



BOARD OF ADJUSTMENT

Panel C Minutes

July 17, 2023

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CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room
24957316190@dallascityhall.webex.com

Robert Agnich, Vice-Chair

PRESENT: [5]

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

ABSENT: [0]

Vice-Chair Agnich called the briefing to order at **10:33 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Agnich called the hearing to order at **1:23 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.

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MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel C June 22, 2023 public hearing minutes.

Motion was made to approve Panel C June 22, 2023 public hearing minutes.

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

I move with the Board of Adjustment to waive the Rules of Procedure that requires that the Docket Materials be posted at least 7 days prior to the hearing.

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

UNCONTESTED ITEMS

- 817 N. Clinton Ave.**
 BDA212-106(GB)

BUILDING OFFICIAL'S REPORT Application of Cassandra Russell for a variance to the off-street parking regulations at 817 N. Clinton Ave. This property is more fully described as Block 11/3458, part of lot 9 and 10 and is zoned CD-1, which requires a parking space be at least 20-feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and/or maintain a single-family residential structure with a setback of 16-feet, which will require a variance of 4-foot to the off-street parking regulations.

LOCATION: 817 N. Clinton Avenue

APPLICANT: Casandra Russell

REQUEST:

This is a request for a variance to the off-street parking regulations. The applicant proposes to construct and/or maintain single family residential structure with a setback of 16-feet, which will require a variance of 4-foot to the off-street parking regulations.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval

Rationale:

The applicant’s request is not contrary to the public interest, nor is the applicant’s request is a self-created hardship.

• **ZONING/BDA HISTORY:**

- Zoning:**
- Site:** CD-1
- North:** CD-1
- South:** CD-1
- East:** CD-1
- West:** CD-1

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a variance to the off-street parking regulations. The applicant proposes to construct and/or maintain single family residential structure with a setback of 16 feet, which will require a variance of 4 foot to the off-street parking regulations.
- The subject property is located at 817 N. Clinton Avenue
- The subject property is zoned CD-1
- The intended use for this property is a single-family residence.

Timeline:

May 11, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

June 09, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

June 13, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application
- an attachment that provided the public hearing date and panel that will consider the application; the June 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, July 07, 2023, deadline to submit additional evidence to be incorporated into the Board's docket materials
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the July 18, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, and the Development Services Senior Engineers

June 29, 2023: The engineering department submitted a review comment sheet:

Speakers:

For: Cassandra Russell, 817 N. Clinton Ave., Dallas TX 75208

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 212-106, on application of Cassandra Russell, **GRANT** the 20-foot variance to the front yard setback regulations requested by this

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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.

BDA212-106 —Application of Cassandra Russell for the 20-foot variance 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				Motion to grant
		Ayes:	-	5	Judy Pollock, Roger Sashington, Rodney Milliken, Jared Slade, and Robert Agnich
		Against:	-	0	

2. 4112 Delano Place

*This case was moved to Individual Items
BDA223-059(GB)

BUILDING OFFICIAL'S REPORT Application of Baldwin Associates for a variance to the parking regulations at 4112 Delano Pl. This property is more fully described as Block B/657, Lot 1/2 of lot 16 and is zoned CR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for office use and provide 2 of the required 4 parking spaces, which will require a 2-space variance (50% reduction) to the parking regulation.

LOCATION: 4112 Delano Place

APPLICANT: Baldwin Associates

REQUEST:

This is a request for a variance to the parking regulations. The applicant proposes to construct and maintain a nonresidential structure for office use and provide 2 of the required 4 parking spaces, which will require a 2-space variance (50% reduction) to the parking regulation.

STANDARD FOR A VARIANCE:

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

- (D) **not contrary to the public interest** when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.

- (E) **necessary to permit development of a specific parcel of land** that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (F) **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Approval

Rationale:

The applicant's request is not contrary to the public interest, nor is the applicant's request is a self-created hardship.

- **ZONING/BDA HISTORY:**

Zoning:

Site: CR

Land Use:

The subject site is developed with a structure that will be used for an office. Areas to the North, South, East, and West are developed with mixed-uses, residential and retail.

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a variance to the parking regulations. The applicant proposes to maintain a nonresidential structure for an office use and provide 2 of the required 4 parking spaces, which will require a 2-space variance (50% reduction) to the parking regulation.
- The subject property is located at 4112 Delano Place.
- The subject property is zoned CR.
- The intended use for this property is an office.

Timeline:

- April 26, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 09, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- June 13, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:
 - a copy of the application materials including the Building Official's report on the application
 - an attachment that provided the public hearing date and panel that will consider the application; the June 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, July 07, 2023, deadline to submit additional evidence to be incorporated into the Board's docket materials

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- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the July 18, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, and the Development Services Senior Engineers

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

Speakers:

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

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-059, on application of Rob Baldwin **GRANT** the 2-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 revised submitted site plan is required.

Maker:	Jared Slade				
Second:	Judy Pollock				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Roger Sashinton, Rodney Milliken, Jared Slade
		Against:	-	0	

3. 4106 South Better Dr.

*This Case was moved to Individual Items
BDA223-064(KMH)

BUILDING OFFICIAL’S REPORT: Application of Gregory Michaelson for a variance to the side yard setback regulations at 4106 South Better Dr. This property is more fully described as Block 1/6150, Lot 5 and is zoned R-16(A), which requires a side yard setback of 10-feet. The applicant

proposes to construct and/or maintain a single-family residential structure and provide a 5-foot side yard setback, which will require a 5-foot variance to the side yard setback regulations.

LOCATION: 4106 South Better

APPLICANT: Gregory Michaelson

REQUEST:

A request for a variance to the side yard setback regulations of 5-feet is made to maintain a single-family residential structure. The applicant is proposing to construct and maintain single-family residential structure and provide a 5-foot side yard setback, which will require a 5-foot variance to the side yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

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 one of the site’s two side yard setbacks.

BDA HISTORY:

No BDA history within the last 5 years.

Zoning:

<u>Site:</u>	R-16(A)
<u>North:</u>	R-16(A)
<u>South:</u>	R-16(A)
<u>East:</u>	R-16(A)
<u>West:</u>	R-16(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 uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback regulations of 5-feet is made to construct and maintain single family residential structure.
- On March 28, 2023, On Group (Contractor Company) applied for a building permit for an addition to the single-family dwelling. The permit was issued on March 28, 2023.
- The single-family residential structure lies within the 10-foot required side yard setback.
- It appears that the single-family residential structure was built in compliance with the plans submitted for the approved building permit.

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

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

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The board may also consider **State Law/HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

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

Timeline:

- May 10, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- June 13, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.
- June 30, 2023: The Development Services Engineer submitted a response sheet with no objections. (Attachment A)

Speakers:

For: Gregory Michaelson, 4106 South Better Drive, Dallas TX 75229

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-064, an application of Gregory Michaelson, to **GRANT** the 5-foot variance to the side yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

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

4. 402 N. Good Latimer Expwy.

*This Case was moved to Individual Items
 BDA223-067(GB)

BUILDING OFFICIAL'S REPORT Application of Baldwin Associates for a special exception to the parking regulations at 402 N Good Latimer Expy. This property is more fully described as Block 7/0284, Part of lots 1 and 2 and all of lot 3, and is zoned PD-298 subarea 5, which requires parking to be provided. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use, and provide 56 of the required 69 parking spaces, which will require a 13-space special exception (23% reduction) to the parking regulation.

LOCATION: 402 N. Good Latimer Expressway

APPLICANT: Baldwin Associates

REQUEST:

A request for a special exception to the parking regulations. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use, and provide 56 of the required 69 parking spaces, which will require a 13-space special exception (23% reduction) to the parking regulation.

STANDARD FOR A SPECIAL EXCEPTION SEC 51A-4.311:

- (1) The board **MAY** grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase

traffic congestion on the adjacent or nearby streets. Except as otherwise provided in this paragraph, the maximum reduction authorized in this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to the already existing nonconforming rights.

- (2) In determining whether to grant a special exception under paragraph (1), the board **SHALL** consider the following factors
- A. The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - B. The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - C. Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - D. The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - E. The availability of public transit and the likelihood of its use.
 - F. The feasibility of parking mitigation measures and the likelihood of their effectiveness.

STAFF RECOMMENDATION:

Approval based on expert trade discipline not having any objections.

• **ZONING/BDA HISTORY:**

No BDA history within in the last 5 years.

Zoning:

Site: PD298 Subarea A
North: PD298 Subarea A
South: MU-3
East: PD298 Subarea 11
West: CA-2 (A)

Land Use:

The subject site is developed with 1 building. Areas to the North, South, East, and West are developed with mixed uses. There is a Dart Rail station directly across from the building.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a special exception to the parking regulations. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use, and provide 56 of the required 69 parking spaces, which will require a 13-space special exception (23% reduction) to the parking regulation.
- The subject property is located at 402 N. Good Latimer Expressway
- The subject property is zoned PD298 Subarea A
- The intended use for this property is a restaurant, which requires 69 parking spaces.

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Timeline:

- May 11, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 09, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- June 13, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application
 - an attachment that provided the public hearing date and panel that will consider the application; the June 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, July 07, 2023, deadline to submit additional evidence to be incorporated into the Board's docket materials
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the July 18, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, and the Development Services Senior Engineers
- June 29, 2023: The engineering department submitted a review comment sheet.

Speakers:

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

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-067, an application of Rob Baldwin, **GRANT** the request of this applicant to provide fifty-six (56) off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which requires sixty-nine (69) off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces.

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

The special exception of thirteen (13) spaces shall automatically and immediately terminate

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if and when the restaurant without a drive-in or drive-through use, office use, and/or personal services is changed or discontinued.

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

5. 906 Kessler Pkwy.
 BDA223-068(KMH)

BUILDING OFFICIAL’S REPORT Application of Jennifer Hiromoto for a special exception to the fence height regulations, and for a special exception to the fence standards regulations at 906 Kessler Pkwy. This property is more fully described as Block 4700, Lot 1-A, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4-feet; and requires a fence panel with a surface area that is less than 50 percent open 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 area located less than 5-feet from the lot line, which will require a special exception to the fence opacity regulations.

LOCATION: 906 Kessler Pkwy

APPLICANT: Jennifer Hiromoto

REQUEST:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602(b)(2) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

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

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

BDA History:

No BDA history within the last 5 years.

GENERAL FACTS/STAFF ANALYSIS:

- The purpose of this request is for a special exception to the fence regulations of 2-feet focuses on constructing and/or maintaining a 6-foot high fence in a required front yard; additionally, this request is also for a special exception to the fence standards regulations for a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line.
- The subject site and surrounding properties are zoned R-7.5 (A).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line.
- As gleaned from the submitted site plan and elevations, the applicant is proposing a 6-foot high fence in the required front yard along Kessler Pkwy.
- The proposed fence is a picket style fence with Austin stone veneer walls to match the house. It also imperative to note that the proposed fence will consist of a pedestrian gate and columns.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting these special exceptions to the fence standards relating to height up to 6-feet and location of fence panels with surface areas that are less than 50 percent open on the site with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.

Timeline:

May 11, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

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May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

June 13, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 2023, deadline to submit additional evidence to be incorporated into the board’s docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

June 22, 2023: The applicant provided documentary evidence.

June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

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

Speakers:

For: No Speakers

Against: No Speakers

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA 223-068, an application of Jennifer Hiramoto, **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.

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:	5-0 Unanimously			Motion to grant

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

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA 223-06, on application of Jennifer Hiromoto, **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.

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:	Robert Agnich				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Robert Agnich, Judy Pollock, Rodney Milliken, Roger Sashington and Jared Slade
		Against:	-	0	

6. 1414 Dragon Street

*This Case was moved to Individual Items
BDA223-069(GB)

BUILDING OFFICIAL'S REPORT Application of Santos Martinez for a special exception to the parking regulations at 1414 Dragon St. This property is more fully described as Block 16/6846, part of lot 1, and is zoned PD-621 subarea 1, which requires parking to be provided. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use, and provide 46 of the required 51 parking spaces, which will require a 5-space special exception (10% reduction) to the parking regulation.

LOCATION: 1414 Dragon Street

APPLICANT: Santos T. Martinez (La Sierra Planning Group)

REQUEST:

A request for a special exception to the parking regulations. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use, and provide 46 of the required 51 parking spaces, which will require a 5-space special exception (10% reduction) to the parking regulation.

STANDARD FOR A SPECIAL EXCEPTION SEC 51A-4.311:

- (3) The board **MAY** grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on the adjacent or nearby streets. Except as otherwise provided in this

paragraph, the maximum reduction authorized in this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to the already existing nonconforming rights.

- (4) In determining whether to grant a special exception under paragraph (1), the board **SHALL** consider the following factors:
 - G. The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - H. The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - I. Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - J. The current and probable future capacities of adjacent and nearby streets based on the city’s thoroughfare plan.
 - K. The availability of public transit and the likelihood of its use.
 - L. The feasibility of parking mitigation measures and the likelihood of their effectiveness.

STAFF RECOMMENDATION:

Approval

Rationale: if certain conditions are met per Traffic Engineering expert trades.

• **ZONING/BDA HISTORY:**

No BDA History within the last 5 years.

Zoning:

- Site: PDD 621 (SD 1)
- North: PDD 621 (SD 1)
- South: PDD 621 (SD 1)
- East: PDD 621 (SD 1)
- West: PDD 621 (SD 1)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a special exception to the parking regulations. The applicant proposes to construct and/or maintain a nonresidential structure for a restaurant without drive-in or drive-through service use, and provide 46 of the required 51 parking spaces, which will require a 5-space special exception (10% reduction) to the parking regulation.
- The subject property is located at 1414 Dragon Street
- The subject property is zoned PDD 621 (SD 1)
- The intended use for this property is a restaurant, which requires 51 parking spaces

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Timeline:

- May 12, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 09, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- June 13, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application
 - an attachment that provided the public hearing date and panel that will consider the application; the June 23, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, July 07, 2023, deadline to submit additional evidence to be incorporated into the Board's docket materials
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the July 18, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, and the Development Services Senior Engineers
- June 29, 2023: The applicant provided 8 letters of support and documentary evidence.
1. 154 Leslie
 2. 123 Manufacturing Street
 3. 400 Dragon
 4. 1400 N. Riverfront
 5. 1404 N. Riverfront
 6. 1430 Dragon
 7. 1900 Market Center
- June 29, 2023: The engineering department submitted a review comment sheet.

Speakers:

For: Santos Martinez, 3934 Elm St Suite B, Dallas TX 75226

Against: Richard Stanzel, 154 Glass Street, Dallas TX 75207

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-069, on application of Santos T. Martinez, **GRANT** the request of this applicant to provide forty-six (46) off-street parking spaces to

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the off-street parking regulations contained in the Dallas Development Code, as amended, which requires fifty-one (51) off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a restaurant without a drive-in or drive-through.

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

The special exception of five (5) spaces shall automatically and immediately terminate if and when the restaurant without a drive-in or drive-through use is changed or discontinued.

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

****Recess: 3:11 p.m.; Resume: 3:26 p.m.****

HOLDOVER

7. 7217 Brookshire Circle
 BDA223-053(GB)

BUILDING OFFICIAL'S REPORT: Application of Steve Lakin for a special exception to the fence height regulations at 7217 Brookshire Circle. This property is more fully described as Block 6/6586, Lot 2 and is zoned R-16 (A), which limits the height of a fence in a required front-yard to 4-feet. The applicant proposes to construct and maintain a 6-foot high fence in a required front-yard, which will require a 2-foot special exception to the fence height regulations.

LOCATION: 7217 Brookshire

APPLICANT: Steve Lakin

REQUEST:

A request for a special exception to the fence height regulations. The applicant is proposing to construct a 6-foot-high fence in a front yard, which will require a 2-foot special exception to the fence regulations.

STANDARD FOR A SPECIAL EXCEPTION:

The board may grant a special exception to the fence standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

Staff does not provide a recommendation for special exceptions.

• **ZONING/BDA HISTORY:**

No BDA History within the last 5 years

Zoning:

Site: R-16 (A)

Land Use:

The subject site is developed with a single family home. Areas to the North, South, East, and West are developed with single-family uses.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a special exception to the fence height regulations. The applicant is proposing to construct a 6-foot fence which will require a 2-foot special exception.
- The subject property is located at 7217 Brookshire Drive
- The subject property is zoned R-16 (A).
- This property is governed by a zoning district that allows fences in a required front yard to be no more than 4 feet.
- No special exception would be necessary if the proposed fence was 4 feet or under.

If the Board were to grant this special exception, and impose the submitted site plan as a condition, the applicant would be required to construct the fence according to the approved site plan.

Timeline:

- April 06, 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.
- April 15, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- May 03, 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 May 30, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, June 09, 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.”

May 31, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June 22, 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 Specialists, the Chief Arborist, Development Services Senior Engineers, and the Board Attorney.

June 02-06, 2023: Received letters from neighbors within the notification area.

June 22, 2023: The Board of Adjustments decided to hold this case over.

Speakers:

For: Steve Lakin, 400 Donley Ct, Southlake, TX 76092
Peter Kofoed, 7217 Brookshire Dr., Dallas TX 75230
Karl Crawley, 2201 Main Street, Dallas TX 75201

Against: Mary Lavender, 12247 Montego Plaza, Dallas TX 75230
Sarah LaBarba, 7121 Brookshire Cir, Dallas, TX 75230
Rob Spencer, 7147 Brookshire Cir. Dallas TX 75230
Jason LaBarba, 7121 Brookshire Cir., Dallas TX 75230
Susan White, 7115 Brookshire Cir., Dallas TX 75230
Liane LaBarba, 7121 Brookshire Cir., Dallas TX 75230

I move to motion to suspend our rules of evidence, to accept 2 different submissions.

Maker:	Robert Agnich				
Second:	Rodney Milliken				
Results:	5-0 Unanimously				Motion to suspend the rules
		Ayes:	-	5	Robert Agnich, Roger Sashington, Rodney Milliken, Judy Pollock and Jared Slade
		Against:	-	0	

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-053, on application of Steve Lakin, **DENY** the special exception requested by this applicant to construct and/or maintain a 6-foot-high fence **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

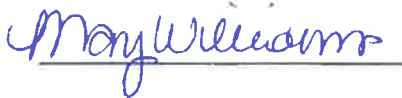
Maker:	Robert Agnich				
Second:	Rodney Milliken				

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Results:	3-2				Motion to deny
		Ayes:	-	3	Robert Agnich, Roger Sashington, Rodney Milliken
		Against:	-	2	Judy Pollock, and Jared Slade

ADJOURNMENT

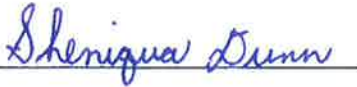
After all business of the Board of Adjustment had been considered, Vice-Chair Agnich moved to adjourn the meeting at **4:47 P.M. Second by Jared Slade**




Required Signature:
Mary Williams, 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