

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
MONDAY, OCTOBER 16, 2017**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Cheri Gambow, regular member, Robert Agnich, regular member, and Lorlee Bartos, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Cheri Gambow, regular member, Robert Agnich, regular member, and Lorlee Bartos, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Dev. Code Specialist, Phil Erwin, Chief Arborist, Lloyd Denman, Asst. Director, Engineering, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Dev. Code Specialist, Phil Erwin, Chief Arborist, Lloyd Denman, Asst. Director, Engineering, and Trena Law, Board Secretary

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 16, 2017** docket.

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

Approval of the Board of Adjustment Panel C, September 18, 2017 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2017

MOTION: None

The minutes were approved without a formal vote.

MISCELLANEOUS ITEM NO. 2

Approval of the Board of Adjustment Panel C's 2018 Public Hearing Calendar.

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2017

MOTION: Agnich

I move to approve the Board of Adjustment Panel C's 2018 Public Hearing Calendar.

SECONDED: Bartos

AYES: 4 – Richardson, Gambow, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA167-114(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Reeves of Robert Reeves and Associates for a special exception to the landscape regulations at 6920 Bob O Link Drive. This property is more fully described as Lot 1, Block 7/2984, and is zoned R-7.5(A), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 6920 Bob O Link Drive

APPLICANT: Robert Reeves of Robert Reeves and Associates

October 16, 2017 Public Hearing Notes:

- The Board Administrator circulated additional information from applicant to the Board members at the briefing (see Attachment D).

REQUEST:

A request for a special exception to the landscape regulations is made to demolish, remodel, and expand part of an existing church use/structure (Northridge Presbyterian Church), and not fully meet the landscape regulations, more specifically not provide the required landscape buffer strip with plant groups along the western, southern, and northern perimeters on the subject site.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:

The board may grant a special exception to the landscape and tree preservation 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 revised alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist recommends approval of the request concluding that strict compliance with the requirements of Article X will unreasonably burden the use of the property, and that the special exception will not adversely affect/negatively impact neighboring property.

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 developed with a church use (Northridge Presbyterian Church). The areas to the north, east, south, and west are developed with single family uses.

Zoning/BDA History:

1. BDA989-294, Property at 6920 Bob-O-Link Drive (the subject site) On September 20, 1999, the Board of Adjustment Panel C granted a request for a variance to the Residential Proximity Slope height regulations of 22.5' and imposed the following condition: 1) compliance with the submitted site plan and elevations is required. The case report states that the request was made to replace an existing circa 1948 steeple/cupola roof element and to construct and maintain a gable roof on the westernmost portion of a proposed sanctuary.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on demolishing, remodeling, and expanding part of an existing church use/structure (Northridge Presbyterian Church), and not fully meeting the landscape regulations, more specifically not providing the required landscape buffer strip with plant groups along the western, southern, and northern perimeters on the subject site 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 applicant submitted a revised alternate landscape plan in conjunction with this application (see Attachment B).
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment C).
- The Chief Arborist's memo states the following with regard to "request":

- The applicant requests a special exception to the landscape regulations in Article X. Since the demolition will reduce the floor area on the property, the new addition will expand the new floor area and will require the site to comply with the Article X ordinance. The applicant requests to allow for a revised alternative landscape plan which applies a modified artificial lot area in close proximity to the structure and areas north, and to allow the use of existing perimeter buffer strips with additional plantings.
- The Chief Arborist's memo states the following with regard to "provision":
 - The proposed plan includes an expanded floor area which projects southward. The revised alternate landscape plan provides for four new 6" diameter live oaks to the south to provide visual buffering of the structure. The applicant will use existing landscape areas to expand their screening of off-street parking along Bob O Link Drive and to maintain and enhance buffering on the west and east perimeters.
- The Chief Arborist's memo states the following with regard to "deficiencies":
 - The non-residential use is surrounded by properties in a residential district. This situation requires a minimum 10' perimeter landscape buffer strip with plant groups (10.125(b)(1) and (7)) along each applicable frontage. The western, southern, and northern perimeters indicate non-compliance with the landscape area requirement
 - The applicant is requesting that the maximum development area, shown on the plan as an artificial lot (10.122), to be the limit to required landscaping. Ordinance specifies the area should not be greater than 50% of the area of the building site. The southern field and perimeter of the property would be unchanged.

The Chief Arborist's memo states the following with regard to "factors":

- The applicant is removing 11 trees to the south of the existing structure for the purpose of new construction. Four 6" diameter live oaks will be placed south of the building to provide an expanding tree canopy buffer in relief.
- The existing east garden and all other trees and landscape areas are to remain. Additional landscaping will be provided to screen and buffer the parking lots to the north and west.
- All other requirements of Article X are met.
- The City of Dallas Chief Arborist recommends approval of the revised alternate landscape plan because strict compliance with the Article X regulations will unreasonably burden the use of the property, and that the special exception will 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 revised alternate landscape plan as a condition to the request, the site would be provided exception from providing the required landscape buffer strip with plant groups along the western, southern, and northern perimeters on the subject site on the subject site.

Timeline:

August 11, 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.

September 12, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

September 12, 2017: 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 September 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th 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.

October 2, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

October 4, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

October 4, 2017: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment C).

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2017

APPEARING IN FAVOR: Robert Reeves, 900 Jackson St., Dallas, TX

APPEARING IN OPPOSITION: Mark Sefein, 6927 Bob O Link Dr., Dallas, TX

MOTION: Gambow

I move that the Board of Adjustment in Appeal No. **BDA 167-114** hold this matter under advisement until **November 13, 2017**.

SECONDED: Bartos

AYES: 4 – Richardson, Gambow, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA167-118(SL)

BUILDING OFFICIAL’S REPORT: Application of Karl A. Crawley, Masterplan, represented by Karl A. Crawley, for a special exception to the off-street parking regulations at 8350 Park Lane. This property is more fully described as Lots 1, 2, 3, 4, 5A, 5B, A, B, C, & D, in Block 13/5204, and is zoned MF-3(A), which requires parking to be provided. The applicant proposes to construct and/or maintain structures for a multifamily use, and provide 221 of the required 244 parking spaces, which will require a 23 space special exception to the off-street parking regulations.

LOCATION: 8350 Park Lane

APPLICANT: Karl A. Crawley, Masterplan
Represented by Karl A. Crawley

REQUEST:

A request for a special exception to the off-street parking regulations of 23 spaces is made to retain a Certificate of Occupancy for an existing circa 1970’s multifamily development with 212 units (244 bedrooms) currently being remodeled (but not recently expanded), and provide 221 (or 91 percent) of the 244 required off-street parking spaces on the subject site.

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

- 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 23 spaces shall automatically and immediately terminate if and when the multifamily use is changed or discontinued.

Rationale:

- The Sustainable Development Department Assistant Director of Engineering indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: MF-3(A) (Multifamily)
North: PD 65 (Planned Development)
South: MF-3(A) (Multifamily)
East: MF-3(A) (Multifamily)
West: MF-3(A) (Multifamily)

Land Use:

The subject site is developed with a multifamily use. The areas to the north, south, east and west are developed mostly as multifamily 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 23 spaces focuses on retaining a Certificate of Occupancy for an existing circa 1970's multifamily development with 212 units (244 bedrooms) currently being remodeled (but not recently expanded), and providing 221 (or 91 percent) of the 244 required off-street parking spaces on the subject site.
- The Dallas Development Code requires the following off-street parking requirement:
 - Multifamily use: 1 space per bedroom with a minimum of one space per dwelling unit. An additional one-quarter space per dwelling unit must be provided if the required parking is restricted to resident parking only. (In this particular case, the multifamily use with 244 bedrooms would require 244 spaces).
- The applicant states that when the property was developed in the early 1970's, the multifamily development complied with off-street parking requirements but that a discovery was made during a recent renovation of the complex that over the years,

additional units had been added and that the use was not in compliance with the off-street parking requirement.

- The submitted parking study states among other things that based on two observations of actual parking demand during the early-morning hours, the peak parking demand did not exceed 203 parked vehicles (equivalent to 215 vehicles at 100 percent capacity). The applicant proposes to provide 221 spaces.
- The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Has no objections” with the following comment: “Evening site visit revealed dozens of open parking spaces” and a photograph taken of the subject site (see Attachment B).
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the “multifamily” use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 23 spaces (or 9 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 23 spaces shall automatically and immediately terminate if and when the multifamily use is changed or discontinued, the applicant could retain the Certificate of Occupancy for an existing circa 1970’s multifamily development with 212 units (244 bedrooms) currently being remodeled, and provide 221 (or 91 percent) of the 244 required off-street parking spaces.

Timeline:

August 24, 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.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

September 12, 2017: 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 September 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th 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.”

September 27, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public

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

October 5, 2017: The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Has no objections” with the following comment: “Evening site visit revealed dozens of open parking spaces” and a photograph taken of the subject site (see Attachment B).

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2017

APPEARING IN FAVOR: Karl Crawley, 900 Jackson Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Bartos**

I move that the Board of Adjustment, in Appeal No. **BDA 167-118**, on application of Karl Crawley, **grant** the request of this applicant to provide 221 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code which require 244 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 multifamily use only. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 23 spaces shall automatically and immediately terminate if and when the multifamily use is changed or discontinued.

SECONDED: **Gambow**

AYES: 4 – Richardson, Gambow, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA167-097(SL)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 2600 (aka 2604) Main Street. This property is more fully described as Lot 2, Block A/183, and is

zoned PD-269 (Tract A), which requires parking to be provided. The applicant proposes to construct and/or maintain a structure for a commercial amusement (inside) use, and provide 48 of the required 192 off-street parking spaces, which will require a 144 space special exception to the off-street parking regulations.

LOCATION: 2600 (aka 2604) Main Street

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 144 spaces is made to occupy and lease an existing approximately 21,000 square foot vacant structure, and construct and maintain an approximately 3,000 square foot addition with an inside commercial amusement (bowling alley) use, and provide 48 (or 25 percent) of the 192 off-street parking spaces required by code.

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

- 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 (September 18 & October 16, 2017):

Approval, subject to the following condition:

- The special exception of 144 spaces shall automatically and immediately terminate if and when the commercial amusement (inside) is changed or discontinued.

Rationale:

- The Sustainable Development Department Assistant Director of Engineering indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: PD 269 (Tract A) (Planned Development)
North: PD 269 (Tract A) (Planned Development)
South: PD 269 (Tract A) (Planned Development)
East: PD 269 (Tract A) (Planned Development)

West: PD 269 (Tract B) (Planned Development)

Land Use:

The subject site is developed with a vacant, approximately 21,000 square foot vacant structure. The area immediately north is a surface parking lot; and the areas to the east, south, and west are developed with a mix of residential and nonresidential uses.

Zoning/BDA History:

1. BDA012-119, Property at 2600 Main Street (the subject site)

On January 22, 2002, the Board of Adjustment Panel C granted a request for a variance to the off-street parking regulations and imposed the following conditions: 1) compliance with the submitted site plan is required; and 2) that the variances be changed from 15 spaces to 8 spaces.

The case report states that the request for variance to the off-street parking regulations of 15 spaces was made to transition and expand spaces in an existing vacant restaurant/bar structure (a structure that formerly housed the Copper Tank Brewing Company was being transitioned to the American's Pub).

2. BDA956-134, Property at 2600 Main Street (the subject site)

On January 23, 1996, the Board of Adjustment Panel C granted a request for a variance to the off-street parking regulations of 31 spaces needed to complete and maintain a 14,000 square foot restaurant/bar use (Copper Tank Brewing Company). The Board imposed the following conditions: That this variance terminates in two years or when the zoning regulations applying to this use are amended by the City Council to reduce the number of parking spaces whichever comes first.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on occupying and leasing an existing approximately 21,000 square foot vacant structure, and constructing and maintaining an approximately 3,000 square foot addition with an inside commercial amusement (bowling alley) use, and providing 48 (or 25 percent) of the 192 off-street parking spaces required by code.

- While PD 269 specifies off-street parking requirements for certain uses permitted in the zoning district, does not provide a specific off-street parking requirement for the proposed inside commercial amusement use. As a result, the PD ordinance states that the off-street parking requirement for this use is that what is provided in Chapter 51. Chapter 51 requires the following off-street parking requirement:
 - Inside commercial amusement: one space per 100 square feet of floor area.
- The applicant notes that PD 269 states that no off-street parking is required for the first 2,500 square feet of floor area in an original building; that no off-street parking spaces are required for the first 5,000 square feet of floor area in an original building for retail-related uses or professional, personal service, and custom craft uses; and that a reduction of 10 percent of the parking requirement is allowed for uses located within one-fourth of a mile from a rail station.
- The applicant has submitted a table indicating that while 213 off-street parking spaces are required for the proposed use on the site, the applicant is entitled to the 10 percent parking reduction for proximity to a DART station hence an off-street parking requirement of 192 spaces.
- The applicant has submitted a document which states among other things that: 1) while PD 269 does not provide stipulations or parking requirements specifically for bowling alleys (instead, bowling alleys are classified as “inside commercial amusement” use, the parking requirement for bowling alleys per Chapter 51A is six spaces per land, where the theoretical parking requirement for the proposed 8-lane tenant would be 39 spaces; and 2) the ITE’s projected peak demand of the use on the subject site is 30 vehicles. (The applicant proposes to provide 48 off-street parking spaces).
- On September 7 and October 5, 2015, the Sustainable Development Department Assistant Director of Engineering submitted review comment sheets marked “Has no objections.”
- The Board of Adjustment Panel C conducted a public hearing on this application on September 18, 2017, and delayed action on this application until their next public hearing to be held on October 16, 2017. (The applicant has not submit any additional information on this application between the September hearing and October 6, 2017).
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed inside commercial inside (bowling alley) use does not warrant the number of off-street parking spaces required, and
 - The special exception of 144 spaces (or a 75 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 144 spaces shall automatically and immediately terminate if and when the commercial amusement inside use is changed or discontinued, the applicant could occupy and lease the existing structure and construct and maintain the addition on the subject site with commercial amusement inside use, and provide 48 (or 25 percent) of the 192 required off-street parking spaces.

Timeline:

- July 12, 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.
- August 8, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case".
- August 8, 2017: 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 August 30th deadline to submit additional evidence for staff to factor into their analysis; and the September 8th 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."
- September 5, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- September 7, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections".
- September 18, 2017: The Board of Adjustment Panel C conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on October 16, 2017.
- September 21, 2017: The Board Administrator wrote the applicant a letter of the board's action; the September 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th deadline to

submit additional evidence to be incorporated into the Board's docket materials.

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

October 5, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections".

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 18, 2017

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm St., #B, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Foster**

I move that the Board of Adjustment, in **Appeal No. BDA 167-097**, hold this matter under advisement until **October 16, 2017**.

SECONDED: **Agnich**

AYES: 4 – Richardson, Foster, Gambow, Agnich

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2017

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm, Dallas, TX

APPEARING IN OPPOSITION: Tom Weber, 5919 Preston RD., Dallas, TX

MOTION #1: **Bartos**

I move that the Board of Adjustment in Appeal No. **BDA 167-097** hold this matter under advisement until **November 13, 2017**.

SECONDED: No one
Motion Failed for Lack of a Second

MOTION #2: Agnich

I move that the Board of Adjustment, in Appeal No. **BDA 167-097**, on application of Rob Baldwin of Baldwin Associates, **deny** the off-street parking regulations special exception requested by this applicant **without prejudice** because our evaluation of the property use and the testimony shows that granting the application would increase traffic hazards or increase traffic congestion on adjacent or nearby streets and/or the parking demand generated by the use does warrant the number of required parking spaces.

SECONDED: Gambow
AYES: 3 – Gambow, Agnich, Bartos
NAYS: 0 – Richardson
MOTION PASSED: 3 – 1

FILE NUMBER: BDA167-106(SL)

BUILDING OFFICIAL’S REPORT: Application of Santos Martinez to appeal the decision of the administrative official regarding 2535 Cambria Boulevard. This property is more fully described as Tract 23, Block H/2794, and is zoned CD 2, which requires compliance with conservation district architectural standards. The applicant proposes to appeal the decision of an administrative official in denying the approval of a conservation district work review.

LOCATION: 2535 Cambria Boulevard

APPLICANT: Santos Martinez

October 16, 2017 Public Hearing Notes:

- The Board was informed by the Assistant City Attorney at the briefing that upon further review of the appeal, it had been determined that the Board of Adjustment did not have jurisdiction over this case; that the ordinance for CD 2 states all appeals for the CD are heard by the city plan commission, not the board; and that staff would refer this matter to the City Plan Commission.

REQUEST:

A request is made to appeal the decision of the administrative official, in this particular application, the Building Official, where the submitted application states “property owner seeks to maintain installation of single hung windows on residential structure rather than double hung windows”.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: CD 2 (Conservation District)
North: CD 2 & R-7.5(A) (Conservation District and Single family residential, 7,500 square feet)
South: CD 2 (Conservation District)
East: R-7.5(A) (Single family residential, 7,500 square feet)
West: CD 2 (Conservation District)

Land Use:

The subject site is developed with a single family use. 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:

- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

July 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.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

September 12, 2017: 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 September 27th deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of application); and the October 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department 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: OCTOBER 16, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Agnich**

I move that the Board of Adjustment in Appeal No. **BDA 167-106**, refer this matter to the City Plan Commission.

SECONDED: **Bartos**

AYES: 4 – Richardson, Gambow, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA167-113(SL)

BUILDING OFFICIAL'S REPORT: Application of Steven Wood for a variance to the front yard setback regulations at 605 Murdock Road. This property is more fully described as Lot 49, Block 7970, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide a 3 foot front yard setback (a 5 foot setback measured at grade with a 2 foot roof eave) which will require a 22 foot variance to the front yard setback regulations.

LOCATION: 605 Murdock Road

APPLICANT: Steven Wood

REQUEST:

A request for a variance to the front yard setback regulations of 22' is made to construct and maintain a one-story single family home structure with a total foundation area of approximately 2,200 square feet, part of which is to be located 3' (roof eave) from one of the site's two front property lines (Nassau Circle) or 22' into this 25' front yard setback on a site that is undeveloped.

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:

Denial

Rationale:

- While staff recognized at the time of the October 3rd staff review team meeting that the subject site is unique and different from most lots in the R-7.5(A) zoning district in that it is restrictive in area due to having two, 25' front yard setbacks; that the 50' wide subject site has only 20' of developable width available once a 25' front yard setback is accounted for on the north and a 5' side yard setback is accounted for on the south; and that if the lot were more typical to others in the zoning district with only one front yard setback, the 50' wide site would have 40' of developable width; staff concluded that the applicant had not substantiated how the lot could not be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district.

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 areas to the north, south, and west are undeveloped, and the area to the east is developed with single family residential 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 variance to the front yard setback regulations of 22' focuses on constructing and maintaining a one-story single family home structure with approximately 1,700 square feet of living area and with a total foundation area of approximately 2,200 square feet, part of which (roof eave) is to be located 3' from one of the site's two front property lines (Nassau Circle) or 22' into this 25' front yard setback on an undeveloped site.
- The property is located in an R-7.5(A) zoning district which requires a minimum front yard setback of 25 feet.
- The subject site is located at the southwest corner of Nassau Circle and Murdock Road. Regardless of how the structure is proposed to be oriented to front Murdock Road, the subject site has 25' front yard setbacks along both street frontages. The site has a 25' front yard setback along Murdock 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 25' front yard setback along Nassau Circle, the

longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 5' side yard setback is required. But the site's Nassau Circle frontage that would function as a side yard on the property is treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots to the west that front/are oriented northward towards Nassau Circle.

- The submitted scaled site plan indicates that the wall of the proposed structure is located 5' from the Nassau Circle front property line or 20' into this 25' front yard setback but the application is made for a variance of "22' to the FYSB on Nassau to include the 2' roof overhang".
- The Dallas Development Code states that cantilevered roof eaves and balconies may project up to five feet into the required front yard.
- According to DCAD records, there are "no main improvement" or "no additional improvements for property addressed at 605 Murdock Road.
- The subject site is flat, rectangular in shape (approximately 141' x 50'), and according to the submitted application is 0.16 acres (or approximately 7,050 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 the R-7.5(A) zoning district 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 site plan represents that approximately 1/2 of the approximately 2,200 square foot foundation footprint is located in the 25' Nassau Circle front yard setback.
- The 50' wide subject site has 20' of developable width available once a 25' front yard setback is accounted for on the north and a 5' side yard setback is accounted for on the south. If the lot were more typical to others in the zoning district with only one front yard setback, the 50' wide site would have 40' of developable width.
- 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-7.5(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-7.5(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 3' from the site's Nassau Circle front property line (or approximately 22' into this 25' front yard setback).

Timeline:

August 18, 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.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

September 12, 2017: 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 September 27th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th 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.”

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

October 4, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the October 3rd staff review team meeting.

BOARD OF ADJUSTMENT ACTION: OCTOBER 16, 2017

APPEARING IN FAVOR: Steven Wood, 1113 E. Jefferson, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Bartos

I move that the Board of Adjustment, in Appeal No. **BDA 167-113**, on application of Steven Wood, **grant** the 22 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: Agnich

AYES: 4 – Richardson, Gambow, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

MOTION: Richardson

I move to adjourn this meeting.

SECONDED: Agnich

AYES: 4 – Richardson, Gambow, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

2:58 P. M. - Board Meeting adjourned for **October 16, 2017**

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.