



BOARD OF ADJUSTMENT

Panel C Minutes

May 15, 2023

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CITY SECRETARY  
DALLAS, TEXAS

6ES Briefing Room

[24957316190@dallascityhall.webex.com](mailto:24957316190@dallascityhall.webex.com)

Robert Agnich, Vice-Chair

**PRESENT: [5]**

Robert Agnich, VC  
Rodney Milliken  
Jared Slade  
Roger Sashington  
Judy Pollock

**ABSENT: [0]**

Vice-Chair Agnich called the briefing to order at 11:00 A.M. with a quorum of the Board of Adjustment present.

Vice-Chair Agnich called the hearing to order at 1:00 P.M. with a quorum of the Board of Adjustment present.

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

**PUBLIC SPEAKERS**

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

We had no speakers for public testimony during this hearing.

**Motion**

I motion to suspend the rule of the Board of Adjustment Working Rules of Procedure Section 6(a)(16) no later than seven calendar days prior to each board or panel meeting, distribute to each member and make available to the public the complete agenda and case docket materials. The board or panel, by majority vote, can still hear the noticed cases even if the agenda and case docket materials were not disseminated in accordance with this paragraph.

Maker:	Robert Agnich				
Second:	Judy Pollock				
Results:	5-0 unanimously				

**MISCELLANEOUS ITEMS**

Approval of the Board of Adjustment Panel C February 23, 2023 public hearing minutes.

**Motion was made to approve Panel C February 23, 2023 public hearing minutes.**

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	5-0 unanimously				
		Ayes:	-	5	Robert Agnich, Judy Pollock, Roger Sashington, Rodney Milliken, and Jared Slade
		Against:	-	0	

**UNCONTESTED ITEMS**

**1. 1713 E. Kiest Blvd**  
BDA223-031(GB)

**\*This item was moved to Individual Items**

**BUILDING OFFICIAL’S REPORT:** Application of Shannon Neffendorf represented by Peter Kavanagh for a special exception to the fence height regulations, and for a special exception to the fence regulations at 1713 E. Kiest Blvd. This property is more fully described as Block R/5856, part of tract 13 and is zoned R-7.5 (A) which limits the height of the fence in the front yard to 4 feet and 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. The applicant proposes to construct a 6-foot-high fence in a required front yard, which will require a 2-foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface located less than 5 feet from the lot line, which will require a special exception to the fence regulations.

**LOCATION:** 1713 E. Kiest Boulevard

**APPLICANT:** Shannon Neffendorf, represented by Peter Kavanagh

**REQUESTS:**

The following site currently vacant and undeveloped.

A request for a special exception to the fence standards regulations of 2' is made to construct a 6' high fence in the required front yard; and

1. A request for a special exception to the fence standards regulations is made to construct a fence with panels with surface areas less than 50 percent open less than 5' from the front lot line in this case, a fence that is 983 feet long, ranging from 0 to 5' from the front lot line.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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:**

<u>Site:</u>	R-7.5(A) Single Family District
<u>North:</u>	R-7.5(A) Single Family District
<u>South:</u>	R-7.5(A) Single Family District
<u>East:</u>	R-7.5(A) Single Family District
<u>West:</u>	SUP 639 (MF-2) and R-7.5(A) Single Family District

**Land Use:**

The subject site and areas to the north, east, south, and west are developed with mostly residential uses. John R Bryan Elementary School is located directly across the street.

**Zoning/BDA History:**

There has not been any recent related board or zoning cases recorded for this address or in the immediate vicinity of the subject site.

**GENERAL FACTS/STAFF ANALYSIS (fence standards special exceptions):**

- This is a request for special exception to the fence standards regulations focus on constructing a 6-foot fence to be placed in a required front yard. A special exception is required for a fence that exceeds the maximum height of 4' if located in a required front yard setback, and a fence with fence panels with a surface area that is less than 50 percent open less than 5' from the E Kiest Blvd front lot line on an undeveloped site.

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- 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 and states that no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line.
- The applicant has submitted a site plan and elevation of the proposal. The site plan and elevation represent a fence that is over 4' in height in the required front yard.
- The following additional information was gleaned from the submitted site plan:
  - the site plan shows the fence to be approximately 938' located on the front property line or less than 5' from the pavement line.
- The Board of Adjustment Senior Planner conducted a field visit to determine if the fence would adversely affect neighboring properties.
- As of April 04, 2023, no letters have been received in opposition or support of this request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulation of four feet will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding four-feet-in-height in the front yard setback to be constructed in the location and heights as shown on these documents.

**Timeline:**

- February 07, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.
- March 06, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- March 14, 2023: The Board 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 March 24, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the March 28, 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."
- March 30, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the /Development Code Specialist, the

Senior Engineer, Board of Adjustment Senior Planner, the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

Speakers:

For: Peter Kavanaugh, 1620 Handley St., Dallas TX 75208

Against: No Speakers

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 223-031, on application of Shannon Neffendorf, **GRANT** the request of this applicant to construct and/or maintain a 6-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

**BDA 223-031** —Application of Shannon Neffendorf to construct and/or maintain a 6-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, is **granted** subject to the following condition:

Compliance with the submitted site plan and elevation is required.

Maker:	Judy Pollock				
Second:	Jared Slade				
Results:	5-0				
		Ayes:	-	5	Judy Pollock, Roger Sashington, Rodney Milliken, and Jared Slade, Robert Agnich
		Against:	-	0	

**Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA 223-031, on application of Shannon Neffendorf, **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.

**BDA 223-031** —Application of Shannon Neffendorf 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, is **granted** subject to the following condition:

Compliance with the submitted site plan and elevation is required.

Maker:	Judy Pollock				
Second:	Jared Slade				
Results:	5-0				
		Ayes:	-	5	Judy Pollock, Roger Sashington, Rodney Milliken, and Jared Slade, Robert Agnich
		Against:	-	0	

**2. 3839 Seguin Drive**

BDA223-033(GB)

**\*This item was moved to Individual Items (moved last)**

**BUILDING OFFICIAL’S REPORT:** Application of Chris Jent for a special exception to the fence height regulations, and for a special exception to the fence regulations at 3839 Seguin Drive. This property is more fully described as Block 2/6220, Lot 13 and is zoned R-7.5 (A) which limits the height of the fence in the front yard to 4 feet; and requires a fence panel with a surface area that is less than 50 percent open and may not be located less than 5 feet from the front lot line. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface located less than 5 feet from the lot line, which will require a special exception to the fence regulations.

**LOCATION:** 3839 Seguin Drive

**APPLICANT:** Chris Jent

**REQUESTS:**

A request for a 4-foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface located less than 5 feet from the lot line, which will require a special exception to the fence regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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:**

<u>Site:</u>	R-7.5(A) Single Family District
<u>North:</u>	R-7.5(A) Single Family District
<u>South:</u>	R-7.5(A) Single Family District
<u>East:</u>	R-7.5(A) Single Family District
<u>West:</u>	R-7.5(A) Single Family District

**Land Use:**

The subject site and areas to the north, east, south, and west are developed with single family uses.

**Zoning/BDA History:**

There has not been any recent related board or zoning cases recorded for this address or in the immediate vicinity of the subject site.

**GENERAL FACTS/STAFF ANALYSIS:**

A request for a 4-foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface located less than 5 feet from the lot line, which will require a special exception to the fence regulations.

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-1 ac (A) Single Family District where a 40-foot front yard setback is required.

The applicant has submitted a site plan and elevation of the proposal. The site plan and elevation represent a fence that is over 4' in height in the required front yard.

- The following additional information was gleaned from the submitted site plan:
  - The proposed fence will be an 8 feet-high wood style fence located on the property line and 130 feet in length.
  - The Board of Adjustment Senior Planner conducted a field visit to determine if the fence would adversely affect neighboring properties.
- As of April 03, 2023, no letters have been received in opposition or support of this request.

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

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

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**Timeline:**

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

March 06, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

March 14, 2023: The Board 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 March 24, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the March 28, 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."

March 30, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the /Development Code Specialist, the Senior Engineer, Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

April 06, 2023: The applicant provided pictures of the following addresses:

- I. 9904 Hurley
- II. 9923 Coppedge
- III. 3908 Walnut Hill (Elmada Corner)
- IV. 9905 Elmada
- V. 4025 Walnut at Hurley Corner
- VI. 3880 Walnut Hill at Hurley Corner

**Speakers:**

For: Chris Jent, 2745 Dallas Prwy # 455 Plano TX 75093  
Grant Pryor, 12001 Inwood Rd # 903, Dallas TX 75244

Against: Ben Hillman, 9937 Dresden Dr, Dallas TX 75220  
Jennifer Alexander, 9943 Dresden Dr, Dallas TX 75220  
Judy Margolis, 9942 Dresden Dr, Dallas TX 75220



**1.- Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 223-033, on application of Chris Jent, **GRANT** the request of this applicant to construct and/or maintain a 8-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

Maker:	Jared Slade				
Second:	Judy Pollock				
Results:	2-3				Motion Failed
		Ayes:	-	2	Judy Pollock, Jared Slade
		Against:	-	3	Roger Sashington, Rodney Milliken, Robert Agnich

**2.- Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA 223-033, on application of Chris Jent, **DENIED** the special exception requested by this applicant to construct and/or maintain a 8-foot-high fence **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Robert Agnich				
Second:	Rodney Milliken				
Results:	4-1				Motion Passes
		Ayes:	-	4	Roger Sashington, Rodney Milliken, Jared Slade, and Robert Agnich
		Against:	-	1	Judy Pollock

**3.- Motion # 3**

I move that the Board of Adjustment, in Appeal No. BDA 223-033, on application of Chris Jent, **DENIED** the special exception requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	5-0				

		Ayes:	-	5	Judy Pollock, Roger Sashington, Rodney Milliken, Jared Slade, and Robert Agnich
		Against:	-	0	

**3. 1017 Nomias Street**

BDA223-036(ND)

**\*This item was moved to Individual Items**

**BUILDING OFFICIAL’S REPORT:** Application of Brent Jackson for a variance to the front yard setback regulations at 1017 Nomias Street. This property is more fully described as Block A/7104, Lot 19, and is zoned R-5(A), which requires a front yard setback of 20 feet. The applicant proposes to maintain a single-family residential structure and provide an 11-foot front yard setback, which will require a 9-foot variance to the front yard setback regulations.

**LOCATION:** 1017 Nomias Street

**APPLICANT:** Brent Jackson

**REQUEST:**

A request for a variance to the front yard setback regulations of 9 feet is made to maintain a single-family home. The applicant is proposing to maintain a single-family residential structure and provide an 11-foot front yard setback, which will require a 9-foot variance to the front yard setback regulations.

**STANDARD FOR A VARIANCE:**

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

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

**State Law/HB 1475 effective 9-1-21**

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that granting the variance in this application would not be contrary to public interest in that the variance would allow a structure in the site's front yard setback where the location of this structure would comply with the required 20 foot front yard setback if Nomias did not have a street easement.
- Staff concluded that the subject site is unique and different from most lots in R-5(A zoning district in that it is restrictive in area due to having a street easement in the front yard setback on Nomias.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-5(A)  
North: R-5(A)  
South: R-5(A)  
East: R-5(A)  
West: R-5(A)

**Land Use:**

The subject site is developed with a single family home. The areas to the north, south, east, and west are developed with single-family, institutional, and recreation uses.

**ZONING/BDA HISTORY:**

There is no BDA History found within the past five years.

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a variance to the front yard setback regulations of 9 feet is made to maintain a single-family home.
- The property is located in an R-5(A) zoning district which requires a minimum front yard setback of 20 feet.
- The subject site is located on Nomas Street. The subject site has a 20 feet front yard setback on the site's only street frontage of Nomas. The site's front yard also has a 10 foot street easement of which acts as the site's property line of which the setback is measured from.
- No variance would be necessary if there were not a 10 foot street easement in the front yard.
- The subject site is flat, rectangular in shape (95' x 60'), and is 5,700 square feet in area. The site is zone R-5(A) where lots are typically 5,000 square feet in area.
- On December 13, 2021, Oaxaca Construction LLC applied for a new construction permit for a single-family residential structure. The permit was approved on February 04, 2022 and issued on February 14, 2022.
- On August 16, 2022, a hold was placed on the permit because "building site includes 10 feet of street ROW easement. Front yard setback must be measured from the easement line. Do not release without approval from James McKey or Megan Wilmer."
  - The applicant has the burden of proof in establishing the following:
    - That granting the variance to the front 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(A) 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(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a home structure that would be located 11 feet from the site's easement line.

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**Timeline:**

February 15, 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.

March 6, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

March 30, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, the Board of Adjustment Development Code Specialist, the Board of Adjustment Consultant, the Chief Arborist, Development Services Senior Engineers, Director of Code Enforcement and the Board Attorney.

No review comment sheets were submitted in conjunction with this application.

Speakers:

For: Sam Mallick, 2323 Victory Ave # 700, Dallas TX 75219  
 Aimee Furness, 2323 Victory Ave # 700, Dallas TX 75219

Against: Ronnie Mestas, 3215 Rutz St., Dallas TX75212  
 Mary Paras, 3138 Rutz St., Dallas TX 75212

**1.- Motion**

I motion to suspend the limitation of 5 pages to allow the applicant to submit the evidence that is being appropriated to this case.

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	5-0				
		Ayes:	-	5	Robert Agnich, Judy Pollock, Roger Sashington, Rodney Milliken, and Jared Slade
		Against:	-	0	

**2.- Motion**

I move that the Board of Adjustment, in Appeal No. BDA 223-036, on application of Brent Jackson, **GRANT** the 9-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

Maker:	Jared Slade				
Second:	Robert Agnich				
Results:	4-1				Motion Passes
		Ayes:	-	4	Robert Agnich, Roger Sashington, Rodney Milliken, and Jared Slade
		Against:	-	1	Judy Pollock

**4. 5505 S. Polk Street**  
 BDA223-041(ND)

**FILE NUMBER:** BDA223-041(ND)

**BUILDING OFFICIAL’S REPORT:** Application of Karl A. Crawley for a special exception to the minimum front yard requirements to preserve existing trees at 5505 S. Polk St. This property is more fully described as Block 1/6048, Lot 2, and is zoned R-7.5(A) which requires a front yard setback of 25 feet. The applicant proposes to construct a non-residential structure and provide a 19-foot front yard setback, which will require a 6-foot special exception to the front yard setback regulations for tree preservation.

**LOCATION:** 5505 S. Polk St.

**APPLICANT:** Karl A. Crawley

**REQUEST:**  
 A request for a special exception to the front yard setback is made to construct a non-residential structure and provide a 19-foot front yard setback, which requires a 6-foot special exception to the front yard setback regulations for tree preservation.

**STANDARD FOR A SPECIAL EXCEPTION TO THE MINIMUM FRONT YARD REQUIREMENTS TO PRESERVE AN EXISTING TREE:**

Section 51(A)-4.401(d) of the Dallas Development Code specifies that the board may grant a special exception to the minimum front yard requirements in this section to preserve an existing tree. In determining whether to grant this special exception, the board shall consider the following factors:

- (A) Whether the requested special exception is compatible with the character of the neighborhood.
- (B) Whether the value of surrounding properties will be adversely affected.
- (C) Whether the tree is worthy of preservation.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

**Rationale:**

- Staff concluded that requested special exception was compatible with the character of the neighborhood; the value of surrounding properties will not be adversely affected; and that, according to the City of Dallas Chief Arborist, the tree denoted on the submitted site plan, is worthy of preservation.

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	R-7.5(A) Single Family District
<u>North:</u>	R-7.5 (A) Single Family District
<u>South:</u>	R-7.5(A) Single Family District
<u>East:</u>	R-7.5(A) Single Family District
<u>West:</u>	R-7.5(A) Single Family District

**Land Use:**

The subject site is developed as a school while the surrounding properties are developed for single-family uses.

**Zoning/BDA History**

There is no BDA history within the past five years.:

**GENERAL FACTS /STAFF ANALYSIS:**

- This request for a special exception to the front yard setback is made to construct a non-residential structure and provide a 19-foot front yard setback, which requires a 6-foot special exception to the front yard setback regulations for tree preservation.
- The property is located in a R.7-5 (A) residential zoning district where the minimum front yard setback is 25 feet.
- Properties to the north, east, south and west of the subject site are also zoned R.7-5(A).
- In an effort to preserve the large trees on the subject property, the submitted site plan denotes that the proposed addition will be located within the front yard setback along Drury Rd.
- The applicant has the burden of proof in establishing the following:
  - Whether the requested special exception is compatible with the character of the neighborhood.
  - Whether the value of surrounding properties will be adversely affected.
  - Whether the tree is worthy of preservation.
- If the Board were to grant the special exception request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document – which in this case is a structure that is located 19' from the site's front property line.

**Timeline:**

February 17, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

BOARD OF ADJUSTMENT  
 May 15, 2023

- March 6, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- March 23, 2023: The Board Administrator 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 November 21<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the December 2<sup>nd</sup> 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.”
- March 29, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

Speakers:

For: No speakers  
 Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 223-041, on application of Karl Crawley, **GRANT** the request of this applicant for a six-foot special exception for tree preservation to the front yard setback regulations contained in the Dallas Development Code because our evaluation of the property and testimony shows that this special exception will not adversely affect the value of surrounding properties, the requested special exception is compatible with the character of the neighborhood, and the tree is worthy of preservation.

**BDA223-041** Application of Karl Crawley for a special exception for tree preservation to the front yard setback regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the submitted site plan is required.

Maker:	Jared Slade			
Second:	Robert Agnich			
Results:	5-0			



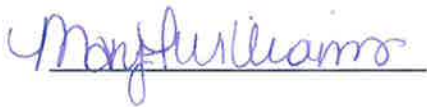
BOARD OF ADJUSTMENT  
May 15, 2023

		Ayes:	-	5	Robert Agnich, Judy Pollock, Roger Sashington, Rodney Milliken, and Jared Slade
		Against:	-	0	

**ADJOURNMENT**

After all business of the Board of Adjustment had been considered, Vice-Chair Agnich moved to adjourn the meeting; seconded by Roger Sashington at 3:45 p.m.

\*\*\*Recess: 2:08 p.m.; Resume: 2:21 p.m.\*\*\*



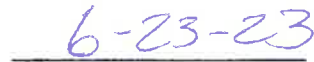
Required Signature:  
Mary Williams, Interim Board Secretary  
Development Services Dept.



Date



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



Date



Required Signature:  
Robert Agnich, Vice-Chair  
Board of Adjustment



Date