

BOARD OF ADJUSTMENT

Panel B Minutes

December 18, 2024



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**CITY SECRETARY
DALLAS, TEXAS**

6ES Briefing Room

24974849659@dallascityhall.webex.com

Cheri Gambow, Vice-Chair

PRESENT: [4]

Cheri Gambow, Vice-Chair	
Sarah Lamb	
Phil Sahuc	
Andrew Finney	

ABSENT: [1]

Joe Cannon	

Vice-Chair Cheri Gambow made the motion to select Sarah Lamb as Presiding Officer, seconded by Phil Sahuc, and was called the briefing to order at **10:33 A.M.** with a quorum of the Board of Adjustment present.

Presiding Officer Sarah Lamb 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, November 20, 2024, Meeting Minutes.

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

Maker:	Sarah Lamb				
Second:	Andrew Finney				
Results:	4-0 unanimously				Motion to approve
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc, Andrew Finney
		Against:	-	0	

UNCONTESTED CASES

1. 6240 E. Mockingbird Lane

This item was moved to Individual Cases

BDA234-139(CJ)

BUILDING OFFICIAL’S REPORT Application of Charles D. Corson for **(1)** a special exception to the sign regulations at **6240 E Mockingbird Lane**. This property is more fully described as Block B/2869, Lot 1A, and is zoned CR, which prohibits non-monument signs within 250 feet of either private property in a non-business zoning district or a public park of more than one acre. The applicant proposes to construct and/or maintain a detached premise non-monument sign on a nonresidential premise within 250 feet of either private property in a non-business zoning district or a public park of more than one acre, which will require **(1)** a special exception to the sign regulations.

LOCATION: 6240 E Mockingbird Lane

APPLICANT: Charles D. Corson

REQUEST:

- (1) A request for a special exception to the sign regulations

STANDARD FOR DETACHED SIGN STANDARDS REGULATIONS & STANDARD FOR SPECIAL EXCEPTION TO SIGN STANDARD REGULATIONS:

Section 51A-7.304(b)(3) of the Dallas Development Code states that Non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park of more than one acre. The board of adjustment may grant a special exception to this provision when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 6240 E. Mockingbird Lane found in the last 5 years.

Square Footage:

This lot contains 8,189.28 of square feet.

This lot is zoned R-10(A) which has a minimum lot size of 10,000 square feet.

Zoning:

Site: Community Retail (CR)
North: R-7.5(A) (Single Family District)
East: Community Retail (CR)
South: PD 990 (Planned Development)
West: R-7.5(A) (Single Family District)

Land Use:

The subject site and surrounding properties to the east are zoned Community Retail, areas to the North and West are zoned R-7.5(A) and properties the south are developed with uses permitted under PD-990 use regulations.

GENERAL FACTS/STAFF ANALYSIS:

- The application Charles D. Corson for the property located at 6240 E Mockingbird Lane focuses on 1 request relating to the sign regulations.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to maintain a detached premise non-monument sign on a nonresidential premise within 250 feet of either private property in a non-business zoning district that is larger than one acre.
- The subject site is a mid-block lot, and it has double street frontage on East Mockingbird Lane and Winton Street.
- The Dallas Development Code prohibits non-monument signs within 250 feet of either private property in a non-business zoning district or a public park of more than one acre.
- The applicant has the burden of proof in establishing that the special exception(s) to the sign regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the sign standards relating to sign 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): [BDA234-139 at 6240 E. Mockingbird Ln.](#)

Timeline:

October 17, 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.

November 4, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

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November 13, 2024: The Planning and Development Department Senior Planner emailed the applicant the following information:

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

December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December 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.

December 18, 2024: The Board of Adjustment Panel C, at its public hearing held on Monday, December 16, 2024, moved to HOLD this matter under advisement until January 23, 2025.

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.

Speakers:

For: Julie Robertson, 14201 Sovereign Rd, Ft. Worth, TX 76155

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-139 **HOLD** this matter under advisement until **January 22, 2025**.

Maker:	Sarah Lamb				
Second:	Phil Sahuc				
Results:	4-0 Unanimously				Motion to hold
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Andrew Finney
		Against:	-	0	

2. 6114 Carlton Garrett Street
BDA234-152(CJ)

BUILDING OFFICIAL’S REPORT: Application of Monique Everett for **(1)** a variance to the front yard setback regulations at **6114 Carlton Garrett Street**. This property is more fully described as Block 23/2565, Lot 7 and is zoned PD-595 (R-5(A) Single Family Subdistrict), which requires a front-yard setback of 20-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 5-foot front-yard setback along Easley Street, which will require **(1)** a 15-foot variance to the front- yard setback regulations.

LOCATION: 6114 Carlton Garrett Street

APPLICANT: Monique Everett

REQUEST:

- (1) A request for a variance to the front yard setback regulations.

STANDARDS OF REVIEW FOR A VARIANCE:

Section 51A-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the **front yard**, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single-family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- **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:

- 1. Variance to the front yard setback regulations

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- B. Though the subject site is not sloped or irregularly shaped, it is 4,922.28 sq ft. which is smaller than the minimum lot size for residential use in the R-5(A) zoning district (5,000 sq ft.); 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 6114 Carlton Garrett Street within the last 5 years.

Square Footage:

This lot contains 4,922.28 of square feet.

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

Site: Planned Development 595 (R-5(A))

North: Planned Development 595 / Planned Development 595 (R-5(A))

East: Planned Development 595 (R-5(A))

South: Planned Development 595

West: Planned Development 595

Land Use:

The subject site is vacant. Areas to the north, south, east, and west are zoned with uses permissible in Planned Development 595.

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Rob Baldwin property located at 6114 Carlton Garrett Street focuses on 1 request relating to the front yard setback regulations on Easley Street.
- A request for a variance to the front yard setback regulations of 15-feet is made to maintain a single-family residential structure.
- The subject site is a corner lot and has double street frontage on Carlton Garret Street and Easley Street.
- The subject site has two front yards due to block face continuity; one front yard on Carlton Garrett Street and another Easley Street.
- The subject site along with surrounding properties to the north, south, east and west are zoned with residential uses.
- The subject site is currently vacant and located within an established neighborhood.

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:

- (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 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.
 - 15-foot variance to the front yard setback regulations.
- 200' Radius Video: [BDA234-152 at 6114 Carlton Garrett St.](#)

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Timeline:

October 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.

November 4, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.

November 13, 2024: The Planning and Development Department Senior Planner emailed the applicant the following information:

- an attachment that provided the hearing date and panel that will consider the application; the November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December 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: Monique Everett, 4608 Steel St., Dallas TX 75219 (did not speak)

Against: No Speakers

Motion

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

BDA 234-152 – Application of Monique Everett, for a variance to the front-yard setback regulations contained 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:	Phil Sahuc				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc &g

					Andrew Finney
		Against:	-	0	

3. 1535 Annex Avenue
 BDA234-142(BT)

BUILDING OFFICIAL’S REPORT: Application of Sateesh Reddy Nagilla for **(1)** a variance to the front-yard setback regulations, for **(2)** a variance to the side-yard setback regulations, and for **(3)** a variance to the required off-street parking regulations at **1535 ANNEX AVENUE**. This property is more fully described as Block 2/648, Lot 5, and is zoned MF-2(A), which requires a front-yard setback of 15-feet, requires a side-yard setback of 10-feet, and requires guest parking spaces to be provided. The applicant proposes to construct and/or maintain a Multifamily residential structure and provide a 12-foot front-yard setback along San Jacinto Street, which will require **(1)** a 3-foot variance to the front-yard setback regulations, and to construct and/or maintain a multifamily residential structure and provide a 3-foot 6-inch side-yard setback, which will require **(2)** a 6-foot 6-inch variance to the side-yard setback regulations, and to construct and/or maintain a multifamily residential structure and to provide 1-guest parking space, which will require **(3)** a 1-space variance to the off-street parking regulations.

LOCATION: 1535 Annex Avenue

APPLICANT: Sateesh Reddy Nagilla

REQUEST:

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

STANDARDS OF REVIEW FOR A VARIANCE:

Section 51A-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the **front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area** for structures accessory to single-family uses, height, minimum sidewalks, **off-street parking** or off-street loading, or landscape regulations provided that the variance is:

- **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 to the front-yard setback regulations:

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Lot is restrictive in buildable **area**, shape, or slope; it is a corner lot with front-yard setbacks facing both Annex Avenue and San Jacinto Street; 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.

Variance 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.
- B. Lot is restrictive in **area**, shape, or slope; it is a corner lot reducing the buildable area. With only one street frontage, the applicant could possibly meet the side-yard setbacks; 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.

Variance 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.
- B. Lot is restrictive in buildable **area**, shape, or slope; it is a corner lot with front-yard setbacks facing both Annex Avenue and San Jacinto Street; 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:

Zoning:

- Site: MF-2(A) (Multifamily District)
- North: PD-298 (Bryan Area Special Purpose District) and PD-987 (MF-2(A))
- East: MF-2(A) (Multifamily District)
- South: MF-2(A) (Multifamily District)
- West: MF-2(A) (Multifamily District) and PD-298 (Bryan Area Special Purpose District)

Land Use:

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

Lot Square Footage:

This lot size is 10,189 square feet. (0.234 of an acre)

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application of Sateesh Reddy Nagilla for the property located at 5315 Annex Avenue focuses on three requests relating to a variance to the front-yard setback regulations; variance to the side-yard setback regulations; and variance to the off-street parking regulations.
- The first request is for a variance to the front-yard setback regulations. The applicant is proposing to construct and maintain a multifamily structure and provide a 12-foot front yard setback along San Jacinto Street, which will require a 3-foot variance to the front-yard setback regulations.
- Secondly, the applicant is requesting a variance to the side-yard setback regulations. The applicant is proposing to construct and maintain a multifamily structure and provide a 3-foot 6-inch side yard setback, which will require a 6-foot 6-inch variance to the side-yard setback regulations.
- Last, the applicant is requesting a variance to the off-street parking regulations. The applicant is proposing to construct and maintain a multifamily structure and provide a 1-guest parking space, which will require a 1-parking space variance to the off-street parking regulations.
- The applicant is proposing seven dwelling units, with two bedroom in each dwelling unit.
- The applicant is proposing two parking spaces per unit, with one guest parking space and four bicycle parking slots

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- The subject site along with surroundings properties are all developed with multifamily and single-family homes.
- It is imperative to note that the subject site is a corner lot, and developed 42 percent of the 60 percent allowed lot coverage.
- Per staff's review of the subject site, it has been confirmed that the multifamily structure of the property is proposed on a vacant lot.
- The applicant has the burden of proof in establishing the following:
 - 1) 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.
 - 2) The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
 - 3) The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.
- Granting the variance to the 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:

Timeline:

- October 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.
- November 7, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- November 18, 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 November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 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.

BOARD OF ADJUSTMENT
December 18, 2024

December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December 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: No Speakers

Against: No Speakers

Motion

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

BDA 234-142 – Application of Sateesh Reddy Nagilla, for a variance to the front and side yard setback regulations and to the off-street parking regulations contained 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:	Phil Sahuc				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Andrew Finney
		Against:	-	0	

4. 1602 Kessler Parkway

BDA234-151(BT)

BUILDING OFFICIAL’S REPORT: Application of Gilbert Brown represented by Jokabet Anaya for **(1)** a variance to the off-street parking regulations at **1602 KESSLER PARKWAY**. This property is more fully described as Block 1/5928, Lot 10, and is zoned CD-13 (Subarea 3) , which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain a parking space in an enclosed structure with a setback of 10 feet which will require **(1)** a variance of 10-feet to the off-street parking regulations.

LOCATION: 1602 Kessler Parkway.

APPLICANT: Gilbert Brown

REPRESENTED BY: Jokabet Anaya

REQUEST:

- (5) A request for a variance to the off-street parking regulations.

STANDARDS OF REVIEW FOR A VARIANCE:

Section 51A-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single-family uses, height, minimum sidewalks, **off-street parking** or off-street loading, or landscape regulations provided that the variance is:

- **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 to the front-yard setback regulations:

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, **shape**, or slope; it is a corner lot with street frontage facing Kessler Parkway and Kessler Canyon Drive; 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: CD-13 (Subarea 3)
North: PD-714 (Subdistrict 2B)
East: CD-13 (Subarea 3)
South: CD-13 (Subarea 3)
West: CD-13 (Subarea 3)

Land Use:

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

BDA History:

No BDA history found in the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Gilbert Brown represented by Jokabet Anaya for the property located at 1602 Kessler Parkway focuses on one request relating to the off-street parking regulations.
- The applicant proposes to construct and maintain a parking space in an enclosed structure with a 10-foot setback in the required front-yard setback.
- CD-13 (Subarea 3) (k) Setbacks (1) Front-yard setback (B) For corner lots, the minimum front yard must equal the front yard of the house on the contiguous lot.
- Subject lot behind subject property is not contiguous (touching/shares common boundary) with the lot to the rear due to alley separation and cannot be used to establish a front-yard setback requirement, therefore area of request must be treated as a side-yard.
- CD-13 (Subarea 3) (k) Setbacks (2) Side-yard setback (A) For structures with a height of 15-feet or less, the minimum side yard is five feet. **(B) For all other structures, the minimum side yard is one-third the height of the structure.**
- Proposed Height of the structure is 23-feet 8-inches
- Minimum setback approx. 7-feet 10-inches
- Applicant is proposing 10-feet.
- Per engineering review comment sheet, recommends denial.
- Per engineering review comment sheet, applicant to provide site plan, showing location of proposed garage door relative to the edge of curb and sidewalk, assuming the City or abutting property owner constructs one in the future.
- The applicant has the burden of proof in establishing the following:

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- 4) That granting the variance to the off-street parking regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - 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.
- Granting the variance to the off-street parking 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: [BDA234-151 at 1602 Kessler Pkwy](#)

Timeline:

- October 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.
- November 7, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- November 18, 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 November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December 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: Jokabet Anaya, 5225 Maple Ave # 2405 Dallas TX 75235 (did not speak)

Against: No Speakers

Motion

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

BDA 234-151 – Application of Gilbert Brown, for a variance to the off-street parking regulations contained 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:	Phil Sahuc				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Andrew Finney
		Against:	-	0	

5. 5814 Carlton Garrett Street
 BDA234-153(CJ)

BUILDING OFFICIAL’S REPORT: Application of Ricardo Alonso for **(1)** a variance to the front-yard setback regulations at **5814 CARLTON GARRETT STREET**. This property is more fully described as Block 17/2559, Lot 7, and is zoned PD-595 (R-5(A) Single Family Subdistrict), which requires a front-yard setback of 20-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 5-foot front-yard setback along Scott Street, which will require **(1)** a 15-foot variance to the front-yard setback regulations.

LOCATION: 5814 Carlton Garrett Street

APPLICANT: Ricardo Alonzo

REPRESENTED BY: Marisol Ortiz

REQUEST:

(6) 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:

- G. Not contrary to the public interest as no letters of opposition were received.
- H. Lot is restrictive in buildable **area, shape, or slope**; it is a corner lot with front-yard setbacks facing both Carlton Garrett Street and Scott Street; however, it cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- I. Not self-created nor is it a personal hardship.

BACKGROUND INFORMATION:

Zoning:

- Site: PD-595 (R-5(A)) (Single Family District)
- North: PD-595 (R-5(A)) (Single Family District)
- East: PD-595 (R-5(A)) (Single Family District)
- South: PD-595 (R-5(A)) (Single Family District)
- West: PD-595 (R-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 5,049 square feet. (0.116 of an acre)

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application of Ricardo Alonzo represented by Marisol Ortiz for the property located at 5814 Carlton Garrett Street focuses on 1 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 5-foot front yard setback along Scott Street, which will require a 15-foot variance to the front-yard setback regulations.
- The subject site along with surroundings properties are all developed with single-family homes.
- It is imperative to note that the subject site is a corner lot, having a 20-foot front-yard setback along Carlton Garrett Street and a 20-foot front-yard setback along Scott Street.
- Subject lot is zoned PD-595 (R-5(A)) which requires a minimum lot size of 5,000 square feet (0.115 of an acre).
- Subject lot meets the minimum lot size, however the subject lot buildable area is 1,875 square feet (0.043 of an acre) compared to other lots buildable area is 3,000 square feet (0.069 of an acre) in the same zoning.
- Per staff's review of the subject site, it has been confirmed that the single-family structure of the property is proposed on a vacant lot.
- The applicant has the burden of proof in establishing the following:
 - 7) 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.
 - 8) 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
 - 9) 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.

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- 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: [BDA234-153 at 5814 Carlton Garrett St](#)

Timeline:

- October 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.
- November 7, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- November 18, 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 November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December 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: Marisol Ortiz, 2435 N. Central Expwy # 1270, Richardson TX 75080 (did not speak)

Against: No Speakers

Motion

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

BDA 234-153 – Application of Ricardo Alono, for a variance to the front-yard setback regulations contained 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:	Phil Sahuc				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc & Andrew Finney
		Against:	-	0	

HOLDOVER CASES

6. 5314 Ursula Lane
BDA234-122(BT)

BUILDING OFFICIAL’S REPORT: Application of Eddie Grothaus for **(1)** a special exception to the fence height regulations, and for **(2)** a special exception to the fence opacity regulations at **5314 URSULA LANE**. This property is more fully described as Block C/5518, Lot 5, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5-feet from the front lot line. The applicant proposes to construct and/or maintain a 6-foot-high fence in a required front-yard, which will require **(1)** a 2-foot special exception to the fence height regulations, 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.

LOCATION: 5314 Ursula Ln.

APPLICANT: Eddie Grothaus

REQUEST:

- (7) A request for a special exception to the fence height regulations; and
- (8) A request for a special exception to the fence standard regulations regarding opacity

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT, FENCE OPACITY AND FENCE MATERIAL 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.**

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A)
North: R-1ac(A)

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East: R-1ac(A)
South: R-1ac(A)
West: R-1ac(A)

Land Use:

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

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Eddie Grothaus for the property located at 5314 Ursula Ln. focuses on 2 requests relating to the fence height, and fence opacity regulations.
- The first request is for a special exception to the fence height regulations. The applicant is proposing to construct and maintain a 6-foot high gate in a required front-yard, which will require a 2-foot special exception to the fence height regulations.
- Lastly, 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.
- The subject site along with surroundings properties to the north, south, east and west are all developed with single-family homes.
- As illustrated on the submitted site plan and elevations, the applicant is proposing to replace the existing 4-foot high gate section to the east and west with a 6-foot high gate, located near the front property line.
- Based upon staff's analysis of the surrounding properties, many were open with no fencing or vegetation, some properties provided a form of vegetation serving as a screening mechanism along Ursula Ln and Palomar Ln.
- Some properties provided a fence and/or gate at 4-feet above grade in the required front yard along Ursula Ln and Palomar Ln.
- Applicant is requesting additional height due to safety and security concerns, as the family travel schedule is public knowledge
- 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 regulations relating to height and opacity will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and opacity 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.

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- 200' Radius Video: [BDA234-122 at 5314 Ursula Ln](#)

Timeline:

- August 26, 2024: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- September 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **B**.
- September 17, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the September 27, 2024, deadline to submit additional evidence for staff to factor into their analysis; and October 11, 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.
- October 3, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the October 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.
- October 23, 2024: The Board of Adjustment Panel **B**, at its public hearing held on Wednesday, October 23, 2024, moved to **HOLD** this matter under advisement until **November 20, 2024**.
- October 24, 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 October 25, 2024, deadline to submit additional evidence for staff to factor into their analysis; and November 8, 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.

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November 6, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the October 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.

November 20, 2024: The Board of Adjustment Panel **B**, at its public hearing held on Wednesday, November 20, 2024, moved to **HOLD** this matter under advisement until **December 18, 2024**.

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

December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December 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: Eddie Grothans, 10930 Switzer Ave, Dallas TX 75238
Against: Kara Gehan, 5330 Ursula Lane, Dallas TX 75229

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-122, on application of Eddie Grothaus, **DENY** the special exception requested by this applicant to construct and/or maintain a 6-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:	Sarah Lamb				
Second:	Phil Sahuc				
Results:	4-0 Unanimously				Motion to deny without prejudice.
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc and Andrew Finney
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-122, on application of Eddie Grothaus, **DENY** the special exception requested to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five-feet from the front lot line as a special exception to the surface area openness by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property.

Maker:	Sarah Lamb				
Second:	Andrew Finney				
Results:	4-0 Unanimously				Motion to deny without prejudice.
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Phil Sahuc and Andrew Finney
		Against:	-	0	

7. 9820 Royce Drive
BDA234-130(CJ)

BUILDING OFFICIAL’S REPORT: Application of Alma Rocio Davalos represented by Douglas Lemus for **(1)** a variance to the front-yard setback regulations at 9820 Royce Dr. This property is more fully described as Block B/8486, Lot 4, and is zoned R-10(A), which requires a front-yard setback of 30-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 25-foot front-yard setback, which will require **(1)** a 5-foot variance to the front-yard setback regulations.

LOCATION: 9820 Royce Drive

APPLICANT: Alma Rocio Davalos

REQUEST:

(2) 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:

- 2. Variance to the front yard setback 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 14,810.4 sq ft. which is larger than the minimum lot size for a residential use in the R-10(A) zoning district (10,000 sq ft.), and is not sloped or irregularly shaped; therefore, the property can be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- F. Is a self-created or personal hardship. The construction of the existing single-family home was approved under building permit #2312111179 on 3/15/2024 with a site plan showing the required 30 foot front yard setback; per the applicant, the developer mistakenly constructed the single-family home with a 25 foot front yard setback in error making this a self-created hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 9820 Royce Drive within the last 5 years.

Square Footage:

This lot contains 14,810.4 of square feet.

This lot is zoned R10(A) which has a minimum lot size of 10,000 square feet.

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 areas to the north, south, east, and west are zoned R-10(A).

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Alma Rocio Davalos property located at 9820 Royce Drive focuses on 1 request relating to the front yard setback regulations.
- A request for a variance to the front yard setback regulations of 5-feet is made to construct and/or maintain a single-family residential structure.
- The subject site is a mid-block lot and has single street frontage on Royce 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 single-family structure and located within an established neighborhood.
- It is imperative to note that the construction of the existing single-family home was approved under building permit #2312111179 on 3/15/2024 with a site plan showing the required 30 foot front yard setback; per the applicant, the developer mistakenly assumed a 25 foot front yard setback was required.

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

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- (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.
 - 5-foot variance to the front yard setback regulations.

- 200' Radius Video: [BDA234-130 at 9820 Royce Dr.](#)

Timeline:

- September 26, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 8, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **A**.
- October 16, 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 October 25, 2024, deadline to submit additional evidence for staff to factor into their analysis ;and November 8, 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.
- November 6, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the November 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: Douglas Lemus, 9820 Royce Drive

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-130, on application of Alma Rocio Davalos represented by Douglas Lemus, **GRANT** the 5-foot variance to the front-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

Maker:	Sarah Lamb				
Second:	Andrew Finney				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Cheri Gambow, Sarah Lamb, Andrew Finney and Phil Sahuc
		Against:	-	0	

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice Chair Cheri Gambow moved to adjourn the meeting at 1:28 p.m.

Mary Williams
Required Signature:

Mary Williams, Board Secretary
Planning and Development Department

Jan 22, 2025
Date

Dr. Kameka Miller-Hoskins
Required Signature:

Dr. Kameka Miller-Hoskins, Board Administrator
Planning and Development Department

Jan 22, 2025
Date

Cheri Gambow
Required Signature:

Cheri Gambow, Vice Chair
Board of Adjustment

Jan 22 2025
Date