

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, SEPTEMBER 12, 2024 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

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

CALL TO ORDER – Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on August 21, 2024
- b) Minutes for the Special meeting held on August 30, 2024

2. PUBLIC HEARINGS:

- a) 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)**
- b) Request of Armando Hernandez for variances to the City of McAllen Zoning Ordinance to allow the following encroachments: 1) 6.73 feet into the 10-foot rear yard setback, and 2) 4.98 feet into the South 10-foot side yard setback at Lot 13, Block 5, McAllen Heights Subdivision, Hidalgo County, Texas; 821 South 27th ½ Street. **(ZBA2024-0031)**

3. FUTURE AGENDA ITEMS

- a) 409 Cornell Avenue
- b) 3104 Ozark Avenue
- c) 4401 South "M" Street

ADJOURNMENT:

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

**Minutes for the meeting of
August 21, 2024
and
Special meeting of
August 30, 2024
will be uploaded on
Monday, September 9, 2024**

**Minutes for the meeting of
August 21, 2024
and
Special meeting of
August 30, 2024
will be uploaded on
Monday, September 9, 2024**

Memo

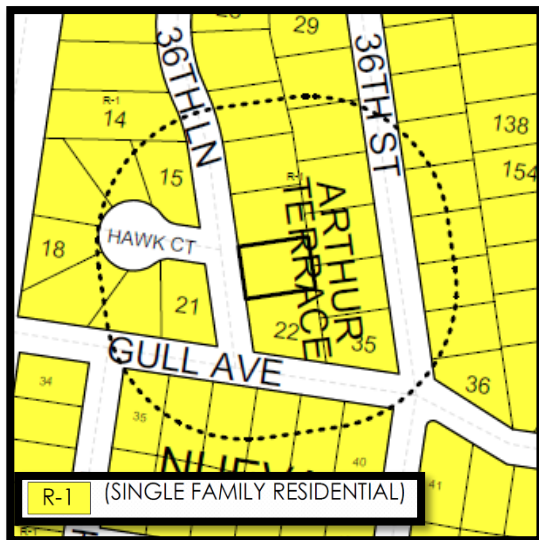
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 3, 2024

SUBJECT: 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)

REASON FOR APPEAL: The applicants are 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 is 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.



PROPERTY LOCATION AND VICINITY: The subject property is located along the east side of North 36th Lane approximately 76 feet north of Gull Avenue. The Lot has 75 feet of frontage along North 36th Lane and a depth of 100 feet for a total Lot size of 7,500 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: 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.

ANALYSIS: The Special Exception request is 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 for 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 36th 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 is 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 has 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.

RECOMMENDATION: Staff recommends disapproval of the Special Exception request since there are no other carports built with an issued building permit in this subdivision. In addition, the carport exceeds 400 square feet in size.

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: ZBA2024-0030 ZBOA Meeting: 9/12/24
Receipt No: _____
Accepted by: P: AM S: [Signature] Customer Acknowledgment (Int.): _____

Routed
 Scanned

PROJECT

Legal Description Carport added in front of garage door.
Subdivision Name Arthur Terrace
Street Address 5916 N. 36th LANE
Number of lots # 23 Gross acres _____
Existing Zoning R-1 Existing Land Use Residence
Reason for Appeal (please use other side if necessary) Carport is necessary to protect necessary vehicle to haul sleeping accommodations for kidney →
 \$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 + Iris Hines Phone 956-279-8198
Address 5916 N. 36th LANE E-mail nicoleynette@gmail.com
City Mc Allen State Texas Zip 78504

OWNER

Name Michael + Iris Hines Phone 956-279-8198
Address 5916 N. 36th LANE E-mail michaelrocky116@gmail.com
City Mc Allen State Texas Zip 78504

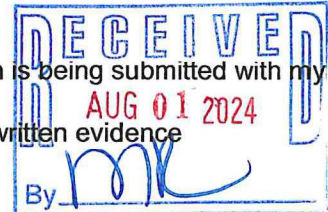
AUTHORIZATION

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 Michael A. Hines Date 8/1/2024



Print Name Michael A. Hines Owner Authorized Agent



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

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

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

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

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

The special circumstance is for safety. We are trying to adhere to Michael's Kidney Transplant doctor's requests to not come into contact with germ carrying people, so we use his truck to haul our own

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner: I, Michael Hines, own a Dodge 2500 pickup truck which I use to haul our little travel trailer. I am a kidney transplant recipient and my kidney doctors here and in Galveston do not want me to catch anything. My anti-rejection medicines lower my immunity so that my body does not reject my transplant. So sleeping and bathing in my own RV seemed to be the safest way to travel.

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:

Most of my neighbors and friends are very happy for me that I am able to travel. When you are on dialysis you cannot. Your blood has to be cleaned by machines every other day. Thus, my building a carport to protect my truck from hail damage does not present any harm.

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

We, my wife and I, are retired teachers on a fixed income. We were raised with traditional values. We were taught to take care of our things, so we decided to protect our truck with a carport. This truck does not fit in our garage. In recent years, we have had several hail storms that have damaged a lot of vehicles and homes. We have insurance, but coming up with the deductible is not easy, so we decided to be proactive and logical and protect our new vehicle.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

Sec. 138-371. - Special exception for carports.

- (a) The zoning board of adjustment may grant a special exception to the minimum setback requirements for a carport when, in the opinion of the board:
 - (1) There is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
 - (2) The carport will not have a detrimental impact on surrounding properties.
- (b) In determining whether to grant this special exception, the board shall consider the following factors:
 - (1) Whether the requested special exception is compatible with the character of the neighborhood.
 - (2) Whether the value of surrounding properties will be adversely affected.
 - (3) The suitability of the size and location of the carport
 - (4) The materials to be used in construction of the carport
- (c) Storage of items other than motor vehicles is prohibited in a carport for which a special exception has been granted under this subsection.
- (d) If the zoning board of adjustment grants a special exception as provided in this section, the site plan and the minutes of the zoning board of adjustment meeting shall be officially recorded with Hidalgo County.
- (e) Any special exception granted under this chapter is granted solely to the applicant and may not be transferred, sold, inherited, bequeathed, or devised.
- (f) A new special exception shall be required upon any change or transfer in ownership of the underlying tract; a special exception granted to a previous applicant does not confer any right to any other individual or corporation to maintain the carport without approval from the zoning board of adjustment.
- (g) No carport for which a special exception has been granted under this subsection shall exceed 400 square feet in size.

(Ord. No. 2018-70, § I, 10-8-18; Ord. No. 2023-85, § I, 6-27-23)



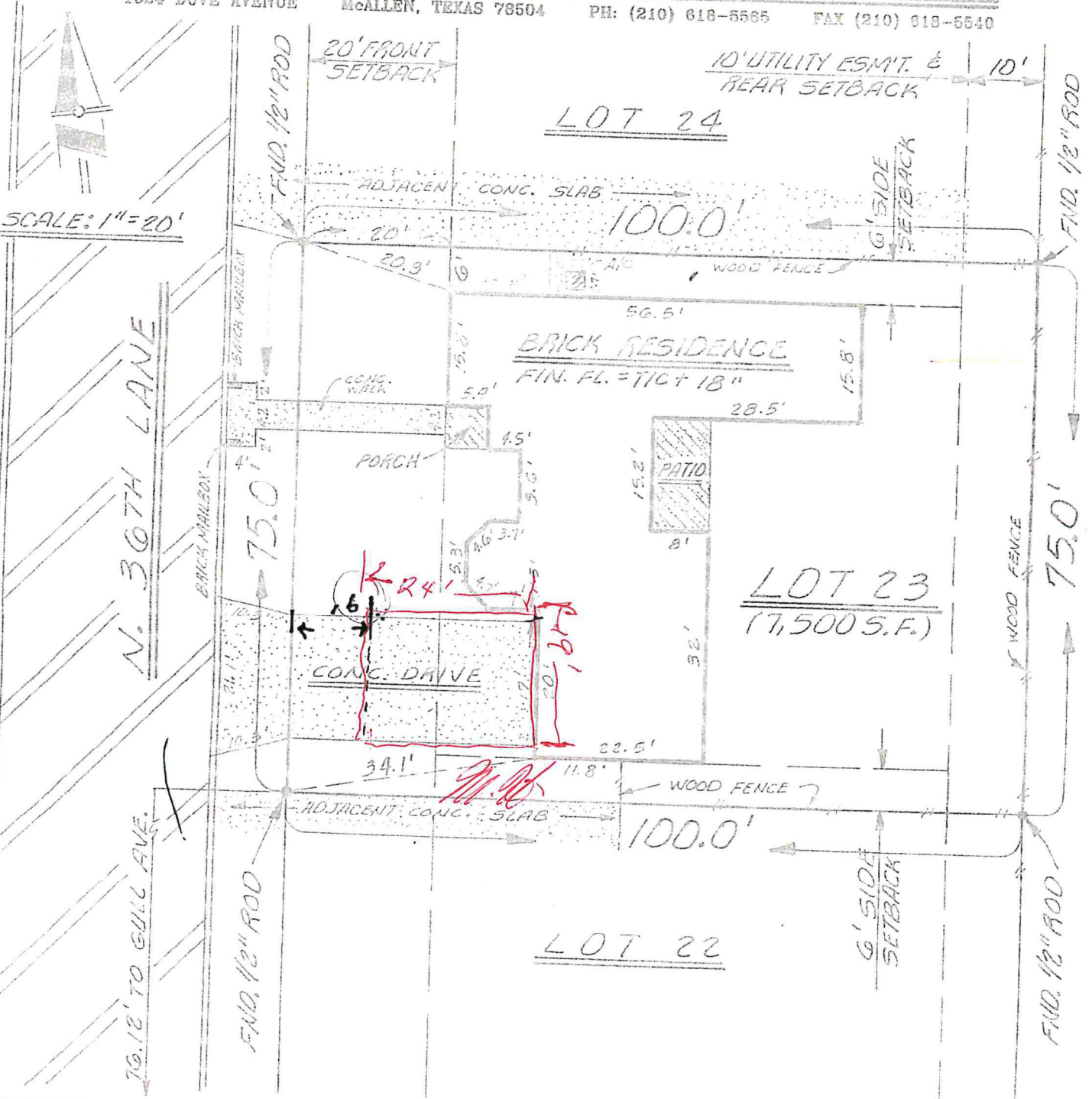
ART SALINAS ENGINEERING & SURVEYING

1624 DOVE AVENUE

McALLEN, TEXAS 78504

PH: (210) 618-5585

FAX (210) 618-5540



FLOOD CERTIFICATION: The property shown hereon lies in Zone C. Zone C areas are areas of "minimal flooding" and are not designated flood prone areas as per F.E.M.A. Flood Insurance Rate Map No. 480343-0005-C dated 11-02-82.

- PLAT NOTES:**
1. There are no discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or any overlapping of improvements except as shown on this plat.
 2. Easement agreement with CENTRAL POWER & LIGHT COMPANY, recorded in Volume 1792, Page 454, Deed Records, Hidalgo County, Texas to furnish, maintain and operate underground electric cables and other facilities as may appear upon the map attached thereto. (Blanket)
 3. Easements, Rules, Regulations and Rights in favor of Hidalgo County Irrigation District No. 1. (Blanket)
 4. Easement and right of way granted to Central Power & Light Company on each lot in said subdivision for an underground electric service lateral together with the right of ingress & egress for such purpose at the right location where such service lateral is to be or is installed and maintained.





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2024-0030



Memo

TO: Zoning Board of Adjustment & Appeals

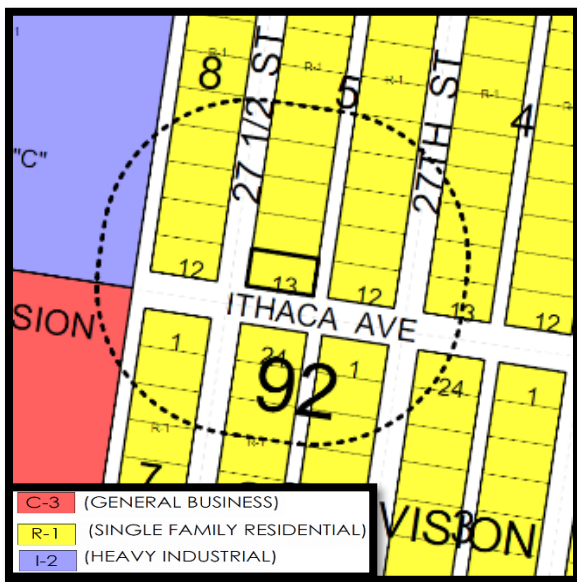
FROM: Planning Staff

DATE: September 6, 2024

SUBJECT: Request of Armando Hernandez for variances to the City of McAllen Zoning Ordinance to allow the following encroachments: 1) 6.73 feet into the 10 foot rear yard setback for an addition; 2) 1.98 feet into the South 7 foot side yard setback; and 3) an encroachment of 14.73 feet into the 18 foot garage setback at Lot 13, Block 5, McAllen Heights Subdivision, Hidalgo County, Texas; 821 South 27th ½ Street. **(ZBA2024-0031)**

REASON FOR APPEAL: The applicant is requesting a variance to allow the above mentioned encroachments for a master bedroom, bathroom, closet, safe space, kitchen and enclosed two-car garage for the first floor. Two bedrooms, bathroom, flex space, balcony, and entertainment room for the second floor addition that will update the current residence for a more modern appearance to suit the space needed for the applicant’s son who is law enforcement personnel and intends to accommodate his work equipment and necessities to the additional structures.

PROPERTY LOCATION AND VICINITY: The subject property is located at the northeast corner of South 27th ½ Street and Ithaca Avenue. The lot has 50 feet of frontage and a depth of 90 feet for a total lot size of 4,500 square feet. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions.



BACKGROUND AND HISTORY: The plat for McAllen Heights Subdivision was recorded in January

1959. According to the Hidalgo Country Appraisal Records, the home was constructed in 1980. The application for the variance request was submitted on August 7, 2024.

ANALYSIS: Variance #1 – the applicant proposes to construct an addition that will encroach 6.73 feet into the 10-foot rear yard setback. The portion of the addition that will encroach into the rear yard setback consists of a bathroom, walk-in closet, safe space, entertainment room, balcony and flex space. The plat for this subdivision does not indicate a utility easement along the rear of the subject property. A 20-foot alley at the rear of the subject property provides separation that serves as a buffer to the buildings to the south.

Variance #2 - The applicant has submitted a “site plan” for the existing structure that indicates a 10-foot side yard setback along Ithaca Avenue. The applicant proposes an addition to the existing two-story home that would expand 4.98 feet into the side yard setback along the south property line. The proposed construction encroachment will consist of a kitchen, master bedroom, flex space, bedrooms and bathroom areas. Section 138-368 Side Yards (a) of the Zoning Ordinance states that on a corner lot in all districts, the width of the side yard along the street shall not be less than ten feet provided that the buildable width of such a lot of record shall not be reduced to less than 38 feet. Strict application of the 10-foot setback requirement will reduce the buildable width to 35 feet. In the past, the practice to achieve compliance with the ordinance requirements has been to allow for 7-foot corner yard setbacks in cases where the buildable width is less than 38 feet. Thus, the setback requirement compliant with the ordinance is 7 feet along Ithaca Avenue. Approval of the variance request for a 1.98 feet encroachment into the 7-foot side yard setback will allow a 5.02 side yard setback to remain. A 5-foot side yard setback on corner lots may be present on properties with setbacks from the previous Zoning Ordinance. The plat for this subdivision does not indicate utility easements along the rear of sides of the property. The alley serves as a buffer to structures on the adjacent property to the south.

Variance #3 – Is an encroachment of 14.73 into the 18-foot garage setback for a two-car garage proposed as an addition to the existing home. A proposed double-driveway is in order to comply with the required number of parking spaces for a residence. A 20-foot alley at the rear of the subject property will provide access to the proposed garage. The Zoning Ordinance requires that entrances to a garage shall be a minimum of 18 feet from alleys in the R-1 District. The site plan shows the distance from the rear property line to the proposed garage at 3.27 feet. The plat for this subdivision does not indicate a utility easement along the rear of the property. The alley serves as a buffer to structures on the adjacent property to the south. The car garage is an accessory use and not living area. An enclosed garage built close to the property line may present concerns regarding all-around sight visibility while a vehicle is maneuvering into the alley right of way.

The applicant has not provided a survey to determine the encroachments in a specific way.

Although there were other lots in the subdivision that appeared to have similar property building encroachments, a review of Planning Department records did not reveal any approved permits or variances in the immediate area.

If the variance request is approved the applicant must comply with all other building and zoning ordinance requirements.

Staff has received one email in favor of the variance request.

RECOMMENDATION:

Staff recommends approval of variance request #1 since a 20-foot alley at the rear of the subject property provides separation that serves as a buffer to the buildings to the south.

Staff recommends approval of variance request #2 since 5-foot side yard setbacks on corner lots are still a practice on properties with setbacks from the previous Zoning Ordinance.

Staff recommends disapproval of variance request #3 since an enclosed garage built close to the property line may present visibility concerns as a vehicle maneuvers into the alley right of way.



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Case Number: ZBA 2024-0031

ZBOA Meeting: 9/12/24

Routed

Receipt No: 340297

Scanned

Accepted by: P: EL S: EL

Customer Acknowledgment (Int.): JH

PROJECT

Legal Description McAllen Heights Lot 13 Blk 5

Subdivision Name McAllen Heights Sub Division

Street Address 821 S. 27 1/2 St

Number of lots 1 Gross acres .10

Existing Zoning R-1 Existing Land Use Home

Reason for Appeal (please use other side if necessary) Encroachment of 6.73' into the (East side) 10' rear setback and 4.98' into the 10' side yard setback. (South side)

\$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 Armando Hernandez Phone (956) 369-6164

Address 1105 S. Shary Blvd E-mail linda.1753@sbcglobal.net

City Alton State TX Zip 78573

OWNER

Name Linda Hernandez Phone (956) 369-4545

Address 1105 S. Shary Blvd E-mail linda.1753@sbcglobal.net

City Alton State TX Zip 78573

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.

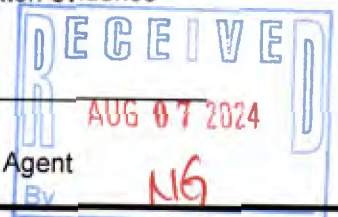
Signature Armando Hernandez

Date 8/7/2024

Print Name Armando Hernandez

Owner

Authorized Agent





City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

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

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

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

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

The old structure is small in size and an addition is needed to update the kitchen area and add a master bedroom to include an enclosed garage.

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

The 5' variance requested on the south side of the property would provide the necessary width for a modern kitchen and the necessary appliances.

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 new structure will not interfere with the public's view, health or wellbeing once its constructed. The new addition will improve the neighborhood and beautify the area.

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

The new addition to the structure will be of modern design unlike the old wooden frame homes in the area. A great improvement will be added to our community.

Reason for Appeal

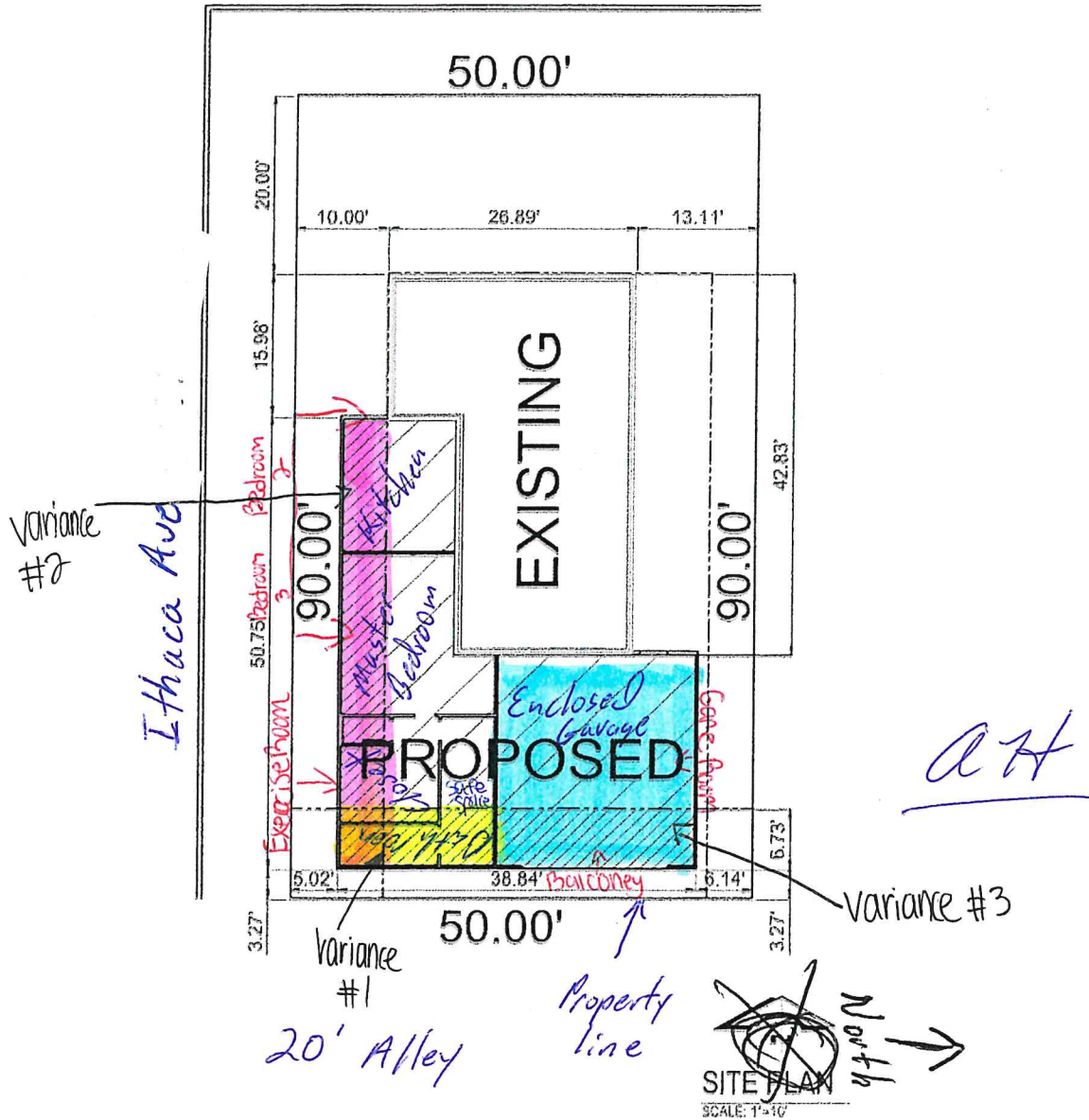
Board Action

Chairman, Board of Adjustment
Signature

Date



821 S 27 1/2 STREET



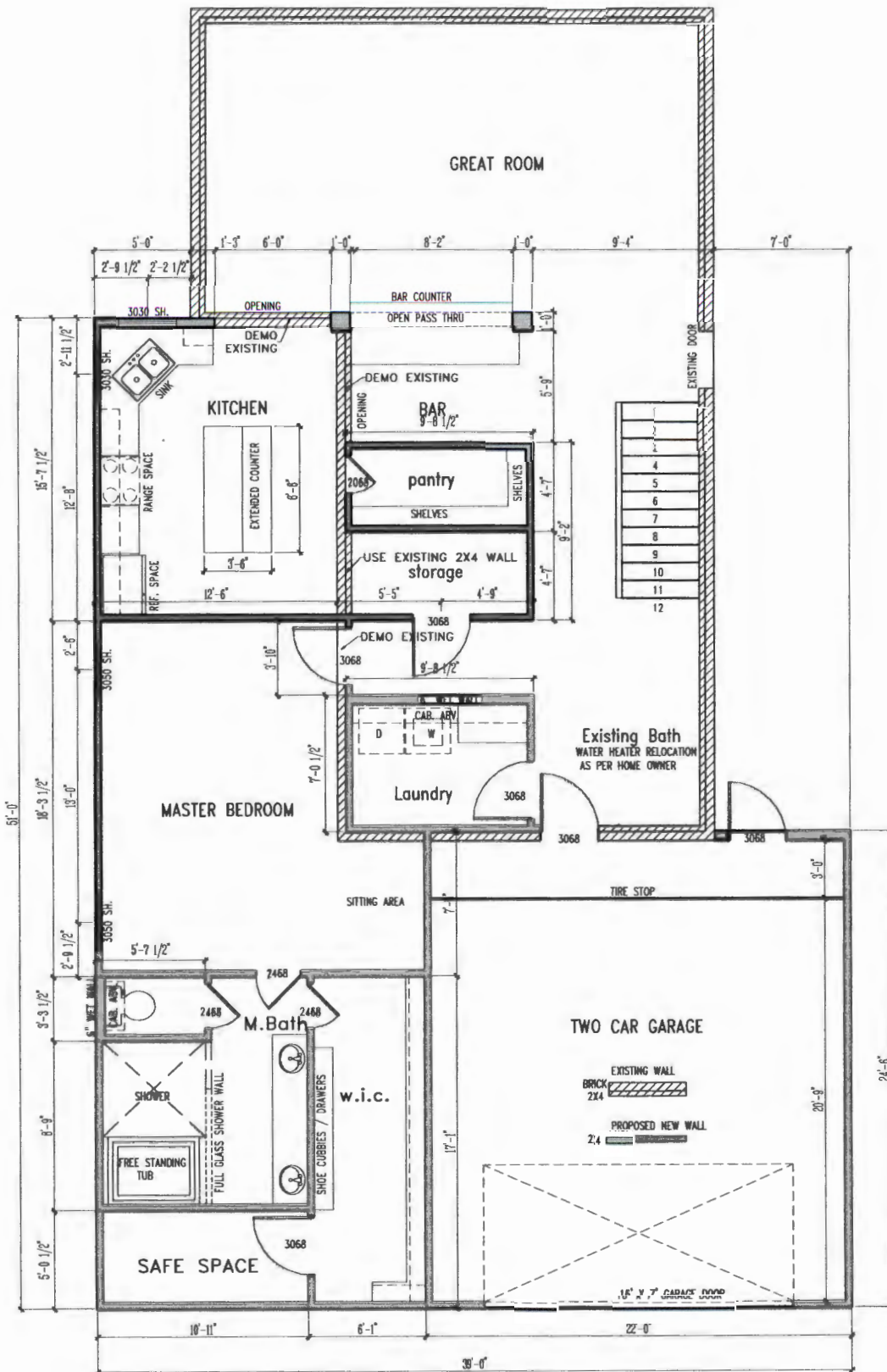
ah

SHEET: 1	HOME DESIGN FOR MR. AND MRS. HERNANDEZ	PLAN ID # 3300	DESIGNED BY: Paul V. Foltz	DATE:
			APPROVED BY:	3-31-24
			APPROVED BY:	

RECORDED
AUG 07 2024
By *NG*







**1ST FLOOR
ADDITION PLAN**
SCALE: 1/8" = 1'-0"

DATE: 8-1-24	DRAWN BY: Frank X. Castaneda
	EMAIL: FrankXCastaneda@yahoo.com
	Phone No: 956-225-4191
	AUDITED BY:
	APPROVED BY:

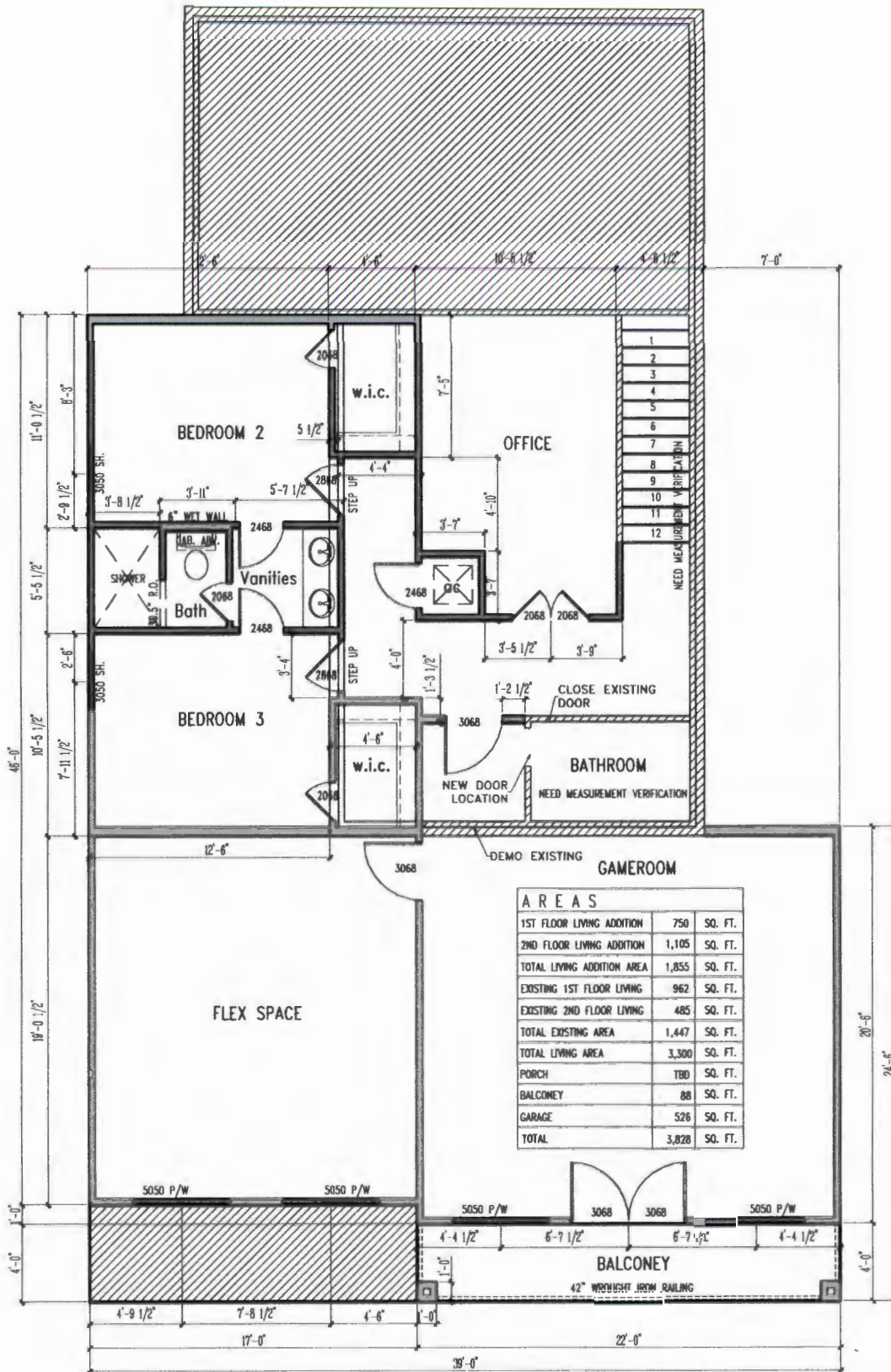
**HOME DESIGN FOR
MR. AND MRS. HERNANDEZ**

PLAN ID # 3300

SHEET

2

RECEIVED
 AUG 07 2024
 By **NG**



AREAS	
1ST FLOOR LIVING ADDITION	750 SQ. FT.
2ND FLOOR LIVING ADDITION	1,105 SQ. FT.
TOTAL LIVING ADDITION AREA	1,855 SQ. FT.
EXISTING 1ST FLOOR LIVING	962 SQ. FT.
EXISTING 2ND FLOOR LIVING	485 SQ. FT.
TOTAL EXISTING AREA	1,447 SQ. FT.
TOTAL LIVING AREA	3,300 SQ. FT.
POORCH	TBD SQ. FT.
BALCONY	88 SQ. FT.
GARAGE	526 SQ. FT.
TOTAL	3,828 SQ. FT.

**2ND FLOOR
ADDITION PLAN**
SCALE: 1/8" = 1'-0"

DATE: 8-1-24	DRAWN BY: Frank X. Castaneda	HOME DESIGN FOR MR. AND MRS. HERNANDEZ	PLAN ID # 3300	SHEET: 3
	EMAIL: FrankXCastaneda@Yahoo.com			
	PHONE No: 956-225-4191			
	AUDITED BY:			
APPROVED BY:				



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2024-0031

NO
TRESPASSING

824