



BOARD OF ADJUSTMENT

Panel C Minutes

March 17, 2025

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**CITY SECRETARY
DALLAS, TEXAS**

6ES Council Briefing

24957316190@dallascityhall.webex.com

Robert Agnich, Vice-Chair

PRESENT: [5]

Robert Agnich, VC	
Judy Pollock	
Roger Sashington	
Rodney Milliken	
Meredyth Griffin	

ABSENT: [1]

Jared Slade	

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 **1:20 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.

- Rijaa Butt, not available online at time of the hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel C, February 20, 2025, Minutes as presented during the briefing.

A motion was made to approve Panel C, February 20, 2025, Public Hearing minutes.

Maker:	Roger Sashington				
Second:	Judy Pollock				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

UNCONTESTED ITEMS

1. 2632 Pennsylvania Avenue

BDA245-037(BT)

BUILDING OFFICIAL'S REPORT: Application of Ali Ebrahimi for (1) a variance to the front-yard setback regulations at **2632 PENNSYLVANIA AVENUE**. This property is more fully described as Block 32/1309, Lot 18, and is zoned PD-595 (R-5(A)), which requires a front-yard setback of 20-feet along Myrtle Street. The applicant proposes to construct and/or maintain a single-family residential structure with a setback of 5-feet, which will require **(1)** a 15-foot variance to the front-yard setback along Myrtle Street.

LOCATION: 2632 Pennsylvania Avenue

APPLICANT: Ali Ebrahimi

REPRESENTED BY:

REQUEST:

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

STANDARDS OF REVIEW FOR A VARIANCE:

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

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

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

ELEMENT II SUBSTITUTE:

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

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

STAFF RECOMMENDATION:

Variance:

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 Pennsylvania Avenue and Myrtle 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: 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 along with surroundings properties are all developed with single-family homes.

Lot Square Footage:

This lot size is 3,250 square feet. (0.075 of an acre)

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Ali Ebrahimi for the property located at 2632 Pennsylvania Avenue 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 Myrtle Street, which will require a 15-foot variance to the front-yard setback regulations.
- It is imperative to note that the subject site is a corner lot, having a 20-foot front-yard setback along Pennsylvania Avenue and a 20-foot front-yard setback along Myrtle 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 size is 3,250 square feet (0.075 of an acre), and buildable area without variance is 0 square feet. 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 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 regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - 2) The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
 - 3) The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.
- ELEMENT II SUBSTITUTE:

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

 - (i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code.

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- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.
- Granting the variance to the front-yard setback regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA245-037 at 2632 Pennsylvania Ave](#)

Timeline:

- January 22, 2025: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 6, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel **C**.
- February 21, 2025: 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 **February 28, 2025**, deadline to submit additional evidence for staff to factor into their analysis; and **March 7, 2025**, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the **March** public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Ali Ebrahimi (Did not speak), 2632 Pennsylvania Ave

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 245-037—Application of Ali Ebrahimi 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:	Meridyth Griffin				
Second:	Judy Pollock				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

INDIVIDUAL CASES

2. 4259 Park Lane

*** This Case was move to Individual cases**

BDA245-032(CJ)

BUILDING OFFICIAL'S REPORT: Application of Jennifer Hiromoto for **(1)** a special exception to the fence height regulations at **4259 Park Lane**. This property is more fully described as Block E/5547, Lot 6, and is zoned R-10(A), which limits the height of a fence in the front yard to 4-feet. The applicant proposes to construct and/or maintain a 6-foot-high fence in a required front-yard, which will require **(1)** a 2-foot special exception to the fence regulations.

LOCATION: 4259 Park Lane

APPLICANT: Jennifer Hiromoto

REQUEST:

2. A request for a special exception to the fence height regulations.

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

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

STAFF RECOMMENDATION:

Special Exception (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

BDA History:

- No BDA history found at 4259 Park Lane in the last 5 years.

Square Footage:

- This lot contains 29,403 of square feet or .675 acres.
- This lot is zoned R-10(A) which has a minimum lot size of 10,000 square feet.

Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application of Jennifer Hiromoto for the property located at 4259 Park Lane focuses on 1 request relating to fence height.
- The applicant proposes to construct and maintain a 6-foot fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- The subject site along with properties to the north, south, east, and west are all developed with single-family homes.
- The subject site is a mid-block lot with single street frontage on Park Lane.
- It has been confirmed that the fence is proposed and not existing.
- Based upon staff's analysis of the surrounding properties, there are several homes within the subject sites 200' radius with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations relating to height will not adversely affect the neighboring properties.
- Granting the special exception to the fence regulations relating to height with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA245-032 at 4259 Park Lane](#)

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Timeline:

- January 17, 2025: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 6, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel **C**.
- February 21, 2025: The Planning and Development Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the February 28, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and March 7, 2025, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March 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: Kendra Abahi, 3907 Elm St., Suite B, Dallas TX 75226
Hein Tillman (Changed his opposition), 4251 Park Lane

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-032, on application of Jennifer Hiromoto, **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:	Robert Agnich				
Second:	Judy Pollock				

Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

3. 1637 Sylvan Avenue

*** This Case was move to Individual cases**

BDA245-040(CJ)

BUILDING OFFICIAL'S REPORT: Application of James Bulls for **(1)** a special exception to the fence height regulations at **1637 Sylvan Avenue**. This property is more fully described as Block 2/5928, Lot 10, and is zoned CD-13 (R-7.5(A)), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct and/or maintain a 10-foot-high fence (retaining wall) in a required front-yard, which will require **(1)** a 6-foot special exception to the fence height regulations.

LOCATION: 1637 Sylvan Avenue

APPLICANT: James Bulls

REQUEST:

3. A request for a special exception to the fence height regulations.

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

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

STAFF RECOMMENDATION:

Special Exception (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

BDA History: _

- No BDA history found at 1637 Sylvan Avenue in the last 5 years.

Square Footage:

- This lot contains 14,810.4 of square feet or .34 acres.
- This lot is zoned Conservation District #13 (R-7.5(A) (Single Family District)) which has a minimum lot size of 7,500 square feet.

Zoning:

Site: Conservation District #13 (R-7.5(A) (Single Family District))
North: Conservation District #13 (R-7.5(A) (Single Family District))
East: Conservation District #13 (R-7.5(A) (Single Family District))
South: Conservation District #13 (R-7.5(A) (Single Family District))
West: R-7.5(A) (Single Family District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application of James Bulls for the property located at 1637 Sylvan Avenue focuses on 1 request relating to fence height.
- The applicant proposes to construct and maintain a 10-foot-high fence (retaining wall) in a required front yard, which will require a 6-foot special exception to the fence height regulations.
- The subject site along with properties to the north, south, east, and west are all developed with single-family homes.
- The subject site is a mid-block lot with single street frontage on Sylvan Avenue.
- It has been confirmed that the fence is proposed and not existing.
- Based upon staff's analysis of the surrounding properties, there are a few homes along the heavily sloped section of Sylvan Avenue with fences and retaining walls in the required front yard and/or some form of vegetation serving as a screening mechanism.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations relating to height will not adversely affect the neighboring properties.
- Granting the special exception to the fence regulations relating to height with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA245-040 at 1637 Sylvan Avenue](#)

Timeline:

- January 30, 2025: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 6, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- February 21, 2025: The Planning and Development Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the February 28, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and March 7, 2025, deadline to submit additional evidence to be incorporated into the board's docket materials.

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March 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: James Bulls, 1637 Sylvan Avenue, Dallas TX

Against: Joseph & Cynthia Whitney, 1652 Sylvan Ave, Dallas TX

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-040, on application of James Bulls, **GRANT** the request of this applicant to construct and/or maintain a 10-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:	Judy Pollock				
Second:	Roger Sashington				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

4. 5323 Miller Avenue BDA245-030(BT)

BUILDING OFFICIAL'S REPORT: Application of Cyril Pendergast for **(1)** a variance to the side-yard setback regulations at **5323 MILLER AVENUE**. This property is more fully described as Block 12/1937, Lot 23 and is zoned CD-15, which requires a side-yard setback for of 10-feet at the east side of the property. The applicant proposes to construct and/or maintain a single-family residential accessory structure and provide a 1-foot 10-inch side-yard setback, which will require **(1)** an 8-foot 2-inch variance to the side-yard setback regulations.

LOCATION: 5323 Miller Avenue

APPLICANT: Cyril Pendergast

REQUEST:

4. A request for a variance to the side-yard setback regulations.

STANDARDS OF REVIEW FOR A VARIANCE:

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

- (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:

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. Subject site does not differ from other surrounding parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in the same Conservation District 15 zoning.
- F. This is not a self-created or personal hardship.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	CD-15
<u>North:</u>	CD-15
<u>East:</u>	CD-15
<u>South:</u>	CD-15
<u>West:</u>	CD-15

Land Use:

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

Square Footage:

Subject lot size is 8,000 (50' x 160') square feet (0.184 of an acre)

BDA History:

No BDA history found in the last five years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Cyril Pendergast for the property located at 5323 Miller Avenue focuses on 1 request relating to a variance to the side-yard setback regulations.
- The applicant is proposing to construct and maintain a residential addition and provide a 1-foot 10-inch side-yard setback, which will require an 8-foot 2-inch variance to the side-yard setback regulations.
- It is imperative to note that the 10-foot 0-inch east side-yard setback is unique to CD-15.
- The subject site along with surroundings properties are all developed with single-family homes and lot size 50' x 160'.
- CD-15 was established on June 21, 2006, (ORDINANCE NO. 26391) with the most recent adoption / amendment: May 23, 2007, (ORDINANCE NO. 26744).
- The applicant has the burden of proof in establishing the following:
 - 4) That granting the variance to the side-yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - 5) The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot

be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

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

- **ELEMENT II SUBSTITUTE:**

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

(i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code.

(ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.

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

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

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

- Granting the variance to the side-yard setback regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA245-030 at 5323 Miller Ave](#)

Timeline:

January 16, 2025: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 6, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel **C**.

February 21, 2025: 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 **February 28, 2025**, deadline to submit additional evidence for staff to factor into their analysis; and **March 7, 2025**, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this

request and other requests scheduled for the **March** 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: Cyril Pendergast, 5323 Miller Ave, Dallas TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-030, on application of Cyril Pendergast, **GRANT** the 8-foot 2-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:	Roger Sashington				
Second:	Rodney Milliken				
Results:	4-1				Motion to grant
		Ayes:	-	4	Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	1	Robert Agnich

5. 114 W. 7th Street

*** This Case was move to Individual cases**

BDA245-026(BT)

BUILDING OFFICIAL'S REPORT: Application of Santos Martinez for **(1)** a variance to the off-street parking regulations at **114 W 7TH STREET**. This property is more fully described as Block 20/3140, Lot 14, and is zoned CR, which requires parking to be provided. The applicant proposes to provide 7 of the required 28 parking spaces for a restaurant without drive-in or drive-through service use, which will require **(1)** a 21-space variance (75 percent reduction) to the parking regulation.

LOCATION: 114 W 7th Street

APPLICANT: Santos Martinez

REPRESENTED BY:

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:

- (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 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 **area, shape**, or slope; subject site is existing with structure built close to the front property line and parking is not allowed in the required front-yard setback. Therefore, 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: CR (Community retail)
North: CR (Community retail)
East: PD-1019
South: MU-1 (Mixed Use)
West: CR (Community retail)

Land Use:

The subject site proposed development with a restaurant without drive-in or drive-through services. The areas to the north, south, east, and west are developed with various use types.

Lot Square Footage:

This lot size is 5,578 square feet. (0.128 of an acre)

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Santos Martinez for the property located at 114 W 7th Street focuses on one request relating to a variance to the off-street parking regulations of a 21-space parking (75 percent reduction) is made to construct and/or maintain a restaurant without drive-in or drive-through service.
- The subject site existing structure will be converted from auto service center use to a restaurant without drive-in or drive-through service use.
- Parking Requirements per CR 1/100 Restaurant without drive-in or drive-through service use.
- The proposed parking provided access ingress and egress from an unimproved alley.
- Staff recommendation is based off the proposed ZOAC Recommended Amendments in reference to off-street parking for Retail Districts (SEC. 51A-4.122)(b)(5).
- Per staff's review of the subject site, it has been confirmed that the structure of the property is existing.
- The applicant has the burden of proof in establishing the following:
 - 7) 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.
 - 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.
- ELEMENT II SUBSTITUTE:
Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:
(i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code.
(ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
(iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
(iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
(v) the municipality considers the structure to be a nonconforming structure.
 - Granting the variance to the 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: [BDA245-026 at 114 W Seventh St](#)

Timeline:

- December 31, 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.
- February 6, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel **C**.
- February 21, 2025: 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 **February 28, 2025**, deadline to submit additional evidence for staff to factor into their analysis; and **March 7, 2025**, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the **March** public hearings. Review

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team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Santos Martinez, 2489 Camino Plata Loop NE, Rio Rancho, NM

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-026, on application of Santos Martinez, **GRANT** the 21-space variance to the parking 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:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

6. 5114 McKinney Avenue

*** This Case was move to Individual cases**

BDA245-041(BT)

BUILDING OFFICIAL'S REPORT: Application of Michael Andreasen represented by Winstead PC to terminate deed restrictions at **5114 MCKINNEY AVE**. This property is more fully described as Block 2/2015, Lot 6A, and is zoned PD-193 (LC), which required the imposed deed restrictions to be terminated by the board of adjustment. The applicant proposes a request to terminate deed restrictions as directed in recorded deed restriction documents Volume 80004, Page 2285 – 2288.

LOCATION: 5114 McKinney Avenue

APPLICANT: Michael Andreasen

REPRESENTED BY: Winstead PC

REQUEST:

6. A request is made to terminate existing deed restrictions for this property which were imposed on the property in 1978 and require board action prior to being altered, amended or terminated.

STANDARD FOR ALTERING, AMENDING OR TERMINATING DEED RESTRICTIONS:

NONE.

STAFF RECOMMENDATION:

No staff recommendation is made on this type of request. There is no basis for how the board should weigh this decision; however, the board is the sole entity empowered to alter, amend or terminate the deed restrictions in place.

BACKGROUND INFORMATION:

Zoning:

Site: PD-193(LC)
North: PD-193(LC)
East: PD-193(LC)
South: PD-193(LC)
West: PD-193(LC)

Land Use:

The subject site is developed with a 4 story personal care retirement facility for the elderly, containing 180 residential units and all surrounding properties are developed with uses allowed in PD-193 (LC).

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of Michael Andreasen represented by Winstead PC at 5114 McKinney Avenue focuses on one request relating to the imposed deed restrictions as directed in recorded deed restriction documents Volume 80004 Page 2285 – Page 2288.
- The request is to terminate imposed deed restrictions from 1978 by the board of adjustment.
- BDA 78-231: On August 8, 1978 GRANTED Phase I, subject to the following conditions:
 - Applicant is to deed restrict the property against tenants under 65 years of age.
 - The number of cars to be kept on the property owned by the tenants be limited to 30 cars.
- BDA 78-231: On August 8, 1978 Granted Phase II, subject to the following conditions:

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- Approval of front yard variance of 12' with the understanding that variance to be used only for the Porte cochere.
- Deed restrictions were executed on October 18, 1978. These restrictions explicitly authorize in full force and effect for so long as the property is used as a residence home for the aged.
- These restrictions shall not be altered, amended or terminated without a public hearing before the board of adjustment of the City of Dallas.
- Granting the request to terminate the deed restrictions under the board of adjustment purview will reinstate the zoning entitlements offered by the zoning in PD-193 (LC) District unless otherwise rezoned. The existing structure could remain, but all uses would be subject to the allowable uses and development standards for the district if anything were to change.
- 200' Radius Video: [BDA245-041 at 5114 McKinney Ave](#)

Timeline:

- February 14, 2025: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 6, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel **C**.
- February 21, 2025: 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 **February 28, 2025**, deadline to submit additional evidence for staff to factor into their analysis; and **March 7, 2025**, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - ~~the criteria/standard that the board will use in their decision to approve or deny the request; and~~ **(none exists for this case)**
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- February 24, 2025: The applicant's representative provided additional information, email correspondence and copy of deed.
- February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the **March** 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: Mallory Muse, 2728 N. Harwood St., Ste 500, Dallas TX
- Against: Bruce Richardson, 5607 Richmond, Dallas TX 75206
Melissa Kingston, 5901 Palo Pinto Ave, Dallas TX
(Did not speak)

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-041, on application of Michael Andreasen represented by David Martin, **DENY** the request of this applicant to terminate the deed restrictions as directed by the Board of Adjustment in case number BDA 78-231 **without prejudice**.

Maker:	Roger Sashington				
Second:	Judy Pollock				
Results:	5-0 Unanimously				Motion to deny without prejudice
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

HOLDOVER CASES

7. 1900 Wheatland Road

BDA245-028(BT)

BUILDING OFFICIAL'S REPORT: Application of David Pitcher for **(1)** a special exception to the landscaping regulations at **1900 WHEATLAND ROAD**. This property is more fully described as Block 7611, 7612, 7605, 6886 and is zoned TH-2(A), MF-2(A), MF-3(A), and CR, which requires mandatory landscaping and tree mitigation. The applicant proposes to construct and/or maintain a nonresidential structure and provide an alternate landscape plan for tree mitigation, which will require **(1)** a special exception to the landscape and urban forest conservation regulations.

LOCATION: 1900 Wheatland Road

APPLICANT: David Pitcher

REQUEST:

7. A request for a special exception to the landscape and urban forest conservation regulations

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO THE LANDSCAPING AND TREE REGULATIONS:

Section 51A-10.110(b) of the Dallas Development Code states that the board may grant a special exception to the requirements of Division 51A-10.130, upon making a special finding from the evidence presented that strict compliance with the requirements of Division 51A-10.130 will **unreasonably burden the use of the property**; the special exception **will not adversely affect neighboring property**; and the **requirements are not imposed by a site-specific landscape plan** or tree mitigation plan approved by the city plan commission or city council. In determining whether to grant a special exception under Subsection (a), the board shall consider the following factors:

- The extent to which there is residential adjacency.
- The topography of the site.
- The extent to which landscaping exists for which no credit is given under this article.
- The ability to plant replacement trees safely on the property.

- The extent to which alternative methods of replacement will compensate for a reduction of tree mitigation or extended time for tree replacement. (Ord. Nos. 22053; 25155; 30929)

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

Zoning:

Site: TH-2(A), MF-2(A) MF-3(A), AND CR
North: R-7.5(A), R-5(A), PD-624, AND CH
East: PD-624, AND CR
South: R-7.5(A), UC-2, MU-2, AND MF-2(A)
West: R-7.5(A)

Land Use:

The subject site and all surrounding properties are primarily undeveloped land with some commercial and single-family uses.

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of David Pitcher for the property located at 1900 Wheatland Road focuses on one request relating to the landscape and urban forest conservation regulations.
- The applicant is proposing to provide an alternate landscape plan.
- The City of Dallas Floodplain Management office has affirmed the area designated as 100-year floodplain, according to Article V. Per ordinance, 'the floodplain administrator regulates according to both the FEMA effective maps and the regulatory floodplain maps, regardless of adoption by FEMA (Sec. 5.102(a)(4)). The City maintains that the 'agricultural manmade channels' are floodplain as identified on our city maps. The vegetation is protected under Article X tree conservation regulations and must be managed accordingly.
- The board may consider a special exception for tree mitigation based on if strict compliance of the code will unreasonably burden the use of the Property, the special exception will not adversely affect neighboring property, and when there is no site-specific tree mitigation plan by council or the CPC. They may consider residential adjacency, topography, landscaping, suitable planting locations, and the extent to which alternative methods of replacement will compensate for the overall removal (Sec. 51A-10.110(b)).
- The old-filed succession review was added as one component to the tree conservation ordinance in 2018 to help provide a reasonable means of reducing costs and burden for tree survey assessments and the high amount of mitigation for young (early succession) tree stands while providing incentive for the protection of more sensitive and critical woodland

areas. Additional reading on this process can be found in the Landscape and Tree Manual, Appendix G.

- Final calculations for the amount of tree mitigation of a building project are confirmed in the permit review process unless the amount of tree mitigation is previously determined by board or council. The request before the board is for the allowance of the use of the forest stand delineation to define old-field succession mitigation reductions within an area encumbered by a primary natural area currently restricting its use on the portion of the stand in the floodplain area. The board may select criteria to determine a suitable level of mitigation reduction.
- If a special exception is approved, the timing of tree mitigation completion will be defined as per Sec. 51A-10.134(c)(5). The intent is to grade in both Properties to adjust the site in Phase 1 for development. If approved, a special condition for completion of the mitigation to be tied to the timing of the completion of the development is recommended.
- An additional allowance may be needed for the placement of tree mitigation in streets
- The applicant has the burden of proof in establishing that the special exception(s) to the landscape regulations will not adversely affect the neighboring properties and strict compliance with the code will unreasonably burden the use of the property.
- 200' Radius Video: [BDA245-028 at 1900 E Wheatland Rd](#)

Timeline:

- January 17, 2025: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 3, 2025: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- January 24, 2025: Planning and Development Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis; and February 7, 2025, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

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February 20, 2025: The Board of Adjustment Panel **C**, at its public hearing held on Thursday, February 20, 2025, moved to **HOLD** this matter under advisement until **March 17, 2025**.

February 21, 2025: 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 **February 28, 2025**, deadline to submit additional evidence for staff to factor into their analysis; and **March 7, 2025**, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the **March** 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.

March 5, 2025: Applicant provided the following additional information:

- Split the package into 1900 E Wheatland & 7915 Lancaster (specific memos and exhibits for each)
- Changed our request to reduce a specific number of mitigation inches for each property
 - Included a tree table to back up the mitigation inches requested
- Included the trees removed, and replacement inches needed for each property with a table for backup
- Included the proposed inches of planting
- Included the full tree survey and forest stand reports
- Included the Preliminary Plat for 7915 Lancaster and updated our request to only that special exception area
- Link  [20250305_BDA 2nd Resubmtital](#)

Speakers:

For: David Pitcher, 3501 Olympus Blvd, # 100, Dallas TX 75019
Samuel Snyder, 209 Lydia Circle, Irving, TX 75060

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-028, on application of David Pitcher, **GRANT** the request of this applicant for a special exception to the landscape and urban forest conservation regulations contained in Article X of the Dallas Development Code, as amended, because our evaluation of the property and testimony shows that (1) strict compliance with the requirements of Article X will unreasonably burden the use of the property; (2) the special exception will not adversely affect neighboring properties, and (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

1. All tree mitigation to be planted on other than single family lots must be completed prior to the final certificate of occupancy of the multifamily development on the Property.
2. Replacement trees may be planted on existing or proposed streets throughout the Property if authorized by license.
3. Compliance with the most recent version of all submitted plans are required.

Maker:	Rodney Milliken				
Second:	Roger Sashington				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

8. 7915 S. Lancaster Road

BDA245-029(BT)

BUILDING OFFICIAL'S REPORT: Application of David Pitcher for **(1)** a special exception to the landscaping regulations at **7915 S. LANCASTER ROAD**. This property is more fully described as Block 7609 and is zoned CR, LO-1, MF-2(A), MU-2, and UC-2, which requires mandatory landscaping and tree mitigation. The applicant proposes to construct and/or maintain a nonresidential structure and provide an alternate landscape plan for tree mitigation, which will require **(1)** a special exception to the landscape and urban forest conservation regulations.

LOCATION: 7915 S Lancaster Road

APPLICANT: David Pitcher

REQUEST:

8. A request for a special exception to the landscape and urban forest conservation regulations

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO THE LANDSCAPING AND TREE REGULATIONS:

Section 51A-10.110(b) of the Dallas Development Code states that the board may grant a special exception to the requirements of Division 51A-10.130, upon making a special finding from the

evidence presented that strict compliance with the requirements of Division 51A-10.130 **will unreasonably burden the use** of the property; the **special exception will not adversely affect neighboring property**; and the **requirements are not imposed by a site-specific landscape plan** or tree mitigation plan approved by the city plan commission or city council. In determining whether to grant a special exception under Subsection (a), the board shall consider the following factors:

- The extent to which there is residential adjacency.
- The topography of the site.
- The extent to which landscaping exists for which no credit is given under this article.
- The ability to plant replacement trees safely on the property.
- The extent to which alternative methods of replacement will compensate for a reduction of tree mitigation or extended time for tree replacement. (Ord. Nos. 22053; 25155; 30929)

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) MU-2, UC-2, LO-1, AND CR
North: TH-2(A), MF-3(A), R-7.5(A), AND CR
East: R-7.5(A), NS, CS, AND CR
South: IR
West: MF-2(A), R-7.5(A) and City Limits

Land Use:

The subject site and all surrounding properties are primarily undeveloped land with some commercial and single-family uses.

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- The application of David Pitcher for the property located at 7915 S Lancaster Road focuses on one request relating to the landscape and urban forest conservation regulations.
- The applicant is proposing to provide an alternate landscape plan.
- The City of Dallas Floodplain Management office has affirmed the area designated as 100-year floodplain, according to Article V. Per ordinance, 'the floodplain administrator regulates according to both the FEMA effective maps and the regulatory floodplain maps, regardless of adoption by FEMA (Sec. 5.102(a)(4)). The City maintains that the 'agricultural manmade channels' are floodplain as identified on our city maps. The vegetation is protected under Article X tree conservation regulations and must be managed accordingly.

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- The board may consider a special exception for tree mitigation based on if strict compliance of the code will unreasonably burden the use of the Property, the special exception will not adversely affect neighboring property, and when there is no site-specific tree mitigation plan by council or the CPC. They may consider residential adjacency, topography, landscaping, suitable planting locations, and the extent to which alternative methods of replacement will compensate for the overall removal (Sec. 51A-10.110(b)).
- The old-filed succession review was added as one component to the tree conservation ordinance in 2018 to help provide a reasonable means of reducing costs and burden for tree survey assessments and the high amount of mitigation for young (early succession) tree stands while providing incentive for the protection of more sensitive and critical woodland areas. Additional reading on this process can be found in the Landscape and Tree Manual, Appendix G.
- Final calculations for the amount of tree mitigation of a building project are confirmed in the permit review process unless the amount of tree mitigation is previously determined by board or council. The request before the board is for the allowance of the use of the forest stand delineation to define old-field succession mitigation reductions within an area encumbered by a primary natural area currently restricting its use on the portion of the stand in the floodplain area. The board may select criteria to determine a suitable level of mitigation reduction.
- If a special exception is approved, the timing of tree mitigation completion will be defined as per Sec. 51A-10.134(c)(5). The intent is to grade in both Properties to adjust the site in Phase 1 for development. If approved, a special condition for completion of the mitigation to be tied to the timing of the completion of the development is recommended.
- An additional allowance may be needed for the placement of tree mitigation in streets
- The applicant has the burden of proof in establishing that the special exception(s) to the landscape regulations will not adversely affect the neighboring properties and strict compliance with the code will unreasonably burden the use of the property.
- 200' Radius Video: [BDA245-029 at 7915 S Lancaster Rd](#)

Timeline:

- | | |
|-------------------|--|
| January 17, 2025: | The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report. |
| January 3, 2025: | The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. |
| January 24, 2025: | Planning and Development Department Senior Planner emailed the applicant the following information: <ul style="list-style-type: none">• an attachment that provided the public hearing date and panel that will consider the application; the January 31, 2025, deadline to submit additional evidence for staff to factor into their analysis; and February 7, 2025, deadline to submit additional evidence to be incorporated into the board's docket materials. |

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- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 30, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the February public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

February 20, 2025: The Board of Adjustment Panel **C**, at its public hearing held on Thursday, February 20, 2025, moved to **HOLD** this matter under advisement until **March 17, 2025**.

February 21, 2025: 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 **February 28, 2025**, deadline to submit additional evidence for staff to factor into their analysis; and **March 7, 2025**, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 27, 2025: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the **March** 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.

March 5, 2025: Applicant provided the following additional information:

- Split the package into 1900 E Wheatland & 7915 Lancaster (specific memos and exhibits for each)
- Changed our request to reduce a specific number of mitigation inches for each property
 - Included a tree table to back up the mitigation inches requested
- Included the trees removed, and replacement inches needed for each property with a table for backup
- Included the proposed inches of planting

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- Included the full tree survey and forest stand reports
- Included the Preliminary Plat for 7915 Lancaster and updated our request to only that special exception area
- Link ☐ [20250305_BDA 2nd Resubmtital](#)

Speakers:

For: David Pitcher, 3501 Olympus Blvd, # 100, Dallas TX
Samuel Snyder, 209 Lydia Circle, Irving, TX 75060

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 245-029, on application of David Pitcher, **GRANT** the request of this applicant for a special exception to the landscape and urban forest conservation regulations contained in Article X of the Dallas Development Code, as amended, because our evaluation of the property and testimony shows that (1) strict compliance with the requirements of Article X will unreasonably burden the use of the property; (2) the special exception will not adversely affect neighboring properties, and (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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


1. All tree mitigation timing must be completed in compliance with Section 51A-10.134(c)(5) except that mitigation for Phase 1 identified in C04.09 as Block II and JJ shall be completed with the final certificate of occupancy in Phase 1.
2. Replacement trees may be planted on existing or proposed streets throughout the Property if authorized by license.
3. Compliance with the most recent version of all submitted plans are required.

Maker:	Roger Sashington				
Second:	Judy Pollock				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington & Meredyth Griffin
		Against:	-	0	

**** Recess 2:47 P.M. – 2:52 P.M.****

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Agnich moved to adjourn the meeting at **3:58 P.M.**



Required Signature:
Mary Williams, Board Secretary
Planning and Development.

5/19/2025

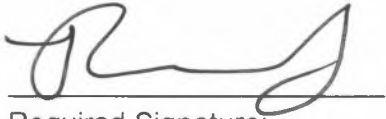
Date



Required Signature:

Dr. Kameka Miller-Hoskins – Chief Administrator
Planning & Development

5/19/2025
Date



Required Signature:

Robert Agnich, Vice-Chair
Board of Adjustment

5/19/2025
Date