

BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
CITY OF DALLAS- VIDEOCONFERENCE  
WEDNESDAY, JUNE 22, 2022

RECEIVED

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CITY SECRETARY  
DALLAS, TEXAS

MEMBERS PRESENT AT BRIEFING: Cheri Gambow, Vice-Chair, Matt Shouse, regular member, Joseph Cannon, regular member, Nick Brooks, alternate member, and Andrew Finney, alternate member

MEMBERS ABSENT FROM BRIEFING: Herlinda Resendiz, regular member  
Michael Karnowski, regular member

MEMBERS PRESENT AT HEARING: Cheri Gambow, Vice-Chair, Matt Shouse, regular member, Joseph Cannon, regular member, Nick Brooks, alternate member, and Andrew Finney, alternate member

MEMBERS ABSENT FROM HEARING: Herlinda Resendiz, regular member  
Michael Karnowski, regular member

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Daniel Moore, Asst. City Atty., Pamela Daniel, Senior Planner, LaTonia Jackson, Board Secretary, Sarah May, Chief Planner, Michael King, Senior Planner, Phil Erwin, Chief Arborist, and Jason Pool, Sign Code Specialist/Senior Planner

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Daniel Moore, Asst. City Atty., Pamela Daniel, Senior Planner, LaTonia Jackson, Board Secretary, Sarah May, Chief Planner, Michael King, Senior Planner, Phil Erwin, Chief Arborist, and Jason Pool, Sign Code Specialist/Senior Planner

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**11:08 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 22, 2022 docket.**

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

**1:00 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 B, May 18, 2022 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

**MOTION: Brooks**

Approval of the Board of Adjustment Panel B, May 18, 2022 public hearing minutes.

**SECONDED: Finney**

**AYES: 5** – Shouse, Finney, Gambow, Brooks, Cannon

**NAYS: 0** -

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

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**FILE NUMBER:** BDA212-065(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Trent Robertson of Masterplan Texas to appeal the decision of the administrative official at 2436 Shorecrest Drive. This property, which is owned by DART, is more fully described as a tract in DART right-of-way, zoned an IR Industrial Research District. The permit to relocate a non-premise sign was denied because the proposed relocation does not comply with Sec 51A7.307(d)(3) of the Dallas City Code, which requires all signs located on a railroad right-of-way must be relocated within that same railroad right-of-way. The applicant proposes to appeal the decision of an administrative official.

**LOCATION:** 2436 Shorecrest Drive

**APPLICANT:** Trent Robertson of Masterplan Texas

**REQUEST:**

A request is made to appeal the decision of the administrative official, more specifically, the Building Official's authorized representative, the Southwest Sign District Inspector in Development Services, to deny an application for the relocation of an existing non-premise sign located in DART right-of-way based on the relocation site not meeting the criteria in the code.

**STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:**

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

**STAFF RECOMMENDATION:**

Staff does not make a recommendation on appeals of the decisions of administrative officials.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: IR Industrial Research District  
Northwest: IM Industrial Manufacturing District  
Northeast: IR Industrial Research District  
East: IR Industrial Research District  
South: IR Industrial Research District  
West: IR Industrial Research District

**Land Use:**

The site contains a financial institution. Surrounding uses include: to the northwest is a utility use (water treatment facility); northeast is a warehouse with surface parking; east is a personal service use (gym); and, south and west include a mix of retail and personal service 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 City's earliest digital records indicate the original 72-square-foot non-premise sign was permitted at 17809 Coit Road on October 10, 1989. In 2001, Chapter 52 was amended to require that all non-premise signs register with the city. Multiple sign registration permits have been issued since, in accordance with the administrative code. The Dallas Development Code, Chapter 51A, contains the requirements based on size, location, and **relocation**—the subject of this AO appeal.

On April 27, 2022, the Southwest District Sign Inspector denied the relocation application citing:

- The relocation of the non-premise sign formerly at 17809 Coit in connection with relocation demolition permit portion number 2103094002 is hereby denied due to the proposed relocation sites being outside the Cotton Belt/Silver Line railroad right-of-way.

- Pursuant to Section 51A-7.307(d)(3) of the Dallas City Code, all signs located on a railroad right-of-way must be relocated within that same railroad right-of-way. Any proposed site that is not located within the same railroad right-of-way does not meet the code requirement.
- Information on how to appeal this decision was also provided.

Sec. 51A-7.307(d)(3) states that all signs located on a railroad right-of-way must be relocated within that same railroad right-of-way. Relocated signs must be relocated within 500 feet of their original location unless possible locations are not of a suitable size or configuration or are otherwise unusable. Signs that have been relocated within 500 feet of their original location may not be less conforming than the original sign. If a sign cannot be relocated within 500 feet of its original location, it can be relocated *anywhere in that same railroad right-of-way*, but must fully comply with the size, height, spacing, setback, and other restrictions in this article.

The proposed relocation site at 2436 Shorecrest Drive is located on DART right-of-way; however, it is outside of the railroad right-of-way from which it originated: the Cotton Belt/Silver Line. Staff interprets this as a failure to meet the relocation requirements.

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

**Timeline:**

- May 2, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report. *Due to timing requirements for AO appeals in Sec.51A-4.703(d)(3) requiring a decision to be made within 60 days, the application was added to the June docket to allow for compliance.*
- May 2, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- May 4, 2022: The Board of Adjustment Chief Planner emailed the applicant 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 deadline to submit additional evidence for staff to factor into their analysis; and the 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 (amended ordinance);
  - the appeal of a decision of an administrative official procedure outline; and

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

May 26, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Senior Plans Examiner, and Development Services Chief Planner, the Transportation Development Services Senior Engineer, the Conservation District Chief Planner, the Board Senior Planner, and the Assistant City Attorney to the Board.

June 10, 2022: The applicant's attorney submitted additional evidence for consideration (**Attachment A**).

June 13, 2022: The City's attorney submitted additional evidence for consideration (**Attachment B**).

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

APPEARING IN FAVOR: Trenton Robertson 2201 Main St. #1280 Dallas, TX  
 Kiesha Kay 2201 Main St. #1280 Dallas, TX  
 Ben Ralston 2220 Shorecrest Dallas, TX  
 Byron Kelley 3333 Lee Pkwy. 8<sup>th</sup> Fl Dallas, TX

APPEARING IN OPPOSITION: Kathleen Fones 1500 Marilla St. 7DN Dallas, TX  
 Lilia Villegas 1500 Marilla St. 7DN Dallas, TX

**MOTION: Brooks**

Having fully reviewed the decision of the administrative official of the City of Dallas in Appeal No. BDA 212-065, on application of Trent Robertson, and having evaluated the evidence pertaining to the property and heard all testimony and facts supporting the application, I move that the Board of Adjustment **reverse** the decision of the administrative official and **grant** the relief requested by this applicant.

**SECONDED: Finney**

AYES: 5 – Shouse, Finney, Gambow, Brooks, Cannon

NAYS: 0 -

MOTION PASSED: 5 - 0 (unanimously)

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**FILE NUMBER:** BDA212-045(PD)

**BUILDING OFFICIAL'S REPORT:** Application of Josh LeComte for a special exception to the landscape requirements at 3608 San Jacinto Street. This property is more fully described as Lot 5 & ½ Lot 4, in Block 511, and is zoned Subarea 7 within Planned Development District No. 298, the Bryan Area Special Purpose District which requires mandatory landscaping. The applicant proposes to construct seven multifamily structures and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 3608 San Jacinto Street

**APPLICANT:** Josh LeComte

**REQUESTS:**

A request for a special exception to the landscape regulations is made to construct and maintain seven three-story multifamily structures consisting of 15,253 square feet of floor area that will not meet the landscape regulations or, more specifically, will not provide the required trees along San Jacinto Street due to limited street frontage.

**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:**

The City of Dallas chief arborist submitted a memo regarding the applicant's request and recommending approval (**Attachment B**).

Rationale:

- The chief arborist recommends approval of the proposed alternate landscape plan. This opinion is based on the extent of the built environment within allowed setbacks, the amount of needed impervious surfaces for access, and the application of city zoning regulations that define the allowable scope of development on the small lot, where strict

compliance with full landscape requirements will unreasonably burden the use of the property.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: Subarea 7 within Planned Development District No. 298  
North: Subarea 1C within Planned Development District No. 298  
South: Subarea 6 within Planned Development District No. 298  
East: Subarea 7 within Planned Development District No. 298  
West: Subarea 7 within Planned Development District No. 298

### **Land Use:**

The subject site is currently under construction with multifamily structures while surrounding properties are developed with multifamily uses to the north and east, and single family uses to the south. The properties to the west are currently under construction with multifamily structures as well.

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

There have been five related board and zoning cases in the vicinity of the subject site within the last five years.

1. **BDA201-066:** On August 18, 2021, the Panel B Board of Adjustment granted a special exception to which the required 45-foot visibility triangle at street intersections and a special exception to the required 20-foot visibility triangle at driveway approaches at 1525 Pecos Street.  
  
On August 18, 2021, the Panel B Board of Adjustment granted a special exception to the visual obstruction regulations, made to construct a multifamily structure in a required 20-foot visibility triangle at the drive approach into the property located at 3612 San Jacinto Street.
2. **BDA201-071:** On August 18, 2021, the Panel B Board of Adjustment granted a special exception to the visual obstruction regulations, made to construct a multifamily structure in a required 20-foot visibility triangle at the drive approach into the property located at 3616 San Jacinto Street.
3. **BDA201-072:** On August 18, 2021, the Panel B Board of Adjustment granted a special exception to the visual obstruction regulations, made to construct a multifamily structure in a required 20-foot visibility triangle at the drive approach into the property located at 3620 San Jacinto Street.
4. **BDA201-073:** On August 18, 2021, the Panel B Board of Adjustment granted a special exception to the visual obstruction regulations, made to construct a multifamily structure in a required 20-foot visibility triangle at the drive approach into the property located at 3620 San Jacinto Street.
5. **Z178-133:** On March 28, 2018, the City Council approved an application for Subarea 1C on property zoned Subarea 1 and Subarea 7 within

Planned Development District No. 298, the Bryan Area Special Purpose District.

**GENERAL FACTS/STAFF ANALYSIS:**

The requests for special exception to the landscape regulations is construct and maintain seven multifamily structures that will not meet the minimum landscape requirements along the San Jacinto Street frontage.

The property is located in Subarea 7 within Planned Development District No. 298, the Bryan Area Special Purpose District, with landscape regulations for street trees specific to location, number, and type of trees required. Section 51P-298.106(b)(1)(B) states the number of trees required is calculated by dividing the number of feet of lot frontage by 30 for property abutting pedestrian linkage streets and by 50 in all other cases. Fractions are rounded to the nearest whole number, with .5 being rounded up to the next higher whole number. Since the frontage of the subject site is 52.5 feet wide ( $52.5/30=1.75$  or 2), a minimum of two medium street trees are required or a minimum of four small street trees are required.

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. In this case, the existing structure will be demolished. The construction of the proposed multifamily structures triggers compliance with landscape regulations.

The City of Dallas chief arborist submitted a memo regarding the applicant's request (**Attachment B**).

**The chief arborist's memo states the following with regard to "request":**

The applicant is seeking a special exception to the landscaping requirements of Article X as required in PD 298, Subarea 7.

**The chief arborist's memo states the following with regard to "provision":**

- The proposed alternative landscape plan provides the minimum required street buffer zone (five feet minimum width, seven and one-half-foot average) and the required two site trees. The ground cover stone aggregate in the landscape area is an accepted material.
- An eight-foot-wide sidewalk, as required for pedestrian linkage streets in PD 298, is indicated on the plan. The built public sidewalk dimension is subject to final departmental review.



**The chief arborist’s memo states the following with regard to “deficiencies”:**

- The plan provides for two small species trees in the required tree planting zone where Article X requires four small trees due to overhead electric utility conflicts that restrict the placement of large and medium trees within 15 feet of the lines. Two large trees would otherwise be applied (per code) if the required space was available.
- The proposed landscape design options are derived solely from Low Impact Development in Section 51A-10.126. We have assigned the landscape area with five points (for water conservation techniques) where nine points are required for the size of the lot. The site has no ‘turf ‘surface.

**The chief arborist’s revised memo states the following with regard to the “recommendation”:**

The chief arborist recommends approval of the proposed alternate landscape plan. This opinion is based on the extent of the built environment within allowed setbacks, the amount of needed impervious surfaces for access, and the application of city zoning regulations that define the allowable scope of development on the small lot, where strict compliance with full landscape requirements will unreasonably burden the use of the property.

As of June 10, 2022, no letters have been submitted in support of the request and no letters have been submitted in opposition to the request.

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 compliance with minimum landscape requirements for the street tree requirements.

**Timeline:**

March 24, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents (**Attachment A**) that have been included as part of this case report.

May 2, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

May 2, 2022: The Board Senior Planner emailed the 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 May 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 10<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.”

May 26, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Senior Plans Examiner, and Development Services Chief Planner, the Transportation Development Services Senior Engineer, the Conservation District Chief Planner, the Board Senior Planner, and the Assistant City Attorney to the Board.

May 26, 2022: The Development Services Chief Arborist provides staff with the memo (**Attachment B**).

June 1, 2022: The Development Services Senior Plans Examiner provided staff with a revised BO report (**Attachment C**) reflect the correct legal description.

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

**APPEARING IN FAVOR:** Josh Lecomte 5740 Prospect Dr. Dallas, TX

**APPEARING IN OPPOSITION:** None.

**MOTION: Brooks**

I move that the Board of Adjustment, in Appeal No. BDA 212-045, on application of Josh LeComte, **grant** the request of this applicant for a special exception to the landscape requirements contained in Article X of the Dallas Development Code, as amended, because our evaluation of the property and testimony shows that (1) strict compliance with the requirements of this article will unreasonably burden the use of the property; (2) the special exception will not adversely affect neighboring properties, and (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

Compliance with the submitted alternate landscape plan is required.

**SECONDED: Finney**

**AYES:** 5 – Shouse, Finney, Gambow, Brooks, Cannon

**NAYS:** 0-

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

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**FILE NUMBER:** BDA212-048(PD)

**BUILDING OFFICIAL'S REPORT:** Application of Peter Kavanagh of Zone Systems, Inc., representing Shankh Mitra for a special exception to the fence height regulations at 4686 Meadowood Road. This property is more fully described as Lot A in City Block 5543 and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct an eight-foot-tall fence in a required front yard, which will require a four-foot special exception to the fence regulations.

**LOCATION:** 4686 Meadowood Road

**APPLICANT:** Peter Kavanagh on behalf of Shankh Mitra

**REQUEST:**

The applicant proposes a fence of eight feet in height, constructed of an iron fence with an iron vehicular sliding gate and stucco columns located along Meadowood Road. The site is constructed with a two-single family dwelling unit.

**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-1ac(A) (Single Family District)  
Northwest: R-1ac(A) (Single Family District)  
Northeast: R-1ac(A) (Single Family District)  
East: R-1ac(A) (Single Family District)  
Southeast: R-1ac(A) (Single Family District)  
South: R-1ac(A) (Single Family District)  
West: R-1ac(A) (Single Family District)

**Land Use:**

The subject site is constructed with a single family use. Surrounding properties to the northwest, east, southeast, south, and west are developed with single-family uses as well while the property to the northeast is undeveloped.

**Zoning/BDA History:**

There have been nine related board cases in the vicinity within the last five years.

1. **BDA212-049:** On June 21, 2022, the Panel A Board of Adjustment will hear requests for a special exception to the fence height regulations is made to construct and maintain an eight-foot-tall fence which will require a four-foot- special exception; and, a special exception to the fence standards regulations to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line at 4256 Park Lane.
2. **BDA212-033:** On May 18, 2022, the Panel B Board of Adjustment granted a variance of 32-feet-six-inches along Walnut Hill Lane to the front yard setback regulations at 10001Meadowbrook Road.
3. **BDA212-014:** On April 18, 2022, the Panel C Board of Adjustment granted a special exception to the fence height regulations to construct and maintain an eight-foot-tall fence in a required front yard, which required a four-foot special exception at 10625 Lennox Lane.
4. **BDA201-092:** On March 21, 2022, the Panel C Board of Adjustment granted a special exception to the fence height regulations to construct and maintain a nine-foot-tall fence in a required front yard, which required a five-foot special exception at 10645 Lennox Lane.
5. **BDA201-046:** On June 22, 2021, the Panel A Board of Adjustment granted special exceptions to the fence height regulations, and for a special exception to the visibility obstruction regulations to construct and maintain a six-foot-high fence in a required front yard within the visibility triangle, which will require a two-foot special exception to the fence regulations and a special exception to the visibility obstruction regulation at 10054 Inwood Road.
6. **BDA201-009:** On January 20, 2021, the Panel B Board of Adjustment granted a special exception to the fence standards to construct and maintain a six-foot-high fence in a required front yard, which required a two-foot special exception at 4611 N. Lindhurst Avenue.
7. **BDA190-066:** On June 24, 2020, the Panel B Board of Adjustment granted a variance to the height regulations to construct and maintain a non-residential structure with a building height of 45 feet, which required a nine-foot variance to the maximum building height regulations at 5050 Walnut Hill Lane.
8. **BDA190-042:** On June 24, 2020, the Panel B Board of Adjustment granted a special exception to the fence height regulations to construct and maintain a seven-foot-high fence in a required front yard which required a three-foot special exception at 4523 Park Lane.
9. **BDA189-063:** On May 22, 2019, the Panel B Board of Adjustment granted a special exception to the fence standards regulations to construct maintain a ten-foot-high fence

in a required front yard, which required a six-foot special exception at 9727 Audubon Place.

**GENERAL FACTS/STAFF ANALYSIS:**

The subject site is zoned an R-1ac(A) Single Family District and requires a minimum front yard setback of 40 feet. 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 request for a special exception to the fence height regulations is proposed to construct and maintain an eight-foot-high fence in a designated front yard setback along Rockbrook Drive. According to the elevation plan, the applicant proposes 17 eight-foot-tall stucco columns separated by iron fencing with a maximum height of seven-feet six-inches-tall, one vehicular sliding gate, and one pedestrian gate.

Per Dallas County Appraisal District records, the property is developed with a two-story single-family dwelling unit constructed in 1985. The single-family dwelling unit consists of approximately 12,554 square feet of floor area, an underground pool, an approximately 252-square-foot outdoor living area, and an approximately 1,019-square-foot attached garage.

The following information is shown on the submitted site plan:

- The proposed fence is approximately 47 feet-in-length parallel to Rockbrook Drive and proposes to be staggered with the closest portion of the fence being on the property line and the farthest portion being approximately 10 feet from the front lot line.

As of June 10, 2022, no letters have been submitted in support of the request and no letters have been submitted in opposition to the request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of eight feet located on Rockbrook Drive will not adversely affect neighboring properties.

Granting the special exception to the fence standards relating to height would require the proposal exceeding four feet-in-height in the front yard setback located along Rockbrook Drive to be maintained in the locations and heights as shown on the site plan and elevation plan.

**Timeline:**

April 15, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents (**Attachments A & B**) that have been included as part of this case report.

May 2, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

May 2, 2022: The Board Senior Planner emailed the 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 May 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 10<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."

May 26, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Senior Plans Examiner, and Development Services Chief Planner, the Transportation Development Services Senior Engineer, the Conservation District Chief Planner, the Board Senior Planner, and the Assistant City Attorney to the Board.

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

APPEARING IN FAVOR: Peter Kavanaugh 1620 Handley Dr. #A. Dallas, TX

APPEARING IN OPPOSITION: None.

**MOTION: Finney**

I move that the Board of Adjustment, in Appeal No. BDA 212-048, on application of Shankh Mitra represented by Peter Kavanaugh, **grant** the request of this applicant to construct and/or maintain an eight-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: Gambow**

**AYES: 5 – Shouse, Finney, Gambow, Brooks, Cannon**

**NAYS: 0 -**

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

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**FILE NUMBER: BDA212-023(PD)**

**BUILDING OFFICIAL’S REPORT:** Application of Alexa Peer Sheinbein for a variance to the front yard setback regulations at 5253 Bonita Avenue. This property is more fully described as part of lot 15 in City Block 7/1973 and is zoned an R-7.5(A) Single Family District, which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a single-family residential structure and provide a five-foot front yard setback, which will require a 20-foot variance to the front yard setback regulations.

**LOCATION: 5253 Bonita Avenue**

**APPLICANT: Alexa Peer Sheinbein**

**REQUESTS:**

A request for a variance to the front yard setback regulations of twenty feet is made to construct and maintain a single-family dwelling within the subject site’s 25-foot front yard setback on Laneri Avenue. The property is currently undeveloped and situated along a corner lot with two front yards.

**UPDATE:**

The request was held under advisement on April 20, 2022 to allow the applicant an opportunity to arrive back in the states and provide staff with evidence. Staff emailed the applicant (**Attachment B**) on May 24, 2022 requesting evidence for consideration. However, to date, staff has not received communication or evidence from the applicant.

**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.

**State Law/HB 1475 effective 9-1-21**

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
  - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
  - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
  - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
  - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  - (e) the municipality consider the structure to be a nonconforming structure.

**STAFF RECOMMENDATION:**

Denial.

Rationale:

Staff has not received evidence. Therefore, staff cannot establish whether the subject site is restrictive in area, shape, or slope, and thus cannot be developed in a manner commensurate with other properties within the same zoning district.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is undeveloped while the surrounding properties to the north, east, and south are developed with single-family dwellings.



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

There have been no related board or zoning cases in the vicinity within the last five years.

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

This request focuses on constructing and maintaining a single-family dwelling unit that is situated along a front yard (Laneri Avenue). The lot is situated at the intersection of Bonita Avenue and Laneri Avenue, which provides two front yards, one along each corridor. Since the subject site is zoned an R-7.5(A) Single Family District, a 25-foot front yard setback must be maintained along both frontages to ensure continuity of the block.

In a single-family district, a corner lot with frontage on two streets where one frontage is shorter than the other allow the longer frontage to be governed by the side yard regulations. In this case, Laneri Avenue provides the longer frontage and would be treated as a side yard. However, if another structure has an established setback along the block face of the longer frontage, that side must maintain an unobstructed front yard to comply with block continuity.

A site plan has been submitted denoting the proposed single-family dwelling located five feet from the front property line along Laneri Avenue and containing approximately 5,153 square feet of floor area. The portion of the single-family structure fronting along Bonita Avenue is not proposed to encroach into the front yard setback and will provide a front yard setback of the required 25 feet. While the portion of the structure along Laneri Avenue will encroach into the required 25-foot front yard setback and proposes to provide a front yard setback of five feet.

The subject site is not irregular in shape but is irregular in area with approximately 5,136 square feet in lot area. An R-7.5(A) zoning district requires lots to have a minimum lot size of 7,500 square feet. However, the applicant has not provided evidence that reflects the decrease in buildable lot area due to the double frontage.

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 R-7.5(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 R-7.5(A) zoning classification.

Additionally, the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
- 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;
- Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- The municipality consider the structure to be a nonconforming structure.

As of April 13, 2022, no letters have been submitted in support of or in opposition of the request. However, staff received two complaints from two separate citizens on June 6<sup>th</sup> and 20<sup>th</sup> regarding removal of the required notification signs and Board outcome. Staff confirmed removal of the notification signs after conducting a second site visit. After confirmation, staff followed-up via email with the applicant regarding removal of the sign after the first inquiry. Since a response to staff's email was not received, staff followed up via phone regarding the second inquiry. Via voicemail, staff informed the applicant of the Board of Adjustment imposed remedy of failure to comply with required notification signs as noted below

Sec. 51A-1.106. Notification Signs Required To Be Obtained And Posted.

e) Failure to comply.

(1) If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks or deny the applicant's request, with or without prejudice.

(2) If the hearing is postponed, the required notification signs must be posted within 24 hours after the case is postponed and comply with all other requirements of this section.

If the board were to grant this front yard setback variance request and impose the submitted site plan as a condition, development would be limited to what is shown on this document. Granting this variance request will not provide any further relief from the Dallas Development Code regulations.

**Timeline:**

January 14, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents (**Attachment A**) that have been included as part of this case report.

March 3, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 8, 2022: The Board Senior Planner emailed the 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 March 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the April 8<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."

March 31, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Senior Plans Examiner, and Development Services Chief Planner, the Transportation Development Services Senior Engineer, the Board Senior Planner, and the Assistant City Attorney to the Board.

April 20, 2022: The request was held under advisement to June 22, 2022.

May 24, 2022: Staff followed-up with the applicant via email to reiterate the deadline to submit evidence for staff consideration. No response was provided to the email (**Attachment B**). To date, staff has not received communication or evidence from the applicant

BOARD OF ADJUSTMENT ACTION: April 20, 2022

APPEARING IN FAVOR: Alexa Sheinbein 7006 Shipp Rd. Dallas, TX

APPEARING IN OPPOSITION: Kelly Smoyer 5251 Bonita Ave. Dallas, TX  
Jeff York 2412 Laneri Ave. Dallas, TX

MOTION: Karnowski

I move that the Board of Adjustment, in Appeal No. BDA 212-023, hold this matter under advisement until June 22, 2022.

SECONDED: Gambow

AYES: 4 – Shouse, Karnowski, Gambow, Resendiz

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

APPEARING IN FAVOR: None.

APPEARING IN OPPOSITION: None.

MOTION: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 212-023, on application of Alexa Peer-Sheinbein, **deny** the variance to the front yard setback regulations requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

SECONDED: Shouse

AYES: 5 – Shouse, Finney, Gambow, Brooks, Cannon

NAYS: 0 -

MOTION PASSED: 5 - 0 (unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA212-035(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Rob Baldwin of Baldwin Associates for a variance to the building height regulations at 1918 Moser Avenue. This property is more fully described as Lot 5, Block C/1491, and is zoned an MF-2(A) Multifamily District, in which the height of an accessory structure may not exceed the height of the main building. The applicant proposes to construct a single-family residential accessory structure with a building height of 23 feet three inches, which will require a two-foot five-inch variance to the maximum building height regulations.

**LOCATION:** 1918 Moser Avenue

**APPLICANT:** Rob Baldwin of Baldwin Associates

**REQUESTS:**

While the site is zoned a Multifamily District, the land use dictates the height of the accessory structure proposed. Section 51A-4.209(6)(vii)(cc) Height of structure accessory to single family

use cannot exceed the height of the main structure. In this case, the height of the main structure is 20 feet 10 inches.

**UPDATE:**

On May 18, 2022, this case was held to June 22, 2022. No updates have been provided.

**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:

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

**State Law/HB 1475 effective 9-1-21**

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
  - (f) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
  - (g) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
  - (h) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
  - (i) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  - (j) the municipality consider the structure to be a nonconforming structure.

**STAFF RECOMMENDATION:**

Denial.

Rationale:

Evidence provided identified 10 single-family uses and structures in the same zoning district and adjacent to the site. The average of the main structure floor area is 3,016 square feet and the applicant maintains a main structure with 1,908 square feet of floor area. Additionally, of those 10 properties four maintain accessory structures (including the subject site and structure in the request) with an average of 1,382 square feet of floor area. The subject accessory structure is 777 square feet in size. No height data was provided in comparison to the other accessory structures or main structures.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: MF-2(A) Multifamily District
- Northwest: MF-2(A) Multifamily District
- Northeast: Planned Development District No. 462
- Southeast: MF-2(A) Multifamily District
- Southwest: MF-2(A) Multifamily District

**Land Use:**

The subject site and properties to the northwest and southeast contain single-family uses. Additionally, to the northeast is a commercial use and to the southwest is multifamily.

**Zoning/BDA History:**

There have been no related board or zoning cases in the vicinity within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

The applicant proposes to construct a single-family residential accessory structure with a building height of 23 feet three inches, which will require a two-foot five-inch variance to the maximum building height regulations for a single-family accessory structure. The property is zoned an MF-2(A) Multifamily District. In this district, a single-family use is allowed to have accessory structures that cannot exceed the height of the main building. The main structure is 20 feet three inches-in-height.

DCAD records indicate the main structure contains 1,908 square feet of floor area erected in 1923. An accessory structure with a detached garage of 441 square feet and detached quarters with 336 square feet are also identified, however the date of construction is not noted.

The MF-2(A) District allows more than one dwelling unit per lot. While the application and DCAD refer to a second dwelling unit, the floor plan provided as a reference identify the first floor as a garage and the second floor as storage space. In either case, this request is for the height of an accessory structure, solely. A search of City permit records confirms the 2021 building permit for

this structure is for a detached garage with storage, not a second dwelling unit. As an accessory structure, the height cannot exceed the height of the main structure.

The property is rectangular in shape, flat, and according to the application, contains 0.2 acres, or approximately 8,500 square feet in area. In an MF-2(A) Multifamily District the minimum lot size varies by use. A single-family use in this district requires a minimum lot size of 1,000 square feet. The evidence provided did not allow for staff to determine whether the subject site 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 district.

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

- That granting the variance will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of 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 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 zoning classification.

As of June 10, 2022, three letters have been submitted in support and one letter in opposition to the request.

If the board were to grant the variance to the maximum height regulations for structures accessory to a single-family use and impose the submitted site plan and elevation as conditions, the building footprint of the structure on the site and height as identified in the elevation would be limited to what is shown on these documents. However, granting this request will not provide any relief to the Dallas Development Code regulations other than allowing the additional height for the accessory structure, as depicted on the site plan and elevation.

**Timeline:**

February 11, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 3, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

April 5, 2022: The Board Administrator emailed the applicant 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 April 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<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."

April 28, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Chief Planner, the Transportation Development Services Senior Engineer, the Board Senior Planner, and the Assistant City Attorney to the Board. No review comments were submitted regarding this request.

April 28, 2022: The applicant provided evidence via email (**Attachment A**).

May 18, 2022: Panel B held this case to June 22, 2022.

June 10, 2022: No updates had been provided by the docket deadline.

BOARD OF ADJUSTMENT ACTION: May 18, 2022

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Karnowski

I move that the Board of Adjustment, in Appeal No. BDA 212-035, hold this matter under advisement until June 22, 2022.

SECONDED: Shouse

AYES: 4 – Shouse, Karnowski, Gambow, Resendiz,

NAYS: 0 -

MOTION PASSED: 4 - 0 (unanimously)

\*\*\* *The 1<sup>st</sup> motion was withdrawn to Grant*\*\*\*



*\*\*Board member, Joe Cannon recused himself from case BDA212-035 due to conflict of interest\*\**

**BOARD OF ADJUSTMENT ACTION: June 22, 2022**

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: None.

**MOTION: Gambow**

I move that the Board of Adjustment, in Appeal No. BDA 212-035, hold this matter under advisement until **August 17, 2022**.

**SECONDED: Brooks**

**AYES: 5 – Shouse, Finney, Gambow, Brooks, Cannon**

**NAYS: 0 -**

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

\*\*\*\*\*

**MOTION: Gambow**

I move to adjourn the Panel B hearing.

**SECONDED: Brooks**

**AYES: 5 – Shouse, Finney, Gambow, Brooks, Cannon**

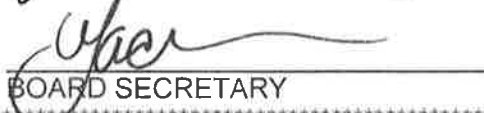
**NAYS: 0 -**

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

The meeting was adjourned at **2:20 P.M. on June 22, 2022**.

  
\_\_\_\_\_  
CHAIRPERSON signed 8-17-22

  
\_\_\_\_\_  
BOARD ADMINISTRATOR

  
\_\_\_\_\_  
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.