

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, March 19, 2019**

MEMBERS PRESENT AT BRIEFING: Cheri Gambow, Chair, Jay Narey, regular member, John Jones, regular member, Temeckia Derrough, regular member, Gary Sibley, alternate member

MEMBERS ABSENT FROM BRIEFING: No One

STAFF PRESENT AT BRIEFING: Steve Long, Chief Planner/Board Administrator, Theresa Pham, Asst. City Atty., Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist, Elaine Hill, Board Secretary

MEMBERS PRESENT AT HEARING: Cheri Gambow, Chair, John Jones, regular member, Jay Narey, regular member, Temeckia Derrough, regular member, Gary Sibley, alternate member

MEMBERS ABSENT FROM HEARING: No One

STAFF PRESENT AT HEARING: Steve Long, Chief Planner/Board Administrator, Theresa Pham, Asst. City Atty., Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist Elaine Hill, Board Secretary, David Nevarez, Engineer

11:03 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **March 19, 2019** docket.

1:08 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.

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel A, March 19 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: February 19, 2019

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA189-025(OA)

BUILDING OFFICIAL'S REPORT: Application of Ward Williford for special exceptions to the visual obstruction regulations at 5150 Ridgedale Avenue. This property is more fully described as Lot 10, Block V/2190, and is zoned CD 9, which requires a 20 foot visibility triangle at alley and driveway approaches. The applicant proposes to construct and/or maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 5150 Ridgedale Avenue

APPLICANT: Ward Williford

REQUESTS:

Requests for special exceptions to the visual obstruction regulations are made to maintain portions of an 8' high solid wood fence and portions of an 8' high sliding solid wood gate in the two 20' visibility triangles on both sides of the driveway into the site from Homer Street, and in the 20' visibility triangle at where the alley meets Homer Street on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan and elevation is required.

Rationale:

- The Sustainable Development Department Senior Engineer has no objections to the requests.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be granted (with the suggested conditions imposed) because the items to be located in the visibility triangles do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: CD 9 (Conservation District)
North: CD 9 (Conservation District)
South: CD 9 (Conservation District)
East: CD 9 (Conservation District)
West: CD 9 (Conservation District)

Land Use:

The subject site is developed with a single family home. 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:

- These requests for special exceptions to the visual obstruction regulations focus on maintaining portions of an 8’ high solid wood fence and portions of an 8’ high sliding solid wood gate in the two 20’ visibility triangles on both sides of the driveway into the site from Homer Street, and in the 20’ visibility triangle at where the alley meets Homer Street on a site developed with a single family home.
- Section 51A-4.602(d) of the Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The property is located in Conservation District 9 which requires the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating portions of an 8’ high solid wood fence and portions of an 8’ high sliding wood gate located in the two 20’ visibility triangles on both sides of the driveway into the site from Homer Street, and indicating portions of an 8’ high solid wood fence and an 8’ high sliding solid wood gate located in the 20’ visibility triangle at where the alley meets Homer Street.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing how granting the requests for special exceptions, to the visual obstruction regulations, to maintain portions of an 8’

high solid wood fence and portions of an 8' high sliding solid wood gate in the two 20' visibility triangles on both sides of the driveway into the site from Homer Street, and in the 20' visibility triangle at where the alley meets Homer Street, do not constitute a traffic hazard.

- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be maintained in the 20' drive approach visibility triangles into the site from Homer Street and in the 20' visibility triangle where the alley meets Homer Street, to that what is shown on these documents – portions of an 8' high solid wood fence and portions of an 8' high sliding solid wood gate.

Timeline:

December 24, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 12, 2019: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

February 13, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant/owner the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 27th deadline to submit additional evidence for staff to factor into their analysis; and the March 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

March 6, 2019: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections”.

BOARD OF ADJUSTMENT ACTION: March 19, 2019

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-025, on application of Ward Williford **grant** the following application for a special exception to the visual obstruction regulations contained in the Dallas Development Code, subject to the following condition:

- Compliance with the submitted site plan and elevation is required.

SECONDED: Jones

AYES: 5 – Gambow, Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA189-027(OA)

BUILDING OFFICIAL’S REPORT: Application of Christopher Fergusson, represented by Christopher Villanueva, for a special exception to the fence standards regulations at 10045 Lakemere Drive. This property is more fully described as Lot 9, Block K/7527, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations.

LOCATION: 10045 Lakemere Drive

**APPLICANT: Christopher Fergusson
Represented by Christopher Villanueva**

REQUEST:

A request for a special exception to the fence standards regulations related to height of 4’ is made to construct and maintain an 8’ high solid board-on-board wood fence with an 8’ board on board sliding vehicular gate and 8’ pedestrian gate in one of the site’s two required front yards (Lynngrove Drive) 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-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: PD 671 (Planned Development)
East: R-7.5(A) (Single family district 7,500 square feet)
West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

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

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 fence height of 4' focuses on constructing and maintaining an 8' high solid board-on-board wood fence with an 8' board on board sliding vehicular gate and 8' pedestrian gate in one of the site's two required front yards (Lynngrove Drive) on a site developed with a single-family home.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the northwest corner of Lakemere Drive and Lynngrove Drive.
- Given the single-family zoning and location of the corner lot subject site, it has two required front yards. The site has a 30' required front yard caused by a platted building line along Lakemere Drive and a 20' required front yard along Lynngrove Drive.
- No part of the application is made to address any fence in the site's Lakemere Drive required front yard.
- The applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 8'.

- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 66' in length parallel to Lynngrove Drive and approximately 10' perpendicular to Lynngrove Drive on the north and south sides of the site in this front yard setback.
 - The proposal is represented as being located approximately 10' from the front property line or 22' from the pavement line
- The Board Senior Planner conducted a field visit of the site and surrounding area (approximately 400 feet north, east and west of the subject site) and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of March 8, 2019, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height over 4' in the front yard setback will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height to be maintained in the location and of the heights as shown on these documents.

Timeline:

- January 4, 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.
- February 12, 2019: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.
- February 13, 2019: The Sustainable Development and Construction Department Senior Planner, emailed the applicant's representative the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the February 27th deadline to submit additional evidence for staff to factor into their analysis; and the March 8th 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."
- March 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans

Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board

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

BOARD OF ADJUSTMENT ACTION: March 19, 2019

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-027, on application of Christopher Fergusson **grant** the following application for a special exception to the fence height regulations contained in the Dallas Development Code, subject to the following condition:

- Compliance with the submitted site plan and elevation is required.

SECONDED: Jones

AYES: 5 – Gambow, Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA189-035(OA)

BUILDING OFFICIAL’S REPORT: Application of Danny Sipes for special exceptions to the fence standards regulations at 602 W. Colorado Boulevard. This property is more fully described as Lot 1-A, Block 5922, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence standards regulations, and to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards regulations.

LOCATION: 602 W. Colorado Boulevard

APPLICANT: Danny Sipes

REQUESTS:

The following requests have been made on a site that is developed with a single-family home:

1. A request for a special exception to the fence standards regulations related to height of 2' is made to maintain a 6' high solid wood fence in one of the site's two required front yards (Cedar Hill Avenue); and
2. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open less than 5' from the front lot line, is made to construct and maintain the aforementioned 6' high solid wood fence along Cedar Hill Avenue located less than 5' from this front lot line.

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-7.5(A) (Single family district 7,500 square feet)
- North: R-7.5(A) (Single family district 7,500 square feet)
- South: R-7.5(A) (Single family district 7,500 square feet) & PD 160 (Planned Development)
- East: PD 160 (Planned Development)
- West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

The subject site is being 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 either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- The requests for special exceptions to the fence standards regulations on a site developed with a single-family home focus on:

- constructing/maintaining a 6' high solid wood fence in one of the site's two required front yards (Cedar Hill Avenue); and
- constructing/maintaining the aforementioned 6' high solid wood fence along Cedar Hill Avenue located less than 5' from this front lot line.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The Dallas Development Code states that no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback.
- The site is located at the southwest corner of Colorado Boulevard and Cedar Hill Avenue.
- Given the single-family zoning and location of the corner lot, the subject site has two required front yards. The site has a 35' required front yard caused by a platted building line along Colorado Boulevard and a 20' required front yard along Cedar Hill Avenue.
- The applicant has submitted a site plan and elevation of the proposal along Cedar Hill Avenue that shows the proposal in this front yard setback reaching a maximum height of 6' and with fence panels having a surface area that is less than 50 percent open and located less than 5' from this front lot line.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 40' in length parallel to Cedar Hill Avenue and approximately 20' perpendicular to Cedar Hill on the north and south sides of the site in this front yard setback.
 - The proposed fence is represented as being located on the front property line, or approximately 12' from the pavement line.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area approximately 400 feet north, south, east, and west of the site and noted similar fences that appeared to be over 4' in height and in a front yard setback located on the properties along Cedar Hill and along Colorado Boulevard all with no recorded BDA history.
- As of March 8, 2019, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height 2' and related to a fence with panels with surface areas less than 50 percent open less than 5' from the front lot line will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 2' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be maintained in the location and of the heights and materials as shown on these documents.

Timeline:

- January 25, 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.
- February 12, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 13, 2019: The Sustainable Development and Construction Department Senior Planner, emailed the applicant’s representative the following information:
- a copy of the application materials including the Building Official’s report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the February 27th deadline to submit additional evidence for staff to factor into their analysis; and the March 8th 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.”
- March 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: March 19, 2019

APPEARING IN FAVOR: Danny Sipes, P.O. Box 3293, Forney, TX 75126
Dian May, 19125 Windmile, Dallas, TX 75252

APPEARING IN OPPOSITION: No one

MOTION 1 of 2: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-035, on application of Danny Sipes, **grant** the request of this applicant to construct and/or maintain a six-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and

the testimony shows that this special exception will not adversely affect neighboring property.

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

- Compliance with the submitted site plan and elevation is required.

SECONDED: Jones

AYES: 4 – Gambow, Derrough, Jones, Sibley

NAYS: 1 - Narey

MOTION PASSED: 4 – 1

Motion 2 of 2: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-035, on application of Danny Sipes, **grant** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

- Compliance with the submitted site plan and elevation is required.

SECONDED: Jones

AYES: 4 – Gambow, Derrough, Jones, Sibley

NAYS: 1 - Narey

MOTION PASSED: 4 – 1

FILE NUMBER: BDA189-036(OA)

BUILDING OFFICIAL’S REPORT: Application of Danny Sipes for a variance to the front yard setback regulations at 5843 La Vista Court. This property is more fully described as Lot 1, Block 1909, and is zoned MF-2(A), which requires a front yard setback of 15 feet. The applicant proposes to construct a single-family residential structure and provide a 10 foot front yard setback, which will require a 5 foot variance to the front yard setback regulations.

LOCATION: 5843 La Vista Court

APPLICANT: Danny Sipes

REQUEST:

A request for a variance to the front yard setback regulations of 5' is made to construct and maintain a three-story residential duplex structure with a total "slab area" of approximately 1,800 square feet or with a total duplex size of approximately 4,450 square feet, part of which is to be located 10' from one of the site's two required front yards (Hoskins Street) or 5' into this 15' front yard setback on a site that is undeveloped.

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

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how the variance is necessary to permit development of the subject site (a site that is approximately 4,000 square foot, virtually rectangular in shape, and flat) where these conditions preclude the applicant from developing it in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning district.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2 (A) (Multi-family District 2)
North: MF-2 (A) (Multi-family District 2)
South: MF-2 (A) (Multi-family District 2)
East: MF-2 (A) (Multi-family District 2)
West: MF-2 (A) (Multi-family District 2)

Land Use:

The subject site is undeveloped. The area to the north is developed with single-family uses and multifamily; the area to the 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:

- The request for variance to the front yard setback regulations of 5' focuses on constructing and maintaining a three-story residential duplex structure with a total "slab area" of approximately 1,800 square feet or with a total duplex size of approximately 4,450 square feet, part of which is to be located 10' from one of the site's two required front yards (Hoskins Street) or 5' into this 15' front yard setback on a site that is undeveloped.
- The property is located in an MF-2 (A) zoning district which requires a minimum front yard setback of 15'.
- The site has two front yard setbacks given that it fronts two streets as any corner property would have that is not zoned a single family, duplex, or agricultural district.
- The submitted site plan indicates the proposed structure is located 10' from one of the site's two front property lines (Hoskins Street) or 5' into this 15' front yard setback.
- According to DCAD records, there are "no main improvement" or "no additional improvements" for property addressed at 5843 La Vista Street.
- The subject site is flat, virtually rectangular in shape, and approximately 4,000 square feet in area, (approximately 50' x 80').
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - 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 MF-2(A) 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 MF-2 (A) zoning classification.
- If the Board were to grant this request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document which is a three-story residential duplex structure to be located 10' from one of the site's two required front yards (Hoskins Street) or 5' into this 15' front yard setback.

Timeline:

January 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.

February 12, 2019: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

February 13, 2019: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 27th deadline to submit additional evidence for staff to factor into their analysis; and the March 8th 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.

March 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: February 19, 2019

APPEARING IN FAVOR: Danny Sipes, P.O. Box 3293, Dallas, TX
Frank Blanchard, 5843 La Vista Court, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Jones

I move that the Board of Adjustment, in Appeal No. BDA 189-036, on application of Danny Sipes, **grant** the five-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the

provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

SECONDED: **Narey**

AYES: 5 – Gambow, Jones, Narey, Derrough, Sibley

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

1:48 P. M.: Board Meeting adjourned for **March 19, 2019.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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