



BOARD OF ADJUSTMENT

REVISED  
Panel B Minutes  
February 21, 2024

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CITY SECRETARY  
DALLAS, TEXAS

6ES Briefing Room  
[24974849659@dallascityhall.webex.com](mailto:24974849659@dallascityhall.webex.com)

Cheri Gambow, Vice-Chair

**PRESENT: [5]**

Cheri Gambow, VC	
Sarah Lamb	
Joe Cannon (V)	
Michael Karnowski	
Derrick Nutall	

**ABSENT: [0]**


Assisting City Attorney Matthew Sapp called the briefing to order at 10:33 A.M. with a quorum of the Board of Adjustment present. Vice Chair Cheri Gambow was present virtually. It was proposed by Vice-Chair Cheri Gambow to elect a Presiding Officer for the briefing and hearing.

Vice Chair Gambow made a motion to elect Michael Karnowski as a temporary presiding officer, second by Derrick Nutall.

Presiding Officer Michael Karnowski called the Public Hearing to order at 1:01 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.

- Speakers:
- Jason LaBarba – 7121 Brookshire Circle, Dallas TX 75230
  - Liane LaBarba – 7121 Brookshire Circle, Dallas TX 75230
  - Mary Lavender (speaking for Jennifer Lavender – 12247Montego Plaza, Dallas TX
  - Sue White – 7115 Brookshire Circle, Dallas TX 75230

**MISCELLANEOUS ITEMS**

Approval of the Board of Adjustment Panel B, January 17<sup>th</sup>, 2024 meeting minutes.

Motion was made to approve Panel B, January 17<sup>th</sup>, 2024 public hearing minutes.

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

**HOLDOVER CASES**

**1. 1930 Hi Line Drive**  
BDA234-004(DB)

**BUILDING OFFICIAL’S REPORT:** Application of Jake Swiggett represented by Tommy Mann for (1) a special exception to the parking regulations at 1930 HI LINE DR. This property is more fully described as Block 37/7888, Part of lot 5A, and is zoned PD-621(1H), which requires parking to be provided. The applicant proposes to construct and/or maintain a mixed-use structure containing a residential use, and a restaurant without drive-in or drive-through service use and provide 927 parking spaces of the required 1450 parking spaces, which will require a 523-space special exception (36% reduction) to the parking regulation.

**LOCATION:** 1930 Hi Line Dr.

**APPLICANT:** Jake Swiggett

**REPRESENTED BY:** Tommy Mann

**REQUEST:** Special Exception to The Parking Regulations

**STANDARD FOR A SPECIAL EXCEPTION:**

Per PD-621(D) The board of adjustment may grant a special exception of up to 50 percent of the required off-street parking upon the findings and considerations listed in Section 51A-4.311. The board of adjustment may impose conditions on the special exception.

**SEC. 51A-4.311. SPECIAL EXCEPTIONS.**

(2) In determining whether to grant a special exception under Paragraph (1), 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.

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(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 under Paragraph (1), the board shall specify the use or 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 under Paragraph (1), the board may:

(A) establish a termination date for the special exception or otherwise provide for the reassessment of conditions after a specified period;

(B) impose restrictions on access to or from the subject property; or

(C) impose any other reasonable condition that would have the effect of improving traffic safety or lessening congestion on the streets.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to the parking regulations since the basis for this type of appeal is when in the opinion of the board, the special exception would not create a traffic hazard or increase traffic congestion on adjacent or nearby streets.

**BDA HISTORY:**

BDA190-004 request for a special exception to the parking regulation was previously granted for a 315-parking space reduction.

**Lot area:**

3.78 acres

**Zoning:**

Site: PD-621 Subdistrict 1H  
North: MU-3-Mixed Use District  
South: PD-621 Subdistrict 1E  
East: PD-621 Subdistrict 1  
West: MU-3-Mixed Use District

**Land Use:**

The subject site has been approved for a Mixed-use development which consist of multifamily, retail, and restaurant uses. The areas to the north, south east and west of the property are developed or proposed developments for multifamily, retail, restaurant, and lodging uses.

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a special exception to the parking regulations is being proposed.

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- The Dallas Development Code requires parking to be provided.
- Previous Board of adjustment case granted a 315-parking space reduction for mixed use residential and retail structure. Uses included: multi-family, restaurant without drive-in or drive-through service use, general merchandise, or food store 3500 square feet or greater use.
- The site contains a parking garage that houses 912 parking spaces

**Timeline:**

- November 16, 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.
- December 4, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- December 6, 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 28, 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 Attorney to the Board, the Senior Planner and Code Compliance staff.
- January 17, 2024: Placed on hold under advisement; to be on the February 21, 2024 docket. Applicant will need to update parking study.
- February 7, 2024: Applicant met with city staff proposing changes to the original request.

Speakers:

For: Jake Swiggett – 50 Washington St., Hobaken, NJ 02038  
Tommy Mann – 2728 N. Harwood St, Dallas TX 75201

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-004, on application of Jake Swiggett, **GRANT** the request of this applicant to provide 927 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires 1450 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

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spaces. This special exception is granted for a residential use, and a restaurant without a drive-in or drive-through.

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

37 spaces of the special exception shall automatically and immediately terminate if and when the restaurant without a drive in or drive-through use is changed or discontinued.

487 spaces of the special exception shall automatically and immediately terminate if and when all of the residential use is changed or discontinued. In the event that only a portion of the residential use is changed or discontinued, parking spaces will be terminated at the proportional rate of 1.5 parking spaces per residential unit.

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, Sarah Lamb & Derrick Nutall
		Against:	-	0	

**2. 4811 Kelsey Road**  
BDA234-010(KMH)

**BUILDING OFFICIAL’S REPORT:** Application of Aaron Wallrath represented by Anup Tamrakar for (1) a special exception to the fence height regulations at 4811 Kelsey Rd. This property is more fully described as Block B/5532, Lot 3-C, and is zoned R-1ac(A), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front-yard, which will require (1) a 2-foot special exception to the fence height regulations.

**LOCATION:** 4811 Kelsey Rd.

**APPLICANT:** Aaron Wallrath

**REPRESENTED BY:** Anup Tamrakar

**REQUEST:**

(1) A request for a special exception to the fence height regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:**

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**STAFF RECOMMENDATION:**

**Special Exception:**

No staff recommendation is made on this or any request for a special exception to the fence regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-1ac (A) (Single Family District)  
North: R-1ac (A) (Single Family District)  
East: R-1ac (A) (Single Family District)  
South: R-1ac (Single Family Districts)  
West: R-1ac (Single Family District)

**Land Use:**

The subject site and all surrounding properties are developed with single-family uses.

**BDA History:**

No BDA history

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Aaron Wallrath for the property located at 4811 Kelsey Rd. focuses on one request relating to the fence height regulations.
- The applicant proposes to construct and maintain a 6-foot high fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- The subject site along with properties to the north, east, south and west are all developed with single-family homes.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain a 6-foot-high wrought iron fence along Kelsey Road.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- BDA234-010 at 4811 Kelsey Rd. 200' Radius Video

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**Timeline:**

November 21, 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.

December 1, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 6, 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 28, 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 Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

January 17, 2024: Panel B, at its public hearing held on Wednesday, January 17, 2024 moved to hold this matter under advisement until February 21, 2024.

**Speakers:**

For: Aaron Wallrath – 4811 Kelsey road, Dallas TX

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-010, on application of Aaron Wallrath, **GRANT** the request of this applicant to construct and/or maintain a 6-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Sarah Lamb				
Second:	Derrick Nutall				

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Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Sarah Lamb & Derrick Nutall
		Against:	-	0	

**3. 7217 Brookshire Circle**  
BDA234-018(DB)

**BUILDING OFFICIAL'S REPORT:** Application of Peter Kofoed represented by Melissa Miles (1) to appeal the decision of the administrative official at 7217 BROOKSHIRE CIR. This property is more fully described as Block 6/6586, Lot 1, and is zoned R-16(A), where no private swimming pool may be constructed in the required front-yard. The applicant proposes (1) to appeal the decision of an administrative official in the denial of a building permit that was issued in oversight by the development services department.

**LOCATION:** 7217 Brookshire

**APPLICANT:** Peter Kofoed

**REPRESENTED BY:** Melissa Miles

**REQUEST:**

A request is made to appeal the decision of the administrative official in the denial of building permit 2203031044 that was issued incorrectly by the development services department.

**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).

**BDA History:**

BDA223-053; Special Exception to the fence height regulations; Denial

**Zoning:**

**Site:** R-16(A)-Single Family Zoning District  
**North:** R-16(A)-Single Family Zoning District  
**South:** R-13(A)-Single Family Zoning District  
**East:** R-16(A)-Single Family Zoning District  
**West:** R-13(A)-Single Family Zoning District



**Land Use:**

The subject site is developed with a single-family home. The surrounding properties are also developed with single-family homes.

**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:**

November 27, 2023: The applicant was sent a denial letter for permit number 2203031044 which was incorrectly issued by Development Services Department and is invalid.

December 17, 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.

December 18, 2023: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 22, 2023: The Senior Planner emailed the applicant's representative the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 28th deadline to submit additional evidence for staff to factor into their analysis; and the January 5th, 2024 deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

December 28<sup>th</sup>, 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 Attorney to the Board, the Senior Planner and Code Compliance staff.

January 5, 2024: Documentary evidence (from the Assistant City attorney) was submitted; documents include history of permits and reviews, Building official's brief

January 17, 2024: Applicant requested a postponement; Accepted; will be placed on the docket dated February 21, 2024

Speakers:

For: No Speakers

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Against: No Speakers

**Motion**

I move that the Board of Adjustment in Appeal No. BDA 234-018, **HOLD** this matter under advisement until **May 22, 2024**.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 Unanimously				Motion to hold
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Derrick Nutall, Sarah Lamb
		Against:	-	0	

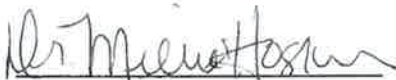
**ADJOURNMENT**

After all business of the Board of Adjustment had been considered, Vice-Chair Cheri Gambow moved to adjourn the meeting at 1:37 p.m.



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

3/20/2024  
Date



Required Signature:  
Dr. Kameka Miller-Hoskins, Board Administrator  
Development Services Dept.

3/20/24  
Date



Required Signature:  
Michael Karnowski, Presiding Officer  
Board of Adjustment

3/20/24  
Date