



BOARD OF ADJUSTMENT

Panel C Minutes

December 16, 2024

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**CITY SECRETARY
DALLAS, TEXAS**

6ES – Council Briefing
24957316190@dallascityhall.webex.com

Robert Agnich, Vice-Chair

PRESENT: [4]

Robert Agnich, VC	
Judy Pollock	
Jared Slade	
Rodney Milliken	

ABSENT: [1]

Roger Sashington	

Vice-Chair Agnich called the briefing to order at **10:37 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Agnich called the hearing to order at **1:11 P.M.** with a quorum of the Board of Adjustment present.

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

PUBLIC SPEAKERS

The Board of Adjustment provided public testimony opportunities for individuals to comment on matters that were scheduled on the posted meeting agenda.

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

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel C, November 18, 2024, Minutes as presented during the briefing.

A motion was made to approve Panel C, November 18, 2024, Public Hearing minutes.

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	4-0 unanimously				Motion to approve
		Ayes:	-	4	Robert Agnich, Judy Pollock, Rodney Milliken, and Jared Slade
		Against:	-	0	

UNCONTESTED ITEMS

1. 12908 Windfall Circle
BDA234-140(CJ)

BUILDING OFFICIAL’S REPORT: Application of Jordan DSilva for **(1)** a variance to the side-yard setback regulations at **12908 Windfall Circle**. This property is more fully described as 4/8788, Lot 5 and is zoned R-10(A), which requires a 6-foot side-yard setback. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 2-foot 6-inch side-yard setback, which will require a **(1)** 3-foot 6-inch variance to the side-yard setback regulations.

LOCATION: 12908 Windfall Circle

APPLICANT: Jordan D’Silva

REQUEST:

- (1) 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:

- (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:

1. Variance to the front yard setback regulations

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- B. Though the subject site is not sloped or irregularly shaped, it is only 8,189.28 sq ft. which is smaller than the minimum lot size for residential use in the R-10(A) zoning district (10,000 sq ft.); therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 12908 Windfall Circle within the last 5 years.

Square Footage:

This lot contains 8,189.28 of square feet.

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

Site: R-10(A) (Single Family District)

North: R-10(A) (Single Family District)

East: R-10(A) (Single Family District)

South: R-10(A) (Single Family District)

West: R-10(A) (Single Family District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Jordan DSilva property located at 12908 Windfall Circle focuses on 1 request relating to the side yard setback regulations.
- A request for a variance to the side yard setback regulations of 3-feet 6-inches is made to construct and/or maintain a single-family residential structure; zoning district R-10(A) requires a 6-foot side yard setback.
- The subject site is a mid-block lot and has single street frontage on Windfall Circle.
- The subject site along with surrounding properties to the north, south, east and west are zoned with residential uses.
- The subject site is currently developed with a single-family structure and located within an established neighborhood.

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

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

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

- (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed variance below with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - 3-foot 6-inches variance to the side yard setback regulations.

- 200' Radius Video: [BDA234-140 at 12908 Windfall Circle](#)

Timeline:

- October 17, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- November 4, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- November 13, 2024: The Planning and Development Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.
- November 8, 2024: Traffic Engineering Program Administrator provided comments stating no objection.

Speakers:

For: Jordan D'Silva, 12908 Windfall, Dallas TX 75253 (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 234-140 – Application of Jordan Dsilva, for a variance to the side-yard setback regulations contained in the Dallas Development Code, is **granted**, subject to the following condition:

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

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Robert Agnich, Judy Pollock, Rodney Milliken, Jared Slade
		Against:	-	0	

2. 3226 Lawnview Avenue
BDA234-146(CJ)

Board Member Rodney Milliken has a conflict of interest in this case

BUILDING OFFICIAL’S REPORT: Application of Raul Cortes Garcia for (1) a special exception to the fence height regulations, and for (2) a special exception to the fence opacity regulations at 3226 Lawnview Ave. This property is more fully described as Block 37/5809, Lot 5 and is zoned 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 6-foot high fence in a required front yard along Menger Ave, which will require a (1) 2-foot special exception to the fence height regulations, and to construct 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 a (2) special exception to the fence opacity regulations.

LOCATION: 3226 Lawnview Avenue

APPLICANT: Raul Cortes Garcia

REQUEST:

- (1) A request for a special exception to the fence height regulations; and
- (2) A special exception to the fence regulations regarding opacity.

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT & 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 standard 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 these requests.

BACKGROUND INFORMATION:

BDA History:

- No BDA history found at 3226 Lawnview Avenue in the last 5 years.

Square Footage:

- This lot contains 12,632.4 of square feet.
- This lot is zoned R-7.5(A) which has a minimum lot size of 7,500 square feet.

Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application for Raul Cortes Garcia property located at 3226 Lawnview Avenue focuses on 2 requests relating to fence height and fence opacity.
- The applicant proposes to maintain a 6-foot fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- Secondly, the applicant is requesting a special exception to the fence standards regulations regarding opacity; the existing fence is made from cedar wood panels.
- 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 corner lot with double street frontage on Lawnview Avenue and Menger Avenue.
- The subject site has two front yards due to block face continuity; one front yard on Lawnview Avenue and another on Menger Avenue.
- It is imperative to note that the existing fence replaced an older fence that appeared to exist within the front yard setback on Menger Ave. to some degree.
- It has been confirmed that the fence is existing and not proposed.
- 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 applicant has the burden of proof in establishing that the special exception(s) to the fence regulations relating to height and opacity will not adversely affect the neighboring properties.

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- Granting the special exceptions to the fence standards relating to height and 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.
- 200' Radius Video: [BDA234-146 at 3226 Lawnview Ave.](#)

Timeline:

October 24, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

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

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

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

November 22, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

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

December 23, 2024: The Development Services Department Senior Planner emailed the applicant the following information:

- an attachment that provided the hearing date and panel that will consider the application; the January 2, 2025, deadline to submit additional evidence for staff to factor into their analysis ;and January 10, 2025, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and

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

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

Speakers:

For: Alan Cortes, 3226 Lawnview Ave, Dallas TX 75227 (Did not speak)

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-146 **HOLD** this matter under advisement until **January 23, 2025**, due to quorum absence.

Maker:	Robert Agnich			
Second:	Judy Pollock			
Results:	3-0 Unanimously			Motion to Hold
		Ayes:	- 3	Jared Slade, Judy Pollock and Robert Agnich
		Against:	- 0	

3. 4119 Mehalia Drive
BDA234-154(CJ)

BUILDING OFFICIAL’S REPORT: Application of Ana Castro for **(1)** a variance to the floor area ratio for structures accessory to single-family uses regulations at **4119 Mehalia Drive**. This property is more fully described as Block D/6868, Lot 36, and is zoned R-5(A), which states that an accessory structure may not exceed 25 percent of the floor area of the main structure. The applicant proposes to construct and/or maintain a single family residential accessory structure with 474 square feet of floor area (40 percent of floor area of the main structure), which will require **(1)** a 177 square foot variance to the floor area ratio regulations.

LOCATION: 4119 Mehalia Drive

APPLICANT: Ana Castro

REQUEST:

- (3) A request for a special exception to the floor area ratio for structures accessory to single-family uses 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:

- 3. Variance to the floor area ratio regulations

Approval

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

- D. Not contrary to the public interest as no letters of opposition were received before case reports were finalized and submitted.
- E. Though the subject site is not sloped or irregularly shaped, it is 4,356 sq ft. which is smaller than the minimum lot size for residential use in the R-5(A) zoning district (5,000 sq ft.); therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- F. Is not a self-created or personal hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 4119 Mehalia Drive within the last 5 years.

Square Footage:

This lot contains 4,356 of square feet.

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

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 areas to the north, south, east, and west are zoned with residential uses.

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Ana Castro property located at 4119 Mehalia Drive focuses on 1 request relating to the floor area ratio for structures accessory to single family uses regulations.
- A request for a variance to the floor are ratio regulations of 177 square feet is made to maintain a single-family residential accessory structure with 474 square feet of floor area on a site that is developed with a main structure that has 1190 square feet.
- The subject site is a mid-block lot and has single street frontage on Mehalia Drive.
- The subject site along with surrounding properties to the north, south, east and west are zoned with residential uses.
- The subject site is currently developed with a residential structure and located within an established neighborhood.

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

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

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

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- (f) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (g) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (h) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (i) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (j) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed variance below, with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - 177 square foot variance to the floor area ratio regulations.
 - 200' Radius Video: [BDA234-154 at 4119 Mehalia Dr.](#)

Timeline:

- October 25, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- November 4, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- November 13, 2024: The Planning and Development Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: No Speakers

Against: No Speakers

Motion

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

BDA 234-154 – Application of Ana Castro, for a variance to the floor area ratio for structures accessory to the single-family use regulations contained in the Dallas Development Code, is granted, subject to the following condition:

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

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Rodney Milliken, Judy Pollock, Jared Slade, Robert Agnich
		Against:	-	0	

4. 5631 Alta Avenue

BDA234-150(BT)

This case was moved to Individual Cases

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin for **(1)** a variance to the front-yard setback regulations, **(2)** a special exception to the visibility triangle regulations and **(3)** a special exception to the visibility triangle regulations at **5631 ALTA AVENUE**. This property is more fully described as Block C/1983, Lot 16, and is zoned PD-842, which requires a front-yard setback of 15-feet and requires a 20-foot visibility triangle at the corner of the street and alley and requires a 20-foot visibility at drive approaches. The applicant proposes to construct and/or maintain a non-residential structure and provide a 0-foot front-yard setback, which will require **(1)** a 15-foot variance to the front-yard setback regulation, the applicant proposes to construct and/or maintain a nonresidential structure in a 20-foot visibility triangle at the corner of Alta Avenue and an alley, which will require **(2)** a special exception to the visibility triangle regulations at the intersection of a street and alley, and the applicant proposes to construct and/or maintain a nonresidential structure in a 20-foot visibility triangle at the drive approach along Alta Avenue, which requires **(3)** a special exception to the visibility triangle regulations at the drive approach.

LOCATION: 5631 Alta Avenue.

APPLICANT: Rob Baldwin, Baldwin Associates

REQUEST:

- (4) A request for a variance to the front-yard setback regulations;
- (5) A request for a special exception to the 20-foot visibility obstruction regulations at the corner of Alta Avenue and an alley; and

- (6) A request for a special exception to the 20-foot visibility obstruction regulations at the drive approach along Alta Avenue.

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:

- A. Not contrary to the public interest as no letters of opposition were received.

- B. Lot is restrictive in **area**, shape, or slope; it is treated like a corner lot based on the location next to an alley, 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.

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

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

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

Zoning:

- Site: PD-842 (CR)
- North: PD-842 (CR) and PD-842 (Subdistrict 1), SUP1905 and SUP 1289
- East: PD-842 (CR)
- South: PD-842 (CR)
- West: PD-842 (CR) and PD-691 (Nonresidential and Residential uses allowed)

Land Use:

The subject site and surrounding properties are developed with Nonresidential and Residential uses.

Lot Square Footage:

This lot size is 9,243 square feet (0.212 of an acre)

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application of Rob Baldwin of Baldwin Associates for the property located at 5631 Alta Avenue focuses on three requests, one relating to a variance to the front-yard setback regulations, and two requests relating to the visual obstruction regulations.
- The first request is for a variance to the front-yard setback regulations. The applicant is proposing to construct and maintain a nonresidential structure and provide a 0-foot front yard setback along Alta Avenue, which will require a 15-foot variance to the front-yard setback regulations.

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- Secondly, the applicant is requesting a special exception to 20-foot visibility obstruction triangle at the corner of Alta Avenue and an alley.
- Last, the applicant is requesting a special exception to 20-foot visibility obstruction triangle at the drive approach along Alta Avenue.
- The subject site along with surroundings properties are all developed with various types of nonresidential and residential uses.
- It is imperative to note that the subject site has provided outdoor seating in the same area for several years.
- Per staff's review of the subject site, it has been confirmed that the covered patio is complete.
- The applicant has the burden of proof in establishing the following:
 - 1) That granting the variance to the front yard setback will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - 2) The variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
 - 3) The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.
- Granting the variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- The Engineering Division has no objections to visibility triangle obstruction at the alley along Alta Avenue.
- The Engineering Division has no objections to visibility triangle obstruction at the drive approach along Alta Avenue.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception(s) to the visual obstruction regulations will not adversely affect the neighboring properties nor constitute a traffic hazard.
- Granting the special exceptions to the visual obstruction regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- 200' Radius Video: [BDA234-150 at 5631 Alta Ave](#)

Timeline:

- October 25, 2024: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- November 7, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.
- November 18, 2024: Planning and Development Department Senior Planner emailed the applicant the following information:
 - an attachment that provided the public hearing date and panel that will consider the application; the November 22, 2024, deadline to submit additional evidence for staff to factor into their analysis; and December 6, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Rob Baldwin, 3904 Elm Street # B, Dallas TX 75226

Against: Bruce Richardson, 5607 Richmond Ave., Dallas TX 75206

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-150, on application of Rob Baldwin, **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 with the condition that the plans are revised to reflect that neither visibility triangle is obstructed by any structure, berm, plant life, or any other item.

Maker:	Robert Agnich			
Second:	Judy Pollock			

Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Robert Agnich, Rodney Milliken, Judy Pollock, Jared Slade
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-150, on application of Rob Baldwin, **DENY** the special exception requested by this applicant to maintain items in the visibility triangle at the intersection of Alta Avenue and an alley **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Robert Agnich, Rodney Milliken, Judy Pollock, Jared Slade
		Against:	-	0	

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 234-150, on application of Rob Baldwin, **DENY** the special exception requested by this applicant to maintain items in the visibility triangle at the drive approach along Alta Avenue **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	4-0 Unanimously				Motion to grant
		Ayes:	-	4	Robert Agnich, Rodney Milliken, Judy Pollock, Jared Slade
		Against:	-	0	

HOLDOVER

5. 1000 N. Riverfront Boulevard
BDA234-132(BT)

BUILDING OFFICIAL’S REPORT: Application of Andrew Hopper represented by Mike Davis for **(1)** a special exception to the parking regulations at **1000 N RIVERFRONT BOULEVARD**. This property is more fully described as Block 4/6834, Lot 1A and is zoned PD-621 (Subdistrict 1), which requires parking to be provided. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use and provide 50 of the required 72 parking spaces, which will require **(1)** a 22 space special exception (31 percent reduction) to the parking regulation.

LOCATION: 1000 N. Riverfront Boulevard

APPLICANT: Andrew Hooper

REPRESENTED BY: Mike Davis

REQUEST:

- (1) Special Exception to the parking regulations

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

SEC 51P-621.110(b)(2) States that the board may grant a special exception of up to 50 percent of the required off-street parking upon the findings and considerations listed in **SEC 51A-4.311** minus the number of parking spaces currently not provided due to delta credits, as defined in **SEC 51A-4.704(b)(4)(A)**. The board of adjustment may impose conditions on the special exception.

Section 51A-3.111(a) of the Dallas Development Code specifies that the board may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, **that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent or nearby streets.**

Staff Recommendation:

Special Exceptions (1):

No staff recommendation is made on this request.

Square Footage:

This lot size is 7,352.81 sq. ft.

Building Footprint is 4,465 sq. ft. (63.69 percent lot coverage)

Total Floor Area 7,562 sq. ft. (2-story structure)

Zoning:

Site: PD-621 (Subdistrict 1)

North: PD-621 (Subdistrict 1)

South: PD-621 (Subdistrict 1)

East: PD-621 (Subdistrict 1)

West: PD-621 (Subdistrict 1A) & PD-621 (Subdistrict 1D)

Land Use:

The subject site proposes use is for a restaurant without drive-in or drive-through service. The areas to the north, south, east, and west are developed with various uses.

BDA HISTORY:

No BDA history found within the last 5 years.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Andrew Hooper represented by Mike Davis for the property located at 1000 N Riverfront Boulevard focuses on one request relating to the parking regulations.
- A request for a special exception to the parking regulations of a 22-space special exception (31 percent reduction) is made to construct and/or maintain a nonresidential structure.

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- PD-621 (Subdistrict 1) requires one parking space per 105 square feet of floor area for restaurant without drive-in or drive-through service (7,562 / 105 = 72.019).
- The applicant proposes to provide 7 total on-site parking spaces
- The applicant proposes to use 43 parking spaces across Payne St. w/Parking Agreement
- The applicant proposes to use 22 parking spaces w/Parking Agreement at 201 Continental.
- The subject site is currently under construction.
- N Riverfront Boulevard is a major thoroughfare (8 Lanes with Bike Plan)
- It is imperative to note that the subject site has provided unobstructed visual signage from N Riverfront Boulevard and Payne Street.
- Granting the proposed 22-space special exception (31 percent reduction) to the parking regulations will reduce the number of Parking Agreements required from 2 to 1, with a condition that the special exception of 22 spaces shall automatically and immediately terminate if and when the restaurant without drive-in or drive-through service use is charged or discontinued.
- 200' Radius Video: [BDA234-132 at 1000 N Riverside Blvd](#)

Timeline:

September 24, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 8, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel **C**.

October 17, 2024: Planning and Development Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 25, 2024, deadline to submit additional evidence for staff to factor into their analysis; and November 8, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

November 6, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the November public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

November 18, 2024: The Board of Adjustment Panel **C**, at its public hearing held on Monday, November 18, 2024, moved to **HOLD** this matter under advisement until

December 16, 2024.

November 18, 2024: Planning and Development Department Senior Planner emailed the applicant the following information:

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

December 4, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

Speakers:

For: Mike Davis, 1837 Wonderlight Ln., Dallas TX 75228
(Did not speak) Mohammed Abdulle, 2633 Gaston Ave., Dallas TX 75226
(Did not speak) Grant Gary, 4323 Beverly Dr., Dallas TX 75205
(Did not speak) Andy Hooper, 9815 P. Clamen St., Las Vegas, NV

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-132, on application of Mike Davis, **GRANT** the request of this applicant to provide **50** off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires **72** off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces.

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

The special exception of **22** spaces shall automatically and immediately terminate if and when the restaurant without drive-in or drive-through service use is changed or discontinued.

Maker:	Jared Slade				
Second:	Judy Pollock				

Motion withdrawn

Maker:	Jared Slade			
Second:	Judy Pollock			

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-132, hold this matter under advisement until January 23, 2025.

Maker:	Robert Agnich			
Second:	Jared Slade			

Motion withdrawn

Maker:	Robert Agnich			
Second:	Jared Slade			

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 234-132, on application of Mike Davis, **GRANT** the request of this applicant to provide **50** off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires **72** off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces.

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

The special exception of **22** spaces shall automatically and immediately terminate if and when the restaurant without drive-in or drive-through service use is changed or discontinued.

Maker:	Robert Agnich			
Second:	Jared Slade			
Results:	4-0 Unanimously			Motion to grant
		Ayes:	- 4	Rodney Milliken, Judy Pollock, Jared Slade, Robert Agnich
		Against:	- 0	

**** Recess 2:16 P.M. – 2:36 P.M.****

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Agnich moved to adjourn the meeting at **5:31 P.M.**

Mary Williams

Required Signature:

Mary Williams, Board Secretary
Planning and Development.

January 23, 2025
Date

Dr. Kameka Miller-Hoskins

Required Signature:

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

January 23, 2025
Date

Robert Agnich

Required Signature:

Robert Agnich, Vice-Chair
Board of Adjustment

January 23, 2025
Date