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BOARD OF ADJUSTMENT

2023 NOV 20 AM 11:03

Panel B Minutes

October 18, 2023

CITY SECRETARY
DALLAS, TEXAS



6ES Briefing Room

24974849659@dallascityhall.webex.com

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Cheri Gambow, Vice-Chair

PRESENT: [5]

Cheri Gambow, VC	
Sarah Lamb	
Andrew Finney	
Michael Karnowski	
Derrick Nutall - Virtual	

ABSENT: [0]

Vice-Chair Gambow called the briefing to order at **11:02 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Gambow called the hearing to order at **1:02 P.M.** with a quorum of the Board of Adjustment present.

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

PUBLIC SPEAKERS

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

We had no speaker for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel B May 17, 2023 public hearing minutes.

Motion was made to approve Panel B August 16, 2023 public hearing minutes.

Maker:	Sarah Lamb				
Second:	Derrick Nutall				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Andrew Finney, Michael Karnowski and Derrick Nutall
		Against:	-	0	

HOLDOVER

1. 5505 Chatham Hill Rd.
BDA223-074 (KMH)

BUILDING OFFICIAL'S REPORT Application of Masterplan, Represented by Trenton Robertson for a (1) special exception to the fence height regulations at 5505 CHATHAM HILL RD. This property is more fully described as Block 7/5597, Lot 22, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet. The applicant proposes to construct a 9-foot fence in a required front yard, which will require (1) a 5-foot special exception to the fence regulations.

LOCATION: 5505 Chatham Hill

APPLICANT: Masterplan, Represented by Trenton Robertson

REQUEST:

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

STANDARD FOR A SPECIAL EXCEPTION:

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 any special exception to the code.

Background information:

1. BDA190-068 Approved: Multiple electric meters to single-family use (August 31, 2020)
2. BDA178-086 Approved: Variance to front yard and additional dwelling unit for a single-family use and fence standards (October 24, 2018)

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Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a special exception to the fence height regulations. The applicant proposes to construct a 9-foot fence in a required front yard, which will require a 5-foot special exception to the fence regulations.
- The subject property is located at 5505 Chatham Hill Road and is zoned R-1ac (A).
- It is imperative to note that the Board of Adjustment granted the approval of the fence standards for this property in October of 2018. The request to construct a 9-foot-high fence in a required front yard and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the lot line. Both requests were granted with compliance with the submitted plans and elevations.
- The applicant is now proposing a different material which is different than the approved elevations depicted; therefore, they are having to return to the Board as the request was granted to comply with the submitted elevations.
- The applicant is proposing a metal mesh fence which differs from the previously approved elevations, chain link.
- The applicant proposes the fence material will be chain link to metal mesh.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting this special exception to the fence standards relating to height up to 9-feet with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

Timeline:

- June 02, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 26, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- July 11, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application
 - an attachment that provided the public hearing date and panel that will consider the application; the July 25, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, August 04,

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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."

July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August 16, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, Assistant City Attorney (Matthew Sapp) and the Development Services Senior Engineers

July 29, 2023: The engineering department submitted a comment sheet.

August 16, 2023: The Board of Adjustment Panel B, at its public hearing held on August 16, 2023, moved to **HOLD** this matter under advisement until October 18, 2023.

Speakers:

For: Trenton Robertson, 2201 Main St, Suite 1280, Dallas TX 75201
 Leslie Carter, 1156 Angelina St., Austin, TX 78702
 Ryan Galaska, 1415 Hollywood Ave., Dallas, TX 75208
 Katherine Reeves, 4226 Arcady Ave., Dallas TX 75205

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-074 hold this matter under advisement until November 15, 2023.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 unanimously				Motion to hold until 11/15/23
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Andrew Finney, Michael Karnowski and Derrick Nutall
		Against:	-	0	

INDIVIDUAL CASES

2. 3528 Colonial Avenue
 BDA223-101 (KMH)

BUILDING OFFICIAL'S REPORT: Application of Cassandra Crawford represented by Steven Darling to appeal the decision of the administrative official at 3528 Colonial Ave. The property is more fully described as Block 6/1186, Lot 10, and is zoned PD-595; subdistrict MF-2(A), per Chapter

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52, the building official shall deny an application for a certificate of occupancy if the building official determines that the certificate of occupancy requested does not comply with the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official for the denial of a certificate of occupancy.

LOCATION: 3528 Colonial Ave

APPLICANT: Cassandra Crawford

Represented by: Steven Darling

REQUEST:

A request is made to appeal the decision of the administrative official for the denial of a certificate of occupancy.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

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

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

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

BACKGROUND INFORMATION:

Zoning:

Site: PD-595 MF-2(A)

North: PD-595 MF-2(A)

South: PD-595 (NC)

East: PD 595 (R-5(A))

West: PD 595

Land Use:

The subject site is developed with a multi-family housing unit. The surrounding properties are also developed some multi-family units and single-family homes.

BDA History:

No BDA history within the last five years.

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:

September 7, 2023: The applicant was sent a denial letter for the application of a certificate of occupancy for a lodging or boding house DBA Lodging House at 3528 Colonial Ave.

September 14, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 20, 2023: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 21, 2023: The Senior Planner emailed the applicant's representative the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 25th deadline to submit additional evidence for staff to factor into their analysis; and the October 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 27, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the October public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

September 25, 2023: The Applicant provided Documentary Evidence.

October 10, 2023: Received City's Evidentiary binder from City Attorney's office.

Speakers:

For: Robert Miklos, 2500 Dallas Parkway # 600, Plano TX 75023

Cassandra Crawford, 3528 Colonial Ave., Dallas TX 75215
 Isaih Payne, 1715 Driskoll, Dallas TX 75215

Against: No Speakers

Representing the City of Dallas: Emily Worland, Assistant City Attorney, 1500 Marilla St, 7DN
 Lauren Campos, Fire Senior Prevention Officer
 Tenisha Lester, Chief of Zoning, 320 E. Jefferson Blvd #113

Motion

Having fully reviewed the decision of the administrative official of the City of Dallas in Appeal No. BDA 223-101, on application of Cassandra Crawford, and having evaluated the evidence pertaining to the property and heard all testimony and facts supporting the application, I move that the Board of Adjustment **reverse** the decision of the administrative official and **GRANT** the relief requested by this applicant.

Maker:	Andrew Finney			
Second:	Sarah Lamb			
Results:	4-1			Motion to reverse and grant
		Ayes:	- 4	Cheri Gambow, Sarah Lamb, Joe Cannon, and Derrick Nutall
		Against:	- 1	Michael Karnowski

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Gambow moved to adjourn the meeting at 3:58 p.m.

Recess: 3:40 p.m.; Resume: 3:45 p.m.

Mary Williams

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

11/15/2023
 Date

Nikki Dunn

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

11-15-23
 Date

Cheri Gambow

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

11/15/23
 Date