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DALLAS, TEXAS



Public Notice

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POSTED CITY SECRETARY
DALLAS, TX

BOARD OF ADJUSTMENT
SPECIAL MEETING

TUESDAY, OCTOBER 29, 2024

9:00 A.M. – 4:00 P.M.

Dallas City Hall, Council Chambers and Videoconference

The Board of Adjustment Public Hearing will be held by videoconference and in Council Chambers at City Hall. Individuals who wish to speak in accordance with the Board of Adjustment Rules of Procedure by joining the meeting virtually, must register online at <https://form.jotform.com/232954755582064> or contact the Development Services Department at 214-670-4127 by the close of business Monday, October 28, 2023. All virtual speakers will be required to show their video in order to address the board. Public Affairs and Outreach will also stream the public hearing on Spectrum Cable Channel 96 or 99; and bit.ly/cityofdallastv or [YouTube.com/CityofDallasCityHall](https://www.youtube.com/CityofDallasCityHall), and the WebEx link: <https://bit.ly/boa1029SM>

AGENDA

- I. Coffee and Registration (8:30 a.m.)
- II. Call to Order and Quorum established (9:00 a.m.) David A. Neumann, Chairman
- III. Introductions (Members and Alternates)
- IV. Public Testimony
- V. Speakers
 - Robin Bentley, Interim Assistant City Manager Pg. 4
 - Emily Liu, Director, Planning & Development Department
- VI. Chairman’s Report Pg. 36
- VII. Board Training
 - Ethics and Conflict of Interests - Chief of Integrity Officer Baron Eliason Pg. 37
 - Planning & Development Department – Dr. Kameka Miller-Hoskins Pg. 88
 - BOA team introductions
 - Parking, Block face continuity
 - City Attorney’s Office – Theresa Carlyle, Matt Sapp, Daniel Moore Pg. 115
 - CAO team introductions
 - City Code Authority, Roles of Board, Variances, Financial cost of compliance conditions for Variance, Special Exceptions, Appeals of Administrative Decisions
 - Texas Case Law: Vanesko, Texas Card House, others
 - Texas Open Meetings Act Pg. 151

VIII. Board Member Response, Feedback, Lunch

IX. Action Items

- Review and approval of Meeting Minutes September 17, 2024
- Review/Adopt 2025 Board Meeting Calendar
- Review/Adopt Annual Report to City Council
 - ❖ 2023-2024 Accomplishments
 - ❖ 2024-2025 Goals and Objectives
 - ❖ Board Recommendations
- Amendments to Rules of Procedure

Pg. 162

Pg. 164

Pg. 165

Pg. 193

X. Adjournment.

Handgun Prohibition Notice for Meetings of Governmental Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."

"Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon into any open meeting on this property."

"De conformidad con la Sección 46.03, Código Penal (coloca armas prohibidas), una persona no puede llevar un arma de fuego u otra arma a ninguna reunión abierta en esta propiedad."

EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
 2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
 3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
 4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
 5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
 6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt . Code §551.087]
- deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex Govt. Code §551.089]



City of Dallas

FY23–24 Progress / FY24–25 Planning

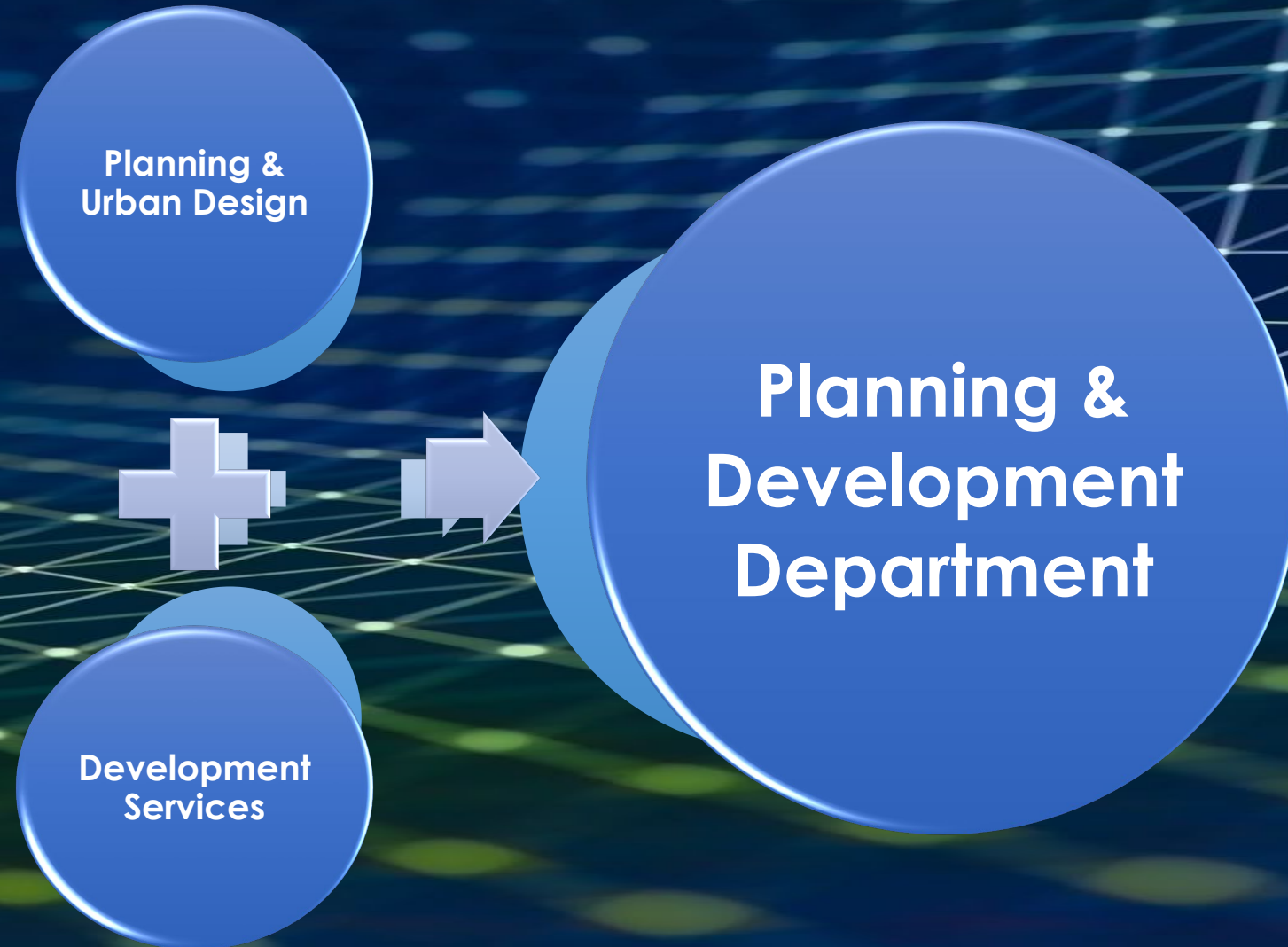
**Board of Adjustment
Annual Meeting
October 29, 2024**

Emily Liu, FAICP, Director
Jason Pool, Assistant Director (I)
Planning & Development Department
City of Dallas

Presentation Overview



New Department



Four Core Functions/Divisions



Planning – Deputy Director, Andrea Gilles



Zoning – Deputy Director, Andreea Udrea



Permitting – Interim Deputy Director & Chief Building Official, Sam Eskander



Customer and Team Excellence – Deputy Director, Vernon Young





Planning

- Community Planning
- Urban Design and Historic Preservation
- GIS, Data and Research

Zoning

- Zoning Code Amendments, Interpretations and Consultations
- Zoning Map (Rezoning) Amendments
- City Plan Commission/Board of Adjustment



Planning & Development Divisions (cont.)



Together We Are Planning And Building A Better Dallas For All!

430 Positions
\$67 Million Budget





- Implement ForwardDallas 2.0
- Move forward with the Dallas Development Code Reform
- Amend the International Building Code
- Implement the Historic and Cultural Preservation Strategy
- **Streamline the development review process**
- **Use more innovation and technology**
- **Foster a culture of teamwork, collaboration & problem solving**





Timeliness – A-to-H Days



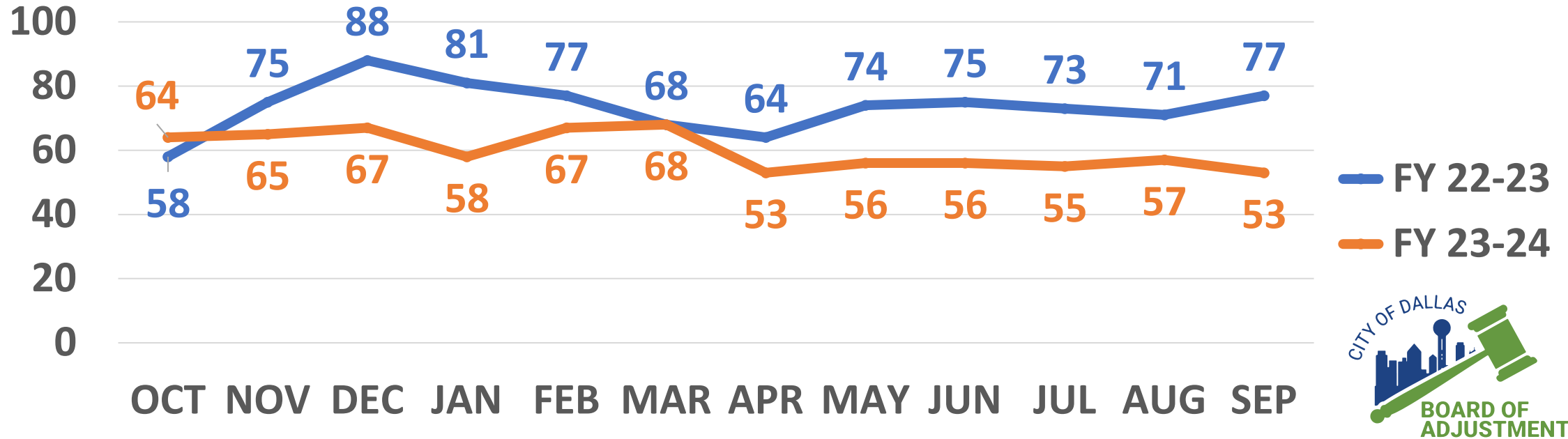
- Range of 53 to 82 days.
 - Average of 68 days.
 - Median of 67 days.
-
- Ranged 53 to 68 days.
 - Average of 60 days.
 - Median of 58 days.



FULL SUBMISSION PERIOD		FULL SUB.		60-DAY	RANGE	HEARING
OPEN	CLOSED	TIME RANGE		TARGET	AVERAGE	DATE
10/7/2023	11/22/2023	54	to 100	11/16/2023	77	1/15/2024
10/7/2023	11/22/2023	56	to 102	11/18/2023	79	1/17/2024
11/23/2023	12/29/2023	53	to 89	12/22/2023	71	2/20/2024
11/23/2023	12/29/2023	54	to 90	12/23/2023	72	2/21/2024
11/23/2023	12/29/2023	55	to 91	12/24/2023	73	2/22/2024
1/2/2024	1/26/2024	52	to 76	1/18/2024	64	3/18/2024
1/2/2024	1/26/2024	53	to 77	1/19/2024	65	3/19/2024
1/2/2024	1/26/2024	54	to 78	1/20/2024	66	3/20/2024
1/29/2024	2/23/2024	52	to 77	2/15/2024	64.5	4/15/2024
1/29/2024	2/23/2024	53	to 78	2/16/2024	65.5	4/16/2024
1/29/2024	2/23/2024	54	to 79	2/17/2024	66.5	4/17/2024
2/26/2024	3/29/2024	52	to 84	3/21/2024	68	5/20/2024
2/26/2024	3/29/2024	53	to 85	3/22/2024	69	5/21/2024
2/26/2024	3/29/2024	54	to 86	3/23/2024	70	5/22/2024
4/1/2024	4/26/2024	52	to 77	4/18/2024	64.5	6/17/2024
4/1/2024	4/26/2024	53	to 78	4/19/2024	65.5	6/18/2024
4/29/2024	5/24/2024	52	to 77	5/16/2024	64.5	7/15/2024
4/29/2024	5/24/2024	53	to 78	5/17/2024	65.5	7/16/2024
5/27/2024	6/28/2024	52	to 84	6/20/2024	68	8/19/2024
5/27/2024	6/28/2024	53	to 85	6/21/2024	69	8/20/2024
5/27/2024	6/28/2024	54	to 86	6/22/2024	70	8/21/2024
7/1/2024	7/26/2024	52	to 77	7/18/2024	64.5	9/16/2024
7/1/2024	7/26/2024	53	to 78	7/19/2024	65.5	9/17/2024
7/1/2024	7/26/2024	54	to 79	7/20/2024	66.5	9/18/2024
7/29/2024	8/30/2024	52	to 84	8/22/2024	68	10/21/2024
7/29/2024	8/30/2024	53	to 85	8/23/2024	69	10/22/2024
7/29/2024	8/30/2024	54	to 86	8/24/2024	70	10/23/2024
9/2/2024	9/27/2024	52	to 77	9/19/2024	64.5	11/18/2024
9/2/2024	9/27/2024	53	to 78	9/20/2024	65.5	11/19/2024
9/2/2024	9/27/2024	54	to 79	9/21/2024	66.5	11/20/2024
9/30/2024	10/25/2024	52	to 77	10/17/2024	64.5	12/16/2024
9/30/2024	10/25/2024	54	to 79	10/19/2024	66.5	12/18/2024
		53	to 82	67.8		



Timeliness (cont.)



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	AVERAGE
FY 2022 - 2023	58	75	88	81	77	68	64	74	75	73	71	77	73
FY 2023 - 2024	64	65	67	58	67	68	53	56	56	55	57	53	60
% Change	↑ 10%	↓ 13%	↓ 24%	↓ 28%	↓ 13%	0%	↓ 17%	↓ 24%	↓ 25%	↓ 25%	↓ 20%	↓ 31%	↓ 18%



Transparency – Website Updates



- 100% Agenda Dockets posted 7-days or More of Hearing Date.
- 100% Weekly Updates.
- Provided Additional Site Updates as Needed.

The screenshot shows the City of Dallas website for the Board of Adjustment. The navigation bar includes Mayor, City Council, City Manager, Departments, and Pay. The main navigation includes Resident, Visitor, Business, Government, News, and 311. The page title is "BOARD OF ADJUSTMENT" and it includes a description: "Serves to hear and take appropriate action on variances and special exceptions to the Development Code regulations, appeals from decisions of the Building Official made in the enforcement of the Development Code, and on termination of non-conforming uses." A sidebar on the right lists "Strategic Priority Economic Development", "15 Members 0 Vacancies", "Next Meeting 10/21/2024 @10:30 AM", and "Contact mary.williams1@dallas.gov 214-670-4127". A navigation menu at the bottom includes Overview, Members, Meetings, Staff & Contacts, FAQs, Forms & Resources, Annual Reports, Agendas & Minutes, and Pending Cases. A yellow warning box states: "Due to recent changes in state legislation, the city is not accepting applications for the Board of Adjustment to establish a compliance date for a nonconforming use." Below this is the "ABOUT THE BOARD OF ADJUSTMENT" section, which describes the board's role. A blue box at the bottom contains the "Mission" statement: "The Board of Adjustment aims to uphold the meaning and spirit of the zoning ordinances as enacted by City Council."



Transparency (cont.)



FY 2023 - 2024 BOARD OF ADJUSTMENT CASE LOG

[< Back to Board of Adjustment Home](#)

Updated: 10/11/2024

- Request Key -

SE = Special Exception V = Variance AO = Administrative Appeal

Fence: H = Height O = Opacity M = Material S = Standards | Setback: FYS = Front Yard SYS = Side Yard

BH = Building Height | P = Parking HP = Handicap Parking | AEM = Additional Electrical Meter | LC = Lot Coverage

VOR = Visibility Obstruction Regulations | L&TM = Landscaping & Tree Mitigation Regulations | SDU = Secondary Dwelling Unit

ADU = Add'l Dwelling Unit | NCU = Non-Conforming Use | SIGN = Sign

Case No.	Address	Request	Status	Planner	Panel	Hearing Date
BDA223-091	4301 Cobblers Ln.	1) V - FYS	Assigned	Diana Barkume	Panel A	POSTPONED
BDA234-079	9234 E.R.L Thornton Fwy	1) SE - P	Assigned	Cambria Jordan	Panel C	10/21/2024
BDA234-096	5325 Kelsey Rd.	1) SE - FH	Assigned	Cambria Jordan	Panel B	10/23/2024
BDA234-098	5322 Kelsey Rd.	1) SE - FH	Assigned	Bryant Thompson	Panel B	10/23/2024



BOARD OF ADJUSTMENT APPEAL

CASE NO. **BDA**

FOR MORE INFORMATION / PARA MÁS INFORMACIÓN

214-948-4066 | BDAREPLY@dallas.gov



<https://bit.ly/Dallas-BDA>



**MAXIMUM \$2000 FINE
FOR REMOVAL OF THIS
SIGN PRIOR TO
PUBLIC HEARING**



Accuracy - QC & Enhanced Reports



- All case reports receive secondary review.



Accuracy (cont.)



- Upgraded 360 camera to higher resolution for better visibility in shadows.



Before



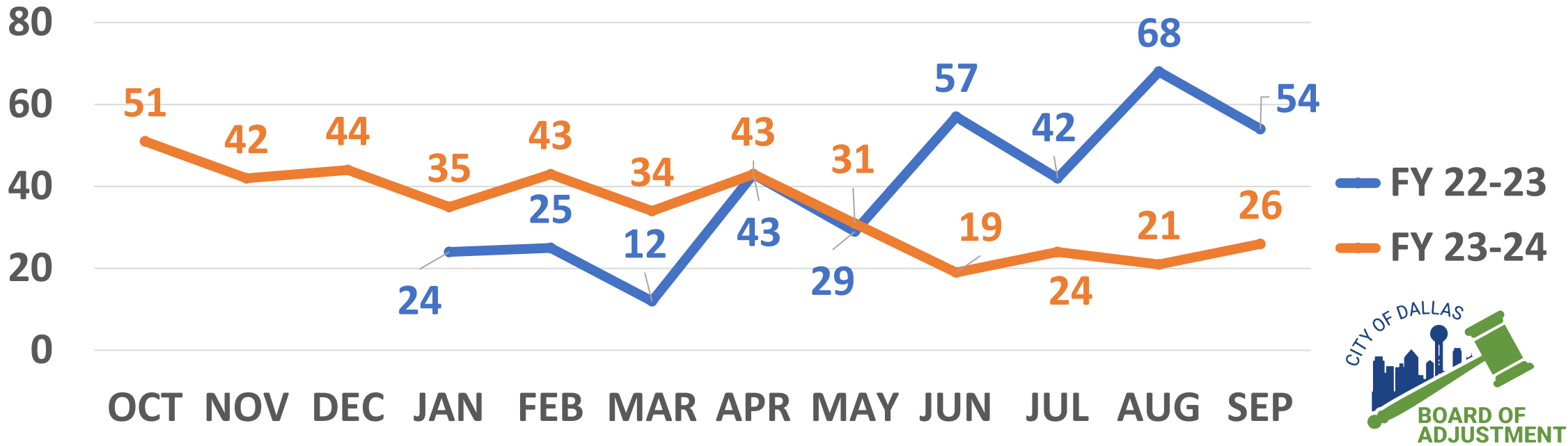
After



Teamwork



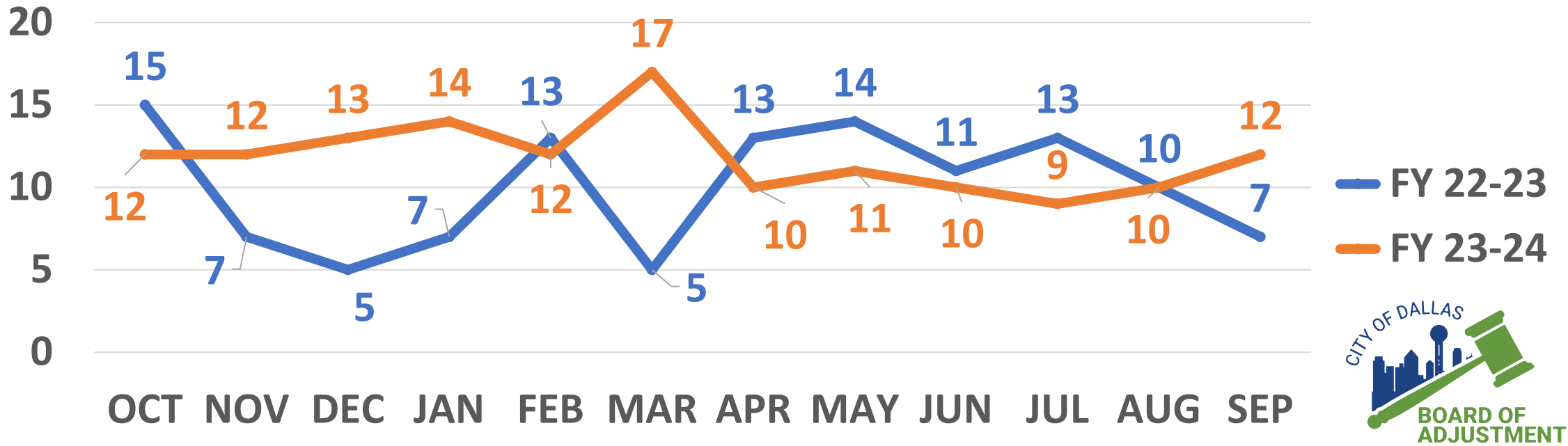
FY 22-23 & 23-24 – Cases Reviewed



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL
FY 2022 - 2023	N/A	N/A	N/A	24	25	12	43	29	57	42	68	54	<u>354</u>
FY 2023 - 2024	51	42	44	35	43	34	43	31	19	24	21	26	<u>413</u>
% Change	-	-	-	↑ 46%	↑ 72%	↑ 183%	0%	↑ 7%	↓ 67%	↓ 42%	↓ 43%	↓ 52%	=



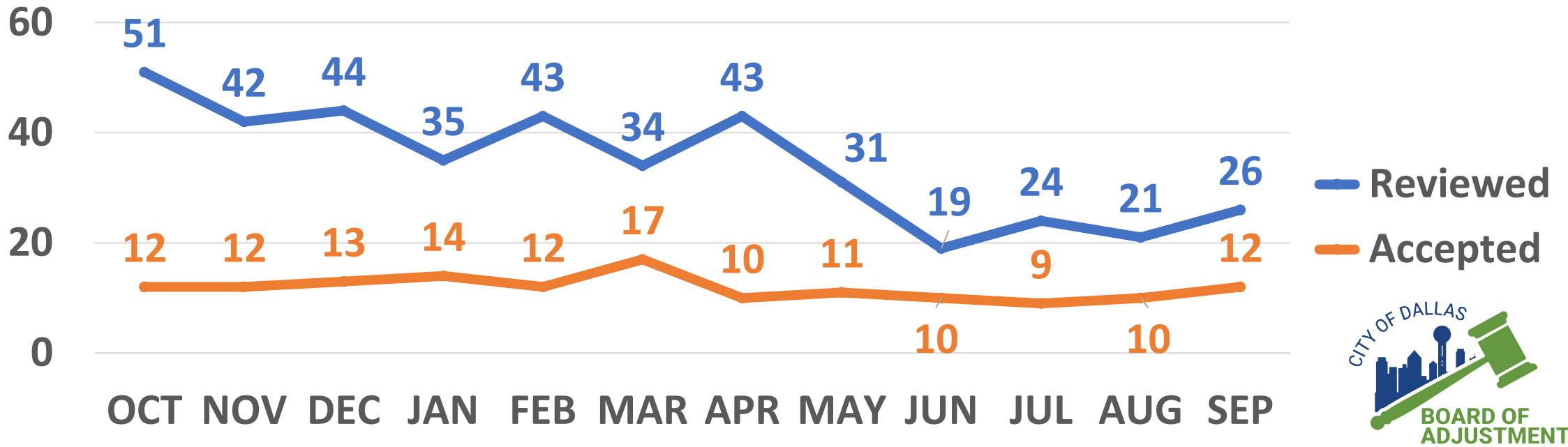
FY22-23 & FY23-24 - Cases Accepted



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	AVERAGE
FY 2022 - 2023	15	7	5	7	13	5	13	14	11	13	10	7	<u>10</u>
FY 2023 - 2024	12	12	13	14	12	17	10	11	10	9	10	12	<u>12</u>
% Change	↓ 20%	↑ 71%	↑ 160%	↑ 100%	↓ 8%	↑ 240%	↓ 23%	↓ 21%	↓ 9%	↓ 46%	0%	↑ 71%	=



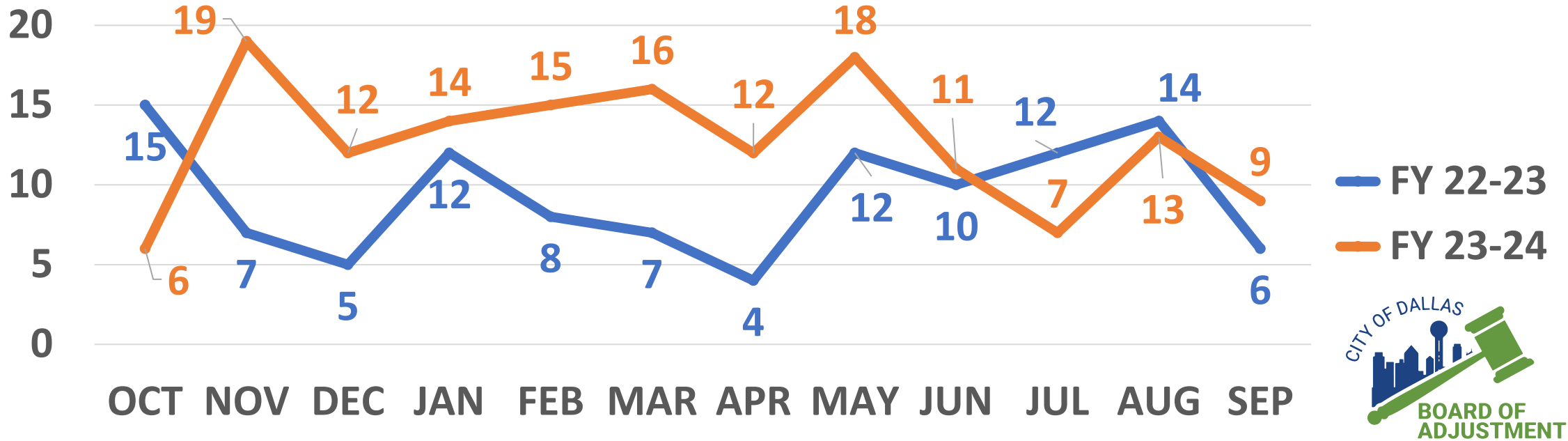
FY 23-24 - Reviewed vs. Accepted



	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	AVERAGE
Reviewed	51	42	44	35	43	34	43	31	19	21	21	26	<u>34</u>
Accepted	12	12	13	14	12	17	10	11	10	9	10	12	<u>12</u>
% Difference	76%	71%	70%	60%	72%	50%	77%	65%	47%	63%	52%	54%	<u>65%</u>



Summary of Work - Cases Presented



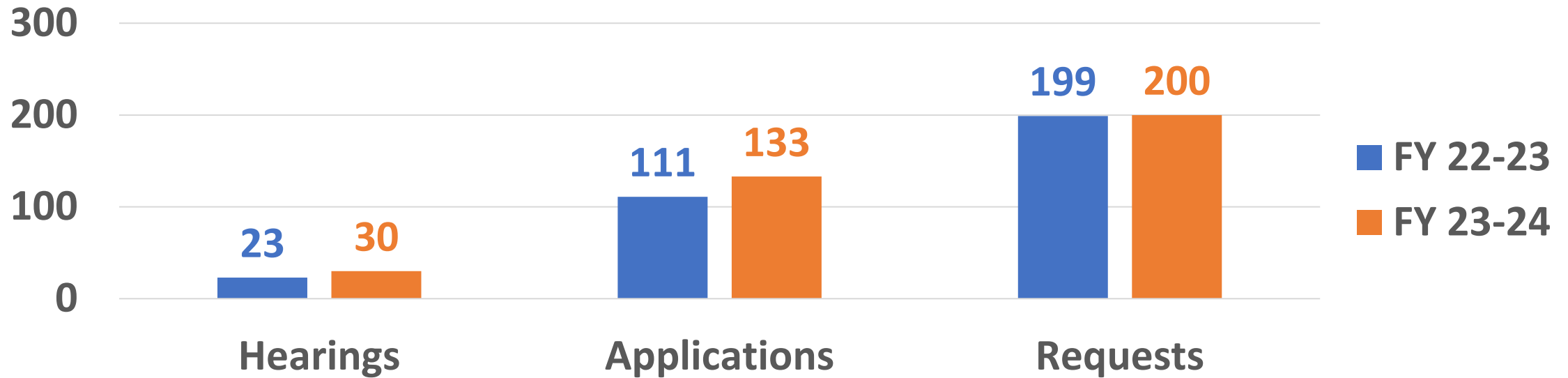
	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	AVERAGE
FY 2022 - 2023	15	7	5	12	8	7	4	12	10	12	14	3	109
FY 2023 - 2024	6	19	12	14	15	16	12	18	11	7	13	9	152
% Change	↓ 60%	↑ 171%	↑ 140%	↑ 17%	↑ 88%	↑ 129%	↑ 200%	↑ 50%	↑ 10%	↓ 42%	↓ 7%	↑ 200%	↑ 39%



Summary of Work – Overall



FY 2023-2024



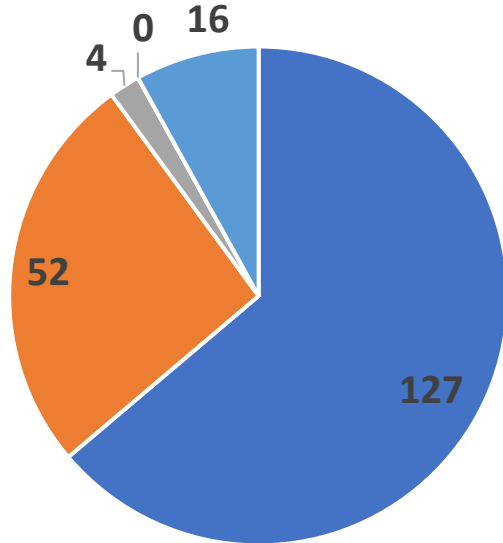
	Hearings	Applications	Requests
FY 2022 - 2023	23	111	199
FY 2023 - 2024	30	133	200
% Change	↑ 30%	↑ 20%	↑ 1%



Summary of Work - Requests

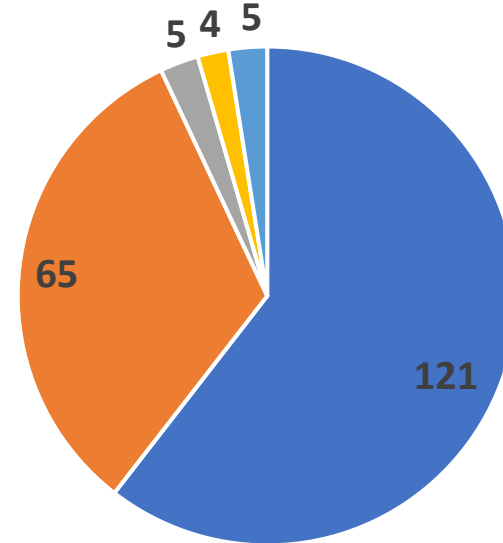


FY 2022-2023



- Special Exceptions
- Variances
- AO Appeals
- Fee Waivers
- Holdovers

FY 2023-2024



- Special Exceptions
- Variances
- AO Appeals
- Fee Waivers
- Holdovers

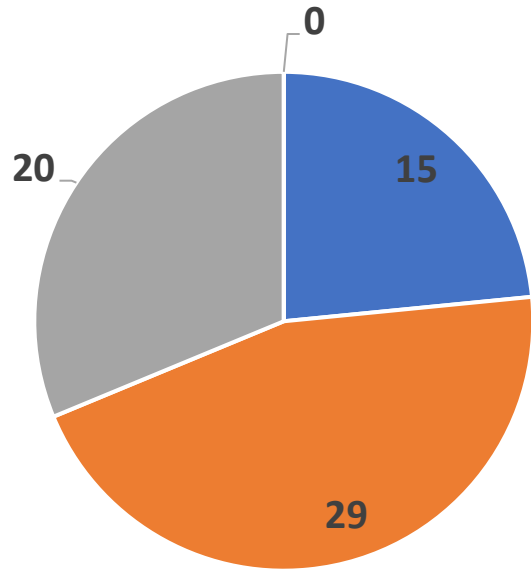
	Special Exceptions	Variances	AO Appeals	Fee Waivers	Holdovers
FY 2022 - 2023	23	111	4	0	16
FY 2023 - 2024	121	65	5	4	5
% Change	↓ 5%	↑ 25%	↑ 25%	↑ 400%	↓ 69%



Summary of Work – Case Outcomes



FY 2022-2023



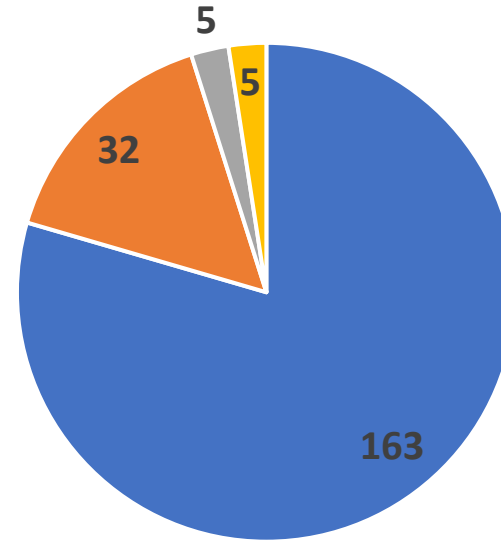
■ Approved

■ Denied

■ Held

■ Withdrawn

FY 2023-2024



■ Approved

■ Denied

■ Held

■ Withdrawn

	Approved	Denied	Held	Withdrawn
FY 2022 - 2023	150	29	20	0
FY 2023 - 2024	163	32	5	5
% Change	↑ 9%	↑ 11%	↓ 75%	↑ 500%





- Improve Timeliness, Transparency, Accuracy, & Teamwork.
 - Reduce the average A-to-H Days by 10% & the application to accepted gap to 60%.
 - Increase overall customer accessibility & feedback options.
 - Implement & maintain QC in all BDA processes.
 - Provide quarterly training, cross-training, team building, & departmental collaboration.





- Application to Hearing (A-to-H) timelines.
 - Reduce by an additional 10% by the end of the year and ensure 90% of applications have a primary metric of 54 to 60 days.
- Prescreen Review.
 - Reduce prescreen from 2-3 days to 1-2 days by the end of Q2.
 - Implement standard zoning review checklist.





- Consultations.

- Implement a consultation log to track all consultations and follow up with stakeholders within 7-10 business days.
- Reduce the gap between applications reviewed & applications accepted to 60% by the end of the year.





- Increase Board & Public Transparency.
 - Enhance webpage usability & continue to ensure weekly and/or as needed updates are made.
- Update Printed Application to include QR codes to Digital Application & Information.
- Transition to Online Submission by end of Q3.
- Implement a BDA Survey form by Q2.
 - Identify 3 areas of improvement.





- Prescreen Review.
 - Implement zoning review checklist in Q1.
 - Reduce prescreen oversights to less than 5%.
- Application Intake.
 - Continue QC procedures to reduce oversights & processing time.
 - Log, follow-up on, and increase the percentage of applications accepted by 10%.





- Case Reports.
 - Continue with QC process for on case reports & continue additional improvements as needed.
- Notification and Post-Hearing.
 - Continue noticing holder-overs.
 - Maintain existing practices to meet all deadlines.





- Staff & Board Training.
 - Provide scheduled quarterly trainings.
 - Partner with CAO for on-boarding of new members.
- Cross-Training & Succession Planning.
 - Ensure all staff are cross-trained in at least two disciplines the end of the fiscal year, with leadership development workshops for senior level staff to ensure internal growth.





- Quarterly Team Building.
 - Conduct scheduled quarterly team building events, first to be scheduled Q1.
- Interdepartmental Collaboration.
 - Promote efforts to enhance collaboration between departments, specifically with Residential, Zoning, Sub-division, Conservation Districts, and Current Planning to streamline workflows.





City of Dallas

FY23–24 Progress / FY24–25 Planning

**Board of Adjustment
Annual Meeting
October 29, 2024**

Emily Liu, FAICP, Director
Jason Pool, Assistant Director (I)
Planning & Development Department
City of Dallas

City of Dallas
Board of Adjustment Chairman's Report
October 29, 2024

David A. Neumann, Chairman
Robert Agnich, Vice Chair
Cheri Gambow, Vice Chair

October 1, 2023 – September 30, 2024

Focus: Ensure Fairness for every property owner appeal to the Board of Adjustment through a Transparent process that culminates in Timely hearings where Accurate information is reasonably applied to the Board's preexisting legal standards.

Advocacy

- Met quarterly with City Manager's key staff: Assistant City Managers Majed Al-Ghafry and Robin Bentley; Directors Andrew Espinoza and Emily Liu, to maintain executive level support and awareness of the mission of the Board, its members, staff and property owner/taxpayer.
- Working with Board Attorney and City Attorney's Office to assert the Board's fully interpreted and expressed authority within the Dallas Development Code to determine a just and fair decision for all cases/appeals presented.

Empowerment

- Implemented our updated Rules of Procedure providing greater empowerment of the Board, Chairman, and Vice Chairs to lead the hearings as a citizen appointed board of the City Council.
- Board Officers worked collectively to ensure relative consistency amongst the panels and provide feedback loop to staff to ensure effectiveness of hearings.
- Panel Hearings were fully attended by 5 Members/Alternates 27 of 30 hearings or 90% to ensure a full panel's deliberation for the applicant.

Transition challenges

- Challenged by city staff turnover of Board Administrators, Senior Planners, and resulting learning curves during last 12 months and departmental transitioning from Planning Urban Design to Development Services back to Planning & Development.
- Positive and hopeful leadership now under Dr. Kameka Millers-Hoskins as our Board Administrator. Proofreading all work to be presented is essential.

Progress

- Worked regularly with Jason Pool as Development Services Administrator to support his leadership and obtained more comprehensive staff analysis for hearings, technology to aid in understanding adjacent properties and leverage/utilize the BOA website to provide accurate and timely information to the public regarding all aspects of the BOA appeal process. Reduced days from application to hearing from 74 to 61. Outstanding!

Chapter 12A Code of Ethics

BOA Ethics Training

October 24, 2024

Baron Eliason
Chief Integrity Officer



City of Dallas



IDEALS CODE CONVENTIONALITIES CULTURE
 RECTITUDE BELIEF AUTHENTICITY
 TEMPERANCE LAW WORTHINESS STANDARDS
 MOTIVATION RESPONSIBILITY TREATMENT SENSE
 THEORY RESPECTABILITY
ETHICS MORAL
 VALUES
 TRUTH
 HONOR
 ETIQUETTE
 CHARACTER
 HYPOCRISY VIRTUE
 DECENCY
 EQUALITY
 TRUST
 RULES
 ATTITUDE
 STANDARDS
 CHARACTERS
 PERFORMANCE
 RESPECT
 PURPOSE
 INTEGRITY
 SOCIAL
 EQUALITY
 FAIRNESS
 ACCEPTANCE
 INNOCENCE
 FAITH
 CRITERIA
 FAIRNESS
 DECENCY

“Ethics”

- What is the way we prevent the fact or appearance that government is influenced by gifts or considerations other than the objective merits of making a certain decision.



Today's goal – 15 minutes to build your spider sense for ethics as BOA members by:

- > Highlighting conflict provisions**
- > Providing resources for reference**



The BIG picture of ethics in our city



5

The BIG picture of ethics in our city



6



BIG Picture: Be on your best behavior

- (1) conducting themselves with integrity and in a manner that merits the trust and support of the public;
- (2) to take no action that could benefit the official personally, or his or her relative, to the detriment of the city, avoiding even the appearance of a conflict of interest, and to always exercise good judgment
- (3) to carefully consider the public perception of personal and professional actions and the effect such actions could have on the city's reputation.

NOTE: Any communications between BOA members, staff, and residents or businesses would have to be looked at on a case by case basis to see if the Code of Ethics is implicated.

§ 12A-4(a)

7



City of Dallas

Two types of best behavior rules

- All the time rules
- If/then rules



All the time rules

- **Fiduciary duty**
- **Civility**





Civility in employee interactions – a two-step

- **Officials make policy, employees implement policy**
- **Prohibitions:** city officials shall not:
 - interfere with work,
 - impair implementation of policy,
 - influence the making of recommendations or decisions,
 - berate city employees.





The Two Step

Officials obtain information or request assistance with projects by working through:

- (1) the city manager, or secretary, or attorney, or auditor, or the inspector general **AND**
- (2) the applicable department director



All the time rules

- Fiduciary duty
- Civility
- Appearances – personal and professional



IF/THEN Rules

Code of Ethics Reference Guide

- Roles that affect application of the Code
- Conflicts of interest and violations
- Handling conflicts and violations



Roles that affect Code application

- BOA is a quasi-judicial body
(Dallas City Code - § 51A-3.102)
- Board members are city officials
(Code of Ethics, Section 12A-2(22)(H))
- Code of Ethics applies to city officials, employees, people doing business with the city, and lobbyist.





IF/THEN Conflicts and Violations Checklist

- First year of service and previous employers
- Existing interests in business, property, or contracts
- Acquiring interests in a city contract
- Acquiring interests in pending or decided matters
- Representing private interests “before the city”
- Reciprocal favors
- Benefits to relatives and various business relations
- Communication and required disclosures generally
- Required reporting of finances, gifts, donations, and travel
- Political activity
- Outside employment
- Lobbying



Pro Tip



To stay out of the mud, always read the agenda as soon as it is available, so you have adequate time to find and address conflicts.



I can't figure it out - Seek an advisory opinion

- Make a request in writing to the Chief Integrity Officer for an advisory opinion.
- Request must be regarding future conduct (e.g., accepting a gift).
- Give all the needed facts.
- Follow the advice.

A safe harbor for you.





I see a conflict § 12A-24 - Follow the recusal process



- If a conflict arises **recuse yourself**:
 - **From the time of recognition**,
 - **Immediately refrain** from participation,
 - **Promptly disclose** to the city secretary and the BOA, and shall not be present during any discussion or voting on the matter

PRO TIP: A person can only recuse if there is a conflict. If there is the appearance of a conflict, then the person needs to consider if disclosure makes the most sense and perhaps finding another way to handle the matter that does not have the appearance issue.

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I see a violation – Report to the IG

- Duty to **report** violations §12A-8.
- Duty to **cooperate** with an investigation §12A-52(e).
- Duty to **maintain confidentiality** §12A-52(d)(1) .
- Duty to be **truthful** in sworn statements §12A-60.
- Duty to **avoid interference** with investigations §12A-61.
- Shall **not retaliate** against those who cooperate §12A-6.

**ETHICS
MISCONDUCT?**

Report Fraud,
Abuse, Waste, and
Ethical Misconduct.

Confidential and
Independent

877-860-1061

Report a Violation
to the Inspector
General



Why report to the IG?





Contact Information

Inspector General's Office

Kelly.beveris@dallas.gov – Inspector General

Baron.Eliason@dallas.gov – Chief Integrity Officer

Kaitlin.Bethay@dallas.gov – Assistant Attorney

Marisela.Quintas@dallas.gov – Administrative Assistant

Hai.tran@dallas.gov – Ethics Officer, CMO



Bonus Slides



The Code Protects People



- **Protect people by prohibiting**

- Discrimination §12A-5.
- Retaliation §12A-6.
- Using others to violate the Code §12A-7.



Substantial Interests In a Business § 12A-13.1

- You must recuse if you or your relative:
 - Owns 10% or more of the **voting stock** or shares, or
 - Owns 10% or more or \$15,000 or more of the **fair market value**, or
 - **funds received from the business exceed 10% of your gross income for the previous year, and**
- The action on the matter will have a special economic effect on the business entity that is different from the effect on the public

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City of Dallas



Substantial Interests In Property § 12A-13.1

- You must recuse if you or your relative's **interest in property** is an equitable or legal ownership with a fair market value of \$2,500 or more.
- It is reasonably foreseeable that an action on the matter will have a specific economic effect on the value of the property, distinguishable from the effect on the public.



Acquisition of Interests § 12A-14(a)(1)

We may not acquire an interest (economic or otherwise) in any matter:

- (A) if you know the interest **will be affected** by upcoming official action of the city.
- (B) **affected by** an official action of the city for a period of one year after the date of the official action.

NOTE: the key element here is AN INTEREST.

The substantial interest tests of §12A-13.1 do not apply here.





Benefits to Previous Employers

§ 12A-14(a)(3)

A city official may not, within 12 months of beginning his or her service with the city, award a contract or **participate in a matter** benefiting a person or business entity that formerly employed the city official.



Nepotism – when work is a family reunion?

- We can't take action to appoint or influence appointment or employment of relatives to:
 - Positions of employment
 - Quasi judicial boards or commission
- Can't be immediate supervisor of relatives or your domestic partner
- Personnel Code §34-5(d):
 - “under the line of supervision”





Political activity and disclosures: § 12A-21

- City officials
 - Cannot serve as the designated campaign treasurer under the Texas Election Code.
 - Don't solicit or receive contributions on behalf of a political candidate, party, or committee.
- All
 - Must avoid using name/prestige of your office or position on behalf of a political candidate, party, or committee..
 - Cannot influence any subordinates.
 - Cannot accept money for political activity relating to an item pending on the ballot if you contributed to the development of the ballot item.
 - Cannot display or fail to remove campaign materials on any city vehicle under your control.



Outside Employment § 12A-19

- You cannot have outside employment that could **reasonably be expected to impair** your independence of judgement or the performance of duties at the city.
- You cannot personally **provide services for compensation** to a person or organization that is seeking business or requesting an approval, investigation, or determination from the department of which you are a member.
- **Exception:** If the employment is the official's primary source of income.



Gifts Deep Dive



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Gifts and Donations

Both are defined as

1. a voluntary transfer of property or the conferral of a benefit,
2. with no equal or greater value received in return (§12A-2(15) and (19)).



What's the Difference?

- **Gifts** are made to employees or officials.
- **Donations** are made to the city through employees or officials.



Options with Gifts

Three options:

1. Accept;
2. Refuse; or
3. Receive and donate (§12A-12(a)(5)).

Note: This is not a recusal situation. Either you can accept the gift, or you cannot. You cannot accept a prohibited gift and deal with it by following the recusal process.



When Is a Gift Prohibited? - §12A-12(a)

The general rule is that a gift is prohibited when it:

1. Reasonably tends to influence or reward official conduct; or
2. The city official or employee knows it is intended to influence or reward the discharge of official duties.



Is there more guidance?

YES, the Code sets out specific elements to help with the following:

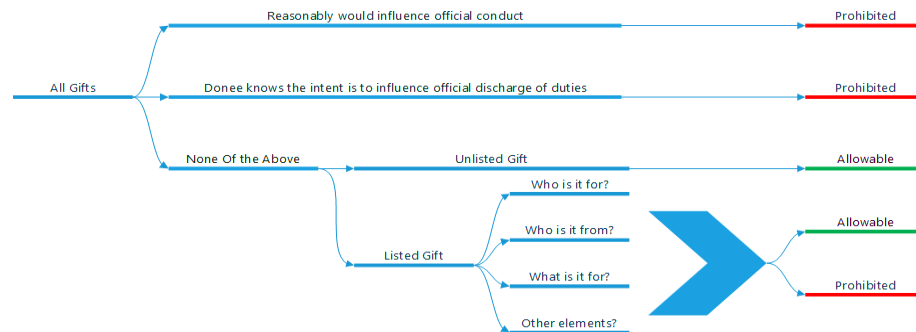
1. Recognitions such as honorariums, public awards, and ceremonial/protocol gifts;
2. Meals, travel, lodging, and entertainment;
3. Tickets;
4. Relation based gifts (relatives, friends, etc.); and
5. Loans and scholarships.



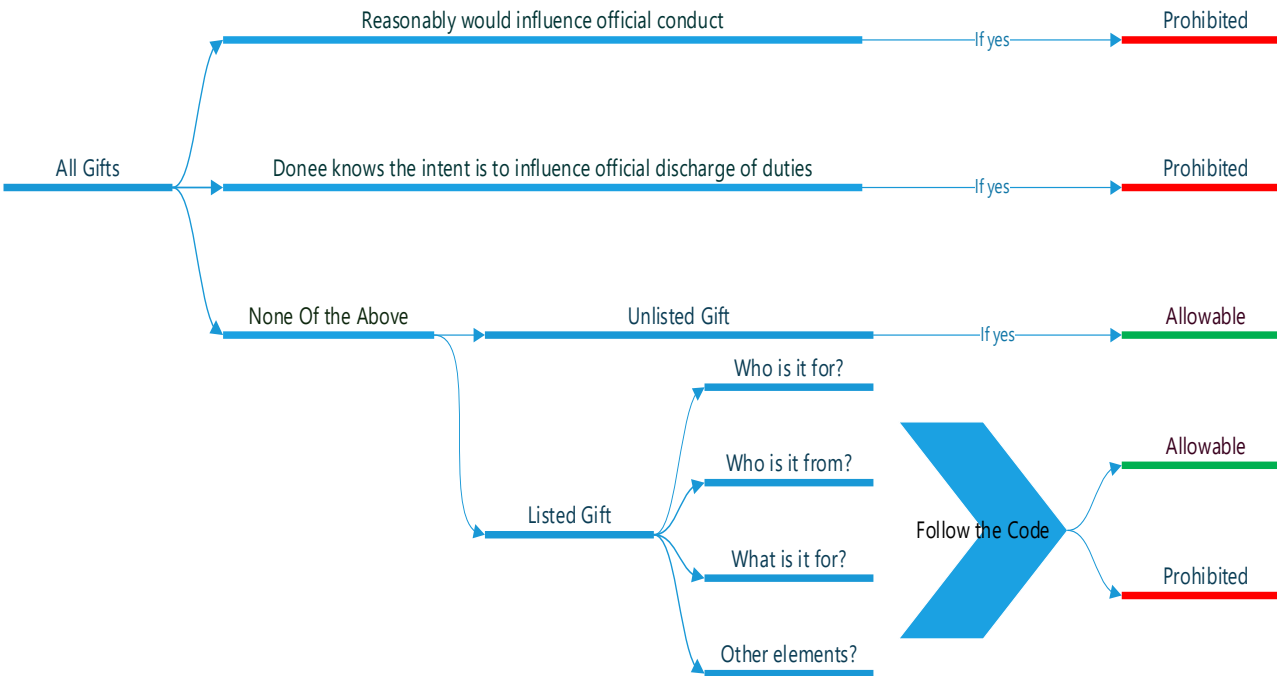
Analyzing Gifts

Three steps to analyze if a gift is allowable or prohibited:

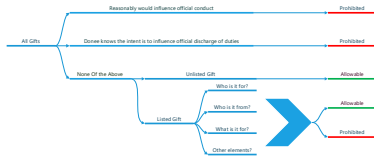
1. § 12A-12 general rule.
2. § 12A-12 listed exceptions and special rules.
3. Department rules that are stricter.



Analyzing Gifts



Listed Gifts Cheat Sheet



- All gifts
- Gifts <\$50
- Cash
- Honorarium
- Public Award
- Ceremonial
- Meals, travel, lodging, and entertainment
- All tickets
- Tickets – fundraisers
- Tickets – memberships
- Tickets – city owned, non-profit
- Tickets – city owned, profit
- Ticket blocks
- Ticket discounts
- Admission to events
- Loans and scholarships
- Gifts from friends and family

Section	Type of Gift	From	To	Prohibited if	Allowed if	Reportable	Other
§12A-12(a)(1)	THE GENERAL RULE Any gift, favor, benefit, or service	Anyone	City officials and employees (see reportable notes in this row).	1. Reasonably tends to influence official conduct; or 2. You know is intended to influence or reward the discharge of official duties		1. Reportable when gifts valued at \$300 or more received from a single source in a single calendar year, excluding gifts of perishable food or beverages of an estimated value of \$100 or less. 2. Reportable for gifts valued at \$300 or more on the financial disclosure report as well for the mayor, city council members, the city attorney, the city manager, and others required to file a financial disclosure report under §12A-40 for all gifts of \$300 or more. 3. Report is required even when no reportable gift was received for the mayor, city council members, the city attorney, and designated city officials listed in §12A-40(a) must file regardless of whether a gift was received.	1. This general rule does not apply to campaign contributions received and reported in compliance with the Texas Election Code, (§12A-12(f)). 2. Reports are made quarterly on a calendar year basis. 3. Gift reports are filed electronically with the city secretary. This is in addition to any reports required by state law.
§12A-12(b)(7)	Items having a nominal value of less than \$50	Resident or person or entity doing, or seeking to do, business with the city	City officials and employees			1. Not reportable for items less than \$50 in a calendar year. 2. Reportable for cumulative items from a single source in a calendar year of more than \$50 or plaques, caps, key rings, mugs, tee shirts, fresh cut flowers given at public appearances, or perishable food and beverages infrequently given.	
§12A-12(a)(3)	Cash, gift card, check, negotiable instrument	Person, or representative of a person, or entity doing business or seeking to do business with the city.	City officials and employees	Cash, gift card, check, negotiable instrument.			
§12A-12(c)(1)	Honorarium (cash or in-kind gift except a plaque)	Anyone	City officials and employees	Is in consideration for services provided because of an official's or employee's official position.			

Reporting of Gifts - §12A-42

1. Find the form on the city secretary's web page or build your own.
2. Submit the report in an electronic format.
3. Certain city officials are required to file a "no gift" report if no gift was accepted in the quarter. See §12A-42(c) for the complete list of those required to file a "no gift" report.



What's It Worth?

1. **Face value** – the price to buy the ticket from the vendor even if the ticket has no price or says “complimentary”.
2. **Fair market value** – what the public will pay for the ticket.
3. **Estimate** – educated guess.

Pro-tip: ask the donor for the value and get something in writing for your records.

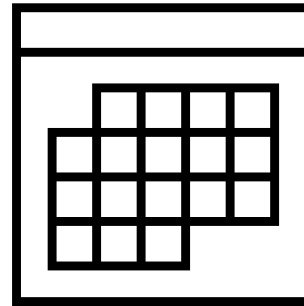
The collage features several items: Taylor Swift 'The Eras Tour' tickets for Arrowhead Stadium; a 'Bigger and Better' charity event ticket for April 30, 2022; a silver Morgan dollar coin in a PCGS holder; and a 'Table & Ticket Form' for a charity event with various donation options and a payment section.

What counts as a year?

- Gift reporting is based on the calendar year.
- Gift totaling for calculating cumulative totals of small gifts is based on the calendar year (The Code requires cumulative gifts of \$300 or more from a single source in a single year to be reported (§12A-42(a)(3)). So, to figure out the cumulative value of multiple gifts, go back to January 1st and count all gifts since that date, but none before that date).



When are reports due?



Where do I find the report form?

Financial Disclosure		PDF - Fillable (Long) (Rev. 12/20/21) PDF - Fillable (Short)	Who must file?
Disclosure of Conflict of Interest		PDF - Fillable	
Disclosure of Travel Form		PDF - Fillable (Rev. 12/23/21)	
Councilmember (only) Affidavit on Abstention from Voting		PDF - Fillable	
City of Dallas Officials(Councilmembers and Board/Commission Members): Quarterly Gift Disclosure Report		PDF - Fillable (Rev. 4/14/22)	Requirements
Ethics Advisory Commission Rules of Procedure			PDF
Ethics Training Video Affidavit		PDF - Fillable	Video
Ethics Pledge		PDF - Fillable	
City of Dallas Code of Ethics: Complaint Form		PDF - Fillable	PDF

<http://citysecretary2.dallascityhall.com/pdf/forms/QUARTERLY%20GIFT%20DISCLOSURE%20REPORT%20-%20SIGNED.pdf>



CITY OF DALLAS



QUARTERLY GIFT DISCLOSURE REPORT

The Dallas City Council has adopted a gift policy for city officials and employees. The gift policy requires city officials and employees to file a gift disclosure statement with the City Secretary for all gifts received in each three-month period in a calendar year on a quarterly basis.

City officials and employees are not required to report gifts with a monetary value of less than \$300, except that reporting is required for gifts from a single source in a single year with a cumulative value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less. City officials who have no reportable gifts must file a quarterly gift report acknowledging that no reportable gifts were received. [City Council Resolution 212023]

Date of Report:
Reporting Period: From: through:

Check One	Reporting Party	Council District/Board Name/Department
<input type="checkbox"/>	Elected Official (City Councilmember)	
<input type="checkbox"/>	Appointed Official (Board or Commission Member)	
<input type="checkbox"/>	Employee	

1. Name of Reporting Party:

2. Please list each gift or accumulation of gifts from one source of more than \$300 in estimated fair market value by you or a family member, or received by a person for the use or benefit of the you or a family member, within the preceding calendar year and the estimated fair market value of each gift. (check here if NO REPORTABLE GIFTS RECEIVED)

OFFICE OF THE CITY SECRETARY

DALLAS, TEXAS
REVISED 04/14/22

Donations

Donations

- Donations of money, real estate, products, and services to the city allow citizens to make valuable contributions to our programs and should be **encouraged**.
- Donations should be **documented** by the receiving department to ensure transparency of government and allow for audits of donations.
- Any donation over \$1,000 should continue to be **reported** to the City Manager at DallasEthics@dallas.gov . Send an email if your department needs the form.



Reporting Chart – Financial Disclosure



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
Financial Disclosure Report Section 12A-40	<ol style="list-style-type: none"> 1. City of Dallas appointed members to the following boards, commissions, and committees <ol style="list-style-type: none"> a. Board of Adjustment and Board of Adjustment Alternate Members b. Building Inspection Advisory, Examining, and Appeals Board c. Business Development Corporation Board d. City Plan and Zoning Commission e. Civil Service Board and Civil Service Board Adjunct Members f. Community Development Commission g. Dallas Area Rapid Transit Board h. Dallas-Fort Worth International Airport Board i. Ethics Advisory Commission j. Fire Code Advisory and Appeals Board k. Housing Finance Corporation Board l. Landmark Commission and Landmark Commission Alternate Members m. Park and Recreation Board n. Permit and License Appeal Board o. All Reinvestment Zone Boards p. All Municipal Management District Boards 2. First Assistant City Attorney 3. Inspector General 4. City Auditor and City Secretary, and their First Assistants 5. Assistant City Managers and Chiefs 6. Municipal Judges 7. Chief Financial Officer 	<p>Annual Filing Date: 5:00 p.m., April 30th.</p> <p>* When the deadline falls on a Saturday or Sunday, or on an official city holiday as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or official city holiday.</p> <p>* The Inspector General may for good cause grant an extension of time in which to file a report upon written request submitted in advance of the deadline. The extension may not exceed 15 days.</p>	City Secretary



Reporting Chart – Financial Statement



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
Financial Statement Report Texas Local Government Code Chapter 14	<ol style="list-style-type: none"> 1. Mayor 2. City Council Members 3. City Attorney 4. City Manager 5. Candidates for a Place on the City Council 	<p>Annual Filing Date for the Mayor, City Council Members, City Attorney, and City Manager – 5:00 p.m., April 30th</p> <p>Filing Date for Candidates for a Place on City Council, not later than the earlier of:</p> <ol style="list-style-type: none"> 1. The 20th day after deadline for filing an application for a place on the ballot of an election; or 2. The fifth day before the date of the election. <p>* When the deadline falls on a Saturday, Sunday, or an official national or state holiday, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or an official national or state holiday.</p> <p>* The City Attorney or City Manager may request the City Secretary to grant an extension of not more than 60 days for filing the statement.</p>	City Secretary



Reporting Chart – Short Form



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Short Form Annual Report</p> <p>Section 12A-41</p>	<p>A person who is required to file an annual financial disclosure report may fulfill those filing obligations by submitting a short sworn statement if there have been no changes in the information disclosed by that person in a complete financial disclosure report filed within the past five years.</p>	<p>Annual Filing Date: 5:00 p.m., April 30th.</p> <p>* When the deadline falls on a Saturday or Sunday, or on an official city holiday as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or official city holiday.</p>	<p>City Secretary</p>



Reporting Chart – Gifts



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Gift Reporting</p> <p>Section 12A-42</p>	<p>City officials and city employees who are <u>not</u> required to file an annual financial disclosure report:</p> <ol style="list-style-type: none"> Not required to report gifts with a monetary value of less than \$300, except that reporting is required for gifts from a single source in a single year with a cumulative value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less. Must also follow departmental reporting requirements for gifts. <p>City officials and city employees who <u>are</u> required to file an annual financial disclosure report:</p> <ol style="list-style-type: none"> Received gifts with a monetary value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less. May use the annual financial disclosure report as the first quarter's disclosure statement. Must also follow departmental reporting requirements for gifts. <p>The Mayor, City Council Members, City Attorney, City Manager, and City Officials and Employees under Section 12A-40(a) are required to report:</p> <ol style="list-style-type: none"> Gifts of \$300 or more in the financial disclosure report in addition to the quarterly report. If no reportable gifts were received, must file a quarterly gift report acknowledging that no reportable gifts were received. <p>No one is required to report gifts from a relative or person with whom the city official or employee has a personal, professional, or business relationship, unless the gift is accepted in the city official or employee's official capacity.</p> <p>*See Section 12A-12(b) for gifts that are not considered reportable gifts.</p>	<p>Disclosure statement must be filed on a quarterly basis, for all <u>reportable</u> gifts received in each three-month period in a calendar year.</p>	<p>City Secretary (electronic format)</p>



Reporting Chart – Donations



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Donations</p> <p>Section 12A-43</p>	<p>City Officials, city employees, and city departments:</p> <ol style="list-style-type: none"> Reporting is required for donations to the city of money, real estate, products, or services with a monetary value of \$1,000 or more or from a single source in a single year with a cumulative value of \$1,000 or more. The donation report must be filed in addition to any other documentation required for the donation. 	<p>Donations must be reported to the city secretary on a quarterly basis, received in each three-month period in a calendar year.</p> <p>Donations must be reported to the city manager within 30 days after receipt of the donation.</p>	<p>City Secretary (quarterly)</p> <p>City Manager (within 30 days of receipt of the donation)</p>



Reporting Chart – Travel



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Travel</p> <p>Section 12A-44</p>	<p>Any person who, in connection with his or her official duties, accepts a trip or excursion to a location greater than 50 miles from the city that involves the gratuitous provision of transportation, accommodations, entertainment, meals, or refreshments paid for by a person or entity other than a public agency.</p>	<p>Travel must be reported on a quarterly basis in each three-month period in a calendar year.</p>	<p>City Secretary</p> <p>Subordinates of the City Manager shall also file with the City Manager.</p>





City of Dallas

Board of Adjustment Annual Meeting Parking Reductions

**October 29, 2024
Full Board Meeting**

Dr. Kameka Miller Hoskins, Chief Planner
Bryant Thompson, Senior Planner



Board of Adjustment Staff

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Senior Plans Examiner

Sara Etebari-Jirsaraee
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Overview



- ❖ How is Parking Calculated?
- ❖ Off-Street Parking Reductions
 - ❖ What is an off-street parking reduction
- ❖ Types of Off-Street Parking Reductions
 - ❖ Special Exception
 - ❖ Example
 - ❖ Variance
 - ❖ Example
- ❖ Summary
- ❖ Questions





- ❖ Based on use (i.e. retail, restaurant, office, multifamily, industrial, warehouse, etc.)
- ❖ Usually based on gross floor area and in a format of one space per _____ SF (residential based on units/bedrooms)
- ❖ Example: restaurant requires 1 space per 100 SF
 - ❖ 1,000 SF restaurant needs 10 parking spaces
 - ❖ $1,000 \text{ SF} / 100 \text{ SF} = 10 \text{ spaces}$





- ❖ What is an off-street parking reduction?
 - ❖ A change to the number of off-street parking spaces required for a specific use or development.



Off-Street Parking Reduction Requests



- ❖ There are two types of off-street parking reduction requests:
 - ❖ Special Exception: Parking Demand
 - ❖ Variance: Parking Demand





❖ Special Exception:

❖ Sec. 51A-4.311 states that, “the board may grant a special exception to authorize a reduction in the number of off-street parking spaces required, 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.”

❖ The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits.





- ❖ For commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits.
 - ❖ It is important to note that under Commercial Amusement (Inside), dance halls cannot get a special exception.
- ❖ For office use, the maximum reduction is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits.





❖ Per Sec. 51A-4.311

❖ 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 boards 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 the adjacent or nearby streets.





- ❖ In determining whether to grant a special exception, the board shall consider the following factors:
 - ❖ The extent to which the parking spaces provided will be remote, shared, or packed parking;
 - ❖ The parking demand and trip generation characteristics of all uses for which the special exception is requested
 - ❖ Whether or not the subject property or any property in the general area is part of a modified delta overlay district
 - ❖ The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan;
 - ❖ The availability of public transit and the likelihood of its use;
 - ❖ The feasibility of parking mitigation measures and the likelihood of their effectiveness.



Special Exception Parking Reduction Example

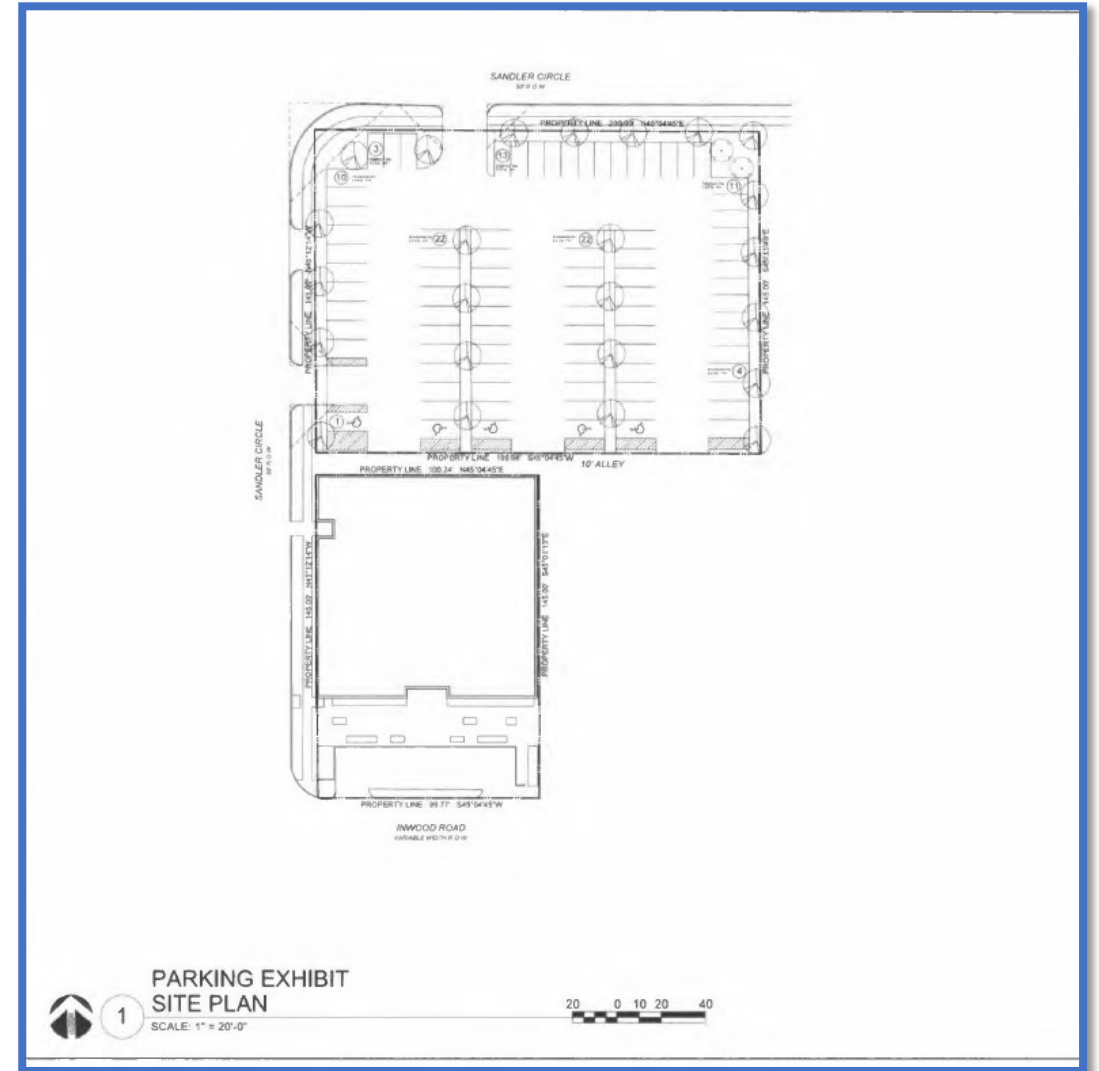


Proposed Use: 19,275 sq ft. Community Service Center
Parking Ratio: 1 space per 200 square feet of floor area

Required Parking: 96

Applicant Request: 10% reduction

Providing: 86 of the 96 required spaces



Variance: Parking Demand



parking or off-street loading, or landscape regulations provided that: *off-street*



Variance: Parking Demand



Variance Parking Demand Example



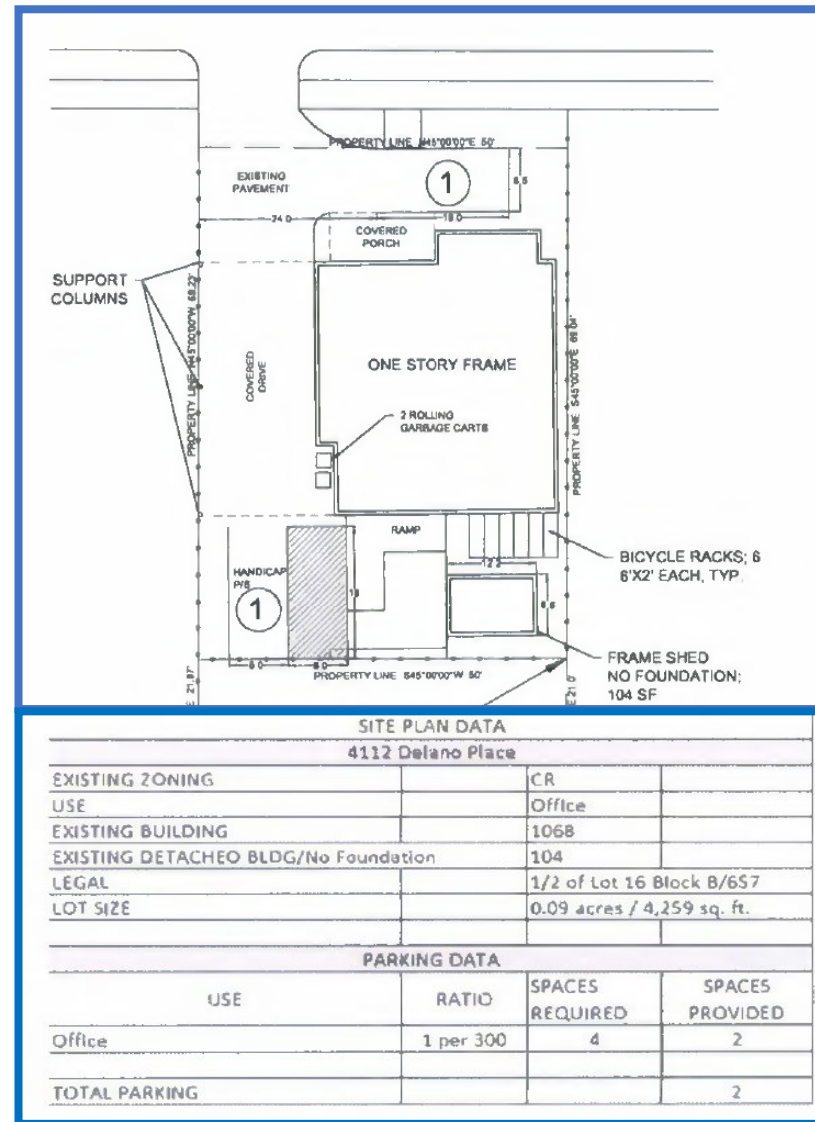
Proposed Use: 1,068 sq ft Office

Parking Ratio: 1 space per 300 square feet of floor area

Required Parking: 4

Applicant Request: 50% reduction or 2 spaces

Providing: 2 of the 4 required spaces



Summary



Special Exception

- ❖ A request of 25% or less
- ❖ Determination is in the opinion of the board:
 - ❖ Parking demand generated does not warrant the number of parking spaces required;
 - ❖ The special exception would not create a traffic hazard or increase traffic congestion on adjacent or nearby streets.
- ❖ Staff does not offer a recommendation

Variance

- ❖ A request of 25% or more / or as specified in a PD
- ❖ Must meet all 3 standards
 - ❖ Not contrary to public interest;
 - ❖ Necessary to permit development of a specific parcel of land that differs from other parcels of land, etc;
 - ❖ Not granted to relieve a self created or personal hardship.
- ❖ Staff offers a recommendation





City of Dallas

Board of Adjustment Annual Meeting Parking Reductions

**October 29, 2024
Full Board Meeting**

Dr. Kameka Miller-Hoskins, Chief Planner
Bryant Thompson, Senior Planner



City of Dallas

Board of Adjustment Annual Meeting Blockface Continuity

**October 29, 2024
Full Board Meeting**

Dr. Kameka Miller Hoskins, Chief Planner
Bryant Thompson, Senior Planner

Overview



- ❖ Blockface
- ❖ Blockface Continuity
- ❖ Importance of Blockface Continuity
- ❖ When is Blockface Applied?
- ❖ Examples
- ❖ Questions





❖ What is blockface?

- ❖ The distance along one side of a street between the nearest two intersecting streets;
- ❖ Where a street dead ends, the distance along one side of a street between the nearest intersecting street and the end of the dead-end street; or
- ❖ Where a centerline contains a change of direction 90 degrees or more, the distance of a street between either the nearest intersecting street or the dead end and the point determining the angle of the change of direction.



Blockface Continuity



- ❖ What is blockface continuity?
 - ❖ An approach designed to provide uniformity along street frontages; specifically, in areas such as residential areas.





❖ Why is blockface continuity important?

- ❖ It's important because it is in keeping with and/or the maintenance of the established setback along a street frontage.

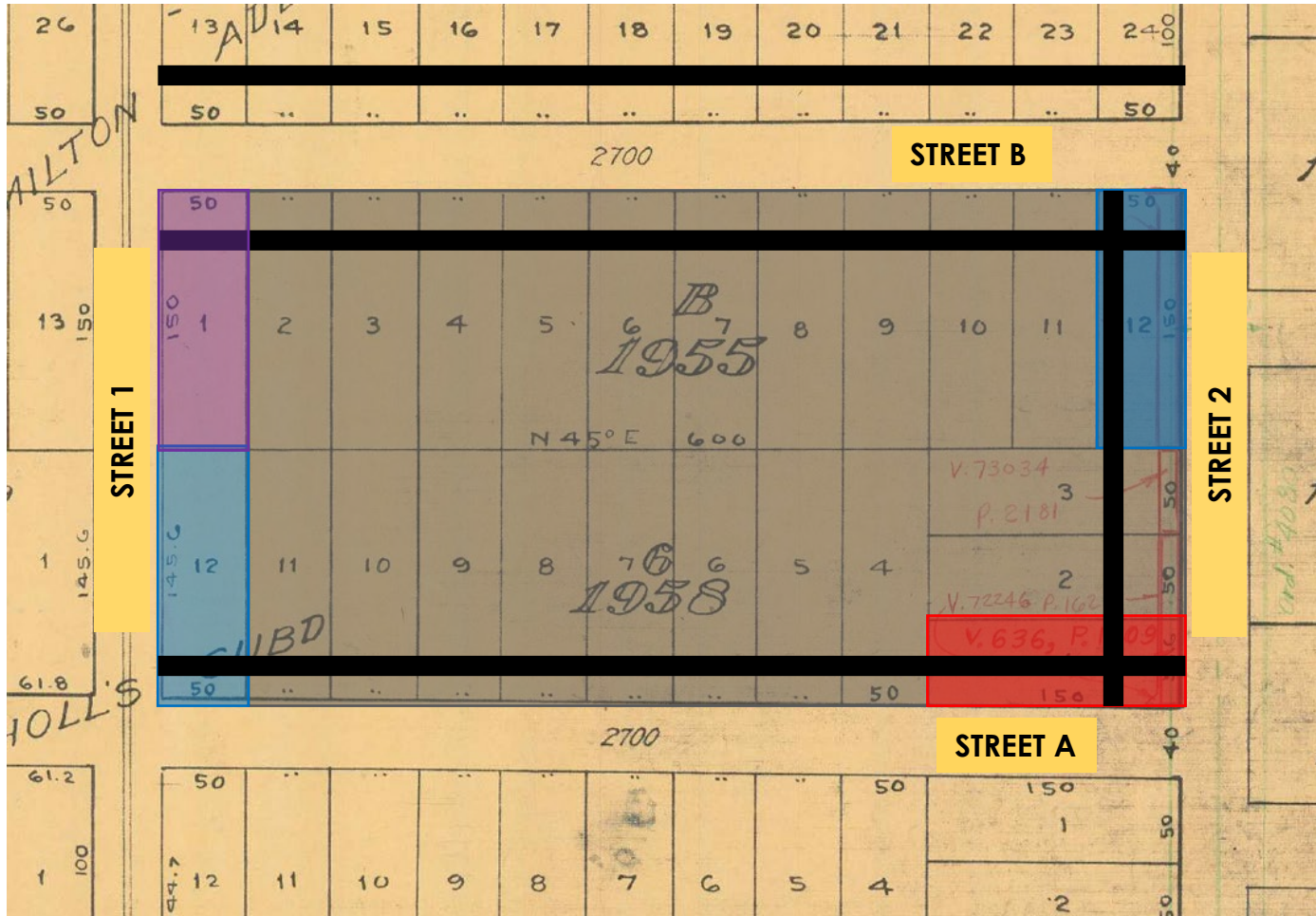









- ❖ When a blockface street frontage is divided by multiple zoning districts.
- ❖ The front yard of the entire block face must meet the requirements of the district with the most stringent front yard requirement.
- ❖ If a corner lot in a single family, duplex, or agricultural district has two street frontages of equal distance, one frontage is governed by the front yard regulations of this section, and the other frontage is governed by the side yard regulations.
- ❖ If the corner lot has two street frontages of unequal distance, the shorter frontage is governed by side yard regulations; notwithstanding this provision, the continuity of the established setback along street frontage must be maintained.



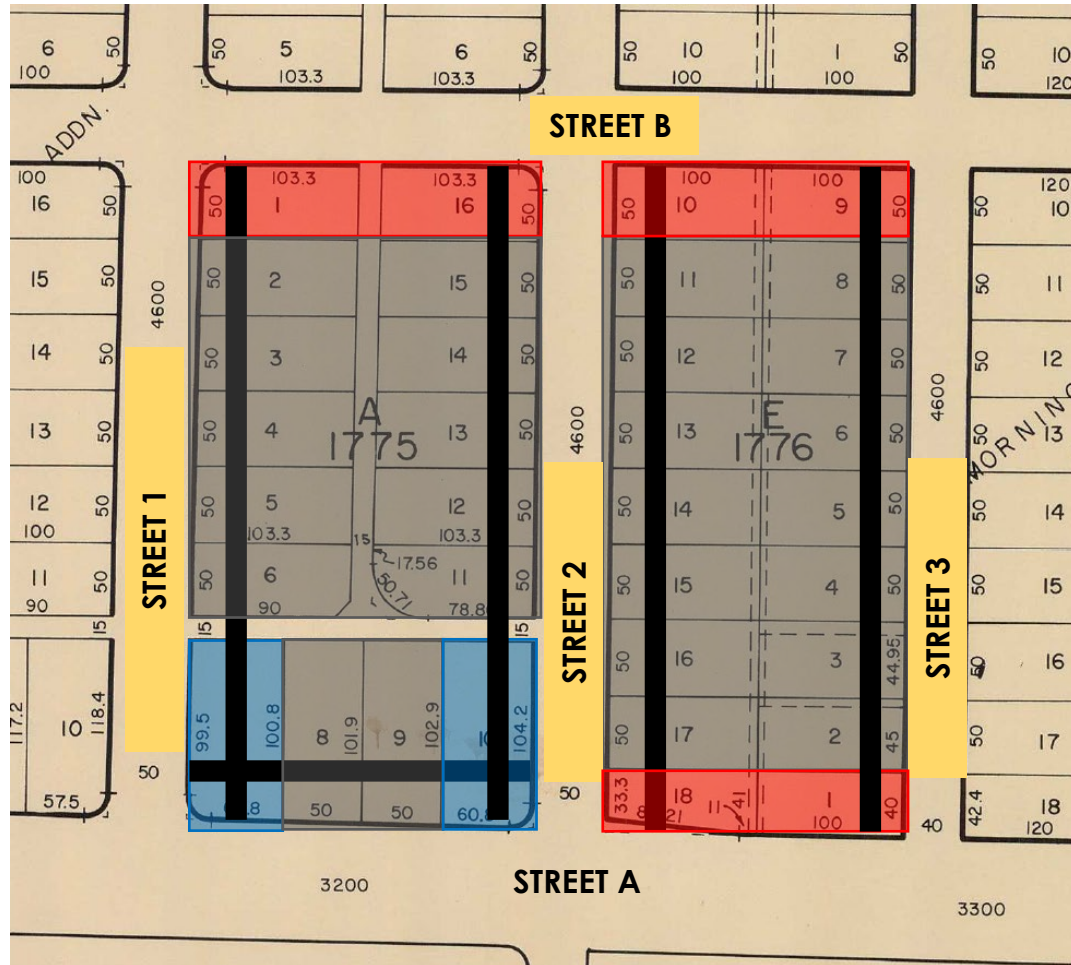
Blockface Continuity Examples



-  Blockface
-  Corner Lot facing street letter
-  Corner Lot facing street number
-  Interior Lot
-  Corner Lot facing street letter



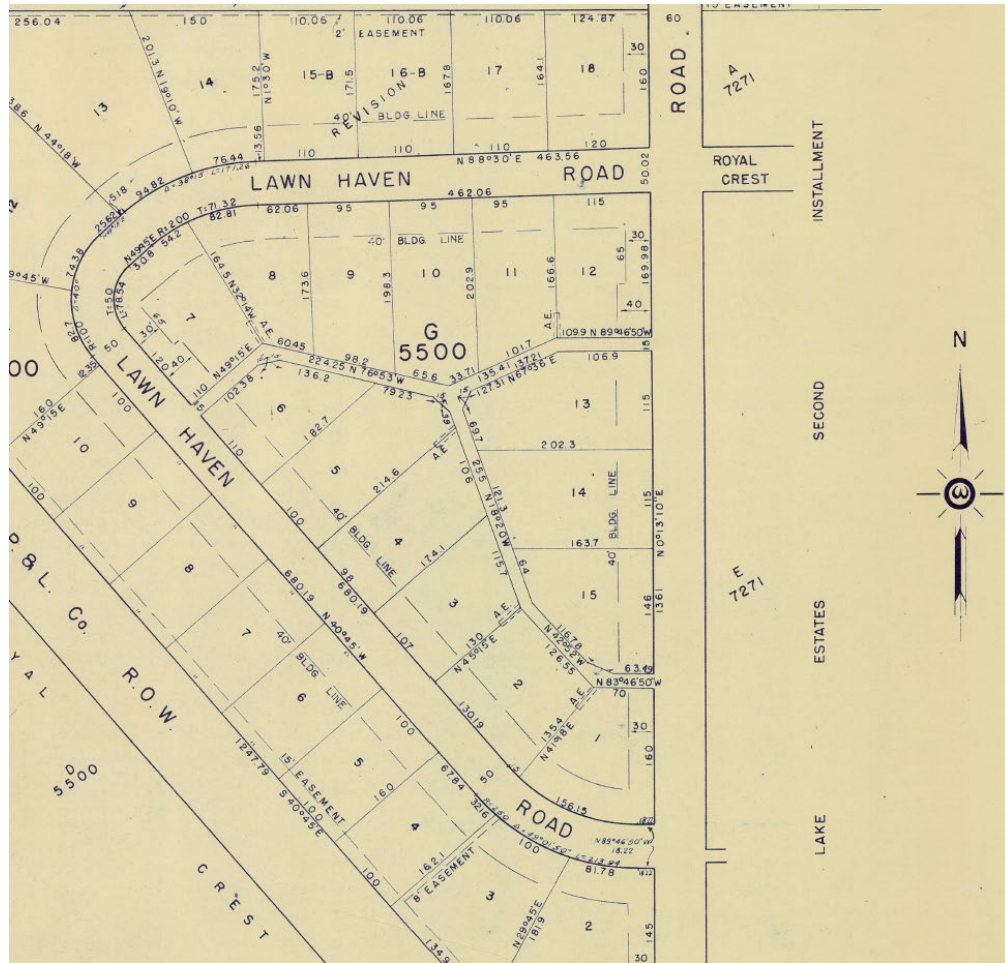
Blockface Continuity Examples



- Blockface
- Corner Lot facing street letter
- Corner Lot facing street number
- Interior Lot



Blockface Continuity Examples

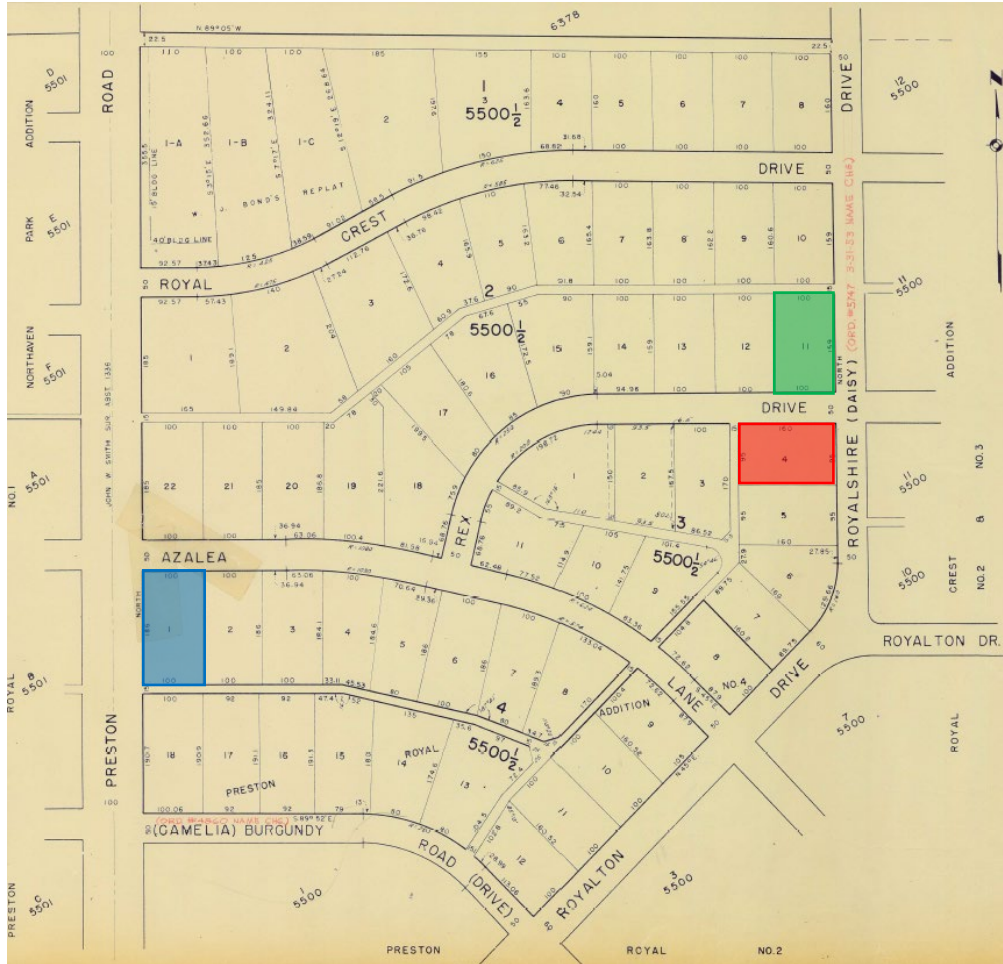


Blockface continuity with platted building lines

Removal of platted building lines thru subdivision prior to board application accepted. Base zoning would apply.



Blockface Continuity Quiz



■ Blockface continuity? Why or Why not?

■ Blockface continuity? Why or Why not?

■ Blockface continuity? Why or Why not?





City of Dallas

Board of Adjustment Annual Meeting Blockface Continuity

**October 29, 2024
Full Board Meeting**

Dr. Kameka Miller-Hoskins, Chief Planner
Bryant Thompson, Senior Planner



City of Dallas

BDA SPECIAL MEETING

Board Counsel Presentation

October 29, 2024

**Matthew Sapp and Theresa Carlyle,
Assistant City Attorneys**

SUMMARY



- Board of Adjustment Authority
- Roles of Board
- Variances and Special Exceptions Policy Analysis
 - Financial Considerations for Variances under DALLAS DEVELOPMENT CODE §51A-3.102(d)(10)(b)
- Appeals of Administrative Decisions



The Ultimate Authority: The Constitution of the United States

Is the supreme law of the United States.



DUE PROCESS

- The Due Process Clause of the 5th and 14th Amendment, requires the government to provide certain procedural protections before depriving someone of a protected interest.
- These protections often include, notice and an opportunity for a hearing.



FEDERAL GOV'T.



STATE GOV'T.



MUNICIPAL GOV'T.



AUTHORITY



Texas Loc'l Govt. Code:

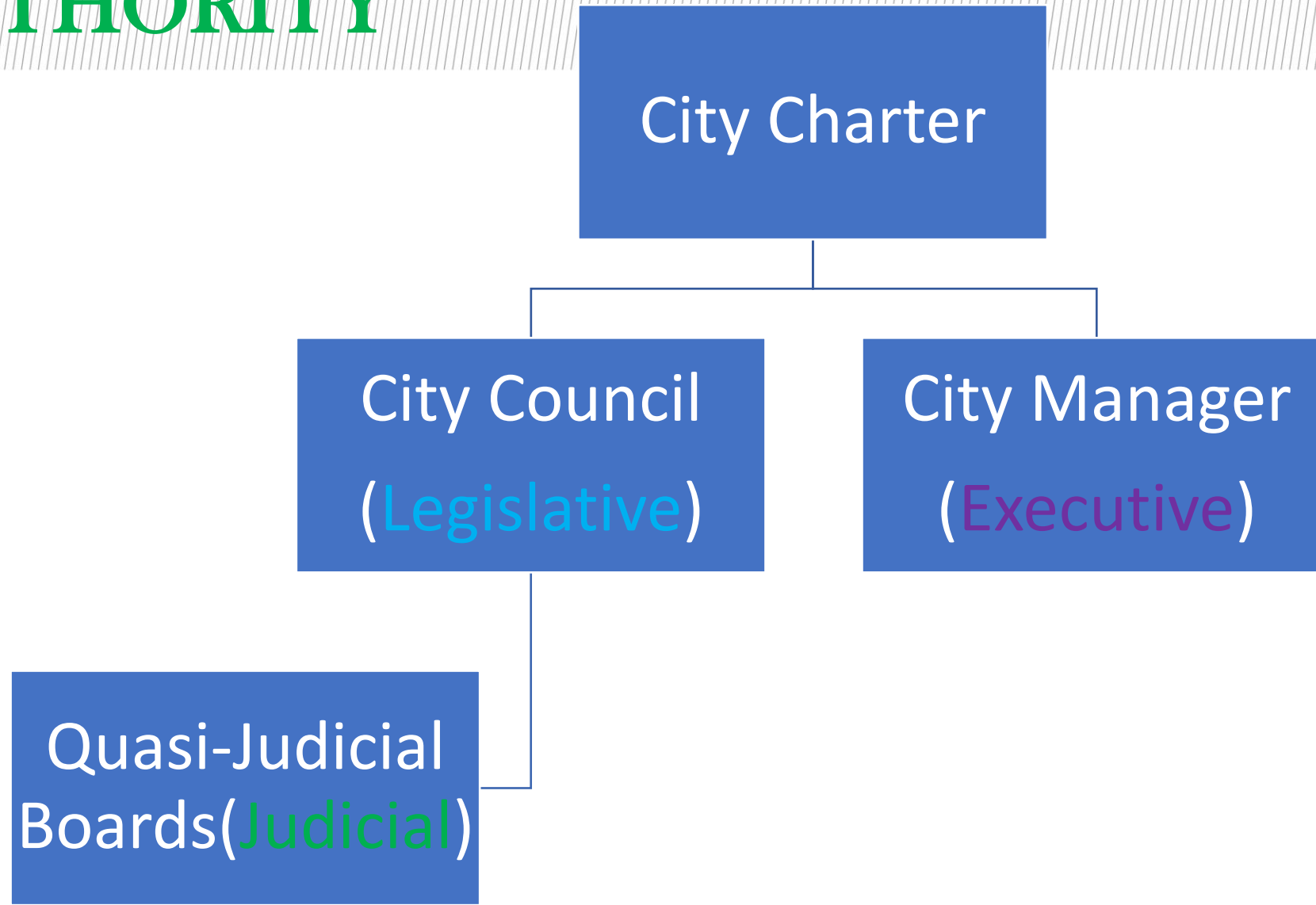
Sec. 211.008. BOARD OF ADJUSTMENT. (a) The governing body of a municipality may provide for the appointment of a board of adjustment. In the regulations adopted under this subchapter, the governing body may authorize the board of adjustment, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance.

Sec. 51A-3.102. BOARD OF ADJUSTMENT.

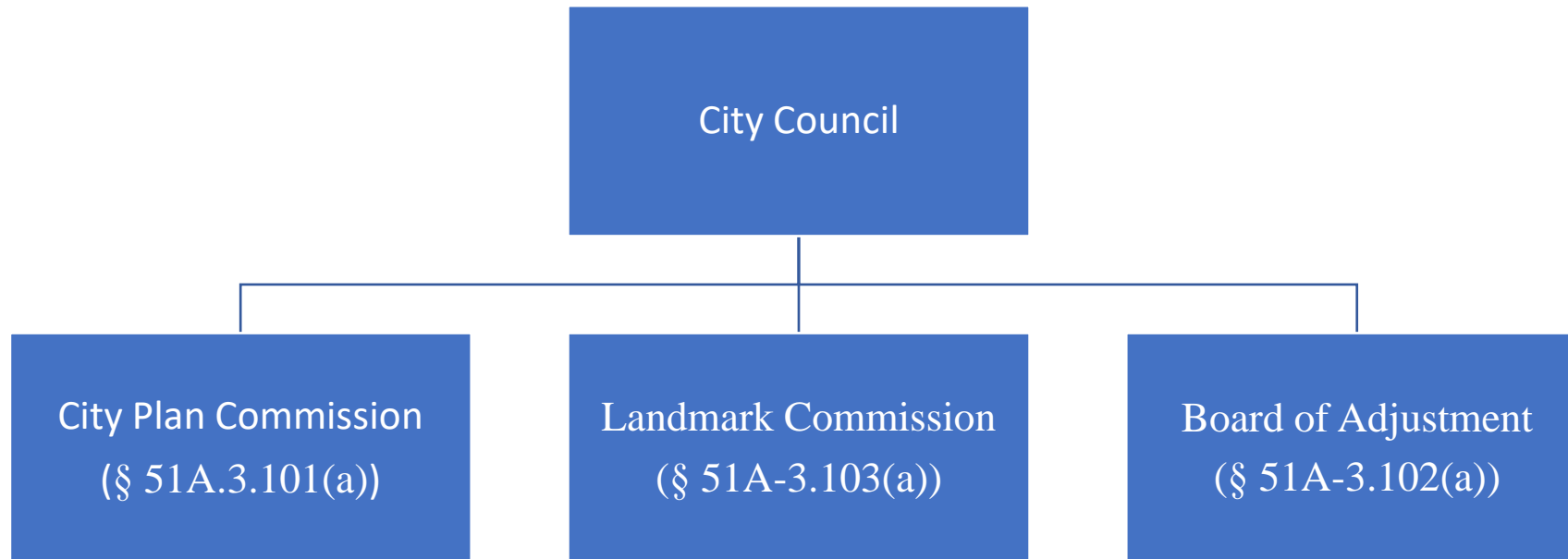
(a) Creation; membership; appointment. There is hereby created the board of adjustment which shall consist of 15 members who are residents of the city. Each city council member shall appoint one member to the board.



AUTHORITY



QUASI-JUDICIAL LAND-USE BOARDS



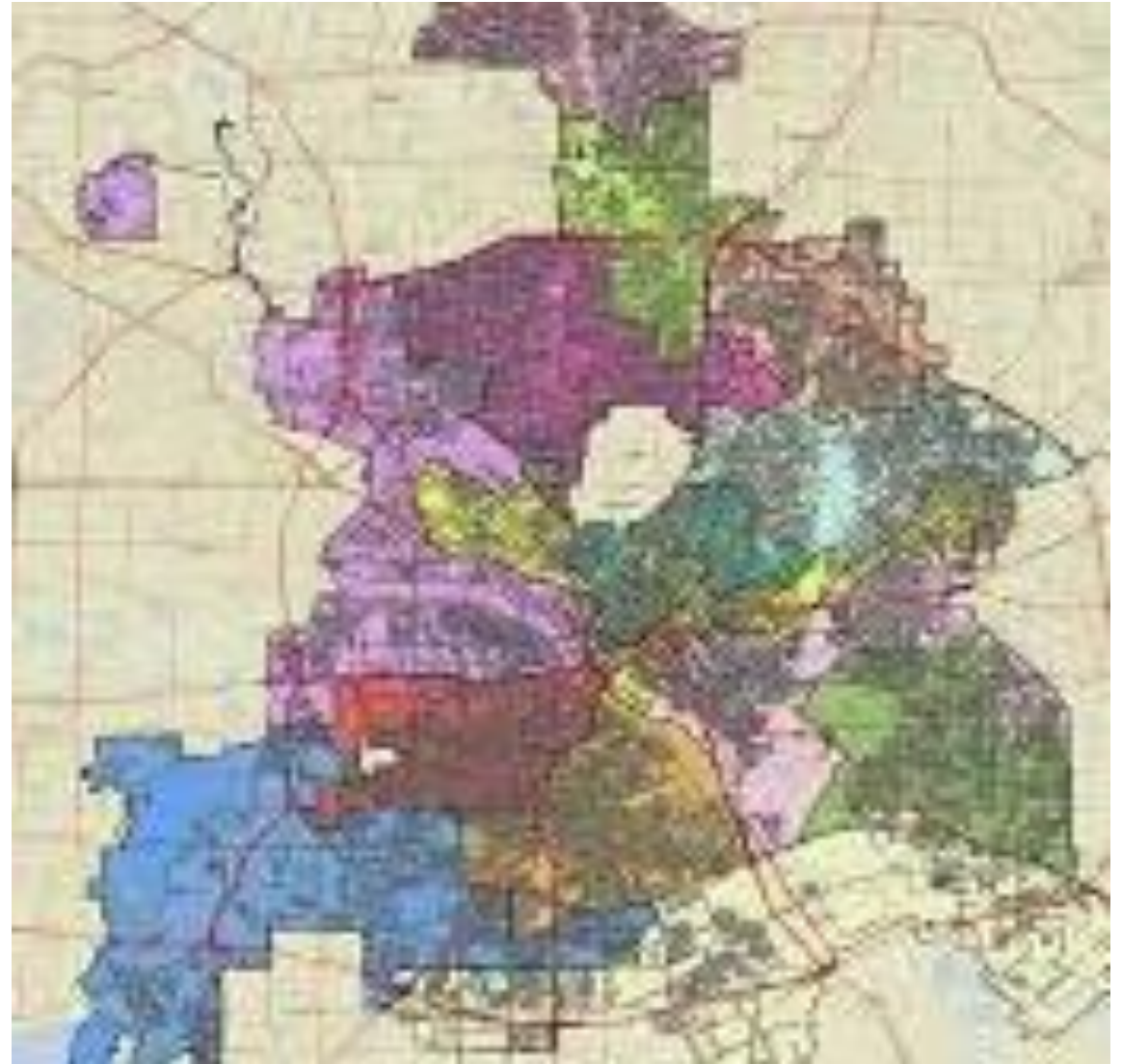
City Plan Commission

- Primarily responsible for making recommendations on planning and zoning matters through two functions:
 - **Quasi-Judicial Function:** Platting, various types of appeals, etc.
 - **Advisory/Legislative Function:** Recommend zoning districts and changes, including the creation of conservation districts, historical districts, and planned developments, that may be considered by the City Council.



City Plan Commission

- If you want to create a Conservation District, Historical District, or Planned Development, you do so through the CPC and are given a **SPECIAL** set of zoning rules that are different than the usual zoning rules for that zoning classification.



BOARD OF ADJUSTMENT ROLES

- If you own a single lot and want to **BEND** the rules you come to the Board of Adjustment and request that your specific zoning rules be adjusted.

WHY?

- The common law principle that society has an interest in promoting the highest and best land use.





BOARD OF ADJUSTMENT ROLES

- How does the Board of Adjustment ensure that the highest and best use of land is accomplished?
- Through (VANS)
 - Variances,
 - Administrative Appeals,
 - Non-conforming Uses, and
 - Special Exceptions.

Variances - Sec. 51A-3.102(a)

- 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:
 - (i) the variance **IS NOT CONTRARY TO THE PUBLIC INTEREST** when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
 - (ii) the variance is 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
 - (iii) the variance is **NOT GRANTED TO RELIEVE A SELF-CREATED** or personal hardship, nor for financial reasons only, except as provided in Subparagraph (B)(i), 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.

PRE- EXISTING STRUCTURE

Determine if existing structures are legal, non-conforming, or illegal.

A “legal” structure is one that was built, and is in compliance with, all aspects of the Dallas Development Code, or is cured by some BDA action, as such it is not ripe to receive violations from Code Compliance.

A “non-conforming” structure is a structure that is non-compliant with the Dallas Development Code but was built prior to the implementation of the current zoning rules, and consequently, deemed legal, as such it is not ripe to receive violations from Code Compliance.

An “illegal” structure is one that is in violation of the Dallas Development Code and not “cured.” An illegal structure must be cured by a BDA decision, zoning change, or issuance of a proper permit bringing it into “legal” status. Illegal structures are ripe to receive Code Compliance Citations.

Sec. 51A-3.102(d)(10)(b)



- 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**.



Sec. 51A-3.102(d)(10)(b)(i) – Case Study A



BIG D DEMOLITIONS DEMOLITION INVOICE				
Item	Description	Qty	Unit Price	Total
Site Inspection & Assessment	Initial site inspection and project planning.	1	\$5,000	\$5,000
Permit Acquisition	Acquisition of necessary demolition permits.	1	\$3,000	\$3,000
Preparation & Safety Measures	Safety fencing, signage, and compliance setup.	1	\$7,000	\$7,000
Partial Demolition Labor	Labor costs for demolition crew.	80 hrs	\$1,500	\$120,000
Heavy Machinery Rental	Rental of excavators, loaders, and dump trucks.	7 days	\$5,000/d ay	\$35,000
Material Disposal	Hauling and disposal of debris (concrete, drywall).	1	\$45,000	\$45,000
Utility Disconnection	Temporary disconnection of utilities.	1	\$2,000	\$2,000
Environmental Hazard Removal	Asbestos and hazardous material removal (if needed).	1	\$15,000	\$15,000
Site Cleanup	Post-demolition site cleanup and waste removal.	1	\$12,000	\$12,000
Contingency & Miscellaneous Costs	Buffer for unexpected expenses or minor repairs.	1	\$30,000	\$30,000
				\$274,000

Value	
2024 Certified Values	
Improvement:	\$2,496,510
Land:	+ \$404,040
Market Value:	= \$2,900,550
Capped Value: \$2,113,567	
Tax Agent: NORTH TEXAS PROPERTY TAX	
Revaluation Year:	2024
Previous Revaluation Year:	2023

50% OF \$2,496,510 is \$1,248,255.00

This bid is for \$274,000, which is LESS than 50% of the appraised value.



Sec. 51A-3.102(d)(10)(b)(i) – Case Study B



BIG D DEMOLITIONS DEMOLITION & CONSTRUCTION INVOICE				
Item	Description	Qty	Unit Price	Total
Site Inspection & Assessment	Initial site inspection and project planning.	1	\$5,000	\$50,000
Permit Acquisition	Acquisition of necessary demolition permits.	1	\$3,000	\$30,000
Preparation & Safety Measures	Safety fencing, signage, and compliance setup.	1	\$7,000	\$70,000
Partial Demolition Labor	Labor costs for demolition crew.	160	\$1,500	\$240,000
Heavy Machinery Rental	Rental of excavators, loaders, and dump trucks.	14	\$5,000	\$70,000
Material Disposal	Hauling and disposal of debris (concrete, drywall).	1	\$45,000	\$45,000
Utility Disconnection	Temporary disconnection of utilities.	1	\$2,000	\$20,000
Environmental Hazard Removal	Asbestos and hazardous material removal (if needed).	1	\$15,000	\$30,000
Site Cleanup	Post-demolition site cleanup and waste removal.	1	\$12,000	\$24,000
Contingency & Miscellaneous Costs	Buffer for unexpected expenses or minor repairs.	1	\$30,000	\$60,000
RECONSTRUCTION		1	\$610,000	\$610,000
				\$1,249,000

Value	
2024 Certified Values	
Improvement:	\$2,496,510
Land:	+ \$404,040
Market Value:	= \$2,900,550
Capped Value: \$2,113,567	
Tax Agent: NORTH TEXAS PROPERTY TAX	
Revaluation Year:	2024
Previous Revaluation Year:	2023

50% OF \$2,496,510 is \$1,248,255.00

This bid is for \$1,249,000, which is GREATER than 50% of the appraised value.



Sec. 51A- 3.102(d)(10)(b)

- The burden is on the applicant to furnish evidence that the cost of compliance is greater than 50 percent of the appraised value. The applicant can bring estimates from contractors as evidence but ultimately, the decision is left up to the board to determine the veracity of the claim.



SPECIAL EXCEPTION ANALYSIS

- Chapter 51A authorizes over 50 special exceptions to specific prohibitions
- Common types of special exceptions the board deals with are:
 - Fence standards
 - Accessory dwelling units (rentable)
 - Additional dwelling units (non-rentable)
 - Off-street parking requirements
- The common denominator for most special exceptions is the standard which is that the request must not **“ADVERSELY EFFECT NEIGHBORING PROPERTIES.”**

S.A.M.

- Although there are a myriad of subjects a court might look at to determine if a special exception will adversely affect neighboring property, or to ensure that a variance isn't contrary to public interest. We have narrowed it down to three which we feel are a solid place to begin your analysis (SAM).
- **Safety**
 - Does the special exception create or mitigate safety issues?
- **Aesthetics**
 - Does the special exception comport and fit-in with the character of the neighborhood?
- **Monetary**
 - Does the special exception increase or decrease property value?
- The arbiter should look at all the evidence and use a sliding scale to determine in their opinion whether the standard has been met.

BOARD OF ADJUSTMENT

SPECIAL EXCEPTIONS	POLICY QUESTION	VARIANCES
It cannot adversely affect neighboring properties.	FAIR TO THE PUBLIC?	Not contrary to public interest
X	FAIR TO THE APPLICANT?	Must contain a hardship to the lot being a restrictive area, shape, or slope.
X	WHY?	Not granted to relieve a self-created hardship.

Administrative Official Appeals

Texas Loc'l Govt. Code. § 211.009.

AUTHORITY OF BOARD. “The board of adjustment may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter.”

Dallas City Code § 51A-4.703(d)(3)

“The board shall have all the powers of the administrative official on the action appealed from. The board may in whole or in part affirm, reverse, or amend the decision of the official.”

Administrative Official Appeals

- This allows the Board to “stand in the shoes” of the Administrative Official.



Administrative Official Appeals

- **DALLAS CITY CODE § 51A-3.105(a)(1-3)**

- “(a) Powers and duties. (1) The building official **shall issue permits** in accordance with this chapter. (2) The building official **shall issue certificates of occupancy** in accordance with this chapter. (3) The building official has the **authority to enforce** the provisions of **this chapter.**”

- When standing in the shoes of the building official the board cannot legislatively change something because this must be changed at the City Council level (via CPC recommendation). Courts have found that “A Board of Adjustment acts as a quasi-judicial body, having no statutory power to legislate. It is restricted in its decisions to the powers vested in it by the legislature and city council. It may not materially alter the specific intent and extent of the zoning ordinance as this power is within the province of the city council.” *Shelton v. City of Coll. Station*, 754 F.2d 1251, 1258 (5th Cir. 1985) (citing *Bd. of Adjustment of City of San Antonio v. Willie*, 511 S.W.2d 591 (Tex. App.—San Antonio 1974, writ ref’d n.r.e.); *Swain v. Bd. of Adjustment of City of Univ. Park*, 433 S.W.2d 727, 730 (Tex. App.—Dallas 1968, writ ref’d n.r.e.)).



Case Law Examples

City of Dallas v. Vanesko

Theresa Carlyle
City Attorney's Office



City of Dallas



What are the Sources of Authority?



City of Dallas v. Vanesko:

- The Dallas Board of Adjustment can deny variance requests when a personal or self-created hardship exists (Dallas City Code § 51A-3.102)
- The Board is not required to consider a building permit issued in error; Focus on applying variance standard to variance request
- The Dallas City Code includes two additional provisions in its standard (in comparison to other cities who only adhere to Local Gov't Code § 211)



City of Dallas v. Vanesko



Facts:

- Vaneskos wanted a large house, they tore down their existing house and a built new one on the same lot
- Paid an additional fee to the city for the city to do a more extensive review of plans
- City approved building plans
- While roof was being built, inspector realized roof was too tall
- Inspector did not order work to be stopped, but recommended Vaneskos go to the Board for a variance





Procedural History:

- 80% of the neighborhood supported the variance request
- Board deadlocked 3-2
- District Court reversed board's decision
- Dallas Court of Appeals affirmed District Court's ruling reversing board's decision





SCOTX's holding:

- The board did not abuse its discretion when it denied the variance, even though the city had already given preliminary approval of the building plans





SCOTX's reasoning:

- Variance was not “necessary” to permit development of the property because it could otherwise be developed. 3.102(d)(10)(B)
- “Hardship is personal in nature because it arose from decisions the Vaneskos made in designing their home, as opposed to the nature and configuration of the lot in question”
3.102(d)(10)C)



THE END.

2024 WL 3948322

Only the Westlaw citation is currently available.

SEE TX R RAP RULE 47.2 FOR DESIGNATION AND SIGNING OF OPINIONS.

Court of Appeals of Texas, Dallas.

TCHDALLAS2, LLC, Appellant
v.
ANDRES “ANDREW” ESPINOZA, IN HIS OFFICIAL CAPACITY AS THE BUILDING OFFICIAL OF THE CITY OF DALLAS, TEXAS,
Appellee

No.

05

-

22

-

01278

-

CV

Opinion Filed August 27, 2024

On Appeal from the 14th Judicial District Court

Dallas County, Texas

Trial Court Cause No. DC-22-03741

Before Justices Carlyle, Goldstein, and Breedlove
Opinion by Justice Goldstein

MEMORANDUM OPINION

BONNIE LEE GOLDSTEIN JUSTICE

*1 Reverse and Rendered and Opinion Filed August 27, 2024

TCHDallas2, LLC (TCH) appeals the trial court’s judgment reversing the decision of the Board of Adjustment of the City of Dallas (the BOA) in the underlying case involving a poker establishment. In a single issue, TCH argues the trial court erred in

determining the BOA abused its discretion in reversing the underlying decision of the Dallas building official to revoke TCH’s certificate of occupancy (C.O.). We reverse the trial court’s judgment and render judgment affirming the decision of the BOA reinstating TCH’s C.O.

BACKGROUND¹

¹ The factual background here presented draws heavily on the parties’ stipulated facts filed in October 2022. The stipulated facts have been condensed for the sake of brevity.

Plaintiff Andres “Andrew” Espinoza (“plaintiff” or “building official”) appeared in his official capacity as the chief building official of the City of Dallas, Texas. Megan Wimer was the City of Dallas assistant building official who was involved in the issuance and revocation of the certificate of occupancy (“C.O.”) at issue. Defendant the Board of Adjustment for the City of Dallas, Texas (“Defendant” or “BOA”) is an established board of the City of Dallas, a municipal corporation existing under the laws of the State of Texas and having its principal office in Dallas County. TCH is the occupant of, and owner and operator of the business located on Harry Hines Boulevard in Dallas, Texas (the “Harry Hines Location” or the “Property”) for which the C.O. in dispute was issued. Ryan Crow is the CEO and an owner of TCH.

On or about December 9, 2019, TCH entered into a commercial lease with Moon Ventures, Ltd., the owner of the Harry Hines Location. On March 3, 2020, an application for a C.O. was submitted to the City of Dallas for the Property by applicant Juan Santiago for the proposed use of a gaming room. On July 2, 2020, Crow submitted a land use statement in support of the application for the C.O. listing aspects of the planned use of the Property. The land use statement indicated that TCH would offer poker and similar games and that TCH would charge various fees to its members, live stream shows, and sell merchandise.

On October 23, 2020, the building official issued a C.O. for the Property for commercial amusement (inside) use. On December 17, 2021, Wimer sent a letter to Crow revoking TCH’s C.O. because the operations at the location as described in the land use statement violated Texas Penal Code section 47.04, and the C.O. had been issued in error. On January 5, 2022, TCH appealed the

revocation of its C.O. to the BOA. On February 22, 2022, and March 22, 2022, the BOA held hearings on TCH’s appeal (collectively, the “BOA Hearings”).

The BOA was tasked with deciding “whether the building official erred when the building official revoked the certificate of occupancy by concluding that it was issued in error because the applicant violates [Texas Penal Code Section 47.04](#), keeping a gambling place.” The BOA’s attorney clarified, “So a violation of one of those [ordinances, regulations, or laws] is what you have to determine.” The BOA presumed that the TCH use of the Property was a legal use.²

² We note without further discussion that an opinion request that is directly on point was submitted to the Texas Attorney General on January 26, 2019. RQ-0209-KP. Specifically, “[a]re poker gambling enterprises that charge membership or other fees or receive other compensation from gamblers playing poker – but do not receive a “rake” – permitted under Texas law?” For purposes of the request, “rake” was defined as “a fee or a percentage of the value at risk in gambling.” While an Attorney General Opinion is not binding or of precedential value, it may be persuasive to the courts, or in this instance, a municipality charged with ensuring a use is not in violation of state law or the Texas Constitution. As this request was closed with no opinion issued, we are not favored with guidance.

*2 The BOA discussed whether TCH came within the “safe harbor” provided by [section 47.04\(b\)](#). In doing so, the BOA noted that it took TCH two years of due diligence to obtain the C.O., during which time TCH worked with the city attorney and the city council. One board member stated, “We, as a Board, are deciding whether or not the city official erred, not whether or not the use is illegal.” The BOA also discussed the fact that TCH had not been prosecuted by the district attorney, and the issue of whether TCH’s operation was legal or illegal remained undetermined by a court of law. At the conclusion of the hearing, the BOA voted unanimously to reverse the building official’s decision and reinstate TCH’s C.O.

On April 1, 2022, David Session in his official capacity as the building official for the City of Dallas timely filed an original petition and petition for writ of certiorari against the BOA, seeking a reversal of the BOA’s decision. Following a trial before the court on October 25, 2022, the trial court entered an order granting the building

official’s first amended petition and petition for writ of certiorari. The trial court determined that the BOA “abused its discretion and made an illegal decision” when it reversed the building official’s revocation of TCH’s C.O. “which was issued in violation of state law.” The trial court reversed the BOA’s decision and entered judgment in favor of Espinoza as building official. On November 28, 2022, TCH filed its notice of appeal.

On December 5, 2022, the trial court filed its findings of fact and conclusions of law. The trial court’s findings of fact, which “were based, in part, on observing witnesses and evidence presented at trial,” included the following:

Under the City of Dallas’s administrative procedures of the construction code, a building official shall revoke a certificate of occupancy if he or she determines the certificate was issued in error and shall deny any application for which the certificate “requested does not comply with the codes, the Dallas Development Code ... or any county, state, or federal laws or regulations.”

“Chapter [52] of the [Dallas City] Code states that ... when a certificate of occupancy is granted, the use must comply with all federal, state, and local ordinances and laws.” The City of Dallas’s Administrative Procedures of the Construction Code provides that “[a]ny certificate of occupancy presuming to give authority to violate any ... state, or federal laws ... shall be void ab initio.”

Crow testified that TCH in Dallas has been continuously in operation since 2020. “Active gambling” as defined in the [Texas Penal Code section 47.04](#) occurs at TCH. Patrons gamble at TCH when they play and bet money on poker games played with cards. TCH is open 24 hours a day, seven days a week. Anytime, 24 hours a day, 7 days a week, any person over the age of 18 can walk into TCH off the street, provide minimal personal information, pay a fee, and start gambling in “about five minutes.” Access to TCH is indistinguishable from that of a nightclub or restaurant which charges a cover fee. According to the membership agreement, the only “eligibility” criteria to enter and play as a “probationary” member is being at least 18 years of age. Tens of thousands of people have access to playing the poker games at TCH, with an average of 630 players a day.

TCH, its employees, and some of its patrons receive economic benefits other than winnings from the poker games. The owners/partners of TCH, including Crow, derive a significant economic benefit from their ownership/partnership in TCH and their running of a

for-profit poker business. TCH is being used as a gambling place, as it is the location where patrons engage in gambling and participate in lotteries. TCH collects fees or charges from the operations of its business. TCH charges and collects table fees via a time collection derived from the time each patron is sitting at the table gambling. TCH charges a \$13 per hour fee, which hourly fee starts when a player sits down at a table and runs for the duration while they are sitting at the table. This \$13 per hour fee generates over 90% of TCH’s revenue. TCH provides poker tournaments regularly at the Property. TCH charges players tournament fees, which include “staff” fees and “access” fees.

*3 Like a restaurant, tavern, or nightclub, revenue is generated by food and beverages being served at TCH by waitresses employed by TCH who are tipped by the persons gambling at poker tables. TCH represented that “TCH paid \$884,000 in sales tax in 2021,” that “TCH is projected to pay \$1,100,000 in sales tax in 2022,” and that “TCH expects to pay over \$3,000,000 in Federal Income Taxes for 2021.” Players at TCH exchange money for chips for betting in the poker games at the Property.

The building official was not authorized to approve an application for a C.O. for an illegal use. The building official erroneously issued a C.O. for TCH based on incomplete information and an insufficient understanding of the applicable law. Having subsequently determined that the use violated the Texas Penal Code, the building official was obligated to revoke the C.O.

Subsequently, similar businesses sought to open similar poker houses at other locations in Dallas. In response to applications for C.O.s for similar poker houses, Wimer issued denials of the C.O. applications for Champions Club, Dallas Poker Club (KBKM) and Fifty-Two Social, indicating that the proposed uses did not comply with the Texas Penal Code’s prohibition on keeping a gambling place. In both the Champions Club and Dallas Poker Club BOA hearings, the BOA voted to affirm the building official’s decision to deny the C.O.s to the poker rooms because they did not comply with Texas law.

Based on these findings, the trial court entered conclusions of law that, among other things, established the standard of review the trial court applied to the BOA’s decision. The trial court concluded, in pertinent part, that:

This Court sits as a court of review to determine the legality of the Board of Adjustment’s decision

reversing the Building Official’s revocation of the C.O. for the Property.

To establish that the Board’s decision was illegal, Plaintiff needed to clearly demonstrate that the Board abused its discretion. A board abuses its discretion if it: (1) acts without reference to any guiding rules and principles; or (2) clearly fails to analyze or apply the law correctly.

In reviewing the Board’s legal conclusions, the Court determined whether the TCH use of the Property violates the Texas Constitution and various provisions in Chapter 47 of the Texas Penal Code. In this case, the Court was required to consider whether the TCH use at the Property violates a portion of the Texas Constitution and portions of the Texas Penal Code which fulfill the Texas constitutional mandate to prohibit gambling. The Court has jurisdiction to make both of these assessments.

The trial court concluded TCH violated the penal code’s prohibition on gambling and keeping a gambling place. Further, the trial court concluded that the building official erroneously issued a C.O. to TCH; the building official was obligated to revoke the C.O. after determining TCH’s use of its property violated the penal code; TCH’s use did not fall within the affirmative defenses to prosecution for the offenses of gambling and keeping a gambling place; and the BOA’s decision to reverse the revocation of TCH’s C.O. was therefore illegal and an abuse of discretion.

ANALYSIS

In a single issue, TCH argues as follows:

The Building Official issued Texas Card House a Certificate of Occupancy for a private poker club and then, despite no change in law or facts, revoked that Certificate on the purported basis that it was “issued in error.” Did the Board of Adjustment clearly abuse its discretion by reversing that revocation based on evidence that the Certificate was not “issued in error,” as that term is used in the sole enumerated ground for revocation, and evidence that

revocation was instead caused by lobbying or a change of mind about a reasonably disputable application of law?

*4 We review the trial court’s judgment regarding the BOA’s decision de novo. *Bd. of Adjustment of City of Dallas v. Billingsley Family Ltd. P’ship*, 442 S.W.3d 471, 474 (Tex. App.—Dallas 2013, no pet.).

As a quasi-judicial body, the decisions of a zoning board are subject to appeal before a state district court upon application for a writ of certiorari. See TEX. LOCAL GOV’T CODE § 211.011(a), (b); *City of Dallas v. Vanesko*, 189 S.W.3d 769, 771 (Tex. 2006). The district court sits only as a court of review, and the only question before it is the legality of the zoning board’s order.

Vanesko, 189 S.W.3d at 771. To establish that an order is illegal, the party attacking the order must present a “very clear showing of abuse of discretion.” *Id.* (citing *City of San Angelo v. Boehme Bakery*, 144 Tex. 281, 190 S.W.2d 67, 71 (1945)). A zoning board abuses its discretion if it acts without reference to any guiding rules and principles or clearly fails to analyze or apply the law correctly. *Vanesko*, 189 S.W.3d at 771; *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). In deciding whether the BOA abused its discretion, the district court considers the BOA’s verified return along with any additional evidence “necessary for proper disposition of the matter.” *Billingsley*, 442 S.W.3d at 474 (citing TEX. LOC. GOV’T CODE § 211.011(d), (e)). With respect to a zoning board’s factual findings, a reviewing court may not substitute its own judgment for that of the board. *Vanesko*, 189 S.W.3d at 771; see *Walker*, 827 S.W.2d at 839. Instead, a party challenging those findings must establish that the board could only have reasonably reached one decision. *Vanesko*, 189 S.W.3d at 771; see *Walker*, 827 S.W.2d at 840. Our abuse-of-discretion review is necessarily less deferential when considering any legal conclusions made by the zoning board and is similar in nature to a de novo review. *Vanesko*, 189 S.W.3d at 771.

Section 47.04 of the penal code, entitled “Keeping a Gambling Place,” provides the following:

(a) A person commits an offense if he knowingly uses or permits another to use as a gambling place any real estate, building, room, tent, vehicle, boat, or other

property whatsoever owned by him or under his control, or rents or lets any such property with a view or expectation that it be so used.

(b) It is an affirmative defense to prosecution under this section that:

(1) the gambling occurred in a private place;

(2) no person received any economic benefit other than personal winnings; and

(3) except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

(c) An offense under this section is a Class A misdemeanor.

TEX. PENAL CODE § 47.04.

The verified record reflects that the BOA’s decision was based upon significant historical facts relating to governmental oversight, review, and approval. Specifically, TCH was issued a C.O. after two years of due diligence during which time TCH worked with the city attorney and the city council to ensure the planned operations would comply with all relevant laws and local ordinances. TCH conducted its operations without making any changes for nearly fourteen months after the issuance of the C.O., and TCH was not prosecuted by the district attorney or any other agency. Nevertheless, in December 2021, the building official revoked TCH’s C.O. on the basis that TCH’s operations at the location as described in the land use statement violated Texas Penal Code section 47.04. The discussion among the members of the BOA reflected that the issue of whether TCH’s operations were legal or illegal had not been determined by a court of law, and it was not clear whether TCH’s operations came under the safe harbor provision of penal code section 47.04. In this specific context, the BOA voted unanimously to reverse the building official’s revocation of TCH’s C.O.

*5 The trial court stated in its conclusions of law that it sat as a “court of review to determine the legality of the” BOA’s decision, and it concluded TCH’s violated the penal code’s prohibition on gambling and keeping a gambling place. We conclude the trial court thereby erred in failing to afford the required deference to the BOA’s decision. The court must not substitute its discretion for the BOA’s, even if the court concludes the overwhelming preponderance of evidence is against the BOA’s decision. *Bd. of Adjustment of City of Dallas v. Winkles*, 832 S.W.2d 803, 805 (Tex. App.—Dallas 1992, writ denied)

(citing *City of San Angelo*, 190 S.W.2d at 70). If reasonable minds could have reached the conclusion the BOA must have reached to justify its action, the trial court must uphold the BOA's order. *Winkles*, 832 S.W.2d at 805; *City of San Angelo*, 190 S.W.2d at 70. In other words, the party challenging the BOA's findings must establish that the BOA could only have reasonably reached one decision. *Vanesko*, 189 S.W.3d at 771; see *Walker*, 827 S.W.2d at 840. We conclude the trial court effectively substituted its discretion for that of the BOA in this case in which the BOA could have reached multiple decisions. See *Vanesko*, 189 S.W.3d at 771; *Winkles*, 832 S.W.2d at 805. We sustain TCH's single issue.

We reverse the trial court's judgment and render judgment affirming the decision of the BOA reinstating TCH's C.O.

JUDGMENT

Opinion delivered by Justice Goldstein. Justices Carlyle

End of Document

and Breedlove participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **REVERSED** and judgment is **RENDERED** that:

the decision of the Board of Adjustment of the City of Dallas reinstating the certificate of occupancy of TCHDallas2 is **AFFIRMED**.

It is **ORDERED** that each party bear its own costs of this appeal.

Judgment entered this 27th day of August, 2024.

All Citations

Not Reported in S.W. Rptr., 2024 WL 3948322

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City of Dallas

Texas Open Meetings Act

City Attorney's Office

Daniel Moore,
Assistant City Attorney

- “Every regular, special, or called meeting or session of every governmental body shall be open to the public”
- TOMA’s requirements are mandatory for every governmental body.
- GOVERNMENTAL BODY means a municipal governing body (city council) or a board or commission.
- MEETING means:
 - (1) a quorum of the members of a governmental body;
 - (2) where public business that the governmental body has authority to supervise or oversee is deliberated or discussed.
- DELIBERATE or DISCUSS means a verbal exchange that includes:
 - Receiving information; giving information; asking questions; receiving questions from any third party, including government employees; or debate among the body.

- Deliberation and discussion are synonymous for purposes of the Act.
- A verbal exchange clearly includes an exchange of spoken words, but it may also include an exchange of written materials or electronic mail.
- A quorum need not be established in real time.
- “Reply all” can create a quorum.
- Example: Quorum of a governmental body deliberating public business electronically (email, social media, etc.) or via telephone can be a meeting subject to the Act.

When a board or commission member:

- knowingly attempts to avoid complying with the Act by engaging in at least one communication among a series of communications about public business in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of the members.
- knew at the time the member engaged in the communication that the series of communications:
 - involved or would involve a quorum; and
 - would constitute a deliberation once a quorum of members engaged in the series of communications.

- conducting secret deliberations;
- email communications;
- voting over the telephone; or
- deliberating through a series of closed meetings of members of less than a quorum.

- The Act requires written notice of meetings. The Act provides:
 - A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.
- Notice must be given at least 72 hours before a meeting and placed on the city's physical or electronic bulletin board at a place convenient to the public within city hall.
 - If the governmental entity maintains a website, notice must also be posted on that website.
 - Notice is required to be readily available during normal business hours.
- Notice must be sufficient to inform the public of the subject matter to be addressed during the meeting.

- City officials, city staff, and members of the public may attend an open meeting by videoconference.
- The person presiding over the meeting must be present in a location open to the public.
- City officials, city staff, and members of the public must have both an audio and video feed available in order to participate remotely in an open meeting.
- A city official is considered absent for any portion of an open meeting where the audio or video feed is lost.

- Governing body may not adjourn and start meeting again the same day.
- Governmental body must vote in public.
- No anonymous or secret ballots.
- What if we “forgot to post” an item?
 - It cannot be discussed, except to say: “Would staff please add this to the next agenda.”
- Limits on responding to questions during the open microphone period.

- If a closed meeting is allowed under the Act, a governmental body may NOT conduct a closed session unless:
 - a quorum first convenes in open session;
 - during which the presiding officer publicly announces that a closed meeting will be held; and
 - identifies the section under which the closed meeting will be held.
- The item must comply with the notice requirements.
- Closed meeting may be called for such matters as:
 - Attorney consultation (§ 551.071).
 - Deliberations about real estate (§ 551.072).
 - Economic development considerations (§ 551.087).
- Any vote regarding the closed session item must occur in open session.

- Only a governmental body's members have a right to attend a closed meeting.
- Except that the governmental body's attorney must attend closed meetings under the attorney consultation exception.
- Although a governmental body may include others in a closed meeting if they are essential to the matter under consideration, or necessary for the full communication of attorney-client communications, it may not admit a person whose presence is against the interests of the governmental body.

- Governmental body must keep minutes or tape recording of the open meeting.
- Minutes must:
 - State subject of each deliberation; and
 - Indicate the vote, order, decision, or other act taken.
- Record of meeting must be available to the public.
- Public allowed to make audio/visual record of the open meeting, but governmental body may reasonably regulate manner and location.



**BOARD OF ADJUSTMENT
SPECIAL CALL MEETING**

September 17, 2024

6EN Council Chambers

24923176153@dallascityhall.webexx.com

PRESENT: [14]

David A. Neumann, Chairman	Cheri Gambow, Vice Chair - Virtual
Robert Agnich, Vice Chair	Philip Sahuc - Virtual
Rachel Hayden	Joe Cannon – Virtual
Kathleen Davis	Judy Pollock - Virtual
Jay Narey	TC Fleming - Virtual
Michael Hopkovitz	
Sarah Lamb	
Jared Slade	
Dr. Emmanuel Glover	

ABSENT: [4]

Rodney Milliken	Andrew Finney
Roger Sashington	
Nicholas Brooks	

Chairman Neumann called the Special Meeting of the Board of Adjustment to order at **9:02A.M.** with a confirmed quorum of the Board of Adjustment present.

Call to Order

David A. Neumann, Chairman

Public Testimony

Board of Adjustment

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

Melanie Vanlandingham 6311 Lakeshore Dr, Dallas TX 75214
Karen Roberts 502 Cameron Ave., Dallas TX 75223
Gus Perez 7811 Morton St., Dallas TX 75209

Miscellaneous Item

Discussion of the consolidation of cases to a single panel of the Board of Adjustment where each is considered in a separate public hearing, arising out of the permitting issues in PD 67, Elm Thicket/Northpark(<https://dal.city/Elmthicket>), between October 12, 2022 and August 31, 2024.

Motion

I moved that the Board of Adjustment, in an effort to promote judicial efficiency, judicial expediency, fairness to affected parties, and economy of case-management, do consolidate the cases arising out of permitting issues, located in PD 67, ELM THICKET / NORTH PARK, that occurred between the dates of October 12, 2022 and August 31, 2024, allowing them to each be considered in separate public hearings, solely by Panel A of the Board of Adjustment.

Maker:	Robert Agnich				
Second:	Cheri Gambow				
Results:	11-3				Moved to approve/adopt
		Ayes:	-	11	David A. Neumann, Robert Agnich, Cheri Gambow, Rachel Hayden, Kathleen Davis, Joe Cannon, Sarah Lamb, Jared Slade, Philip Sahuc, TC Fleming, Judy Pollock
		Against:	-	3	Jay Narey, Dr. Emmanuel Glover, Michael Hopkovitz

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chairman Neumann moved to adjourn the meeting at 10:15 a.m. and it was unanimously approved.

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

Date

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

Date

Required Signature:
David A. Neumann, Chairman
Board of Adjustment

Date

- **PANEL C**
- **PANEL A**
- **PANEL B**

2025 BOARD OF ADJUSTMENT CALENDAR

January

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	11	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

1: NEW YEAR'S DAY- COD
20: MLK DAY

February

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	

17: PRESIDENT'S DAY

March

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

April

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

20: EASTER SUNDAY

May

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

26: MEMORIAL DAY

June

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

19: JUNETEENTH

July

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

4: INDEPENDENCE DAY

August

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

1: LABOR DAY

October

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

13: COLOMBUS DAY
13: INDIGENOUS PEOPLE'S DAY

November

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

11: VETERAN'S DAY
27: THANKSGIVING DAY
28: DAY AFTER THANKSGIVING

December

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

25: CHRISTMAS DAY

City of Dallas BOARD OF ADJUSTMENT



ANNUAL REPORT

October 1, 2023- September 30, 2024

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BOARD OF ADJUSTMENT

2023-2024

MISSION, PURPOSE, AUTHORITY,

PROCESS

Board of Adjustment Mission Statement

The Board of Adjustment (BOA) is a quasi-judicial body, appointed by the City Council, charged with certain decision-making functions, which aim to uphold the meaning and spirit of the zoning ordinance as enacted by city ordinance or state legislation. The purpose of the Board of Adjustment is to implement the zoning ordinance and to apply discretion in exceptional instances where building permits are desired but are not literally conforming to the regulations. Primary responsibility for administration of the zoning ordinance falls on the Building Official, subject to appeals to the Board of Adjustment and ultimately to the courts.

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any order or ordinance pertaining to zoning.
- (2) To hear and decide special exceptions to the terms of the zoning ordinance in the manner provided.
- (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so that the spirit of the ordinance is observed, and substantial justice done.
- (4) To regulate and discontinue nonconforming uses and structures.

Purpose

City of Dallas Board of Adjustment
Dallas Development Code, SEC 51A-4.501

The purpose of the Dallas zoning code is to promote the public health, safety and general welfare but in order for a comprehensive zoning map and ordinance to properly function in accordance with the purpose for which it is designed, it is necessary from time to time that some modification of these zoning regulations be made. The purpose of the Board of Adjustment was to implement the zoning ordinance and to apply discretion in exceptional instances where building permits are desired but are not literally conforming to the regulations. The Board of Adjustment is a governmental agency of the city and is an essential part of the administration of zoning, engaged in a delegated policy-making function (within the standards set up in the zoning ordinance), and not merely deciding private rights, as it represents the public interest.

Authority

City of Dallas Board of Adjustment
Dallas Development Code, SEC 51A-4.501

The Board of Adjustment receives its power from the enactment of State Legislation (Chapter 211 of the Texas Local Government Code): The Board of Adjustment is permitted by State Law to establish their rules and operational procedures provided that such rules are not inconsistent with the zoning ordinance or State Law. As noted in the Board's Rules of Procedures, no action of the Board of Adjustment shall set a precedent, with each case being considered and decided on its own merits and on the circumstance's attendant thereto. Also, it is the declared purpose of the zoning ordinance that nonconforming uses be eliminated and be required to conform to the regulations prescribed in the ordinance.

The Board of Adjustment receives its powers from the City of Dallas through Chapter 51, and Chapter 51A, Dallas Development Code, as amended: The powers vested in the Board of Adjustment are discretionary in the sense that it is an administrative body created for the administration of the Zoning Law, and, within the standards set by the law, its decision, if supported by substantial evidence, are not subject to being set aside, that is, they can only be set aside for a clear abuse of discretion. The Board's functions are administrative and quasi-judicial. The actions of the Board are presumed to be valid and final, and the only recourse is for the applicant to appeal the Board's decision to the District Court. An applicant appealing to the District Court by certiorari has the burden of showing that the action of the Board was arbitrary, capricious or illegal.

The Board of Adjustment is composed of 15 Members and 6 Alternates appointed by the Dallas City Council. The Board is divided into 3 Hearing Panels composed of 5 Members each. The Mayor appoints a Board Chairman and 2 Vice Chairs to act as Presiding Officers of the 3 panels. Pursuant to the Board's Rules of Procedure, ex parte communications with the members of the Board are prohibited. All communications to the Board, oral or written, should be directed to the Board Administrator. Failure to comply

with this rule may result in criminal prosecution for improper influence, which is a Class A misdemeanor under Texas Penal Code, Section 36.04.

It requires four (4) members of the Board of Adjustment Hearing Panel at the public hearing to constitute a quorum, and at the hearing the Board Administrator calls each appeal and gives the swearing in of the oath of truth to all persons that desire to testify in each case.

On the day of the hearing, the applicant presents his case, the opposition is then heard, and the applicant is given the opportunity for rebuttal. No rebuttal is allowed for the opposition.

An affirmative vote of at least 4 of 5 Members of a Hearing Panel is required to approve a Variance, Special Exception, regulate-discontinue a Non-Conforming use or Reverse the decision of an Administrative Official of the City. The Board of Adjustment normally makes their decision known on an appeal immediately after a case has been heard, and the Board may apply any restrictive conditions when they feel it is necessary. The Board's decisions are final, and the only recourse on a Board's decision is to appeal to the District Court.

The Process of Zoning Appeals

How an Appeal Is Made

After an appeal is received in the Planning & Development Department from the Zoning Division of the Building Inspection's Office, the appeal is assigned a case number. A route sheet is prepared so that each section within Planning & Development Department and other departments in the City can make comments and present facts that could be pertinent to the decision of the Board of Adjustment. Property description and public notices are prepared for all appeals that are to be acted on by the Board. The route sheet copy of the appeal, and a copy of the public notice is sent to the GIS Section of Planning & Development Department to have a location map, and other appropriate graphics for the Board's docket. This section also prepares labels for the property owners within 200-feet, to be notified for each appeal being processed for the Board of Adjustment's public hearing. The notices are mailed no later than ten (10) days prior to the Board's public hearing date to comply with state statute requirements.

All public hearings are taped, and the secretary also takes notes of the hearing. Each appeal is called and all people that testify are sworn in.

The Board of Adjustment normally makes their decisions known on an appeal immediately after a case has been heard. After the hearing, letters are written informing the applicant and other concerned parties of the Board's action. Appeals are filed with the Board Office after the hearing so that no misunderstanding will occur, and all site plans are stamped approved by the Board if the appeals are granted.

BOARD OF ADJUSTMENT

2023-2024

MEMBER ROSTER

BOARD OF ADJUSTMENT MEMBER ROSTER
2023-2025

Panel A

David A. Neumann, Chairman (appt'd: 10/5/2021, re-appt'd: 10/11/23)
Jay Narey, regular member (appt'd: 08/30/2017, re-appt'd: 9/20/23)
Kathleen F. Davis, regular member (appt'd: 11/16/2021, re-appt'd: 10/11/23)
Rachel Hayden, regular member (appt'd: 8/24/2022, re-appt'd: 10/11/23)
Michael Hopkovitz, regular member (appt'd: 10/11/2023)

Panel B

Cheri Gambow, Vice Chair (appt'd: 11/1/2016, re-appt'd: 09/13/23)
Joseph Cannon, regular member (appt'd: 09/22/2021, re-appt'd: 09/27/23)
Sarah Lamb, regular member (appt'd: 03/08/23)
Michael Karnowski, regular member (appt'd: 09/01/2021 – Resigned: 08/14/2024)
Derrick Nutall, regular member (appt'd: 06/14/23 – Resigned: 08/20/2024)

Panel C

Robert Agnich, Vice Chair (appt'd: 9/23/2017, re-appt'd: 8/23/23)
Judy Pollock, regular member (appt'd: 04/08/2019)
Roger Sashington, regular member (appt'd: 07/05/2019)
Rodney Milliken, regular member (appt'd: 01/05/22)
Jared Slade, regular member (appt'd 2/2/2022, re-appt'd: 10/11/23)

ALTERNATE MEMBERS

Nicholas Brooks (appt'd: 09/09/2021, re-appt'd: 09/06/23)
Dr. Emmanuel Glover (appt'd: 09/09/2021, re-appt'd: 09/20/23)
TC Fleming (appt'd: 09/22/2021, re-appt'd: 09/13/23)
Andrew Finney (appt'd: 09/22/2021, re-appt'd: 09/06/23)
Philip Sahuc (appt'd: 10/22/2021, re-appt'd: 09/13/23)

Resignations, Forfeitures and Term Endings: 10/23- 09/24

Michael Karnowski, regular member (appt'd 09/01/21 – Resigned 08/14/2024)
Derrick Nutall, regular member (appt'd 06/14/23 – Resigned 08/20/2024)

BOARD OF ADJUSTMENT

2023-2024

MEMBER ATTENDANCE

**Board of Adjustment (BOA)
Meeting Attendance Roster
2023-24**

LEGEND	
P	Present
PV	Present Virtually
A	Absent
V	Vacant
O	Observed
CAN	Cancelled
R	Resigned
F	Forfeit

	MEETING TYPE		Special	Regular	Regular	Regular	Regular	Regular	Regular	Regular	Regular	Regular	Regular	Regular	Regular	SC Full Board
PANEL	MEETING DATES	10/16/2023	10/31/2023	11/13/2023	12/11/2023	1/15/2024	2/22/2024	3/18/2024	4/15/2024	5/20/2024	6/17/2024	7/15/2024	8/19/2024	9/16/2024	9/17/2024	
C	Robert Agnich	CANCELLED	P	P	P	RECESS	P	P	P	P	P	CANCELLED	P	CANCELLED	P	
C	Judy Pollock	CANCELLED	A	P	P	RECESS	P	P	P	P	P	CANCELLED	A	CANCELLED	PV	
C	Roger Sashington	CANCELLED	P	P	P	RECESS	P	PV/P	P	P	P	CANCELLED	P	CANCELLED	A	
C	Rodney Milliken	CANCELLED	P	P	P	RECESS	P	P	P	P	P	CANCELLED	PV	CANCELLED	A	
C	Jared Slade	CANCELLED	P	P	P	RECESS	P	P	P	P	P	CANCELLED	P	CANCELLED	P	
	MEETING DATES	10/17/2023		11/14/2023	12/12/2023	1/16/2024	2/20/2024	3/19/2024	4/16/2024	5/21/2024	6/18/2024	7/16/2024	8/20/2024	9/17/2024		
A	Dave Neumann	CANCELLED	P	P	RECESS	A	P	P	P	P	P	P	P	P	P	P
A	Jay Narey	CANCELLED	A	P	RECESS	P	P	P	A	P	P	P	PV	P	P	P
A	Michael Hopkovitz (App 10/23)		P	P	RECESS	P	P	P	P	A	P	P	P	P	P	P
A	Kathleen F. Davis	CANCELLED	P	P	RECESS	P	P	P	P	P	P	A	A	P	P	P
A	Rachel Hayden	CANCELLED	P	P	RECESS	P	P	P	P	P	P	A	P	P	P	P
	MEETING DATES	10/18/2023		11/15/2023	12/13/2023	1/17/2024	2/21/2024	3/20/2024	4/17/2024	5/22/2024	6/19/2024	7/18/2024	8/21/2024	9/18/2024		
B	Cheri Gambow	P	P	P	P	P	P	PV	A	P	RECESS	RECESS	P	PV	PV	PV
B	Joseph Cannon	A	P	A	P	P	PV	P	P	P	RECESS	RECESS	P	P	PV	PV
B	Michael Karnowski RESIGNED 8/2024	P	P	P	P	P	P	P	P	P	RECESS	RECESS	R	V	V	V
B	Sarah Lamb (App 3/2023)	P	P	P	P	P	P	P	P	A	RECESS	RECESS	P	P	P	P
B	Derrick Nutall RESIGNED 8/24	P	P	P	A	A	P	PV	PV	A	RECESS	RECESS	R	V	V	V
	ALTERNATES															
	Nick Brooks		P		P							P	P			A
	Dr. Emmanuel Glover		P			P				P				P		P
	Andrew Finney	P	P						P			P	P			A
	Phil Sahuc		P	P					P	P				P		PV
	TC Fleming		A													PV

BOARD OF ADJUSTMENT

2023-2024

SUMMARY OF WORK &

ACCOMPLISHMENTS

City of Dallas
Board of Adjustment
October 29, 2024

Proposed 2023 – 2024 Accomplishments

1. GOAL: Ensure Fairness to every property owner appeal to the Board of Adjustment (BOA) through Timeliness and Accuracy for a hearing, and Transparency to the public. Strive to consistently provide a fair and complete evaluation of all relevant facts from applicant and staff on each appeal as they apply to a predefined standard.

RESULT: **Much improved. Need to streamline the entire application to hearing process and paper flow to make more user friendly to the taxpayer.**

2. Staff and Board to provide a public hearing for property owner appeals to BOA within 60 days on average from taxpayer application. Streamline staff processing and potentially modify BOA Panel hearing calendar to accomplish. Create a verifiable predefined consistent measurement of days from application to Hearing, (State law requires a hearing within 60 days for a Building Administrative Official appeal and 30 days for Plats)

RESULT: **SUCCESS! Average days between Application to Hearing reduced from 74 to 61.**

3. Staff to prepare a more comprehensive and technical analysis for appeal hearings with enhanced photos and property comparisons to include the surrounding properties within 200 feet of the appeal location.

RESULT: **Significant Improvement. The 360-video tour of the property and 200 feet surrounding area very impactful. Enhanced case analysis is noted. Need more comparable analysis of the surrounding properties and their use in contrast to subject request.**

4. Significant website enhancements to include a single/linked online accurate source of information for BOA, updated regularly to increase taxpayer/property owner understanding and awareness of all pending zoning appeals to include pending case look up and application flowchart/process.

RESULT: **Improvement. Case look-up an essential tool. Need to further unclutter the website to maximize the user friendliness to property owners. Highlight key areas. Timely updating of case logs, member listings, data is important. Orientate for an uninformed property owner seeking information.**

5. Quarterly enhanced training of members/alternates on rules, conflicts of interest, criteria for decision making and onboarding of new appointees.

RESULT: **Conducted only 1 session. Need to prioritize more interactive topic driven training and onboarding for new members.**

Board of Adjustment Summary of Work

<u>BOA Work Summary</u>	<u>2022-2023</u>	<u>2023-2024</u>	
	<u>10/22-09/23</u>	<u>10/23-09/24</u>	<u>Change %</u>
Total Number of Hearings	23	30	+30%
Total Applications	111	133	+20%
Total Requests	199	200	+1%
Special Exceptions	127	121	-5%
Variances	52	65	+25%
Appeal of a Building Official's Decision	4	5	+25%
Fee Waivers	0	4	+400%
Holdovers	16	5	-69%
Compliance Case(s)	0	0	---
No. of Cases Approved	150	163	+9%
No. of Cases Denied	29	32	+11%
Cases Held Under Advisement	20	5	-75%
Cases Withdrawn	0	5	---

BDA CASE LOG (10/2023 to 09/2024)	Case Nos.	Address	Zoning	Council District	Case Type	Board Action	Reg Notices Sent
October 16, 2023 Cancelled Per Chairman (Panel C)				October 16, 2023 Cancelled Per Chairman (Panel B)			
October 17, 2023 Cancelled Per Chairman (Panel A)				October 17, 2023 Cancelled Per Chairman (Panel A)			
Panel B							
10/18/2023 Special Meeting	BDA223-074(holdover)	5505 Chatham Hill	R-1ac(A)	13	1-sp ex fnc height	Holdover	
October 18, 2023	BDA223-101	3528 Colonial Avenue	PD 595, MF-2	7	Administrative Official Appeal	Reversed and grant	23
Panel C							
November 13, 2023	BDA223-086	3344 Topeka Avenue	R-5(A)	6	1-variance to front yard	Approved with conditions	29
November 13, 2023	BDA223-087	5327 Richard Avenue	CD-15	2	1-variance to side yard	Approved with conditions	29
November 13, 2023	BDA223-088	12100 Preston Road	PD-100, PD-68	11	1-special exception to the landscaping and tree mitigation	Approved with conditions	47
November 13, 2023	BDA223-089	2622 Madera Street	R-7.5(A)	2	1-variance to front yard, 2-spec exemption to fence height, 3-special exception to opacity regulations	Approved with conditions	34
November 13, 2023	BDA223-090	2504 Maple Avenue	PD-193	14	1-variance to parking regulations	Approved with conditions	15
Panel A							
November 14, 2023	BDA212-078	5526 E.R.L Thornton Expressway	CR	2	1-variance on parking regulations, 2-special exception to the landscaping and tree preservation, 3-a variance to the side yard	Holdover to January 16, 2024	16
November 14, 2023	BDA223-083	9122 Inwood Road			1-special exception to the fence height, 2-a special exception to the fence standards	Approved with conditions	
November 14, 2023	BDA223-095	4707 Allencrest Lane	R-16	13	1-special exception to the side yard setbacks	Denied without prejudice	18
November 14, 2023	BDA223-096	4515 Harry's Lane	R-1ac(A)	13	1-special exception to the fence height	Denied without prejudice	13

BDA CASE LOG (10/2023 to 09/2024)	Case Nos.	Address	Zoning	Council District	Case Type	Board Action	Reg Notices Sent
November 14, 2023	BDA223-097	2764 Catherine Street	CD-8	1	1-special exception to the fence height, 2-special exception to the 20-foot visibility obstruction, 3-a special exception to the 20-foot visibility	Holdover to January 16, 2024	32
November 14, 2023	BDA223-102	5434 Ross Avenue	PD-842	2	1-variance to the front yard, variance front yard	Denied without prejudice	14
November 14, 2023	BDA223-107	5524 Vickery Boulevard	CD-15	14	Appeal the administration official decision of denial	Affirmed to Deny	29
Panel B							
November 15, 2023	BDA223-074(holdover)	5505 Chatham Hill	R-1ac(A)	13	1-sp ex fnc height	Approved with conditions	
November 15, 2023	BDA223-092	2851 W. Jefferson Boulevard	R-7.5(A)	1	1-var front yard, 2-var building height	Approved with conditions	22
November 15, 2023	BDA223-093	4200 Duncanville Road	IR	2	1-spec exc landscaping	Approved with conditions	10
November 15, 2023	BDA223-094	5540 N. Forty Place	R-1/2ac(A), R-1ac(A)	12	1-Additional meter	Holdover until December 13, 2023	10
November 15, 2023	BDA223-098	4104 Saranac Drive	R-7.5(A)	6	1-spec exc fence height, 2-spec exc fence standards	Approved with conditions	31
November 15, 2023	BDA223-099	4211 Irving Boulevard	IM, IR	6	1-spec exc landscaping	Approved with conditions	17
November 15, 2023	BDA223-100	1057 Kessler Prwy	R-7.5(A)	1	1-var front yard, 2-var building height	Approved with conditions	10
Panel C							
December 11, 2023	BDA223-103	5829 Joyce Way	R-1ac(A)	13	1- a var to side yard	Approved with conditions	19
December 11, 2023	BDA223-104	5711 Mercedes Ave	CD-11	14			WITHDRAWN
December 11, 2023	BDA223-105	915 Monte Vista Dr	CD-6	14	Appeal the administration official decision of denial	Denied without prejudice	26
December 11, 2023	BDA223-108	2518 N. Garrett Ave	MF-2(A)	14	1- a var to off-street parking	Approved with conditions	18
December 11, 2023	BDA223-109	3919 Furey St	R-5(A)	6	1- a var to front yard	Approved with conditions	18
December 11, 2023	BDA223-115	2820 Gooch St	R-7.5(A)	8	1- a var to the front yard	Approved with conditions	20
Panel B							
December 13, 2023	BDA223-094	5540 N. Forty Place	R-1/2ac(A), R-1ac(A)	12	1-Additional meter	Approved with conditions	

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December 13, 2023	BDA223-106	5924 McCommas Blvd	14	14	1-a var to front yard	Approved with conditions	25
December 13, 2023	BDA223-110	835 Thomasson dr	CD-13	1	1- a var to side yard	Approved with conditions	19
December 13, 2023	BDA223-111	9341 Creel Creek Dr	R-7.5(A)	9	1- a spc exc single family, 2- a var to FAR	Approved with conditions	18
December 13, 2023	BDA223-112	1914 Ashby St	MF-2(A)	2	1-a var to side yard	Hold to 1/17/24	37
December 13, 2023	BDA223-113	107 Pittsburg St	PD-621	6			POSTPONED
December 13, 2023	BDA223-114	6045 Velasco Ave	CD-12	14	1- var to lot coverage of 45%, 2- a var to side yard, 3- a var to side yard	1-denied, 2-approved w/ cond, 3- approved w/ cond	27
Panel A							
January 16th, 2024	BDA223-097 (HOLDOVER)	2764 Catherine Street	CD-8	1	1-special exception to the fence height, 2-special exception to the 20-foot visibility obstruction, 3-a special exception to the 20-foot visibility	Holdover to February 20, 2024	32
January 16th, 2024	BDA212-078 (HOLDOVER)	5526 E.R.L. Thorton Expwy	CR	2	1-variance on parking regulations, 2-special exception to the landscaping and tree preservation	1-approved w/ cond, 2- Approved w/ cond	16
January 16th, 2024	BDA234-003	715 W. Redbird Ln.	R-7.5(A)	4	1- a var to side yard setback	1-Approved w/ cond	19
January 16th, 2024	BDA234-005	4701 S. Denley Dr.	R-7.5(A)	3	1- a var to front yard setback reg	1-Approved w/cond	16
January 16th, 2024	BDA234-006	2000 Euclid St.	R-7.5(A)	2	1- a var to front yard, 2- a spec exc to the fence height, 3- a spec exc to fence standards, 4- a spec exc to vis obstr reg	1-Approved w/ cond, 2- denied without prej, 3- denied without prej, 4- denied without prej	37
January 16th, 2024	BDA234-008	5433 E. Grand Ave Ste B	RR	2	1- a var to parking regulations	1- Approved w/ cond	21
January 16th, 2024	BDA234-009	909 S. Corinth Street Rd	RR	4	1- a variance to front yard regulations	1-denied without prejudice	23
January 16th, 2024	BDA234-012	3010 Citation Dr.	R-10(A)	13	1- a spec exc to the fence height reg, 2- a spec exc to the fence standards	1-Approved w/cond, 2- Approved w/cond	13

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Panel B							
January 17th, 2024	BDA223-112 (HOLDOVER)	1914 Ashby St	MF-2(A)	2	1-a var to side yard	1- Approved w/ cond	
January 17th, 2024	BDA234-001	1020 Comal St	PD-571	4	1- spec exc to front yard	1- Approved w/ cond	21
January 17th, 2024	BDA234-002	4205 Duncanville Rd	IR	3	1- a spec exc to landscape reg	1- Approved w/ cond	9
January 17th, 2024	BDA234-004	1930 Hi Line Dr	PD-621	6	1- a spec exc to parking regulations	Hold until 2/21/24	13
January 17th, 2024	BDA234-007	10940 Spangler Rd	IM, IR	6	1- a spec exc to non conforming use	1- Approved w/ cond	6
January 17th, 2024	BDA234-010	4811 Kelsey Rd	R-1ac(A)	13	1- spec exc to fence reg, 2- spec exc to fence reg	Hold until 2/21/24	11
January 17th, 2024	BDA234-011	1874 temper Rd	MH(A), R-10(A), R-7.5(A)	8	1- a var to front yard setbacks	1- Denied without prej	7
January 17th, 2024	BDA234-018	7217 Brookshire Dr	R-16	11	Appeal the administration official decision of denial	Hold until 2/21/24	16
PANEL A							
February 20, 2024	BDA223-097 (HOLDOVER)	2764 Catherine Street	CD-8	1	1-special exception to the fence height, 2-special exception to the 20-foot visibility obstruction, 3-a special exception to the 20-foot visibility	1 - Denied without Prej; 2 - Denied without Prej; 3 - Denied without prej	
February 20, 2024	BDA234-013	1717 Jeffries Street	PD-346	7	1 - Spec exc to landscaping and tree mitigation	1- Approved w/ cond	28
February 20, 2024	BDA234-014	4468 Twin Post Road	R-16(A)	13	1 - spec exc to the 20-foot visibility obstruction	1- Approved w/ cond	17
February 20, 2024	BDA234-016	2511 Jordan Valley Road	R-10(A)	8	1 - spec exc to the fence height	Holdover to 3/19/24	12
February 20, 2024	BDA234-019	8343 Douglas Ave	PD-314	13	1 - spec exc to the sign regulations	1- Approved w/ cond	122
February 20, 2024	BDA234-021	3110 E. Ledbetter Dr.	CR	4	1 - spec exc to the landscaping regulations	1- Approved w/ cond	14
February 20, 2024	BDA234-025	4625 Walnut Hill Ln.	R-1ac(A)	13	1 - spec exc to fence height; 2 - spec exc to fence stand; 3 - spec exc to 20-foot visibility	Holdover to 3/19/24	11

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PANEL B							
February 21, 2024	BDA234-004 (HOLDOVER)	1930 Hi Line Dr	PD-621	6	1- a spec exc to parking regulations	1- Approved w/ cond	
February 21, 2024	BDA234-010 (HOLDOVER)	4811 Kelsey Rd	R-1ac(A)	13	1- spec exc to fence reg; 2- spec exc to fence reg	1- Approved w/ cond	
February 21, 2024	BDA234-018 (HOLDOVER)	7217 Brookshire Dr	R-16	11	Appeal the administration official decision of denial	Holdover to 5/22/24	
PANEL C							
February 22, 2024	BDA234-015	4859 Corrigan Dr.	R-7.5(A)	4	1 - var to front yard setback	1 - Approved w/ cond	20
February 22, 2024	BDA234-017	6030 S. Cochrell Rd.	R-10(A)	3	1 - spec exc single fam reg; 2 - var to FAR	1 - Approved w/ cond; 2- Denied without prej	14
February 22, 2024	BDA234-020	3321 Coronet Blvd.	R-5(A)	6	1 - spec exc fence height; 2- spec exc to 20-foot visibility reg	1 - Approved w/ cond; 2- Approved w/cond	27
February 22, 2024	BDA234-022	4711 N. Lindhurst Ave	R-1ac(A)	13	1 - var to front yard setback; 2 - spec exc to fence stand	1 - Approved w/ cond	11
February 22, 2024	BDA234-023	5504 W. University Blvd	CD-10	13	1 - var to side yard reg	1 - Approved w/ cond	20
February 22, 2024	BDA234-024	4204 Glenwood Ave.	PD-193	14	1 - var to front yard reg	1 - Approved w/ cond	35
PANEL C							
March 18, 2024	BDA234-026	1902 Lakeland Drive			1 - spec exc to fence h; 2 - spec exc to fence stand	Postponed to April	
March 18, 2024	BDA234-032	1426 Morrell Avenue	R-5(A)	4	1 - var to side yard setbck	HOLDOVER to 4/15/2024	30
March 18, 2024	BDA234-035	4447 Brookview Drive	R-10(A)	13	1 - spec exc to fence height	1 - Approved w/ cond	15
March 18, 2024	BDA234-038	11601 Liberty Commons Court	CR, PD-978, TH-2(A)	13	1 - spec exc to fence h; 2 - spec exc to fence stand	1 - Approved w/ cond 2 - Approved w/cond	20
PANEL A							
March 19, 2024	BDA234-016	2511 Jordan Valley Road	R-10(A)	8	1 - spec exc to the fence height	1 - Approved w/ cond	12
March 19.2024	BDA234-025	4625 Walnut Hill Ln.	R-1ac(A)	13	1 - spec exc to fence height; 2 - spec exc to fence stand; 3 - spec exc to 20-foot visibility	1 - Approved w/ cond 2 - Approved w/cond 3 - Approved w/ cond	11
March 19.2024	BDA234-028	4823 Gurley Avenue	D(A)	2	1 - var to FY setback	1 - Approved w/ cond	27
March 19.2024	BDA234-029	3500 Latimer Street	PD-595	7	1 - var to FY setback	1 - Approved w/ cond	33

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March 19, 2024	BDA234-033	3216 Peoria Avenue	CS, R-5(A)	6	1 - spec exc to fence height	HOLDOVER to 4/16/2024	18
March 19, 2024	BDA234-036	2105 W Northwest Hwy.	IR	6	1 - var to FY setback	1 - Approved w/ cond	10
March 19, 2024	BDA234-037	6231 Llano Avenue	R-7.5(A)	14	1 - ADU (FAR)	1 - Denied without Prejudice	26
March 19, 2024	BDA234-050	909 S. Corinth Street Rd	RR	4	1- a variance to front yard regulations	1 - Approved w/ cond	23
PANEL B							
March 20, 2024	BDA234-027	718 S. Rosemont	R-7.5(A)	1	1 - var FAR	1 - Approved w/ cond	25
March 20, 2024	BDA234-030	4320 Blackheath Road	R-7.5(A)	7	1 - spec exc - ADU	1 - Approved w/ cond	26
March 20, 2024	BDA234-031	5820 Palo Pinto Avenue	CD-12	14	1 - var to RY setback	1 - Approved w/ cond	29
March 20, 2024	BDA234-034	4722 S Lindhurst Avenue	R-1ac(A)	13	1 - spec exc to fence height; 2 - spec exc to fence stand 3 - spec exc to vis obstr	1 - Approved w/cond 2 - Approved w/cond 3 - Denied without prej	10
March 20, 2024	BDA234-039	9241 Midway Road	R-10(A)	6	1 - spec exc to fence height; 2 - spec exc to fence stand 3 - spec exc to fence stand 4 - var to front yard	1 - Approved w/ cond 2 - Approved w/cond 3 - Approved w/cond 4 - Approved w/cond	13
PANEL C							
April 15, 2024	BDA234-026	1902 Lakeland Drive	R-7.5(A)	9	1 - spec exc to fence h; 2 - spec exc to fence stand	1 - Denied without prej 2 - Denied without prej	22
April 15, 2024	BDA234-032(HER)	1426 Morrell Avenue	R-5(A)	4	1 - var to side yard setbck; 2 - var off street parking; 3 - spec exc vis obstr	1 - Denied without prej 2 - Denied without prej 3 - Denied without prej	30
April 15, 2024	BDA234-042	5511 Park Lane	R-1ac(A)	13	1 - spec exc to fence height	1 - Approved w/conditions	11
April 15, 2024	BDA234-043	6242 Walnut Hill Lane	R-10(A)	13	1 - spec exc to fence height 2 - spec exc opacity	1 - Approved w / cond 2 - Approved w / cond	18
April 15, 2024	BDA234-046	310 Canada Drive	R-5(A)	6	1 - var to front yard 2 - var off-street parking	1 - Approved w/cond 2 - Approved w/cond	20
PANEL A							
April 16, 2024	BDA234-033	3216 Peoria Avenue	CS, R-5(A)	6	1 - spec exc to fence height ; 2 - spec exc opacity; 3 - spec exc vis obstr	1 - Denied without prej 2 - Denied without prej 3- Denied without prej	18
April 16, 2024	BDA234-041	2626 Burger Avenue	PD-595	7	1 - var to front yard	1 - Approved w/cond	41
April 16, 2024	BDA234-044	205 S. Windomere Avenue	PD-87	1	1 - var to side yard	1 - Approved w/cond	19

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April 16, 2024	BDA234-048	8138 Rayville drive	R-7.5(A)	5	1 - var to side yard	1 - Denied without prej	27
April 16, 2024	BDA234-051	4033 Ivanhoe Lane	R-5(A)	6		WITHDRAWN	21
PANEL B							
April 17, 2024	BDA234-040	4906 Deloache Avenue	R-1ac(A)	13	1 - spec exc to fence height; 2 - spec exc fence opacity; 3 - spec exc vis obstr; 4 - var to front yard	1 - Approved w/cond 2 - Approved w/cond 3 - Approved w/cond 4 - Approved w/cond	12
April 17, 2024	BDA234-045	7021 Creek Bend Road	PD-106	12	1 - esp exc to fence height	1 - Approved w/cond	18
April 17, 2024	BDA234-049	7307 Robin Road	PD-67	2	1 - var to building height	1 - Approved w/cond	31
Panel C							
May 20, 2024	BDA234-054	6335 Brookshire Dr	R-16(A)	13	1 - spec exc fence height; 2- spec exc to 20-foot visibility reg	1 - Approved w/cond 2 - Approved w/cond	19
May 20, 2024	BDA234-059	10802 Strait Lane	R-1ac(A)	13	1 - spec exc fence height; 2- spec exc to visibility reg	HOLDOVER until 6/17/2024	11
May 20, 2024	BDA234-063	8518 Inwood Rd	R-16(A), R-7.5(A)	13	1 - spec exc fence height; 2- spec exc to visibility reg	1 - Approved w/cond 2 - Approved w/cond	22
May 20, 2024	BDA234-065	17805 Windpiper	PD-106	12	1 - var to side yard reg; 2 - var to side yard reg	1 - Approved w/cond 2 - Approved w/cond	16
Panel A							
May 21, 2024	BDA234-052	2514 Hillside Dr	CD-2	9	1- var to off-street parking	1 - Approved w/ cond	27
May 21, 2024	BDA234-053	3138 McDermott Ave	PD-595	7	1 - var to side yard reg	1 - Approved w/ cond	39
May 21, 2024	BDA234-055	3601 W. Lawther Dr	R--1ac(A)	9	1 - spec exc single-family reg	1 - Approved w/ cond	6
May 21, 2024	BDA234-056	82063 Inwood Rd	R-16(A), R-7.5(A)	13	1 - spec exc to fence height	1 - Approved w/ cond	23
May 21, 2024	BDA234-058	5717 Walnut Hill Ln	R-10(A)	13	1 - spec exc to fence height	1 - Approved w/ cond	11
May 21, 2024	BDA234-061	1931 Danube Dr	R-7.5(A)	4	1 - var to front-yard setback reg	1 - Approved w/ cond	11
May 21, 2024	BDA234-067	7023 Oriole Dr	PD-67	2	1 - var to front yard setback; 2 - spec exc to fence stand reg; 3- spec exc to fence height reg	1 - Approved w/ cond; 2 - Approved w / cond; 3 - Approved w/ cond	28

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PANEL B							
May 22, 2024	BDA234-018	7217 Brookshire Drive	R-16(A)	11	Appeal the administration official decision of denial	Reverse AO Decision	16
May 22, 2024	BDA234-060	2323 N. Carroll Ave	MF-2(A)	2	1 - spec exc to fence height; 2 - spec exc to 20 foot vis obstr; 3 - spec exc to 45-foot vis obstr	1 - Denied without Prej; 2 - Approved w/cond; 3 - Denied without prejudice	64
May 22, 2024	BDA234-062	10576 Shiloh Rd	R-7.5(A)	9	1 - spec exc to fence height; 2 - spec exc to fence stand	1 - Approved w/ cond; 2 - Approved w/ cond	18
May 22, 2024	BDA234-064	6131 Churchill Way	PD-123, R-16(A)	11	1 - spec exc to fence height reg	1 - Approved w/ cond	18
May 22, 2024	BDA234-068	6919 Oriole Dr	PD-67	2	1 - var to front yar reg; 2 - spec exc to fence height reg	1 - Denied without prejudice ; 2 - Approved w / cond	28
May 22, 2024	BDA234-069	2912 Maple Ave	PD-193	14	1 - var to off-street parking	1 - Denied without prejudice	79
PANEL C							
June 17, 2024	BDA234-057	1433 N. Westmoreland Rd	IR, PD-811	3			7
June 17, 2024	BDA234-059	10802 Strait Lane	R-1ac(A)	13	1 - spec exc fence height; 2 - spec exc to visibility reg	1 - Approved w/cond; 2 - Approved w/cond	11
June 17, 2024	BDA234-072	4337 Park lane	R-10(A)	13	1 - spec exc fence height; 2 - spec exc fence stands	1 - Approved w/cond; 2 - Approved w/cond	11
June 17, 2024	BDA234-074	5404 Falls Rd	R-1ac(A)	13	1 - spec exc fence height	1 - Approved w/cond	12
June 17, 2024	BDA234-075	6802 Forest Lane	R-1ac(A)	11	1 - spec exc fence height; 2 - spec exc fence stands	1 - Approved w/cond; 2 - Approved w/cond	13
June 17, 2024	BDA234-079	9334 R.L. Thornton Freeway	RR	7	1 - spec exc parking	HOLDOVER until 7/18/2024	5
PANEL A							
June 18, 2024	BDA234-071	607 W. Davis	PD-830	1	1 - spec exc landscaping	HOLDOVER until 8/20/2024	27
June 18, 2024	BDA234-073	2112 Bothan Jean Blvd	PD-317	2	1 - spec exc landscaping	1 - Approved w/ cond	14
June 18, 2024	BDA234-076	5503 Monticello	CD-9	14	1 - spec exc visibility triangle; 2 - spec exc visibility triangle	1 - Approved w/ cond; 2 - Approved w/ cond	29
June 18, 2024	BDA234-077	3216 Peoria Avenue	CS, R-5(A)	6	1 - spec exc fence height	HOLDOVER until 8/20/2024	18
June 18, 2024	BDA234-078	8334 Plainview	A(A), IR	8	1 - var lot coverage	1 - Approved w/ cond	14
June 18, 2024	BDA234-080	5419 E. Grand Ave	RR	2	1 - spec exc parking	1 - Denied without prejudice	12

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<i>June 19, 2024 Cancelled Per Chairman (Panel B)</i>				<i>June 19, 2024 Cancelled Per Chairman (Panel B)</i>			
PANEL A							
July 16, 2024	BDA234-076_FR1	5503 Monticello Avenue	CD-9	14	Fee Reimbursement	1 - Approved	0
July 16, 2024	BDA234-081	5711 Deloache Avenue	R-1ac(A)	13	1 - spec exc fence height 2 - spec exc opacity 3 - spec exc fence reg	1 - Approved w/cond 2 - Approved w/ cond 3 - Approved w/cond	10
July 16, 2024	BDA234-082	7117 Churchill Way	R-1/2ac(A)	11	1 - spec exc fence height	1 - Denied without prejudice	19
July 16, 2024	BDA234-086	9040 Mercer Drive	R-7.5(A)	9	1 - spec exc fence height 2 - spec exc opacity	1 - Approved w/cond 2 - Approved w/ cond	19
July 16, 2024	BDA234-089	938 N. Clinton Ave	CD-1	1	1 - spec exc visibility triangle	1 - Approved w/cond	27
July 16, 2024	BDA234-090	10660 Strait Ln	R-1ac(A)	13	1 - spec exc fence height 2 - spec exc opacity 3 - spec exc fence reg	1 - Approved w/cond 2 - Approved w/ cond 3 - Approved w/cond	13
July 16, 2024	BDA234-092	8306 Midway Rd	R-10(A)	13	1 - spec exc fence height 2 - spec exc opacity	1 - Approved w/cond 2 - Approved w/ cond	25
<i>July 17, 2024 Cancelled Per Chairman (Panel B)</i>				<i>July 17, 2024 Cancelled Per Chairman (Panel B)</i>			
<i>July 18, 2024 Cancelled Per Chairman (Panel C)</i>				<i>July 18, 2024 Cancelled Per Chairman (Panel C)</i>			
PANEL C							
August 19, 2024	BDA234-079	9334 R.L. Thornton Freeway	RR	7	1 - spec exc parking	HOLDOVER until 10/21/2024	5
August 19, 2024	BDA234-083	10010 Strait Lane	R-1ac(A)	13	1 - spec exc fence height 2 - spec exc opacity 3 - spec exc opacity 4 - spec exc fence height	1 - approved w/ cond 2- Approved w/ cond 3- Approved w/cond 4 - Approved w/cond	13
August 19, 2024	BDA234-084	2626 W. Mockingbird Ln	IR	2	1 - Spec exc landscaping	1- Approved w/ cond	14
August 19, 2024	BDA234-085	402 S. Beacon Street	PD-134	2	1 - spec exc fence height 2 - spec exc visibility obstr 3 - spec exc visibility obst 4 - spec visibility obstr 5 - spec exc fence height	1 -approved w/ cond 2- Approved w/ cond 3- Approved w/cond 4 - Approved w/cond 5 - Approved w/cond	22
August 19, 2024	BDA234-087	8703 Angora Street	R-7.5(A)	9	1 - spec exc single family reg 2 - var far	1- Approved w/ cond 2/ Approved w/ cond	21
August 19, 2024	BDA234-088	507 Exposition Ave	PD-269	2	1 - var parking	HOLDOVER until 10/21/2024	31
August 19, 2024	BDA234-091	1444 Oak Lawn Avenue	PD-621	6	1 - var parking	1- Approved w/ cond	21

BDA CASE LOG (10/2023 to 09/2024)	Case Nos.	Address	Zoning	Council District	Case Type	Board Action	Reg Notices Sent
PANEL A							
August 20, 2024	BDA234-071	607 W. Davis	PD-830	1	1 - spec exc landscaping	1- Approved w/ cond	27
August 20, 2024	BDA234-077	3216 Peoria Avenue	CS, R-5(A)	6	1 - spec exc fence height	1- Approved w/ cond	18
August 20, 2024	BDA234-093	325 N. Moore Street	PD-1052	4	1 - var to front yard setback	1- Approved w/ cond	45
August 20, 2024	BDA234-095	6130 Royalton Drive	R-16(A)	11	1 - var to FY setback - var to off-street park	2 1- Approved w/ cond 2 - Approved w/ cond	19
August 20, 2024	BDA234-100	630 S. Buckner Boulevard	PD-67	2	POSTPONED		
August 20, 2024	BDA234-101	6801-6803 Tyree Street	PD-67	2	Administrative Official Appeal	HOLDOVER until 9/17/2024	23
PANEL B							
August 21, 2024	BDA234-094	2706 Turtle Creek Circle	PD-193	14	1 - spec exc landscaping	1- Approved w/ cond	92
August 21, 2024	BDA234-096	5325 Kelsey Road	R-1ac(A)	13	1 - spec exc fence height spec exc vis obst spec exc vis obst	2- 3- HOLDOVER until 9/18/2024	13
August 21, 2024	BDA234-097	6121 E. Lovers Lane	PD-1053	14	Administrative Official Appeal	Affirm the AO decision	42
August 21, 2024	BDA234-098	5322 Kelsey Road	R-1ac(A)	13	1 - spec exc fence height	HOLDOVER until 9/18/2024	12
August 21, 2024	BDA234-099	3306 Hamilton Avenue			POSTPONED		
August 21, 2024	BDA234-102	5311 Edlen Drive	R-1ac(A)	13	1 - spec exc fence height	1 - Approved w/ cond	13
PANEL A							
September 17, 2024	BDA234-101	6801-6803 Tyree Street	PD-67	2	Administrative Official Appeal	HOLDOVER	23
September 18, 2024	BDA234-111	6529 Victoria Avenue	PD-67	2	Administrative Official Appeal	HOLDOVER	27
September 17, 2024	BDA234-105	8340 Plainview drive	A(A)	8	1 - Var - SY setback - Var - RY setback Var - lot coverage	2 3- 2 - Approved w/cond 3 - Approved w/cond	15
September 17, 2024	BDA234-108	5601 Ursula Lane	R-1/2ac(A)	13	1 - var front yard setback	1 - Denied without prejudice	13
September 17, 2024	BDA234-109	10335 Lennox Lane	R-1ac(A)	13	1 - spec exc fence height	1 - Approved w/cond	13

BDA CASE LOG (10/2023 to 09/2024)	Case Nos.	Address	Zoning	Council District	Case Type	Board Action	Reg Notices Sent
September 17, 2024	BDA234-110	1710 Morrell Avenue	CR, MF-2(A)	4	1 - spec exc tree conservation	1 - Approved w/cond	18
PANEL B							
September 18, 2024	BDA234-096	5325 Kelsey Road	R-1ac(A)	13	1 - spec exc fence height spec exc vis obst	HOLDOVER	13
September 18, 2024	BDA234-098	5322 Kelsey Road	R-1ac(A)	13	1 - spec exc fence height	HOLDOVER	12
September 18, 2024	BDA234-103	2323 N. Carroll Avenue	MF-2(A)	2	1 - spec exc vis obst 2- spec exc vis obst	1 - Approved w/cond 2 - Approved w/cond	67
September 18, 2024	BDA234-107	8510 Military Parkway	R-7.5(A)	7	1 - spec exc fence height	1 - Approved w/cond	56

BOARD OF ADJUSTMENT

2024-2025

GOALS & OBJECTIVES

City of Dallas
Board of Adjustment
October 29, 2024

Proposed 2024 - 2025 Goals & Objectives

1. Ensure Fairness to every property owner appeal to the Board of Adjustment (BOA) through Timeliness and Accuracy for a hearing, and Transparency to the public. Strive to consistently provide a fair and complete evaluation of all relevant facts from applicant and staff on each appeal as they apply to a predefined standard.
2. Staff and Board to provide a public hearing for property owner appeals to BOA within 60 days on average from taxpayer application. Potentially modify BOA Panel hearing caseload management in extraordinary circumstances. Continue to use a verifiable predefined consistent measurement of days from application to Hearing, (State law requires a hearing within 60 days for an Administrative Official appeal and 30 days for Plats)
3. Process Improvement: Review the appeals process for opportunities to streamline processes and to remove unnecessary steps. Identify ways to make the application process more accessible to “non-professional” users and applicants. Panel hearings to be 100% attended by Members or Alternates (5 of 5) to ensure a full panel’s deliberation for the applicant.
4. Staff’s comprehensive and technical analysis for appeal hearings utilizes current maps and information with enhanced photos and property comparisons to include the surrounding properties within 200 feet of the appeal location. Supplement with readily available technology for the Board. Staff to proofread all presentations to ensure improved accuracy.
5. Website enhancements to include an interactive map and case lookup, adapted from the “pending cases” section of the website for cases current and past that allow a user to find the case of their interest and immediately see filings, status and contact information about the case. Create a user friendly application flowchart/process to guide a property owner start to finish.
6. Quarterly enhanced training of members/alternates on rules, conflicts of interest, criteria for decision making and onboarding of new appointees.

BOARD OF ADJUSTMENT

**RECOMMENDATIONS TO THE
CITY COUNCIL**

City of Dallas
Board of Adjustment
PROPOSED Recommendations to City Council
October 29, 2024

1. Request City Council oversight of the new Planning & Development Department to ensure their support of Timeliness, Accuracy, Transparency, and Fairness for all phases of a Board of Adjustment appeal by a taxpayer/property owner.
2. Request City Council oversight on permitting process and personnel to reduce permitting errors which have led to undue financial cost, delay, and unfairness to all involved: homeowners, developers and neighborhoods.
3. Approve the proposed amendments to the Board of Adjustment's Rules of Procedure.

10-01-24

CITY OF DALLAS
BOARD OF ADJUSTMENT
WORKING RULES OF PROCEDURE

April 2023
[REVISED SEPT. – OCTOBER 2024]

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CITY OF DALLAS BOARD OF ADJUSTMENT

RULES OF PROCEDURE

Section 1. Powers of the Board.

- (a) The powers of the board of adjustment, referred to as the board conferred upon it in Section 7, Chapter 282, Page 424, 40th Legislature, Acts 1927, and as thereafter amended, being codified in Chapter 211 of the Local Government Code, Chapter 8 of the Dallas City Code, as amended, and in Sections 51A-3.102, 51A-4.703, and 51A-4.704 of the Dallas Development Code, as amended, include, but are not limited to, the following:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any order or ordinance pertaining to zoning.
 - (2) To hear and decide special exceptions to the terms of the zoning ordinance in the manner provided.
 - (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice done.
 - (4) To regulate and discontinue nonconforming uses and structures.
- (b) In exercising its powers, the ~~board and~~ panels of the board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination appealed from and may make an order, requirement, decision, or determination as ought to be made, and to that end the ~~board and~~ panels of the board shall have all the powers of the officer from whom an appeal is taken.

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Section 2. Composition of the Board.

- (a) The board shall consist of fifteen members and six alternates appointed by the city council for a term of two years. All members shall be removable for cause by the city council upon written charges and after a public hearing.
- (b) The officers of the board shall consist of a chair, two vice-chairs, appointed by the mayor, a board administrator, a board secretary, a board attorney, and any other officers the board may elect or the chair may appoint. The board administrator, board secretary, and board attorney shall have no voting rights.
- (c) The board shall be divided into three panels of five members. A board member may serve only on the panel to which the member is assigned. The chair and vice-chairs shall each be the presiding officer of one of the panels.
- (d) The board and panels of the board shall be provided the staff employees necessary to conduct its proceedings, as provided by the budget. The services of an accountant and abstract research company may be retained as needed for the preparation of compliance cases.

Section 3. Quorum. At the beginning of each regular or special meeting, the presiding officer shall determine whether a quorum exists. A quorum exists if 75 percent of the fully appointed members (four members minimum for a panel, or 12 members for the fully appointed 15 member board), either regular or alternate, are present. If a quorum exists, the presiding officer shall announce that a quorum is present. If a quorum does not exist 30 minutes after the time the meeting was called, the presiding officer shall adjourn the meeting.

Section 4. Duties of the Chair.

- (a) The chair shall preside over all meetings of the entire board. In the absence of the chair, the chair shall appoint a vice-chair to preside and fulfill all of the duties of the chair.
- (b) The chair shall approve a rotational schedule for attendance of alternate

members at panel meetings.

- (c) The chair may consult with the board administrator to review the prepared board and panel agendas.
- (d) The chair may call and cancel meetings of the full board or of a panel.
- (e) The chair may create ad hoc committees and working groups from time to time to study and make recommendations on specific issues. Ad hoc committees must be made up of only members of the board of adjustment and cannot have more than six members.

Section 5. Duties of the Presiding Officers.

- (a) The chair and vice-chairs shall act as presiding officers of their respective panels. The duties of the presiding officers of a panel are to preside at all meetings of the panel to which they are assigned, to maintain order at all times, to administer oaths, and to rule on all points of procedure, and to dispense the business of the panel in a just and orderly manner. The presiding officer may impose a reasonable time limit for speakers in order to dispense the business of the board or panel in a just and orderly manner.
- (b) The presiding officer shall question all witnesses and/or staff, and request other members of the panel to ask any questions which may assist the board and panels of the board in arriving at a just and fair decision.
- (c) The presiding officer shall sign the minutes of the panel meetings over which he or she presides and each case decided upon in accordance with the decision of the panel.
- (d) In the absence of the presiding officer, the panel shall elect a temporary presiding officer. This election does not survive the meeting in which it is had.
- (e) The presiding officer shall compel the attendance of witnesses when necessary.

Section 6. Duties of the Board Administrator.

- (a) The board administrator shall:
- (1) receive all complete applications to the board for processing;
 - (2) receive all evidence submitted for the board's review;
 - (3) provide technical assistance to the board;
 - (4) assist the general public with information, procedures, policies, case status, and site plans;
 - (5) gather needed information from outside sources and confer with all sections and departments of the city for case analysis;
 - (6) provide research on cases;
 - (7) prepare board documents, dockets, notices, and advertisements, and write necessary letters to the property owners;
 - (8) direct, conduct, and supervise all administrative functions of the board operation as may be deemed necessary;
 - (9) coordinate the work of the board in support of the chair and vice-chairs in their leadership of the board;
 - (10) serve as liaison between the board and the city plan commission, city manager, and various other officers of the City of Dallas, including, but not limited to, the building official, the director of transportation, the city attorney, and the director of planning; and
 - (11) after conferring with the chair, propose and maintain an annual calendar for the board and panel meeting dates, which are subject to initial board approval.
 - ~~(12) balance the caseloads among the panels.~~
 - (1~~2~~3) prepare the board and panel agendas with consultation by the

chair and vice-chairs.

- (134) initiate a comprehensive review of the request based on the current zoning, conduct a site visit of the subject property and the surrounding 200 feet, and consult relevant city departments
- (145) prepare a staff recommendation or technical review for pending cases when appropriate and state all the staff members and their roles who participated in making the recommendation or technical review.
- (156) no later than seven calendar days prior to each board or panel meeting, distribute to each member and make available to the public the complete agenda and case docket materials. The board or panel, by majority vote, can still hear the noticed cases even if the agenda and case docket materials were not disseminated in accordance with this paragraph.
- (167) review all forms and intake and handling procedures for board applications for accuracy, equalityequity, and efficiency.
- (178) publish all board meeting dates and times, and list all pending cases filed with the board.
- (189) conduct an orientation training for new members and alternate members upon appointment.

- (b) The board administrator shall also administer oaths and compel the attendance of witnesses when requested by the chair or other presiding officers to do so.
- (c) For purposes of this section, BOARD means the full board or panels of the board.

Section 7. Duties of the Board Secretary.

- (a) The board secretary shall be generally responsible for the clerical work of the board and panels of the board, under the direction and supervision of the board administrator. The board secretary shall:
 - (1) keep the minutes of all meetings and proceedings in a

substantially bound book showing the vote and motion of each member upon each question, or if absent, or failing to vote, indicating that fact, and attesting the minutes;

(2) compile the required records, log appeals and applications to the board, prepare case folders, type notices and envelopes, prepare route sheets, log favor and opposition letters, prepare certified mail to applicants, type letters and memoranda; and

(3) call board and panel members for meetings, maintain index files, number each case, and furnish each member of the board and each member of panel of the board with a copy of each petition, together with the administrative official's decision~~refusal~~.

(4) randomly and independently assign and reassign cases to the panels and balance the workloads of the panels except as provided in subsection 10(k) and 10(l).

~~(4)~~(5) no later than seven calendar days prior to each board or panel meeting, distribute to each member and make available to the public the complete agenda and case docket materials. The board or panel, by majority vote, can still hear the noticed cases even if the agenda and case docket materials were not disseminated in accordance with this paragraph.

~~(5)~~(6) Publish all board meeting dates and times, and list all pending cases filed with the board.

(b) For purposes of this section, BOARD means the full board or panels of the board.

Section 8. Alternate Members.

(a) In the absence of one or more regular members, alternate members shall attend panel and full board meetings when requested to do so by the board chair, the presiding officer of a board panel, or by the city manager. The presiding officer of a panel may dismiss an alternate member when attendance is not necessary to complete a five-member panel.

~~(b) The alternate members are subject to the same attendance and general rules as all other board members.~~

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~~(b) The alternate members are subject to the same general rules as all other board members.~~

~~(c) Alternate members who are not on the panel scheduled to attend will be called to serve only when one or more regular members are absent from the meeting.~~

Section 9. Attendance and General Rules.

- (a) The board shall be governed by the rules of procedure and decorum for city boards and commissions contained in Chapter 8 of the Dallas City Code, as amended, and applicable provisions of the City Charter.
- (b) All members shall comply with the attendance rules set forth in Chapter XXIV, Section 17, of the City of Dallas Charter and Chapter 8 of the Dallas City Code, as amended. No member may be excused from attendance at a board or panel meeting, except for medical reasons certified to by his or her physician or unless excused by the board and the city council. A member shall forfeit his or her office if the member misses more than three regular meetings in succession or misses more than 25 percent of the regular meetings during any 12-month period.

Section 10. Requests for Board Action.

- (a) All requests to the board must be made on the prescribed form provided by the director, which must be signed and acknowledged before a. ~~The facts alleged must be attested to by a~~ notary public.
- (b) The fee as provided by ordinance must accompany each request to defray the cost of advertising the public hearing.
- (c) The board or panel of the board may waive the filing fee if the board or panel of the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's or panel's miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket for predetermination, the applicant may not file the application until the merits of the request for waiver have been determined by the board or panel of the board.

(d) Evidence submitted for the board's consideration on a request must be submitted to the board administrator or the board secretary. Evidence submitted is part of the public record and will not be returned. The board and panels are quasi-judicial bodies; therefore, no evidence may be submitted to and no contact may be made with individual members regarding a pending request. All communications, oral or written, should be directed to the board administrator. Failure to comply with this rule may result in criminal prosecution for improper influence, which is a Class A misdemeanor under Texas Penal Code Section 36.04.

~~(e)~~ Unless expressly authorized by the concurring vote of 75 percent of the members of a panel when an extreme hardship is shown, no request may be heard at a regular panel meeting until the expiration of 21 days after it is filed with the administrative official.

~~(f)~~(e)

~~(g)~~(f) The director shall schedule cases within a reasonable time from the receipt of a complete application.

~~(h)~~(g) An item may be placed on the board agenda by the director, the board chair, or a written request of at least one-third of the members of the board. An item may be placed on a panel agenda by the director, the board chair, the vice-chair of that panel, or a written request of at least two members of that panel.

~~(i)~~

~~(j)~~(h) The director may authorize the withdrawal of all applications except those to establish a compliance date, which must be authorized by the panel assigned the case. No request for withdrawal of an application may be considered by the director or a panel unless it is in writing. A request to the director for withdrawal must be received before 5:00 p.m. on the second Friday before the date of the hearing. ~~A request to the director for withdrawal must be received before 5:00 p.m. of the day that will leave five full calendar days working days (excluding Saturdays, Sundays, and official city holidays) before the date of the hearing.~~ A request for withdrawal must be received in sufficient time to notify all interested parties before the hearing date. If the director or the panel finds in the consideration of such a request that there is an objection to the withdrawal and that allowing the withdrawal over the objection will unduly prejudice the objector, the director or panel shall

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deny the request. If the director denies a request for withdrawal, the applicant may appeal the withdrawal request to the panel assigned the case provided the appeal satisfies all of the requirements of this subsection for an application for withdrawal.

~~(k)~~(i) The director may authorize the amendment of all applications, except those to establish a compliance date and appeals from the decision of an administrative official, which must be authorized by the panel to which the case is assigned. A request to the director for to amend must be received before 5:00 p.m. on the second Friday before the date of the hearing. A request to the director for an amendment must be received before 5:00 p.m. of the day that will leave full days (excluding Saturdays, Sundays, and official city holidays) before the date of the hearing. If the director or panel finds in the consideration of such a request that there is an objection to the amendment, and that allowing the amendment over the objection will unduly prejudice the objector, the director or panel shall deny the request. If the director denies a request for amendment, the applicant may appeal to the panel assigned the case. If an amendment is authorized which requires newspaper advertisement and/or written notice to surrounding property owners, the amendment constitutes a new application and the requesting party must pay an additional filing fee to defray the cost of re-advertising.

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~~(j)~~(j) A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a specific finding based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property. The person requesting the time extension shall have the burden of establishing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the panel extend the time period beyond 18 months from the date of its favorable action.

~~(m)~~(k) Only one panel may hear, handle, or render a decision in a particular case. If any preliminary action is required on a case, including but not limited to a fee waiver or waiver of the two-year waiting period, the case must be returned to the panel taking the preliminary action. If any application comes before the board with the same building site (location) within the previous five years, it must be returned to the panel to which it was originally assigned.

~~(n)~~(l) In extraordinary circumstances, the board, by a majority vote, may consolidate and assign cases and appeals to a single panel, to promote judicial efficiency, judicial expediency, fairness to affected parties, and economy of case-management.

Section 11. Public Testimony and Public Hearings.

- (a) All meetings of the board and panels of the board are open to the public and must be held at a time and place determined by the board.
- (b) The chair shall have the authority to call special meetings of the board. The presiding officer of a panel acts as the panel's chair pursuant to Section 8-3 of the Dallas City Code, and shall have the authority to call special meetings of that panel. The officer calling a special meeting shall designate the time and the place of the meeting subject to availability. Special meetings must be called by the chair at the request of at least one-third of the board.
- (c) The board secretary shall notify all affected members of the date, time, and place of either a regular or special meeting.
- (d) The applicant has the burden of proof to establish the necessary facts to warrant favorable action of the board.
- (e) Any interested party may appear in person or by agent or attorney at the public hearing.
- (f) Members of the public may offer public testimony at regular and special meetings of the board regarding any item on the board's posted agenda before or during the board's consideration of the item (e.g. minutes, appeals, compliance cases). Each speaker will have a maximum of three minutes to speak unless the time is shortened or extended by the presiding officer. Any member of the public requiring the use of a translator to relay public comments shall be afforded twice the amount of time as a member of the public who does not require a translator.
- (g) After a case is called, the applicant shall have up to five minutes to state his or her case. Anyone in favor shall be heard next for up to five minutes, then anyone in opposition shall be heard for up to five minutes. The applicant shall have up to five minutes to make a reply. Before the

applicant begins, the presiding officer can limit the applicant's time, equally limit the time of the speakers in favor or opposition, or both.

- (h) All applicants, members of the public, or witnesses who wish to address the board during a public hearing shall be sworn in.
- (i) The director shall provide sufficient staff at hearings to ensure that the board can make a fair determination.
- (j) If a case is called for hearing in due order on the docket and the applicant or anyone on his or her behalf does not appear, the panel may hold the case over to the following hearing at which time it will be called again. The panel may also approve a case or deny a case for lack of appearance at the first call at its discretion. If no one appears the second time, the case must be denied with prejudice.
- (k) If, after a public hearing on a request, the presiding officer duly calls for, but does not receive a motion, the request is deemed denied with prejudice.

~~(l) A public hearing must be conducted for compliance proceedings on a nonconforming use. Prior to the hearing, the presiding officer may direct that a subpoena duces tecum and interrogatories be served on the owner(s) and/or operators of the use requesting that certain information and documents be produced to the board administrator within a reasonable time. The owner(s) and/or operators may supply the board administrator with any additional information or documents that are necessary for the panel to make its decision. At the hearing, the panel shall review the information and documents and set a date by which the nonconforming use must come into compliance with the current zoning regulations.~~

~~(m)~~(1) Notwithstanding subsection (f), the following rules apply to appeals of decision of administrative officials.

- (1) After the case is called, the appellant shall have up to 20 minutes to present his or her case, during which time the appellant may give an opening statement, call witnesses, and offer evidence. If the appellant calls a witness, the administrative official may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The appellant

can redirect his or her witness for up to five minutes, which shall not count towards the appellant's initial 20-minute time period.

- (2) After the appellant's 20 minutes has expired, the administrative official shall have up to 20 minutes to present his or her case, during which time the administrative official may give an opening statement, call witnesses, and offer evidence. If the administrative official calls a witness, the appellant may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The administrative official can redirect his or her witness for up to five minutes, which shall not count towards the appellant's initial 20-minute time period.
- (3) After the administrative official's 20 minutes have expired, the appellant shall have up to three minutes for a rebuttal and three minutes for a closing statement. The administrative official shall also have up to three minutes for a closing statement.
- (4) The panel may ask questions at any time. The panel members' questions shall not count towards either party's time limitation.

(m) A public hearing must be conducted for compliance proceedings on a nonconforming use. Prior to the hearing, the presiding officer may direct that a subpoena duces tecum and interrogatories be served on the owner(s) and/or operators of the use requesting that certain information and documents be produced to the board administrator within a reasonable time. The owner(s) and/or operators may supply the board administrator with any additional information or documents that are necessary for the panel to make its decision. At the hearing, the panel shall review the information and documents and set a date by which the nonconforming use must come into compliance with the current zoning regulations.

(n) Notwithstanding subsection (f), the following rules apply to compliance cases.

- (1) After the case is called, the applicant shall have up to 20 minutes to present his or her case, during which time the applicant may give an opening statement, call witnesses, and offer evidence. If the applicant calls a witness, the property owner may cross-

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examine that witness for up to five minutes and that time shall not count towards either party's time limit. The applicant may redirect his or her witness for up to five minutes, which shall not count towards the applicant's initial 20-minute time period.

- (2) After the applicant's 20 minutes has expired, the property owner shall have up to 20 minutes to present his or her case, during which time the property owner may give an opening statement, call witnesses, and offer evidence. If the property owner calls a witness, the applicant may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The property owner can redirect his or her witness for up to five minutes, which shall not count towards the property owner's initial 20-minute time period.
- (3) After the property owner's 20 minutes has expired, the applicant shall have up to five minutes for a rebuttal and a closing statement. The property owner shall also have up to five minutes for a closing statement.
- (4) The panel may ask questions at any time. The panel member questions shall not count towards either party's time limitation.

(o) The board administrator may place cases which lack any opposition on an uncontested docket, which are recommended for approval without opposition on an uncontested docket. When the presiding officerboard administrator calls the uncontested docket, he or she shall state the case number, the applicant, the location, the nature of the case and the staff recommendation, and shall ask if there is anyone in favor or opposition. A case on the uncontested docket must be considered individually as a regular docket item if there is any opposition or a panel member so requests. Any cases remaining on the uncontested docket shall be approved as a group without the need for testimony from the applicants.

(p) Documentary evidence.

- (1) All typewritten documentary evidence including reduced size copies of conceptual plans, development plans, landscape plans, and site plans must conform to the standard 8.5 x 11 inch letter-sized pages on a size 12 font or larger. Each page must be serially numbered and double spaced.

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~~(2)~~(1) All printed and typewritten documentary evidence in excess of five pages tendered by a party shall not be considered by the board unless such documentary evidence is submitted to the board administrator no later than 10 days prior to the scheduled hearing date at which the matter is to be considered. Upon oral request made by the party at the scheduled hearing, a panel of the board may, for good cause, suspend the operation of this rule and consider the excluded evidence or postpone the hearing on the application to a date certain to allow the panel sufficient time to consider the tendered evidence prior to the next scheduled hearing date.

~~(3)~~(2) For purposes of this subsection, DOCUMENTARY EVIDENCE means anything printed, written on paper, or a digital document and relied upon to record or prove something. This term does not include signed petitions or PowerPoints or slide shows offered during a presentation for purposes of submitted evidence limitations.

~~(4)~~(3) For purposes of this subsection, PARTY means the applicant or any person or entity that appears in favor of or against the request.

Section 12. Decisions of a Panel.

- (a) No action of a panel sets a precedent. Each case must be decided upon its own merits and upon the circumstances of the case.
- (b) The concurring vote of 75 percent of the members of a panel (at least four members) is necessary to reverse any decision of an administrative official, or to decide in favor of an applicant on any matter which the board is required to pass under a zoning ordinance. If such an application does not receive the concurring vote of 75 percent of the members of a panel and no subsequent motion is made, the case is construed as denied with prejudice.
- (c) Reconsideration. The following rules apply for a motion to reconsider.
 - (1) A motion to reconsider may only be made at the same meeting the vote was taken and only by the same makeup of the panel

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that made the decision.

- (2) A motion to reconsider may be made and seconded by any member of the panel regardless of their initial vote on the item and requires a simple majority vote. If the time for reconsideration of a case has expired, the panel may not change or modify its decision unless a new application is filed or the case is referred back to the panel.
- (3) An item may not be twice reconsidered, except by unanimous consent.
- (d) Once a decision of a panel is appealed to district court, it may not be reconsidered or rescinded, unless the case is remanded by the district court.
- (e) The decisions and official records of the board and panels are public records.

Section 13. Executive Sessions.

- (a) The board or a panel may remove itself from an open meeting by moving to go into an executive session. Only matters authorized under the Texas Open Meetings Act to be discussed in executive session may be addressed in the executive session. All communication in an executive session is privileged information. The privilege can only be waived by a member by formal waiver. Members are cautioned that discussing the privileged communication with a member of the public, the media, or any other person not privy to the executive session may damage the privilege. The board or a panel shall not hold an executive session except when discussing complaints about or evaluations of individual staff members, or seeking the advice of its attorney on the following matters:
 - (1) Pending or contemplated litigation.
 - (2) Settlement offers.
 - (3) Risk or liability of the board, a panel or individual members thereof for taking an action.

- (4) Any matter where the duty of the board's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, conflicts with the Open Meetings Law.
- (b) A motion to go into an executive session must be seconded and requires a majority vote. If the motion passes, the board or panel shall follow the following procedure:
- (1) The presiding officer shall announce that the board or panel is going into an executive session, stating the category under the Texas Open Meetings Act that permits the executive session.
 - (2) The presiding officer shall announce the time.
 - (3) Members shall move quickly to the location of the executive session with no discussion among themselves or with members of the public or media.
 - (4) The executive session must be tape recorded.
 - (5) At the end of the executive session, members shall return quickly to the meeting room with no discussion among themselves or with members of the public or media.
 - (6) The presiding officer shall announce the time when the board or panel resumes the open meeting.

Section 14. Two-Year Limitation.

- (a) Except as provided in Subsections (b) and (c), after a final decision is reached by a panel, no further applications may be considered on the matter decided for that property for two years from the date of the final decision.
- (b) If a panel renders a final decision of denial without prejudice, the two-year limitation is waived.
- (c) A property owner may apply for a waiver of the two-year limitation in the following manner:

- (1) The applicant shall submit his request in writing to the board administrator. The board administrator shall inform the applicant of the date on which his request shall be considered and shall advise the applicant of his right to appear before the panel to which the matter has been assigned.
- (2) A panel may waive the time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote is required to grant the request. If a rehearing is granted, the applicant shall follow the appeal procedure.

Section 15. Amendments to Rules of Procedure.

These rules may be amended by a simple majority vote of the members present at a meeting of the entire board, or by a majority vote of the members of all three panels at separate meetings. Amendments approved by the entire board or by the panels sitting separately become effective once approved by the city council.