

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1FN AUDITORIUM  
THURSDAY, February 20, 2020**

MEMBERS PRESENT AT BRIEFING: Robert Agnich, acting chair, Judy Pollock, regular member, Moises Medina, regular member, Jared Slade, alternate member and John Jones, alternate member

MEMBERS ABSENT FROM BRIEFING: Matt Shouse, regular member and Roger Sashington, regular member

MEMBERS PRESENT AT HEARING: Robert Agnich, acting chair, Judy Pollock, regular member, Moises Medina, regular member, Jared Slade, alternate member and John Jones, alternate member

MEMBERS ABSENT FROM HEARING: Matt Shouse, regular member and Roger Sashington, regular member

STAFF PRESENT AT BRIEFING: Sarah May, Interim Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Jessie Farris, Arborist, David Nevarez, Engineering Division, Elaine Hill, Acting Board Secretary and LaTonia Jackson, Board Secretary

STAFF PRESENT AT HEARING: Sarah May, Interim Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Jessie Farris, Arborist, Elaine Hill, Acting Board Secretary and LaTonia Jackson, Board Secretary

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**11:08 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 20, 2020 docket.**

**BOARD OF ADJUSTMENT ACTION: February 20, 2020**

**1:02 P.M.**

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand

upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

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**MISCELLANEOUS ITEM NO. 1**

Approval of the Board of Adjustment Panel C, February 20, 2020 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: February 20, 2020**

**MOTION: Pollock**

Approval of the Board of Adjustment Panel C, February 20, 2020 public hearing minutes.

**SECONDED: Jones**

**AYES:** 5 – Agnich, Pollock, Medina, Slade, Jones

**NAYS:** 0

**MOTION PASSED:** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA190-016(OA)

**BUILDING OFFICIAL’S REPORT:** Application of William Peter Grimmett for a special exception to the fence height regulations at 3451 Saint Cloud Circle. This property is more fully described as Lot 7, Block 9/6442, and is zoned R-10(A), which limits the height of a fence in the front yard to four-feet. The applicant proposes to construct and/or maintain an eight-foot high fence in a required front yard, which will require a four-foot special exception to the fence regulations.

**LOCATION:** 3451 Saint Cloud Circle

**APPLICANT:** William Peter Grimmett

**REQUEST:**

A request for a special exception to the fence standards regulations related to height of four-feet is made to construct and maintain an eight-foot high solid wood fence in the required front yard on a site developed with a single-family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

There have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the fence standards regulations related to height of four-feet focuses on constructing/maintaining an eight-foot high solid wood fence in the required front yard on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts, except multifamily districts, a fence may not exceed four-feet above grade when located in the required front yard.
- The subject site is zoned R-10(A) which requires a 30-foot front yard setback along the entire frontage of Saint Cloud Circle, which wraps the north and east sides of the subject site.
- The submitted site plan and elevation show the proposed fence in the front yard setback reaches a maximum height of eight feet.
- The following additional information was gleaned from the submitted site plan:

- The length of the proposed fence is approximately 95 feet and runs parallel to Saint Cloud Circle on the east side of the site and turns perpendicular to Saint Cloud Circle on the south property line of the site for approximately 19 feet in length and 11 feet from the east property line in this front yard setback.
- The minimum distance between the proposed fence and the pavement line is approximately 20 feet.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above four feet in height in the area in a front yard setback.
- As of February 7, 2020, no letters have been submitted in opposition and a petition with 14 signatures have been submitted in support of the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach eight feet in height) will not adversely affect neighboring property.
- Granting this special exception of four feet with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding four feet in height to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

November 21, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 13, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

January 17, 2020: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 28, 2020: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

January 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Interim Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Senior Plans Examiner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer and Assistant Director.

No review comment sheets were submitted in conjunction with this application.

**BOARD OF ADJUSTMENT ACTION: February 20, 2020**

**APPEARING IN FAVOR:** No one.

**APPEARING IN OPPOSITION:** No one.

**MOTION: Jones**

I move that the Board of Adjustment, in Appeal No. BDA 190-016, on application of William Grimmatt, for a special exception to fence height regulations contained in the Dallas Development Code, is **granted**, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

**SECONDED: Slade**

**AYES: 5 – Agnich, Pollock, Medina, Slade, Jones**

**NAYS: 0 - Slade**

**MOTION PASSED: 5 – 0**

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**FILE NUMBER: BDA190-018(OA)**

**BUILDING OFFICIAL’S REPORT:** Application of Christopher M. Joe for a special exception to the fence height regulations at 10150 Marsh Lane. This property is more fully described as Tract 6, Block 6416, and is zoned R-16(A), which limits the height of a fence in the front yard to four feet. The applicant proposes to construct an eight-foot,

two-inch high fence in a required front yard, which will require a four-foot, two-inch special exception to the fence regulations.

**LOCATION:** 10150 Marsh Lane

**APPLICANT:** Christopher M. Joe

**REQUEST:**

A request for a special exception to the fence standards regulations related to height of four feet, two inches is made to demolish a damaged fence and to reconstruct and maintain an eight-foot, two-inch high brick/metal wall fence in the required front yard on a site developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-16(A) (Single Family District)  
North: R-16(A) (Single Family District)  
East: R-16(A) (Single Family District)  
South: R-16(A) (Single Family District)  
West: R-16(A) (Single Family District)

**Land Use:**

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

**Zoning/BDA History:**

There have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the fence standards regulations related to height of four feet, two inches focuses on demolishing a damaged eight-foot high fence which is constructed outside of the required front yard and constructing an eight-foot, two-inch high brick/metal-wall fence in the required front yard on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts, except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The subject site is zoned R-16(A) which requires a 35-foot front yard setback.
- The submitted site plan and elevation show the proposed fence in the front yard setback reaches a maximum height of eight feet, two inches.
- The following additional information was gleaned from the submitted site plan:
  - The location of the proposed fence is primarily 11 feet from the front lot line parallel to Marsh Lane or approximately 18 feet from the pavement line.
  - The length of the proposed fence in the front yard setback, parallel to Marsh Lane, is approximately 130 feet and then runs east, perpendicular to Marsh Lane, 24 additional feet in length.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and the surrounding area. Three other fences that appear to be of above four feet in height were noted to be located south and north of the subject site. These existing fences have no recorded BDA history.
- As of February 7, 2020, two letters had been submitted in support of the request and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach eight feet, two inches in height) will not adversely affect neighboring property.
- Granting this special exception of four feet, two inches with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposed fence, which exceeds four feet in height, to be constructed in the location and of the heights and materials shown on these documents.

**Timeline:**

November 22, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 13, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

January 17, 2020: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Interim Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Senior Plans Examiner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer and Assistant Director.

No review comment sheets were submitted in conjunction with this application.

**BOARD OF ADJUSTMENT ACTION: February 20, 2020**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION: Jones**

I move that the Board of Adjustment, in Appeal No. BDA 190-018, application of Christopher Joe, for a special exception to fence height regulations contained in the Dallas Development Code, is **granted**, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

**SECONDED: Slade**

**AYES: 5 - Agnich, Pollock, Medina, Jones, Slade**

**NAYS: 0**

**MOTION PASSED: 5 – 0 (unanimously)**

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**FILE NUMBER:** BDA190-024(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Jim Sanford for a special exception to the side yard setback regulations for tree preservation and for a variance to the off-street parking regulations at 228 S Windomere Avenue. This property is more fully described as Lot 7, Block 38/3295, and is zoned PD No. 87 with Historic Overlay No. 15, which requires a requires side yard setback of 10 feet and requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and/or maintain a structure and provide a two-foot seven-inch side yard setback, which will require a seven-foot five-inch special exception to the side yard setback regulations, and to construct and/or maintain parking spaces in an enclosed structure with a setback of 12 feet three inches, which will require a variance of seven feet nine inches to the off-street parking regulations.

**LOCATION:** 228 S Windomere Avenue

**APPLICANT:** Jim Sanford

**REQUEST:**

The following requests have been made on a property that is currently developed with a single family home and a detached accessory structure that the applicant intends to increase the height by lifting the roof and replace doors and windows, including the existing garage door:

1. A request for a special exception to the minimum side yard requirements to preserve existing trees with a diameter of 36 inches is made to modify an approximately 400-square-foot accessory structure which is located two feet seven inches from the north side property line or seven feet five inches into the 10-foot north side yard setback.

2. A request for a variance to the off-street parking regulations of seven feet nine inches is made to maintain two parking spaces in an enclosed structure of the aforementioned 400-square-foot accessory structure on the subject site where spaces in this enclosed garage would be located 12 feet three inches from the right-of-way line adjacent to the alley or seven feet nine inches into the required 20-foot setback distance from the right-of-way line adjacent to the alley.

**STANDARD FOR A SPECIAL EXCEPTION TO THE MINIMUM SIDE YARD REQUIREMENTS TO PRESERVE AN EXISTING TREE:**

Section 51(A)-4.402(d) of the Dallas Development Code specifies that the board may grant a special exception to the minimum side yard requirements in this section to preserve an existing tree. In determining whether to grant this special exception, the board shall consider the following factors:

- (A) Whether the requested special exception is compatible with the character of the neighborhood.
- (B) Whether the value of surrounding properties will be adversely affected.
- (C) Whether the tree is worthy of preservation.

**STANDARD FOR A VARIANCE:**

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

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

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

**STAFF RECOMMENDATION (Tree preservation):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that requested special exception was compatible with the character of the neighborhood; the value of surrounding properties will not be adversely affected; and that, according to the City of Dallas Chief Arborist, the trees denoted on the submitted site plan, are worthy of preservation.

**STAFF RECOMMENDATION (parking variance):**

Approval

Rationale:

- The applicant substantiated how the variance to the off-street parking regulations is necessary to permit development by demonstrating that the total size of the subject site is approximately 7,500 square feet which is smaller than that of 27 other lots listed of properties in PD No. 87 with Historic Overlay No. 15 zoning district (average 8, 265 square feet) and that staff concluded that the subject site is unique and different from most lots in PD No. 87 with Historic Overlay No. 15 zoning district. The Sustainable Development and Construction Senior Engineer has submitted a review comment sheet marked “Has no objections”. Therefore, the request is commensurate with other properties and is not considered contrary to public interest.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: PD No. 87 with Historic Overlay No. 15 (Planned Development Historic Overlay District No. 15)
- North: PD No. 87 with Historic Overlay No. 15 (Planned Development Historic Overlay District No. 15)
- South: PD No. 87 with Historic Overlay No. 15 (Planned Development Historic Overlay District No. 15)
- East: PD No. 87 with Historic Overlay No. 15 (Planned Development Historic Overlay District No. 15)
- West: PD No. 87 with Historic Overlay No. 15 (Planned Development Historic Overlay District No. 15)

**Land Use:**

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

**Zoning/BDA History:**

There have not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

**GENERAL FACTS /STAFF ANALYSIS:**

- This request for a special exception to the minimum side yard requirements to preserve existing trees of 36 feet focuses on maintaining an approximately 400-square-foot accessory structure which is located two feet seven inches from the north side property line or seven feet five inches into the 10-foot north side yard setback on a site that is developed with a single family home.
- The property is located in the PD No. 87 zoning district which requires a minimum side yard of 10 feet.
- The submitted site plan indicates an accessory structure located two feet seven inches from the north side property line or seven feet five inches into the 10-foot north side yard setback and two trees within the site.
- The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment B) and stated the following: “The applicant at 228 S Windomere requests a special exception for tree preservation to the side yard setback regulations. The opinion of the Chief Arborist is requested to determine if the trees are worthy of preservation. The Chief Arborist has determined that the two trees in the rear yard identified on the Tree Preservation Plan are worthy of preservation. Placement of the designed driveway and structure to the south (image #2) would likely require the removal of both trees”.
- The applicant has the burden of proof in establishing the following:
  - Whether the requested special exception is compatible with the character of the neighborhood.
  - Whether the value of surrounding properties will be adversely affected.
  - Whether the tree is worthy of preservation.
- If the Board were to grant the special exception request and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document – which in this case is an accessory structure that is located two feet seven inches from the site’s side property line (or seven feet five inches into the 10-foot side yard setback).

**GENERAL FACTS/STAFF ANALYSIS (parking variance):**

- This request for a variance to the off-street parking regulations focuses on maintaining an enclosed parking space in a 400-square-foot accessory structure on the subject site where the parking space in this enclosed garage would be located 12 feet three inches from the right-of-way line adjacent to the street or seven feet nine inches into the required 20-foot setback from the right-of-way line adjacent to the alley.

- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure located 12 feet three inches from the alley's right-of-way line or seven feet nine inches into the 20-foot setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure is approximately 16 feet from the alley's pavement line).
- DCAD records indicate the following improvements for property located at 228 S Windomere Avenue: "main improvement: "residence" with 2,352 square feet built in 1913 and a 400-square-foot detached garage".
- The subject site is flat, rectangular in shape (approximately 50 feet by 150 feet), and, according to the submitted application, is 7,500 square feet in area.
- The applicant submitted a document with the application materials indicating that the total size of the subject site is approximately 7,500 square feet which is smaller than that of 27 other corner lots in PD No. 87 zoning he listed. (The average lot size of 27 other properties listed in the applicant's document is approximately 8,265 square feet).
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections" with the following comment:
  - "Access Point is located on a residential alley (without sidewalk). Request is commensurate with other properties and, therefore, is not considered contrary to public interest." (Attachment C).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 87 zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 87 zoning classification.
- If the Board were to grant the request for a variance for an enclosed garage to be located 12 feet three inches from the right-of-way line adjacent to the alley or seven -

feet nine inches into the required 20-foot setback, staff recommends imposing the following conditions:

1. Compliance with the submitted site plan is required.
2. An automatic garage door must be installed and maintained in working order at all times.

**Timeline:**

December 19, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 13, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

January 21, 2020: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.”

January 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Interim Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Senior Plans Examiner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer and Assistant Director.

January 31, 2018: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official’s report on this application to the Board Administrator (see Attachment A).

February 5, 2020: The City of Dallas Chief Arborist emailed the Board Administrator information regarding this application (see Attachment B).

February 7, 2020: The applicant submitted additional documentation (letter of support from a neighbor) on this application beyond what was submitted with the original application (see Attachment C).

February 7, 2020: The applicant submitted additional documentation (Photo of Windomere Avenue looking south) on this application beyond what was submitted with the original application (see Attachment D).

**BOARD OF ADJUSTMENT ACTION: February 20, 2020**

**APPEARING IN FAVOR:** No one.

**APPEARING IN OPPOSITION:** No one.

**MOTION: Jones**

I move that the Board of Adjustment, in Appeal No. BDA 190-024, on Application of Jim Sanford, for a special exception to the side yard setback requirements to preserve an existing tree and for a variance to the off-street parking regulations contained in the Dallas Development Code, as amended, is **granted**, subject to the following condition:

Compliance with the submitted site plan is required.

**SECONDED: Slade**

**AYES: 5 - Agnich, Pollock, Medina, Jones, Slade**

**NAYS: 0**

**MOTION PASSED: 5 – 0 (unanimously)**

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**FILE NUMBER: BDA190-020(OA)**

**BUILDING OFFICIAL’S REPORT:** Application of Ramin Amini for a special exception to the landscape regulations at 2803 W. Illinois Avenue. This property is more fully described as Tract 13, Block 5966, and is zoned MF-1(A), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION: 2803 W. Illinois Avenue**

**APPLICANT: Ramin Amimi**

**REQUEST:**

A request for a special exception to the landscape regulations is made to maintain a multifamily use and not fully meet the landscape regulations or, more specifically, to not provide the required site trees, landscape design points, street buffer zone requirements, parking lot landscaping, and the residential adjacency buffer requirements on the subject site.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:**

The board may grant a special exception to the landscape and tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property.
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency.
- the topography of the site.
- the extent to which landscaping exists for which no credit is given under this article.
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- Although the Chief Arborist does agree that full compliance with the requirements of Article X will unreasonably burden the use of the established use on the property, the Chief Arborist recommends denial of the special exception because additional landscape elements could be applied to the street buffer zone to enhance the aesthetic and buffering aspects along the street frontage and further landscape improvements along the public right-of-way could reduce negative impacts to neighboring properties.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-1(A) (Multifamily District)  
North: PD No. 831(Planned Development District)  
East: R-7.5 (A) (Single Family District)  
South: L1 (Light Industrial District)  
West: CR (Community Retail District)

### **Land Use:**

The subject site is developed with multifamily use. The area to the north is developed with school use; the areas to the east is develop with single family homes; the area to the south, and west are developed with light industrial and retail uses.

### **Zoning/BDA History:**

There have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

### **GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the landscape regulations focuses on maintaining multifamily use and not fully meeting the landscape regulations, or more specifically, not providing the required site trees, landscape design points, street buffer zone requirements, parking lot landscaping, and the residential buffer zone requirements on the subject site.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A).
- Chief Arborist's memo states the following with regard to "request":
  - The applicant is requesting a special exception to Article X landscape regulations required with the addition of new impervious surface exceeding 2,000 square feet.
- The Chief Arborist's memo states the following with regard to "provision":
  - The property has an existing multifamily use (MF-1(A)) developed prior to city zoning regulations for landscaping. According to a 2003 certificate of occupancy for Oakridge Apartments, the property has been renovated and maintained since 1958. Existing landscape trees are primarily along the fence line perimeter of the

- lot with a few planted trees along the street front façade of the structure. A large elm is at the southeast corner (street front) of the lot.
- In response to site complaints by the City for various code matters, the owner recently removed the lawn turf in the front and interior court area to establish new parking spaces with an impervious surface but had not done so by permit. In the process of seeking a new permit for a small addition, the permit violation was discovered, and the owner moved to seek a special exception for an alternative landscape plan.
  - The property is subject to compliance with the 2018 amendments to Article X. The property has residential adjacency (R-7.5(A)) to the east of the lot. The property exceeds the 17-site tree requirement with existing tree credits on the lot and near the boundary
- Chief Arborist’s memo states the following with regard to “deficiencies”:
    - The proposed landscape plan is deficient 1) the required street buffer zone and 2) residential buffer zone requirements. The 3) interior landscape requirements for lots with 101 or more parking spaces are not met (10.125).
    - The 1.53-acre lot requires 20 landscape design points (10.126). Up to 10 points may be provided for building façade landscape design grouping of small/medium trees. Additional landscaping could be provided for screening of off-street parking for 5 points, or a maximum of 10 points but no landscape improvement is indicated on the plan. Irrigation is not identified for the landscape area on the plan.
    - The street buffer zone described on the plan would meet the minimum requirements for buffer zone dimensions (minimum of 5 feet and average of 10 feet depth) but does not provide the sufficient number of street buffer zone trees and plants.
    - The residential buffer zone does not provide appropriate buffering function with insufficient vegetation and provides no fence screening element from the residences across the alley. However, it is recognized there are concerns for public safety along this buffer and a reduced buffer element as currently provided may be appropriate for security purposes both on the property and for the adjacent residential lots.
  - The applicant has the burden of proof in establishing the following:
    - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and
    - The special exception will not adversely affect neighboring property.
  - If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided an exception from providing the site trees in the required location and the residential adjacency buffer requirements on the subject site.

**Timeline:**

December 16, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 13, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

January 17, 2020: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Interim Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Senior Plans Examiner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer and Assistant Director.

February 5, 2020: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).

**BOARD OF ADJUSTMENT ACTION: February 20, 2020**

**APPEARING IN FAVOR:** No one.

**APPEARING IN OPPOSITION:** No one.

**MOTION: Slade**

I move that the Board of Adjustment in Appeal No. BDA 190-020 **hold** this matter under advisement until **March 16, 2020**.

SECONDED: **Jones**

AYES: 5 – Agnich, Pollock, Medina, Jones, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

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The meeting was adjourned **at 1:13 P.M. on February 20, 2020**.

\_\_\_\_\_  
CHAIRPERSON

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BOARD ADMINISTRATOR

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BOARD SECRETARY

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**Note:** For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.