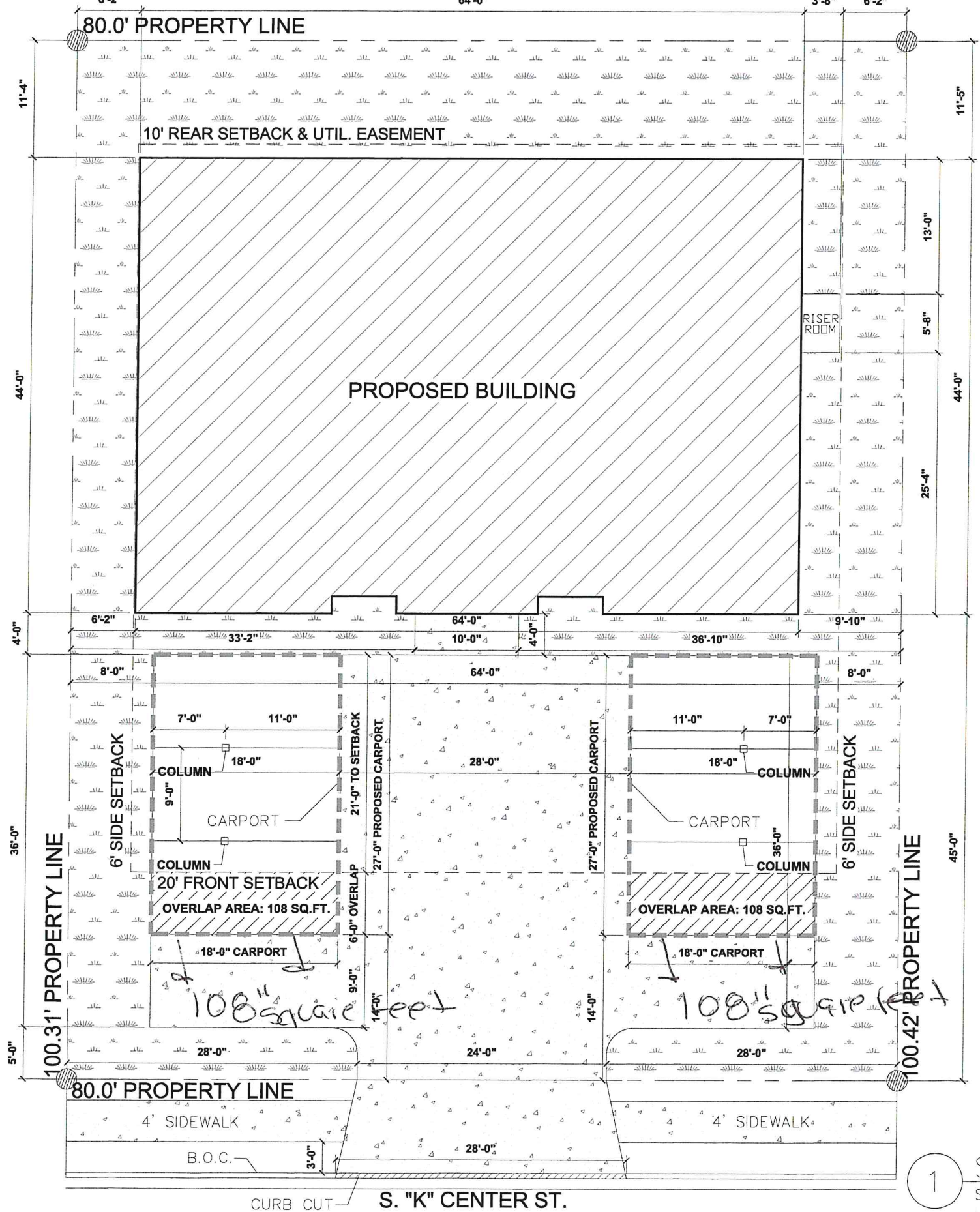
Board Action

Chairman, Board of Adjustment  
Signature

Date



LOT 5, BLOCK 2, LAS CANADAS SUBD. MCALLEN, TX.



- ### SITE PLAN GENERAL NOTES
- A. CONTRACTOR TO FIELD VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO STARTING WORK.
  - B. GRADE AREAS AROUND NEW BUILDING UNIFORMLY TO PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING.
  - C. OWNER, BUILDER AND SURVEYOR TO APPROVE LOCATION OF HOUSE ON LOT, AND TO VERIFY ALL EASEMENTS AND SETBACKS PRIOR TO START OF CONSTRUCTION.
  - D. MINIMUM FINISH FLOOR ELEVATION -



1 SITE PLAN W/CARPORT  
SCALE: 3/16" = 1'-0"

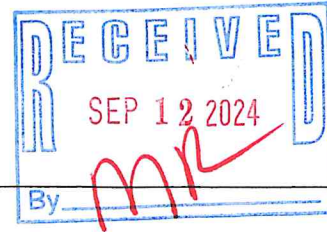
PROJECT # RESO-74  
DATE: 01-03-2024  
DRAWN BY:

SCALE: N.T.S.  
APARTMENTS  
LOT 5, BLOCK 2, LAS CANADAS SUBD.  
MCALLEN, TX.

CONTACT US @  
(956) 862-0782  
ncantuz28@hotmail.com



SHEET: CP







NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA 2024-0039





NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA 2024-0039



**Memo**

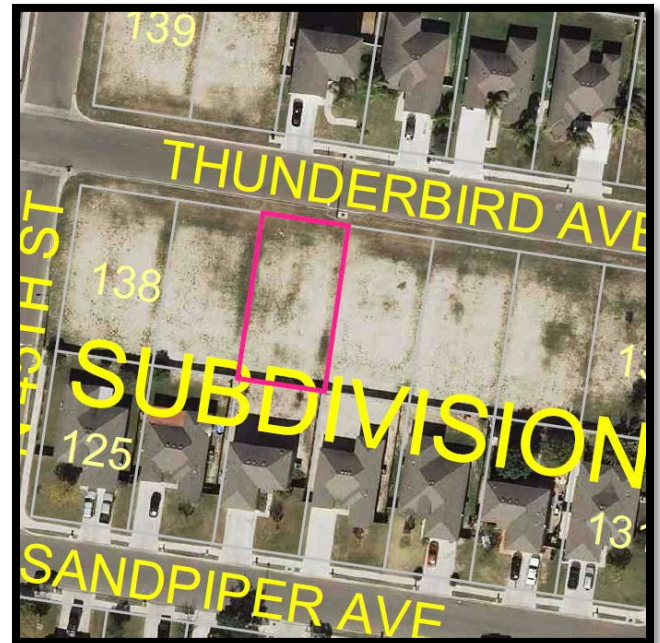
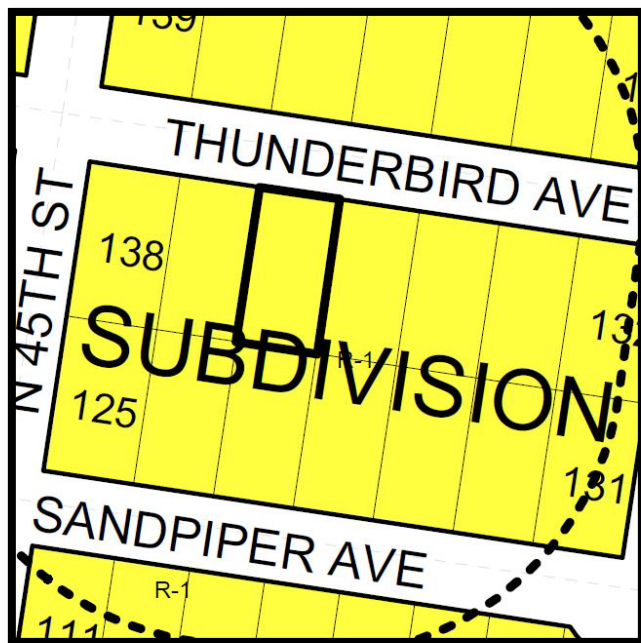
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 27, 2024

**SUBJECT: REQUEST OF MICHAEL GARCIA FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 20 FEET INTO THE 25 FOOT FRONT YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 20 FEET BY 20 FEET AT LOT 136, PLANTATION GAP PHASE I SUBDIVISION, HIDALGO COUNTY, TEXAS; 4417 THUNDERBIRD AVENUE. (ZBA2024-0037)**

**REASON FOR APPEAL:** The applicant is requesting a Special Exception to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing metal carport measuring 20 feet by 20 feet totaling 400 square feet in size. The applicant is requesting the carport to remain for protection of the vehicles from adverse weather elements.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the south side of Thunderbird Avenue approximately 114 feet east of North 45<sup>th</sup> street. The Lot has 50 feet of frontage along Thunderbird Avenue and a depth of 102.98 feet for a total Lot size of 5,478.53 square feet. The subject property is zoned R-1 (single family residential) District and there is R-1 District in all directions.

**BACKGROUND AND HISTORY:** Plantation Gap Phase I was recorded on December of 2004. The plat states a front yard setback of 25 feet with a 5-foot utility easement. Building Permits and Inspections

issued a citation on July 19, 2024, for the carport built without a permit. A building permit application was submitted on August 14, 2024, but did not receive approval since the carport was shown to be encroaching into the 25-foot front yard setback. A Special Exception request application was then submitted on September 09, 2024 to allow an encroachment of 20 feet into the 25-foot front yard setback for the existing metal carport.

**ANALYSIS:** The Special Exception request involves an encroachment on the front yard of the property. The applicant stated he uses the carport for weather protection of his vehicle and to accommodate for one of the property owners who is a disabled veteran and requires additional time to access a vehicle. The subject property has a two-car garage, which he uses for storage of one vehicle.

The property owner states that existing carport was built by a contractor who had re assured them that a building permit was not required for the construction.

During a site visit of Plantation Gap Phase I Subdivision, Staff noticed five carports that were granted (special exceptions) by the Zoning Board of Adjustments and appeals meeting between the years of 2013 through 2023. Site visit by staff also revealed 5 other carports in the area, which did not have permits.

Front yard setbacks help keep the character of single-family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

Zoning ordinance Sec. 138-371(g) for Special Exceptions of carports states that no carport for which a Special Exception has been granted under this subsection shall exceed 400 square feet in size. The carport on the subject property is 400 square feet.

There is no alley at the rear of the property that would allow for relocation of the carport out of the front yard setback.

Special Exceptions are issued to and recorded for the present applicants only. A change in property ownership would require the new owner to apply for a new Special Exception.

Staff spoke with one person in opposition to the special exception request who stated that approval of this request may encourage other property owners in the subdivision to build carports that will encroach into their front yard setbacks.

Measurements provided are with the benefit of a survey.

**RECOMMENDATION:** Staff recommends disapproval of the Special Exception request since the existing carport is not characteristic of the majority of the subdivision.



# 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: ZBA2024-0037 ZBOA Meeting: 10.09.2024  Routed  
Receipt No: 342533  Scanned  
Accepted by: P: [Signature] S: [Signature] Customer Acknowledgment (Int.): Umls.

#### PROJECT

Legal Description Plantation Gap Phase 1 Lot 136  
Subdivision Name Plantation Gap  
Street Address 4417 Thunderbird Avenue Mcallen Texas 78504  
Number of lots 1 Gross acres \_\_\_\_\_  
Existing Zoning R1 Existing Land Use Residential  
Reason for Appeal (please use other side if necessary) carport for driveway encroaching 20ft into the 25ft 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 Michael Garcia Phone 956-874-3369  
Address 4417 Thunderbird Avenue E-mail michaelgarcia9120@gmail.com  
City Mcallen State Texas Zip 78504

#### OWNER

Name Michael Garcia and Juan Mendoza Phone 956-874-3369  
Address 4417 Thunderbird Avenue E-mail michaelgarcia9120@maill.com  
City Mcallen State Texas 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 9/5/24

Print Name Michael Garcia

Owner  Authorized Agent

SEP 09 2024

BY: [Signature]



## Appeal To Zoning Board of Adjustment to Mcallen Zoning Ordinance

RE: Michael Garcia

4417 Thunderbird Ave

Mcallen, Texas 78504

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

We seek a dimensional variance for a carport structure that will shade a portion of our driveway. The structure does not extend to the end of our driveway nor interfere with the sidewalk, street, or utility easements. The circumstances unique to our property relate to layout, design, and setback. The property was built with minimal front yard area in relation to the sidewalk and street, creating a unique challenge of limited space for adding shade improvements over the driveway. The house design did not include a walkway from the sidewalks to the front door. This unique layout renders the driveway the only paved option for approaching our home or any outdoor time for our family. Mcallen temperatures consistently rise into the 90s, with the high closer to 100 degrees. Officials reported that in late spring and summer of 2024, temperatures rose above 100 degrees, with consistently high humidity creating debilitating, dangerous conditions. Without shade, these conditions make our driveway unsafe for our family and damaging to our vehicles. The strict application of the ordinance produces practical difficulties by restricting access to adequate shade for our driveway. The structure protects our family and vehicles from dangerously hot temperatures while outside. In addition, the structure provides shade accommodation for one of the owners, who is a disabled veteran and requires additional time to access a vehicle, collect mail, or simply step outside for fresh air.

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

Practical difficulties arise due to the ordinance's stringent application, which limits our property's access to appropriate and necessary shade during the region's frequent temperatures exceeding 100 degrees. The strict enforcement of the ordinance restricts our family's ability to provide protective coverage from debilitating temperatures. Adjacent properties or utilities are not adversely affected by the structure. Our structure is consistent with the neighborhood's character, as is

evident by the 6+ homes around my property within four streets around my property that currently have similar structures.

***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:***

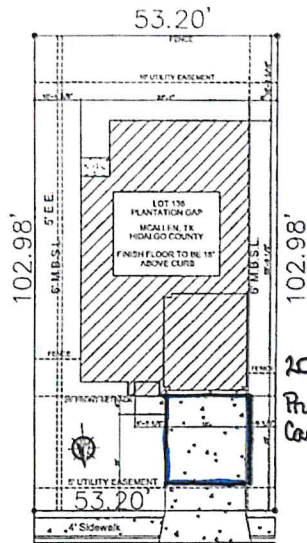
The structure is consistent with the neighborhood's character and does not have a detrimental effect on the utilities or properties that are adjacent. The sidewalk and street are not obstructed by the structure, which does not extend to the end of our driveway. We are unable to enjoy enhancements to our property in a manner that is reasonable, customary, and consistent with other properties in the area due to the strict application of the ordinance.

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

We have lived and contributed to the Mcallen community for over 40 years.

Juan Mendoza - United States Marine - Disabled Veteran.

Michael Garcia – Public School Teacher – actively serving 23<sup>rd</sup> year of providing quality educational service to our community.



**MODEL: SAN MATEO  
PLANTATION GAP PHASE 1  
SUBDIVISION**

BEING A SUBDIVISION OF 27.147 ACRES OUT OF  
LOT 388, JOHN H. SHARY SUBDIVISION (AS  
RECORDED IN VOL. 1, PG. 17, H.C.D.R.)  
CITY OF MCALLEN HIDALGO COUNTY, TEXAS

THIS SUBDIVISION IS LOCATED IN ZONE "C" ON FEMA'S FLOOR  
INSURANCE RATE MAP, COMMUNITY PANEL NO. 480334 0400C,  
MAP REVISED NOV. 16, 1982

THERE ARE NO ENCROACHMENTS OR  
PROTRUSIONS UNLESS OTHERWISE SHOWN.

WING FENCE: 16 FEET  
REAR FENCE: 54 FEET

DRIVEWAY: 472 SQ. FT.  
SIDEWALKS: 227 SQ. FT.  
APRON: 135 SQ. FT.  
TOTAL CONCRETE: 834 SQ. FT.

GRASS: 2,867 SQ. FT.  
SCALE: 1/8" = 1'-0"

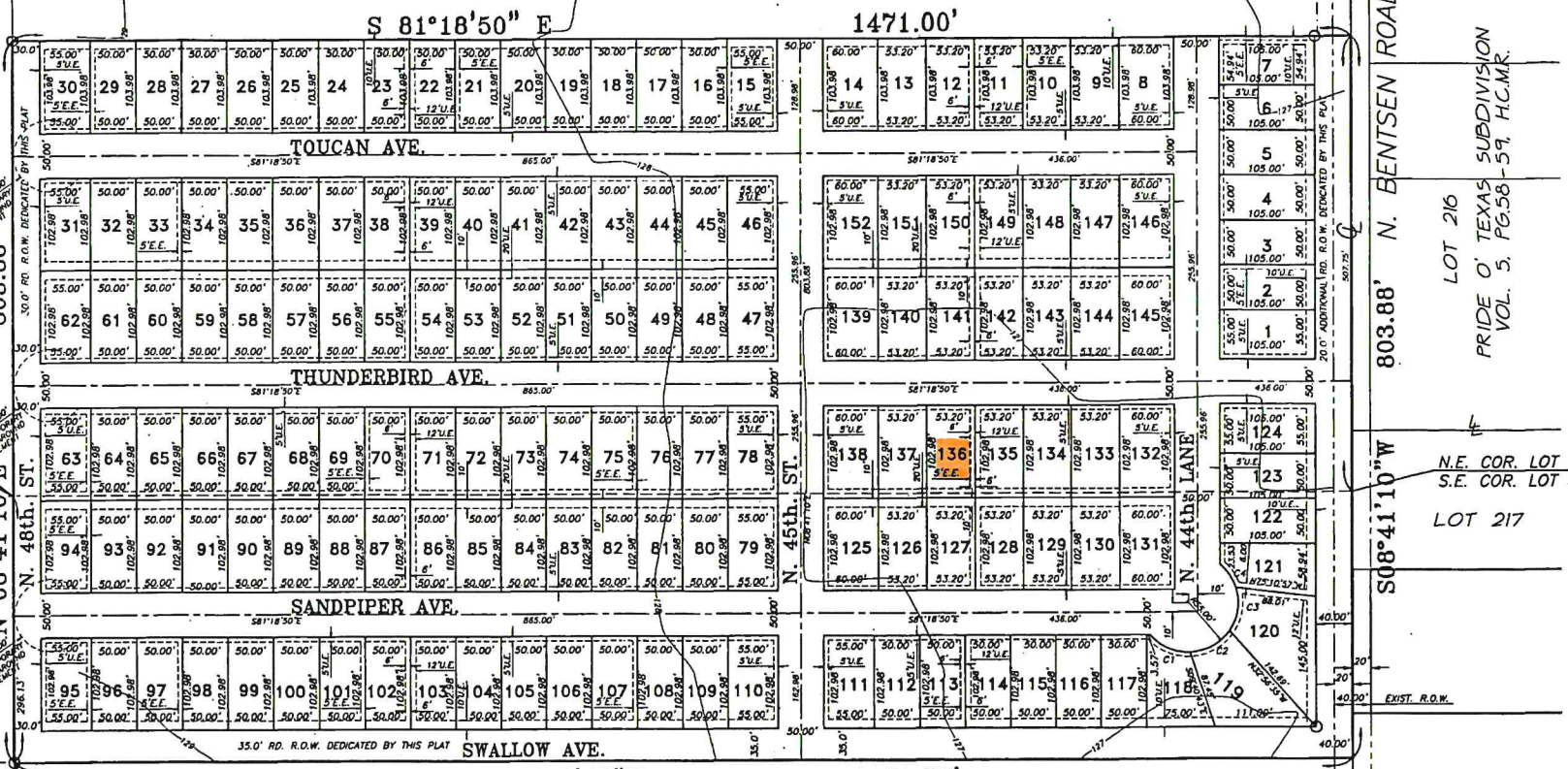


|              |  |                      |  |
|--------------|--|----------------------|--|
| PROJECT NO.  |  | WESTWIND DEVELOPMENT |  |
| ADDRESS      |  | NO. 3842 S. 147      |  |
| CITY         |  | MCALLEN              |  |
| COUNTY       |  | HIDALGO              |  |
| STATE        |  | TX                   |  |
| DATE         |  | SATURATED            |  |
| DRAWN BY     |  | [Blank]              |  |
| CHECKED BY   |  | [Blank]              |  |
| SCALE        |  | [Blank]              |  |
| SHEET NO.    |  | [Blank]              |  |
| TOTAL SHEETS |  | [Blank]              |  |
| DATE         |  | [Blank]              |  |
| BY           |  | [Blank]              |  |
| TITLE        |  | WEST SITE            |  |



LOT 398, JOHN H. SHARY SUBDIVISION VOL. 1, PG.17, H.C.M.R. GRANDE VALLEY HOMES, L.L.C. W.D. DOC. NO. 1094338, H.C.O.R.

LOT 387, JOHN H. SHARY SUBDIVISION VOL. 1, PG.17, H.C.M.R. LOT 388, JOHN H. SHARY SUBDIVISION VOL. 1, PG.17, H.C.M.R. LOT 397, JOHN H. SHARY SUBDIVISION VOL. 1, PG.17, H.C.M.R.



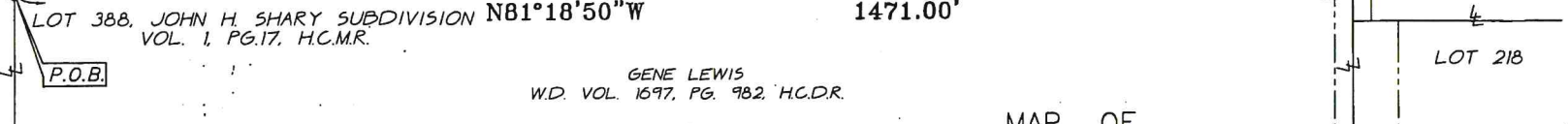
FILED FOR RECORD IN HIDALGO COUNTY BY J.D. SALINAS, III COUNTY CLERK ON 12-20-04 AT 10:54 AM AS A RECORDING NUMBER 1215629 BY [Signature] DEPUTY

Recorded in Volume 44 Page 181 of the map records of Hidalgo County, Texas J.D. Salinas III County Clerk

LEGEND  
 • 1/4 REBAR SET  
 • 1/4 REBAR FOUND

NOTE:  
 SET 1/2" IRON REBAR ON ALL LOT CORNERS.

LOT 387, JOHN H. SHARY SUBDIVISION VOL. 1, PG.17, H.C.M.R.



# MAP OF PLANTATION GAP SUBDIVISION PHASE I

BEING A SUBDIVISION OF 27.147 ACRES OUT OF LOT 388 AND 398, JOHN H. SHARY SUBDIVISION (AS RECORDED IN VOL. 1, PG.17, H.C.M.R.) CITY OF McALLEN, HIDALGO COUNTY, TEXAS



STATE OF TEXAS COUNTY OF HIDALGO

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS "PLANTATION GAP SUBDIVISION PHASE I", TO THE CITY OF McALLEN, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, WATER LINES, SEWER LINES, STORM SEWERS, FIRE HYDRANTS, AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I WILL CAUSE TO BE INSTALLED THEREON SHOWN OR NOT SHOWN AND REQUIRED OTHERWISE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF McALLEN ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, EITHER ON THE PLAT HEREON OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF McALLEN.

GRANDE VALLEY HOMES, L.L.C., D.B.A. CASA LINDA HOMES  
 MARK DIZDAR, OWNER  
 1409 N. MAIN  
 McALLEN, TEXAS 78502

STATE OF TEXAS COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MARK DIZDAR, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 27th DAY OF July, 2004.

Celestine Stewart  
 Notary Public, State of Texas  
 My Commission Expires: 8-26-2005

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION 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.

[Signature]  
 CHAIRMAN, PLANNING COMMISSION

STATE OF TEXAS COUNTY OF HIDALGO

I, THE UNDERSIGNED, FRED L. KURTH, A REGISTERED PROFESSIONAL ENGINEER AND REGISTERED PUBLIC LAND SURVEYOR, IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT AND IS A TRUE AND ACCURATE REPRESENTATION OF THE SUBDIVISION OF THE LANDS HEREON DESCRIBED.

[Signature]  
 FRED L. KURTH, R.P.E. # 54151 R.P.L.S. # 4750  
 DATE SURVEYED: 03-15-02  
 DATE PREPARED: 03-15-02  
 FEE: \$1,000.00 JOB NO. 02055  
 PREPARED BY: R. DE JESUS

METES AND BOUNDS DESCRIPTION

A TRACT OF LAND CONTAINING 27.147 ACRES SITUATED IN THE COUNTY OF HIDALGO, TEXAS, BEING A PART OR PORTION OF LOTS 388 AND 398, JOHN H. SHARY SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1, PAGE 17, HIDALGO COUNTY MAP RECORDS, SAID 27.147 ACRES ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF LOT 388, JOHN H. SHARY SUBDIVISION FOR THE SOUTHWEST CORNER OF THIS TRACT, SAID POINT BEARS S 08° 41' 10" W A DISTANCE OF 298.13 FEET FROM THE NORTHWEST CORNER OF SAID LOT 388;

THENCE N 08° 41' 10" E ALONG THE WEST LINES OF LOTS 388 AND 398, JOHN H. SHARY SUBDIVISION, AT A DISTANCE OF 298.13 FEET PASS THE NORTHWEST CORNER OF SAID LOT 388 AND THE SOUTHWEST CORNER OF SAID LOT 398, CONTINUING A TOTAL DISTANCE OF 803.88 FEET TO THE NORTHWEST CORNER OF THIS TRACT;

THENCE S 81° 18' 50" E AT A DISTANCE OF 1471.00 FEET PASS THE EXISTING WEST RIGHT-OF-WAY LINE OF BENTSEN ROAD, CONTINUING A TOTAL DISTANCE OF 1471.00 FEET TO THE NORTHEAST CORNER OF THIS TRACT;

THENCE S 08° 41' 10" W ALONG THE EAST LINES OF LOTS 388 AND 398, JOHN H. SHARY SUBDIVISION AND WITHIN THE RIGHT-OF-WAY OF BENTSEN ROAD, AT A DISTANCE OF 507.75 FEET PASS THE SOUTHWEST CORNER OF SAID LOT 388 AND THE NORTHEAST CORNER OF SAID LOT 398, CONTINUING A TOTAL DISTANCE OF 803.88 FEET TO THE SOUTHWEST CORNER OF THIS TRACT;

THENCE N 81° 18' 50" W AT A DISTANCE OF 30.00 FEET PASS THE WEST RIGHT-OF-WAY LINE OF BENTSEN ROAD, CONTINUING A TOTAL DISTANCE OF 1471.00 FEET TO THE POINT OF BEGINNING, AND CONTAINING 27.147 ACRES, OF WHICH 0.369 OF ONE ACRE LIES IN THE EXISTING RIGHT-OF-WAY OF BENTSEN ROAD, LEAVING A NET OF 26.778 ACRES OF LAND, MORE OR LESS.

STATE OF TEXAS COUNTY OF HIDALGO

I/V/E, THE UNDERSIGNED, HOLDER(S) (OR DULY AUTHORIZED OFFICERS OF THE HOLDER(S)) OF A SECURITY INTEREST IN THE ABOVE DESCRIBED PROPERTY, BEING THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS THE "PLANTATION GAP SUBDIVISION PHASE I" OF THE CITY OF McALLEN, TEXAS, DO HEREBY CONSENT TO THE SUBDIVISION OF THE PROPERTY AS PROVIDED FOR UNDER THE PLAT AND DO HEREBY PROVIDE THAT ANY FORECLOSURE RELATING TO THE SECURITY INTEREST IN THE ABOVE DESCRIBED PROPERTY SHALL BE SUBJECT TO THE PLATTING OF THE PROPERTY AS PROVIDED FOR HEREIN.

[Signature]  
 DOUG BREDDY  
 TEXAS STATE BANK

- ALL IRRIGATION EASEMENTS ARE EXCLUSIVE TO UNITED IRRIGATION DISTRICT, AND NO OTHER UTILITIES OR USE IS ALLOWED WITHOUT EXPRESS APPROVAL BY THE DISTRICT.
- NO UTILITY COMPANY OR OTHER PERSON IS ALLOWED TO CROSS ABOVE OR BELOW GROUND ANY DISTRICT EASEMENT OR RIGHT-OF-WAY LINES, POLES, OPEN DITCHES OR OTHER USE WITHOUT FIRST OBTAINING A CROSSING PERMIT FROM THE DISTRICT.
- NO PERMANENT STRUCTURE, (EXAMPLE, FENCES OF ANY CONSTRUCTION) WILL BE ALLOWED TO BE CONSTRUCTED OR EXIST ON ANY DISTRICT EASEMENT OR RIGHT-OF-WAY WITHOUT WRITTEN APPROVAL BY THE DISTRICT. ANY UNAUTHORIZED STRUCTURE IN THE EASEMENT AREA IS SUBJECT TO REMOVAL.

STATE OF TEXAS COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED DOUG BREDDY, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 27th DAY OF July, 2004.

[Signature]  
 HELEN WARBURTON  
 Notary Public, State of Texas  
 My Commission Expires: 11-12-05

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.

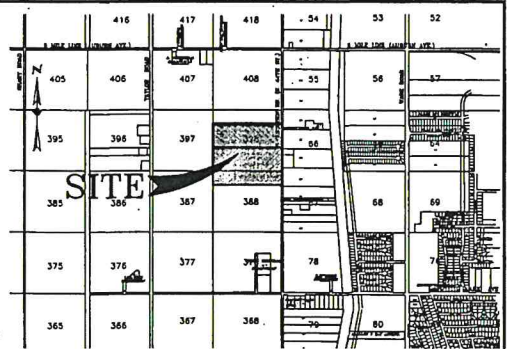
HIDALGO COUNTY DRAINAGE DISTRICT NO. 1  
 BY: [Signature] 12/26/04

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.

[Signature]  
 MAYOR, CITY OF McALLEN



- GENERAL NOTES:
- SETBACK AS FOLLOWS: (EXCEPT WHERE GREATER SETBACK OR EASEMENT APPLIES)  
 FRONT ..... 25 FEET  
 REAR ..... 10 FEET  
 INTERIOR SIDES... 6 FEET OR GREATER FOR EASEMENTS,  
 10 FEET ON N. SIDE OF LOT 7 OR GREATER FOR EASEMENTS  
 SIDE CORNER..... 10 FEET  
 GARAGE..... 18 FEET (EXCEPT WHERE GREATER REQUIRED)
  - MINIMUM PERMISSIBLE FLOOR ELEVATION SHALL BE 18" ABOVE TOP OF CURB AT THE MID POINT OF THE LOT.
  - BENCH MARK: C.P.S. IN P.P. LOCATED ON WEST SIDE OF BENTSEN ROAD 250' ± SOUTH OF NORTH OF NORTH LINE OF PROPERTY. ELEV. = 128.17 MC 47 CITY OF McALLEN BENCH MARK 30" ALUMINUM PIPE W/ 3/4" BRASS MONUMENT CAP ON TOP, LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF TAYLOR RD. AND MILE 5 ROAD B.M. ELEV. = 140.02
  - THIS SUBDIVISION IS LOCATED IN ZONE "C" ON FEMA'S FLOOD INSURANCE RATE MAP, COMMUNITY PANEL No. 480334 0400C, MAP REVISED NOV. 16, 1982.
  - DRAINAGE DETENTION REQUIRED OF 2.58 ACRE-FEET.
  - A 25'x25' CORNER CLIP EASEMENT IS HEREBY DEDICATED AT ALL STREET INTERSECTIONS.
  - DEVELOPER SHALL PROVIDE AN ENGINEERED DETENTION PLAN, APPROVED BY THE ENGINEERING DEPARTMENT PRIOR TO APPLICATION FOR A BUILDING PERMIT.
  - A 4 FT. SIDEWALK REQUIRED ON N. BENTSEN ROAD, N. 48th. ST., SWALLOW AVE. AND BOTH SIDES OF 45TH. STREET AND ALL INTERIOR STREETS.
  - 6' BUFFER REQUIRED ALONG N. BENTSEN ROAD, N. 48th. ST. SWALLOW AVE. AND ADJACENT COMMERCIAL ZONE/USE.
  - NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ON N. BENTSEN ROAD, N. 48th. STREET, AND SWALLOW AVE.
  - TEMPORARY TURN AROUND EASEMENTS SHALL BE ABANDONED UPON STREET EXTENSIONS.



12. ONLY 20 BUILDING PERMITS WILL BE ISSUED BY THE CITY OF McALLEN UNTIL THE SECOND SOURCE OF OFFSITE WATERLINE IS CONSTRUCTED.

DRAWN BY: R. DE JESUS DATE: 6-30-04  
 IRRIG. CHECKED BY: [Signature] DATE: 7-26-04



After weeks of researching companies to help with adding shade to our driveway, we hired SPARTAN WELDERS & CONSTRUCTION, LLC to construct our carport. We opted for this company because of their online presence and magnitude of advertisements on social media. This company advertises as the craftsman that “stands as the benchmark of professional ism in South Texas”. Our rationale was that if they can post all their projects on social media people must be happy with their work.

During the initial consultation / quote meeting the representative visited our home and took measurements. We requested confirmation of license and certification to produce a carport structure in McAllen. The representative reassured us that the LLC provided exceptional workmanship and customer service to McAllen residence for over 25 years. The representative explained to us that that there was no need for any documentation or permission needed for the project, i.e. permits. The representative assured us that a project such as a carport would not need a permit. The representative communicated our concerns to the leaderships and once again assured us that no permit or documentation was needed to construct a 20X20 carport. With that confirmatory reassurance we agreed to continue with the project.

This company has completed projects all over the RGV, some of which are in my neighborhood. Their social media pages are filled with photos of local projects just like ours. We believe that this company used unethical practices of knowingly withholding information to secure a sale. SPARTAN WELDERS & CONSTRUCTION LLC acted in a deceiving manner that has left my family in a difficult position financially









**Memo**

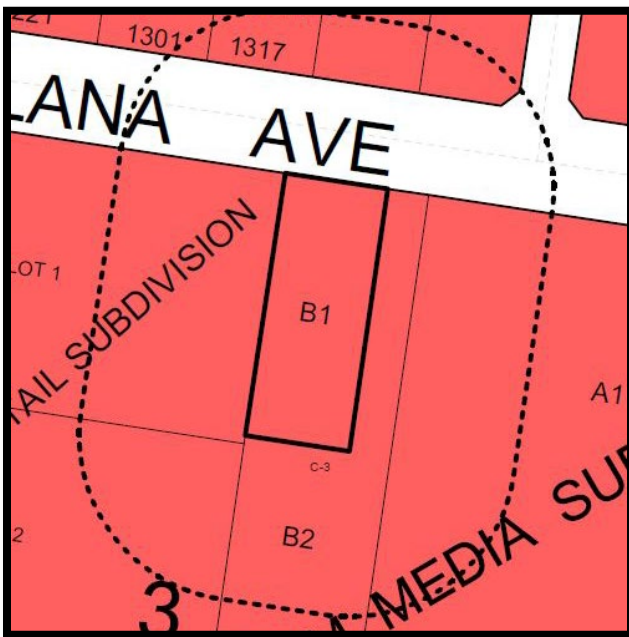
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** September 24, 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 building 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.





**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:

Empty lines for response to question 1.

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

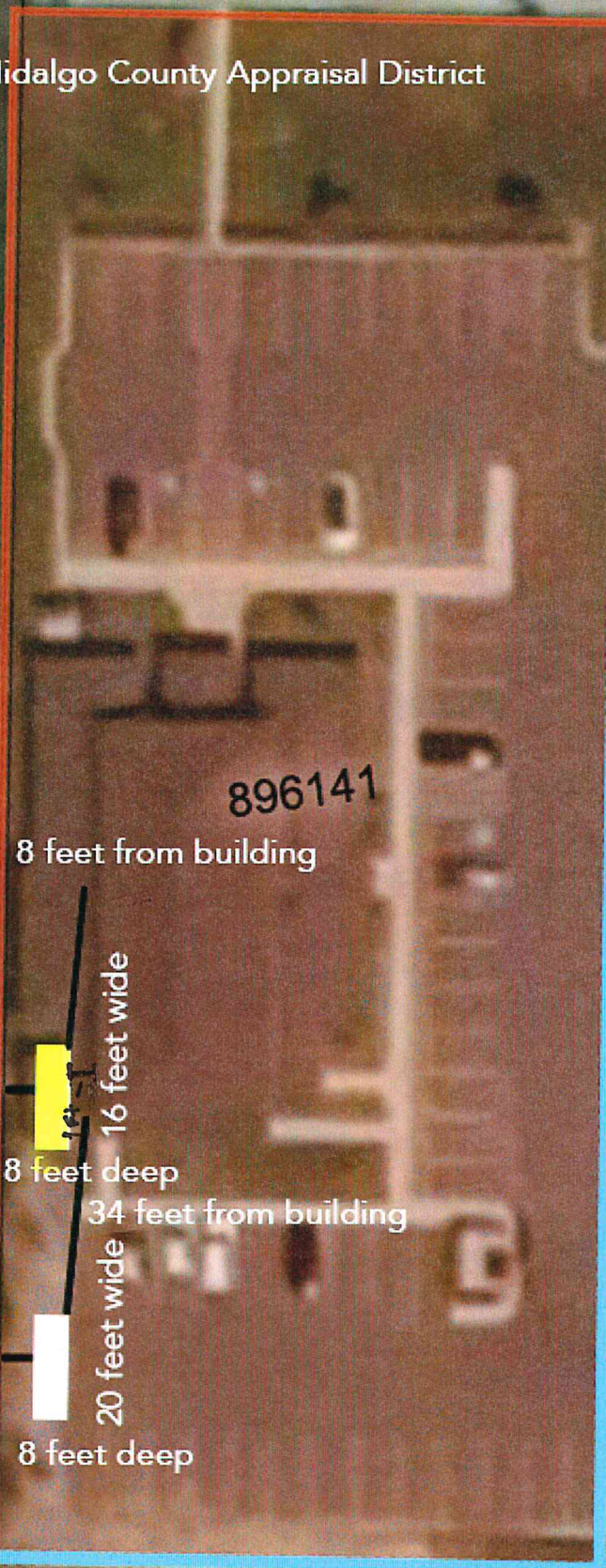
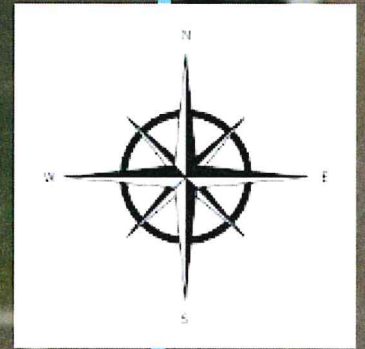
\_\_\_\_\_

\_\_\_\_\_



N

Map pulled from Hidalgo County Appraisal District



896141

8 feet from building

12 feet from property line

16 feet wide  
8 feet deep

12 feet from property line

20 feet wide  
8 feet deep  
34 feet from building













NOTICE  
OF VARIANCE  
FOR  
THIS PROPERTY  
ZBA2024-0036

GREATER McALLEN  
ASSOCIATION OF REALTORS