



BOARD OF ADJUSTMENT

Panel A Minutes

September 17, 2024

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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	
Rachel Hayden	
Michael Hopkovitz	
Jay Narey	

ABSENT: [0]

Chairman David A. Neumann called the briefing to order at **10:30 A.M.** with a quorum of the Board of Adjustment present.

Chairman David A. 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 testimony opportunities for individuals to comment on matters that were scheduled on the posted meeting agenda.

- Zac Thompson – 4715 University Blvd., Dallas TX 75209
- Amelia Perez – 7811 Morton St., Dallas TX 75209
- Gus Perez – 1811 Morton Street, Dallas TX 75209
- Kemeshia Richardson, 7314 Kenwell St., Dallas TX 75209

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel A, August 20th, 2024, Meeting Minutes.

Motion was made to approve Panel A, August 20th, 2024, Public Hearing Minutes.

Maker:	Michael Hopkovitz				
Second:	Rachel Hayden				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Rachel Hayden, Jay Narey and Michael Hopkovitz
		Against:	-	0	

CONSENT ITEMS

**1. 8340 Plainview Drive
BDA234-105(CJ)**

BUILDING OFFICIAL'S REPORT: Application of Martha Duran for (1) a variance to the side-yard setback regulations; (2) a variance to the rear-yard setback regulations; and (3) a variance to the maximum allowed lot coverage at 8340 Plainview Drive. This property is more fully described as Block 2/8526, Lot 5, and is zoned A(A), which allows a maximum lot coverage of 10%, and requires a side-yard setback of 20-feet, and requires a rear yard setback of 50-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide an 8-foot side-yard setback, which will require (1) a 12-foot variance to the side-yard setback regulations; to construct and/or maintain a single-family residential structure and provide a 14-foot 8-inch rear yard setback, which will require (2) a 35-foot 4-inch variance to the rear-yard setback regulations, and to construct and/or maintain a single-family residential structure with 2,331 square feet of floor area (23% lot coverage), which will require (3) a 1,302 square foot variance (13%) to the maximum allowed lot coverage of 1,029 square feet (10%).

LOCATION: 8340 Plainview Drive

APPLICANT: Martha Duran

REQUEST:

- (1) A request for a variance to the side-yard setback regulations; and
- (2) A request for a variance to the rear-yard setback regulations; and
- (3) A request for a variance to the lot coverage regulations.

STANDARDS OF REVIEW 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:

1. 1st Request - Variance to the side yard setback regulations

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 before case reports were finalized and submitted.
- B. The subject site is 10,390 sq ft. which is smaller than the minimum lot size for residential use in the A(A) zoning district (130,680 sq ft. or 3 ac). Having a 50-foot rear yard setback and a 20-foot side yard setback further decreases the developable area of the subject site; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

2. 2nd Request - Variance to the rear yard setback regulations.

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 before case reports were finalized and submitted.
- B. The subject site is 10,390 sq ft. which is smaller than the minimum lot size for residential use in the A(A) zoning district (130,680 sq ft. or 3 ac). Having a 50-foot rear yard setback and a 20-foot side yard setback further decreases the developable area of the subject site; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

3. 3rd Request - Variance to the lot coverage regulations.

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 before case reports were finalized and submitted.
- B. The subject site is 10,390 sq ft. which is smaller than the minimum lot size for residential use in the A(A) zoning district (130,680 sq ft. or 3 ac). Having a 50-foot rear yard setback and a 20-foot side yard setback further decreases the developable area of the subject site; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 8340 Plainview Drive within the last 5 years.

Square Footage:

This lot contains 10,018.8 of square feet.

This lot is zoned A(A) which has a minimum lot size of 130,680 square feet or 3 acres.

Zoning:

Site: A (A) (Agriculture Zoning District)
North: A (A) (Agriculture Zoning District)
South: IR (Industrial Research District)
East: A (A) (Agriculture Zoning District)
West: A (A) (Agriculture Zoning District)

Land Use:

The subject site is currently vacant. The areas to the north, east, and west are developed and being developed with uses permissible in the A(A) zoning district. Areas to the south are zoned with Industrial Research (IR) uses.

GENERAL FACTS/STAFF ANALYSIS:

- The application for the Martha Duran property located at 8340 Plainview Drive focuses on 3 requests relating to the side yard setback regulations, rear yard setback regulations and the lot coverage regulations.
- A request for a variance to the side yard setback regulations of 12-feet is made to construct and/or maintain a single-family residential structure at 8340 Plainview Drive; Zoning District A(A) requires a minimum side yard setback of 20-feet.
- Secondly, a request for a variance to the rear yard setback regulations of 35-feet 4-inches is made to construct and/or maintain a single-family residential structure at 8340 Plainview Drive; Zoning District A(A) requires a minimum rear yard setback of 50-feet.
- Thirdly, a request for a 13 percent variance to the lot coverage regulations is made to construct and/or maintain a single-family residential structure with 2,331 square feet of floor area which is equivalent to 23% of lot coverage; the maximum allowed lot coverage in Zoning District A(A) is 10 percent.
- It is imperative to note that the subject site is a mid-block lot and has single street frontage on Plainview Drive.
- The subject site along with surrounding properties to the north, east and west are zoned with residential and agricultural uses. Areas to the south are zoned with Industrial Research uses.
- The subject site is currently vacant and heavily vegetated.

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

- That granting the variance(s) 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(s) are 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(s) 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.
- (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

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- (e) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed variances below, 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.
 - 12-foot variance to the side yard setback regulations; and
 - 35-foot 4-inch variance to the rear yard setback regulations; and
 - 13 percent variance to the lot coverage regulations.
- 200' Radius Video: BDA234-105 at 8340 Plainview Dr.

Timeline:

- July 19, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- August 12, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 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.
- August 30, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

- For: No Speakers
- Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 234-105, on application of Martha Duran, **GRANT** the 12-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:

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

Maker:	Michael Hopkovitz				
Second:	Rachel Hayden				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 234-105, on application of Martha Duran, **GRANT** the 35-foot 4-inch variance to the rear-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:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Michael Hopkovitz
		Against:	-	0	

Motion # 3

I move that the Board of Adjustment, in Appeal No. BDA 234-105, on application of Martha Duran, **GRANT** the 1,302 square foot variance to the lot-coverage 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				

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Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey and Michael Hopkovitz
		Against:	-	0	

2. 10335 Lennox Lane
BDA234-109(CJ)

BUILDING OFFICIAL’S REPORT: Application of Hooman Sedighi for (1) a special exception to the fence height regulations at 10335 Lennox Ln. This property is more fully described as Block C/5532, Lot 3, 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 and/or maintain a 6-foot high fence in a required front-yard, which will require (1) a 2-foot special exception to the fence height regulations.

LOCATION: 10335 Lennox Lane

APPLICANT: Hooman Sedighi

REQUEST:

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

STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT 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 height regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Special Exceptions (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 10335 Lennox Lane in the last 5 years.

Square Footage:

- This lot contains 41,469.12 of square feet.
- This lot is zoned R-1ac (A) which has a minimum lot size of 43,560 square feet or 1 acre.

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) (Single Family District)

West: R-1ac (A) (Single Family District)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- The application of Hooman Sedighi for property located at 10335 Lennox Lane focuses on 1 request relating to the fence height standards.
- The applicant proposes to 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 submitted site plan and elevations show the applicant is proposing to maintain a 6-foot high fence in the required front yard along Lennox Lane.
- The subject site along with properties to the north, south, east, and west are all developed with single-family homes.
- The subject site is a mid-block lot with single street frontage along Lennox Lane.
- The proposed fence material is open wrought iron.
- Based upon staff's analysis of the surrounding properties, there are homes along Lennox Lane with fences and gates in the required front yard and/or some form of vegetation serving as a screening mechanism.
- Per staff's review of the subject site, it has been confirmed that the fence is proposed and not existing.
- 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 relating to height will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standard regulations 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.
- 200' Radius Video: [BDA234-109 at 10335 Lennox Ln.](#)

Timeline:

- July 25, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A
- August 12, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the August 23, 2024, deadline to submit

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

August 30, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

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:

BDA 234-109 – Application of Hooman Sedighi for a special exception to fence height regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Michael Hopkovitz				
Second:	Rachel Hayden				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Jay Narey and Michael Hopkovitz
		Against:	-	0	

3. 1710 Morrell Avenue
BDA234-110(CJ)

This item was moved to Individual Cases

BUILDING OFFICIAL’S REPORT: Application of Reinhart Hanson Jr. for (1) a special exception to the tree conservation regulations at 1710 Morrell Avenue. This property is more fully described as Block 5898 TR 9 and Block 3/5896 Lot 2A and is zoned CR and MF-2(A), which requires mandatory

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landscaping and tree mitigation. The applicant proposes to construct and/or maintain a Multifamily development and obtain a reduction of overall tree mitigation for the site, which will require **(1)** a special exception to the tree conservation regulation.

LOCATION: 1710 Morrell Avenue

APPLICANT: Reinhart Hanson Jr.

REQUEST:

(2) A request for a special exception to the tree conservation regulations.

DEVELOPMENT STANDARD FOR A SPECIAL EXCEPTION TO TREE CONSERVATION REGULATIONS:

SEC. 51A-10.134. REPLACEMENT OF REMOVED OR SERIOUSLY INJURED TREES.

(c) Requirements.

(1) Quantity.

(A) Except as provided in this section, the minimum total caliper of replacement trees must equal or exceed the total classified diameter inches of the protected trees removed or seriously injured as listed below.

(B) Tree classification for mitigation:

- (i) Historic trees: 3:1
- (ii) Significant: 1.5:1
- (iii) Class 1: 1:1
- (iv) Class 2: 0.7:1
- (v) Class 3: 0.4:1

LEGAL STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO THE TREE CONSERVATION REGULATIONS:

Section 51A-10.110 of the Dallas Development Code states the board may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that **strict compliance** with the requirements of this article **will unreasonably burden the use of the property**; the **special exception will not adversely affect neighboring property**; and the **requirements are not imposed by a site-specific landscape plan or tree mitigation plan** approved by the city plan commission or city council. In determining whether to grant a special exception under **Subsection (b)**, the board shall consider the following factors:

- The extent to which there is residential adjacency.
- The topography of the site.
- The extent to which landscaping exists for which no credit is given under this article.
- The ability to plant replacement trees safely on the property.
- The extent to which alternative methods of replacement will compensate for a reduction of tree mitigation or extended time for tree replacement. (Ord. Nos. 22053; 25155; 30929)

STAFF RECOMMENDATION:

Special Exception (1):

No staff recommendation is made on this request.

BACKGROUND INFORMATION:

BDA History:

No BDA history found at 1710 Morrell Avenue in the last 5 years.

Square Footage:

- This lot contains 220,849.2 of square feet.
- This lot is zoned MF-2(A) (Multifamily) / CR (Community Retail) which has no minimum lot size.

Zoning:

Site: MF-2(A) (Multifamily) / CR (Community Retail) Zoning District
North: Planned Development (PD) 1015
East: R-7.5(A) Zoning District
South: MF-2(A) (Multifamily) Zoning District
West: CR (Community Retail) Zoning District

Land Use:

The subject site and surrounding properties to the east and south are developed with residential uses. Surrounding properties to the west are developed with commercial uses and properties to the north are developed with uses permissible in Planned Development No. 1015.

GENERAL FACTS/STAFF ANALYSIS:

- The application of Reinhart Hanson Jr., for the property located at 1710 Morrell Avenue focuses on one request relating to the tree conservation regulations.
- The applicant proposes to construct and/or maintain a Multifamily development and obtain a reduction of overall tree mitigation for the subject site, which will require a special exception to the tree conservation regulations as stated in Article X.
- The reduction requested is based on the cost of the preservation of one significant pecan tree (Tree #8833) on the subject site; the amount of remediation of this tree is stated to be in approximation of \$94,000. In short, the applicant is asking that their, above the norm, tree preservation efforts to preserve the significant pecan tree be taken into consideration in tree mitigation.
- It is imperative to note that the project is fully permitted under permit #2212131027 and is currently in compliance with tree conservation requirements for mitigation.
- A multifamily structure is currently under development at the subject site.
- The subject site has street frontage on South Corinth Street Road, Morrell Avenue and Hutchins Road.
- The arborist division has no objection to the request.
- The Dallas Development Code states that the minimum total caliper of replacement trees must equal or exceed the total classified diameter inches of the protected trees removed or seriously injured as listed in SEC. 51A-10.134 (c)(1)(B).

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- The applicant has the burden of proof in establishing that the special exception to the tree conservation regulations will not adversely affect the neighboring properties and that the requirements are not imposed by a site-specific landscape plan or tree mitigation plan approved by the city plan commission or city council.
- Granting the special exceptions to the tree conservation regulations with a condition that the applicant complies with the submitted site plan/tree mitigation or landscape plan, would require the proposal to be constructed as shown on the submitted documents.
- (200' Radius Video): BDA234-110 at 1710 Morrell Ave.

Timeline:

- August 6, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A
- August 12, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the hearing date and panel that will consider the application; the August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 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.
- August 30, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.
- September 3, 2024: The Chief Arborist provided staff with Arborist Report.

Speakers:

For: Hanson Reinhart, 1710 Morrell Ave., Dallas TX 75203

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-110, on application of Reinhart Hanson Jr., **GRANT** the request of this applicant for a special exception to the tree conservation regulations contained in Article X of the Dallas Development Code, as amended, for a reduction of required tree replacement of 482 diameter inches of protected trees after planting on the property, because our evaluation of the property and testimony shows that (1) strict compliance with the requirements of

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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.

Maker:	Jay Narey				
Second:	Rachel Hayden				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Kathleen Davis, Jay Narey and Michael Hopkovitz
		Against:	-	0	

HOLDOVER CASES

4. 6801 Tyree Street
BDA234-101(CJ)

BUILDING OFFICIAL’S REPORT: Application of Akber Meghani to appeal the decision of the administrative official at 6801 Tyree St. This property is more fully described as Block C/2595, Lot 18, and is zoned PD-67, which requires compliance with Planned Development No. 67 land use and development standards. The applicant proposes to appeal the decision of an administrative official in the revocation of a building project and the associated master permit for the construction of a new duplex.

LOCATION: 6801 Tyree St.

APPLICANT: Akber Meghani

REQUEST:

A request is made to appeal the decision of an administrative official in the revocation of a building project 2211181039 and the associated master permit 2211181139 for the construction of a new duplex.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

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

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

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

BDA History:

No BDA History found at 6801 Tyree Street in the last 5 years.

Zoning:

Site: Planned Development (PD) 67 Zoning District
North: Planned Development (PD) 67 Zoning District
South: Planned Development (PD) 67 Zoning District
East: Planned Development (PD) 67 Zoning District
West: Planned Development (PD) 67 Zoning District

Land Use:

The subject site and surrounding properties are developed with a single-family residential use.

GENERAL FACTS/STAFF ANALYSIS:

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

Timeline:

June 25, 2024: The applicant was sent a denial letter for building permit number 2211181039 and master permit 2211181139 which were incorrectly issued by Development Services Department and invalid.

June 27, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

July 3, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

July 17, 2024: The Development Services Department Senior Planner emailed the applicant the following information:

- an attachment that provided the hearing date and panel that will consider the application; the August 9, 2024, deadline to submit additional evidence for staff to factor into their analysis; and July 26, 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.

July 29, 2024: The Board of Adjustment staff review team meeting was held regarding this

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request and other requests scheduled for the August public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer

August 20, 2024: Panel A, at its regular scheduled hearing on August 20, 2024 voted to hold this matter under advisement until September hearings.

August 30, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

Representing the Applicant: Dallas Cothrum, 2201 Main Street, Dallas TX 75201

Representing the City: Justin Roy, City Attorney Office, 1500 Marilla Street 7DN
Jason Pool, Planning & Development, 320 E. Jefferson Blvd

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-101, **HOLD THIS MATTER** under advisement until **October 22, 2024**.

Maker:	David Neumann				
Second:	Kathleen Davis				
Results:	5-0 Unanimously				Motion to hold
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

5. 6801-6803 Tyree Street
BDA234-101_FR1(CJ)

BUILDING OFFICIAL’S REPORT: Application of Akber Meghani to appeal the decision of the administrative official at 6801 Tyree St. This property is more fully described as Block C/2595, Lot 18, and is zoned PD-67, which requires compliance with Planned Development No. 67 land use and development standards.

LOCATION: 6801 Tyree St.

APPLICANT: Akber Meghani

REQUESTS:

The applicant is requesting a fee reimbursement for fees paid for the application submitted to appeal the decision of the administrative official at 6801 Tyree Street which will appear before Panel A on

September 17, 2024.

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:

No staff recommendation is made on this request.

Speakers:

For: No Speakers

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-101_FR1, **HOLD THIS MATTER** under advisement until **October 22, 2024**.

Maker:	David Neumann				
Second:	Kathleen Davis				
Results:	5-0 Unanimously				Motion to hold
		Ayes:	-	5	David A. Neumann, Rachel Hayden, Nicholas Brooks, Jay Narey and Michael Hopkovitz
		Against:	-	0	

INDIVIDUAL CASES

6. 5601 Ursula Lane
BDA234-108(BT)

BUILDING OFFICIAL'S REPORT: Application of Jeff Boyum for **(1)** a variance to the front-yard setback regulations at **5601 URSULA LN**. This property is more fully described as Block B/5507, Lot 12 and is zoned R-1/2ac(A), which requires a front-yard setback of 40-feet along Ursula Ln. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 38-foot front-yard setback along Ursula Ln. measured to the step/landing, which will require **(1)** a 2-foot variance to the front-yard setback regulations.

LOCATION: 5601 Ursula Ln.

APPLICANT: Jeff Boyum

REQUEST:

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

STANDARDS OF REVIEW 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:

Variance:

Denial

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. Lot is **not** restrictive in area, shape, or slope; it is a corner lot with two platted setbacks; however, it can be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not self-created nor is it a personal hardship.

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2ac(A) (Single Family District)
North: R-1/2ac(A) (Single Family District)
East: R-1/2ac(A) (Single Family District)
South: R-1/2ac(A) (Single Family District)
West: R-1ac(A) (Single Family District)

Land Use:

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

Lot Square Footage:

This lot size is 26,400 sq. ft. (0.606 of an acre)

This lot is zoned R-1/2ac(A) which requires a minimum lot size of 21,780 sq. ft. (0.5 of an acre)

BDA History:

No BDA history

GENERAL FACTS/STAFF ANALYSIS:

- The application of Jeff Boyum for the property located at 5601 Ursula Ln. focuses on 1 request relating to a variance to the front-yard setback regulations.
- The applicant is requesting a variance to the front-yard setback regulations. The applicant is proposing to construct and maintain a residential structure and provide a 38-foot front yard setback at Ursula Ln., which will require a 2-foot variance to the front-yard setback regulations.
- The subject site along with surroundings properties are all developed with single-family homes.
- It is imperative to note that the subject site is a corner lot, having one 40-foot platted front-yard setback along Ursula Ln. Netherland Dr. has a 20-foot platted side-yard setback.
- Per staff's review of the subject site, it has been confirmed that the single-family structure of the property is under construction as part of permit #2306141085.
- The applicant has the burden of proof in establishing the following:
 - 1) 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.

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- 2) 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
 - 3) 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.
- Granting the variance to the front yard setback regulations 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.
 - 200' Radius Video: [BDA234-108 at 5601 Ursula Ln](#)

Timeline:

- July 24, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- August 21, 2024: The Development Services 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 August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 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.
- August 30, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the September public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer

Speakers:

For: Jeffrey Boyum, 2525 Manana Dr., Dallas TX 75220

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 234-108, on application of Jeff Boyum, **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

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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:	Kathleen Davis				
Second:	Rachel Hayden				
Results:	5-0 Unanimously				Motion to deny
		Ayes:	-	5	David A. Neumann, Kathjleen Davis, Rachel Hayden, Jay Narey and Michael Hopkovitz
		Against:	-	0	

7. 6529 Victoria Avenue
BDA234-111(BT)

BUILDING OFFICIAL'S REPORT: Application of Daniel Le to (1) appeal the decision of the administrative official at **6529 VICTORIA AVE**. This property is more fully described as Block P/2606, Lot 18, and is zoned PD-67 (Tract 3), which allows a person who is aggrieved by the decision of an administrative official and is the owner of real property within 200 feet of the subject site related to a specific application, address, or project, may appeal to the board. The applicant proposes to (1) appeal the decision of an administrative official in the issuance of a building permit and associated master permit.

LOCATION: 6529 Victoria Ave.

APPLICANT: Daniel Le

REQUEST:

- (4) A request is made to appeal the decision of the administrative official in building permit 2301031121 and 2301041101 for structure exceeding maximum allowed height, exceeding maximum allowed lot coverage and non-compliant roof types.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

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

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

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

BACKGROUND INFORMATION:

Zoning:

Site: PD-67 (Tract 3)

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North: PD-67 (Tract 3)
East: PD-67 (Tract 3) and PD-67 (Tract 4)
South: PD-67 (Tract 3) and CR
West: PD-67 (Tract 3) and CR

Land Use:

The subject site is developed with a duplex use and surrounding properties to the north, and east are developed with single-family and duplex uses. Surrounding properties to the south and west are developed with single-family, duplex and non-residential uses.

BDA History:

No BDA history found within the last 5 years

GENERAL FACTS/STAFF ANALYSIS:

- Ashra Ortiz, represented by Pascual Mojica applied for a duplex permit (6529 and 6531 Victoria Ave.) on January 03, 2023
- Permit #2301031121 (Master Permit #2301041101) was approved on January 04, 2023.
- Various green tags received with the last being issued on June 28, 2024.
- Project placed on hold on July 26, 2024.
- Letter via email to revoke permit #2301031121 and permit #2301041101 provided to applicant on August 7, 2024.
- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

- August 7, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 9, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- August 21, 2024: The Development Services 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 August 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and September 6, 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.
- August 30, 2024: The Board of Adjustment staff review team meeting was held regarding this

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request and other requests scheduled for the September public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner, and Transportation Engineer.

Speakers:

For: Daniel Le, 6529 Victoria Ave., Dallas TX 75209
Misty Ventura, 9406 Biscayne Blvd., Dallas TX 75218

Representing the City of Dallas: Justin Roy, City Attorney Office, 1500 Marilla Street 7DN
Jason Pool, Planning & Development, 320 E. Jefferson Blvd

Board member Jay Narey leaves at 6 pm

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-111, **HOLD THIS MATTER** under advisement until **October 22, 2024**.

Maker:	David Neumann				
Second:	Kathleen Davis				
Results:	4-0 Unanimously				Motion to hold
		Ayes:	-	4	David A. Neumann, Rachel Hayden, Kathleen Davis and Michael Hopkovitz
		Against:	-	0	

8. 6529 Victoria Avenue
BDA234-111_FR1(BT)

BUILDING OFFICIAL’S REPORT: BDA234-111(BT) Application of Daniel Le to (1) appeal the decision of the administrative official at **6529 VICTORIA AVE**. This property is more fully described as Block P/2606, Lot 18, and is zoned PD-67 (Tract 3), which allows a person who is aggrieved by the decision of an administrative official and is the owner of real property within 200 feet of the subject site related to a specific application, address, or project, may appeal to the board. The applicant proposes to (1) appeal the decision of an administrative official in the issuance of a building permit and associated master permit.

LOCATION: 6529 Victoria Ave.

APPLICANT: Daniel Le

REQUEST:

The applicant is requesting a fee reimbursement for the application submitted to appeal the decision of the administrative official at 6529 Victoria Ave. which will appear before Panel B on September 18, 2024.

STANDARD FOR A FEE WAIVER OR REIMBURSEMENT:

Section 51A-1.105(b)(6) of the Dallas Development Code specifies the board of adjustment may

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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: None

Against: None

Motion

I move that the Board of Adjustment in Appeal No. BDA 234-111_FR1, **HOLD THIS MATTER** under advisement until **October 22, 2024**.

Maker:	David Neumann				
Second:	Kathleen Davis				
Results:	4-0 Unanimously				Motion to hold
		Ayes:	-	4	David A. Neumann, Rachel Hayden, Kathleen Davis and Michael Hopkovitz
		Against:	-	0	

****Recess at 2:25 pm – 2:40 pm****

****Recess at 2:52 pm – 3:10 pm****

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Chairman moved to adjourn the meeting at 6:15 p.m.



Required Signature:

Mary Williams, Board Secretary
Planning & Development Department

October 22, 2024


Date

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Required Signature:

Dr. Kameka Miller-Hoskins, Board Coordinator
Planning & Development Department


Date



Required Signature:

David A. Neumann, Chairman
Board of Adjustment


Date