

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL COUNCIL CHAMBERS
WEDNESDAY, January 16, 2019**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Chair, Marla Beikman, regular member, Terrance Perkins, regular member, Philip Sahuc, alternate member and Nicholas Brooks, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Scott Hounsel, Chair, Marla Beikman, regular member, Terrance Perkins, regular member, Philip Sahuc, alternate member and Nicholas Brooks, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Charles Trammell, Development Code Specialist, Oscar Aguilera, Senior Planner, Elaine Hill, Board Secretary, David Nevarez, Engineering, Phil Erwin, Chief Arborist and Neva Dean, Assistant Director

STAFF PRESENT AT HEARING: Steve Long, Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Charles Trammell, Development Code Specialist, Oscar Aguilera, Senior Planner, Elaine Hill, Board Secretary, David Nevarez, Engineering and Neva Dean, Assistant Director

11:02 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 16, 2019 docket.**

BOARD OF ADJUSTMENT ACTION January 16, 2019

1:04 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B November 14, 2018 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: January 16, 2019

MOTION: None

The minutes were approved.

FILE NUMBER: BDA178-139(OA)

BUILDING OFFICIAL'S REPORT: Application of Steven Wood of Texas Permit for variances to the front and side yard setback regulations at 10221 Hollow Way Road. This property is more fully described as Lot 1, Block J/5517, and is zoned R-1ac(A), which requires a front yard setback of 40 feet and a side yard setback of 10 feet. The applicant proposes to construct and/or maintain a structure and provide a 16-foot 6 inch front yard setback, which will require a 23 foot 6 inch variance to the front yard setback regulations, and provide a 8 foot side yard setback, which will require a 2 foot variance to the side yard setback regulations.

LOCATION: 10221 Hollow Way Road

APPLICANT: Steven Wood of Texas Permit

REQUESTS:

The following requests have been made on a site that is developed with a single-family home:

1. A variance to the front yard setback regulations of 23' 6" is made to construct and maintain an attached garage structure 16' 6" from the front property line or 23' 6" into the 40' front yard setback; and
2. A variance to the side yard setback regulations of 2' is made to construct and maintain an attached garage structure 8' from the side property line (the north side property line) or 2' into the 10' side yard setback.

STANDARD FOR A VARIANCE:

Section 51(A)-3.102(d) (10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single-family uses, height,

minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION (front yard and side yard variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-1ac(A) zoning district by its restrictive in area caused by a creek that bisects the property), irregular shape, and slope that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-1ac(A) zoning district.
- Furthermore, staff concluded that the applicant that the total home size of the proposed home once the garage is added at approximately 3,600 square feet is commensurate to 10 other homes in the same R-1ac(A) zoning district that have an average home size of approximately 13,500 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac (A) (Single family district 1 acre)
North: R-1ac (A) (Single family district 1 acre)
South: R-1ac (A) (Single family district 1 acre)
East: R-1ac (A) (Single family district 1 acre)
West: R-1ac (A) (Single family district 1 acre)

Land Use:

The subject site is developed with a single-family home. The areas to the north, south, east, and west are developed with single-family uses.

Zoning/BDA History:

1. BDA87-266, Property at 10040 Meadowbrook Drive (two lots south of the subject site) On December 8, 1987, the Board of Adjustment approved a 25-foot setback request for a variance to the front yard

setback regulations. The applicant proposed to construct guest pavilion 15 feet from the property line requiring a setback variance of 25 feet and the Board of Adjustment approved a 5 feet special exception to the height requirement for fences to maintain a 7-foot fence with eight feet columns on the front property line. The board imposed the submitted revised site plan showing the location and fence details and requested to submit a registered survey showing the exact location of the proposed structure.

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- This request focuses on constructing and maintaining an attached garage structure 16’ 6” from the front property line or 23’ 6” into the 40’ front yard setback on a site that is developed with a single-family home.
- Structures on lots zoned R-1ac (A) are required to provide a minimum front yard setback of 40’.
- A site plan has been submitted denoting the proposed 800 square foot attached garage structure is located as near as 16’ 6” from the site’s front property line (or 23’ 6” into the 40’ front yard setback).
- DCAD records indicate the following improvements for property located at 10221 Hollow Way Road: “main improvement”: a structure with 3,600 square feet of total area built in 1970, and “additional improvements”: a 140 square foot storage building and a pool.
- The subject site is irregular in shape, significantly sloped, and according to the application, is 1 acre or 43,560 square feet in area. The site is zoned R-1ac (A) where lots are typically 43,560 square feet in area. The site has a creek that bisects the property.
- The applicant submitted a document indicating that the total home size of the proposed main structure on the subject site is approximately 3,600 square feet, and the average of 10 other properties in the same zoning is approximately 13,400 square feet.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-1ac(A) zoning classification.

- If the Board were to grant this front yard setback variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document which is an attached garage structure to be located as close as 16' 6" from the site's front property line or as much as 23' 6" into the required 40' front yard setback.
- Granting this request for a variance to the front yard setback regulations would provide no relief to the flood plain regulations on the subject site.

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on constructing and maintaining an attached garage structure 8' from the side property line (the north side property line) or 2' into the 10' side yard setback on a site developed with a single-family home.
- Structures on lots zoned R-1ac (A) are required to provide a minimum side yard setback of 10'.
- A site plan has been submitted denoting the proposed attached garage structure is located as near as 8' from the north side property line or 2' into this 10' side yard setback.
- It appears from the submitted site plan that about half of the proposed approximately 800 square foot attached garage structure is located in the site's northern 10' side yard setback.
- DCAD records indicate the following improvements for property located at 10221 Hollow Way Road: "main improvement": a structure with 3,600 square feet of total area built in 1970, and "additional improvements": a 140 square foot storage building and a pool.
- The subject site is irregular in shape, significantly sloped, and according to the application, is 1 acre or 43,560 square feet in area. The site is zoned R-1ac(A) where lots are typically 43,560 square feet in area. The site has a creek that bisects the property.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-1ac(A) zoning classification.
- If the Board were to grant this side yard setback variance request and impose the submitted site plan as a condition, the structure in the side yard setback would be

limited to what is shown on this document which is an attached garage structure to be located 8' from the side property line (the north side property line) or 2' into this 10' side yard setback.

- Granting this request for a variance to the side yard setback regulations would provide no relief to the flood plain regulations on the subject site.

Timeline:

September 28, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 3, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 5, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 19th deadline to submit additional evidence for staff to factor into their analysis; and the January 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 21, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: January 16, 2019

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Brooks**

I move that the Board of Adjustment **grant** the following application **BDA 178-139** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and is consistent with the general purpose and intent of the Code, as applicable, to wit. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Perkins**

AYES: 5 - Hounsel, Beikman, Perkins, Sahuc, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA189-007(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin and Associates for a special exception to the landscape regulations at 505 S. Peak Street. This property is more fully described as Lot 1A, block 3/807, and is zoned CS, which requires mandatory landscaping. The applicant proposes to construct a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 505 S. Peak Street

APPLICANT: Rob Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the landscape regulations is made to construct and maintain an approximately 26,500 square foot addition to an existing approximately 2,800 square foot auto repair/warehouse structure on the subject site, and not fully provide the required landscaping, more specifically, the design option points and street buffer landscape area requirements on the subject site.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

The board may grant a special exception to the landscape regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and

(3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports this request based in part on the location and configuration of the existing property and use, where given conditions on the site, a fully accommodating/compliant landscape plan is difficult to attain while retaining the property's function and maneuverability at street side. The Chief Arborist recommends approval on the basis that strict compliance with the full requirements of 51A-10.100 and 51A-10.120 will unreasonably burden the continued use of the property that is under renovation, and that the exception would not adversely affect neighboring properties.

BACKGROUND INFORMATION:

Zoning:

Site: CS (Commercial Service)
North: CS (Commercial Service)
South: CS (Commercial Service)
East: CS (Commercial Service)
West: CS (Commercial Service)

Land Use:

The subject site is developed with commercial service use. The areas to the north, south, east, and west are developed with commercial and automobile service uses.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on constructing and maintaining an approximately 26,500 square foot addition to an existing 2,850 square foot auto repair/warehouse structure on the subject site and not fully providing the required landscaping, more specifically, more specifically, the design option points and street buffer landscape area requirements on the subject site.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A).
- The Chief Arborist's memo states the following with regard to "request":
 - The applicant is requesting a special exception to the landscape regulations of Article X, as amended in 2018, for the renovation and addition to an existing use. A vote of approval would provide exception for design option points (10.126) and the placement of a street buffer landscape area along a portion of Terry Street and along Santa Fe Avenue (10.125(b)(1)).
- The Chief Arborist's memo states the following with regard to "provision":
 - The property at 505 S Peak is about 1.5 acres in size, which negates any option for an artificial lot to separate a construction zone from the remainder of the lot.
 - The alternate landscape plan does not alter the existing site conditions along Terry Street, but it does retain required parking spaces. One additional landscape island is created to compensate for the decrease of the Street Buffer Zone (SBZ). The remainder of Terry Street, all of South Peak Street, and all of contiguous property adjacent to Santa Fe Avenue will include the required SBZ. The SBZ for Santa Fe is entirely within the public right-of-way and the tree placement will be subject to final city approval at permitting. A mixture of tree species is included in these landscape areas along the street frontages.
 - The mandatory provisions for Residential Buffer Zone and Interior Zone are not applicable.
 - The proposed trees are medium to small trees that meet landscape requirements.
- The Chief Arborist's memo states the following with regard to "deficiencies":
 - Landscape Design Options (10.126). The property requires a minimum of 20 points based on the site area of 1.44 acres. The listed landscape design options of enhanced buffer zone area and low impact development are not applicable in the submitted design.
 - The SBZ is not fully applied along Terry Street, and the listed bioswales are not introduced on the plan submitted for approval. I cannot identify any required design option points of the 20 points required. Under the present design and limited landscape availability, additional full options would likely be limited to 1) a short area of screening of off-street parking for Peak Street only, 2) additional

- plant materials in the front yard (along Peak Street) for a maximum of 5 points, or a 3) a 3-year landscape maintenance plan (3 pts.).
- Mandatory provisions (10.125(b)). The property is deficient a SBZ for most of Terry Street, but it does provide for the total required number of trees along Peak and Santa Fe. The SBZ along Santa Fe is completely within the public right-of-way due to development to the property boundary.
- The property requires 16 site trees but provides for 13 trees along Peak and Terry Streets. The five trees along Santa Fe Avenue are identified off the property and are subject to City approval before installation.
- The Chief Arborist’s memo states the following with regard to “recommendation”:
 - Based on the location and configuration of the existing property and use, a fully compliant landscape plan is difficult to attain while retaining the property’s function and maneuverability at street side. The chief arborist recommends approval of the alternate landscape plan on the basis that strict compliance with the full requirements of 51A-10.100 and 51A-10.120 will unreasonably burden the continued use of the property under renovation. The exception would not adversely affect neighboring properties.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the approval would provide exception for design option points (10.126) and exception to the placement of a street buffer landscape area along a portion of Terry Street and along Santa Fe Avenue.

Timeline:

- October 19, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- December 3, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- December 5, 2018: The Board Administrator emailed the applicant the following information:
 - an attachment that provided the public hearing date and panel that will consider the application; the December 19th deadline to submit additional evidence for staff to factor into their analysis; and the January 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January

public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

January 2, 2019: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment A).

BOARD OF ADJUSTMENT ACTION: January 16, 2019

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Brooks

I move that the Board of Adjustment **grant** the following application **BDA 189-007** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and is consistent with the general purpose and intent of the Code, as applicable, to wit. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan is required.

SECONDED: Perkins

AYES: 5 - Hounsel, Beikman, Perkins, Sahuc, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA189-008(OA)

BUILDING OFFICIAL’S REPORT: Application of Juan V. Tovar for a special exception to the side yard setback regulations for a carport at 7027 Day Street. This property is more fully described as West 60 ft of Lot 11, Block J/5826, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport and provide a 2 foot setback, which will require a 3 foot special exception to the side yard setback regulations.

LOCATION: 7027 Day Street

APPLICANT: Juan V. Tovar

REQUEST:

A request for a special exception to the side yard setback regulations of 3' is made to maintain a carport located 2' from the site's western side property line or 3' into this 5' required side yard setback on a site developed with a single-family home structure/use.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (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 the construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single-family district 7,500 square feet)

North: R-7.5(A) (Single-family district 7,500 square feet)

South: R-7.5(A) (Single-family district 7,500 square feet)

East: R-7.5(A) (Single-family district 7,500 square feet)

West: R-7.5(A) (Single-family district 7,500 square feet)

Land Use:

The subject site is developed with a single-family home. The area to the north, east, west, and south are developed with single-family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a special exception focuses on maintaining an approximately 470 square foot carport that is located 2' from the site's western side property line or 3' into this 5' side yard setback on a site developed with a single-family home structure/use.
- The subject site is zoned R-7.5(A) which requires a 5' side yard setback.
- The applicant has submitted a document (a site plan/elevation) indicating the size and materials of the carport, and its location 2' from the site's western side property line.
- The submitted site plan represents the following:
 - The carport is approximately 42' in length and approximately 11' in width (approximately 470 square feet in total area) of which approximately 40 percent is located in the western 5' side yard setback.
- The submitted elevations represent the following:
 - Ranging in height from approximately 9' – 11'.
 - Galvanized steel roof with 4x4 treated wood column embedded into a concrete footing.
- The Senior Planner conducted a field visit of the area approximately 500 feet east and west of the subject site and noted one other carport that appeared to be located in a side yard immediately south of the subject site with no recorded BDA history.
- As of January 4, 2019, no letters had been submitted in support of or in opposition to this application.
- The applicant has the burden of proof in establishing the following:
 - that granting this special exception to the side yard setback regulations of 3' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on this document:
 1. Compliance with the submitted site plan/elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.
- If the Board were to grant this request and impose the submitted site plan/elevation as a condition to the request, the structure in the side setback would be limited to that what is shown on this document – a carport located 2' from the site's western side property line or 3' into this required 5' side yard setback.

Timeline:

October 23, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 3, 2018: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel B.

December 5, 2018: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 19th deadline to submit additional evidence for staff to factor into their analysis; and the January 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board..

No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: January 16, 2019

APPEARING IN FAVOR: Juan Tovar, 7027 Day Street, Dallas, Texas 75227

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment, in Appeal No. BDA **189-008**, on application of Juan V. Tovar, **grant** the request of this applicant to maintain a carport in the required side yard setback and provide a two-foot setback as a special exception to the side yard setback requirement in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not detrimentally impact surrounding properties.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan/elevation is required.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.
- No item (other than a motor vehicle) may be stored in the carport.

SECONDED: Hounsel

AYES: 5 - Hounsel, Beikman, Perkins, Sahuc, Brooks

NAYS: 0

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA189-009(OA)

BUILDING OFFICIAL’S REPORT: Application of Tony Zapata to enlarge a nonconforming use at 220 W. 10th Street. This property is more fully described as Lot 16, Block 41/3161, and is zoned PD 830 (Sub-district 3), which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming “medical clinic or ambulatory surgical center” use, which will require a request to enlarge a nonconforming use.

LOCATION: 220 W. 10th Street

APPLICANT: Tony Zapata

REQUEST:

A request is made to enlarge a nonconforming “medical clinic or ambulatory surgical center” use (Peralta Chiropractic), which in this particular case, involves the remodeling/ “enlarging” of an existing approximately 1,400 square foot structure on the site by approximately 2,300 square feet whereby the total square footage, if enlarged, would be approximately 3,700 square feet.

STANDARD FOR ENLARGING A NONCONFORMING USE:

Section 51A-4.704(b) (5) (B) of the Dallas Development Code states the board may allow the enlargement of a nonconforming use when, in the opinion of the Board, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

STAFF RECOMMENDATION:

No staff recommendation is made on a request to enlarge a nonconforming use since the basis for this type of appeal is based on when, *in the opinion of the Board*, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: PD 830 (Planned Development)
North: PD 830 (Planned Development)
South: PD 316 (Planned Development)
East: PD 830 (Planned Development)
West: PD 830 (Planned Development)

Land Use:

The subject site is developed as a “medical clinic or ambulatory surgical center” use (Peralta Chiropractic). The area to the north is developed with office uses, the areas to the east and west are developed with medical clinic or ambulatory surgical center uses; and the area to the south is developed with commercial uses.

Zoning/BDA History:

1. BDA156-048, Property at 218 W. 10TH Street (the lot east of the subject site)

On May 16, 2016, Board of Adjustment Panel C approved a request to restore/reinstate nonconforming use rights for a medical clinic or ambulatory surgical center use on the subject site that was discontinued for a period of six months or more was made to obtain a Certificate of Occupancy (CO) for this use.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on the enlargement of a nonconforming “medical clinic or ambulatory surgical center” use (Peralta Chiropractic) on the subject site, which in this particular case, involves the remodeling/ “enlarging” an existing approximately 1,400 square foot structure on the site by approximately 2,300 square feet whereby the total square footage, if enlarged, would be approximately 3,700 square feet.
- The subject site is zoned PD 830.
- A “medical clinic or ambulatory surgical center” use is not permitted in this PD 830 district lot.

- Section 51A-2.102(89) of the Dallas Development Code defines a nonconforming use as “a use that does not conform to the use regulations of this chapter but was lawfully established under regulations in force at the beginning of operation and has been in regular use since that time.”
- Section 51A-4.704(b)(5)(A) of the Dallas Development Code states that enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.
- It appears from research conducted by the Board Senior Planner that the medical clinic or ambulatory surgical center” use became a nonconforming use on August 11, 2010 when (during the establishment of Planned Development 830 that changed the zoning from LO-1 to Planned Development 830 Subdistrict 3) the property that had been zoned LO-1 (that permitted medical clinic or ambulatory surgical center uses) was changed to PD 830 Subdistrict 3 (that does not permit medical clinic or ambulatory surgical center use for this particular lot in this particular PD 830). The City has recognized the “medical clinic or ambulatory surgical center” use on the property to be a legal nonconforming use.
- This application is made to allow the nonconforming medical clinic or ambulatory surgical center” use to be enlarged to a total of approximately 3,700 square feet. (If denied, the nonconforming use could remain, but would not be allowed to add a approximately 2,300 square foot addition).
- The applicant has submitted a floor plan indicating that the total size of the proposed structure on the subject site is to be enlarged from 1,377 square feet to 3,698 square feet.
- This application is made to enlarge a nonconforming *use*. The application is *not* made to enlarge a nonconforming *structure*. The structure that comprise the nonconforming “medical clinic or ambulatory surgical center” use (Peralta Chiropractic) would be in compliance with development code standards such as setbacks, coverage requirements, height requirements, parking requirements, etc. Therefore, the existing enlargement made to the structure would be a conforming structure as it relates to development code requirements, located within a broader land use classification (medical clinic or ambulatory surgical center) that can only be deemed a conforming *use* once and if the zoning is changed.
- Records from Building Inspection Department indicate that the “medical clinic or ambulatory surgical center” use (Peralta Chiropractic) has been identified by Building Inspection as a nonconforming use.
- The applicant has been informed of the Dallas Development Code provisions pertaining to “Nonconforming Uses and Structures,” and how nonconforming uses can be brought to the Board of Adjustment for amortization where if the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for that nonconforming use - a compliance date that is provided under a plan whereby the owner’s actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- The applicant has the burden of proof to establish that the enlargement of the non-conforming use:
 1. does not prolong the life of the nonconforming use;

2. would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
 3. will not have an adverse effect on the surrounding area.
- If the Board were to grant this request, with a condition imposed that the applicant comply with the submitted site plan and floor plan, the enlargement of the nonconforming use would be limited to what is shown on these documents.

Timeline:

September 11, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 3, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 5, 2018: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 19th deadline to submit additional evidence for staff to factor into their analysis; and the January 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the provision from the Dallas Development Code that provides the standard as to how the board is able to grant a request to enlarge a nonconforming use. (51A-4.704(b)(5)), and the entire section from the code related to nonconforming uses and structures (51A-4.704), advising the applicant that his request does not eliminate the nonconforming status of the use on the site as much as it potentially (if the board chooses to grant your request) merely allows it to be enlarged; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: January 16, 2019

APPEARING IN FAVOR: Tony Zapata, 220 W. Tenth Street, Dallas, Texas

APPEARING IN OPPOSITION: No one

MOTION: Beikman

I move that the Board of Adjustment, in Appeal No. BDA 189-009, on application of Tony Zapata, **grant** the request of this applicant to increase the floor area of a nonconforming use by approximately 2,300 square feet, because our evaluation of the property and the testimony shows that enlarging the nonconforming use (1) will not prolong the life of the nonconforming use; (2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and (3) will not have an adverse effect on the surrounding area.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and floor plan is required.

SECONDED: Perkins

AYES: 5 - Hounsel, Beikman, Perkins, Sahuc, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA189-011(OA)

BUILDING OFFICIAL’S REPORT: Application of Getra Thomason Sanders, represented by Bryan M. Burger, P.E., for a special exception to the off-street parking regulations at 3040 W Mockingbird Lane. This property is more fully described as Lot 1D, Block A/2571, and is zoned IR, which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a restaurant with drive-through use and provide 29 of the required 38 parking spaces, which will require a 9-space special exception to the off-street parking regulations.

LOCATION: 3040 W Mockingbird Lane

APPLICANT: Getra Thomason Sanders
Represented by Bryan M. Burger, P.E.

REQUEST:

A request for a special exception to the off-street parking regulations of 9 spaces is made to construct and maintain a 900 square foot addition (in this case, a roof/cover to be located over an existing outdoor seating area) to an existing approximately 2,900 square foot restaurant with drive-in or drive through service use, and provide 29 (or 76 percent) of the 38 off-street parking spaces required by code.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

Section 51A-4.311 of the Dallas Development Code states the following:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.

- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 9 spaces shall automatically and immediately terminate if and when the restaurant with drive-in or drive through service use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer indicated that he has no objections to this request.

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial/research)
North: IR (Industrial/research)
South: IR (Industrial/research)
East: IR (Industrial/research)
West: IR (Industrial/research)

Land Use:

The subject site is developed with a restaurant with drive-in or drive through service. The area to the north is developed with an airport/public utility use; the areas to the east, west, south are developed with industrial uses.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the off-street parking regulations of 9 spaces focuses on constructing and maintaining a 900 square foot addition (in this case, a roof/cover to be located over an existing outdoor seating area) to an existing

approximately 2,900 square foot restaurant with drive-in or drive through service use and providing 29 (or 76 percent) of the 38 off-street parking spaces required by code.

- Chapter 51A-4.210 (25) (C) requires the following off-street parking requirement:
 - Restaurant with drive-in or drive through service: one space per 100 square feet of floor area; with a minimum of four spaces.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed restaurant with drive-in or drive through service uses does not warrant the number of off-street parking spaces required, and
 - The special exception of 9 spaces (or a 24 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 9 spaces shall automatically and immediately terminate if and when the restaurant with drive-in or drive through service is changed or discontinued, the applicant could construct and maintain the addition to the existing restaurant use on the site, and provide 29 (or 76 percent) of the 38 required off-street parking spaces.

Timeline:

October 22, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 3, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 5, 2018: The Board Administrator emailed the applicant’s representative the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 19th deadline to submit additional evidence for staff to factor into their analysis; and the January 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of

Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

December 27, 2018: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked "Has no objections".

BOARD OF ADJUSTMENT ACTION: January 16, 2019

APPEARING IN FAVOR:

Bryan Burger, 17103 Preston Road #180,
Dallas, Texas

Grey Stogner, 12720 Hillcrest #650,
Dallas, Texas

APPEARING IN OPPOSITION:

Seth Thatcher, 2722 Fairmount, Dallas, Texas

Dawn M. Blair, 3448 W. Mockingbird Lane
Dallas, Texas

MOTION: Sahuc

I move that the Board of Adjustment, in Appeal No. BDA 189-011, on application of Getra Thomason Sanders represented by Bryan M. Burger, **grant** the request of this applicant to provide 29 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which require 38 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a restaurant with drive-in or drive through service use only.

I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

1. The special exception of nine spaces shall automatically and immediately terminate if and when the restaurant with drive-in or drive through service use is changed or discontinued.
2. The new covered area may not be enclosed nor put under air conditioning to create inside dining.

Hounsel offered an amendment to the motion, but it was not seconded and failed.

- Mr. Hounsel's motion was to add a third condition to the above that states this special exception shall terminate five years from the date of approval.

SECONDED: Brooks

AYES: 4 - Hounsel, Perkins, Sahuc, Brooks

NAYS: 0

ABSENT: Marla Beikman recused herself on this application at 1:54 p.m. and did not hear or vote on this matter.

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA178-006(OA)

BUILDING OFFICIAL’S REPORT: Application of Devin Hall, represented by Ann Bagley of Bagley Associates, for a variance to the front yard setback regulations at 3235 Elihu Street. This property is more fully described as Lot 1, Block 21/812, and is zoned PD 595 (MF-1(A)), which requires a front yard setback of 15 feet. The applicant proposes to construct a structure and provide a 10-foot front yard setback, which will require a 5-foot variance to the front yard setback regulations.

LOCATION: 3235 Elihu Street

APPLICANT: Devin Hall
Represented by Ann Bagley of Bagley Associates

REQUEST:

A request for a variance to the front yard setback regulations of 5’ is made to construct and maintain a three-story 5-unit multi-family structure with a “total building size” of approximately 8,400 square feet, part of which is to be located 10’ from one of the site’s two front property lines (J. B. Jackson, Jr. Boulevard) or 5’ into this 15’ front yard setback on a site that is undeveloped.

STANDARD FOR A VARIANCE:

Section 51(A)-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single-family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the December 27th staff review team meeting that the applicant had not substantiated how the variance is necessary to permit development of the subject site (a site that is approximately 7,000 square foot, virtually rectangular in shape, and flat) where these conditions preclude the applicant from developing it in a manner commensurate with the development upon other parcels of land with the same PD 595 (MF-1(A)) zoning district.

BACKGROUND INFORMATION:

Zoning:

| | |
|---------------|---|
| <u>Site:</u> | PD 595 (MF-1(A)) (Planned Development) (Multi-family) |
| <u>North:</u> | PD 595 (MF-1(A)) (Planned Development) (Multi-family) |
| <u>South:</u> | PD 595 (MF-1(A)) (Planned Development) (Multi-family) |
| <u>East:</u> | PD 595 (MF-1(A)) (Planned Development) (Multi-family) |
| <u>West:</u> | PD 595 (MF-1(A)) (Planned Development) (Multi-family) |

Land Use:

The subject site is undeveloped. The areas to the north and east are developed with multi-family, commercial uses and vacant lots; and the areas to the west and south are developed with multi-family uses.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS /STAFF ANALYSIS:

- This request for a variance to the front yard setback requirement of 5' focuses on constructing and maintaining a three-story 5-unit multi-family structure with a "total building size" of approximately 8,400 square feet, part of which is to be located 10' from one of the site's two front property lines (J. B. Jackson, Jr. Boulevard) or 5' into this 15' front yard setback on a site that is undeveloped.
- The property is located in PD 595 (MF-1(A)) zoning district which requires a minimum front yard setback of 15 feet.
- The subject site is located at the northwest corner of Elihu Street and J B Jackson Jr. Boulevard.
- The site has two front yard setbacks given that it fronts two streets as any corner property would have that is not zoned a single family, duplex, or agricultural district.
- The submitted site plan indicates the proposed structure is located 10' from the J. B. Jackson, Jr. Boulevard's front property line or 5' into this 15' front yard setback.

- According to DCAD records, there are “no main improvement” or “no additional improvements” for property addressed at 3235 Elihu Street.
- The subject site is flat, virtually rectangular in shape, and approximately 7,000 square feet in area, (approximately 50’ x 140’). The site is, according to the submitted application, is 0.16 acres (or approximately 7,000 square feet) in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 595 (MF-1(A)) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 595 (MF-1(A)) zoning classification.
- If the Board were to grant the variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 10’ from the site’s J. B. Jackson, Jr. Boulevard front property line (or 5’ into this 15’ front yard setback).

Timeline:

- October 8, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- December 4, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- December 5, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the December 19th deadline to submit additional evidence for staff to factor into their analysis; and the January 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 24, 2018: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: The Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

December 28, 2018: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment B). (Note that this information was not factored into the staff recommendation since it was submitted after the December 27th staff review team meeting).

December 31, 2018: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment C). Note that this information was not factored into the staff recommendation since it was submitted after the December 27th staff review team meeting).

BOARD OF ADJUSTMENT ACTION: January 16, 2019

APPEARING IN FAVOR: Ann Bagley, 8139 Barbaree Boulevard,
Dallas, Texas

Devin Hall, 4225 McAlice Drive
Plano, Texas

APPEARING IN OPPOSITION: No one

MOTION: Sahuc

I move that the Board of Adjustment, in Appeal No. BDA 189-006, on application of Devin Hall represented by Ann Bagley of Bagley Associates, **grant** the five-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required

SECONDED: Beikman

AYES: 5 - Hounsel, Beikman, Perkins, Sahuc, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Hounsel

I move to adjourn this meeting.

SECONDED: Perkins

AYES: 4 – Hounsel, Perkins, Sahuc, Brooks

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

3:03 P.M. Board Meeting adjourned for **January 16, 2019**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

Note: For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.