

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, JUNE 24, 2015**

MEMBERS PRESENT AT BRIEFING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, Scott Hounsel, regular member, Charles Johnson, regular member, and Robert Agnich, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, Scott Hounsel, regular member, Charles Johnson, regular member, and Robert Agnich, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Lam, Engineer, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist and Trena Law, Board Secretary

11:35 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 24, 2015 docket.**

1:10 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 May 20, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: JUNE 24, 2015

MOTION: None

The minutes were approved.

FILE NUMBER: BDA 134-123

BUILDING OFFICIAL’S REPORT: Application of Felipe Guel, Sr. for a variance to the front yard setback regulations at 903 E. Woodin Boulevard. This property is more fully described as a part of Lot 1, Block 5/3677, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a single structure and provide a 7 foot 6 inch front yard setback, measured at the roof eave overhang, which will require a 17 foot 6 inch variance to the front yard setback regulations.

LOCATION: 903 E. Woodin Boulevard

APPLICANT: Felipe Guel, Sr.

REQUESTS:

Requests for variances to the front yard setback regulations of up to 17’ 6” are made to construct and maintain a one-story single family home structure on an undeveloped site:

1. In the Idaho Avenue 25’ front yard setback: a variance of 17’ 6” is made to construct/maintain a single family home structure located as close as (roof eave) 7’ 6” from this front property line or 17’ 6” into this 25’ front yard setback; and
2. In the E. Woodin Boulevard 25’ front yard setback: a variance of 3’ is made to construct/maintain a porch structure to be attached to a proposed single family home structure located as close as (roof eave) 22’ from this front property line or 3’ into this 25’ front yard setback.

STANDARD FOR A VARIANCE:

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:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required

Rationale:

- The subject site is unique and different from most lots in the R-7.5(A) zoning district in that it is a corner lot with a restrictive area due to its two front yard setbacks and total square footage/area. The property is approximately 5,300 square feet in area and 100' in length making it about 2,200 square feet less in area and 50' less in length than other properties in the zoning district that are more typically 7,500 square feet in area and 150' in length. This atypical lot with two front yard setbacks with less than the typical area and length of other similarly zoned properties precludes the applicant from developing it manner commensurate (in this case with a one-story single family home with a building footprint of about 1,700 square feet) with the development upon other parcels of land with the same zoning with one front yard setback, 7,500 square feet in area, and 150' in length.
- The corner lot subject site has an approximately 22.5' width for development once a 25' front yard and a 5' side yard setback is accounted for on the approximately 52' wide subject site. Other lots of this width in this zoning district with one front yard, two side yards, and one rear yard of the same width would have a 42.5' width for development.

BACKGROUND INFORMATION:

Zoning:

- Site: R-7.5(A) (Single family residential 7,500 square feet)
- North: R-7.5(A) (Single family residential 7,500 square feet)
- South: R-7.5(A) (Single family residential 7,500 square feet)
- East: R-7.5(A) (Single family residential 7,500 square feet)
- West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is undeveloped. The lot to the north is undeveloped; and the areas to the east, south, and west are developed with single 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:

- These requests focus on constructing and maintaining a single family home structure with (according to the submitted site plan) a building footprint of about 1,700 square feet, part of which would be located 7' 6" (roof eave) from the site's Idaho Avenue front property line (or 17' 6" into this 25' front yard setback), and part of which would be located 22' front the site's E. Woodin Boulevard front property line (or 3' into this 25' front yard setback).
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The subject site is located at the northeast corner of E. Woodin Boulevard and Idaho Avenue. Regardless of how the proposed structure is to front E. Woodin Boulevard and "side" to Idaho Avenue, the subject site has two 25' front yard setbacks, one along each street. The site has a 25' front yard setback along E. Woodin Boulevard, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 25' front yard setback along Idaho Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 5' side yard setback would be required. But the site's Idaho Avenue frontage that would function as side yard on the property is treated as a front yard setback nonetheless to maintain the continuity of the front yard setback established by lots to the north that front/are oriented westward towards Idaho Avenue.
- A site plan has been submitted indicating the portion of the proposed single family home to be located in both 25' front yard setbacks on the property.
- According to DCAD records, there are no "main improvements" or "additional improvements" for property addressed at 903 E. Woodin Boulevard.
- The subject site is flat, virtually rectangular in shape (100' x 52.5'), and is approximately 5,300 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- Most lots in R-7.5 zoning have one 25' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has two 25' front yard setbacks and two 5' side yard setbacks.
- The submitted site plan shows that about 40 percent of the proposed home would be located in the Idaho Avenue front yard setback and about 1 percent of the proposed home would be located in the E. Woodin Boulevard front yard setback.
- The 52.5' wide subject site has 22.5' of developable width available once a 25' front yard setback is accounted for on the west and a 5' side yard setback is accounted for on the east. If the lot were more typical to others in the zoning district with only one front yard setback, the 52.5' wide site would have 42.5' of developable width with 5' side yard setbacks accounted for on the west and east sides of the site.
- The applicant has the burden of proof in establishing the following:

- That granting the variances 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 variances are 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-7.5(A) zoning classification.
- The variances 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-7.5(A) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structure in the front yard setbacks would be limited to what is shown on this document– which in this case is a structure located as close as (roof eave) 7’ 6” from the Idaho Avenue front property line or 17’ 6” into this 25’ front yard setback, and as close as (roof eave) 22’ from the E. Woodin Boulevard front property line or 3’ into E. Woodin Boulevard 25’ front yard setback.

Timeline:

- October 6, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 12, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 13, 2015: The Board Administrator contacted the applicant and emailed him 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 June 3rd deadline to submit additional evidence for staff to factor into their analysis; and the June 12th 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.”
- June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans

Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: JUNE 24, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gillespie

I move to grant that the Board of Adjustment grant application **BDA 134-123** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. 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: Johnson

AYES: 5 – Reynolds, Gillespie, Housel, Johnson, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-069

BUILDING OFFICIAL'S REPORT: Application of Tommy Bell for a special exception to the sign regulations at 2610 Forest Lane. This property is more fully described as Lot 1A, Block 1/6593, and is zoned IR, which limits the number of words on a sign. The applicant proposes to construct and maintain an attached premise sign on a building facade with ten words, which will require a special exception allowing two additional words to the sign regulations.

LOCATION: 2610 Forest Lane

APPLICANT: Tommy Bell

REQUEST:

A special exception to the sign regulations is made to erect and maintain an attached premise sign with 10 large letter words (or two additional large letter words) on one sign on the approximately 245’ long Forest Lane façade of a structure on a site developed with a vehicle display, sales, or service structure/use (Toyota of Dallas).

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR TWO ADDITIONAL LARGE LETTER WORDS ON AN ATTACHED SIGN:

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize up to two additional large letter words on an attached sign in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan and sign/building elevation is required.

Rationale:

- Staff concluded that strict compliance with the requirement of the sign regulations would result in an inequity to the applicant, and there would be no corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations. In this case, the proposed 10 word attached premise sign (of which three “words” are the company logo/symbol) would be erected and maintained on a façade of a structure that is approximately 245’ in length and faces a major thoroughfare/freeway (Forest Lane/LBJ Freeway).

BACKGROUND INFORMATION:

Zoning:

- Site: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)
- North: MU-2 (Mixed use)
- South: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)
- East: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)
- West: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)

Land Use:

The site is currently developed with a vehicle display, sales, or service structure/use (Toyota of Dallas). The area to the north is developed with the LBJ Freeway; and the areas to the east, south, and west are developed with a mix of commercial/retail/office uses.

Zoning/BDA History:

1. BDA 134-090, Property at 2610 Forest Lane (the subject site)

On September 17, 2014, the Board of Adjustment Panel B granted a request for a special exception to the landscape regulations and imposed the submitted landscape plan as a condition to this request. The case report stated that the request was made in conjunction with constructing and maintaining a vehicle display, sales, or service structure/use (Toyota of Dallas), and not fully meeting the landscape regulations.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on erecting and maintaining an attached premise sign with 10 large letter words on the approximately 245' long Forest Lane façade of a structure on a site on a developed with a vehicle display, sales, or service structure/use (Toyota of Dallas).
- The Dallas Development Code provides the following definitions with regard to signs:
 - Attached sign: any sign attached to, applied on, or supported by, any part of a building (such as a wall, roof, window, canopy, awning, arcade, or marquee) that encloses or covers usable space.
 - Building: a structure which has a roof supported by columns, walls or air for the shelter, support, or enclosure of persons, animals or chattel.
 - One sign: any number of detached signs structurally connected above grade.
 - Word: For purposes of this section, each of the following is considered to be one word:
 - A) any word in any language found in any standard unabridged dictionary or dictionary of slang;
 - B) any proper noun or any initial or series of initials;
 - C) any separate character, symbol, or abbreviation, such as “&”, “\$”, “%”, and “Inc.”;
 - D) any telephone number, street number, or commonly used, combination of numerals and / or symbols such as “\$5.00”, or “50%”;
 - E) any symbol or logo that is a registered trademark, but which itself contains no word or character).
- The Dallas Development Code states that all signs erected pursuant to the “attached signs” section shall be limited to one per façade per occupant of premise.
- The Dallas Development Code states that no attached sign erected pursuant to the “attached signs” section shall be permitted to have more than eight words consisting of characters in excess of four inches in height and such sign shall not exceed 40 square feet in effective area.
- The applicant has submitted a site plan and an elevation of the facade of the structure on the subject site facing Forest Lane with a sign that contains the

following 10 words: four company logos, “Toyota”, “Scion”, “Dallas”, “Service”, “Used”, and “Vehicles.” The “words” range from approximately 2’ – 7’ in height.

- Three of the 10 “words” are the company’s logo.
- The applicant has the burden of proof in establishing the following:
 - That strict compliance with the requirement of the sign regulations (where in this case, the structure on the site would be limited to having a sign with a maximum of 8 words for its Forest Lane/LBJ Freeway facade) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.
- If the Board were to grant this special exception and impose that submitted site plan and sign/building elevation as a condition, the applicant would be permitted to erect and maintain a sign with two additional words (or 10 words) on its Forest Lane/LBJ Freeway frontage to the heights and locations of these words as shown on these documents.

Timeline:

April 23, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 12, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

May 13, 2015: The Board Administrator contacted the applicant and emailed him 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 June 3rd deadline to submit additional evidence for staff to factor into their analysis; and the June 12th 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.”

June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and

Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: JUNE 24, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gillespie

I move to grant that the Board of Adjustment grant application **BDA 145-069** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. 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 sign/building elevation is required.

SECONDED: Johnson

AYES: 5 – Reynolds, Gillespie, Hounsel, Johnson, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-068

BUILDING OFFICIAL’S REPORT: Application of Danny Sipes for a variance to the front yard setback regulations and a special exception to the single family use regulations at 4021 Dalgreen Road. This property is more fully described as Lot 4, Block 4407, and is zoned R-1ac(A), which requires a front yard setback of 40 feet and limits the number of dwelling units to one. The applicant proposes to construct and/or maintain a structure and to provide a 10 foot front yard setback measured at the roof eave, which will require a 30 foot variance to the front yard setback regulations, and to construct and/or maintain an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

LOCATION: 4021 Dalgreen Road

APPLICANT: Danny Sipes

REQUESTS:

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

1. A request for a variance to front yard setback regulations of 30' is made to construct and maintain a new two-story single family home structure, part of which (roof eave) would be located as close as 10' from one of the site's two front property lines (Dalgren Drive) or 30' into this 40' front yard setback.
2. A request for a special exception to the single family use development standard regulations is made to convert/transition and maintain the existing one-story single family home structure/use to a "pool cabana"/additional "dwelling unit."

STANDARD FOR A VARIANCE:

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE DEVELOPMENT STANDARDS REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

The board may grant a special exception to the single family use development standards regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION (variance):

Denial

Rationale:

- Staff concluded that there was no property hardship to the site that warranted a front yard variance in this case made to construct/maintain a new two-story single family home structure (with approximately 8,800 square feet of air-conditioned space and with a building footprint of approximately 5,700 square feet) on a site already developed with a one-story single family use/structure with approximately 2,000 square feet of air-conditioned space.
- Even though this site is somewhat sloped and has two front yard setbacks, these characteristics do not create hardship or preclude the applicant from developing it in a manner commensurate with other developments found in the same R-1ac(A) zoning district. The subject site is already developed with a single family home structure that complies with setbacks where the physical characteristics of the subject site do not warrant a variance for a larger single family home/dwelling unit to be located in a front yard setback.
- Staff concluded that the building footprint of the proposed structure shown on the submitted site plan could be shifted northwestward out of the Dalgren Drive 40' front yard setback and still be in compliance with the 10' side yard setback on the northwest side of the subject site where no variance would be necessary.
- The applicant had not substantiated how the physical features of the somewhat sloped, virtually rectangular in shape, approximately 1.1 acre site with two front yard setbacks preclude him from developing it in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification. The features of this site appear to allow the applicant to develop it with a new structure that could comply with setback provisions of the code.

STAFF RECOMMENDATION (special exception):

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

BACKGROUND INFORMATION:

Zoning:

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

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 (variance):

- This request focuses on constructing and maintaining a new two-story single family home structure with (according to the submitted floor plan) approximately 8,800 square feet of air-conditioned space and with a building footprint of approximately 5,700 square feet on site developed with a one-story single family home with (according to the submitted site plan) approximately 2,000 square feet of air-conditioned space. (The applicant intends to convert/transition this existing one-story single family home structure to a pool cabana/additional dwelling unit structure).
- The subject site is located at the north corner of Dalgreen Drive and Fisher Road. Regardless of how the existing and replacement structure is oriented or to be oriented, the subject site has front yard setbacks along both streets. The site has a 40' front yard setback along Fisher Road, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 40' front yard setback along Dalgreen Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where 10' side yard setback is required. But the site's Dalgreen Drive frontage is treated as a front yard setback nonetheless to maintain the continuity of the front yard setbacks established by the lots to the northeast that front/are oriented southeastward towards Dalgreen Road.
- Structures on lots zoned R-1ac(A) are required to provide a minimum front yard setback of 40'.
- The submitted site plan represents that a portion of the proposed single family home structure (roof eave) is to be located 10' from the Dalgreen Drive front property line or 30' into this 40' front yard setback.

- No variance is requested to construct and/or maintain any structure in the site's 40' front yard setback along Fisher Road.
- The subject site is somewhat sloped, virtually rectangular in shape, and is according to the application, 1.072 acres in area. The site is zoned R-1ac(A) where lots are typically 1 acre in area.
- The subject site has two 40' front yard setbacks and two 10' side yard setbacks. Most lots in this zoning district have one 40' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback.
- The subject site which ranges in width from approximately 104' – 164' has approximately 54' – 114' of developable width available once a 40' front yard setback is accounted for on the southeast and a 10' side yard setback is accounted for on the northwest. If the lot were more typical to others in the zoning district with only one front yard setback, the 104' – 164' wide site would have 84' – 144' of developable width with 10' side yard setbacks accounted for on the southeast and northwest sides of the site.
- The amount of square footage of the proposed single family home structure to be located in the 40' Dalgreen Drive front yard setback has not been determined given the configuration of the building footprint.
- DCAD records indicate that the property at 4021 Dalgreen Drive has the following improvements:
 - "main improvement:" a structure built in 1978 with 3,041 square feet of living and total area; and
 - "additional improvements:" a pool, a 288 square foot storage building, a 672 square foot outbuilding, and a 588 square foot detached carport.
- 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 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 located as close as 10' from the site's Dalgreen Drive front property line (or 30' into this 40' front yard setback).

GENERAL FACTS/STAFF ANALYSIS (special exception):

- This request focuses on converting and transitioning the existing one-story single family home structure/use on the subject site to a “pool cabana”/additional “dwelling unit.”
- The site is zoned R-1ac (A) where the Dallas Development Code permits one dwelling unit per lot.
- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties.
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- A site plan has been submitted denoting the locations of two building footprints, the larger of the two denoted as “proposed new structure” and the smaller of the two denoted as “existing residence (proposed new pool cabana)” – the latter structure that has been deemed by Building Inspection given what is denoted on a submitted floor plan/elevation as an additional dwelling unit. The site plan represents the sizes and locations of the two building footprints relative to the entire lot.
- The submitted floor plan of the “existing residence (proposed new pool cabana)” shows the following spaces: “entry foyer,” “porch,” “guest suite,” “laun./mech,” “home office,” two “baths,” “refreshment center,” “eating,” “billiards,” “media,” and “covered outdoor living” spaces.
- Building Inspection staff has reviewed the submitted floor plan of the “existing residence (proposed new pool cabana)” structure and deemed it to be a dwelling unit - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- This request appears to center on the function of what is proposed inside the existing single family home structure that is proposed to be transitioned to the pool cabana/additional dwelling unit. The applicant has written in an email that he has confirmed there will be no enlargement to the existing main structure, that all work on the existing main structure will be interior, and that should this request be denied, he would then modify plans to comply with city code in that the new plans would not be classified an additional dwelling unit by Building Inspection, IE: removing the sleeping area, or bathing facilities, or kitchen.
- DCAD records indicate that the property at 4021 Dalgreen Drive has the following improvements:
 - “main improvement:” a structure built in 1978 with 3,041 square feet of living and total area; and
 - “additional improvements:” a pool, a 288 square foot storage building, a 672 square foot outbuilding, and a 588 square foot detached carport.

- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve this request, the Board may choose to impose a condition that the applicant comply with the submitted site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements with the exception of the front yard setback regulations to which a variance request has been made as a part of this application).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Timeline:

- April 23, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 12, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 13, 2015: 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 June 3rd deadline to submit additional evidence for staff to factor into their analysis; and the June 12th 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.”
- June 3, 2015: The Board Administrator emailed the applicant that the requests that he has made in this application will not provide any relief to any existing and/or proposed noncompliance with fence height, visual obstruction, or floodplain regulations.
- June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans

Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: JUNE 24, 2015

APPEARING IN FAVOR: Danny Sipes, P.O. Box 32939, Forney TX
Alan Rich, 4021 Dalgreen Dr., Dallas, TX

APPEARING IN OPPOSITION: Jonathan Sledger, 4047 Dalgreen
Tray White, 7177 Fisher Road, Dallas, TX

MOTION: Hounsel

I move that the Board of Adjustment in Appeal No. **BDA 145-068** hold this matter under advisement until **August 26, 2015**.

SECONDED: Agnich

AYES: 5 – Reynolds, Gillespie, Hounsel, Johnson, Agnich

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Agnich

I move to adjourn this meeting.

SECONDED: Johnson

AYES: 5– Reynolds, Gillespie, Hounsel, Johnson, Agnich,

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

2:00 P.M. Board Meeting adjourned for **June 24, 2015**

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.