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**CITY SECRETARY
DALLAS, TEXAS**

BOARD OF ADJUSTMENT

Panel B Minutes

January 18, 2023



6ES Briefing Room

24974849659@dallascityhall.webex.com

bex.com

Cheri Gambow, Vice-Chair

PRESENT: [5]

Cheri Gambow, VC	
Michael Kanowski	
Joe Cannon	
Matt Shouse	
Thomas Fleming	

ABSENT: [0]

11:05 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **January 18, 2023 docket.**

Vice-Chair Gambow called the hearing to order at **1:03 P.M.** with a quorum of the Board of Adjustment present.

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

PUBLIC SPEAKERS

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

We had one speaker for public testimony during this hearing.

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MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel B October 19, 2022 public hearing minutes.

Motion was made to approve Panel B October 19, 2022 public hearing minutes.

Maker:	Michael Karnowski				
Second:	TC Fleming				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

Approval of the Board of Adjustment Special Called Meeting Minutes- November 1, 2022.

Motion was made to approve November 1, 2022 Special Called Meeting Minutes.

Maker:	Joe Cannon				
Second:	Michael Karnowski				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

Approval of the Board of Adjustment 2021-2022 Annual Report

Motion was made to approve 2021-2022 BOA Annual Report.

Maker:	TC Fleming				
Second:	Joe Cannon				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

PUBLIC TESTIMONY:

Speakers: Elias Bahar 3100 McKinnon St Dallas, TX

CONSENT ITEMS

1. 4608 Harrys Lane
BDA223-005(OA)

BUILDING OFFICIAL'S REPORT: Application of Greg Alford of Alford Homes for a special exception to the single-family use regulations at 4608 Harrys Lane. This property is more fully described as Block F/5534, Lot 1, and is zoned R-1ac(A), which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit (not for +rent), which will require a special exception to the single-family use regulations.

LOCATION: 4608 Harrys Lane

APPLICANT: Greg Alford

REQUEST:

A request for a special exception to the single-family use regulations is made to construct and maintain an approximately 1,200 square foot additional dwelling unit structure on a site being developed with a an approximately 12,000 square foot two-story single-family dwelling unit.

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

Section 51-4.201(b)(1)(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.

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.

STAFF RECOMMENDATION:

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.

BACKGROUND INFORMATION

Zoning:

Site: R-1ac(A) Single Family District
North: R-1ac(A) Single Family District
South: R-1ac(A) Single Family District

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

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

Land Use:

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

Zoning/BDA History:

There have not been any additional dwelling unit-related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the single-family use regulations focuses on constructing and maintaining an approximately 1,200 square foot additional dwelling unit structure on a site being developed with a two-story single-family dwelling unit.

The site is zoned an R-1ac(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.

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 Dallas Development Code defines:

- a “single family” use as “one dwelling unit located on a lot;” and 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.”
- a “kitchen” is “any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.”
- a “bathroom” as “any room used for personal hygiene and containing a shower or bathtub or containing a toilet and sink.”
- a “bedroom” is “any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sunrooms, and other similar rooms are considered bedrooms.”

The submitted site plan identifies the location of two building footprints, the larger of the two which is the proposed single-family residential main structure. The additional dwelling unit is the smallest of the two structures.

This request centers on the function of what is proposed to be inside the smaller structure on the site – the smaller structure, specifically its collection of rooms/features shown on the floor plan: The smaller structure includes a quarter’s bedroom, a bathroom, a kitchen with dining and living room area.

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According to DCAD records, the “are no improvements” for the property at 4608 Harrys Lane. According to the submitted site plan the main structure is proposed to contain 12,422 square feet of total living area and the proposed additional dwelling unit contains 1,225 square feet of living area.

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.

As of January 6, 2023, no letters have been submitted in support or opposition to the request.

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.

Timeline:

October 31, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment.”

December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and the January 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.

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Speakers:

For: Gary Alford 4608 Harrys Lane Dallas, TX

Against: No Speakers

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Motion

I move that the Board of Adjustment **grant** the following application 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 223-005—Application of Greg Alford for a special exception to the single-family use regulations in the Dallas Development Code, as amended, is granted subject to the following condition:

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Maker:	Michael Karnowski				
Second:	TC Fleming				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

2. 10323 Lennox Lane
 BDA223-009(OA)

BUILDING OFFICIAL’S REPORT Application of Thomas Duffy for a special exception to the fence standards regulations at 10323 Lennox Lane. This property is more fully described as Block C/5532, Lot 4 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 a 2-foot special exception to the fence standards regulations.

LOCATION: 10323 Lennox Lane

APPLICANT: Thomas Duffy

REQUEST:

A request for a special exception to the fence standards regulations of 2’ is made to construct and maintain a 5’ 9” high wrought iron fence with 6’ stucco columns and two 5’ 9” wrought iron gates in the required front yard on a site being developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

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

STAFF RECOMMENDATION:

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

standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac (A) (Single family district)
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 is being developed with a single-family home. The areas to the north, east, south, and west are developed with single-family uses.

Zoning/BDA History:

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

1. **BDA201-083:** On September 22, 2021, the Board of Adjustment Panel B granted a request for a two-foot four-inch special exception to the fence height regulations at 4727 Kelsey Road.
2. **BDA178-107:** On November 14, 2018, the Board of Adjustment Panel B granted a request for a variance to the front yard setback regulations at 4747 Roxbury Drive.
3. **BDA178-038:** On May 21, 2018, the Board of Adjustment Panel C granted a request for a special exception to the fence standards and visual obstruction regulations at 10515 Lennox Lane.
4. **BDA167-047:** On April 17, 2017, the Board of Adjustment Panel C granted a request for a special exception to the fence standards and visual obstruction regulations of four feet in the front yard setback at 10545 Lennox Lane.
5. **BDA167-140:** On December 11, 2017, the Board of Adjustment Panel C granted a request for a special exception to construct and/or maintain a 6-foot-high fence in a required front yard, which will require a 2-foot special exception to the fence standards, and to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line at 10564 Lennox Lane.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the fence standards regulations of 2' focuses on constructing and maintaining a 5' 9" high wrought iron fence with 6' stucco columns and two 5' 9" wrought iron gates in the required front yard on a site being developed with a single-family home.

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 subject site is zoned an R-1ac(A) Single Family District where a 40-foot front yard setback is required.

The proposed fence is to be in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 170 feet in length parallel to Lennox Lane and runs 40 feet perpendicular to the east and west side of the property.
- The distance between the proposed fence and the pavement line is 21'.

Staff conducted a field visit of the site and surrounding area (approximately 400 feet north, south, east, and west of the subject site) and noticed other fences that appear to be above four feet in height and a front yard setback.

As of January 6, 2023, 6 letters have been received in support and zero in opposition to this request.

The applicant has the burden of proof in establishing that the special exception to the fence standards regulations will not adversely affect neighboring property.

If the Board were to grant this special exception request and impose a condition that the applicant complies with the submitted revised site plan/elevation, the proposal over 4' in height in the front yard setback would be limited to that what is shown on this document.

Timeline:

November 3, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 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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December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

January 6, 2023: The applicant submitted additional information to staff beyond what was submitted with the original application (Attachment A).

January 7, 2023: The applicant submitted a revised site plan (**Attachment B**).

January 7, 2023: The applicant submitted additional information to staff beyond what was submitted with the original application (Attachment C).

Speakers:

For: Thomas Duffy 10323 Lennox Lane Dallas, TX

Against: No Speakers

Motion

I move that the Board of Adjustment **grant** the following application 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 223-009—Application of Thomas Duffy for a special exception to the fence height regulations in the Dallas Development Code, as amended, is granted subject to the following condition:

Compliance with the submitted revised site plan / elevation is required.

Maker:	Andrew Finney				
Second:	TC Fleming				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

INDIVIDUAL ITEMS

1. 202 Beckleymeade Ave.
 BDA223-004(OA)

BUILDING OFFICIAL'S REPORT: Application of Deeper Life Bible Church, represented by Peter Kavanagh, Zone Systems, Inc., for a variance to the side yard setback regulations at 202 Beckleymeade Avenue. This property is more fully described as block D/7590, lot 1 and is zoned

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R-7.5(A), which requires a side yard setback of 10 feet. The applicant proposes to construct and/or maintain a structure and provide a 7-foot side yard setback, which will require a 3 foot variance to the side yard setback regulations.

LOCATION: 202 Beckleymeade Avenue

APPLICANT: Deeper Life Bible Church
Represented by Peter Kavanagh, Zone Systems, Inc.

REQUEST:

A request for a variance of 3' to the side yard setback regulations is made to maintain an approximately 7,000 square foot church structure that is located 7' from the site's southern side property line.

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:

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

State Law/HB 1475 effective 9-1-21

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

- (e) the municipality consider the structure to be a nonconforming structure

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how the variance is necessary to permit development of the subject site or whether the property 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 R-7.5(A) single-family district zoning designation.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) single family district
North: RR regional retail 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 is developed with church use. The areas to the west, east, and south are developed with single-family uses. Properties to the north are developed with retail uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS /STAFF ANALYSIS:

The applicant is requesting a variance of 3' to the side yard setback regulations to maintain an approximately 7,000 square foot church structure that is located 7' from the site's southern side property line.

The property is zoned R-7.5(A) single-family district which requires a side yard setback of 10 feet where there is residential adjacency.

According to DCAD records, the subject structure is 8,000 square feet and was converted to a church in 2016. The lot is 116' wide by 200' long containing 22,567 square feet of area. The minimum lot size for this lot within the R-7.5 zoning district is 7,500 square feet.

The applicant is requesting this variance to remedy the existing structure that is located in the required side yard setback.

According to the application, the structure was originally built with a 7' side yard setback and applicant acquired the structure in its current location on the lot.

However, the R-7.5(A) single-family zoning district requires a side yard setback of 10 feet where

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there is residential adjacency. Therefore, changing the use from residential to nonresidential changed the setback requirements from 5' to 10 feet.

Since December 23, 2022, the applicant has not substantiated how the variances are necessary to permit development of the subject site or whether the property 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 R-7.5(A) single-family district zoning designation.

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

- That granting the variance to the side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5 single-family zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5 single-family zoning classification.

If the board were to grant the variance requests and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document.

Timeline:

- October 24, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and the January 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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December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Speakers:

For: Peter Kavanaugh 1620 Handley Dallas, TX
 Olu Balogun 1228 Mt. Olive Ln. Dallas, TX
 Dr. Matthias Manuel 11700 Luna Rd. Dallas, TX
 Tito Olaleye 920 Mellville Dr. Plano, TX
 Akinwumi Akinniyi 1516 Vista Verde Denton, TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-004, **hold** this matter under advisement until **March 22, 2023**.

Maker:	Joe Cannon				
Second:	Michael Karnowski				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

2. 7629 W. Lovers Ln.

BDA223-007(OA)

BUILDING OFFICIAL’S REPORT: Application of Kexu Sun for a special exception to the single-family use regulations at 7629 W. Lovers Lane. This property is more fully described as Block 23/5447, Lot 29 and is zoned R-7.5(A), which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit (not for rent), which will require a special exception to the single-family use regulations.

LOCATION: 7629 W. Lovers Lane

APPLICANT: Kexu Sun

REQUEST:

A request for a special exception to the single-family use regulations is made to construct and maintain an approximately 1,300 square feet square two-story additional dwelling unit structure on a site being developed with an approximately 5,100 square feet square two-story single-family dwelling unit.

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

Section 51-4.201(b)(1)(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.

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.

STAFF RECOMMENDATION:

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.

BACKGROUND INFORMATION

Zoning:

Site: R-7.5 (A) Single Family District
North: Outside the City of Dallas Jurisdiction (Park Cities)
South: Outside the City of Dallas Jurisdiction (Park Cities)
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 for single-family uses.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the single-family use regulations focuses on constructing and maintaining a two-story additional dwelling unit structure on a site being redeveloped with a two-story single-family dwelling unit.

The site is zoned an R-7.5(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.

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 Dallas Development Code defines:

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- a “single family” use as “one dwelling unit located on a lot;” and 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.”
- a “kitchen” is “any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.”
- a “bathroom” as “any room used for personal hygiene and containing a shower or bathtub or containing a toilet and sink.”
- a “bedroom” is “any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sunrooms, and other similar rooms are considered bedrooms.”

The submitted site plan identifies the location of two building footprints, the larger of the two denoted as “Primary House,” which is the proposed single-family residential main structure. The additional dwelling unit is denoted as “Guest House” the smallest of the two structures.

This request centers on the function of what is proposed to be inside the smaller structure on the site – the “Guest House” structure, specifically its collection of rooms/features shown on the floor plan: the first floor includes two bedrooms, two closets and two bathrooms the second floor includes a kitchen with dining and living room area and a half bathroom.

According to DCAD records, the “main improvement” for the property at 7629 W. Lovers Lane is a structure built in 1946 with 1,156 square feet of total living area with the following “additional improvements”: a 400-square-foot detached garage. The submitted site plan depicts that the existing home would be demolished, and 5,088 square feet home will be constructed with the proposed 1272 square feet (25 percent of the main structure) additional dwelling unit.

According to the submitted site plan the proposed main structure contains 5,088 square feet square of total living area and the proposed additional dwelling unit contains 1,272 square feet of living area.

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.

As of January 6, 2023, no letters have been submitted in support or opposition to the request.

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.

Timeline:

November 3, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

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December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 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.

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Speakers:

For: Kexu Sun 7629 W. Lovers Ln. Dallas, TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in request No. BDA 223-007, on application of Kexu Sun, **grant** the request to construct and maintain an additional dwelling unit on a site developed with a single-family structure as a special exception to the single-family use regulations in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not be used as rental accommodations nor adversely affect neighboring properties.

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

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Maker:	Michael Karnowski				
Second:	Joe Cannon				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

3. 10747 Lennox Ln.
BDA223-010(OA)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the fence standards regulations and a special exception to the visual obstruction regulations at 10747 Lennox Lane. This property is more fully described as Block B/5534, Lot 3B and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet, requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line, and requires 20 foot visibility triangles at driveways. The applicant proposes to construct and/or maintain a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence standards regulations, to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards regulations, and to locate and maintain items in 20 foot required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 10747 Lennox Lane

APPLICANT: Rob Baldwin of Baldwin Associates

REQUESTS:

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

1. A request for a special exception to the fence standards regulations of 2' is made to construct and maintain a 6' high metal picket fence with a 6' high aluminum gate in the required 40-foot front yard on Catina Lane.
2. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than five feet from the front lot line is made to construct and maintain a 6' high aluminum gate with flanking 6' high aluminum fence panels less than five feet from the front lot line.
3. Requests for special exceptions to the visual obstruction regulations are made to locate and maintain portions of a 6' high aluminum gate with flanking 6' high aluminum fence panels in the two, 20' visibility triangles at the driveway into the site from Cantina Lane.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS (fence height and 50 percent panels):

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

STAFF RECOMMENDATION (fence standards regulations):

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

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 (visual obstruction regulations):

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. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the proposed obstructions for the fence and "has no objections" to the requests.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA178-127, Property located at 10747 Lennox Lane (subject site)

On November 14, 2018, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 2' and imposed the submitted site plan and elevation as a condition.

The case report stated that the request was made in conjunction with constructing and maintaining a 6' high cast stone fence with pedestrian gate in the Lennox Lane front yard setback, and a 6' high cast stone fence in the Catina Lane front yard setback.

Along Lennox Lane: the proposal is represented as being approximately 130' in length parallel to the street and approximately 14' perpendicular to the street on the north and south sides of the site on this required front yard; located approximately 26' from the front property line or approximately 46' from the pavement line.

- Along Catina Lane: the proposal is represented as being approximately 56' in length parallel to the street and approximately 6' perpendicular to the street on the east and west side of the site on this required front yard; located approximately 35 from the front property line or approximately 47' from the pavement line.
2. BDA190-050, Property located at 4610 Cantina Lane (a lot located west of the site, Cantina at Welsh Road)
On June 22, 2020, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations and imposed the submitted site plan and elevation as a condition. The case report stated that the request was made in conjunction with constructing a fence with a portion being four-feet six-inches high with metal on the top and a stone base, and partly an eight-foot-high stone fence, eight-foot six-inch and five-foot stone columns, and two seven-foot six-inch gates in the required 40-foot front yard on Catina Lane on a site being developed with a single-family home.
3. BDA190-079, Property located at 4651 Cantina Lane (the lot directly to the west of the site)
On October 19, 2020, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations and imposed the submitted site plan and elevation as a condition. Compliance with the submitted site plan and elevation is required subject to the following changes:
Fence maximum height of 5' with fence columns of 5' 6", the gate columns 6' 6"; and the gate limited to a height of 6' 6".
4. BDA 201-092, Property at 10645 Lennox Lane (two lots south of the subject site)
On March 21, 2022, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 5' imposing the following condition: Compliance with the submitted Site Plan and Elevation" The case report stated that the request was made in conjunction with constructing a nine-foot-high fence within the front yard setback on a site developed with a single-family home.

GENERAL FACTS/STAFF ANALYSIS:

- The following requests are made on a site developed with a single-family home:
 1. A request for a special exception to the fence standards regulations of 2' focuses on constructing and maintaining a 6' high metal picket fence with a 6' high aluminum gate in the required 40-foot front yard on Catina Lane.
 2. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than five feet from the front lot line focuses on constructing and maintaining a 6' high aluminum gate with flanking 6' high aluminum fence panels less than five feet from the front lot line.

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3. Requests for special exceptions to the visual obstruction regulations focuses on locating and maintaining portions of a 6' high aluminum gate with flanking 6' high aluminum fence panels in the two, 20' visibility triangles at the driveway into the site from Cantina Lane.
- 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 subject site is zoned an R-1ac(A) Single Family District which requires a 40-foot front yard setback. Given the single-family zoning and location of the corner lot subject site, it has two required front yards. The site has a 40' required front yard along Lennox Lane and Catina Lane.
 - Section 51A-4.602(a) (2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The following information is shown on the submitted site plan:
 - the proposal is represented as being approximately 85' in length fronting Catina Lane beginning from the west property line and approximately 3' from the front property line along Catina Lane. The fence extends 28' perpendicular to Cantina Lane on the east side of the existing fence and 43' on the west side of the site. Furthermore, the fence is proposed to be located 15' from the pavement line.
 - Staff conducted a field visit of the site and surrounding area, approximately 400 feet around the subject site, and noticed several other fences that appear to be above four feet in height and are located in a front yard setback. Please refer to the above BDA history for fence locations within five years.
 - As of January 6, 2022, no letters have been submitted in support of or in opposition to this request.
 - The applicant has the burden of proof in establishing that the special exception to the fence height regulations will not adversely affect the neighboring property.
 - Additionally, Section 51A-4.602(d) of the Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life, or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and alleys on properties zoned single-family); and
 - between two-and-a-half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
 - The submitted site plan denotes portions of the 6' aluminum gate and aluminum panels located within the two 20-foot visibility triangles on the west and east side of the driveway approach from Catina Lane.
 - The Transportation Development Services Senior Engineer "has no objections" to the requests (**Attachment A**).
 - With regard to the requests for special exceptions to the fence standards regulations, the applicant has the burden of proof in establishing that the special exceptions will not adversely affect the neighboring property.
 - With regard to the requests for special exceptions to the visual obstruction regulations, the applicant has the burden of proof to establish how granting these requests to maintain the fence

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and gates in the two 20-foot visibility triangles on either side of the driveway does not constitute traffic hazards.

- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would: 1) limit the fence over 4' in height and with fence panels less than 5' from the front lot line, and 2) limit the items located in the two 20-foot visibility triangles on the west and east sides of the driveway approach from Catina Lane to what is shown on these documents.

Timeline:

November 3, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 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.

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

December 27, 2022: The Transportation Development Services Senior Engineer submitted a comment sheet (Attachment B). The Transportation Development Services Senior Engineer reviewed the request and has no objection to the requests.

January 6, 2023: The applicant submitted a revised site plan (**Attachment A**).

Speakers:

For: Rob Baldwin 3904 Elm St. #B Dallas, TX

Against: No Speakers

Motion #1

I move that the Board of Adjustment, in Appeal No. BDA 223-010, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a six-foot-high

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fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan / elevation is required.

Maker:	TC Fleming				
Second:	Matt Shouse				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

Motion #2

I move that the Board of Adjustment, in Appeal No. BDA 223-010, on application of Rob Baldwin, **grant** the request of this applicant to construct and/or maintain a fence with panel having less than 50 percent open surface area located less than five feet from the front lot line as a special exception to the surface area openness requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

Maker:	Joe Cannon				
Second:	Michael Karnowski				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

Motion #3

I move that the Board of Adjustment, in Appeal No. BDA 223-010, on application of Rob Baldwin of Baldwin Associates, **grant** the request to maintain items in the 20-foot visibility triangle at the drive approach on Cantina Lane as a special exception to the visual obstruction regulations contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the submitted site plan and elevation is required.

Maker:	Michael Karnowski				
Second:	TC Fleming				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

4. 4401 Lemmon Ln.
 BDA223-012(OA)

BUILDING OFFICIAL’S REPORT: Application of 4401 Lemmon Avenue, LLC, represented by Aaron Hawkins, for a variance to the off-street parking regulations at 4401 Lemmon Avenue. This property is more fully described as block B/2054, Lots 1 and 2 and the southeast 10' of lot 3, and is zoned PD-193 (GR), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a restaurant with drive-in or drive-through service use and provide 4 of the required 9 off-street parking spaces, which will require a 5-space variance to the off-street parking regulations.

LOCATION: 4401 Lemmon Avenue

APPLICANT: 4401 Lemmon Avenue, LLC
 Represented by Aaron Hawkins

REQUEST:

A request for a variance to the off-street parking regulations of 5 spaces is made to construct and maintain an 820 square foot structure to be used as a “drive though restaurant” use where 4 of the required 9 off-street parking spaces are proposed to be provided.

STANDARD FOR A VARIANCE:

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

- 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.
- 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

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manner commensurate with the development upon other parcels of land with the same zoning; and

- 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.

STAFF RECOMMENDATION: ENGINEER OPINION

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the PD No. 193 (GR) zoning district by its restrictive area due to being smaller in lot size that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning district.
- The applicant submitted a document (Attachment A) indicating, among other things, that the proposed 820 square foot structure on the subject site is commensurate to 10 other lots having a structure with a drive-in or drive-through service in the same PD No. 193 (GR) zoning district.

BACKGROUND INFORMATION:

Zoning:

Site: Plan Development District No 193 (GR General Retail)
North: Plan Development District No 193 (GR General Retail)
East: Plan Development District No 193 (GR General Retail)
South: Conservation District No 16
West: Conservation District No 16

Land Use:

The applicant is proposing to develop the subject site as a food pick-up station only, with no inside dining. The areas to the north and east are developed with retail uses. The area to the south and west are developed with single-family residential uses. Note that there is no access to a residential subdivision located south and west of Herschel Ave.

Zoning/BDA History:

There have not been any related board or zoning cases in the immediate vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a variance to the off-street parking regulations of 5 spaces focuses on constructing and maintaining an 820 square foot structure to be used as a “drive through restaurant” use and where 4 of the required 9 off-street parking spaces are proposed to be provided.
- The subject site is zoned Plan Development District No 193 GR General Retail District where the typical lot size varies significantly.
- Per DCAD records, the property is 18,700 square feet in size with an existing 2,429 free-standing retail store structure. The property is located at the southwest corner of Lemmon Avenue and Herschel Avenue.
- The applicant is proposing to demolish the existing building and construct an 820’ food pick-up station-only structure with no inside dining.
- The applicant proposes to provide 4 of the required 9 parking spaces, which will require a five-space variance (55% reduction) to the parking regulation.
- The required off-street parking for a restaurant with drive-in or drive-through service uses per Sec 51A-4.210. (25)(C) is one space 100 square feet of floor area; a minimum of four spaces is required.
- The applicant is to demolish an existing structure and construct an 820’ food pick-up station-only structure with no inside dining and provide 4 of the required 9 parking spaces.
- The applicant states that due to the size of the lot (18,700 square feet), the property cannot be used in a manner commensurate to other properties with the same PD No 193 (GR) zoning district. According to the submitted site plan, the proposed structure contains 820 square feet with a lot size of 18,700 square feet and provides 4 parking spaces.
- The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed 820’ Salad and Go structure on the subject site is commensurate to 10 other lots having a structure with a drive-in or drive-through service in the same PD No. 193 (GR) zoning district. Attachment A also notes the average lot size of 10 lots in this district is 34,819 square feet with an average building size of 3,361.80 square feet while the subject lot is only 18,700 square feet with an average building size of 820 square feet. The Transportation Development Services Senior Engineer reviewed the submitted evidence and found no objection to the variance request (**Attachment B**).
- The applicant has the burden of proof in establishing the following:

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- That granting the variance to the parking regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No 193 (GR) District zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No 193 (GR) District zoning classification.
- The board may also 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:
 1. 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.
 2. 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.
 3. compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
 4. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 5. the municipality considers the structure to be a nonconforming structure.
- If the board were to grant this request and impose a condition that the applicant must comply with the submitted site plan, the variance would be limited to that what is shown on this plan which in this case is an approximately 820 square foot structure to be used as a “drive through restaurant” use whereby 4 of the required 9 off-street parking spaces are provided.

TIMELINE:

- November 3, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 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

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

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

December 27, 2022: The Transportation Development Services Senior Engineer submitted a comment sheet (**Attachment A**). The Transportation Development Services Senior Engineer has submitted a review comment sheet marked “Has no objections if certain conditions are met”. The engineer’s comments are: “Application should include empirical data showing maximum queues during typical peak hours at other existing facilities of same tenant or similar characteristics and DIR plan, which is required at permitting.”

Speakers:

For: Matthew Copenhaver 14800 Landmark Blvd. Dallas, TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-012, on application of 4401 Lemmon Avenue, LLC, represented by Aaron Hawkins, **grant** the five-space variance to the parking regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted revised site plan is required.

Maker:	Michael Karnowski				
Second:	Joe Cannon				
Results:	4-1				
		Ayes:	-	4	Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	1	Cheri Gambow

5. 10227 Gaywood Rd.
 BDA223-011(OA)

BUILDING OFFICIAL’S REPORT: Application of Saul Mejia for a special exception to the fence standards regulations at 10227 Gaywood Road. This property is more fully described as Block E/5517, Lot 11A and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet.

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The applicant proposes to construct a 9-foot-high fence in a required front yard, which will require a 5-foot special exception to the fence standards regulations.

LOCATION: 10227 Gaywood Road

APPLICANT: Saul Mejia

REQUEST:

A request a special exception to the fence standards regulations of 5' is made to maintain a 5' 6" high wrought iron fence, a 5' high chain link fence and two, 9' high metal gates in the required front yard on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

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

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac (A) (Single family district)
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 is being developed with a single-family home. The areas to the north, east, south, and west are developed with single-family uses.

Zoning/BDA History:

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

1. BDA223-006: On January 17, 2023, The Board of Adjustment Panel A will hear a request for a special exception to the fence height regulations at 10240 Gaywood Road, the property to the south of the subject site.
2. BDA212-113: On December 12, 2022, Panel C granted a request for an 8' special exception to the fence height regulations at 10203 Hollow Way Road.
3. BDA212-082: On September 19, 2022, Panel C denied without prejudice an eight-foot special exception to the fence height regulations at 10203 Hollow Way Road.

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4. BDA212-022: On April 20, 2022, Panel B granted a special exception to the height requirement for fences a special exception to the surface area openness requirement subject to compliance with the submitted site plan, and elevation is required at 10007 Hollow Way Rd.
5. BDA212-033: On April 20, 2022, Panel B granted a special exception to the height requirement for fences a special exception to the surface area openness requirement subject to compliance with the submitted site plan, and elevation is required at 10007 Hollow Way Rd.
6. BDA212-089: On October 20, 2021, Panel B, Board of Adjustment granted a request for a special exception to the fence regulations, a special exception to the fence standards regulations, and two special exceptions to the visual obstruction regulations at 9646 Douglas Avenue.

GENERAL FACTS/STAFF ANALYSIS:

The request for a special exception to the fence standards regulations of 5' focuses on maintaining a 5' 6" high wrought iron fence, a 5' high chain link fence and two, 9' high metal gates in the required front yard on a site developed with a single-family home.

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 subject site is zoned an R-1ac(A) Single Family District where a 40-foot front yard setback is required. However, this property must comply with a 50' front yard setback established by the recorded plat.

The proposed fence is to be in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 183 feet in length parallel to Gaywood Road and runs parallel to the front property line. Also, the fence extends 50 feet on the east side of the property and approximately 40 feet on the east side perpendicular to Gaywood Road.
- The distance between the proposed fence and the pavement line is between 6'3" and 7'.

Staff conducted a field visit of the site and surrounding area (approximately 400 feet north, south, east, and west of the subject site) and noticed other fences that appear to be above four feet in height and are in front yard setback.

As of January 6, 2023, one letter has been received in opposition or no letters in support of this request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulation of two feet will not adversely affect the neighboring property.

Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding four feet in the front yard setback to be constructed in the location and heights as shown on these documents.

Timeline:

November 4, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

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December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.

December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 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.

December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-011, **hold** this matter under advisement until **March 22, 2023**.

Maker:	Michael Karnowski				
Second:	TC Fleming				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Matt Shouse, TC Fleming
		Against:	-	0	

BOARD OF ADJUSTMENT
JANUARY 18, 2023

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Gambow moved to adjourn the meeting at 3:39 p.m.

Recess- 2:46 p.m.; Resume- 2:55 p.m.

Mary Williams

3.22.23

Required Signature:
Mary Williams, Board Secretary
Development Services Dept.

Date

Sheniqua Dunn

3-22-23

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

Date

Cheri Gambow

3/22/2023

Required Signature:
Cheri Gambow, Vice-Chair
Board of Adjustment

Date