



BOARD OF ADJUSTMENT

Panel A Minutes

August 20th, 2024

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2024 SEP 20 PM 12:17

CITY SECRETARY
DALLAS, TEXAS

6ES Council Briefing
24923176153@dallascityhall.webex.com

David A. Neumann, Chairman

PRESENT: [5]

David A. Neumann, Chairman	
Nicholas Brooks	
Rachel Hayden	
Michael Hopkovitz @ 10:20 am	
Jay Narey - Virtual	

ABSENT: [1]

Kathleen Davis	

Chairman David A. Neumann called the briefing to order at **10:17 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.

- Clay Stapp – 4442 Bonham St., Dallas TX 75229
- Rem Le – 6714 Tyree Street, Dallas TX 75209
- Gus Perez – 1811 Morton Street, Dallas TX 75209
- Rene Zertas - 6815 Tyree Street, Dallas TX 75209
- Zac Thompson – 4715 University Blvd., Dallas TX 75209
- Kimberly Sims – 7219 Morton St., Dallas TX 75209
- Amelia Perez – 7811 Morton St., Dallas TX 75209
- Jonathan Maples – 6525 Oriole Dr., Dallas TX 75209

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel A, June 18th, 2024, Meeting Minutes. Changes were made to Page 17 of the Docket, BDA234-090, Motion # 1, motion was granted and Ms. Davis was absent.

Motion was made to approve Panel A, June 18th, 2024, Public Hearing Minutes.

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

CONSENT ITEMS

1. 325 N. Moore Street

This item was moved to Individual Cases

BDA234-093(CJ)

BUILDING OFFICIAL'S REPORT: Application of Ali Ebrahimi for (1) a variance to the front-yard setback regulations at 325 N. Moore St. This property is more fully described as Block 2/7675, Lot 31 and is zoned PD-1052 (R-5(A)), which requires a front-yard setback of 20-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 5-foot front-yard setback, which will require (1) a 15-foot variance to the front-yard setback regulations.

LOCATION: 325 N Moore St.

APPLICANT: Ali Ebrahimi

REQUEST:

- (1) A request for a variance to the front-yard setback 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 to the front-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 before case reports were finalized and submitted
- B. Is restrictive in area, shape, and slope.
 - The minimum lot area for residential use in the R-5(A) zoning district is 5,000 sq ft., the subject site is approximately 4,356 sq ft.
 - The subject site has a triangular shape with two front yards along N. Moore St. and Hutchins St. having 20-foot setbacks which restricts the developable shape and area.
 - The area is sloped
- C. Is not a self-created or personal hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 325 N. Moore St. within the last 5 years.

Square Footage:

This lot contains 4,356 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 Zoning District)

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North: R-5 (A) (Single-Family Zoning District)
South: R-5 (A) (Single-Family Zoning District)
East: R-5 (A) (Single-Family Zoning District)
West: R-5 (A) (Single-Family Zoning District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Ali Ebrahimi property located at 325 N. Moore Street focuses on one request relating to the front yard setback regulations.
- A request for a variance to the front yard setback regulations of 15-feet is made to construct and/or maintain a single-family residential structure at 325 N. Moore Street.
- Zoning District PD-1052; R-5(A) requires a minimum front yard setback of 20-feet.
- It is imperative to note that the subject site is a corner lot and has double street frontage on North Moore Street and Hutchins Avenue.
- As gleaned from the submitted site plan, the proposed home is set to encroach 15-feet into the 20-foot required front yard setback at 325 N. Moore Street, specifically the front yard setback on Hutchins Avenue.
- Based upon staff's analysis of the surrounding properties, the subject site is restrictive in size being only 4,356 sqft in the R-5(A) zoning district which has a minimum lot size of 5,000 sqft. Staff has also concluded that the triangular shape of the subject site is irregular.
- The subject site is sloped in a way that may restrict the developable area.

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

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of 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:

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- (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.
- Granting the proposed 15-foot 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.
 - 200' Radius Video:

Timeline:

- June 21, 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.
- July 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- July 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 August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 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.
- July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August 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: Ali Ebrahimi, 2440 For Worth Ave., Dallas TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-093, on application of Ali Ebrahimi, **GRANT** the 15-foot variance to the front-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

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

2. 6130 Royalton drive

BDA234-095(CJ)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin for **(1)** a variance to the front-yard setback regulations; and **(2)** a variance to the off-street parking regulations at 6130 Royalton Dr. This property is more fully described as Block 3/5500, Lot 4, and is zoned R-16(A), which requires a front-yard setback of 35-feet and requires a parking space must be at least 20-feet from the right-of-way line adjacent to a street or alley if the space is in an enclosed structure, and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 15-foot front-yard setback at Azalea Ln., which will require **(1)** a 20-foot variance to the front-yard setback regulations. The applicant proposes to construct and/or maintain a single-family residential structure with a parking setback of 15-feet, which will require **(2)** a variance of 5-feet to the off-street parking regulations.

LOCATION: 6130 Royalton Rd.

APPLICANT: Rob Baldwin

REQUEST:

- (2) A request for a variance to the front-yard setback regulations.
- (3) A request for a variance to the off-street parking 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:

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- (D) **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.
- (E) **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
- (F) **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:

1. 1st Request - Variance to the front-yard setback regulations

Approval

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

- C. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- D. Is not restrictive in shape or slope but is restrictive in area. The subject site is 16,988.4 sq ft. which is larger than the minimum lot are for residential use in the R-16(A) zoning district (16,000 sq ft.) but the developable area is less than the minimum lot size due to having two front yards that both require 35-foot setbacks; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- E. Is not a self-created or personal hardship.

2. 2nd Request - Variance to the off-street parking 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 before case reports were finalized and submitted.-
- B. Is not restrictive in shape or slope but is restrictive in area. The subject site is 16,988.4 sq ft. which is larger than the minimum lot are for residential use in the R-16(A) zoning district (16,000 sq ft.) but the developable area is less than the minimum lot size due to having two front yards that both require 35-foot setbacks; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 6130 Royalton Drive within the last 5 years.

Square Footage:

This lot contains 16,988.4 of square feet.

This lot is zoned R-16(A) which has a minimum lot size of 16,000 square feet.

Zoning:

<u>Site:</u>	R-16 (A) (Single-Family Zoning District)
<u>North:</u>	R-16 (A) (Single-Family Zoning District)
<u>South:</u>	R-16 (A) (Single-Family Zoning District)
<u>East:</u>	R-16 (A) (Single-Family Zoning District)
<u>West:</u>	R-16 (A) (Single-Family Zoning District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Rob Baldwin property located at 6130 Royalton Drive focuses on 2 requests relating to the front yard setback regulations and the off-street parking regulations.
- A request for a variance to the front yard setback regulations of 20-feet is made to construct and/or maintain a single-family residential structure at 6130 Royalton Drive.
- Zoning District R-16 (A) requires a minimum front yard setback of 35-feet.
- It is imperative to note that the subject site has two street frontages as well as two front yards with 35-foot required front yard setbacks on Royalton Drive and Azalea Lane.
- The average lot in a single-family residential zoning district does not have two front yards.
- As gleaned from the submitted site plan, the proposed home is set to encroach 20-feet into the 35-foot required front yard setback at 6130 Royalton Drive.
- Secondly, a request for a variance to the off-street parking regulations of 5-feet is made to construct and/or maintain a single-family residential structure with an enclosed parking space facing Azalea Lane at 6130 Royalton Drive.

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- A parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from the street or alley.

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

- That granting the variance to the front yard setback and/or the variance to the off-street parking regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance(s) 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 variance(s) 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 15-foot variance to the front yard setback regulations and/or the proposed 5-foot variance to the off-street 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:

Timeline:

- June 21, 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.
- July 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

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July 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 August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 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.

July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August 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 St., Suite B, Dallas TX 75226

Against: No Speakers

Motion

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 234-095 – Application of Rob Baldwin for a variance to the front yard setback regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the most recent version of all submitted site plan is required.

BDA 234-095 – Application of Rob Baldwin for a variance to the parking regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the most recent version of all submitted site plan is required.

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

HOLDOVER CASES

3. 607 W. Davis Street

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/3438 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 BDA 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 revised comment as of August 1, 2024: The only location to add any new landscaping is within the ROW dedication. Any built improvements that are not there currently should be removed if called for by Transportation. The arborist division believes the Vitex are suitable for tree planting, but may also be able to be satisfied with the redbud if a sidewalk is not being placed along Fouraker. The applicant believes they can retain the 12" oak along Davis now that they're setting the building back to 10'. Chief Arborist is somewhat skeptical but open to the applicants effort to try to retain the tree. The tree branching away from the building location may help support the idea. Our Chief Arborist may condition it to if the tree fails, it must be replaced with a small tree.

The arborist division is favorable overall to the proposed landscape plan. The building reduction is favorable to increased landscaping.

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.
- 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.

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- 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.
- June 18, 2024: The Board of Adjustment Panel A, at its public hearing held on Tuesday, June 18, 2024, moved to **HOLD** this matter under advisement until Tuesday, August 20, 2024.
- July 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 August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 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.
- July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: The Board of Adjustment

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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.

July 29, 2024: The applicant submitted a revised landscape plan.

August 1, 2024: Chief Arborist provided comments based on applicant’s revised landscape plan.

Speakers:

For: Houshang Jahvani, 2121 W. Josey Ln., # 200 Carrollton, TX 752006
Against: Pam Conley, 901 N. Madison, Dallas TX 75208

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-071, on application of Houshang Jahvani, **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.

In the event of the loss of a large tree on the subject property, as defined by Article X said tree must be replaced on the lot with a small tree from the City of Dallas approved tree list within 30 days of removal.

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

4. 3216 Peoria Avenue
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:

(1) 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.
- 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:

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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

June 18, 2024: Panel A, at its regular scheduled hearing on June 18, 2024 voted to hold this matter under advisement until it's August hearing.

July 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 August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 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.

July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August 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, 3216 Peoria Street, Dallas TX 75212
Joel Perales, 3216 Peoria Street, Dallas TX 75212
Translator: German Flores
Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-077, on application of Joel Perales, **GRANT** the request of this applicant to construct and/or maintain a 6-foot 6-inch 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:	David Neumann				
Second:	Nicholas Brooks				
Results:	4-1				Motion to grant
		Ayes:	-	4	David A. Neumann, Rachel Hayden, Nicholas Brooks and Jay Narey
		Against:	-	1	Michael Hopkovitz

INDIVIDUAL CASES

5. 6801 Tyree Street
BDA234-101(CJ)

BUILDING OFFICIAL'S REPORT: Application of Akber Meghani to appeal the decision of the administrative official at 6801 Tyree St. This property is more fully described as Block C/2595, Lot 18, and is zoned PD-67, which requires compliance with Planned Development No. 67 land use and development standards. The applicant proposes to appeal the decision of an administrative official in the revocation of building project 2211181039 and associated master permit 2211181139 for the construction of a new duplex.

LOCATION: 6801 Tyree St.

APPLICANT: Akber Meghani

REQUEST:

A request is made to appeal the decision of an administrative official in the revocation of building project 2211181039 and associated master permit 2211181139 for the construction of a new duplex.

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:

No BDA History found at 6801 Tyree Street in the last 5 years.

Zoning:

Site: Planned Development (PD) 67 Zoning District
North: Planned Development (PD) 67 Zoning District
South: Planned Development (PD) 67 Zoning District
East: Planned Development (PD) 67 Zoning District
West: Planned Development (PD) 67 Zoning District

Land Use:

The subject site and surrounding properties are developed with a single-family residential use.

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:

June 25, 2024: The applicant was sent a denial letter for permit number 2211181039 and master permit 2211181139 which were incorrectly issued by Development Services Department and invalid.

June 27, 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.

July 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

July 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 August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 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

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- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August 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: Karl Crawley, 2201 Main Street # 1280, Dallas TX 75201
Danielle Matthews, 2201 Main Street # 1280, Dallas TX 75201
Laura Gunn, 2201 Main Street # 1280, Dallas TX 7201

Representing the City of Dallas: Justin Roy, 1500 Marilla Street 7DN, Dallas TX 75201

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-101, **HOLD** this matter under advisement until September 17, 2024.

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

6. 6801 Tyree Street
BDA234-101_FR1(CJ)

BUILDING OFFICIAL'S REPORT: Application of Akber Meghani to appeal the decision of the administrative official at 6801 Tyree St. This property is more fully described as Block C/2595, Lot 18, and is zoned PD-67, which requires compliance with Planned Development No. 67 land use and development standards.

LOCATION: 6801 Tyree St.

APPLICANT: Akber Meghani

REQUESTS:

The applicant is requesting a fee reimbursement for fees paid for the application submitted to appeal the decision of the administrative official at 6801 Tyree Street which will appear before Panel A on August 20, 2024.

STANDARD FOR A FEE WAIVER OR REIMBURSEMENT:

Section 51A-1.105(b)(6) of the Dallas Development Code specifies the board of adjustment may waive the filing fee if the board finds that **payment of the fee would result in substantial financial hardship to the applicant**. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket, the applicant may not apply to the merits of the request for a waiver have been determined by the board. In making this determination, the board may require the production of financial documents.

STAFF RECOMMENDATION:

The staff does not make a recommendation on fee waiver requests since the standard is whether the board finds that payment of the fee would result in substantial financial hardship to the applicant.

Speakers:

For: None

Against: None

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-101, **HOLD** this matter **under advisement until September 17, 2024**.

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

****Recess at 2:25 pm – 2:40 pm****

****Recess at 2:52 pm – 3:10 pm****

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chairman moved to adjourn the meeting at 3:25 p.m.

Maker:	Nicholas Brooks				
Second:	Michael Hopkovitz				
Results:	5-0 unanimously				Motion to adjourn

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August 20th, 2024

Mary Williams

Required Signature:

Mary Williams, Board Secretary
Planning & Development Department

9/17/2024

Date

Dr. Kameka Miller-Hoskins

Required Signature:

Dr. Kameka Miller-Hoskins, Board Coordinator
Planning & Development Department

9/17/2024

Date

David A. Neumann

Required Signature:

David A. Neumann, Chairman
Board of Adjustment

9/17/24

Date