



BOARD OF ADJUSTMENT

Panel A Minutes

July 18, 2023

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CITY SECRETARY
DALLAS, TEXAS

6EN Council Chambers
24923176153@dallascityhall.webex.com

David A. Neumann, Chairman

PRESENT: [5]

David A. Neumann, Chairman	
Kathleen Davis	
Lawrence Halcomb	
Rachel Hayden	
Jay Narey	

ABSENT: [0]

Assisting City Attorney Daniel Moore called the briefing to order at **10:44 A.M.** with a quorum of the Board of Adjustment present.

Chair Neumann called the hearing to order at **1:00 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

I motion to wave the Board of Adjustment Rules of Procedure Section 6(a)(16) that requires the Docket Materials be posted at least 7 days prior to the hearing.

Maker:	David Neumann				
Second:	Rachel Hayden				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Lawrence Halcomb and Jay Narey
		Against:	-	0	

1- Approval of the Board of Adjustment Panel A, June 20th, 2023 public hearing minutes, as amended.

Motion was made to approve Panel A, June 20th, 2023 public hearing minutes, as amended.

Maker:	David Neumann				
Second:	Kathleen Davis				
Results:	5-0 unanimously				
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Lawrence Halcomb and Jay Narey
		Against:	-	0	

CONSENT ITEMS

1. 7128 Hazel Road

***This case was moved to Individual Items**

BDA223-058(KMH)

BUILDING OFFICIAL’S REPORT: Application of Blanca Cardenas for a special exception to the single-family regulations, and for a variance to the floor area ratio regulations, and for a variance to the building height regulations at 7128 Hazel Rd. This property is more fully described as Block 3/6292, Lot 5 and is zoned R-7.5(A), which (1) prohibits an accessory structure from exceeding 25% of the floor area of the main structure; and (2) prohibits the height of an accessory structure from exceeding the height of the main building, and limits the number of dwelling units to one. The applicant proposes to construct an additional dwelling unit, which will require a special exception to the single family zoning use regulations (NOT FOR RENT); and to construct a single family residential accessory structure with 1,306 square feet of floor area (95% of the 1,244 square foot floor area of the main structure), which will require a 995 square foot variance to the floor area regulations, and to construct and maintain a single-family residential accessory structure with a building height of 24 feet, which will require a 6 foot variance to the maximum building height regulations.

LOCATION: 7128 Hazel Rd

APPLICANT: Blanca Cardenas

REQUEST:

- (1) A request for a special exception to the single-family use regulations, and
- (2) A variance to the floor area ratio and building height regulations is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

Section 51A-4.209(b)(6)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not:

- 1) be used as rental accommodations; or
- 2) adversely affect neighboring properties.

Section 51A-4.209(b)(6)(E)(ii) In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

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 the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Special Exception:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

Variance:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

Rationale:

- Staff concluded that granting the variance for the floor area ration and height in this application would not be contrary to public interest. In granting this variance, it would allow the existing structure to remain.

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 and surrounding properties are developed with single-family homes.

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request is for a special exception to the single-family use regulations, and for a variance to the floor area ratio and building height regulations is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single family home.
- The applicant proposes maintain a 24-foot single-family residential accessory structure (ADU-not for rent) with 1,306 square feet of floor area (95% of the 1,244 square feet of floor area of the main structure). The applicant states that the ADU has been existing for 15 years.
- The site is zoned an R-7.5(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.
- Additionally, the Dallas Development Code states that an accessory structure may not exceed 25% of the floor area of the main structure and the height of an accessory structure may not exceed that of the main structure.
- The main structure is approximately 1,244 square feet, an ADU not exceeding 25% of the main floor area would be approximately 311 square feet. The existing two story ADU is approximately 1,306 square feet; which exceeds the 25% of the main floor area.
- The height of the main structure is approximately 18-feet; the height of the existing ADU is 24-feet; therefore a 6-foot variance is required as the accessory structure cannot exceed the height of the main structure.
- According to the submitted plans, the first floor of the ADU consists of kitchen, dining/living area, bathroom and closets; the second floor of the ADU consists of two bedrooms, bathroom, living area and two closets.
- It is imperative to note that the Dallas Development Code defines a dwelling unit as, "one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms." The existing ADU consists of all three (kitchen, bathroom, and bedrooms).
- The single-family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: (1) be use as rental accommodations; or (2) adversely affect neighboring properties.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.

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Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e., development on the site must meet all required code requirements).

The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Moreover, the applicant has the burden of proof in establishing the following:

- That granting the variance to the floor area ratio and building height 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 State Law/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.
- (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.

Timeline:

- April 24, 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.
- May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 13, 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 June 26, 2023, deadline to submit

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additional evidence for staff to factor into their analysis; and July 6, 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.

June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the June 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.

June 30, 2023: The Development Services Engineer provided a response sheet with no objections.

Speakers:

For: Guadalupe Amaya, 7128 Hazel Road, Dallas TX 75217
Blanca Cardenas, 745 Clearwood Drive, Dallas TX 75232
Angel Velasquez, 7128 Hazel Road, Dallas TX 75217

Against: No Speakers

Motion

I move that the Board of Adjustment in request No. BDA 223-058, **HOLD** this matter under advisement until August 15, 2023.

Maker:	Lawrence Halcomb				
Second:	Jay Narey				
Results:	4-1				Moved to hold to August 15 th , 2023.
		Ayes:	-	4	David A. Neumann, Jay Narey, Rachel Hayden and Lawrence Halcomb
		Against:	-	1	Kathleen Davis

2. 4148 Gentry Drive
BDA223-060(KMH)

BUILDING OFFICIAL’S REPORT Application of Pedro Lopez for a special exception to the fence height regulations, and for a special exception to the visual obstruction regulations at 2818 Toluca Ave. This property is more fully described as Block 36/5978, Lot 33 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4-feet and requires a 20-foot visibility triangle at driveway approaches. The applicant proposes 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 regulations, and to construct and/or maintain a single-family residential fence structure in a require 20-foot visibility obstruction triangle, which will require a special exception to the visual obstruction regulation.

LOCATION: 2818 Toluca Ave

APPLICANT: Pedro Lopez

REQUEST:

A request for a special exception to the fence height regulations and for a special exception to the visual obstruction regulations on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE 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.

The Development Services Engineer has no objections if certain conditions are met, "fence to remain open wrought iron as alley appears to be unused."

BACKGROUND INFORMATION:

Zoning:

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

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 purpose of this request is for a special exception to the fence regulations of 2-feet focuses on constructing and/or maintaining a 6-foot high fence in a required front yard; additionally, this request is also for a special exception to the visual obstruction regulations focusing on maintaining a residential fence structure in a required visibility obstruction regulation.
- The subject site and surrounding properties are zoned R-7.5(A).
- 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. Additionally, the Dallas Development Code requires a 20-foot visibility triangle at driveway approaches.
- 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 existing fence in the two 20-foot visibility triangles at the driveway into the site from Toluca Ave to what is shown on the submitted documents.

Timeline:

- April 26, 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.
- May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 13, 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 June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 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.

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June 28,2023: 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.

June 30, 2023: The Development Services Engineer submitted a review comment sheet marked "no objection".

Speakers:

For: No Speakers

Against: No Speakers

Motion

I move that the Board of Adjustment, **GRANT** the following applications listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA223-060 - Application of Pedro Lopez for a special exception to the fence height regulations and for a special exception to the visibility obstruction regulations.

Compliance with the submitted site plan and elevation is required.

Maker:	Lawrence Halcomb				
Second:	Jay Narey				
Results:	5-0 unanimously				Moved to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Lawrence Halcomb, Jay Narey and Rachel Hayden
		Against:	-	0	

3. 2801 AI Lipscomb Way

***This case was moved to Individual Items**

BDA223-063(KMH)

BUILDING OFFICIAL'S REPORT: Application of Annie Evans represented by Ami Parikh for a variance to the front yard setback regulations, and for a special exception to the parking regulations at 2801 AI Lipscomb Way. This property is more fully described as Block 12/854, Lot 1A, and is zoned PD-363 Subarea 3, which requires a front yard setback of 15 feet; and requires parking to be provided. The applicant proposes to provide a 7-foot front yard setback, which will require an 8-foot variance to the front yard setback regulations, and to construct a nonresidential structure for a restaurant without drive-in or drive-through service use, office use, and/or personal service use; and provide 25 parking spaces and 12 bicycle parking spaces (2 space reduction) of the required 33 parking spaces, which will require a 6 space special exception (18% reduction) to the parking regulation.

LOCATION: 2801 Al Lipscomb Way

APPLICANT: Annie Evans
Represented by Ami Parikh

REQUEST:

- (1) A request for a **variance** of 8-feet to the front yard setback regulations; and
- (2) A request for a **special exception** to the off-street parking regulations of 6 spaces is made to construct and maintain a non-residential structure.

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 considers the structure to be a nonconforming structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

Section 51A-4.311 of the Dallas Development Code states the following:

- 1) The Board of Adjustment **MAY** grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board SHALL consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.

- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Variance Request

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that granting the variance would not be contrary to public interest.
- The Development Service Engineer reviewed the submitted request and applicable documents and found no objection to the variance request.

Special Exception Request

No staff recommendation is made on this request for a special exception to the parking demand since the basis for this type of appeal is whether the board finds the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

BACKGROUND INFORMATION:

Zoning:

- Site: PD No. 363 (Subarea 3)
North: PD No. 363 (Subarea 2 and 3)
East: PD No. 595 (MF-2(A))
South: PD No. 595/ Southwest PD 871
West: PD No. 363

Land Use:

The subject site is a vacant lot. The property to the immediate west is developed as a small restaurant. The property to the east of the site appears to be an abandoned school, whereas the property south of the subject site is developed as a school. Properties immediate north of the site is vacant; properties further north of the subject site is developed as multifamily and some office space.

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The subject site is zoned PD 363 Subarea 3 and is currently undeveloped.
- A request for a variance to the front yard setback regulations and for a special exception to the parking regulations is made to construct and maintain a non-residential structure.
- The applicant is proposing to construct and maintain a nonresidential structure and provide a 7-foot front yard setback, which will require an 8-foot variance to the front yard setback regulations, and to construct a nonresidential structure for a restaurant without drive-in or drive through service use, office use, and/or personal service use. The applicant proposes to provide 25 parking spaces and 12 bicycle parking spaces (2 space reduction) of the required 33 parking spaces, which will require a 6-space special exception (18% reduction) to the parking regulation.
- According to the submitted documents, the proposed project will be a 4,800-square feet building with 1,800 square feet being used as a restaurant and the remaining 3,000 square feet being used for personal service/office uses.
- The applicant, again, is seeking a reduction of a total of 6 spaces from the off-street parking requirements for the combination of uses previously stated.
- Additionally, the applicant is seeking a setback variance to allow placement of an open patio/stairs/ramp within the required front yard setback, which will support a pedestrian-friendly street frontage.
- The applicant provided a Parking and Traffic study to support this request, it can be found in the application materials as submitted.
- The applicant also provided documentary evidence of the proper sign posting. **Exhibit A.**
- The Sustainable Development and Construction Department Senior Engineer has no objections to the request.

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

- The parking demand generated by the restaurant and personal service/office use structure does not warrant the number of off-street parking spaces required: and
- The special exception of six spaces (or an 18 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

If the board were to grant this request a condition may be imposed that the special exception of six spaces shall automatically and immediately terminate if and when the restaurant without dine-in or drive-through service and personal service/office use is changed or discontinued.

The board may also consider **State Law/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.

Timeline:

- May 3, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.
- May 30, 2023: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.
- June 14, 2023: The Board of Adjustment Senior 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 June 26th deadline to submit additional evidence for staff to factor into their analysis; and the July 6th 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."
- June 16, 2023: The applicant submitted documentary evidence of the sign posted on the property.
- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the July public hearings. Review team members in attendance included the following: 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.
- June 30, 2023: The Development Services Engineer submitted a review comment sheet marked "no objection"

Speakers:

For: Mac McWilliams, 9109 Seagrove, Dallas TX

Against: No Speakers

Motion #1

I move that the Board of Adjustment, in Appeal No. BDA 223-063, on application of Annie Evans, **GRANT** the 8-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

Maker:	Rachel Hayden				
Second:	Lawrence Halcomb				
Results:	5-0 unanimously				Moved to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

Motion #2

I move that the Board of Adjustment, in Appeal No. BDA 223-063, on application of Annie Evans, **GRANT** the request of this applicant to provide twenty-five (25) off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires thirty-three (33) 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 without 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 six (6) spaces shall automatically and immediately terminate if and when the restaurant without a drive-in or drive-through use is changed or discontinued.

Maker:	Rachel Hayden				
Second:	Lawrence Halcomb				
Results:	5-0 unanimously				Moved to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

Motion #3

I motion to withdraw the previous motion

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Maker:	Rachel Hayden				
Second:	Lawrence Halcomb				

Motion #4

I move that the Board of Adjustment, in Appeal No. BDA 223-063, on application of Annie Evans, **GRANT** the request of this applicant to provide twenty-five (25) off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires thirty-three (33) 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 without 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 six (6) spaces shall automatically and immediately terminate if and when the restaurant without a drive-in or drive-through use, office use, and/or personal service use is changed or discontinued.

Maker:	Rachel Hayden				
Second:	Lawrence Halcomb				
Results:	5-0 unanimously				Moved to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

4. 2603 Inwood Road

***This case was moved to Individual Items**
BDA223-065(GB)

BUILDING OFFICIAL’S REPORT Application of BALDWIN ASSOCIATES for a special exception to the parking regulations at 2603 INWOOD RD. This property is more fully described as Block A/5709, Lots 1-4 and 13,14, and is zoned IR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for a Community Service Center and provide 86 of the required 96 parking spaces, which will require a 10-space special exception (10% reduction) to the parking regulation.

LOCATION: 2603 Inwood Road

APPLICANT: Baldwin Associates

REQUEST:

A request for a special exception to the parking regulations. The applicant proposes to construct and maintain a nonresidential structure for a Community Service Center and provide 86 of the required 96 parking spaces, which will require a 10-space special exception (10% reduction) to the parking regulation.

STANDARD FOR A SPECIAL EXCEPTION SEC 51A-4.311:

- (1) The board **MAY** grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on the adjacent or nearby streets. Except as otherwise provided in this paragraph, the maximum reduction authorized in this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to the already existing nonconforming rights.
- (2) In determining whether to grant a special exception under paragraph (1), the board **SHALL** consider the following factors:
 - A. The extent to which the parking spaces provided will be remote, shared, or packed parking
 - B. The parking demand and trip generation characteristics of all uses for which the special exception is requested
 - C. Whether or not the subject property or any property in the general area is part of a modified delta overlay district
 - D. The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan
 - E. The availability of public transit and the likelihood of its use.
 - F. The feasibility of parking mitigation measures and the likelihood of their effectiveness

STAFF RECOMMENDATION:

- Approval.

Rationale: parking should be sufficient and overflow parking would not negatively impact traffic flow on the lower volume Sandler Circle.

• **ZONING/BDA HISTORY:**

Zoning:

Site: IM

Land Use:

The subject site is developed with a commercial structure. Areas to the North, South, East, and West are developed with commercial and retail uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a special exception to the parking regulations. The applicant proposes to construct and maintain a nonresidential structure for a Community Service Center and provide 86 of the required 96 parking spaces, which will require a 10-space special exception (10% reduction) to the parking regulation.
- The subject property is located at 2603 Inwood Road.
- The subject property is zoned IM.
- The intended use for this property is a Community Services Center, which requires 96 parking spaces.

Timeline:

- May 10, 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.
- June 09, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- June 13, 2023: The Board of Adjustment Senior 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 June 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, July 07, 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."
- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the July 18, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, and the Development Services Senior Engineers
- June 29, 2023: The engineering department submitted a review comment sheet.

Speakers:

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

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-065, on application of Baldwin Associates, **GRANT** the request of this applicant to provide eighty-six (86) off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires ninety-six (96) 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.

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

The special exception of ten (10) parking spaces shall automatically and immediately terminate if and when the proposed use is changed or discontinued.

Maker:	Jay Narey				
Second:	Kathleen Davis				
Results:	5-0 unanimously				Moved to grant
		Ayes:	-	5	David A. Neumann, Lawrence Halcomb, Kathleen Davis, Rachel Hayden and Jay Narey
		Against:	-	0	

INDIVIDUAL CASES

* The case was briefed before the Public hearing.

5. 5518 Winston Court
BDA223-066(KMH)

BUILDING OFFICIAL’S REPORT Application of Baldwin Associates for a special exception to the fence regulations, and for a special exception to the fence standards regulations at 5518 Winston CT. This property is more fully described as Block B/5592, Lot 1A, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet; and requires fence panel with a surface area that is less than 50 percent open not be located less than 5 feet from the lot line. The applicant proposes to construct an 8-foot 11-inch high fence in a required front yard, which will require a 4-foot 11-inch 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 a special exception to the fence opacity regulations.

LOCATION: 5518 Winston Court

APPLICANT: Baldwin Associates

REQUEST:

- (1) A request for a special exception to the fence height regulations; and
- (2) A special exception to the fence opacity regulations for a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE 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:

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.

The Development Services Engineer has reviewed all pertinent documents submitted and has no objections to this request.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

BDA History:

2019- BDA189-100 (fence height/fence standards)

- Applicant proposed an 11-foot fence; denied without prejudice

2021- BDA201-112 (fence standards)

- Applicant proposed an 8-foot fence; approved-not to exceed 8'

GENERAL FACTS/STAFF ANALYSIS:

- The purpose of this request is for a special exception to the fence regulations of 4-feet and 11-inches focuses on constructing and/or maintaining an 8-foot 11-inch high fence in a required front yard; additionally, this request is also for a special exception to the fence standards regulations for a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line.
- The subject site and surrounding properties are zoned R-7.5 (A).
- 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 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.
- As gleaned from the submitted site plan and elevations, the applicant is proposing an 8-foot 11-inch high fence in the front yard along Winston Court and along Holloway Road.

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- The proposed fence will be a 1” solid picket style fence with decorative iron lattice with iron trim work and solid sheet panel behind; with Granbury stone to match the house. It is also imperative to note that the proposed fence will consist of a drive/pedestrian gate.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting these special exceptions to the fence standards relating to height up to 8-feet 11-inches and location of fence panels with surface areas that are less than 50 percent open on the site 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.

Timeline:

- May 10, 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.
- May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 13, 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 June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 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.
- June 28, 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.
- June 30, 2023: The Development Services Engineer provided a response sheet with no objections.

Speakers:

- For: Rob Baldwin, 3904 Elm Street #B, Dallas TX 75226
Harold Leidner, 1601 Surveyor Blvd., Carrollton, TX
- Against: Dr. James Elbaor, 5507 Winston Ct., Dallas TX 75220

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-066, **HOLD** this matter under advisement until August 15, 2023.

Maker:	David Neumann				
Second:	Kathleen Davis				
Results:	5-0 unanimously				Moved to hold to August 15, 2023.
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

***This case was briefed before the Public Hearing.**

6. 3349 Coronet Blvd.
 BDA223-077(KMH)

BUILDING OFFICIAL’S REPORT: Application of Lance Thames for a variance to the building height regulations at 3349 Coronet Blvd. This property is more fully described as Block 2/7092, Lot 14, and is zoned R-5(A) NSO 13, which limits the maximum building height to 30-feet and also limits the height plane not to exceed the maximum height of 27-feet at the building line. The applicant proposes to construct and/or maintain a single-family residential structure with a building height of 32-feet, which will require a 2-foot variance to the maximum building height regulations.

LOCATION: 3349 Coronet Blvd

APPLICANT: Lance Thames

REQUEST:

A request for a variance to the building height regulations.

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:

- (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.

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 the municipality considers the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval

Rationale:

Staff concluded that the request is not contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.

Condition:

Must comply with submitted site plan and elevation

BACKGROUND INFORMATION

Zoning:

Site: R-5 (A) NSO 13

North:

South:

East:

West:

Land Use:

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

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request is for a variance to the building height regulations.
- The site is zoned R-5(A) NSO 13. The R-5(A) Single-Family District limits the height of a single-family structure to 30-feet. The NSO 13 overlay limits the height plane not to exceed the maximum height of 27 feet at the building line.
- The applicant is proposing to construct and/or maintain a single-family residential structure with a building height of 32-feet, which will require a 2-foot variance to the maximum building height regulations.
- On September 6, 2022, a building permit application was applied for to construct a new single-family dwelling at 3349 Coronet Blvd; the permit was approved and issued on January 11, 2023.

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

- That granting the variance to the building height 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 **State Law/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:

- (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.

Timeline:

June 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.

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June 23, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the June 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.

July 6, 2023: The Senior Development Project Coordinator for the Residential Division provided a copy of the BOA referral form. Attachment A

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 June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 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.

Speakers:

For: Philip Kingston, 5901 Palo Pinto, Dallas TX 75206
Lance Thames, 1543 Canada Drive, Dallas TX

Against: Tony Carrillo, 3109 Parvia Ave, Dallas TX 75212
Sylvia Lagos, 131 N. Monclair, Dallas TX 75208
Albert Salinas, 3328 Topeka Ave, Dallas TX 75212
Maria Lozada Garcia, 2422 Postbridge Rd., Grand Prairie, TX 75050
Janie Cisneros, 2821 Bedford St., Dallas TX75212
John Gallegos, 524 Nomas St., Dallas TX 75212

Staff: Willie Franklin, Residential Manager

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-077, **HOLD** this matter under advisement until August 15, 2023.

Maker:	David Neumann			
Second:	Rachel Hayden			
Results:	5-0 unanimously			Moved to hold to August 15, 2023

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		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Lawrence Halcomb
		Against:	-	0	

Recess: 3:29 p.m.; Resume: 3:35 p.m.

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chair Neumann moved to adjourn the meeting, seconded by Lawrence Halcomb at 6:04 p.m. Motion to adjourn was approved unanimously.

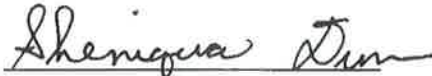


Required Signature:

Mary Williams, Board Secretary
Development Services Dept.

8/15/2023

Date



Required Signature:

Nikki Dunn, Chief Planner/Board Administrator
Development Services Dept.

8-15-23

Date



Required Signature:

David A. Neumann, Chairman
Board of Adjustment

8/15/23

Date