

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, SEPTEMBER 26, 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 – CHAIRMAN JOSE GUTIERREZ

1. MINUTES:

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

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 an 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)**
- 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)**
- 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)**
- 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)**

3. FUTURE AGENDA ITEMS

- a) 2017 Daffodil Avenue
- b) 1324 East Nolana Avenue
- c) 4417 Thunderbird Avenue
- d) 304 Cornell Avenue
- e) 3016 South "K" Center Street

ADJOURNMENT:

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

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, September 12, 2024 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

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

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

The minutes for the meeting held on August 21, 2024 and Special meeting on August 30, 2024 were approved. The motion to approve the minutes were made by Mr. Alex Lamela. Mr. Hugo Avila seconded the motion, which carried unanimously with five members present and voting.

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)**

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 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.

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.

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 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 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 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. In addition, the carport exceeds 400 square feet in size.

Mr. and Mrs. Iris and Michael Hines, 5916 North 36th Lane. Mrs. Hines stated they had hired a contractor to build the carport and the contractor informed him that he would take care of getting the permit. They paid him for the constructing of the carport. While the carport was being built the applicants saw the Building Department inspector, pass by three different times. Mrs. Hines stated that she saw the inspector speaking to the contractor instructing him how far and what not to do. She stated she had pictures to show the Board members of the carport that was built back in 2022. She stated after two years they found out there was no record of a building permit. Mr. Hines stated he could get only one vehicle in the garage. Both applicants were retired and on a limited income.

Chairperson Gutierrez asked staff why the applicants came before this Board. Ms. Martinez stated because the size of the carport and no building permit.

Board member Mujica asked staff was it during the construction when the Stop Work Order was issued or after construction was done. Staff stated it was issued after the carport was built.

Planning Director Garcia stated Stop Work Orders were issued when the Building Inspections Department found out that there was no permit. The work may have been done two years ago, but still got a Stop Work Order because they need get permits for the construction.

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 else to speak in opposition of the Special Exception request.

Board member Mujica stated that in his opinion, the biggest issue was the carport exceeded 400 square feet.

Chairperson Gutierrez asked staff considering their measurements what would be the actual square footage for this construction. Staff stated for the carport itself the applicants had provided the measurements to be 456 square feet, which was the 19 feet by 24 feet for the carport.

Mrs. Hines stated the measurements they had were the latest ones from the Building

Department inspector that were given to them.

Austin Stevenson, Deputy City Attorney, advised to consider tabling the request to allow time for staff and applicants to clarify the measurements.

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

- 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 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)**

Ms. Martinez stated 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.

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.

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.

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 foot 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 had received one email in favor of the variance request.

Staff recommended 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 recommended 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 recommended 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.

Chairperson Gutierrez asked staff if they received one email and one phone call. Staff stated one email and one phone call both in favor from different people.

Mr. Armando Hernandez, 1105 South Shary Boulevard, Alton, Texas and his second residence 821 South 27th ½ Street, McAllen, Texas.

Chairperson Gutierrez asked Mr. Hernandez to clarify variance request #3 for the garage, in which staff was recommending disapproval. The applicant stated he understood the recommendation. Mr. Hernandez stated he had a son that was a DPS Trooper and was assigned to the Marine Division of the DPS Department. He stated that his son was assigned a pickup truck that was 20 foot in length, which carries high tech equipment in it. He was informed in order to keep the truck secured was to extend the garage to the 23 or 24-footmark so the vehicle can fit.

Board member Mujica asked the applicant if his son lived with him. Mr. Hernandez stated his son was assigned in Rockport, Texas and now wants to come back to the Valley. His son said the home was close to the Expressway for work.

Board member Mujica stated he had concern with the safety factor. The garage would hinder visibility for traffic in two directions. Mr. Hernandez had mentioned it his son and wanted to put circular mirrors and video monitoring on the corner to view the traffic. He stated the caliche alley was very clear.

Board member Avila explained to the applicant regarding that the variance goes with the land and not the owner. He stated visibility was important and City vehicles go through the alley on a weekly basis.

Vice-Chairperson Tafel stated she stated that from the City's point of view it was a site hazard being on the corner. She asked if it was width or the depth that was the biggest concern. Planning Director Garcia stated it was the depth, regardless if it was a one car or two-car garage.

Board member Mujica asked the applicant whoever designed the site plan was aware of all the setbacks that were required. Mr. Hernandez he paid a draft designer to accommodate the vehicle. Board member Mujica stated it was possible to redesign the layout so that it was feasible for his son.

Chairperson Gutierrez asked the applicant if the garage had to be enclosed. Mr. Hernandez stated he used to have a metal carport but removed it. He stated having an enclosed garage would be more secured for his son's work vehicle.

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 present to speak in opposition of the Variance request.

Following discussion, Mr. Alex Lamela **moved** to approve Variance request #1. Mr. Hugo Avila seconded the motion. The Board voted to approve Variance request #1 with five members present and voting.

Mr. Hugo Avila **moved** to approve Variance request #2. Mr. Alex Lamela seconded the motion. The Board voted to approve Variance request #2 with five members present and voting.

Mr. Alex Lamela **moved** to disapprove Variance request #3. Mr. Juan Mujica seconded the motion. The Board voted to disapprove Variance request #3 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.

Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Memo

TO: Zoning Board of Adjustment & Appeals

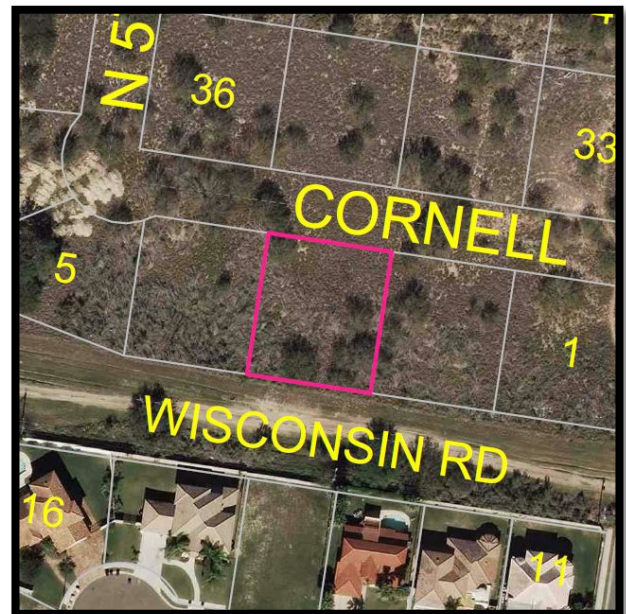
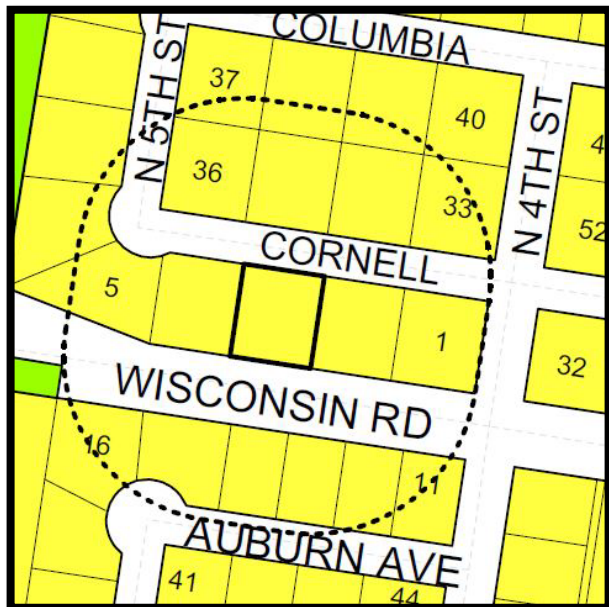
FROM: Planning Staff

DATE: September 9, 2024

SUBJECT: REQUEST OF MELINDA GARZA ON BEHALF OF BILAL NAZIF AND REEM ALANBARI, 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 SINGLE FAMILY HOME AT LOT 3, THE EMBERS SUBDIVISION (GATED COMMUNITY), HIDALGO COUNTY, TEXAS; 409 CORNELL AVENUE. (ZBA2024-0032)

REASON FOR APPEAL:

The applicants are 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.



PROPERTY LOCATION AND VICINITY:

The subject property is located west of North 4th 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.

BACKGROUND AND HISTORY:

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.

ANALYSIS:

The variance request is 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 2nd 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 has not received any phone calls or concerns in regards to the variance request.

RECOMMENDATION:

Staff recommends 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.

ZBA: 09/26/24



City of McAllen Planning Department

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA 2024-0032

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

Project

Legal Description Lot 3 Embers

Subdivision Name Embers Subdivision

Street Address 409 Cornell

Number of lots 1 Gross acres _____

Existing Zoning Residential Existing Land Use vacant

Reason for Appeal (please use other side if necessary) To allow a 10ft encroachment into the current 25ft rear 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 Melinda Garza Phone 956-566-3370

Address 4801 N. 10th St E-mail melinda@illuminationsign.com

City McAllen State TX Zip 78504

Owner

Name Bilal Nazif/Reem Alanbari Phone 956-821-0985 yahoo.com

Address 1201 Shalom E-mail reem.alanbari@

City Tomburg State TX Zip 78539

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.

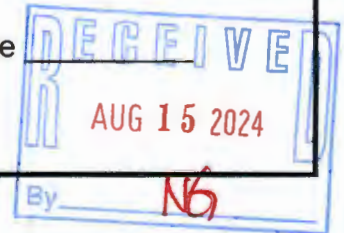
Signature [Signature] Date 8-12-24

Print Name Reem Alanbari Owner Authorized Agent

Office

Accepted by [Signature] Payment received by _____ Date _____

Rev 10/18





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:

Please see the attached floor plan. The additional 10ft of buildable area would allow us to proceed construction of our customer's dream home.

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

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

The variance will have no affect at all to public health or safety. The variance is simply extending the buildable area for the property owner.

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

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

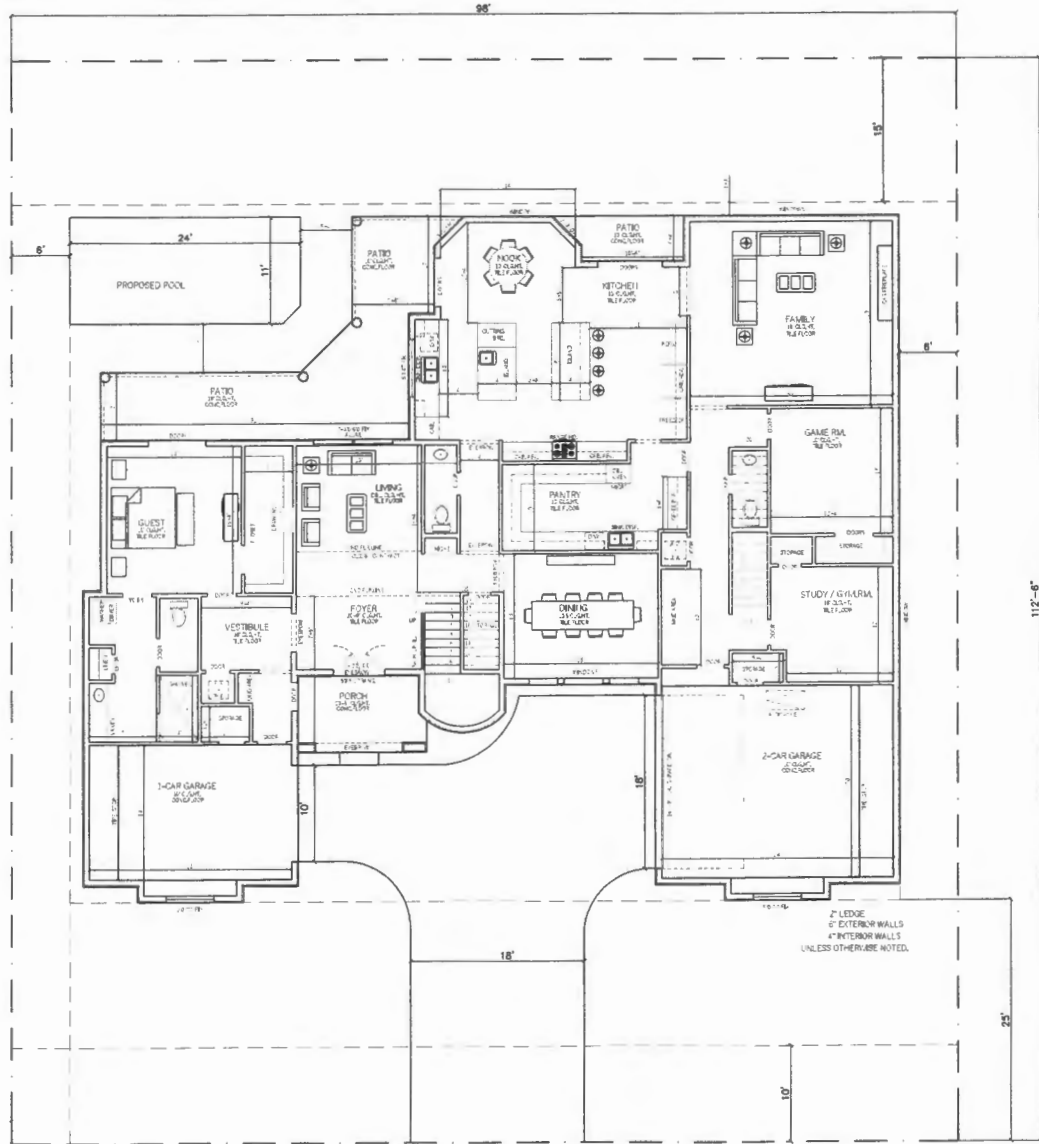
M/A
 CUSTOM PLANS

3605 HARVEY MCALLEN TX
 (956) 648.6870

MADESIGNST7@GMAIL.COM
 WWW.MACUSTOMPLANS.COM
 LOT 3 THE EMBERS

PROJECT DATA

LIVING 1ST:	3,345.0' SF
LIVING 2ND:	2,103.0' SF
LIVING TOT:	5,448.0' SF
1-GARAGE:	367.0' SF
2-GARAGE:	573.0' SF
PATIO:	417.0' SF
PORCH:	104.0' SF
TOTAL AREA:	6,909.0' SF



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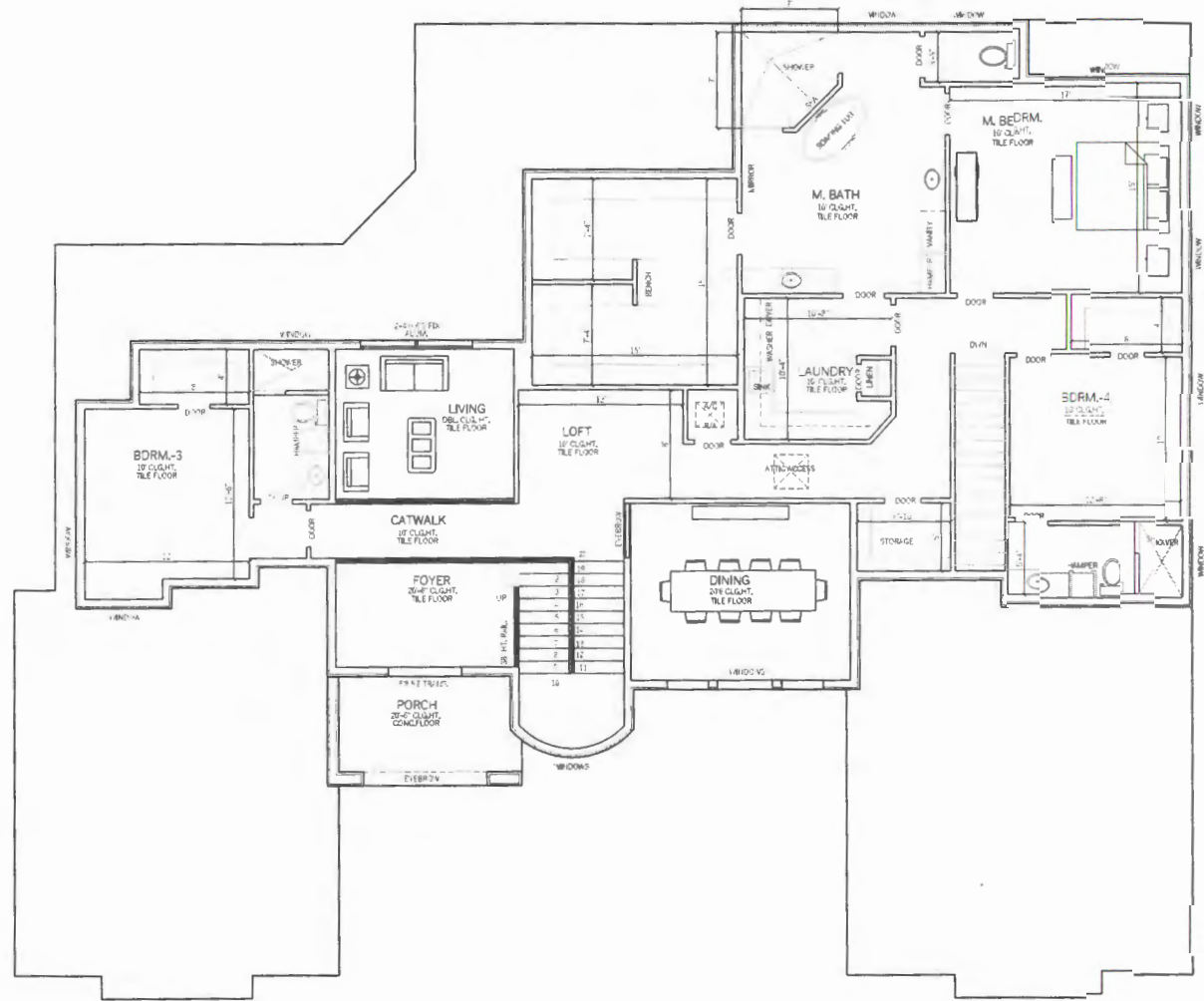
M/A
Custom Plans

3605 HARVEY MCALLEN, TX
(956) 648,6870

MADESIGN57 @ GMAIL.COM
WWW.MACUSTOMPLANS.COM
LOT 3 THE EMBERS

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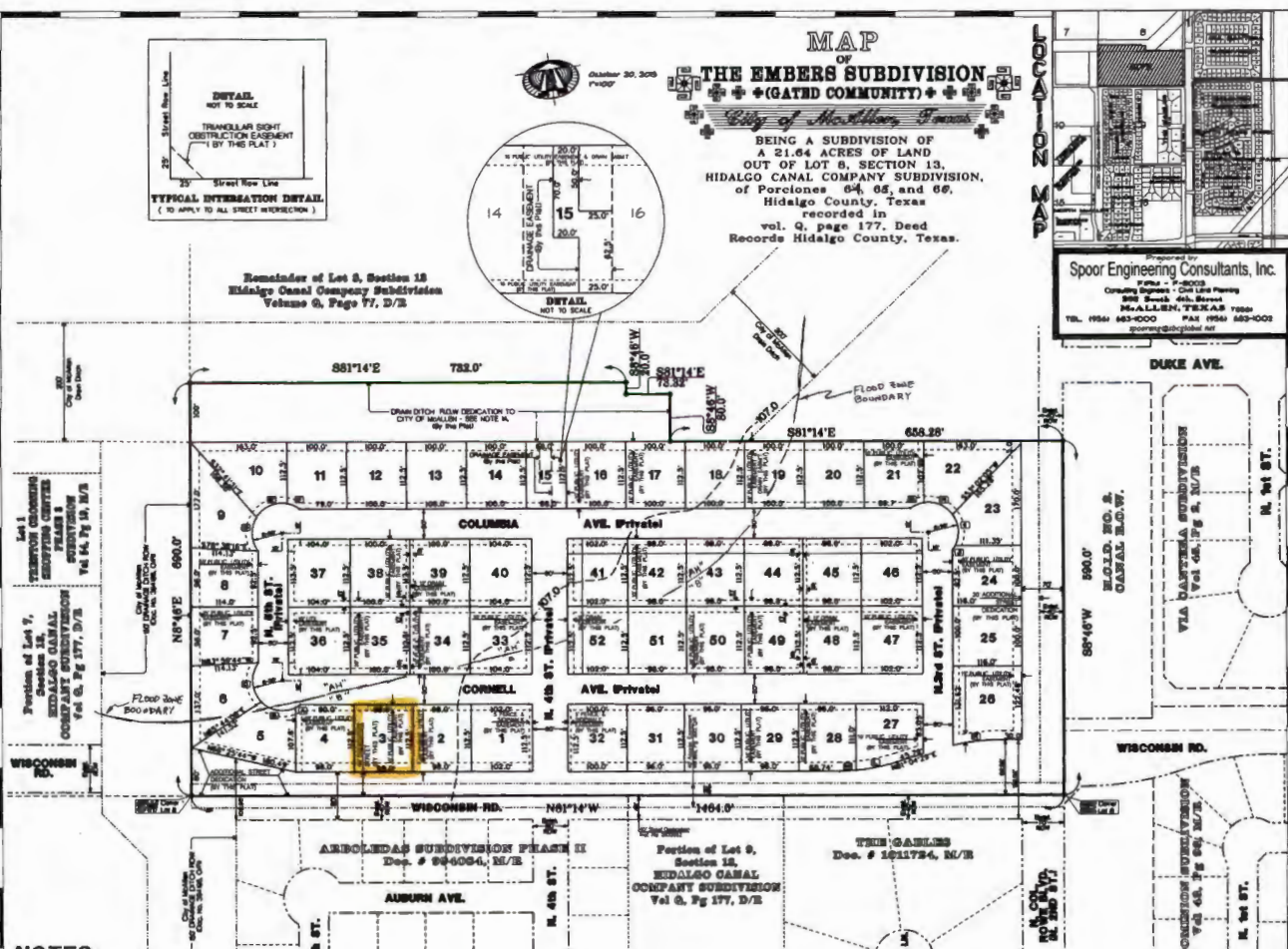


RECEIVED
AUG 15 2024
By N6

MAP OF THE EMBERS SUBDIVISION (GATED COMMUNITY)

BEING A SUBDIVISION OF A 21.84 ACRES OF LAND OUT OF LOT 9, SECTION 13, HIDALGO CANAL COMPANY SUBDIVISION, of Parcels 04, 05 and 06, Hidalgo County, Texas recorded in Vol. Q, page 177, Deed Records Hidalgo County, Texas.

Spoor Engineering Consultants, Inc.
 7100 W. 17th St., Suite 100
 Houston, Texas 77056
 Tel: (281) 463-1000 Fax: (281) 463-1005
 spooreng@spoor.com



NOTES:

- MINIMUM BUILDING SETBACK SHALL BE AS FOLLOWS:
 - A. FRONT - 25 FEET
 - B. CORNER - 15 FEET OR GREATER FOR EASEMENTS
 - C. GARAGE - 5 FEET EXCEPT WHERE GREATER IS REQUIRED, GREATER APPLIES
 - D. REAR -
 - 1. Lots 1 through 5 and 23 through 32 - 25 feet
 - 2. Lots 6 through 22 - 5 feet minimum
 - 3. Lots 33 through 32 - 0 feet minimum
 - E. OTHERS - IN ACCORDANCE WITH ZONING ORDINANCE OR TO EASEMENT LINE, WHICHEVER IS GREATER
- MINIMUM FINISH FLOOR ELEVATION SHALL BE 5 INCHES ABOVE TOP OF CURB MEASURED AT FRONT CENTER OF LOT, 48" ELEV. J.O.D. MINIMUM IS 114 INCHES.
- THIS PROPERTY FALLS IN ZONE B-1 AND "M" OF THE FLOOD INSURANCE RATE MAP, PANEL NO. 480 304 0002C, REVISION NOVEMBER 8, 2002. A 4' A.P. OPAQUE BUFFER IS REQUIRED FROM ADJACENT BETWEEN MULTI-FAMILY RESIDENTIAL AND COMMERCIAL, OR INDUSTRIAL ZONING AREAS. AN 8' FT. MANSUARY WALL IS REQUIRED BETWEEN SINGLE FAMILY RESIDENTIAL AND COMMERCIAL, INDUSTRIAL, OR MULTI-FAMILY RESIDENTIAL ZONING AREAS. A 4' FT. SIDEWALK IS REQUIRED ALONG THE NORTH SIDE OF WISCONSIN ROAD. THE WEST SIDE OF NORTH COL. ROBE BLVD. AND ALONG BOTH SIDES OF NORTH 3RD STREET, NORTH 4TH STREET, NORTH 5TH STREET, CORNELL AVENUE, AND COLUMBIA AVENUE.
- BENCHMARK - STATION NAME MC 51 SET BY ARANDA AND ASSOC. LOCATED AT THE NORTHWEST CORNER OF WISCONSIN RD AND DRAIN DITCH ELEV: 670.56 (NAVD83)
- OWNER IS REQUIRED TO PROVIDE AND ENGINEERED STORM WATER DETENTION PLAN APPROVED BY THE CITY OF McALLEN ENGINEERING DEPARTMENT PRIOR TO ISSUANCE OF BUILDING PERMIT, MASTER DRAINAGE AND DETENTION IS ON FILE AT THE CITY ENGINEERING DEPARTMENT.
- STORM WATER DETENTION REQUIRED IS 234 ACRES-FT. TO BE PROVIDED IN CITY DRAIN DITCH - NORTH SIDE OF SUBDIVISION
- A 60 FT. OPAQUE BUFFER IS REQUIRED ALONG N. COL. ROBE BLVD. AND ALONG WISCONSIN RD.
- NO DRIVE OUT ACCESS OR LOT FRONTAGE PERMITTED ALONG N. 2ND ST. AND WISCONSIN RD.
- AS PER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE EMBERS SUBDIVISION, RECORDED AS DOCUMENT NO. 2011-3-1461, HIDALGO COUNTY, DEED RECORDS, DEVELOPERS HOMEOWNERS ASSOCIATION.
- THEIR SUCCESSORS AND/OR ASSIGNEES, AND NOT THE CITY OF McALLEN SHALL BE RESPONSIBLE FOR INSTALLATION, MAINTENANCE, AND OTHER REQUIREMENTS AS PER SECTION 04-08 OF THE CODE OF ORDINANCES OF THE CITY OF McALLEN, INCLUDING BUT NOT LIMITED TO COMMON AREAS AND PRIVATE STREETS, ANY AMENDMENT TO DECLARATIONS THAT CONFLICT WITH THE REQUIREMENTS OF SECTION 04-08 SHALL BE NULL AND VOID
- A 25 FT. BY 25 FT. SIGHT OBSTRUCTION EASEMENT IS REQUIRED AT ALL STREET FRONTS-OF-WAY INTERSECTIONS (SEE DETAIL AT TOP OF PAGE)
- LOT 1 IS A COMMON AREA OWNED BY DEVELOPERS/HOMEOWNERS ASSOCIATION.

CURVE DATA

NO.	BEARING	LENGTH	ANGLE	CHORD	CHORD-BEARING
1	S 80.0° E	9.40'	10° 45' 11"	9.40'	S 89° 14' 49" W
2	S 80.0° E	49.24'	10° 45' 11"	49.24'	S 89° 14' 49" W
3	S 80.0° E	71.40'	10° 45' 11"	71.40'	S 89° 14' 49" W
4	S 80.0° E	82.80'	10° 45' 11"	82.80'	S 89° 14' 49" W
5	S 80.0° E	88.80'	10° 45' 11"	88.80'	S 89° 14' 49" W
6	S 80.0° E	94.80'	10° 45' 11"	94.80'	S 89° 14' 49" W
7	S 80.0° E	100.80'	10° 45' 11"	100.80'	S 89° 14' 49" W
8	S 80.0° E	106.80'	10° 45' 11"	106.80'	S 89° 14' 49" W
9	S 80.0° E	112.80'	10° 45' 11"	112.80'	S 89° 14' 49" W
10	S 80.0° E	118.80'	10° 45' 11"	118.80'	S 89° 14' 49" W
11	S 80.0° E	124.80'	10° 45' 11"	124.80'	S 89° 14' 49" W
12	S 80.0° E	130.80'	10° 45' 11"	130.80'	S 89° 14' 49" W
13	S 80.0° E	136.80'	10° 45' 11"	136.80'	S 89° 14' 49" W
14	S 80.0° E	142.80'	10° 45' 11"	142.80'	S 89° 14' 49" W
15	S 80.0° E	148.80'	10° 45' 11"	148.80'	S 89° 14' 49" W
16	S 80.0° E	154.80'	10° 45' 11"	154.80'	S 89° 14' 49" W
17	S 80.0° E	160.80'	10° 45' 11"	160.80'	S 89° 14' 49" W
18	S 80.0° E	166.80'	10° 45' 11"	166.80'	S 89° 14' 49" W
19	S 80.0° E	172.80'	10° 45' 11"	172.80'	S 89° 14' 49" W
20	S 80.0° E	178.80'	10° 45' 11"	178.80'	S 89° 14' 49" W
21	S 80.0° E	184.80'	10° 45' 11"	184.80'	S 89° 14' 49" W
22	S 80.0° E	190.80'	10° 45' 11"	190.80'	S 89° 14' 49" W
23	S 80.0° E	196.80'	10° 45' 11"	196.80'	S 89° 14' 49" W
24	S 80.0° E	202.80'	10° 45' 11"	202.80'	S 89° 14' 49" W
25	S 80.0° E	208.80'	10° 45' 11"	208.80'	S 89° 14' 49" W
26	S 80.0° E	214.80'	10° 45' 11"	214.80'	S 89° 14' 49" W
27	S 80.0° E	220.80'	10° 45' 11"	220.80'	S 89° 14' 49" W
28	S 80.0° E	226.80'	10° 45' 11"	226.80'	S 89° 14' 49" W
29	S 80.0° E	232.80'	10° 45' 11"	232.80'	S 89° 14' 49" W
30	S 80.0° E	238.80'	10° 45' 11"	238.80'	S 89° 14' 49" W
31	S 80.0° E	244.80'	10° 45' 11"	244.80'	S 89° 14' 49" W
32	S 80.0° E	250.80'	10° 45' 11"	250.80'	S 89° 14' 49" W
33	S 80.0° E	256.80'	10° 45' 11"	256.80'	S 89° 14' 49" W
34	S 80.0° E	262.80'	10° 45' 11"	262.80'	S 89° 14' 49" W
35	S 80.0° E	268.80'	10° 45' 11"	268.80'	S 89° 14' 49" W
36	S 80.0° E	274.80'	10° 45' 11"	274.80'	S 89° 14' 49" W
37	S 80.0° E	280.80'	10° 45' 11"	280.80'	S 89° 14' 49" W
38	S 80.0° E	286.80'	10° 45' 11"	286.80'	S 89° 14' 49" W
39	S 80.0° E	292.80'	10° 45' 11"	292.80'	S 89° 14' 49" W
40	S 80.0° E	298.80'	10° 45' 11"	298.80'	S 89° 14' 49" W
41	S 80.0° E	304.80'	10° 45' 11"	304.80'	S 89° 14' 49" W
42	S 80.0° E	310.80'	10° 45' 11"	310.80'	S 89° 14' 49" W
43	S 80.0° E	316.80'	10° 45' 11"	316.80'	S 89° 14' 49" W
44	S 80.0° E	322.80'	10° 45' 11"	322.80'	S 89° 14' 49" W
45	S 80.0° E	328.80'	10° 45' 11"	328.80'	S 89° 14' 49" W
46	S 80.0° E	334.80'	10° 45' 11"	334.80'	S 89° 14' 49" W
47	S 80.0° E	340.80'	10° 45' 11"	340.80'	S 89° 14' 49" W
48	S 80.0° E	346.80'	10° 45' 11"	346.80'	S 89° 14' 49" W
49	S 80.0° E	352.80'	10° 45' 11"	352.80'	S 89° 14' 49" W
50	S 80.0° E	358.80'	10° 45' 11"	358.80'	S 89° 14' 49" W
51	S 80.0° E	364.80'	10° 45' 11"	364.80'	S 89° 14' 49" W
52	S 80.0° E	370.80'	10° 45' 11"	370.80'	S 89° 14' 49" W
53	S 80.0° E	376.80'	10° 45' 11"	376.80'	S 89° 14' 49" W
54	S 80.0° E	382.80'	10° 45' 11"	382.80'	S 89° 14' 49" W
55	S 80.0° E	388.80'	10° 45' 11"	388.80'	S 89° 14' 49" W
56	S 80.0° E	394.80'	10° 45' 11"	394.80'	S 89° 14' 49" W
57	S 80.0° E	400.80'	10° 45' 11"	400.80'	S 89° 14' 49" W
58	S 80.0° E	406.80'	10° 45' 11"	406.80'	S 89° 14' 49" W
59	S 80.0° E	412.80'	10° 45' 11"	412.80'	S 89° 14' 49" W
60	S 80.0° E	418.80'	10° 45' 11"	418.80'	S 89° 14' 49" W
61	S 80.0° E	424.80'	10° 45' 11"	424.80'	S 89° 14' 49" W
62	S 80.0° E	430.80'	10° 45' 11"	430.80'	S 89° 14' 49" W
63	S 80.0° E	436.80'	10° 45' 11"	436.80'	S 89° 14' 49" W
64	S 80.0° E	442.80'	10° 45' 11"	442.80'	S 89° 14' 49" W
65	S 80.0° E	448.80'	10° 45' 11"	448.80'	S 89° 14' 49" W
66	S 80.0° E	454.80'	10° 45' 11"	454.80'	S 89° 14' 49" W
67	S 80.0° E	460.80'	10° 45' 11"	460.80'	S 89° 14' 49" W
68	S 80.0° E	466.80'	10° 45' 11"	466.80'	S 89° 14' 49" W
69	S 80.0° E	472.80'	10° 45' 11"	472.80'	S 89° 14' 49" W
70	S 80.0° E	478.80'	10° 45' 11"	478.80'	S 89° 14' 49" W
71	S 80.0° E	484.80'	10° 45' 11"	484.80'	S 89° 14' 49" W
72	S 80.0° E	490.80'	10° 45' 11"	490.80'	S 89° 14' 49" W
73	S 80.0° E	496.80'	10° 45' 11"	496.80'	S 89° 14' 49" W
74	S 80.0° E	502.80'	10° 45' 11"	502.80'	S 89° 14' 49" W
75	S 80.0° E	508.80'	10° 45' 11"	508.80'	S 89° 14' 49" W
76	S 80.0° E	514.80'	10° 45' 11"	514.80'	S 89° 14' 49" W
77	S 80.0° E	520.80'	10° 45' 11"	520.80'	S 89° 14' 49" W
78	S 80.0° E	526.80'	10° 45' 11"	526.80'	S 89° 14' 49" W
79	S 80.0° E	532.80'	10° 45' 11"	532.80'	S 89° 14' 49" W
80	S 80.0° E	538.80'	10° 45' 11"	538.80'	S 89° 14' 49" W
81	S 80.0° E	544.80'	10° 45' 11"	544.80'	S 89° 14' 49" W
82	S 80.0° E	550.80'	10° 45' 11"	550.80'	S 89° 14' 49" W
83	S 80.0° E	556.80'	10° 45' 11"	556.80'	S 89° 14' 49" W
84	S 80.0° E	562.80'	10° 45' 11"	562.80'	S 89° 14' 49" W
85	S 80.0° E	568.80'	10° 45' 11"	568.80'	S 89° 14' 49" W
86	S 80.0° E	574.80'	10° 45' 11"	574.80'	S 89° 14' 49" W
87	S 80.0° E	580.80'	10° 45' 11"	580.80'	S 89° 14' 49" W
88	S 80.0° E	586.80'	10° 45' 11"	586.80'	S 89° 14' 49" W
89	S 80.0° E	592.80'	10° 45' 11"	592.80'	S 89° 14' 49" W
90	S 80.0° E	598.80'	10° 45' 11"	598.80'	S 89° 14' 49" W
91	S 80.0° E	604.80'	10° 45' 11"	604.80'	S 89° 14' 49" W
92	S 80.0° E	610.80'	10° 45' 11"	610.80'	S 89° 14' 49" W
93	S 80.0° E	616.80'	10° 45' 11"	616.80'	S 89° 14' 49" W
94	S 80.0° E	622.80'	10° 45' 11"	622.80'	S 89° 14' 49" W
95	S 80.0° E	628.80'	10° 45' 11"	628.80'	S 89° 14' 49" W
96	S 80.0° E	634.80'	10° 45' 11"	634.80'	S 89° 14' 49" W
97	S 80.0° E	640.80'	10° 45' 11"	640.80'	S 89° 14' 49" W
98	S 80.0° E	646.80'	10° 45' 11"	646.80'	S 89° 14' 49" W
99	S 80.0° E	652.80'	10° 45' 11"	652.80'	S 89° 14' 49" W
100	S 80.0° E	658.80'	10° 45' 11"	658.80'	S 89° 14' 49" W

IRREGULAR LOT AREA

LOT NO.	AREA
1	11,024 Sq.Ft.
2	11,024 Sq.Ft.
3	11,024 Sq.Ft.
4	11,024 Sq.Ft.
5	11,024 Sq.Ft.
6	11,024 Sq.Ft.
7	11,024 Sq.Ft.
8	11,024 Sq.Ft.
9	11,024 Sq.Ft.
10	11,024 Sq.Ft.
11	11,024 Sq.Ft.
12	11,024 Sq.Ft.
13	11,024 Sq.Ft.
14	11,024 Sq.Ft.
15	11,024 Sq.Ft.
16	11,024 Sq.Ft.
17	11,024 Sq.Ft.
18	11,024 Sq.Ft.
19	11,024 Sq.Ft.
20	11,024 Sq.Ft.
21	11,024 Sq.Ft.
22	11,024 Sq.Ft.
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27	11,024 Sq.Ft.
28	11,024 Sq.Ft.
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30	11,024 Sq.Ft.
31	11,024 Sq.Ft.
32	11,024 Sq.Ft.
33	11,024 Sq.Ft.
34	11,024 Sq.Ft.
35	11,024 Sq.Ft.
36	11,024 Sq.Ft.
37	11,024 Sq.Ft.
38	11,024 Sq.Ft.
39	11,024 Sq.Ft.
40	11,024 Sq.Ft.
41	11,024 Sq.Ft.
42	11,024 Sq.Ft.
43	11,024 Sq.Ft.
44	11,024 Sq.Ft.
45	11,024 Sq.Ft.
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75	11,024 Sq.Ft.
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77	11,024 Sq.Ft.
78	11,024 Sq.Ft.
79	11,024 Sq.Ft.
80	11,024 Sq.Ft.
81	11,024 Sq.Ft.
82	11,024 Sq.Ft.
83	11,024 Sq.Ft.
84	11,024 Sq.Ft.
85	11,024 Sq.Ft.
86	11,024 Sq.Ft.
87	11,024 Sq.Ft.
88	11,024 Sq.Ft.
89	11,024 Sq.Ft.
90	11,024 Sq.Ft.
91	11,024 Sq.Ft.
92	11,024 Sq.Ft.
93	11,024 Sq.Ft.
94	11,024 Sq.Ft.
95	11,024 Sq.Ft.
96	11,024 Sq.Ft.
97	11,024 Sq.Ft.
98	11,024 Sq.Ft.
99	11,024 Sq.Ft.
100	11,024 Sq.Ft.

METES & BOUNDS

A 1/4th ACRES TRACT OF LAND OUT OF LOT 9, SECTION 13, HIDALGO CANAL COMPANY SUBDIVISION, OF PARCELS 04, 05, AND 06, HIDALGO COUNTY, TEXAS ACCORDING TO PLAT RECORDED IN VOLUME # 177, PAGE # 1, DEED RECORDS, HIDALGO COUNTY, TEXAS.

BEING, all the Southeast corner of Lot 9, and the Southeast corner of the following described tract of land, more particularly being the East line of City of McAllen, Drain Ditch No. 14, as the East line of Section 13, and the East line of City of McAllen, Drain Ditch No. 14, as the East line of Section 13, and the East line of City of McAllen, Drain Ditch No. 14, as the East line of Section 13, and the East line of City of McAllen, Drain Ditch No. 14, as the East line of Section 13, and the East line of City of

**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA 2024-0032**

CITY OF MCALLEN PLANNING DEPT.
956-881-1200
WWW.MCALLEN.NET



Memo

TO: Zoning Board of Adjustment & Appeals

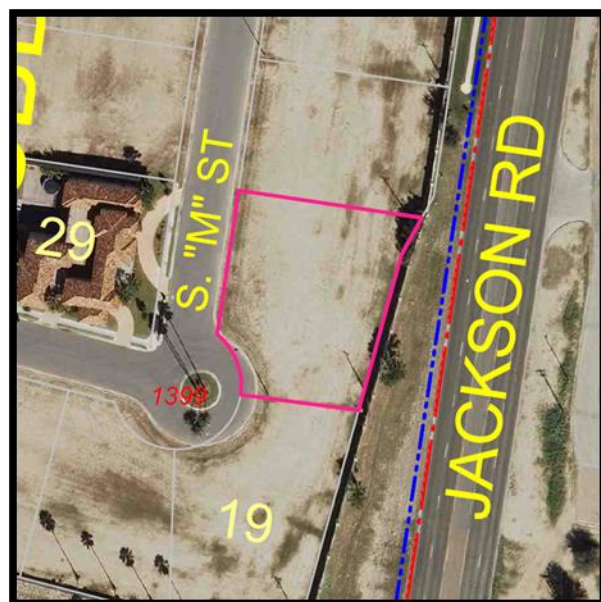
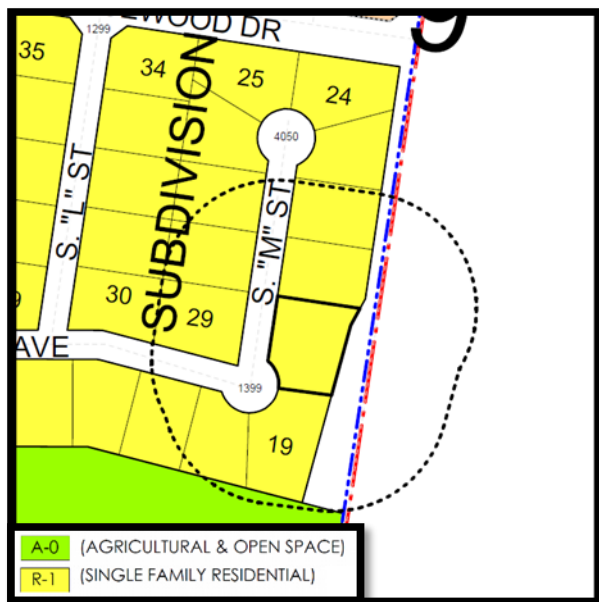
FROM: Planning Staff

DATE: September 19, 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 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 and the actual encroachment area is 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 is 10 feet as per current Code of Ordinance.

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

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

RECOMMENDATION: Staff recommends 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.

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.): JH

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) ont
 Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required Y.

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

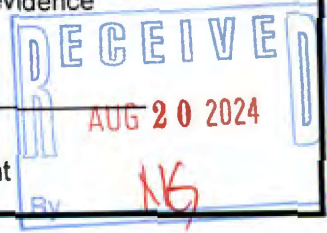
AUTHORIZATION

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

*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:

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.

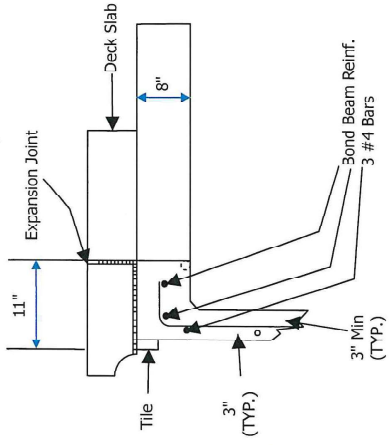
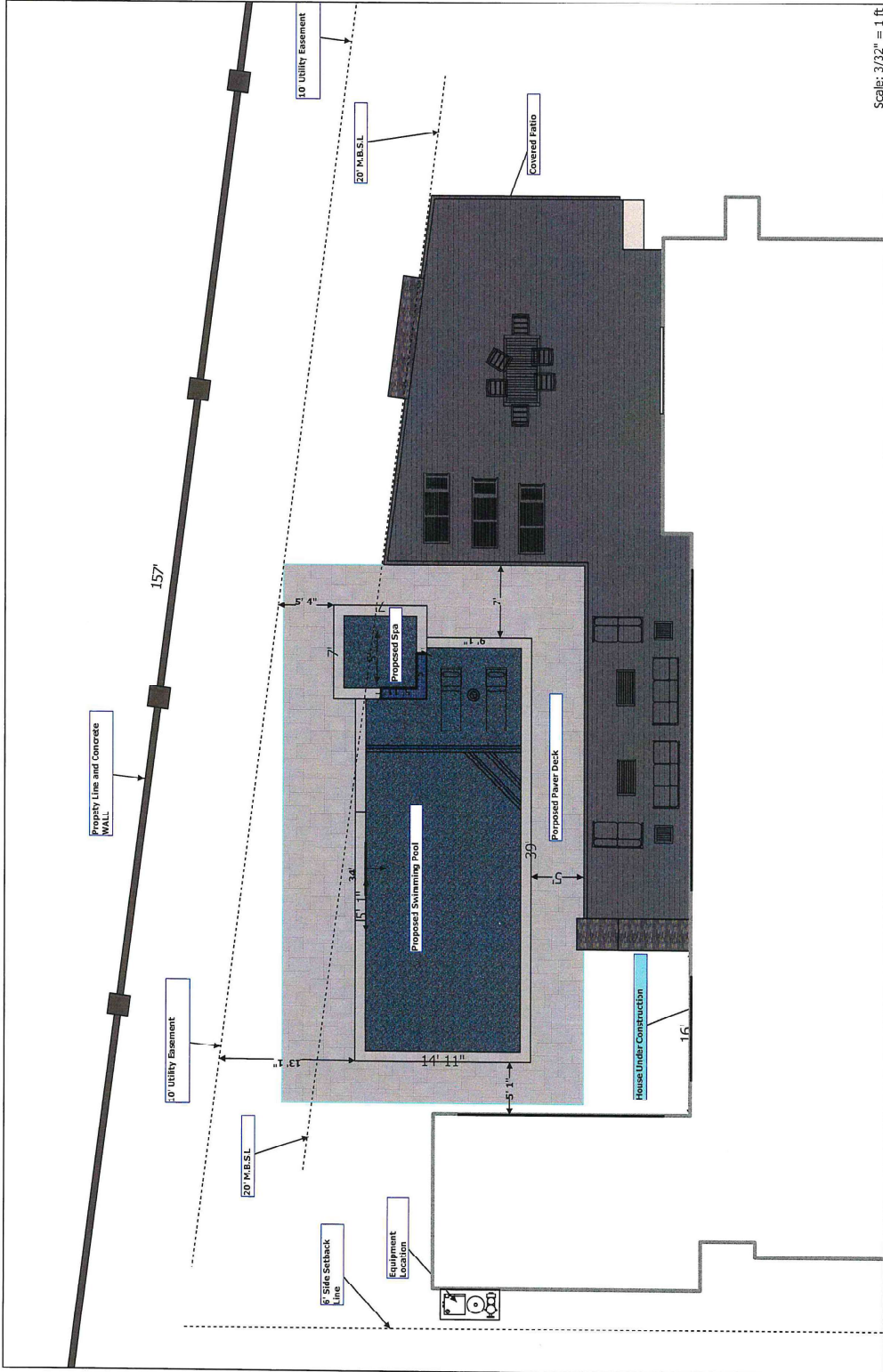
4. Describe special conditions that are unique to this applicant or property:

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

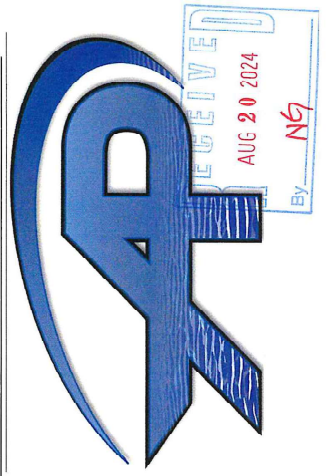
Date



- 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

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 #: _____

Owner: Eduardo Velez
 Address: 4401 S. M st
 City: McAllen . Lot 20 Lago Vista
 State: TX.
 Zip: _____
 Phone: _____







NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2024-0034

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

Memo

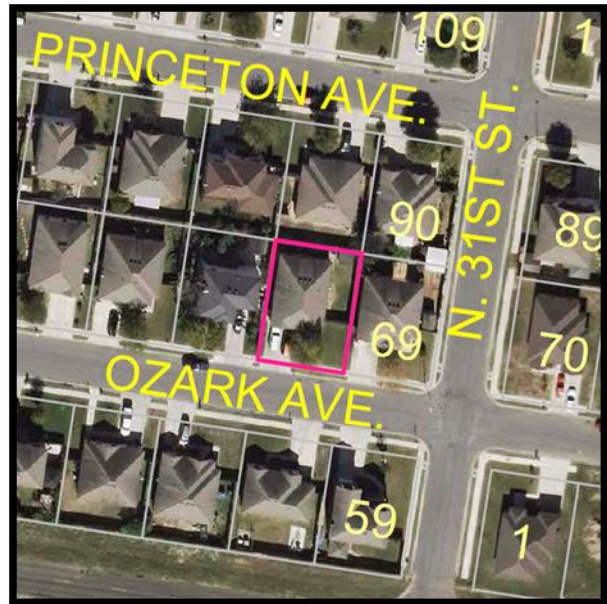
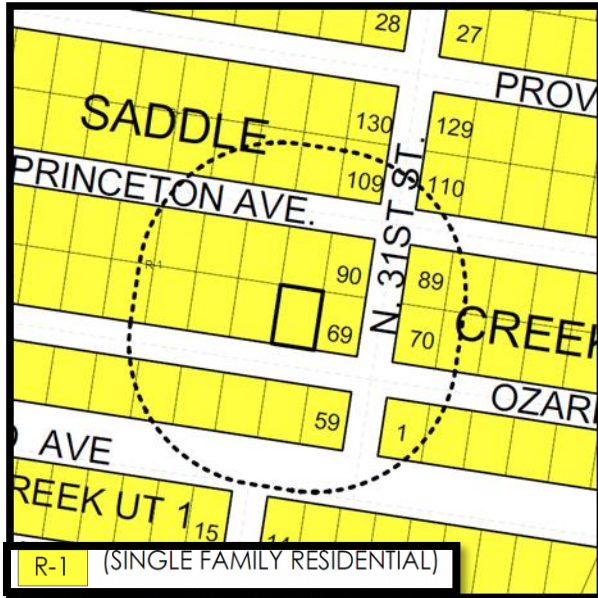
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 19, 2024

SUBJECT: 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)

REASON FOR APPEAL: The applicant is 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.



PROPERTY LOCATION AND VICINITY: The subject property is located along the North side of Ozark Avenue approximately 61 feet West of North 31st 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.

BACKGROUND AND HISTORY: 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.

ANALYSIS: The applicant is 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 states 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 has not received any phone calls or emails with concerns in regards to the Special Exception request.

RECOMMENDATION: Staff recommends 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.



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: ZBA2024-0033

ZBOA Meeting: 09/24/2024

Routed

Receipt No: _____

Scanned

Accepted by: P: _____ S: [Signature]

Customer Acknowledgment (Int.): _____

PROJECT

Legal Description Lot 68

Subdivision Name Saddle Creek Unit 2

Street Address 3104 Ozark Ave. McAllen, TX 78504

Number of lots 1 Gross acres _____

Existing Zoning R1 Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Encroaching ~~2100~~ 25 Foot front yard setback for a proposed carport.

\$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 Rafael Ibañez Phone (956) 578-9501

Address 3104 Ozark Ave. E-mail rafaelibanez1665@gmail.com

City McAllen State TX Zip 78504

OWNER

Name Rafael Ibañez Phone (956) 578-9501

Address 3104 Ozark Ave. E-mail rafaelibanez1665@gmail.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.

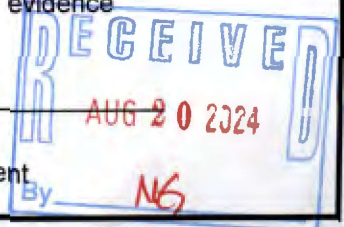
Signature [Signature]

Date 8/19/24

Print Name Rafael Ibañez

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:

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

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

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

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

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:**

The reason for the construction of this carport is because the house is the only one car garage, and it's small. Inside the garage we have the laundry space which we have the washer and dryer. Sometimes we get inclement weather, and we try to put the car inside the garage, but it doesn't fit. Also, in this location lives a disabled person who suffers from lung problems who uses the oxygen system. He also suffers from psoriasis and cannot be exposed to sunlight. This carport will help us a lot because whenever we take him to a doctor's appointment he will be under the shade.

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

As a resident of the City of McAllen, I try to comply with all City of McAllen Procedures and government regulations. I respect the city where I live in. I expect the same respect.

- 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:**

To my knowledge I don't think this carport will affect any other property. Because this carport will be built within the 25 feet setback.

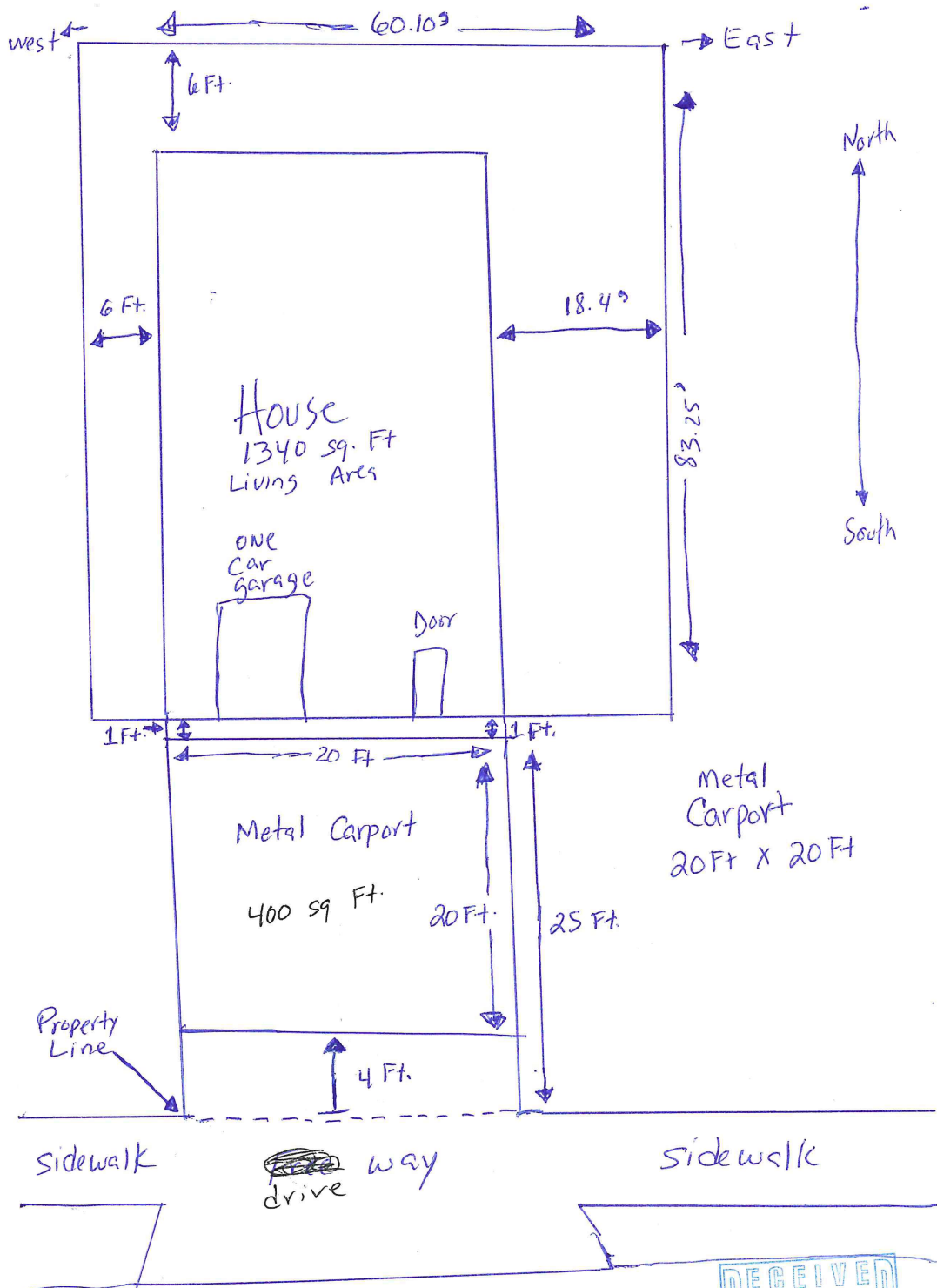
- 4. Describe special conditions that are unique to this applicant or property:**

First, medical reasons: disabled person living in this location that requires specific care.

Second, the capacity of this car garage that not even one car will fit in.

Third, Bad occurrences with weather damaging our vehicles with strong thunderstorms with hail causing a lot of money to fix the damages. I would like you all to consider this carport construction is a necessity not a luxury.

Property measurements
60.10' X 83.25'



3104 Ozark Avenue

McAllen TX 78504
RECEIVED
AUG 20 2024
By NG





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2024-0033
CITY OF McALLEN PLANNING DEPT.
78401-1202
WWW.MCALLEN.TX



Memo

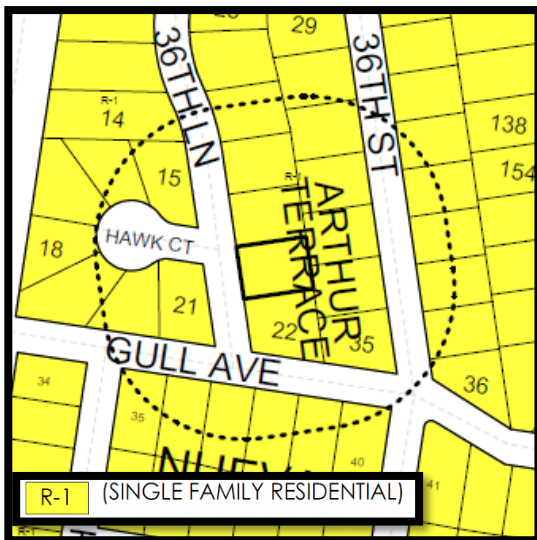
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 19, 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.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF SEPTEMBER 12, 2024: At the Zoning Board of Adjustment and Appeals meeting of September 12th, 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 is 399 square feet. The new revised proposed encroachment is 8.4 feet representing a reduction in the encroachment by 3 feet.



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

Routed
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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 michaelrocky1116@gmail.com
City Mc Allen State Texas Zip 78504

AUTHORIZATION

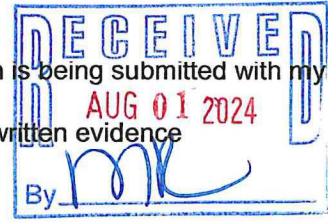
To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?

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.

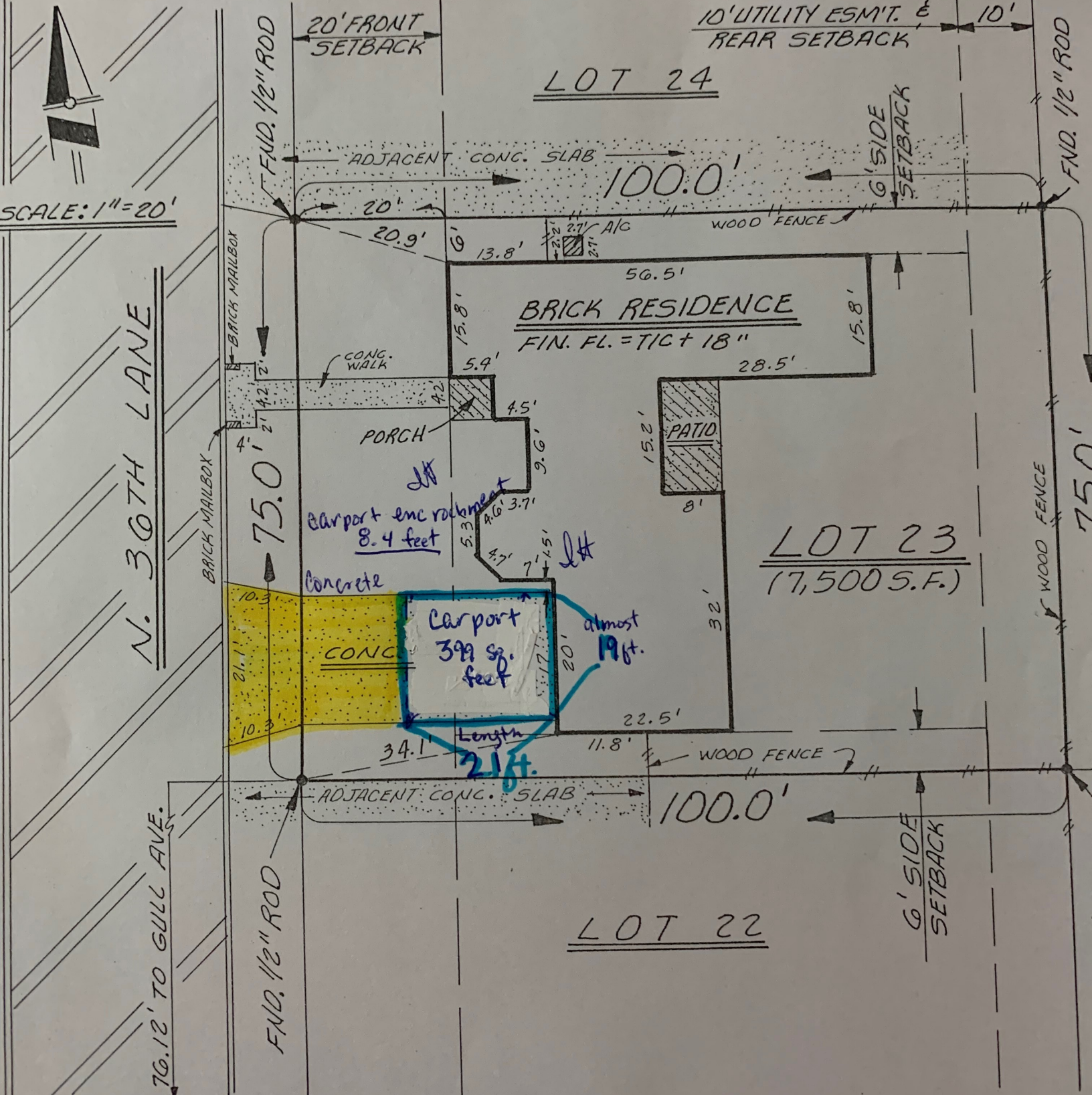
- (a) The zoning board of adjustment may grant a special exception to the minimum setback requirements for a carport when, in the opinion of the board:
 - (1) There is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
 - (2) The 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

1524 DOVE AVENUE McALLEN, TEXAS 78504 PH: (210) 618-5565 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 areas as per F.E.M.A. Flood Insurance Rate Map No. 480343-0005-C dated 11-02-82.

PLAT NOTES:
There are no discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or any overlapping of improvements as shown on this plat.





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2024-0030

