



BOARD OF ADJUSTMENT

Panel A Minutes

June 18th, 2024

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**CITY SECRETARY
DALLAS, TEXAS**

6ES Council Briefing

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David A. Neumann, Chairman

PRESENT: [5]

David A. Neumann, Chairman	
Rachel Hayden	
Kathleen Davis	
Michael Hopkovitz	
Jay Narey	

ABSENT: [0]

Chairman David A. Neumann called the briefing to order at **10:00 A.M.** with a quorum of the Board of Adjustment present.

Chairman David A. Neumann called the hearing to order at **1:00 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 speakers for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel A, May 21st, 2024, Meeting Minutes.

Motion was made to approve Panel A, May 21st, 2024, Public Hearing Minutes.

Maker:	Kathleen Davis				
Second:	Rachel Hayden				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

CONSENT ITEMS

1. 607 W. Davis Street

This item was moved to Individual Cases

BDA234-071(BT)

BUILDING OFFICIAL’S REPORT: Application of Houshang Jahvani for (1) a special exception to the landscaping regulations at 607 W. Davis St. This property is more fully described as Block A/3428 Lot 2A, and is zoned PD-830 Subdistrict 6, which requires mandatory landscaping. The applicant proposes to construct and/or maintain a nonresidential structure and provide an alternate landscape plan, which will require (1) a special exception to the landscape regulations.

LOCATION: 607 W. Davis St.

APPLICANT: Houshang Jahvani

REQUEST: A special exception to the landscape regulations.

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO THE LANDSCAPING AND TREE MITIGATION:

Section 51A-10.110 of the Dallas Development Code states the board may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that **strict compliance with the requirements of this article will unreasonably burden the use of the property**; the **special exception will not adversely affect neighboring property**; and 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 under Subsection (a), 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.
- The extent to which other existing or proposed amenities will compensate for the reduction of landscaping. (Ord. Nos. 22053; 25155)

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this or any request for a special exception to the landscape 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 properties.

The arborist division has no objection to the proposed alternate landscape plan for the property because we believe that strict compliance with the requirements of Article X will unreasonably burden the use of the property and the design will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

- Site: PD-830 Subdistrict 6
- North: PD-830 Subdistrict 6 & PD-830 Subdistrict 4
- East: PD-830 Subdistrict 6 & PD-160
- South: PD-830 Subdistrict 6
- West: PD-830 Subdistrict 6

Land Use:

The subject site is currently developed with a convenience store and gas station and the proposed one story retail addition. The surrounding area mainly consists of retail and single family structures.

BDA History:

No BDA history found within the last 5 years.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a special exception to the landscape regulations.
- As gleaned from the submitted site plan, the applicant is proposing to construct and/or maintain and retail food mart resulting in the need for a landscape special exception.
- The original development was approved with an alternate landscape plan under BDA978-150 which was deficient from Article X (1994 amendments) requirements. The site had been modified in recent years with a reduction of some landscape area and paving expansion along Fouraker Street. Davis Street was improved by the City of Dallas with new street and sidewalk improvements and the introduction of three trees in the right-of-way in designated tree wells. One tree near Davis Street was lost to storm damage and one additional tree is proposed to be removed for the new building addition.
- Article X (2018 amendments) requires the provision of 1 large/medium tree per 40 feet of street frontage (6 trees per frontage) with a street buffer zone on both streets, and a residential buffer zone of a minimum of 6.5' wide along Fouraker Street. The narrow street and existing driveway and infrastructure conditions are not supportable to compliance for Fouraker Street or Davis Street.

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- The property requires 10 landscape design option points. The plan provides for 5 points for foundation planting conditions.
- Along Fouraker Street, a new 5.5' wide right-of-way dedication places all existing and new landscaping inside the dedicated area. An additional 2' right-of-way dedication was placed along Davis Street. Infrastructure, visibility triangles, and infrastructure restrict planting.
- Granting the special exception to the landscape and tree mitigation regulations with a condition that the applicant complies with the submitted site and landscape plan, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-071 607 W. Davis St](#)

Timeline:

- April 19, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 15, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.
- May 17, 2024: The Development Services 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 May 24, 2024, deadline to submit additional evidence for staff to factor into their analysis; and June 7, 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.
- June 3, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

- For: Suddula Sham, 607 W. Davis St., Dallas TX 75211
- Against: Pam Connely, 901 W. Madison, Dallas TX 75208

Motion # 1

I move that the Board of Adjustment in Appeal No. BDA 224-071, **hold this matter under advisement** until **JULY 16TH, 2024**.

Maker:	Kathleen Davis			
Second:	Rachel Hayden			

Motion to withdraw

I move to withdraw the motion

Maker:	Kathleen Davis			
Second:	Rachel Hayden			

Motion # 2

I move that the Board of Adjustment in Appeal No. BDA 224-071, **hold this matter under advisement until AUGUST 20, 2024.**

Maker:	Kathleen Davis			
Second:	Rachel Hayden			
Results:	5-0 Unanimously			Motion to hold under advisement
		Ayes:	- 5	David A. Neumann, Kathleen Davis, Jay Narey, Rachel Hayden and Michael Hopkovitz
		Against:	- 0	

2. 2112 Botham Jean Boulevard
This item was moved to Individual Cases
 BDA234-073(CJ)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin for (1) a special exception to the landscaping regulations at 2112 Botham Jean Blvd. This property is more fully described as Block G/889, Lot 1A and is zoned PD-317 Sub area 3 (IM), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a nonresidential structure and provide an alternate landscape plan, which will require (1) a special exception to the landscape regulations.

LOCATION: 2112 Botham Jean Blvd.

APPLICANT: Rob Baldwin

REQUEST:
 (1) A request for a special exception to the landscape regulations.

DEVELOPMENT STANDARD FOR A SPECIAL EXCEPTION TO LANDSCAPE REGULATIONS:

SEC. 51A-10.125. MANDATORY LANDSCAPING REQUIREMENTS.

(b) Other uses. Lots containing a use other than single family or duplex must comply with the following requirements:

(1) Street buffer zone.

- (A) Urban streetscape.
- (B) Right-of-way.
- (C) Required planting.
- (D) Buffer zone reduction

(3) Interior zone.

- (A) Surface parking lots in industrial districts.
- (B) Surface parking lots.

(4) Additional provisions.

- (B) Site trees.

SEC. 51A-10.126. LANDSCAPE DESIGN OPTIONS.

(b) Design options.

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

Section 51A-10.110 of the Dallas Development Code states the board may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that **strict compliance with the requirements of this article will unreasonably burden the use of the property**; the **special exception will not adversely affect neighboring property**; and **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 under Subsection (a), 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.
- The extent to which other existing or proposed amenities will compensate for the reduction of landscaping. (Ord. Nos. 22053; 25155)

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this or any request for a special exception since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring properties nor will it constitute a traffic hazard.

BACKGROUND INFORMATION:

BDA History:

No BDA history

Square Footage:

- This lot contains 110,119.68 of square feet.
- This lot is zoned PD 317 Zoning District – Subdistrict 3 (IM) which has no minimum lot size.

Zoning:

- Site: PD 317 Zoning District – Subdistrict 3 (IM)
- North: PD 317 Zoning District – Subdistrict 3 (IM)
- East: PD 317 Zoning District – Subdistrict 3 (IM)
- South: PD 317 Zoning District – Subdistrict 3 (IM)
- West: PD 317 Zoning District – Subdistrict 3 (IM)

Land Use:

The subject site and surrounding properties to the north, south, east and west are developed with uses permissible in Planned Development 317 – Subdistrict 3 (IM).

GENERAL FACTS/STAFF ANALYSIS:

- The application of Rob Baldwin, for the property located at 2112 Botham Jean Boulevard focuses on one request relating to the landscape regulations.
- The applicant proposes to construct and maintain a nonresidential structure and provide an alternate landscape plan which will require a (1) special exception to the landscape regulations.
- The applicant is seeking a special exception to the landscaping requirements of Article X. The applicant requests approval of an alternate landscape that does not fully conform to Article X requirements.
- The applicant is proposing sidewalks and a solid wood fence, instead of a landscape buffer, along Parnell Street. Parnell Street functions as a service street.
- It is imperative to note that the subject site has four street frontages: Botham Jean Boulevard, Parker Street, Parnell Street and Corinth Street.
- The arborist division has no objection to the proposed alternate landscape plan for the property because we believe that strict compliance with the requirements of Article X will unreasonably burden the use of the property and the design will not adversely affect neighboring property.
- The Dallas Development Code states that all lots containing a use other than single-family or duplex must comply with the provisions set forth SEC. 51A-10.125. Mandatory Landscape Requirements and SEC. 51A-10.126. Landscape Design Options
- The applicant has the burden of proof in establishing that the special exception(s) to the landscape regulations will not adversely affect the neighboring properties.

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- Granting the special exceptions to the landscape regulations with a condition that the applicant complies with the submitted site plan/landscape plan, would require the proposal to be constructed as shown on the submitted documents.
- (200' Radius Video): [BDA234-073 at 2112 Botham Jean Blvd.](#)

Timeline:

- April 19, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 15, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.
- May 17, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
 - an attachment that provided the hearing date and panel that will consider the application; the May 24, 2024, deadline to submit additional evidence for staff to factor into their analysis; and June 7, 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.
- May 23, 2024: The applicant submitted documentary evidence to the board.
- June 3, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer
- June 5, 2024: The Chief Arborist provided staff with Arborist Report.

Speakers:

For: Rob Baldwin, 39004 Elm Street # B, Dallas TX 75226

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-073, on application of Rob Baldwin, **GRANT** the request of this applicant for a special exception to the landscape requirements contained in Article X of the Dallas Development Code, as amended, because our evaluation of the property and testimony shows 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 properties, and (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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:	Jay Narey				
Second:	Rachel Hayden				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Michael Hopkovitz and Jay Narey
		Against:	-	0	

3. 5503 Monticello Avenue
This item was moved to Individual Cases
 BDA234-076(CJ)

BUILDING OFFICIAL’S REPORT: Application of Michele Stephens for **(1)** a special exception to the 20-foot visibility obstruction regulations at the drive approach; and for **(2)** a special exception to the visibility obstruction regulation at the intersection of a street and alley, at 5503 MONTICELLO AVE. This property is more fully described as Block H/2176, Lot 1 and is zoned CD-9 (R-7.5(A)) which requires a 20-foot visibility triangle at the driveway approach and requires a 20-foot visibility triangle at the intersection of a street and alley. The applicant proposes to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require **(1)** a special exception to the visibility obstruction regulation at the drive approach; and to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require **(2)** a special exception to the 20-foot visibility obstruction regulation at the intersection of a street and alley.

LOCATION: 5503 Monticello Ave.

APPLICANT: Michele Stephens

REQUEST:

- (2) A special exception to the 20-foot visibility obstruction regulations at the drive approach.
- (3) A special exception to the 20-foot visibility obstruction regulations at the intersection of a street and an alley.

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board may grant a special exception to the visual obstruction regulations when in the opinion of the board, **the special exception will not constitute a traffic hazard.**

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this or any request for a special exception since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring properties nor will it constitute a traffic hazard.

BACKGROUND INFORMATION:

BDA History:

No BDA history

Square Footage:

- This lot contains 7,230.96 of square feet.
- This lot is zoned Conservation District #9 / R-7.5(A) which has a minimum lot size of 7,500 square feet.

Zoning:

- Site: Conservation District #9 / R-7.5(A)
- North: Conservation District #9 / R-7.5(A)
- East: Conservation District #9 / R-7.5(A)
- South: Conservation District #9 / R-7.5(A)
- West: Conservation District #9 / R-7.5(A)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application, for the Michele Stephens property located at 5503 Monticello Avenue focuses on 2 requests relating to the visibility obstruction regulations.
- The applicant is proposing to maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require a special exception to the 20-foot visibility obstruction regulations at the drive approach.
- Secondly, the applicant is proposing to maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle where the alley and street intersect, which will require a special exception to the 20-foot visibility obstruction regulation at the intersection of a street and alley.
- 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 maintain a 6-foot high fence along the side of the home where McMillan Avenue runs.
- The proposed fence is material is board on board wood.

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- It is imperative to note that the subject site is a corner lot, and it has double street frontage on Monticello Avenue and McMillan Avenue.
- The front yard of the subject site is along Monticello Avenue and the side yard of the subject site is along McMillan Avenue.
- The applicant has stated that the request for special exception has been made for safety reasons. The applicant is seeking to replace the existing 6-foot fence with a new board on board 6-foot fence.
- Based upon staff’s analysis of the surrounding properties, there are a few homes along McMillan Avenue with fences and gates in the required side yard and/or some form of vegetation serving as a screening mechanism.
- Per staff’s review of the subject site, it has been confirmed that the proposed fence will replace the existing 6-foot fence and be placed in the same location.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations regarding visual obstruction will not constitute a traffic hazard.
- Granting the special exceptions to the fence standards relating to visibility obstruction regulations 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.
- 200’ Radius Video: [BDA234-076 at 5503 Monticello Ave.](#)

Timeline:

- April 25, 2024: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 15, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.
- May 17, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the May 24, 2024, deadline to submit additional evidence for staff to factor into their analysis; and June 7, 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.
- June 3, 2024: 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 Board of Adjustment Senior Planner,

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Project Coordinator, Board Secretary, Conservation District Chief Planner,
 Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Michele Stephens, 5503 Monticello Ave, Dallas TX 75206
 John Crawley, 5503 Monticello Ave, Dallas TX 75206

Against: None

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-076, on application of Michele Stephens, **GRANT** the request to maintain items in the 20-foot visibility triangle on the private driveway as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

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

Maker:	Rachel Hayden				
Second:	Michael Hopkovitz				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-076, on application of Michele Stephens, **GRANT** the request to maintain items in the 20-foot visibility triangle at the intersection of a street and an alley as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the most recent version of all submitted plans, in regards to the portion in violation of the visual obstruction triangle, are required.

Maker:	Rachel Hayden				
Second:	Michael Hopkovitz				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen

				Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0

4. 3216 Peoria Avenue

This item was moved to Individual Cases

BDA234-077(CJ)

BUILDING OFFICIAL’S REPORT: Application of Joel Perales for **(1)** a special exception to the fence height regulations at 3216 PEORIA AVE. This property is more fully described as Block 21/7159, Lot 4 and is zoned as both R-5(A) and CS, which limits the height of a fence in the front yard to 4- feet. The applicant proposes to construct a 6-foot 6-inch-high fence in a required front-yard, which will require **(1)** a 2-foot 6-inch special exception to the fence regulations.

LOCATION: 3216 Peoria St.

APPLICANT: Joel Perales

REQUEST:

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

STANDARD OF REVIEW 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 Exceptions (1):

No staff recommendation is made on this or any request for a special exception since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring properties nor will it constitute a traffic hazard.

BACKGROUND INFORMATION:

BDA History:

BDA234-033 at 3216 Peoria Street

- A **SPECIAL EXCEPTION** to the fence height regulations.
 - The applicant proposed 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 regulations on Peoria St.
- A **SPECIAL EXCEPTION** to the fence standards regulations regarding opacity.
 - The applicant proposes to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which will require (2) a special exception to the fence regulations on Peoria St.
- A **SPECIAL EXCEPTION** to the 20-foot visibility obstruction regulations.

- The applicant proposes to construct and/or maintain a single-family residential fence structure in a required visibility obstruction triangle, which will require (3) a special exception to the 20-foot visibility obstruction regulation. on Peoria Street.
- Requests denied by Panel A, April 16, 2024

Square Footage:

- This lot contains 27,878.4 of square feet.
- This lot is zoned R-5(A) which has a minimum lot size of 5,000 square feet.

Zoning:

- Site: R-5 (A) (Single Family District)
- North: R-5 (A) (Single Family District)
- East: IM (Industrial Manufacturing Zoning District)
- South: R-5 (A) (Single Family District)
- West: R-5 (A) (Single Family District)

Land Use:

The subject site and surrounding properties to the north, east and south are developed with single-family uses. Properties to the east are developed with industrial manufacturing uses.

GENERAL FACTS/STAFF ANALYSIS:

- The application, for the Joel Perales property located at 3216 Peoria Street focuses on one request relating to fence height regulations.
- The applicant proposes to maintain and 6-foot-6-inch high fence in a required front yard, which will require a 2-foot 6-inch special exception to the fence height regulations.
- The subject site along with properties to the north, south, and west are all developed with single-family homes. Areas to the east are developed with industrial manufacturing uses.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to maintain a 6-foot 6-inch high fence around the circumference of the property at 3216 Peoria Street.
- The fence is material is partially wood, wrought iron and concrete.
- It is imperative to note that the subject site is a mid-block lot, and it has single street frontage on Peoria Street.
- Based upon staff’s analysis of the surrounding properties, there are a few homes along Peoria Street with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- Per staff’s review of the subject site, it has been confirmed that the fence surrounding the circumference of the property is existing and not proposed.
- 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.

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- The applicant has the burden of proof in establishing that the special exception to the fence regulations relating to height will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height regulations 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.
- 200’ Radius Video: [BDA234-077 at 3216 Peoria St.](#)

Timeline:

April 26, 2024: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 15, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.

May 17, 2024: The Development Services 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 May 24, 2024, deadline to submit additional evidence for staff to factor into their analysis; and June 7, 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.

June 3, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Blas Garza, 1419 Memory Lane, Dallas TX 75217
 Joel Perales, 3216 Peoria St., Dallas TX 75212

Against: No Speakers

I moved that the Board suspended the rules and accept the evidence presented to us today.

Maker:	Chairman David Neumann				
Second:	Rachel Hayden				
Results:	5-0 unanimously				Motion to suspend the rules

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-077, on application of Joel Perales, **DENY** the special exception requested by this applicant to construct and/or maintain a 6-foot 6-inch high fence **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Kathleen Davis				
Second:	Michael Hopkovitz				

Motion to withdraw.

Maker:	Kathleen Davis				
Second:	Michael Hopkovitz				

Motion # 2

I move that the Board of Adjustment in Appeal No. BDA 234-077 **hold this matter under advisement** until **AUGUST 20, 2024**.

Maker:	David Neumann			
Second:	Jay Narey			
Results:	4-1			Motion to hold under advisement
	Ayes:	-	4	David A. Neumann, Rachel Hayden, Michael Hopkovitz and Jay Narey
	Against:	-	1	Kathleen Davis

5. 8334 Plainview Drive
 BDA234-078(BT)

BUILDING OFFICIAL’S REPORT: Application of Bulfrano Macedo for (1) a variance to the lot coverage regulations, at 8334 Plainview Dr. This property is more fully described as Block 2/8526, Lot 3 and is zoned A(A), which allows a 10% maximum lot coverage. The applicant proposes to construct and/or maintain a single-family dwelling and provide 23% lot coverage, which will require (1) a 13% variance to the lot coverage regulations.

LOCATION: 8334 Plainview Dr.

APPLICANT: Bulfrano Macedo

REQUEST: A request for a variance to the lot coverage regulations.

STANDARDS OF REVIEW 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:

- (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.

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:

Variance: Approval

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

- A. Granting the variance in this application would not be contrary to public interest as no letters of opposition has been received.
- B. The lot is restrictive in size 10,271 sq. ft. (0.235 of an acre) and not large enough to meet the minimum (three acres) for A(A) residential use as required in the Dallas Development Code. For these reasons, the lot cannot be developed in a manner commensurate as other parcels of land in the same zoning district.
- C. The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons.

BACKGROUND INFORMATION:

BDA History found in the last five years BDA223-075

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- 10-foot variance to the side-yard setback regulations was GRANTED by Board of Adjustment Panel A on August 15, 2023.
- 23-foot variance to the rear-yard setback regulations was GRANTED by Board of Adjustment Panel A on August 15, 2023.

ZONING:

- Site: A(A) (Agricultural District)
- North: A(A) (Agricultural District)
- East: A(A) (Agricultural District)
- South: IR (Industrial/research District) & MU-1 (Mixed Use District)
- West: A(A) (Agricultural District)

LAND AND USE:

The subject site is vacant and all surrounding properties are developed with single-family homes.

SQUARE FOOTAGE:

This lot contains 10,271 sq. ft. (0.235 of an acre). Minimum three acres for A(A) zoning.
Proposed 1-story single family structure w/carport is 2,413 sq. ft. under roof (23% lot coverage)

GENERAL FACTS/STAFF ANALYSIS:

- The application of Bulfrano Macedo for the property located at 8334 Plainview Dr. focuses on 1 request relating to a variance to the lot coverage regulations.
- The applicant is requesting a variance to the lot coverage regulations. The applicant is proposing to construct and maintain a residential structure and provide 23% lot coverage, which will require a 13% variance to the lot coverage regulations. Traditional single-family development lots are allowed up to 40% lot coverage.
- The applicant previous request of a 10-foot variance to the side-yard setback regulations was GRANTED by Board of Adjustment Panel A on August 15, 2023.
- The applicant previous request of a 23-foot variance to the rear-yard setback regulations was GRANTED by Board of Adjustment Panel A on August 15, 2023.
- This lot is zoned A(A) which requires a minimum lot size of three acres (130,680 sq. ft.), similar lot sizes in the area average 10,000 sq. ft. +/-
- The subject site along with surroundings properties to the north, east and west are all developed with majority single-family homes.
- Additionally, to the south some properties are developed with IR and MU-1 uses.
- Per staff's review of the subject site, it has been confirmed that the proposed single-family structure will be constructed on a vacant lot.
- The applicant has the burden of proof in establishing the following:
 - 1) That granting the variance to the lot coverage will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in

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unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.

- 2) 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
- 3) 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 variance to the lot coverage regulations 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.
- 200’ Radius Video: [BDA234-078 8334 Plainview Dr](#)

TIMELINE:

April 19, 2024: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 15, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.

May 17, 2024: The Development Services 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 May 24, 2024, deadline to submit additional evidence for staff to factor into their analysis; and June 7, 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.

June 3, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Sergio Sigala, 6161 Amelia Ave, Fort Worth TX 76123
Bulfrano Macedo, 766 Pembatch Hill Rd, Dallas TX 75217

Against: None

Motion # 1

I move that the Board of Adjustment **GRANT** the following applications listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA 234-078 – Application of Bulfrano Macedo for a variance to the maximum allowed lot coverage regulations in the Dallas Development Code is granted subject to the following condition:

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

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Jay Narey, Rachel Hayden and Michael Hopkovitz
		Against:	-	0	

6. 5419 E. Grand Avenue

This item was moved to Individual Cases

BDA234-080(BT)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin for (1) a special exception to the parking regulations at 5419 EAST GRAND AVE. This property is more fully described as Block A/1610, SW ½ of lot 5 and is zoned RR, which requires parking to be provided. The applicant proposes to construct and/or maintain a non-residential structure for a personal service use, and provide 12 (10 per delta credits) of the required 16 parking spaces, which will require (1) a 4-space special exception (25% reduction) to the parking regulation.

LOCATION: 5419 East Grand Ave.

APPLICANT: Baldwin Associates - Rob Baldwin

REQUEST: Special Exception to the parking regulations

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

Section 51A-3.111(a) of the Dallas Development Code specifies that the board 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 or nearby streets.** Except as otherwise provided in this paragraph, the maximum reduction authorized by this section is 25% or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in **SEC 51A-4.704(b)(4)(A).**

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.

Square Footage:

This lot contains 4,175 of sq. ft.
This lot is zoned RR which has no minimum lot size.

Zoning:

- Site: RR (Regional Retail District)
- North: LO-1 (Limited Office District) & PD-539
- South: RR (Regional Retail District)
- East: RR (Regional Retail District)
- West: LO-1 (Limited Office District) & PD-135

Land Use:

The subject site is developed with a personal service use. The areas to the north, south, east, and west are developed with restaurant, retail and office uses.

BDA HISTORY:

No BDA history found within the last 5 years.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a special exception to the parking regulations of a 4-space variance (25% reduction) is made to construct and/or maintain a nonresidential structure.
- The subject site is currently vacant.
- Zoning RR requires one parking space for each 200 square feet of floor area for personal service use.
- Granting the proposed 4-space variance (25% reduction) to the parking 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.

200' Radius Video: [BDA234-080 5419 East Grand Ave](#)

Timeline:

- April 19, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 15, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.
- May 17, 2024: The Development Services 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 May 24, 2024, deadline to submit additional evidence for staff to factor into their analysis; and June 7, 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.

June 3, 2024: 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 Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Rob Baldwin, 3904 Elm Street # B, Dallas TX 75226
 Against: None

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-080, on application of Rob Baldwin, **DENY** the special exception to the parking regulations requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows this special exception will increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use warrants the number of required parking spaces.

Maker:	David Neumann				
Second:	Jay Narey				
Results:	3-2				Motion to denied without prejudice
		Ayes:	-	3	David A. Neumann, Jay Narey, and Michael Hopkovitz
		Against:	-	2	Kathleen Davis and Rachel Hayden

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chairman moved to adjourn the meeting at 4:02 p.m.

Maker:	Jay Narey				
Second:	Kathleen Davis				
Results:	5-0 unanimously				Motion to adjourn

Mary Williams

Required Signature:

Mary Williams, Board Secretary
Development Services Dept.

7.18.2024

Date

Dr. Kameka Miller-Hoskins

Required Signature:

Dr. Kameka Miller-Hoskins, Chief Administrator
Development Services Dept.

7/16/2024

Date

David A. Neumann

Required Signature:

David A. Neumann, Chairman
Board of Adjustment

7/16/24

Date