



BOARD OF ADJUSTMENT

Panel A Minutes

January 16, 2024

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CITY SECRETARY
DALLAS, TEXAS

6ES Council Briefing
24923176153@dallascityhall.webex.com

David A. Neumann, Chairman

PRESENT: [4]

Kathleen Davis	
Rachel Hayden	
Jay Narey	
Michael Hopkovitz	

ABSENT: [1]

David A. Neumann, Chairman	

Assisting City Attorney Matthew Sapp called the briefing to order at **10:31 A.M.** with a quorum of the Board of Adjustment present.

It was proposed by City Attorney Matthew Sapp to elect a Temporary Presiding Officer for the briefing and hearing. Ms. Rachel Hayden made a motion to elect Kathleen Davis as a temporary presiding officer, second by Jay Narey.

Presiding Officer Rachel Hayden called the hearing to order at **1:03 P.M.** with a quorum of the Board of Adjustment present.

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

PUBLIC SPEAKERS

The Board of Adjustment provided "public speaker" opportunities for individuals to comment on matters that were scheduled on the agenda or to present concerns or address issues that were not matters for consideration listed on the posted meeting agenda.

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

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment 2022-2023 BOA Annual Report

Motion was made to approve the Board of Adjustment Special Call Meeting Minutes.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	4-0 unanimously				Moved to approve
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

Approval of the Board of Adjustment Panel A, November 14th, 2023 meeting minutes.

Motion was made to approve Panel A, November 14th, 2023 public hearing minutes.

Maker:	Michael Hopkovitz				
Second:	Rachel Hayden				
Results:	4-0 unanimously				Moved to approve
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

CONSENT ITEMS

1. 4701 S. Denley Drive

***This case was moved to Individual Cases.**

BDA234-005(KMH)

BUILDING OFFICIAL'S REPORT: Application of Erick Bonilla for (1) a variance to the front-yard setback regulations at 4701 S. DENLEY DR. This property is more fully described as block 4353, part of tract 1, and is zoned R-7.5(A), which requires a front-yard setback of 25-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide an 8-foot front-yard setback, which will require (1) a 17-foot variance to the front-yard setback regulations.

LOCATION: 4701 S. Denley Dr.

APPLICANT: Erick Bonilla

REQUEST:

- (1) A request for a variance to the front-yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Restrictive in shape as it is an irregularly shaped lot; restrictive in area as it does not meet the minimum lot size of 7,500 square feet for the zoning district; and it is a corner lot, which means that it has two street frontages; therefore the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not a self-created or personal hardship.

BDA HISTORY:

No BDA history found within the last 5 years.

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Square Footage:

This lot contains 6,997.23 of square feet.

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

Zoning:

Site: R-7.5(A) Single Family District
North: R-7.5(A) Single Family District and PD 855
South: R-7.5(A) Single Family District
East: PD-855 and Community Retail (CR)
West: R-5(A)- Single Family District

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the front yard setback regulations of 17-feet is made to construct and/or maintain a residential structure.
- The site is currently developed with a single-family residential home. The applicant is proposing to remodel the home and provide an 8-foot front yard setback, which will require a 17-foot variance to the front yard setback regulations.
- The R-7.5(A) zoning district requires a minimum front yard setback of 25-feet.
- It is imperative to note that the subject site is a corner lot which has two street frontages along S. Denley Drive and Atlas Dr. On a typical lot, there would only be one street frontage and side yards; however, this site is bound by two front yards.
- The lot is also irregularly shaped, and it is restrictive in area as it does not meet the minimum lot size requirements of 7,500 square feet as defined by the R-7.5(A) yard, lot, and space regulations. The subject site is 6,997.23 square feet.

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

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

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

- (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
- (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.

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- (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 17-foot variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - BDA234-005 at 4701 S. Denley Dr. (200' radius video)

Timeline:

- November 17, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 1, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 6, 2023: 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

- For: Erick Bonilla, 4701 denley Dr, Dallas TX 75216
- Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-005, on application of Erick Bonilla, **GRANT** the 17-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.

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

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

Maker:	Jay Narey				
Second:	Rachel Hayden				
Results:	4-0 Unanimously				Moved to grant
		Ayes:	-	4	Kathleen Davis, Jay Narey, Rachel Hayden and Michael Hopkovitz
		Against:	-	0	

2. 5433 E. Grand Avenue Suite B

*This case was moved to Individual Cases
BDA234-008(CJ)

BUILDING OFFICIAL'S REPORT: Application of Baldwin Associates for (1) a variance to the parking regulations at 5433 EAST GRAND AVE Ste B. This property is more fully described as Block A/1610, Part of lot 2 and is zoned RR, which requires parking to be provided. The applicant proposes to construct and/or maintain a non-residential structure for a general merchandise or food store 3500 square feet or less use, and a personal service use, and provide 7 (per delta credits) of the required 12 parking spaces, which will require (1) a 5-space variance (42% reduction) to the parking regulation.

LOCATION: 5433 East Grand Ave.

APPLICANT: Baldwin Associates - Rob Baldwin

REQUEST:

(2) A request for a variance to the parking regulations.

STANDARD FOR A VARIANCE:

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

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

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

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval

Based upon the evidence presented and provided to staff, staff concluded that the request is:

- not contrary to public interest as no opposition was received;
- The site is restrictive; in that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning;
- Is not a self-created/personal hardship.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 3,340 of square feet.

This lot is zoned RR which has a minimum lot size of 7,500 square feet.

Zoning:

- Site:** RR (Rural Residential District)
- North:** RR (Rural Residential District)
- South:** RR (Rural Residential District)
- East:** RR (Rural Residential District) & LO-1 (Limited Office District)
- West:** RRR (Rural Residential District)

Land Use:

The subject site is developed with a dental office. The areas to the north, south, east, and west are developed with retail/office uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the parking regulations of a 5-space variance (42% reduction) is made to construct and/or maintain a single-family nonresidential structure.
- The subject site is currently developed with a dental office.

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- Zoning RR requires one parking space for each 200 square feet of floor area for general merchandise, food store or 3500 sq. ft. or less and one parking space for each 333 square feet of floor area for office service uses.

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

- That granting the variance to the 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 a specific parcel of land that differs from other parcels of land by being of such restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

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

- (f) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
 - (g) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
 - (h) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (i) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (j) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 5-space variance (42% reduction) to the parking regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - 200' Radius Video: [BDA234-008: 5433 East Grand Ave.](#)

Timeline:

- November 21, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 1, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 6, 2023: 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and

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January 5, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

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

Against: Sean Rafford (Did Not Speak) 110 W. A St., San Diego, CA

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-008, on application of Baldwin Associates, **GRANT** the 5-space variance to the parking regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	4-0 Unanimously				Moved to grant
	Ayes:	-		4	Kathleen Davis, Rachel Hayden, Michael Hopkovitz and Jay Narey
	Against:	-		0	

3. 909 S. Corinth Street Road

*This case was moved to Individual Cases
BDA234-009(KMH)

BUILDING OFFICIAL’S REPORT: Application of Dejuan Session for (1) a variance to the front-yard setback regulations at 909 S. CORINTH ST. RD. This property is more fully described as Block 27/3588, Lot 4-6 and part of lot 3, and is zoned RR, which requires a front yard setback of 15-feet. The applicant proposes to construct and/or maintain a non-residential structure and provide a 4-foot front-yard setback, which will require (1) an 11-foot variance to the front-yard setback regulations.

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LOCATION: 909 S. Corinth St. Rd.

APPLICANT: Dejuan Session

REQUEST:

(3) A request for a variance to the front yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) **the financial cost of compliance is greater than 50 percent of the appraised value of the structure** as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) **compliance would result in a loss** to the lot on which the structure is located **of at least 25 percent of the area** on which development is authorized to physically occur;
- (iii) **compliance would result in the structure not being in compliance** with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) **compliance would result in the unreasonable encroachment** on an adjacent property or easement; or
- (v) the municipality considers the structure to be a **non-conforming structure**.

STAFF RECOMMENDATION:

Approval

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

- D. Not contrary to the public interest as no letters of opposition were received.
- E. Restrictive in shape as it is an irregularly shaped lot. The lot is also bound by three street frontages, requiring a minimum front yard setback of 15-feet for each frontage; therefore, the

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property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.

- F. Not a self-created or personal hardship.

BDA HISTORY:

No BDA history found within the last 5 years.

Square Footage:

This lot contains 11,873.55 of square feet.

This lot is zoned RR and does not require a minimum lot size.

Zoning:

Site: RR- Regional Retail
North: SUP 1924
South: RR- Regional Retail and CR Community Retail
East: RR- Regional Retail and CR Community Retail
West: R-5(A)- Single Family District

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the front yard setback regulations of 11-feet is made to construct and/or maintain a non-residential structure.
- The subject site is currently developed with a commercial/retail building. The site also contains a food trailer that is located only 4-feet away from the property line.
- The applicant is proposing to maintain the food trailer providing a 4-foot front yard setback, requiring an 11-foot variance to the front yard setback regulations.
- The subject site is unique in nature as the lot is irregularly shaped and has 3 street frontages, Morrell Ave., S. Corinth St. Rd., and E. Waco Ave.
- The Regional Retail (RR) zoning district requires a minimum front yard setback of 15-feet.

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

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

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

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- (k) 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.
 - (l) 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.
 - (m) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (n) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (o) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 11-foot variance to the front yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - BDA234-009 at 909 S. Corinth St. Rd. (200' radius video)

Timeline:

- November 27, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 1, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 6, 2023: 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: DeJuan Session, 909 S. Corinth Street Rd, Dallas TX 75202

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-009, on application of Dejuan Session, **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.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	4-0 unanimously				Moved to deny
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

4. 3010 Citation Drive

*This case was moved to Individual Cases
BDA234-012(CJ)

BUILDING OFFICIAL'S REPORT Application of Ignacio Ochoa for (1) a special exception to the fence height regulations, and for (2) a special exception to the fence opacity standards regulations at 3010 CITATION DR. This property is more fully described as Block C/6431, Lot 27, and is zoned R-10(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 not be located 5-feet from the front-lot line. The applicant proposes to construct and/or maintain a 9-foot high fence in a required front- yard, which will require (1) a 5-foot special exception to the fence regulations, and to construct a fence in a required front-yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front-lot line, which will require (2) a special exception to the fence opacity regulations.

LOCATION: 3010 Citation Dr.

APPLICANT: Ignacio Ochoa

REQUEST:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE OPACITY STANDARD REGULATIONS:

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Special Exceptions (2):

No staff recommendation is made on this or any request for a special exception to the fence regulations 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)
East: R-10 (A) (Single Family District)
South: R-10(A) (Single Family District)
West: R- 10(A) (Single Family District)

Land Use:

The subject site and all surrounding properties are developed with single-family uses.

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application Ignacio Ochoa, for the property located at 3010 Citation Drive focuses on 2 requests relating to the fence height and fence opacity regulations.
- The applicant proposes to construct and maintain a 9-foot-high fence in a required front yard, which will require a 5-foot special exception to the fence height regulations.
- Secondly, the applicant is proposing 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 5-feet from the front lot line, which requires a special exception to the fence opacity regulations.
- The subject site along with properties to the north, east, south and west are all developed with single-family homes.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain a 9-foot-high board on board metal frame fence around the circumference of the property at 3010 Citation Drive.
- It is imperative to note that the subject site is a corner lots and it has two street frontages, Citation Drive and Venetian Way. It is important to also note that where the applicant is proposing to construct the fence would typically be a side yard, if the site was not a corner lot.
- 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

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yard. The Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line.

- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height and opacity with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

Timeline:

November 22, 2023: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 1, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

December 6, 2023: 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 28, 2023: The Board of Adjustment staff review team meeting was held regard request and other requests scheduled for the November public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney

Speakers:

For: Logan Klein, 3010 Citation Dr., Dallas TX 75229
 Whitney McAteer, 3010 Citation Dr., Dallas TX 75229

Against: No Speakers

It was moved to suspend the Rules and accept more than 5 pages as documentary evidence:

Maker:	Jay Narey			
Second:	Rachel Hayden			
Results:	4-0 Unanimously			

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		Ayes:	-	4	Kathleen Davis, Jay Narey, Rachel Hayden and Michael Hopkovitz
		Against:	-	0	

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-012, on application of Ignacio Ochoa, **GRANT** the request of this applicant to construct and/or maintain a 9-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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jay Narey				
Second:	Michael Hopkovitz				
Results:	4-0 Unanimously				Moved to grant
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-012, on application of Ignacio Ochoa, **GRANT** the request of this applicant to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five-feet from the front lot line 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 opacity and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Jay Narey				
Second:	Michael Hopkovitz				
Results:	4-0 Unanimously				Moved to grant
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

HOLDOVER CASES

5. 5526 E.R.L. Thornton Freeway
BDA212-078(KMH)

BUILDING OFFICIAL'S REPORT Application of Christopher Cole for (1) a special exception to the fence height regulations at 4515 Harrys Lane. This property is more fully described as Block D/5534, Lot 8 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet. The applicant proposes to construct a 7-foot-high fence in a required front yard, which will require (1) a 3-foot special exception to the fence regulations.

LOCATION: 4515 Harrys Lane

APPLICANT: Christopher Cole

REQUEST:

(3) A request for a special exception to the fence height regulations.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Special Exception

No staff recommendation is made on this or any request for a special exception to the fence regulations 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)
North: R- 1ac(A) (Single Family District)
East: R- 1ac(A) (Single Family District)
South: R- 1ac(A) and R-16(A) (Single Family Districts)
West: R- 1ac(A) (Single Family District)

Land Use:

The subject site and all surrounding properties are developed with single-family uses.

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application of Christopher Cole for the property located at 4515 Harrys Lane focuses on the fence height regulations. The applicant is proposing to construct and maintain a 7-foot-high fence in a required front yard, which will require a 3-foot special exception.
- The subject site along with properties to the north, east, south and west are all developed with single-family homes.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain a 7' open iron fence in the required front yard along Harrys Lane with an open iron entrance gate.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

Timeline:

September 11, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 2, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

October 4, 2023: 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 October 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and November 3, 2023, 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.

October 23, 2023: The applicant provided documentary evidence.

November 1, 2023: The Board of Adjustment staff review team meeting was held regard request and other requests scheduled for the November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development

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Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner Code Compliance staff.

Speakers:

For: Audra Buckley, 1414 Belleview St # 150 Dallas TX 75215

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 212-078, on application of John Doe, **GRANT** the request of this applicant to provide 22 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires 26 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a restaurant with a drive-in or drive-through.

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

The special exception of four spaces shall automatically and immediately terminate if and when the motor vehicle fueling station, restaurant with drive-in or drive-through service use, and a general merchandise or food store use is changed or discontinued.

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

Maker:	Michael Hopkovitz					
Second:	Rachel Hayden					
Results:	4-0 Unanimously					Moved to grant
		Ayes:	-		4	Kathleen Davis, Michael Hopkovitz, Rachel Hayden, Jay Narey
		Against:	-		0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 212-078, on application of Audra Buckley, **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 most recent version of all submitted plans are required.

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Maker:	Michael Hopkovitz					
Second:	Rachel Hayden					
Results:	4-0 Unanimously					Moved to grant
		Ayes:	-		4	Kathleen Davis, Michael Hopkovitz, Rachel Hayden, Jay Narey
		Against:	-		0	

6. 2764 Catherine Street
BDA223-097(KMH)

BUILDING OFFICIAL’S REPORT Application of Robert Smith for (1) a special exception to the fence height regulations, and for (2) a special exception to the 20-foot visibility obstruction regulations, and for (3) a special exception to the 20-foot visibility obstruction regulations at 2764 Catherine St. This property is more fully described as Block 2/3879, Lot 1, and is zoned CD-8; subarea 1 (R-7.5(A)), which limits the height of a fence in the 50% of the side-yard and corner side-yard to 4-feet and requires a 20-foot visibility triangle at driveway approaches, and requires a 20-foot visibility triangle at the point of intersection of the edge of an alley and an adjacent street curb line. The applicant proposes to construct a 6-foot high fence in a required side-yard, which will require (1) a 2-foot special exception to the fence height regulations; and to construct a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (2) a special exception to the 20-foot visibility obstruction regulation at driveway approaches; and to construct a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (3) a special exception to the 20-foot visibility obstruction regulation intersection of the edge of an alley and an adjacent street curb line.

LOCATION: 2764 Catherine St.

APPLICANT: Robert Smith

REQUEST:

1. A request for a special exception to the fence height regulations,
2. A request for a special exception to the 20-foot visibility obstruction regulations, and;
3. A request for a special exception to the 20-foot visibility obstruction regulations.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT STANDARDS REGULATIONS:

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

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:

No staff recommendation is made on this or any request for a special exception to the fence regulations 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.

No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the board, the item will not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: CD-8; Subarea R-7.5 (A) (Single Family District)
North: CD-8
East: CD-8
South: CD-8
West: CD-8

Land Use:

The subject site and all surrounding properties are developed with single-family uses.

BDA History:

No BDA history in the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Robert Smith for the property located at 2764 Catherine Street focuses on 3 requests. The first request is for a special exception to the fence height regulations of 4-feet. The applicant is proposing to construct and maintain a 6-foot high fence in a required front yard, which will require a 2-foot special exception to the fence height regulations. The applicant is proposing the fence along Pierce Street and along the alley. It is imperative to note the fence along Pierce Street will include a gate
- Secondly, the applicant proposes to maintain a single-family fence in a required visibility triangle at the driveway approach along Pierce Street, which will require a special exception to the visual obstruction regulations. The visual obstruction regulations require a 20-foot visibility triangle at all driveway approaches.
- Additionally, the applicant proposes to maintain a single-family fence structure in a required visibility triangle at the intersection of the edge of an alley and an adjacent street curb line, which requires a 20-foot special exception to the visual obstruction regulations.
- The subject site along with the surrounding properties are all developed with single family uses.
- It is imperative to note that the subject site is a corner lot.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to maintain a new 6-foot wooden fence. The proposed fence and gate are shown to encroach

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into the required visibility triangle at the driveway approach along Pierce Street. The proposed fence is also shown to encroach into the visibility triangle at the street intersection and the alley.

- The CD-8 zoning district limits the height of a fence in the 50% of the side-yard and corner side-yard to 4-feet.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- The applicant has the burden of proof in establishing that the special exception to the visual obstruction regulations does not constitute a traffic hazard.
- If the Board were to grant this special exception request and impose a condition that the applicant complies with the submitted site plan/elevation, the proposal over 2-feet in height in the front yard setback would be limited to that what is shown on the submitted documents.
- Additionally, granting this request for a special exception to the visual obstruction regulations with a condition imposed that the applicant complies with the submitted site plan would limit the proposed fence in the 20-foot visibility triangles at the driveway into the site from Pierce Street and the alley to what is shown on the submitted documents.
- BDA223-097 2764 Catherine

Timeline:

September 13, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 2, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

October 4, 2023: 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 October 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and November 3, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

November 1, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

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December 19, 2023: The applicant requested that this case be postponed until February due to unexpected family emergencies that has caused a delay with making revisions to his plans and trying to come into compliance.

Speakers:

For: Gilbert Cortez, 5434 Ross Ave., Dallas TX 75206

Against: No Speakers

Motion # 1

I move that the Board of Adjustment in Appeal No. BDA 223-097 **hold this matter** under advisement until **February 20, 2024**.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	4-0 unanimously				Moved to hold until 02/20/24
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

INDIVIDUAL CASES

7. 5524 Vickery Boulevard
 BDA223-107_FR1(DB)

BUILDING OFFICIAL’S REPORT: Application of Michael Vann to appeal the decision of the administrative official at 5524 Vickery Blvd

LOCATION: 5524 Vickery Blvd.

APPLICANT: Michael Vann

REQUESTS:

The applicant is requesting a fee reimbursement for an appeal the decision of the administrative official.

STANDARD FOR A FEE WAIVER OR REIMBURSEMENT:

Section 51A-1.105(b)(6) of the Dallas Development Code specifies the board of adjustment may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board’s miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket, the applicant may not apply to the merits of the request for a waiver have been determined by the board. In making this determination, the board may require the production of financial documents.

STAFF RECOMMENDATION:

The staff does not make a recommendation on fee waiver requests since the standard is whether the board finds that payment of the fee would result in substantial financial hardship to the applicant.

Speakers:

For: No Speakers

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-107_FR1, on application of Michael Vann, **DENY** the request to reimburse the filing fees in association with a request for an appeal of the decision of the administrative official as requested by this applicant (with/without) prejudice, because our evaluation of the property and the testimony shows that payment of the fee would NOT result in substantial financial hardship to this applicant.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	3-1				Moved to deny
		Ayes:	-	3	Rachel Hayden, Kathleen Davis, and Jay Narey
		Against:	-	1	Michael Hopkovitz

8. 715 W. Redbird Lane
 BDA234-003(KMH)

BUILDING OFFICIAL'S REPORT: Application of Leticia Dorsey for (1) a variance to the side-yard setback regulations at 715 W. RED BIRD LN. This property is more fully described as Block 13/6909, Lot 15, and is zoned R-7.5(A), which requires side-yard setback of 5-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 2-foot side-yard setback, which will require (1) a 3-foot variance to the side-yard setback regulations.

LOCATION: 715 W. Red Bird Lane

APPLICANT: Leticia Dorsey

REQUEST:

(4) A request for a variance to the side-yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Denial

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

- G. Not contrary to public interest as no letters of opposition were received.
- H. Not restrictive in area, shape or slope; in which the property cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.
- I. Self-created hardship/personal hardship.

BDA HISTORY:

No BDA history found within the last five years.

Square Footage:

The lot contains 11,389.75 of square feet.

The lot is zoned R-7.5(A) with a minimum lot size of 7,500 square feet.

Zoning:

Site: R-7.5(A) Single Family District
North: R-7.5(A) Single Family District
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 developed with a single family home. The areas to the north, east, and west are developed with single-family uses, to the south of the property is a church.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback of 3-feet is made to maintain a single-family residential structure.
- The applicant is proposing to only provide a 2-foot side yard setback, whereas a minimum 5-foot side yard setback is required as defined in the yard, lot, and space regulations for the R-7.5(A) zoning district.
- The subject site is currently developed with a single-family dwelling unit and is surrounded by single family homes, with the exception of a church/congregational facility to the immediate south.
- As gleaned from the submitted site plan, the applicant is proposing to maintain an addition to the home along the eastern border of the property.

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

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

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

- (p) 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.
 - (q) 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.
 - (r) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 - (s) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (t) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 3-foot variance to the side yard setback regulations with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.
 - BDA234-003 at 715 W. Red Bird Lane (200' Radius Video)

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Timeline:

November 9, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 1, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

December 6, 2023: 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the December public hearings. Review team members in attendance included: The Board of Adjustment Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

Speakers:

For: Leticia Dorsey, 715 W. Red Bird Ln., Dallas TX 75232

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-003, on application of Leticia Dorsey, **GRANT** the 3-foot variance to the side-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

Maker:	Michael Hopkovitz				
Second:	Rachel Hayden				
Results:	4-0 unanimously				Moved to grant

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		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

9. 2000 Euclid Street
BDA234-006(DB)

BUILDING OFFICIAL’S REPORT: BDA234-006(DB) Application of Baldwin Associates for (1) a variance to the front-yard setback regulations, and for (2) a special exception to the fence height regulations, and for (3) a special exception to the fence opacity standards regulations, and for (4) a special exception to the visibility obstruction regulations at 2000 EUCLID ST. This property is more fully described as block B/1981, lot 8 and is zoned R-7.5(A), which requires a front-yard setback of 25-feet, and 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 not be located 5 feet from the front-lot line and requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 4-foot 8-inch front-yard setback, which will require (1) a 20-foot 4-inch variance to the front- yard setback regulations, and to construct and/or maintain a 9-foot high fence in a required front-yard, which will require (2) a 5-foot special exception to the fence 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 (3) a special exception to the fence opacity regulations, and to construct and/or maintain a single-family residential fence structure in a required visibility obstruction triangle, which will require (4) a special exception to the visibility obstruction regulation.

LOCATION: 2000 EUCLID ST

APPLICANT: Baldwin Associates-Rob Baldwin

REQUEST:

- (1) Variance to the front-yard setback regulations;
- (2) Special exception to the fence height regulations;
- (3) Special exception to the fence standards regulations;
- (4) Special exception to the 20-foot visibility obstruction regulations.

STANDARD FOR A VARIANCE:

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

- (M) **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.
- (N) **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

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

ELEMENT II SUBSTITUTE

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) **the financial cost of compliance is greater than 50 percent of the appraised value of the structure** as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a nonconforming structure.

STANDARD FOR A SPECIAL EXCEPTION:

Fence Standards

The board shall grant a special exception to the requirements of this section when, in the opinion of the board, the special exception will not adversely affect neighboring property.

Fence Standards

The board shall grant a special exception to the requirements of this section when, in the opinion of the board, the special exception will not adversely affect neighboring property.

Visual Obstruction regulations

The board shall grant a special exception to the requirements of this section when, in the opinion of the board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION:

Variance to the front yard setback:

Approval

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

- J. Not contrary to the public interest as no letters of opposition were received.
- K. Subject lot is restrictive in shape and area due to the configuration and the double frontage; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- L. Not a self-created or personal hardship.

Special Exception(s):

No staff recommendation is made on this or any request for a special exception to the fence regulations 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.

No staff recommendation is made on this or any request for a special exception to the fence regulations since the basis for this type of appeal is when in the opinion of the board, the special

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exception will not adversely affect neighboring property.
No staff recommendation is made on this or any request for a special exception to the visibility obstruction regulation since the basis for this type of appeal is when in the opinion of the board, the item will not constitute a traffic hazard.

BDA HISTORY:

No BDA history within the last 5 years.

Square Footage:

This lot contains 8400 square feet.

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

Zoning:

Site: R-7.5(A)-Residential Zoning District
North: R-7.5(A)-Residential Zoning District
South: MF-2(A)-Multifamily Zoning District_
East: R-7.5(A)-Residential Zoning District_
West: R-7.5(A)-Residential Zoning District

Land Use:

The subject site is developed with an existing single-family residential structure use. The areas to the north, east and west of the property are developed with single-family uses and the areas to the south contain single-family and multifamily uses.

GENERAL FACTS/STAFF ANALYSIS:

- This lot is zoned R-7.5(A)-Residential Zoning, which a requires a 25-foot front yard setback
- This lot has 2-street frontages, which cannot treat the longer street frontage (Sears) as a side due to continuity of the established block face
- A request for a variance to encroach into the required front-yard setback is being proposed to maintain the existing structure.
- A permit for the construction of the single-family dwelling was approved as an oversight as it was treated as a side yard in error.
- A request for a special exception to exceed the maximum allowed height of a fence located in the required front yard is being proposed.
- A permit for the construction of the fence was issued as an oversight as it was treated as a side yard in error.
- A request for a special exception to exceed the maximum allowed opacity to the fence regulations is being proposed.
- A permit for the construction of the board on board fence was approved as an oversight as it was treated as a side yard in error.
- A request for a special exception to encroach into the 20-foot visibility triangles at the drive approach is being proposed.
- Staff "redlined" the visibility triangles on the approved site plan stating 20' x 20' visibility triangles must remain clear and unobstructed.
- Fence is constructed on top of the retaining wall with a total height of 9-feet.

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

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- (u) 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.
- (v) 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.
- (w) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
- (x) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (y) the municipality considers the structure to be a nonconforming structure.

Timeline:

November 20, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 4, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

December 6, 2023: 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 December 22, 2023, deadline to submit additional evidence for staff to factor into their analysis; and January 5, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the November public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

Speakers:

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

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-006, on application of Baldwin Associates, **GRANT** the 20-foot 4-inch 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

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Development Code:

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

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	4-0 unanimously				Moved to grant
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-006, on application of Baldwin Associates, **GRANT** the request of this applicant to construct and/or maintain a 9-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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Rachel Hayden				
Second:	Kathleen Davis				
Results:	2-2				Moved to grant / Motion fails
		Ayes:	-	2	Rachel Hayden, Kathleen Davis,
		Against:	-	2	Michael Hopkovitz and Jay Narey

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 234-006, on application of Baldwin Associates, **DENY** the special exception requested by this applicant to construct and/or maintain a 9-foot high fence **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Rachel Hayden				
Second:	Kathleen Davis				
Results:	4-0 Unanimously				Moved to deny
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey

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		Against:	-	0	
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Motion # 4

I move that the Board of Adjustment, in Appeal No. BDA 234-006, on application of Baldwin Associates, **DENY** the special exception requested to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five-feet from the front lot line as a special exception to the surface area openness by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property.

Maker:	Rachel Hayden				
Second:	Jay Narey				

Withdrawn	Jay Narey				
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Maker:	Rachel Hayden				
Second:	Michael Hopkovitz				
Results:	4-0 Unanimously				Moved to deny
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

Motion # 5

I move that the Board of Adjustment, in Appeal No. BDA 234-006, on application of Baldwin Associates, **DENY** the special exception requested by this applicant to maintain items in the visibility triangle at the drive approach **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

Maker:	Rachel Hayden				
Second:	Jay Narey				
Results:	4-0 Unanimously				Moved to deny
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

10. 2000 Euclid Avenue
BDA234-006_FR1(DB)

BUILDING OFFICIAL’S REPORT: Application of Baldwin Associates for a variance to the front yard setback regulations, and for a special exception to the fence height regulations, and for a special exception to the fence standards regulations, and for a special exception to the visibility obstruction regulations at 2000 Euclid Ave.

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LOCATION: 2000 Euclid Avenue

APPLICANT: BALDWIN ASSOCIATES

REQUESTS:

The applicant is requesting a fee reimbursement for fees paid for the application of a variance to the front yard setback regulations, and for a special exception to the fence height regulations, and for a special exception to the fence standards regulations, and for a special exception to the visibility obstruction regulations at 2000 Euclid Ave.

STANDARD FOR A FEE WAIVER OR REIMBURSEMENT:

Section 51A-1.105(b)(6) of the Dallas Development Code specifies the board of adjustment may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board’s miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket, the applicant may not apply to the merits of the request for a waiver have been determined by the board. In making this determination, the board may require the production of financial documents.

STAFF RECOMMENDATION:

The staff does not make a recommendation on fee waiver requests since the standard is whether the board finds that payment of the fee would result in substantial financial hardship to the applicant.

Speakers:

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

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-006_FR1, on application of Baldwin Associates, **GRANT** the request to reimburse the filing fees in association with a request for a special exception to the fence height regulations, a special exception to the fence opacity standards, and a special exception to the visibility obstruction regulations as requested by this applicant because our evaluation of the property and testimony shows that the payment of the fee would result in substantial financial hardship to this applicant.

Maker:	Jay Narey				
Second:	Kathleen Davis				
Results:	2-2 Unanimously				Moved to grant / Motion fails
		Ayes:	-	2	Kathleen Davis and Jay Narey
		Against:	-	2	Michael Hopkovitz and Rachel Hayden

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Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-006_FR1, on application of Baldwin Associates, **DENY** the request to reimburse the filing fees for a special exception to the fence height regulations, a special exception to the fence opacity standards, and a special exception to the visibility obstruction regulations as requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that payment of the fee would NOT result in substantial financial hardship to this applicant.

Maker:	Jay Narey				
Second:	Kathleen Davis				
Results:	4-0 Unanimously				Moved to deny
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Presiding Officer Kathleen Davis moved to adjourn the meeting at 3:11 p.m.

Maker:	Jay Narey				
Second:	Kathleen Davis				
Results:	4-0 Unanimously				
		Ayes:	-	4	Rachel Hayden, Kathleen Davis, Michael Hopkovitz and Jay Narey
		Against:	-	0	


Required Signature:

Mary Williams, Board Secretary
Development Services Dept.

02/20/24
Date


Required Signature:

Dr. Kameka Miller-Hoskins, Interim Chief Planner
Development Services Dept.

02/20/24
Date


Required Signature:

David A. Neumann, Chairman
Board of Adjustment

2/20/24
Date