



BOARD OF ADJUSTMENT

Panel B Minutes

December 13, 2023

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CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room
24974849659@dallascityhall.webex.com

Cheri Gambow, Vice-Chair

PRESENT: [5]

Cheri Gambow, VC	
Sarah Lamb	
Joe Cannon	
Michael Karnowski	
Nick Brooks	

ABSENT: [0]

Derrick Nutall	

Vice-Chair Gambow called the briefing to order at **10:32 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Gambow called the hearing to order at **1:03 P.M.** with a quorum of the Board of Adjustment present.

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.

PUBLIC SPEAKERS

The Board of Adjustment provided "public speaker" opportunities for individuals to comment on matters that were scheduled on the agenda or to present concerns or address issues that were not matters for consideration listed on the posted meeting agenda.

We had no speaker for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment 2022-23 Annual Report.

Motion was made to approve the Board of Adjustment 2022-23 Annual Report

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	5-0 unanimously				Moved to approve
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks, Sarah Lamb
		Against:	-	0	

Approval of the Board of Adjustment Panel B, November 15th, 2023 meeting minutes.

Motion was made to approve Panel B, November 15th, 2023 public hearing minutes.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 unanimously				Moved to approve
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks, Sarah Lamb
		Against:	-	0	

UNCONTESTED ITEMS

1. 9341 Creel Creek Drive

****This case was moved to Individual Items**

BDA223-111(KMH)

BUILDING OFFICIAL'S REPORT: Application of Andy Monroy for (1) a special exception to the single-family regulations, and for (2) a variance to the floor area ratio regulations at 9341 Creel Creek Dr. This property is more fully described as Block J/7295, Lot 22 and is zoned R-7.5(A), which limits the number of dwelling units to one, and which an accessory structure may not exceed 25% of the floor area of the main structure. The applicant proposes to construct an additional dwelling unit, which will require (1) a special exception to the single-family zoning use regulations, and to construct a single-family residential accessory structure with 1,257 square feet of floor area (3,964 square foot floor area of the main structure), which will require (2) a 266 square foot variance to the floor area ration regulations (32%).

LOCATION: 9341 Creel Creek Dr.

APPLICANT: Andy Monroy

REQUEST:

- (1) A request for a special exception to the single-family use regulations, and
- (2) A variance to the floor area ratio is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single-family home.

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

Section 51A-4.209(b)(6)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single-family use 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.

Section 51A-4.209(b)(6)(E)(ii) 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.

STANDARD FOR A VARIANCE:

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

- **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.
- **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
- **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.

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

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- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

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.

Variance:

Approval

Based upon the evidence presented and provided to staff, staff concluded that the request is:

- Not contrary to public interest as no opposition was received;
- Restrictive in area due to the floodway easement and creek, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning;
- It is not a self-created or personal hardship.

BDA History

No BDA history found within the last five years.

Square Footage:

The lot contains 25,133.81 of square feet.

The lot is zoned R-7.5(A) with a minimum lot size of 7,500 square feet.

Zoning:

- Site: R-7.5 (A) Single Family District
- North: R-7.5 (A) Single Family District
- South: R-7.5 (A) Single Family District
- East: R-7.5 (A) Single Family District
- West: R-10 (A) Single Family District

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.

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request is for a special exception to the single-family use regulations, and for a variance to the floor area ratio is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single-family home.
- The subject site is zoned R-7.5(A) where the Dallas Development Code permits one dwelling unit per lot.
- Additionally, the Dallas Development Code states that an accessory structure may not exceed 25% of the floor area of the main structure.
- The applicant proposes to construct and maintain a 1,257 square foot single-family residential accessory structure (not for rent) which exceeds 25% of the main structure. The square footage of the main structure is 3,964. Therefore, a 266 square foot (32%) variance is required.
- According to the submitted plans, the first floor of the ADU consists of 2 car garage, a pool bath, as well as a conditioned cabana. The second floor consists of a covered balcony, a kitchen, bathroom and sleep space.
- It is imperative to note that the Dallas Development Code defines 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." The existing ADU consists of all three (kitchen, bathroom, and bedroom).
- 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 used as rental accommodations; or (2) adversely affect neighboring properties.
- 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.

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).

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.

Moreover, the applicant has the burden of proof in establishing the following:

- That granting the variance to the floor area ratio 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 a specific parcel of land that differs from other parcels of land by being of such 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

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- 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality considers the structure to be a nonconforming structure.
- BDA223-111 CREEL CREEK 200' radius video

Timeline:

- October 11, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 25, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- October 26, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the November 20, 2023, deadline to submit additional evidence for staff to factor into their analysis; and December 1, 2023, 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.
- November 29, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans, and the Senior Planner.

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Speakers:
For: Andy Monroy, 9341 Creel Creek Dr., Dallas TX 75228
Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in request No. BDA 223-111, on application of Andy Monroy, **GRANT** the request to construct and maintain an additional dwelling unit on a site developed with a single-family structure as a special exception to the single-family use regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

Compliance with the most recent version of all submitted plans are required.

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Maker:	Michael Karnowski				
Second:	Nick Brooks				
Results:	4-1				Motion to grant
		Ayes:	-	4	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks
		Against:	-	1	Sarah Lamb

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 223-111, on application of Andy Monroy, **GRANT** the 266 square-foot variance to the floor area ratio 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 most recent version of all submitted plans are required.

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks, Sarah Lamb
		Against:	-	0	

2. 1914 Ashby Street
BDA223-112(DB)

BUILDING OFFICIAL'S REPORT: Application of Nash Chasi for (1) a variance to the side-yard setback regulations at 1914 Ashby St. This property is more fully described as Block 9/658, Lot 12 and is zoned MF-2(A), which requires side-yard setback of 10- feet. The applicant proposes to construct a multi-family residential structure and provide a 5-foot side-yard setback, which will require a (1) 5-foot variance to the side-yard setback regulations.

LOCATION: 1914 Ashby St.

APPLICANT: Nash Chasi

REQUEST:

(1) A request for a variance to the side-yard setback regulations.

STANDARD FOR A VARIANCE:

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

- **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.
- **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
- **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:

Variance to front yard setback:

Approval

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Restrictive in area and shape for the proposed multifamily development. The narrowing of the lot for the alley expansion has limited the buildable area at the east side of said property; the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not a self-created or personal hardship.

BDA HISTORY:

No BDA history within the last 5 years.

Square Footage:

This lot contains 6518 square feet.

This lot is zoned MF-2A which requires a minimum lot area per dwelling unit. Applicant is proposing 5, 2-bedroom dwelling units therefore, they are required to have a minimum of 6000 square-foot lot area to comply with lot size regulation.

Zoning:

Site: MF-2(A) Multifamily District
North: MF-2(A) Multifamily District
South: MF-2(A) Multifamily District
East: MF-2(A) Multifamily District
West: MF-2(A) Multifamily District

Land Use:

The subject site is undeveloped with a proposed multifamily use. The areas to the north, south, east, and west are developed with multi-family and duplex uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback regulations of 10-feet is made to construct and/or maintain a multi-family residential structure.
- The applicant proposes to construct and maintain a multi-family residential structure and provide a side yard setback of 5-feet
- The Dallas Development Code requires a 10-foot setback for required side yards in the MF-2(A) zoning district

The applicant has the burden of proof in establishing the following:

- That granting the variance to the front yard setback and to the building height 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 a specific parcel of land that differs from other parcels of land by being of such 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
- 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.
- Granting the proposed 5-foot variance to the side yard setback with a condition that the applicant complies with the most recently submitted plan(s), would require the proposal to be constructed as shown on the submitted documents.

Timeline:

October 12, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 26, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

October 26, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

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- an attachment that provided the public hearing date and panel that will consider the application; the November 20, 2023, deadline to submit additional evidence for staff to factor into their analysis; and December 1, 2023, 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.

November 22, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the November public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

Speakers:

For: Nash Chasi, 1914 Ashby Street, Dallas TX 75208

Against: Fidel Cedillo, 1910 Ashby Street, Dallas TX 75208

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-112, **HOLD** this matter under advisement until **January 17th, 2024**.

Maker:	Sarah Lamb				
Second:	Nick Brooks				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks, Sarah Lamb
		Against:	-	0	

HOLDOVER

3. 5540 N. Forty Place
BDA223-094(DB)

BUILDING OFFICIAL’S REPORT: Application of Itamar David to (1) provide an additional electrical meter at 5540 North Forty Pl. This property is more fully described as Block 8732, Tract 3.29 acre and is zoned R-1/2ac(A), which requires that a single-family dwelling use in a single family district may be supplied by not more than one electrical utility service, and metered by not more than one electrical meter. The applicant proposes to construct and/or maintain a single-family dwelling in a single-family district and have more than one electrical utility service, or more than one electrical meter, which will require (1) a special exception to the single-family zoning use regulations

LOCATION: 5540 N Forty Place

APPLICANT: DAVID, ITAMAR

REPRESENTED BY: EUGENE LOCHMAN

REQUESTS:

A special exception to the single-family use regulations is requested in conjunction with installing and maintaining an additional electrical utility service and electrical meter on a site that is currently developed with a single-family use.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE MORE THAN ONE ELECTRICAL UTILITY SERVICE OR MORE THAN ONE ELECTRICAL METER:

Section 51A-4.112 of the Dallas Development Code states the board may grant a special exception to authorize more than one electrical utility service or more than one electrical meter for a single-family use on a lot in a single-family zoning, duplex, or townhouse district when, in the opinion of the board, the special exception will not:

1. be contrary to the public interest;
2. adversely affect neighboring properties; and
3. be used to conduct a use not permitted in the zoning district.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize more than one electrical utility service or more than one electrical meter for a single-family use on a lot in a single-family zoning district since the basis for this type of appeal is when in the opinion of the board, the standards described above are met.

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2 ac(A) (single-family)
North: R-1/2 ac(A) (single-family)
West: R-1/2 ac(A) (single-family)
South: R-1/2 ac(A) (single-family)
East: R-1ac (A) (single-family)

Land Use:

The subject site and all surrounding areas to the north, south, and west are developed with single-family uses.

Zoning/BDA History:

There have been no related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on installing and maintaining a second electrical utility service/electrical meter on a site currently being developed with a single family home.
- According to the application, the applicant requires a three-phase power to the pumps to operate a upper pool with spa and a lower river design located at the rear of the property. The applicant advised that he requires a second electric meter to provide a three-phase power.
- The site is zoned R-1/2 ac(A) (single-family) where the Dallas Development Code permits one dwelling unit per lot.
- The Dallas Development Code states that in a single family, duplex, or townhouse district, a lot for single family use may be supplied by not more than one electrical service, and metered by not more than one electrical meter; and that the board of adjustment may grant a special exception to authorize more than one electrical utility service or more than one electrical meter for single family use on a lot in a single family zoning district when in the opinion of the board, the special exception will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties, and 3) not be used to conduct a use not permitted in the zoning district
- The applicant has submitted a site plan that indicate the proposed location of the second electrical meter on the subject site as well as the existing utility meter.
- As of November 02, 2023, no letters have been submitted in support of nor in opposition of the request.
- The applicant has the burden of proof in establishing that the additional electrical meter to be installed and/or maintained on the site will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties, and 3) not be used to conduct a use not permitted in the zoning
- If the board were to approve this request to install and maintain a second electrical utility service/electrical meter, this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing a second electrical utility service/electrical meter on the site (i.e., development on the site must meet all required code requirements).

Timeline:

- September 6, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 2, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- September 1, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and November 3, 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.

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November 1, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorneys to the Board, and the Senior Planners.

Speakers:

For: Eugene Lockman, 1330 Cedar Spring Rd., Prosper TX 75078

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-094, on application of Itamar David, **GRANT** the request to install and maintain an additional electric meter on the property as a special exception to the single family regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not be contrary to the public interest, will not adversely affect neighboring property, and will not be used to conduct a use not permitted in the district where the building site is located. The additional electric meter will not be used for an additional dwelling unit.

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks, Sarah Lamb
		Against:	-	0	

INDIVIDUAL CASES

4. 5924 McCommas Boulevard
BDA223-106(KMH)

BUILDING OFFICIAL'S REPORT: Application of Elizabeth Bell, for (1) a variance to the front-yard setback regulations at 5924 McCommas Blvd. This property is more fully described as Block A/2876, part of lots 11 and 12, and is zoned CD-11, which requires a front-yard setback of 38-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 29-foot 11-inch front-yard setback measured at the foundation, which will require an (1) 8-foot 1-inch variance to the front-yard setback regulation.

LOCATION: 5924 McCommas Blvd.

APPLICANT: Elizabeth Bell

REQUEST:

(2) A request for a variance to the front-yard setback regulations.

STANDARD FOR A VARIANCE:

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

- **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.
- **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
- **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.

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial **cost of compliance is greater than 50 percent of the appraised value of the structure** as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Denial

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- D. Not contrary to the public interest as no letters of opposition were received.
- E. Not restrictive in area, shape, or slope in which the property cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.
- F. Self-created or personal hardship.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 8,728.99 of square feet.

This lot is zoned CD-11 which has a minimum lot size of 7,500 square feet.

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Zoning:

Site: CD-11 Conservation District
North: CD-11 Conservation District; R-7.5(A); D(A)
South: CD-11 Conservation District
East: CD-11 Conservation District
West: CD-11 Conservation District

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.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the front yard setback regulations of 8-foot 1-inch is made to construct and/or maintain a single-family residential structure.
- The subject site is currently developed with a single-family dwelling unit.
- Conservation District 11 requires a minimum setback of 38-feet. As gleaned from the submitted site plan, the applicant proposes to maintain a newly constructed porch that encroaches into the 38-foot required front yard setback.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the front yard setback 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 a specific parcel of land that differs from other parcels of land by being of such 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
- 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (f) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (g) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (h) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (i) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (j) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 8-foot 1-inch variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.

- BDA223-106; 5924 MCCOMMAS (200' radius video)

BOARD OF ADJUSTMENT
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Timeline:

- October 3, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 25, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- October 26, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the November 20, 2023, deadline to submit additional evidence for staff to factor into their analysis; and December 1, 2023, 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.
- November 29, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: Elizabeth Bell, 5924 McCommas Blvd., Dallas TX 75206

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-106, on application of Elizabeth Bell, **GRANT** the 8-foot 1-inch 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 most recent version of all submitted plans are required.

Maker:	Nick Brooks				
Second:	Joe Cannon				
Results:	4-1				Motion to grant
		Ayes:	-	4	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks
		Against:	-	1	Sarah Lamb

5. 835 Thomasson Drive
BDA223-110(KMH)

BUILDING OFFICIAL'S REPORT: Application of Megan O'Neal for (1) a variance to the side-yard setback regulations at 835 Thomasson Dr. This property is more fully described as Block 3/3836, Lot 9, and is zoned CD-13 subarea 2, which requires a side-yard setback of 8-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 5-foot side-yard setback, which will require (1) a 3-foot variance to the side-yard setback regulations.

LOCATION: 835 Thomasson Dr.

APPLICANT: Megan O'Neal

REQUEST:

(3) A request for a variance to the side-yard setback regulations.

STANDARD FOR A VARIANCE:

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

- **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.
- **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
- **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.

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial **cost of compliance is greater than 50 percent of the appraised value of the structure** as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

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- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Denial

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- G. Not contrary to public interest as no letters of opposition were received.
- H. Not restrictive in area, shape or slope; in which the property cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.
- I. Self-created hardship/personal hardship.

BDA HISTORY:

No BDA history found within the last five years.

Square Footage:

The lot contains 8,640.04 of square feet.

The lot is zoned CD-13 with a minimum lot size of 7,500 square feet.

Zoning:

Site: CD-13 Conservation District
North: CD-13 Conservation District
South: CD-13 Conservation District
East: CD-13 Conservation District
West: CD-13 Conservation District

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.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback regulations of 3-feet is made to construct and/or maintain a single-family residential structure. The applicant is proposing to only provide a 5-foot side yard setback, whereas a minimum 8-foot side yard setback is required.
- The subject site is currently developed with a single-family dwelling unit.
- As gleaned from the submitted site plan, the applicant is proposing to construct a new detached garage located within the required 8-foot side yard setback. Per the applicant, they are seeking the 3-foot variance to construct a new detached garage as well as to maintain the placement of the existing driveway. Allowing the 5-foot setback, per the applicant, would allow safe maneuverability of vehicles in and out of the proposed detached garage.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the side yard setback 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.

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- The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such 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
- 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (k) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (l) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (m) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (n) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (o) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 3-foot variance to the side yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - BDA223-110; 835 THOMASSON (200' Radius Video)

Timeline:

October 6, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 25, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

October 26, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 20, 2023, deadline to submit additional evidence for staff to factor into their analysis; and December 1, 2023, 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.

November 20, 2023: The applicant provided documentary evidence for the board to consider.

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November 29, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: Megan O’Neal, 835 Thomasson Dr., Dallas TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-110, on application of Megan O’Neal, **GRANT** the 3-foot variance to the side-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 most recent version of all submitted plans are required.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Nick Brooks, Sarah Lamb
		Against:	-	0	

6. 6045 Velasco Avenue
BDA223-114 (DB)

BUILDING OFFICIAL’S REPORT: Application of Phillip Kingston represented by Melissa Kingston for (1) a variance to the maximum allowed lot coverage of 45 percent, and for (2) a variance to the side-yard setback regulations, and for (3) a variance to the side-yard setback regulations at 6045 Velasco Ave. This property is more fully described as Block 4/1894, Lot 13 and is zoned CD-12, which has a 45 percent maximum lot coverage, and requires one side-yard setback of 10-feet and requires one side-yard setback of 5-feet. The applicant proposes to construct a residential structure with 4057 square-feet of floor area (50.7% lot coverage), which will require (1) a 457 square-foot variance to the maximum allowed lot coverage of 45 percent; and to construct a residential structure and provide a 3-foot side-yard setback, which will require (2) a 2-foot variance to the side-yard setback regulations; and to construct a residential structure and provide a 3-foot 9-inch side-yard setback, which will require (3) a 6-foot 3-inch variance to the side-yard setback regulations.

LOCATION: 6045 Velasco

APPLICANT: Phillip Kingston

Represented by: Melissa Kingston

REQUEST:

- (4) A request for a variance to the maximum lot coverage;
- (5) A request for a variance to the side-yard setback regulations;
- (6) A request for a variance to the side-yard setback regulations.

STANDARD FOR A VARIANCE:

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

- **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.
- **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
- **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.

ELEMENT II SUBSTITUTE

Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475**, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial cost of **compliance is greater than 50 percent of the appraised value of the structure** as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

A request for a variance to the maximum lot coverage. Denial

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- J. Not contrary to the public interest as no letters of opposition were received;
- K. Not restrictive in area, shape, or slope; in which the property cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.
- L. Self-created hardship/personal hardship.

A request for a variance to the side-yard setback regulations. Approval

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- A. Not contrary to the public interest as no letters of opposition were received;
- B. Restrictive in shape for the specific development to maintain its legal nonconforming use rights and comply with the parking regulations;
- C. Not a self-created or personal hardship.

A request for a variance to the side-yard setback regulations. Approval

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- A. Not contrary to the public interest as no letters of opposition were received;
- B. Restrictive in shape for the specific development to maintain its legal nonconforming use rights and comply with the parking regulations;
- C. Not a self-created or personal hardship.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 8000 square feet.

This lot is zoned CD12 (R-7.5(A)) which requires a minimum area of 7500 square feet.

Zoning:

<u>Site:</u>	CD-12 (R-7.5(A) Single Family District)
<u>North:</u>	CD-12 (R-7.5(A) Single Family District)
<u>South:</u>	CD-12 (R-7.5(A) Single Family District)
<u>East:</u>	R-7.5 (A) Single Family District
<u>West:</u>	CD-12 (R-7.5(A) Single Family District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the maximum lot coverage
- A request for a variance to the side-yard setback regulations
- A request for a variance to the side-yard setback regulations
- The subject site is surrounded by single family homes and duplex uses.
- Conservation District 12 requires a minimum side yard setback for main structures of 5-feet on one side and 10 feet on the other side.
- Conservation District 12 requires a maximum lot coverage of 40 percent for new construction and non-original structures. Maximum lot coverage is 45 percent for original (1945 or earlier) structures.
- As gleaned from the submitted site plan, the applicant proposes to remodel and expand the existing duplex and provide a 50.7% lot coverage (457sf).

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- As gleaned from the submitted site plan, the applicant proposed to remodel and expand the existing duplex and provide a 3-foot side yard setback, which will require a 2-foot variance to the side yard setback regulations
- As gleaned from the submitted site plan, the applicant proposed to remodel and expand the existing duplex and provide a 3-foot 9-inch side yard setback, which will require a 6-foot 3-inch variance to the side yard setback regulations.
- It is imperative to note that nonconforming use and/or nonconforming structure rights can be lost; this is determined during CD and/or permitting review.
- [CD-12.pdf](#)

The applicant has the burden of proof in establishing the following:

- That granting the variance to the lot coverage and the side yard setbacks 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 a specific parcel of land that differs from other parcels of land by being of such 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
- 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 a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (p) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
- (q) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
- (r) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
- (s) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (t) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 9-foot 6-inch variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.

Timeline:

October 13, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 26, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

October 26, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

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- an attachment that provided the public hearing date and panel that will consider the application; the November 20, 2023, deadline to submit additional evidence for staff to factor into their analysis; and December 1, 2023, 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.

November 22, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the November public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

Speakers:

For: Melissa Kingston, 5901 Palo Pinto Ave, Dallas TX 75206
Philip Kingston, 5901 Palo Pinto Ave, Dallas TX 75206

Against: Robert Granado (V), 6043 Velasco Ave., Dallas TX 75206
Enequina Granado, 6043 Velasco Ave., Dallas TX 75206
William Gramm, 6042 Llano St., Dallas TX 75206
Clint Murchison, 6009 Velasco Ave, Dallas TX 75206
Katherine Hartnett, 6014 Velasco Ave, Dallas TX 75206
Jon Schulz, 5943 Palo Pinto Ave, Dallas TX 75206
Amanda Schulz, 5943 Palo Pinto, Dallas TX 75206
Darren Carollo, 6038 Velasco Ave, Dallas TX 75206
James Faulkner, 6046 Llano St., Dallas TX 75206

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 223-114, on application of Philip Kingston, **DENY** the variance to the maximum allowed lot coverage regulation requested by this applicant without prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	3-2				Motion to deny
		Ayes:	-	3	Cheri Gambow, Joe Cannon, Sarah Lamb
		Against:	-	2	Michael Karnowski, Nick Brooks,

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 223-114, on application of Phillip Kingston, **GRANT** the 2-foot variance to the side-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is

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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 2-foot Western side-yard setback measurements indicated in the most recent submitted site plan is required.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Nick Brooks, Michael Karnowski and Joe Cannon
		Against:	-	0	

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 223-114, on application of Phillip Kingston, **GRANT** the 6-foot 3-inch variance to the side-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 6-foot 3-inch Eastern side-yard setback measurements indicated in the most recent submitted site plan is required.

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	5-0				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Nick Brooks, Michael Karnowski and Joe Cannon
		Against:	-	0	

Recess: 2:24 p.m.; Resume: 2:33 p.m.

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Cheri Gambow moved to adjourn the meeting at 5:06 p.m.

Mary Williams
Required Signature:
Mary Williams, Board Secretary
Development Services Dept.

01/16/2024
Date

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Required Signature:
Jason Pool, DEV Administrator
Development Services Dept.

1/17/24
Date



Required Signature:
Cheri Gambow, Vice-Chair
Board of Adjustment

1/17/2024
Date