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**CITY SECRETARY
DALLAS, TEXAS**

BOARD OF ADJUSTMENT

Panel B Minutes

April 17th, 2024



6ES Briefing Room

24974849659@dallascityhall.webex.com

Cheri Gambow, Vice-Chair

PRESENT: [5]

Michael Karnowski, Presiding Officer	
Sarah Lamb	
Joe Cannon	
Andrew Finney	
Derrick Nutall (V)	

ABSENT: [1]

Cheri Gambow, Vice-Chair	

Assisting City Attorney Matthew Sapp called the briefing to order at 10:31 A.M. with a quorum of the Board of Adjustment present. Vice Chair Cheri Gambow was not present.

It was motioned by Board Member Sarah Lamb to elect Michael Karnowski as a temporary presiding officer for the briefing and hearing. It was seconded by Andrew Finney.

Presiding Officer Michael Karnowski called the Public Hearing to order at 1:01 P.M. with a quorum of the Board of Adjustment present.

The Presiding Officer 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.

No Public Speakers

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel B, March 20th, 2024, Meeting Minutes.

Motion was made to approve Panel B, March 20th, 2024, Public Hearing Minutes.

Maker:	Sarah Lamb				
Second:	Andrew Finney				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney and Derrick Nutall
		Against:	-	0	

UNCONTESTED CASES

1. 4906 Deloache Avenue
 BDA234-040(KMH)

BUILDING OFFICIAL’S REPORT: Application of Sameepa Modi for (1) a special exception to the fence height regulations; for (2) a special exception to the fence opacity regulations; for (3) a special exception to the 20-foot visibility obstruction regulations at Sunnybrook Lane; and for (4) a variance to the front-yard setback regulations at 4906 DELOACHE AVE. This property is more fully described as block 11/5584, Lot 13C, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet; requires a fence panel with a surface area that is less than 50 percent open not be located less than 5-feet from the front lot line; requires a 20-foot visibility triangle at driveway approaches; and requires a front-yard setback of 40-feet. The applicant proposes to construct and/or maintain an 6-foot high fence in a required front-yard, which will require (1) a 2-foot special exception to the fence regulations; and 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 opacity regulations; and to construct and/or maintain a nonresidential structure in a required visibility obstruction triangle, which will require (3) a special exception to the 20-foot visibility obstruction regulations at Sunnybrook Lane; and to construct and/or maintain a single-family nonresidential structure and provide a 0-foot front-yard setback at Sunnybrook Lane, which will require (4) a 40-foot variance to the front-yard setback regulations.

LOCATION: 4906 Deloache Ave

APPLICANT: Sameepa Modi

REQUEST:

- (1) A request for a special exception to the fence height regulations;
- (2) A request for a special exception to the fence opacity regulations;
- (3) A request for a special exception to the visual obstruction regulations as Sunnybrook Ln.;
and
- (4) A request for a variance to the front-yard setback 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.**

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

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

STANDARD 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 **non-conforming structure.**

STAFF RECOMMENDATION:

Special Exception:

Special Exceptions (3):

No staff recommendation is made on this or any request for a special exception.

Variance

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Restrictive in shape as it is an irregularly shaped lot, it is also a corner lot which requires two front yard setback requirements; therefore, it cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not self-created nor is it a personal hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 54,892.12 of square feet.

This lot is zoned R-1ac(A) which requires a minimum lot size of 1 acre or 43,560 square feet.

Zoning:

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

Land Use:

The subject site is developed with a single family home. The areas to the north, south, east and west are also developed with single family homes.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Sameepa Modi for the property located at 4906 Deloache Ave. focuses on 4 requests. It is imperative to note that the subject site is situated on a corner lot with fence structures being proposed on both street frontages, Deloache Ave and Sunnybrook Ln.
- The first request is for a special exception to the fence height regulations of 2-feet along Deloache Ave. The applicant is proposing to construct and maintain a 6-foot high wrought iron fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- Secondly, the applicant is requesting a special exception to the fence opacity regulations along Sunnybrook Lane. The applicant is proposing to construct and 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 requires a special exception to the fence opacity regulations.

As illustrated on the submitted site plan and elevations, the applicant is proposing a masonry wall with masonry columns along Sunnybrook lane located on the property line.

- The applicant is also requesting a special exception to the visual obstruction regulations at the drive approach along Sunnybrook Lane. The proposed masonry wall along Sunnybrook lane has a sliding wrought iron gate at the drive approach which encroaches about **2½-3-feet** into the visibility triangle; which requires a special exception to the 20-foot visual obstruction regulations.
- And lastly, the applicant is requesting a variance to the front-yard setback regulations. The applicant is proposing to construct and maintain a nonresidential structure and provide a 0-foot front yard setback at Sunnybrook Lane, which will require a 40-foot variance to the front-yard setback regulations. As mentioned previously, the applicant is proposing a masonry wall with masonry columns along Sunnybrook Ln. It is important to note that the highest point of the proposed masonry columns are approximately 11'5" in height. This proposed wall exceeds 9-feet which is now considered a structure and should be located beyond the 40-foot front yard setback. However, the proposal only provides a 0-foot front yard setback, which means that the structure (masonry walls/columns) will be located on the property line; therefore, a variance of 40-feet to the front yard setback is required.
- As gleaned from the submitted site plan and elevations, the applicant is proposing a 6-foot wrought iron fence approximately 229 linear feet along Deloache Ave which curves onto Sunnybrook Lane. Additionally, the submitted site plan and elevations illustrate a masonry wall and masonry columns with a sliding gate approximately 156 linear feet along Sunnybrook lane.
- The applicant has stated that the reason for the request is to maintain the architectural integrity of the neighborhood by matching the height of the fence with other estates in the neighborhood.
- Based upon staff's analysis of the surrounding properties, there are other homes within the neighborhood with fences of somewhat similar height.

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

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

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

- (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.

BOARD OF ADJUSTMENT
April 17th, 2024

- 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.
- Additionally, the applicant has the burden of proof in establishing that the special exceptions to the fence height, opacity and visual obstruction will not adversely affect the neighboring properties nor constitute a traffic hazard.
- Granting the special exceptions (3) to the fence height, opacity 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.
- [BDA234-040 at 4906 Deloache Ave](#) (200' radius video)

Timeline:

February 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.

March 11, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

March 22, 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 March 27, 2024, deadline to submit additional evidence for staff to factor into their analysis; and April 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the April 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, Board Attorney, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Kylee Polaski & Sameepa Medi. 4252 Marsh Ridge Rd, Carrollton, TX 75010 (Did not speak)

Against: Julie Clark, 9346 Sunnybrook Lane, Dallas TX 75220 (Did not speak)

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 234-040 – Application of Sameepa Modi for a special exception to the fence height regulations in the Dallas Development Code is granted subject to the following condition:

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

BDA 234-040 – Application of Sameepa Modi for a special exception to the fence opacity regulations in the Dallas Development Code is granted subject to the following condition:

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

BDA 234-040 – Application of Sameepa Modi for a special exception to the 20-foot visibility obstruction regulations in the Dallas Development Code is granted subject to the following condition:

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

BDA 234-040 – Application of Sameepa Modi 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 plans are required.

Maker:	Sarah Lamb				
Second:	Andrew Finney				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney & Derrick Nutall
		Against:	-	0	

2. 7021 Creek Bend Road

***This Case was moved to Individual Items**

BDA234-045(CJ)

BUILDING OFFICIAL’S REPORT Application of Kara Crane for **(1)** a special exception to the fence height regulations at 7021 Creek Bend Rd. This property is more fully described as Block P/8727, Lot 1, and is zoned PD-106 (R-10(A)), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct and/or maintain an 8-foot high fence in a required front yard, which will require **(1)** a 4-foot special exception to the fence regulations.

LOCATION: 7021 Creek Bend Rd.

APPLICANT: Kara Crane

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 Exception (1):

No staff recommendation is made on this or any request for a special exception.

BACKGROUND INFORMATION:

BDA History: _

BDA212-110 at 7021 Creek Bend Rd.

- A VARIANCE to the front yard setback regulations.
- The applicant proposed to construct a single-family residential structure and provide a 9-foot front yard setback, which required (1) a 21-foot variance to the front yard setback regulations on Windpiper Rd.
- Request granted by Panel C, November 14, 2022
- Approved under building permit #2204181158 November 18, 2022

Square Footage:

This lot contains 19,166.4 of square feet.

This lot is zoned PD 106; **In general.** Except as provided in Section 51P-106.107 and Section 51P-106.108, utilization of lots within PD 106 must comply with the development standards of the R-10(A) Single Family District. R-10 zoning district has a minimum lot size of 10,000 square feet.

Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application, for the Kara Crane property located at 7021 Creek Bend Road focuses on one request relating to the fence height regulations.
- The applicant proposes to construct and maintain an 8-foot-high fence in a required front yard, which will require a 4-foot special exception to the fence height regulations.

BOARD OF ADJUSTMENT
April 17th, 2024

- The subject site along with properties to the north, east, south, and west are all developed with single-family homes.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain an 8-foot-high fence around the circumference of the property at 7021 Creek Bend Road.
- It is imperative to note that the subject site is a corner lot and has double street frontage and two front yards on Creek Bend Road and Windpiper Drive.
- The applicant has stated that the proposed 8-foot fence will be an addition for privacy.
- Based upon staff's analysis of the surrounding properties, there are a few homes along Windpiper Drive with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- 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(s) to the fence height regulations 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: [BDA234-045 7021 Creek Bend Rd.](#)

Timeline:

February 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.

March 11, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

March 20, 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 March 27, 2024, deadline to submit additional evidence for staff to factor into their analysis; and April 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the April public hearings. Review team members in attendance included: The Board of Adjustment Chief

BOARD OF ADJUSTMENT
 April 17th, 2024

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: Kara Crane, 7021 Creel Bend Rd., Dallas TX 75252
 Adriana Meyerovitz, 17805 Windpiper, Dallas TX 75252
 Rabbi D. Rivgelheim, 6500 Frankford, Dallas TX 75252

Against: Shiela Shiver, 17809 Windpiper Dr., Dallas TX 75252
 John Shiver, 17809 Windpiper Dr., Dallas TX 75252

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-045, on application of Kara Crane, **GRANT** the request of this applicant to construct and/or maintain a 8-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

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

Maker:	Sarah Lamb				
Second:	Andrew Finney				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney & Derrick Nutall
		Against:	-	0	

3. 7307 Robin Road

***This Case was moved to Individual Items**

BDA234-049(DB)

BUILDING OFFICIAL’S REPORT: Application of Nolette Construction, LLC represented by Rebecca Nolette for (1) a variance to the building height regulations at 7307 ROBIN RD. This property is more fully described as Block 15/4846, Lot 9, and is zoned PD-67 (previously zoned R-7.5(A) at time of permitting), which limits the maximum building height to 30-feet. The applicant proposes to construct and/or maintain a single-family residential structure with a building height of 33-feet, which will require (1) a 3-foot variance to the maximum building height regulations.

LOCATION: 7307 ROBIN RD.

APPLICANT: NOLETTE CONSTRUCUTION, LLC

REPRESENTED BY: REBECCA NOLETTE

REQUEST:

- (5) A request for a variance to the building height regulations.

STANDARD 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 non-conforming structure.

STAFF RECOMMENDATION:

Variance

Denial (soft recommendation)

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. The site is not restrictive in area, shape, or slope as it is not an irregularly shaped lot and meets the minimum required lot size of 7500sf and appears to be a level piece of land with no signs of a slope that would affect the development of the site; therefore, it can 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 since the property was purchased with the existing structure at its illegal height.

** The lot does not meet all three standards for a variance, but the applicant has the option to prove hardship by asking the board to consider Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475.

BACKGROUND INFORMATION:

BDA History:

No BDA history found within the last 5 years.

Square Footage:

This lot area is 7,500 square feet.

This lot is zoned PD-67 which requires a minimum lot size of 7500 square feet.

Zoning:

Site: PD-67 Single Family District per land use map
North: PD-67 Single Family District per land use map
South: PD-67 Single Family District per land use map
East: PD-67 Single Family District per land use map
West: PD-67 Single Family District per land use map

Land Use:

The subject site is developed with a single family home. The areas to the north, south, east and west are also developed with single family homes.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Rebecca Nolette for the property located at 7307 Robin Rd. focuses on 1 request. It is imperative to note that the subject site is situated on an inner lot that faces one street and is adjacent to an alley at the rear of the property.
- The request is for a variance the building height regulations in PD-67. The applicant is proposing to construct and maintain a 33-foot high residential structure in a district with a maximum building height of 30-feet (25-feet maximum at midpoint), which will require a 3-foot variance to the height regulations.
- As illustrated on the submitted site plan and elevations, the structure is existing but does not comply with the previously approved plans, therefore, it is an illegal structure.
- Applicant purchased this home after it was built but was not completed; the issue with the height was not disclosed to the applicant as it was not an issue until the new owner was in the process of completing the project.
- The applicant has stated that the height of this home is similar to the heights of other homes in the neighborhood; documentary evidence was submitted
- Based upon staff's analysis of the surrounding properties, there are other homes within the neighborhood that have a similar roof type and somewhat similar height.
- There was a zoning change from R-7.5(A) to PD67 that was approved on October 11, 2022.
- Although the zoning change affected the height requirements of R7.5(A) to a lesser allowed maximum height of 25-feet to midpoint (see below), this will continue to be reviewed under the R-7.5(A) regulations.
 - (b) Single family and duplex structures.
 - (1) Height. Maximum structure height is 25 feet.No portion of the structure may be greater than 30 feet above grade.

BOARD OF ADJUSTMENT
April 17th, 2024

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

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

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 variance to the building 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.

- [BDA234-049 7307 Robin RD.](#) 200' radius video

Timeline:

February 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.

March 11, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

March 22, 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 March 27, 2024, deadline to submit additional evidence for staff to factor into their analysis; and April 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and

BOARD OF ADJUSTMENT
 April 17th, 2024

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

April 1, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the April 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, Board Attorney, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Rebecca Nolette, 7307 Robin Road, Dallas TX 75209

Against: Jonathan Maples, 6525 Oriole Drive, Dallas TX 75209

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-049, on application of Nolette Construction LLC, **GRANT** the 3-foot variance to the building height regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	4-1				Motion to grant
		Ayes:	-	4	Michael Karnowski, Joe Cannon, Sarah Lamb and Andrew
		Against:	-	1	Derrick Nutall

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Presiding Officer Michael Karnowski moved to adjourn the meeting at 2:51 p.m.

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

5/22/2024
 Date

BOARD OF ADJUSTMENT
April 17th, 2024



Required Signature:

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

5/22/2024
Date



Required Signature:

Michael Karnowski,
Temporary Presiding Officer
Board of Adjustment

5/22/2024
Date