

## BOARD OF ADJUSTMENT

### Panel B Minutes

February 19, 2025



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**CITY SECRETARY  
DALLAS, TEXAS**

6ES Briefing Room

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Cheri Gambow, Vice-Chair

#### **PRESENT: [5]**

Cheri Gambow, Vice-Chair	
Joe Cannon	
Parker Graham	
Andrew Finney	
Phil Sahuc	

#### **ABSENT: [1]**

Sarah Lamb	

Vice-Chair Gambow called the briefing to order at **10:33 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Gambow 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 testimony opportunities for individuals to comment on matters that were scheduled on the posted meeting agenda.

- We had no speakers for public testimony during this hearing.

**MISCELLANEOUS ITEMS**

Approval of the Board of Adjustment Panel B, January 22, 2025, Meeting Minutes, as amended by Board member Joe Cannon.

**Motion was made to approve Panel B, January 22, 2025, Public Hearing Minutes.**

Maker:	Joe Cannon				
Second:	Andrew Finney				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Parker Graham Andrew Finney and Phil Sahuc
		Against:	-	0	

**UNCONTESTED CASES**

**1. 1711 Botham Jean Boulevard**

**\*This item was moved to Individual Cases\***

BDA245-020(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Santos Martinez to **(1)** restore a nonconforming use at **1711 Botham Jean Boulevard**. This property is more fully described as Block 1/1089, Lot 9A, and is zoned PD-317 (Subdistrict 3), which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishment use, which will require **(1)** a special exception to the nonconforming use regulations.

**LOCATION:** 1711 Botham Jean Boulevard.

**APPLICANT:** Santos Martinez

**REQUEST:**

(1) A request for a special exception to the non-conforming use regulations.

**STANDARDS OF REVIEW FOR A SPECIAL EXCEPTION TO THE NON-CONFORMING USE REGULATIONS:**

The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. **Section 51A-4.704(a)(2)** of the Dallas Development Code specifies that the board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

**STAFF RECOMMENDATION:**

Special Exception (1):

No staff recommendation is made on this request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: Planned Development 317 (Subdistrict 3)  
North: Planned Development 317 (Subdistrict 3)  
South: Planned Development 317 (Subdistrict 3)  
East: Planned Development 317 (Subdistrict 3)  
West: Planned Development 317 (Subdistrict 3)

**Land Use:**

The subject site and all surrounding properties are developed with uses permissible in Planned Development 317(Subdistrict 3).

**Square Footage:**

This lot contains 20,995.92 of square feet or .482 acres and is zoned PD-317 (Subdistrict 3) which has no minimum lot size.

**BDA History:**

No BDA history found within the last 5 years.

**GENERAL FACTS/STAFF ANALYSIS:**

- The application submitted by Santos Martinez for the property located at 1711 Botham Jean Boulevard focuses on one request for a special exception to the non-conforming use regulations.
- The applicant is requesting to restore a non-conforming alcoholic beverage establishment use at 1711 Botham Jean Boulevard.
- The subject site is currently developed with a non-residential structure and has double street frontage on Botham Jean Boulevard and McKee Street.
- Article 317 reverts to the Dallas Development code which states that the board may grant a special exception to the nonconforming use regulations only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.
- It is imperative to note that the last issued Certificate of Occupancy, with the land use of Alcoholic Beverage Establishment, was issued on 8/5/2015; Planned Development 317 allowed the non-conforming alcoholic beverage establishment use by right at that time.
- Article 317 was amended in February 2021 to require a specific use permit (SUP) for an alcoholic beverage establishment.

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

- The applicant has the burden of proof in establishing that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.
- Granting the special exception to the nonconforming use regulations to restore a nonconforming alcoholic beverage establishment use would require the proposal to be maintained as shown on the submitted documents.

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- 200' Radius Video: [BDA245-020 at 1711 Botham Jean Boulevard](#)

**Timeline:**

December 18, 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.

January 3, 2025: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

January 27, 2025: The Planning and Development Senior Planner emailed the applicant the following information:

- an attachment that provided the hearing date and panel that will consider the application; the January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and February 7, 2025, 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.

January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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: Santos Martinez, 2489 Camino Plata Loop, NE Rio Rancho NM 87144

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 245-020, on application of Santos Martinez, **GRANT** the request to restore a nonconforming alcoholic beverage establishment use as a special exception to the use regulations contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

Maker:	Andrew Finney				
Second:	Phil Sahuc				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Parker Graham Andrew Finney and Phil Sahuc
		Against:	-	0	

## 2. 4519 Cabell Drive

**\*This item was moved to Individual Cases\***

BDA245-025(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Sameet Madhani represented by Neeraj Kumar for **(1)** a variance to the rear-yard setback regulations; **(2)** a variance to the off-street parking regulations; and **(3)** a variance to the side-yard setback regulations at **4519 Cabell Drive**. This property is more fully described as Block 6/1597, Lot 6, and is zoned MF-2(A), which requires a rear yard setback of 10-feet, requires guest parking to be provided, and requires a side yard setback of 10-feet. The applicant proposes to construct and/or maintain a multifamily residential structure and provide a 4-foot 6-inch rear-yard setback, which will require **(1)** a 5-foot 6-inch variance to the rear-yard setback regulations, and to construct and/or maintain a residential multifamily structure and provide zero of the required 2-guest parking spaces, which will require **(2)** a 2-parking space variance to the required off-street parking regulations, and to construct and/or maintain a multifamily residential structure and provide a 5-foot side-yard setback, which will require **(3)** a 5-foot variance to the side-yard setback regulations.

**LOCATION:** 4519 Cabell Drive

**APPLICANT:** Sameet Madhani

**REPRESENTATIVE:** Neeraj Kumar

**REQUEST:**

- (1) A request for a variance to the rear-yard setback regulations;
- (2) A request for a variance to the off-street parking regulations; and
- (3) A request for a variance to the side-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:

- **not contrary to the public interest** when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- **necessary to permit development of a specific parcel of land** that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**ELEMENT II SUBSTITUTE:**

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

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- (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. Variance (1) to the **Rear 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. The subject site is not sloped or irregularly shaped but the proposed 20-foot wide driveway restricts the size of the lot substantially and decreases the developable area of the lot to less than the standard minimum (1,200 square feet for 2 bedrooms); 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.

2. Variance (2) 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. The subject site is not sloped or irregularly shaped but the proposed 20-foot wide driveway restricts the size of the lot substantially and decreases the developable area of the lot to less than the standard minimum (1,200 square feet for 2 bedrooms); 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.

3. Variance (3) to the **Side Yard Setback** regulations

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- B. The subject site is not sloped or irregularly shaped but the proposed 20-foot wide driveway restricts the size of the lot substantially and decreases the developable area of the lot to less than the standard minimum (1,200 square feet for 2 bedrooms); 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 4519 Cabell Drive in the last 5 years.

**Square Footage:**

- This lot contains 7,840.8 of square feet.
- This lot is zoned MF-2(A), the minimum lot area per dwelling unit is as follows:
  - No separate bedroom - 800 square feet.
  - One bedroom - 1,000 square feet
  - Two bedrooms - 1,200 square feet
  - More than two bedrooms - add 150 square feet for each additional room

**Zoning:**

<u>Site:</u>	MF-2(A) (Multi-Family District)
<u>North:</u>	MF-2(A) (Multi-Family District)
<u>East:</u>	MF-2(A) (Multi-Family District)
<u>South:</u>	MF-2(A) (Multi-Family District)
<u>West:</u>	MF-2(A) (Multi-Family District)

**Land Use:**

The subject site and surrounding properties to the north, south, east, and west are developed with uses permissible in the MF-2(A) zoning district.

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Sameet Madhani for the property located at 4519 Cabell Drive focuses on 3 requests relating to rear yard setback regulations, the off-street parking regulations, and the side yard setback regulations.
- The applicant proposes to construct and/or maintain a single-family residential structure and provide a 4-foot 6-inch rear-yard setback, which will require a 5-foot 6-inch variance to the rear-yard setback regulations; MF-2(A) zoning district requires a 10-foot rear yard setback for multi-family residential structures.
- Secondly, the applicant is proposing to construct a residential multifamily structure and provide zero of the required 2-guest parking spaces.
- Lastly, the applicant proposes to construct and/or maintain a single-family residential structure and provide a 5-foot side-yard setback, which will require a 5-foot variance to the rear-yard setback regulations; MF-2(A) zoning district requires a 10-foot side yard setback for multi-family residential structures.
- The subject site is vacant; properties to the north, south, east, and west are all developed with multi-family residential structures.
- The subject site is a mid-block lot and has single street frontage along Cabell Drive.

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- Per the site plan, the applicant is proposing to construct and maintain a multifamily residential structure that houses 6 units.
- Each of the proposed 6 units estimate at 1,561 square feet and have 2 bedrooms with 3 levels.
- The site plan also proposes a 20-foot wide driveway along the east side of the subject site.
- It is imperative to note that the subject site is approximately 50-feet wide and 158-feet deep.

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

- That granting the variance(s) 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) is/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:

- (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 variance(s) below, 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.
    - 5-foot 6-inch variance to the rear yard setback regulations.
    - 2-parking space variance to the off-street parking regulations.
    - 5-foot variance to the side yard setback regulations.
  - 200' Radius Video: [BDA245-025 at 4519 Cabell Drive](#)

**Timeline:**

December 23, 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.

January 3, 2025: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

January 27, 2025: The Planning and Development Senior Planner emailed the applicant the



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following information:

- an attachment that provided the hearing date and panel that will consider the application; the January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and February 7, 2025, 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.

January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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: Sameet Madhani, 4519 Cabell Dr., Dallas TX  
Neeraj Kumar, 4519 Cabell Dr., Dallas TX

Against: Rigoberto Torres Meza – did not speak  
Stacy Locke – did not speak

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 245-025, **HOLD** this matter **under advisement** until **April 16, 2025.**

Maker:	Joe Cannon				
Second:	Andrew Finney				
Results:	5-0 Unanimously				Motion to hold until April 16, 2025
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Parker Graham Andrew Finney and Phil Sahuc
		Against:	-	0	

**HOLDOVER CASES**

**3. 929 Brookwood Drive**  
BDA234-155(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Benjamin Larney for **(1)** a special exception to the fence height regulations, and for **(2)** a special exception to the visibility obstruction regulations at **929 Brookwood Drive**. This property is more fully described as Block 3/5982, Lot 23, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4-feet and requires a 20-foot visibility triangle at the intersection of an alley and an adjacent street curb line. The applicant proposes to construct and/or maintain an 15-foot high fence in a required front-yard, which will require **(1)** an 14-

foot special exception to the fence height regulations, and to construct and/or maintain a single-family residential fence structure in a required visibility obstruction triangle at an alley and Brookwood Drive, which will require **(2)** a special exception to the visibility obstruction regulations at the intersection of an alley and street.

**LOCATION:** 929 Brookwood Drive

**APPLICANT:** Benjamin Lartey

**REQUEST:**

- (4) A request for a special exception to the fence height regulations; and
- (5) A special exception to the 20-foot visibility obstruction regulations at the intersection of an alley and street.

**STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARD REGULATIONS:**

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence standard regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

**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 these requests.

**BACKGROUND INFORMATION:**

**BDA History:**

- BDA234-155\_FR1 was granted by Panel B on December 16, 2024

**Square Footage:**

- This lot contains 10,323.72 of square feet.
- This lot is zoned R-7.5(A) which has a minimum lot size of 7,500 square feet.

**Zoning:**

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

**Land Use:**

The subject site is vacant and surrounding properties to the north, south, east and west are developed with single-family uses.

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Benjamin Lartey for the property located at 929 Brookwood Drive focuses on 2 requests relating to fence height and visual obstruction regulations.
- The applicant proposes to construct and maintain a 15-foot fence in a required front yard, which will require an 11-foot special exception to the fence height regulations.
- Secondly, 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 intersection of the alley and Brookwood Drive.
- The subject site along with properties to the north, south, east, and west are all developed with single-family homes.
- It is imperative to note that the subject site has street frontage along Brookwood Drive and the alley.
- Based upon staff's analysis of the surrounding properties, there are a few homes within the neighborhood with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- The applicant has stated that the request for the special exception has been made to help make the lot a buildable lot.
- It has been confirmed that the fence is proposed and not existing.
- 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.
- 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 height standards and visual 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:

**Timeline:**

November 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.

December 17, 2024: The Board of Adjustment Administrator assigned this case to Board of

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Adjustment Panel **C in error.**

- December 23, 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 January 2, 2025, deadline to submit additional evidence for staff to factor into their analysis ; and January 10, 2025, 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.
- January 2, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.
- January 3, 2025 Traffic Engineering group provided comments stating that there are no objections in the event that specific conditions are met.
- January 23, 2025: The Board of Adjustment Panel **C**, at its public hearing held on Thursday, January 23, 2025, moved to **HOLD this matter under advisement** until February 19, 2025 to have it noticed to the correct Panel- **Panel B**.
- January 27, 2025: The Planning and Development Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis; and February 7, 2025, 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.
- January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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.

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Speakers:

For: Benjamin Larthey, 929 Brookwood Dr., Dallas TX

Against: No Speakers

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 234-155, on application of Benjamin Larthey, **DENY** the special exception requested by this applicant to construct and/or maintain a 15-foot high fence **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Joe Cannon					
Second:	Andrew Finney					
Results:	5-0 Unanimously					Motion to denied
		Ayes:	-		5	Cheri Gambow, Joe Cannon, Parker Graham Andrew Finney and Phil Sahuc
		Against:	-		0	

**Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA 234-155, on application of Benjamin Larthey, **GRANT** the request to maintain items in the 45-foot visibility triangle at the intersection of the alley and Brookwood Drive 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:	Andrew Finney					Motion to grant fails for lack of second
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**Motion # 3**

I move that the Board of Adjustment, in Appeal No. BDA 234-155, on application of Benjamin Larthey, **DENY** the special exception requested by this applicant to maintain items in the visibility triangle at the intersection of the alley and Brookwood Drive **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard..

Maker:	Joe Cannon					
Second:	Andrew Finney					
Results:	5-0 Unanimously					Motion to denied
		Ayes:	-		5	Cheri Gambow, Sarah Lamb, Joe Cannon, Parker Graham & Nicholas Brooks
		Against:	-		0	

**4. 1417 Lenway Street**  
BDA245-001(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Jay Taylor for **(1)** a special exception to the single-family use regulations, and for **(2)** a variance to the floor area for structures accessory to single-family uses regulations at **1417 Lenway Street**. This property is more fully described as Block 1/1175, Lot 1, and is zoned PD-595 (MF-2(A)), which limits the number of dwelling units to one, and prohibits an accessory structure to exceed 25 percent of the floor area of the main structure. The applicant proposes to construct and/or maintain an additional dwelling unit (not for rent), which will require a **(1)** special exception to the single-family zoning use regulations, and to construct and/or maintain a single family residential accessory structure with 504 square feet of floor area (28 percent of the 1,806 square foot floor area of the main structure), which will require **(2)** a 52.5 square foot variance to the floor area regulations.

**LOCATION:** 1417 Lenway Street

**APPLICANT:** Jay Taylor

**REQUEST:**

- (2) A request for a special exception to the single-family zoning use regulations; and
- (3) A request for a variance to the floor area for structures accessory to single-family uses regulations.

**STANDARDS OF REVIEW FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY ZONING USE REGULATIONS:**

Section 51A-4.209(b)(6)(E)(i) of the Dallas Development Code states that the board of adjustment may grant a special exception to authorize an additional dwelling unit in any district when, in the opinion of the board, the additional dwelling unit will not:

- (aa) be used as rental accommodations; or
- (bb) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

**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:

- **not contrary to the public interest** when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- **necessary to permit development of a specific parcel of land** that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

- **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**ELEMENT II SUBSTITUTE:**

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

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

**STAFF RECOMMENDATION:**

4. Special Exceptions (1):

No staff recommendation is made on this request.

5. Variance (1) to the **floor area for structures accessory to single-family use** regulations

**Denial**

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

- D. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- E. The subject site is not restrictive via its size, shape or slope; therefore, the property can be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- F. Is not a self-created or personal hardship.

**BACKGROUND INFORMATION:**

**BDA History:**

No BDA history found at 1417 Lenway Street within the last 5 years.

**Square Footage:**

This lot contains 7,274.52 of square feet or .167 acres.

This lot is zoned MF-2(A) which has a minimum lot size of 1,000 square feet per dwelling unit for single-family residential structures.

Site: PD-595 (MF-2(A)) Zoning District

North: PD-595 (MF-2(A)) Zoning District

East: PD-595 (MF-2(A)) Zoning District

South: PD-595 (MF-2(A)) Zoning District

West: PD-595 (MF-2(A)) Zoning District

**Land Use:**

The subject site and areas to the north, south, east, and west are zoned PD-595 (MF-2(A)).

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Jay Taylor for the property located at 1417 Lenway Street on two requests relating to the single-family zoning use regulations and the floor area for structures accessory to single-family uses regulations.
- The applicant proposes to construct and/or maintain an additional dwelling unit (not for rent), which will require a special exception to the single-family zoning use regulations.
- Secondly, the applicant is proposing to construct and/or maintain a single family residential accessory structure with 504 square feet of floor area (28 percent of the 1806 square foot floor area of the main structure), which will require a 52.5 square foot variance to the floor area regulations.
- The subject site has single street frontage on Lenway Street.
- The subject site along with surrounding properties to the north, south, east and west are zoned with uses permissible in Planned Development 595.
- The subject site currently has a partially developed residential structure and is located within an established neighborhood.
- The applicant has the burden of proof in establishing that granting the special exception to the single-family use regulations will not adversely affect neighboring properties.
- The applicant must also prove that, if granted, the additional dwelling unit will not be used as rental accommodations.
- Granting the special exceptions to the single-family use 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 and require the applicant to deed restrict the subject property to prevent the additional dwelling unit as rental accommodations.

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

- That granting the variance will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

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

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



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- (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 variance below, 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.
  - 52.5 square foot variance to the floor area regulations.
- 200' Radius Video: [BDA245-001 at 1417 Lenway Street](#)

**Timeline:**

- November 22, 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.
- December 17, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- December 18, 2024: The Planning and Development Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the January 2, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and January 10, 2025, 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.
- January 2, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.
- January 22, 2025: The Board of Adjustment Panel **B**, at its public hearing held on Wednesday, January 22, 2025, moved to HOLD this matter under advisement until February 19, 2025.
- January 27, 2025: The Planning and Development Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and February 7, 2025, 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.

January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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: Jay Taylor, 1033 E. 9<sup>th</sup> Street, Dallas TX 75203  
Julie Saqueton, 5830 Meaders, Dallas TX 75230  
Nicole Raphiel, 1600 Pennsylvania, Dallas TX 75215 (Did not speak)

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in request No. BDA 245-001, on application of Jay Taylor, **GRANT** the request to construct and maintain an additional dwelling unit on a site developed with a single-family structure as a special exception to the single-family use regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

1. Compliance with the most recent version of all submitted plans are required.
2. The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Maker:	Andrew Finney				
Second:	Joe Cannon				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Parker Graham, Andrew Finney & Phil Sahuc
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 245-001, on application of Jay Taylor **GRANT** the 52.5 square foot variance to the floor area ratio for a structure accessory to the single-family use regulations 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:	Andrew Finney				
Second:	Joe Cannon				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Parker Graham, Andrew Finney & Phil Sahuc
		Against:	-	0	

### 5. 3146 Clydedale Drive

**\*\*This case was heard first\*\***

BDA245-014(BT)

**BUILDING OFFICIAL'S REPORT:** Application of Blanca Cardenas for **(1)** a variance to the side-yard setback regulations at **3146 CLYDEDALE DRIVE**. This property is more fully described as Block 6/5776, Lot 22 and is zoned R-7.5(A), which requires a side-yard setback for of 5-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 0-foot side-yard setback, which will require **(1)** a 5-foot variance to the side-yard setback regulations.

**LOCATION:** 3146 Clydedale Drive

**APPLICANT:** Blanca Cardenas

**REQUEST:**

(6) A request for a variance to the side-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:

- **not contrary to the public interest** when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- **necessary to permit development of a specific parcel of land** that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**ELEMENT II SUBSTITUTE:**

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to

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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:**

Denial

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

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Subject site does not differ from other surrounding 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 in the same zoning. However, the subject site is less than the minimum 7,500 square feet (R-7.5(A)).
- C. This is a self-created hardship, constructed without permit approval and inspections.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5(A) (Single Family District)  
North: MF-2(A) (Multifamily District)  
East: R-7.5(A) (Single Family District)  
South: R-7.5(A) (Single Family District)  
West: R-7.5(A) (Single Family District)

**Land Use:**

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

**Square Footage:**

This lot contains of 6,798 square feet (0.156 of an acre)

**BDA History:**

No BDA history found in the last five years

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Blanca Cardenas for the property located at 3146 Clydedale Drive focuses on 1 request relating to a variance to the side-yard setback regulations.
- The applicant is requesting a variance to the side-yard setback regulations. The applicant is proposing to construct and maintain a residential addition and provide a 0-foot 0-inch side-yard setback, which will require a 5-foot 0-inch variance to the side-yard setback regulations.
- The subject site along with surroundings properties are all developed with single-family homes.
- It is imperative to note that the addition is complete without approved building permits on file.
- The applicant has the burden of proof in establishing the following:
  - 1) That granting the variance to the side-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.
  - 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.
- 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.
- Granting the variance to the side-yard setback 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: [BDA245-014 at 3146 Clydedale Dr](#)

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**Timeline:**

- December 2, 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.
- December 17, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- December 24, 2024: The Planning and Development 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 January 2, 2025, deadline to submit additional evidence for staff to factor into their analysis; and January 10, 2025, 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.
- January 2, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.
- January 22, 2025: The Board of Adjustment Panel **B**, at its public hearing held on Wednesday, January 22, 2025, moved to **HOLD** this matter under advisement until **February 19, 2025**.
- January 24, 2024: Planning and Development 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 January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis; and February 7, 2025, 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.
- January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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: Blanca Cardenas, 3146 Clydedale Ave, Dallas TX  
Juan Mendez, 3146 Clydedale Ave., Dallas TX  
Antonia Huerta, 3146 Clydedale Ave., Dallas TX  
Interpreter - Deyanira De Leon, 8028 Chaparral Dr., Ft Worth, TX

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 245-014, on application of Blanca Cardenas, **DENY** the variance to the side-yard setback regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

Maker:	Andrew Finney				
Second:	Joe Cannon				
Results:	5-0 Unanimously				Motion to deny
		Ayes:	-	5	Cheri Gambow, Joe Cannon, Parker Graham, Andrew Finney & Phil Sahuc
		Against:	-	0	

**2. 6356 Denham Street**  
BDA245-015(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Blanca Cardenas for **(1)** a special exception to the single-family use regulations and **(2)** a variance to the floor area for structures accessory to single-family uses regulations at **6356 Denham Street**. This property is more fully described as Block 6/6253, Lot 2, and is zoned R-7.5(A), which limits the number of dwelling units to one, and states that an accessory structure may not exceed 25 percent of the floor area of the main structure. The applicant proposes to construct and/or maintain an additional dwelling unit (not for rent), which will require **(1)** a special exception to the single-family zoning use regulations, and to construct and/or maintain a single family residential accessory structure with 464 square feet of floor area (28 percent of the 1,678 square foot floor area of the main structure), which will require **(2)** a 44.5 square foot variance to the floor area regulations.

**LOCATION:** 6356 Denham Street

**APPLICANT:** Blanca Cardenas

**REQUEST:**

- (4) A request for a special exception to the single-family zoning use regulations; and
- (5) A request for a variance to the floor area for structures accessory to single-family uses regulations.

**STANDARDS OF REVIEW FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY ZONING USE REGULATIONS:** SEC. 51A-4.209(b)(6)(E)(i) of the Dallas Development Code states that the

board of adjustment may grant a special exception to authorize an additional dwelling unit in any district when, in the opinion of the board, the additional dwelling unit will not:

- (aa) be used as rental accommodations; or
- (bb) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

#### **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:

- **not contrary to the public interest** when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- **necessary to permit development of a specific parcel of land** that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

#### **ELEMENT II SUBSTITUTE:**

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

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

#### **STAFF RECOMMENDATION:**

##### **6. Special Exception (1):**

No staff recommendation is made on this request.

##### **7. Variance (1)** to the floor area regulations



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

- G. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- H. Though the subject site is not sloped or irregularly shaped, it is 7405.2 sq ft. which is smaller than the minimum lot size for residential use in the R-7.5(A) zoning district (7,500 sq ft.); therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- I. Is not a self-created or personal hardship.

**BACKGROUND INFORMATION:**

**BDA History:**

No BDA history found at 6356 Denham Street within the last 5 years.

**Square Footage:**

This lot contains 7,405.2 of square feet or .17 acres.

This lot is zoned R-7.5(A) which has a minimum lot size of 7,500 square feet.

Site: R-7.5(A) Zoning District

North: R-7.5(A) Zoning District

East: R-7.5(A) Zoning District

South: R-7.5(A) Zoning District

West: R-7.5(A) Zoning District

**Land Use:**

The subject site and areas to the north, south, east, and west are zoned R-7.5(A).

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Blanca Cardenas for the property located at 6356 Denham Street on two requests relating to the single-family zoning use regulations and the floor area regulations.
- The applicant proposes to construct and/or maintain an additional dwelling unit (not for rent), which will require a special exception to the single-family zoning use regulations
- Secondly, the applicant is proposing to construct and/or maintain a single family residential accessory structure with 464 square feet of floor area (28 percent of the 1,678 square foot floor area of the main structure), which will require a 44.5 square foot variance to the floor area regulations.
- The subject site has single street frontage on Denham Drive.
- The subject site along with surrounding properties to the north, south, east, and west are zoned with residential uses.
- The subject site is currently developed with a residential structure and located within an established neighborhood.
- The applicant has the burden of proof in establishing that the special exception to the sing-family zoning use regulations will not be used as rental accommodations or adversely affect the neighboring properties.

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- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.
- Granting the special exceptions to the single-family use 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 and require the applicant to deed restrict the subject property to prevent the additional dwelling unit as rental accommodations.
- The applicant has the burden of proof for the variance in establishing the following:
  - That granting the variance 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:

- (k) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
  - (l) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
  - (m) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
  - (n) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  - (o) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed variance, 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.
    - 44.5 square foot variance to the floor area regulations.
  - 200' Radius Video: [BDA245-015 at 6356 Denham Drive](#)

**Timeline:**

- December 2, 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.
- December 17, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- December 18, 2024: The Planning and Development Senior Planner emailed the applicant the following information:

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- an attachment that provided the hearing date and panel that will consider the application; the January 2, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and January 10, 2025, 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.

January 2, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

January 22, 2025: The Board of Adjustment Panel **B**, at its public hearing held on Wednesday, January 22, 2025, moved to HOLD this matter under advisement until February 19, 2025.

January 27, 2025: 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 January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and February 7, 2025, 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.

January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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: Blanca Cardenas, 6356 Denham Street, Dallas TX

Against: Yolanda Williams

**Motion # 1**

I move that the Board of Adjustment, in request No. BDA 245-015, on application of Blanca

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Cardenas, **GRANT** the request to construct and maintain an additional dwelling unit on a site developed with a single-family structure as a special exception to the single-family use regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

1. Compliance with the most recent version of all submitted plans are required.
2. The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Maker:	Andrew Finney					
Second:	Joe Cannon					
Results:	2-3					Motion to grants fails
		Ayes:	-		2	Joe Cannon & Andrew Finney
		Against:	-		3	Cheri Gambow, Parker Graham & Phil Sahuc

**Motion # 2**

I move that the Board of Adjustment, in request No. BDA 245-015, on application of Blanca Cardenas, **DENY** the special exception to construct and maintain an additional dwelling unit on a site developed with a single-family structure as requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Joe Cannon					
Second:	Andrew Finney					
Results:	5-0 Unanimously					Motion to deny
		Ayes:	-		5	Cheri Gambow, Sarah Lamb, Joe Cannon, Parker Graham & Nicholas Brooks
		Against:	-		0	

**Motion # 3**

I move that the Board of Adjustment, in Appeal No. BDA 245-015, on application of Blanca Cardenas, **DENY** the variance to the floor area ratio for a structure accessory to the single-family use regulations requested by this applicant without prejudice, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

Maker:	Joe Cannon					
Second:	Parker Graham					
Results:	4-1					Motion to deny
		Ayes:	-		4	Cheri Gambow, Joe Cannon, Parker Graham & Phil Sahuc

		Against:	-	1	Andrew Finney
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**INDIVIDUAL CASES**

**7. 1427 Eastus Drive**  
BDA245-017(BT)

**BUILDING OFFICIAL’S REPORT:** Application of Rob Baldwin for (1) a variance to the front-yard setback regulations at **1427 EASTUS DRIVE**. This property is more fully described as Block 5920, Lot 3, and is zoned R-7.5(A), which requires a front-yard setback of 25-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 7-foot 6-inch front-yard setback, which will require **(1)** a 17-foot 6-inch variance to the front-yard setback regulations.

**LOCATION:** 1427 Eastus Drive

**APPLICANT:** Rob Baldwin

**REPRESENTED BY:**

**REQUEST:**

(7) 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:

- **not contrary to the public interest** when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a **restrictive area, shape, or slope**, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**ELEMENT II SUBSTITUTE:**

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

- (i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code.
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25

percent of the area on which development is authorized to physically occur.

(iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.

(iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or

(v) the municipality considers the structure to be a nonconforming structure.

**STAFF RECOMMENDATION:**

**Variance:**

Approval

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

- D. Not contrary to the public interest as no letters of opposition were received.
- E. Lot is restrictive in **buildable area, and irregularly shaped**, it is a corner lot with front-yard setbacks facing both Eastus Drive and W Greenbriar Lane; therefore, it cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- F. Not self-created nor is it a personal hardship.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Lot Square Footage:**

This lot size is 9,135 square feet. (0.210 of an acre)

**BDA History:**

No BDA history found within the last 5 years

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Rob Baldwin for the property located at 1437 Eastus Drive focuses on one request relating to a variance to the front-yard setback regulations.
- The applicant is requesting a variance to the front-yard setback regulations. The applicant is proposing to construct and maintain a residential structure and provide a 7-foot 6-inch front-

yard setback along W Greenbriar Lane, which will require a 17-foot 6-inch variance to the front-yard setback regulations.

- The subject site along with surroundings properties to the north, south, east, and west are all developed with single-family homes.
- It is imperative to note that the subject site is a corner lot, having a 25-foot front-yard setback along Eastus Drive and a 25-foot front-yard setback along W Greenbriar Lane.
- Subject lot is zoned R-7.5(A) which requires a minimum lot size of 7,500 square feet (0.115 of an acre).
- Subject lot size is 9,135 square feet (0.210 of an acre)
- Buildable area without the variance is 4,236 square feet compared to the maximum buildable area with variance is 5,443 square feet. The applicant is requesting 3,978 square feet.
- Per staff's review of the subject site, it has been confirmed that the single-family structure is proposed on a vacant lot.
- The applicant has the burden of proof in establishing the following:
  - 4) 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.
  - 5) 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
  - 6) 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.
- 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.

BOARD OF ADJUSTMENT  
February 19, 2025

- Granting the variance to the front-yard setback 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: [BDA245-017 at 1427 Eastus Dr](#)

**Timeline:**

- December 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.
- January 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- January 24, 2024: Planning and Development 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 January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis; and February 7, 2025, 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.
- January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February 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: No Speakers

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 245-017, on application of Rob Baldwin, **DENY** the variance to the front-yard setback regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

Maker:	Andrew Finney					
Second:	Joe Cannon					
Results:	2-3					Motion to deny fails



BOARD OF ADJUSTMENT  
February 19, 2025

		Ayes:	-	2	Joe Cannon & Andrew Finney
		Against:	-	3	Cheri Gambow, Parker Graham & Phil Sahuc

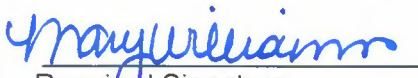
**Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA 245-017, **HOLD** this matter **under advisement** until **April 16, 2025**.

Maker:	Phil Sahuc				
Second:	Cheri Gambow				
Results:	4-1				Motion to hold until April 16, 2025
		Ayes:	-	4	Cheri Gambow, Parker Graham, Andrew Finney & Phil Sahuc
		Against:	-	1	Joe Cannon

**ADJOURNMENT**

After all business of the Board of Adjustment had been considered, Vice Chair Cheri Gambow moved to adjourn the meeting at 4:38 p.m.



Required Signature:

Mary Williams, Board Secretary

Planning and Development Department

04.16.25

Date



Required Signature:

Dr. Kameka Miller-Hoskins, Board Administrator

Planning and Development Department

04.16.25

Date



Required Signature:

Cheri Gambow, Vice Chair

Board of Adjustment

04.16.25

Date