



BOARD OF ADJUSTMENT

Panel C Minutes

February 22, 2024

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CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room

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[bex.com](https://www.dallas.gov)

Robert Agnich, Vice-Chair

PRESENT: [5]

Robert Agnich, VC	
Rodney Milliken	
Jared Slade	
Judy Pollock	
Roger Sashington	

ABSENT: [0]

Vice-Chair Agnich called the briefing to order at **10:36 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Agnich called the hearing to order at **1:10 P.M.** with a quorum of the Board of Adjustment present.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

PUBLIC SPEAKERS

The Board of Adjustment provided "public speaker" opportunities for individuals to comment on matters that were scheduled on the agenda or to present concerns or address issues that were not matters for consideration listed on the posted meeting agenda.

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

Vice-Chair Agnich proposed the Board to go into Executive Session at 1:16 p.m.

Maker:	Robert Agnich			
Second:	Judy Pollock			
Results:	5-0 unanimously			Motion to approve

Board Members returned from Executive Session at 1:40

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel C, December 11th, 2023 Minutes.

Motion was made to approve Panel C December 11th, 2023 Public Hearing minutes.

Maker:	Judy Pollock			
Second:	Roger Sashington			
Results:	5-0 unanimously			Motion to approve
		Ayes:	- 5	Robert Agnich, Judy Pollock, Roger Sashington, Rodney Milliken, and Jared Slade
		Against:	- 0	

UNCONTESTED ITEMS

1. 3321 Coronet Boulevard

***This case was moved to Individual Items**

BDA234-020(CJ)

BUILDING OFFICIAL’S REPORT Application of Ludovic Gombos for (1) a special exception to the fence height regulations, and for (2) a special exception to the 20-foot visibility obstruction regulations at 3321 CORONET BLVD. This property is more fully described as Block 2/7092, Lot 21, and is zoned R-5(A);NSO 13, which limits the height of a fence in the front yard to 4-feet and which requires a 20-foot visibility triangle at the connection of a street and drive approach. 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 regulations, and to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (2) a special exception to the 20-foot visibility obstruction regulation.

LOCATION: 3321 Coronet Blvd.

APPLICANT: Ludovic Gombos

REQUEST:

- (1) A request for a special exception to the fence height regulations; and
- (2) A special exception to the 20-foot visibility obstruction regulations.

STANDARD 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 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.

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this or any request for a special exception to the fence regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application Ludovic Gombos, for the property located at 3321 Coronet Boulevard focuses on 2 requests relating to the fence height and visibility obstruction regulations.
- The applicant proposes to construct and maintain and 6-foot-high fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- Secondly, the applicant is proposing to construct and or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require a special exception to the 20-foot visibility obstruction regulation.
- The subject site along with properties to the north, east, south, and west are all developed with single-family homes.

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- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain a 6-foot-high board on board metal frame fence around the circumference of the property at 3321 Coronet Boulevard.
- It is imperative to note that the subject site is a mid-block lot and it has single street frontage on Coronet Boulevard.
- 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 Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line.
- The Engineering Division has no objection to the proposed encroachment to the visibility triangle at 3321 Coronet Boulevard.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and visibility obstruction regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- (200' radius video): [BDA234-020_3321 Coronet Blvd.](#)

Timeline:

December 20, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.

January 11, 2024: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 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.

February 2, 2024: The Board of Adjustment staff review team meeting was held regard request and other requests scheduled for the February public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board and of Adjustments.

Speakers:

For: Ludovic Gombos, 3321 Coronet Blvd., Dallas TX 75212

Against: Maria Lozada Garcia, 2422 Postbridge Rd., Grand Prairie TX

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-020, on application of Ludovic Gombos, **GRANT** the request of this applicant to construct and/or maintain a 6-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:	Rodney Milliken				
Second:	Judy Pollock				
Results:	5-0				Motion to grant
		Ayes:	-	5	Judy Pollock, Roger Sashington, Rodney Milliken, Jared Slade, and Andrew Finney
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-020, on application of Ludovic Gombos, **GRANT** the request to maintain items in the 20-foot visibility triangle on to at the drive approach onto Coronet Avenue as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

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

Maker:	Rodney Milliken				
Second:	Judy Pollock				
Results:	5-0				Motion to grant
		Ayes:	-	5	Judy Pollock, Roger Sashington, Rodney Milliken, Jared Slade, and Andrew Finney
		Against:	-	0	

2. 4204 Glenwood Avenue
BDA234-024(KMH)

BUILDING OFFICIAL'S REPORT: Application of Jokabet Anaya for (1) a variance to the front-yard setback regulations at 4204 GLENWOOD AVE. This property is more fully described as Block 6/2022 Lot 5, and is zoned PD-193 (D), which requires a front yard setback of 25-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 10-foot front-yard setback, which will require (1) a 15-foot variance to the front-yard setback regulations.

LOCATION: 4204 Glenwood Ave.

APPLICANT: Jokabet Anaya

REQUEST:

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

STANDARD FOR A VARIANCE:

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

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

ELEMENT II SUBSTITUTE

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

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

STAFF RECOMMENDATION:

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 as it is a corner lot which has two street frontages, which requires two front yard setbacks of 25-feet per street frontage; instead of one required front yard setback and a side yard setback, the applicant is bound with two front yard setbacks; therefore the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not a self-created or personal hardship.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 8,463.21 of square feet.

This lot is zoned PD-193 and refers back to Duplex Zoning (D(A)) which requires a minimum lot size of 3,000 square feet per dwelling unit.

Zoning:

Site: PD-193
North: PD-193
South: PD-193 (R-7.5), PD 131 and PD 21
East: PD-193
West: PD-193 (TH-2)

Land Use:

The subject site is developed with a single family home. The areas to the immediate north, south, east, and west are developed with some duplex and single family uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the front yard setback regulations of 15-feet is made to construct and maintain a residential structure.
- The site is currently developed with a single-family home. The applicant is proposing to demolish the existing home and construct a new single-family home. The proposed new home will provide only a 10-foot setback, which will require a 15-foot variance to the front yard setback regulations.
- According to the applicant, the existing home that will be demolished is currently encroaching into the front yard setback.
- It is imperative to note that the subject property is located on a corner lot; therefore, the property is subject to two front yard setback requirements of 25-feet each. On a typical lot, there would be a front yard setback requirement of 25-feet and a side yard setback of 5-feet. Having to provide two front yard setbacks of 25-feet each restricts the properties buildable area and makes it quite difficult to be developed in a manner commensurate with the development upon other parcels of land with the same zoning.

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.

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- 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 15-foot variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - [BDA234-024 at 4204 Glenwood Ave.](#) (200' radius video)

Timeline:

- December 28, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.
- January 10, 2024: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 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.
- February 2, 2024: 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 Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: *Jokabet Anaya, 5225 Maple Ave # 2405, Dallas TX 75235
 *Ann Carpenter, 3001 Sale St., # 117, Dallas TX 75219
 *Eddie Abraham, 3001 Sale St., # 117, 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 234-024 - Application of Jokabet Anaya 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:	Judy Pollock				
Second:	Robert Agnich				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Roger Sashinton, Rodney Milliken, Jared Slade
		Against:	-	0	

INDIVIDUAL CASES

3. 4859 Corrigan Drive
BDA234-015(CJ)

BUILDING OFFICIAL’S REPORT: Application of Blanca Cardenas for (1) a variance to the front-yard setback regulations at 4859 Corrigan Dr. This property is more fully described as 44/5845, Lot 1C, and is zoned R-7.5(A), which requires a front-yard setback of 25-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 10- foot front-yard setback, which will require (1) a 15-foot variance to the front-yard setback regulations.

LOCATION: 4859 Corrigan Dr.

APPLICANT: Blanca Cardenas

REPRESENTED BY: Blanca Cardenas

REQUEST:

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

STANDARD 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:

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

ELEMENT II SUBSTITUTE

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

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

STAFF RECOMMENDATION:

Denial

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

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Not restrictive in area due to the lot size (16,117.2sqft); therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is a self-created or personal hardship. The subject site is in the 1% annual chance/100-year flood, which is the most restrictive floodplain. Properties in this floodplain can be developed with more restrictive requirements.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 16,117.2 of square feet.

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

Zoning:

Site: R- 7.5(A) (Single Family District)
North: R- 7.5(A) (Single Family District)
South: R- 7.5(A) (Single Family District)
East: R- 7.5(A) (Single Family District)
West: R- 7.5(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 developed and being developed with single-family uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the front yard setback regulations of 1-foot 8-inch is made to construct and/or maintain a single-family residential structure.
- The subject site is currently developed with a single-family dwelling unit.
- Zoning District R-7.5(A) requires a minimum setback of 25-feet.
- As gleaned from the submitted site plan, the newly constructed home encroaches into the 25-foot required front yard setback.

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:

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

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- (i) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (j) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 15-foot variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - (200' radius video): [BDA234-015_4859 Corrigan Dr.](#)

Timeline:

- December 6, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.
- January 11, 2024: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 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.
- February 2, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: Mario Reyes, 4859 Corrigan Dr., Dallas TX 75216

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-015, on application of Blanca Cardenas, **GRANT** the 15-foot variance to the front-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

Maker:	Judy Pollock				
Second:	Rodney Milliken				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Roger Sashington, Judy Pollock, Rodney Milliken, and Jared Slade
		Against:	-	0	

4. 6030 S. Cockrell Hill Road
BDA234-017(KMH)

BUILDING OFFICIAL’S REPORT: Application of Lorri A. Barrientos (1) a special exception to the single-family use regulations, and for (2) a variance to the floor area ratio regulations at 6030 S COCKRELL HILL RD. This property is more fully described as Block A/6947, Lot 12, and is zoned R-10(A), which limits the number of dwelling units to one and an accessory structure may not exceed 25% of the floor area of the main structure. The applicant proposes to construct an additional dwelling unit (NFR), which will require a (1) special exception to the single-family zoning use regulations, and to construct and/or maintain a single-family residential accessory structure with 1418-square-feet of floor area (43% of the 3323 square foot floor area of the main structure), which will require (2) a 587 square-foot variance to the floor area ratio regulations.

LOCATION: 6030 S. Cockrell Hill Rd.

APPLICANT: Lori A. Barrientos

REQUEST:

- (1) A request for a special exception to the single-family use regulations, and
- (2) A variance to the floor area ratio is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

Section 51A-4.209(b)(6)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not:

- 1) be used as rental accommodations; or
- 2) adversely affect neighboring properties.

Section 51A-4.209(b)(6)(E)(ii) In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STANDARD FOR A VARIANCE:

Section 51(A)-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:

- (G) **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.
- (H) 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
- (I) **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:

No staff recommendation is made.

Variance:

Denial

Based upon the evidence presented and provided to staff, staff concluded that the request is:

- **Not contrary to public interest as no opposition was received;**
- **Not restrictive in 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;**
- **Self-created/personal hardship.**

BDA History

No BDA history found within the last five years.

Square Footage:

The lot contains 23,118.03 of square feet.

The lot is zoned R-10(A) with a minimum lot size of 10,000 square feet.

Zoning:

Site: R-10 (A) Single Family District
North: R-10(A) and NO(A)
South: R-10(A) Single Family District
East: R-10(A) Single Family District
West: NS(A)

Land Use:

The subject site is developed with a single-family home. The areas to the north, south, east, and west are developed with single-family uses. There are two church's within close proximity to the subject site.

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Lorri A. Barrientos for the property located at 6030 S. Cockrell Hill Road focuses on two specific requests. The first request is a special exception to the single-family use regulations. The second request focuses on a variance to the floor area ratio regulations.
- The applicant proposes to construct an additional dwelling unit (NFR), which will require a special exception to the single-family use regulations.
- The Dallas Development code, for single-family zoning, allows one dwelling unit per lot.
- Secondly, the applicant proposes to construct and/or maintain a 1,418 square foot single-family residential accessory structure (not for rent) which exceeds 25% of the main structure. The square footage of the main structure is 3,323. Therefore, a 587 square foot (43%) variance is required.
- The Dallas Development Code states that an accessory structure may not exceed 25% of the floor area of the main structure.
- According to the applicant's application, the additional dwelling unit/living space will be utilized as a pool house to accommodate guest while using the pool.
- The single-family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: (1) be use as rental accommodations; or (2) adversely affect neighboring properties.

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- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e., development on the site must meet all required code requirements).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Moreover, the applicant has the burden of proof in establishing the following:

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

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

- (k) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (l) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (m) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (n) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (o) the municipality considers the structure to be a nonconforming structure.
- [BDA234-017 at 6030 S. Cockrell Hill](#) 200' radius video

Timeline:

- December 7, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.
- January 10, 2024: The Sustainable Development and Construction Department Senior

Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 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.

February 2, 2024 The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans, and the Senior Planner.

Speakers:

For: Rodolfo Barron, 6030 S. Cockrell Hill Rd., Dallas TX 75236
Lori Barrientos, 6030 S. Cockrell Hill Rd., Dallas TX 75236

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in request No. BDA 234-017, on application of Lorri A. Barrientos, **GRANT** the request to construct and maintain an additional dwelling unit on a site developed with a single-family structure as a special exception to the single-family use regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Maker:	Jared Slade			
Second:	Roger Sashington			
Results:	5-0 Unanimously			Motion to grant
		Ayes:	- 5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington and Jared Slade
		Against:	- 0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-017, on application of Lorri A. Barrientos, **GRANT** the 587 square-foot variance to the floor-area-ratio 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:	Jared Slade				
Second:	Judy Pollock				
Results:	3-2				Motion fails
		Ayes:	-	3	Judy Pollock, Rodney Milliken, and Jared Slade
		Against:	-	2	Robert Agnich, Roger Sashington

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 234-017, on application of Lorri A. Barrientos, **DENY** the variance to the floor-area-ratio setback regulations requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

Maker:	Robert Agnich				
Second:	Roger Sashington				
Results:	4-1 Unanimously				Motion to deny
		Ayes:	-	4	Robert Agnich, Rodney Milliken, Roger Sashington and Jared Slade
		Against:	-	1	Judy Pollock

5. 4711 N. Lindhurst Avenue
BDA234-022(KMH)

BUILDING OFFICIAL’S REPORT: Application of Sean Martinez for (1) a variance to the front-yard setback regulations, and for (2) a special exception to the fence opacity standards regulations at 4711 N LINDHURST AVE. This property is more fully described as Block A/5531, Lot 2, and is zoned R-1ac(A), which requires a front-yard setback of 40-feet, and 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. The applicant proposes to construct and/or maintain a 10-foot high residential fence structure in a required front-yard, which will require (1) a variance to the front-yard setback regulation, 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 regulations.

LOCATION: 4711 N. Lindhurst Ave.

APPLICANT: Sean Martinez

REQUEST:

- (3) A request for a variance to the front-yard setback regulations; and
- (4) A request for a special exception to the fence opacity standards regulations.

STANDARD 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:

- (J) **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.
- (K) 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
- (L) **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**.

STANDARD 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.

STAFF RECOMMENDATION:

Variance
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.
- E. Not restrictive in area, shape, or slope, in which cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- F. Self-created or personal hardship.

Special Exception

No staff recommendation is made on this.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 49,877.72 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:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the front yard setback regulations is made to construct and maintain a 10-foot high residential fence structure in a required front yard. It is imperative to note that the proposed fence columns/posts are measured at 10-feet.
- The subject site is zoned R-1ac(A) which requires a front yard setback of 40 feet.
- The proposed 10-foot high residential fence is considered a structure, therefore a variance to the front yard setback regulations is required.
- Additionally, the applicant is requesting a special exception to the fence standards regulations. The applicant is proposing to construct a residential fence structure 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, therefore requiring a special exception to the fence standards/opacity regulations.
- As gleaned from the submitted elevations, as mentioned previously, the posts/columns of the fence are measuring at 10-feet. Additionally, as it relates to opacity, there are concrete/stone walls located adjacent to each column/post; the remaining portions of the fence panels are wrought iron fence panels.

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.

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- 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:

- (p) 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.
 - (q) 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.
 - (r) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (s) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (t) the municipality considers the structure to be a nonconforming structure.
- Granting the variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - Additionally, the applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring properties.
 - Granting the special exceptions to the fence standards relating to opacity 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.
 - [BDA234-022 at 4711 N. Lindhurst](#) (200' radius video)

Timeline:

- January 2, 2024: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.
- January 10, 2024: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 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.

February 2, 2024: 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 Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: Sean Martinez, 4711 N. Lindhurst Dr., Dallas TX 75229

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-022, on application of Sean Martinez, **GRANT** the 36-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:	Jared Slade			
Second:	Judy Pollock			
Results:	4-1			Motion to grant
		Ayes:	- 4	Judy Pollock, Rodney Milliken, Roger Sashington and Jared Slade
		Against:	- 1	Robert Agnich

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-022, on application of Sean Martinez, **GRANT** the request of this applicant 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 requirement for fences in the Dallas Development Code, 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 opacity and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jared Slade				
Second:	Roger Sashington				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington and Jared Slade
		Against:	-	0	

6. 5504 W. University Boulevard
BDA234-023(KMH)

BUILDING OFFICIAL’S REPORT: Application of James Archie for (1) a variance to the side-yard setback regulations at 5504 W. UNIVERSITY BLVD. This property is more fully described as Block 7/4943, Lot 1, and is zoned CD-10, which requires a side-yard setback of 20-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 10-foot 6-inch side-yard setback, which will require (1) a 9-foot 6-inch variance to the side yard setback regulations.

LOCATION: 5504 W. University Blvd.

APPLICANT: James Archie

REQUEST:

(5) A request for a variance to the side-yard setback regulations.

STANDARD 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:

- (M) **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.
- (N) 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
- (O) **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:

Denial

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

- G. Not contrary to public interest as no letters of opposition were received.
- H. Not restrictive in area, shape or slope; in which the property cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.
- I. Self-created hardship/personal hardship.

BDA HISTORY:

No BDA history found within the last five years.

Square Footage:

The lot contains 15,588.93 of square feet.

The lot is zoned CD-10 with a minimum lot size of 10,000 square feet.

Zoning:

<u>Site:</u>	CD-10 Conservation District
<u>North:</u>	R-7.5(A) Single Family District
<u>South:</u>	CD-10 Conservation District
<u>East:</u>	CD-10 Conservation District
<u>West:</u>	CD-10 Conservation District

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback of 9-feet and 6-inches is made to maintain a single-family residential structure.
- The subject site is currently developed with a single-family dwelling unit and is surrounded by single-family homes.

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- The applicant is proposing to provide only a 10-foot 6-inch side yard setback, whereas a minimum 20-foot side yard setback is required as defined by the yard, lot, and space regulations for the CD-10 zoning district.
- It is important to note that the portion of the home that is encroaching into the setback already existed, however the applicant enclosed that portion, which is why they are requesting a variance to the side yard setback. It is also important that the roof was also extended. The enclosure as well as the roof extension were all completed without a permit.
- As gleaned from the submitted site plan, the applicant is proposing to maintain proposed single-family residential structure (add-on) along the western perimeter of the property.

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

- That granting the variance to the side 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:

- (u) 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.
 - (v) 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.
 - (w) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (x) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (y) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 9-foot 6-inch variance to the side yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be maintained as shown on the submitted documents.
 - [BDA234-023 at 5504 W. University Blvd.](#) (200' Radius Video)

Timeline:

December 28, 2023: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.

January 10, 2024: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 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.

February 2, 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 Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: James W. Archie II, 5504 W. University Blvd., Dallas TX 75209
Jonathan Cusolito, 5504 W. University Blvd., Dallas TX 75209

Against: Bill Lockhart, 5354

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-023, on application of James Archie, **GRANT** the 9-foot 6-inch variance to the side-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:	Robert Agnich			
Second:	Judy Pollock			
Results:	4-0 Unanimously			Motion to grant
		Ayes:	- 4	Robert Agnich, Judy Pollock, Rodney Milliken

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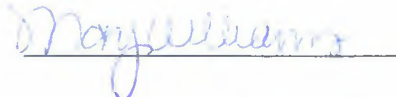
				and Jared Slade
		Against:	- 0	

* Roger Sashington left the hearing at 5:36 p.m.

Recess at 3:16 pm – 3:25 pm

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Agnich moved to adjourn the meeting at **5:56 P.M.**



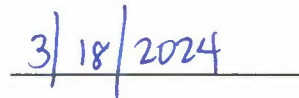
Required Signature:
Mary Williams, Board Secretary
Development Services Dept.



Date




Required Signature:
Dr. Kameka Miller-Hoskins – Board Administrator
Development Services Dept.



Date



Required Signature:
Robert Agnich, Vice-Chair
Board of Adjustment



Date