



BOARD OF ADJUSTMENT

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Panel A Minutes

2024 APR 22 AM 10: 33

March 19, 2024

CITY SECRETARY  
DALLAS, TEXAS

6ES Council Briefing  
[24923176153@dallascityhall.webex.com](mailto:24923176153@dallascityhall.webex.com)

David A. Neumann, Chairman

**PRESENT: [5]**

David A. Neumann, Chairman	
Rachel Hayden	
Kathleen Davis	
Michael Hopkovitz	
Jay Narey	

**ABSENT: [0]**


Chairman David A. Neumann called the briefing to order at **10:31 A.M.** with a quorum of the Board of Adjustment present.

Chairman David A. Neumann called the hearing to order at **1:00 P.M.** with a quorum of the Board of Adjustment present.

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

**PUBLIC SPEAKERS**

The Board of Adjustment provided "public 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.

**MISCELLANEOUS ITEMS**

Approval of the Board of Adjustment Panel A, February 20<sup>th</sup>, 2024, meeting minutes.

**Motion was made to approve Panel A, February 20<sup>th</sup>, 2024, public hearing minutes.**

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

**CONSENT ITEMS**

**1. 3500 Latimer Street**

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

BDA234-029(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Rick Smith for (1) a variance to the front-yard setback regulations at 3500 Latimer St. This property is more fully described as Block G/1698, part of lots 1 and 2, and is zoned PD-595 (R-5(A), which requires a front-yard setback of 20-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 5-foot front-yard setback facing Lenway St., which will require (1) a 15-foot variance to the front-yard setback regulations.

**LOCATION:** 3500 Latimer Street

**APPLICANT:** Rick Smith

**REPRESENTED BY:**

**REQUEST:**

- (1) A request for a variance to the front 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.

**ELEMENT II SUBSTITUTE**

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

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

**STAFF RECOMMENDATION:**

Approval

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Is restrictive in area due to the lot size (4996.33 sqft); The minimum lot area for residential use in the R-5(A) zoning district is 5,000 sqft; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

**BDA HISTORY:**

No BDA history found within the last 5 years.

**Square Footage:**

This lot contains 4,996.33 of square feet.

This lot is zoned R-5(A) which has a minimum lot size of 5,000 square feet.

**Zoning:**

- Site: R-5(A) (Single-Family Zoning District)
- North: R-5(A) (Single-Family Zoning District)
- South: R-5(A) (Single-Family Zoning District)
- East: R-5(A) (Single-Family Zoning District)
- West: R-5(A) (Single-Family Zoning District)

**Land Use:**

The subject site is developed with a single family home. The areas to the north, south, east, and

west are developed and being developed with single-family uses.

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a variance to the front yard setback regulations of 15-feet is made to construct and/or maintain a single-family residential structure.
- The subject site is currently developed with a single-family dwelling unit.
- Zoning District R-5(A) requires a minimum setback of 20-feet.
- As gleaned from the submitted site plan, the newly constructed home encroaches into the 20-foot required front yard setback.

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

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

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
  - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.
  - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
  - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  - (e) the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 15-foot variance to the front yard setback regulations 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.
  - 200' Radius Video: BDA234-029 3500 Latimer St.

**Timeline:**

- January 18, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 12, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- February 15, 2024: The Development Services Department Senior Planner emailed the applicant the following information:

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- an attachment that provided the public hearing date and panel that will consider the application; the February 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and March 8, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

**Speakers:**

For: Rick Smith, 518 N. Hwy 67, Cedar Hill TX 75104

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-029, on application of Rick Smith, **GRANT** the 15-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.

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

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

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

**2. 3216 Peoria Avenue**

**\*This case was moved to Individual Cases\***

BDA234-033(CJ)

**BUILDING OFFICIAL'S REPORT** Application of JOEL PERALES for (1) a special exception to the fence height regulations, and for (2) a for a special exception to the fence opacity regulations, and (3) a special exception to the visibility obstruction regulations at 3216 Peoria Ave. This property is more fully described as Block 21/7159, Lot 4 and is zoned both CS(commercial service) and R-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 may not be located less than 5-feet from the front lot line, and requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front yard which will require (1) a 2-foot special exception to the fence height regulations, and the applicant proposes to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which will require (2) a special exception to the fence opacity regulations, and the applicant proposes to construct and/or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require (3) a special exception to the visibility obstruction regulation.

**LOCATION:** 3216 Peoria St.

**APPLICANT:** Joel Perales

**REQUEST:**

- (1) A request for a special exception to the fence height regulations; and
- (2) A special exception to the fence standards regulations regarding opacity; and
- (3) A special exception to the 20-foot visibility obstruction regulations.

**STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT 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.**

**STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE OPACITY STANDARD REGULATIONS:**

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence opacity regulations when in the opinion of the board, **the special exception will not adversely affect neighboring property.**

**STAFF RECOMMENDATION:**

**Special Exceptions (3):**

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.

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	R-5 (A) (Single Family District)
<u>North:</u>	R-5 (A) (Single Family District)
<u>East:</u>	R-5 (A) (Single Family District)
<u>South:</u>	R-5 (A) (Single Family District)
<u>West:</u>	R-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

**GENERAL FACTS/STAFF ANALYSIS:**

- The application Darian Kaar, for the property located at 3216 Peoria Street focuses on 3 requests relating to the fence height, fence standards and visibility obstruction regulations.
- The applicant proposes to construct and maintain and 6-foot-high fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- Secondly, the applicant is requesting a special exception to the fence standards regulations regarding prohibited opacity,
- Lastly, the applicant is proposing to construct and or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require a special exception to the 20-foot visibility obstruction regulation.
- The subject site along with properties to the north, east, south, and west are all developed with single-family homes.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain a 6-foot-high fence around the circumference of the property at 3216 Peoria Street.
- The fence is material is partially wood, wrought iron and concrete.
- It is imperative to note that the subject site is a mid-block lot, and it has single street frontage on Peoria Street.
- 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.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height, opacity and visibility obstruction regulations with a condition that the applicant complies with the

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submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

**Timeline:**

January 22, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 12, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

February 21, 2024: The Development Services Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and March 8, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

**Speakers:**

For: Blas Garza, 3216 Peoria Avenue, Dallas TX 75212

Against: No Speakers

**Motion**

I move that the Board of Adjustment in Appeal No. BDA 234-033 **HOLD** this matter under advisement until **April 16, 2024**.

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



**3. 2105 W. Northwest Highway**

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

BDA234-036(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Rob Baldwin for (1) a variance to the front-yard setback regulations at 2105 W. Northwest Hwy. This property is more fully described as Block A/6485, Lot 1, and is zoned IR, which requires a front-yard setback of 15-feet. The applicant proposes to construct and/or maintain a nonresidential structure and provide a 1-foot front-yard setback, which will require (1) a 14-foot variance to the front-yard setback regulations.

**LOCATION:** 2105 W. Northwest Hwy

**APPLICANT:** Baldwin Associates - Rob Baldwin

**REPRESENTED BY:** Baldwin Associates - Rob Baldwin

**REQUEST:**

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

**STANDARD OF REVIEW FOR A VARIANCE:**

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

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

**ELEMENT II SUBSTITUTE**

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

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

**STAFF RECOMMENDATION:**

Approval

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- D. Not contrary to the public interest as no letters of opposition were received.
- E. Restrictive in shape; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning. Is a self-created or personal hardship.
- F. Not a self-created or personal hardship.

**BDA HISTORY:**

No BDA history found within the last 5 years.

**Square Footage:**

This lot contains 16165.116 of square feet.

**Zoning:**

Site: IR (Industrial District)  
North: IR (Industrial District)  
South: IR (Industrial District)  
East: IR (Industrial District)  
West: IR (Industrial District)

**Land Use:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a variance to the front yard setback regulations, of 14-feet is made to construct and/or maintain a single-family residential structure.
- The subject site is currently developed with a non-residential structure.
- Zoning District IR requires a minimum setback of 15-feet.
- As gleaned from the submitted site plan, the proposed renovations to the existing subject site encroach into the 15-foot required front yard setback.

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

- That granting the variance to the front yard setback will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- 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 Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

2. 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.
  3. 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.
  4. compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
  5. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  6. the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 14-foot variance to the front yard setback regulations 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.
  - 200' Radius Video: [BDA234-036 2105 W. Northwest Hwy](#)

**Timeline:**

- January 12, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 12, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- February 15, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and March 8, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 5, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

**Speakers:**

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

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-036, on application of Rob Baldwin, **GRANT** the 14-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.

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

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

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

**4. 6231 Llano Avenue**

**\*This case was moved to Individual Cases\***

BDA234-037(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Jordan Heetland for (1) a variance to the floor area regulations, and for (2) a special exception to the single-family regulations at 6231 Llano Ave. This property is more fully described as Block 2/2158, Lot 20, and is zoned R-7.5(A), which an accessory structure may not exceed 25% of the floor area of the main structure and limits the number of dwelling units to one. The applicant proposes to construct and/or maintain a single-family residential accessory structure with 520 square feet of floor area (42.4% of the 1224 square foot floor area of the main structure), which will require (1) a 214 square foot variance to the floor area regulations, and to construct and/or maintain an accessory dwelling unit (for rent), which will require (2) a special exception to the single-family zoning use regulations.

**LOCATION:** 6231 Llano Ave.

**APPLICANT:** Jordan Heetland

**REQUEST:**

- (1) A variance to the floor area ratio is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single-family home.
- (2) A special exception to the single-family zoning regulations for a rentable single-family residential accessory dwelling unit.

**STANDARD OF REVIEW 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:

- (G) **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.
- (H) 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
- (I) **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.

**STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT (FOR RENT):**

Section 51A-4.209(b)(6)(E)(iii)(aa) of the Dallas Development Code specifies that the board of adjustment may grant a special exception to authorize a rentable accessory dwelling unit in any district when, in the opinion of the board, **the accessory dwelling unit will not adversely affect neighboring properties.**

Section 51A-4.209(b)(6)(E)(iii)(cc) In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to require owner-occupancy on the premises and annually register the rental property with the city's single family non-owner occupied rental program.

**ELEMENT II SUBSTITUTE**

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

- (i) **the financial cost of compliance is greater than 50 percent of the appraised value of the structure** as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
- (ii) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (iii) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (iv) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (v) the municipality considers the structure to be a non-conforming structure.

**STAFF RECOMMENDATION:**

Variance:  
Approval

Based upon the evidence presented and provided to staff, staff concluded that the request is:

- Not contrary to public interest as no opposition was received.
- Restrictive in slope; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- Not a self-created/personal hardship.

Special Exception:

No staff recommendation is made.

**BDA History**

No BDA history found within the last five years.

**Square Footage:**

The lot contains 7797.24 of square feet.

The lot is zoned R-7.5(A) with a minimum lot size of 7,500 square feet.

**Zoning:**

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

**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.

**BDA History:**

No BDA history within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Isaiah Spates for the property located at 6231 Llano Avenue focuses on two specific requests. The first request is a variance to the floor area ratio regulations. The second request focuses on a variance to the single-family zoning use regulations for a single-family residential accessory dwelling unit (FR).
- The applicant proposes to construct an accessory dwelling unit (FR), which will require a special exception to the single-family use regulations.
- The Dallas Development code, for single-family zoning, allows one dwelling unit per lot.
- Secondly, the applicant proposes to construct and/or maintain a 520 (42.4% of the square foot floor area of the main structure) square foot single-family residential accessory structure

(not for rent) which exceeds 25% of the main structure. The square footage of the main structure is 1,224. Therefore, a 214 square foot (42.4%) variance is required.

- The Dallas Development Code states that an accessory structure may not exceed 25% of the floor area of the main structure.
- According to the applicant's application, the accessory structure will be utilized as rentable dwelling unit.
- The Dallas Development code, for single-family zoning, allows one dwelling unit per lot.
- The single-family use regulations of the Dallas Development Code state that the board of adjustment may grant a special exception to authorize a rentable accessory dwelling unit in any district when, in the opinion of the board, the accessory dwelling unit will not adversely affect neighboring properties.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an accessory dwelling unit (FR) on the site (i.e., development on the site must meet all required code requirements).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to require owner-occupancy on the premises and annually register the rental property with the city's single family non-owner occupied rental program.

Moreover, the applicant has the burden of proof in establishing the following:

- That granting the variance to the floor area ratio 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.

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

5. 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.
6. 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.
7. compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.

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- 8. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- 9. the municipality considers the structure to be a nonconforming structure.

- 200' Radius Video: [BDA234-037 6231 Llano Ave.](#)

**Timeline:**

**January 24, 2024:** The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

**February 9, 2024:** The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

**February 21, 2024:** The Development Services Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and March 8, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

**March 5, 2024** The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

It was moved to suspend the rules to accept more than 5 pages for submitted Documentary Evidence by the applicant.

<b>Maker:</b>	David A. Neumann				
<b>Second:</b>	Jay Narey				
<b>Results:</b>	5-0 Unanimously				Motion to suspend the rules
		<b>Ayes:</b>	-	5	David A. Neumann, Kathleen Davis, Jay Narey, Rachel Hayden and Michael Hopkovitz
		<b>Against:</b>	-	0	

**Speakers:**

**For:** Jordan Hetland, 6231 Llano Ave., Dallas TX 75214



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Against: Bruce Richardson, 5607 Richmond, Dallas TX 75206  
 Melanie Vanlandingham, 6311 Lakeshore, Dallas TX 75214  
 (did not speak)

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 234-037, on application of Jordan Heetland, **DENY** the variance to floor area ratio regulations requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

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

**Motion # 2**

I move that the Board of Adjustment, in request No. BDA 234-037, on application of Jordan Heetland, **DENY** the special exception to construct and maintain an accessory dwelling unit on a site developed with a single family structure as requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

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

**5. 909 S. Corinth Street Road**

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

BDA234-050(KMH)

**BUILDING OFFICIAL'S REPORT:** Application of Dejuan Session for (1) a variance to the front-yard setback regulations at 909 S. CORINTH ST. RD. This property is more fully described as Block 27/3588, Lot 4-6 and part of lot 3, and is zoned RR, which requires a front-yard setback of 15-feet. The applicant proposes to construct and/or maintain a non-residential structure and provide a 4-foot front-yard setback, which will require (1) an 11-foot variance to the front-yard setback regulations.

**LOCATION:** 909 S. Corinth St. Rd.

**APPLICANT:** Dejuan Session

**REQUEST:**

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

**STANDARD OF REVIEW FOR A VARIANCE:**

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

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

**ELEMENT II SUBSTITUTE**

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

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

**STAFF RECOMMENDATION:**

Approval

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Restrictive in shape as it is an irregularly shaped lot. The lot is also bound by three street frontages, requiring a minimum front yard setback of 15-feet for each frontage; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Not a self-created or personal hardship.

**BDA HISTORY:**

BDA234-009: Variance to front yard setback requirement. Denied without prejudice.

**Square Footage:**

This lot contains 11,873.55 of square feet.

This lot is zoned RR and does not require a minimum lot size.

**Zoning:**

Site: RR- Regional Retail  
North: SUP 1924  
South: RR- Regional Retail and CR Community Retail  
East: RR- Regional Retail and CR Community Retail  
West: R-5(A)- Single Family District

**Land Use:**

The subject site is developed with a retail use. The areas to the north, south, east, and west are developed commercial/retail uses and single family uses.

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a variance to the front yard setback regulations of 11-feet is made to construct and/or maintain a non-residential structure.
- The subject site is currently developed with a commercial/retail building. The site also contains a food trailer that is located only 4-feet away from the property line.
- The applicant is proposing to maintain the food trailer providing a 4-foot front yard setback, requiring an 11-foot variance to the front yard setback regulations.
- The subject site is unique in nature as the lot is irregularly shaped and has 3 street frontages, Morrell Ave., S. Corinth St. Rd., and E. Waco Ave.
- The Regional Retail (RR) zoning district requires a minimum front yard setback of 15-feet.

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

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

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

6. 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.
7. 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.

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8. compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
  9. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  10. the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 11-foot variance to the front yard setback regulations 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.
  - BDA234-009 at 909 S. Corinth St. Rd. (200' radius video)

**Timeline:**

- February 26, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 29, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- December 6, 2023: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and March 8, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 5, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

**Speakers:**

For: DeJuan Session, 909 S. Corinth Street Rd., Dallas TX 75203  
Corey Toney, 909 S. Corinth Street Rd., Dallas TX 75203

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-050, on application of DeJuan Sessions, **GRANT** the 11-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.

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

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

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

**HOLDOVER CASES**

**6. 2511 Jordan Valley Road**  
 BDA234-016(KMH)

**BUILDING OFFICIAL'S REPORT:** Application of ARTURO MUNOZ for (1) a special exception to the fence height regulations at 2511 JORDAN VALLEY RD. This property is more fully described as Block 2/8788, Lot 2, and is zoned R-10(A), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front-yard, which will require (1) a 2-foot special exception to the fence regulations.

**LOCATION:** 2511 Jordan Valley Rd.

**APPLICANT:** Arturo Munoz

**REQUEST:**

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

**STANDARD OF REVIEW FOR A SPECIAL EXCEPTION TO FENCE HEIGHT 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:**

**Special Exception**

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.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-10(A) (Single Family District)  
North: A(A) and SUP 799  
East: R-10(A) and R-7.5(A)  
South: R-10(A)  
West: R-10(A)

**Land Use:**

The subject site and the properties to the east, south, and west are developed with single family homes; the properties to the north are vacant.

**BDA History:**

No BDA history

**GENERAL FACTS/STAFF ANALYSIS:**

- The application of Arturo Munoz for the property located at 2711 Jordan Valley Road focuses on one request relating to the fence height regulations.
- The applicant proposes to maintain a 6-foot high fence in a required front yard, which will require a 2-foot special exception to the fence height regulations.
- It is important to note that the fence itself measures 5-feet, however, the highest point of the gate measures at 6-feet.
- The applicant states that, "due to growing criminal activities in the neighborhood, we would like to make our front gate more secure."
- It is also imperative to note that the fence is currently existing.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.
- [BDA234-016 at 2511 Jordan Valley 200' Radius Video](#)

**Timeline:**

December 7, 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.

January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

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January 10, 2024: The Development Services Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 2024, deadline to submit additional evidence to be incorporated into the board’s docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 2, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: The Board of Adjustment Interim Chief Planner/Board Administrator, the Development Services Senior Plans Examiner and the Senior Planner.

**Speakers:**

For: Arturo Munoz, 2511 Jordan Valley Rd., Dallas TX 75253

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-016, on application of Arturo Munoz, **GRANT** the request of this applicant to construct and/or maintain a 2-foot high 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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Rachel Hayden					
Second:	Jay Narey					
Results:	4-1					Moved to grant
		Ayes:	-		4	David A. Neumann, Rachel Hayden, Michael Hopkovitz and Jay Narey
		Against:	-		1	Kathleen Davis

**7. 4625 Walnut Hill Lane**  
BDA234-025(CJ)

**BUILDING OFFICIAL'S REPORT** Application of Darian Kaar for (1) a special exception to the fence height regulations, and for (2) a special exception to the fence standards regulations regarding prohibited material, and for (3) a special exception to the 20-foot visibility obstruction regulations at 4625 Walnut Hill Ln. This property is more fully described as Block A/5540, Lot 2, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet and prohibits the use of certain materials for a fence and requires a 20-foot visibility triangle at the connection of a street and drive approach. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front yard, which will require (1) a 2-foot special exception to the fence regulations, and to construct a fence using a prohibited material, which will require (2) a special exception to the fence regulations, and to construct and/or maintain a single-family residential fence structure in a required visibility obstruction triangle, which will require (3) a special exception to the 20-foot visibility obstruction regulation.

**LOCATION:** 4625 Walnut Hill Ln.

**APPLICANT:** Darian Kaar

**REQUEST:**

- (5) A request for a special exception to the fence height regulations; and
- (6) A special exception to the fence standards regulations regarding prohibited material,
- (7) A special exception to the 20-foot visibility obstruction regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT 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.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE OPACITY STANDARD REGULATIONS:**

Section 51A-4.602(a)(11) of the Dallas Development Code states that the board may grant a special exception to the fence regulations when in the opinion of the board, the special exception will not adversely affect neighboring property.

**STAFF RECOMMENDATION:**

**Special Exceptions (3):**

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.

**BACKGROUND INFORMATION:**

**Zoning:**

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



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

**Land Use:**

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

**BDA History:**

No BDA history

**GENERAL FACTS/STAFF ANALYSIS:**

- The application Darian Kaar, for the property located at 4625 Walnut Hill Lane focuses on 3 requests relating to the fence height, fence standards and visibility obstruction regulations.
- 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.
- Secondly, the applicant is requesting a special exception to the fence standards regulations regarding prohibited material,
- Lastly, the applicant is proposing to construct and or maintain a single-family residential fence structure in a required 20-foot visibility obstruction triangle, which will require a special exception to the 20-foot visibility obstruction regulation.
- The subject site along with properties to the north, east, south, and west are all developed with single-family homes.
- As gleaned from the submitted site plan and elevations, the applicant is proposing to construct and maintain a 6-foot-high board on board metal frame fence around the circumference of the property at 4625 Walnut Hill Lane.
- It is imperative to note that the subject site is a mid-block lot, and it has single street frontage on Walnut Hill Lane.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The 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.
- The Engineering Division recommends denial of proposed encroachment to the visibility triangle for proposed driveway at 4625 Walnut Hill Lane given the proposed conditions and lack of sight distance from approaching traffic on a major thoroughfare.
- The applicant has the burden of proof in establishing that the special exception(s) to the fence regulations will not adversely affect the neighboring properties.
- Granting the special exceptions to the fence standards relating to height, material and visibility obstruction regulations with a condition that the applicant complies with the submitted site plan and elevations, would require the proposal to be constructed as shown on the submitted documents.

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**Timeline:**

December 2, 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.

January 10, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

January 11, 2024: 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 January 26, 2024, deadline to submit additional evidence for staff to factor into their analysis; and February 9, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 2, 2024: The Board of Adjustment staff review team meeting was held regard request and other requests scheduled for the February public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, and the Assistant City Attorney to the Board.

Speakers:

For: Darian Kaar, 4625 Walnut Hill Ln., Dallas, TX 75229

Against: No Speakers

**Motion # 1**

I move that the Board of Adjustment, in Appeal No. BDA 234-025, on application of Darian Kaar, **GRANT** the request of this applicant to construct and/or maintain a 2-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 height and fence location requirements illustrated in the most recent version of all submitted plans are required.

Maker:	Rachel Hayden				
Second:	Michael Hopkovitz				

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

**Motion # 2**

I move that the Board of Adjustment, in Appeal No. BDA 234-025, on application of Darian Kaar, **GRANT** the request of this applicant for a special exception to the fence materials standards 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 materials and fence location requirements illustrated in the most recent version of all submitted plans are required.

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

**INDIVIDUAL CASES**

**8. 4823 Gurley Avenue**  
 BDA234-028(CJ)

**BUILDING OFFICIAL'S REPORT:** Application of Brenda Santos for (1) a variance to the front-yard setback regulations at 4823 GURLEY AVE. This property is more fully described as Block 30/1232, Lot 6, and is zoned D(A), which requires a front-yard setback of 25-feet. The applicant proposes to construct and/or maintain a single-family residential structure and provide a 16-foot front-yard setback, which will require (1) a 9-foot variance to the front-yard setback regulations.

**LOCATION:** 4823 Gurley Ave.

**APPLICANT:** Brenda Santos

**REPRESENTED BY:**

**REQUEST:**

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

**STANDARD OF REVIEW FOR A VARIANCE:**

Section 51A-3.102(d)(10) of the Dallas Development Code specifies that the board has the power

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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:

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

**ELEMENT II SUBSTITUTE**

Dallas Development Code §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:

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

**STAFF RECOMMENDATION:**

Denial

Rationale: Based upon evidence presented and provided by the applicant, staff concluded that the site is:

- G. Not contrary to the public interest as no letters of opposition were received.
- H. Not restrictive in area due to the lot size (7230.96 sqft); The minimum lot area for residential use the D(A) zoning district is 6,000 sqft; therefore, the property cannot be developed in a manner commensurate with development upon other parcels of land in the same zoning.
- C. Is not a self-created or personal hardship.

**BDA HISTORY:**

No BDA history found within the last 5 years.

**Square Footage:**

This lot contains 7,230.96 of square feet.

This lot is zoned D(A) which has a minimum lot size of 6,000 square feet.

**Zoning:**

Site: DA) (Duplex Zoning District)  
North: DA) (Duplex Zoning District)  
South: DA) (Duplex Zoning District)  
East: DA) (Duplex Zoning District)  
West: DA) (Duplex Zoning District)

**Land Use:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- A request for a variance to the front yard setback regulations of 9-feet is made to construct and/or maintain a single-family residential structure.
- The subject site is currently developed with a single-family dwelling unit.
- Zoning District D(A) requires a minimum setback of 25-feet.
- As gleaned from the submitted site plan, the newly constructed home encroaches into the 25-foot required front yard setback.

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

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

The board may also consider Dallas Development Code **§51A-3.102(d)(10)(b)**, formerly known as **HB 1475** as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

11. 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.
  12. 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.
  13. compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
  14. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
  15. the municipality considers the structure to be a nonconforming structure.
- Granting the proposed 9-foot variance to the front yard setback regulations 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.

BOARD OF ADJUSTMENT  
March 19<sup>th</sup>, 2024

- 200' Radius Video: [BDA234-028 4823 Gurley Ave.](#)

**Timeline:**

- January 12, 2024: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 12, 2024: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- February 15, 2024: The Development Services Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 23, 2024, deadline to submit additional evidence for staff to factor into their analysis; and March 8, 2024, deadline to submit additional evidence to be incorporated into the board's docket materials.
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 5, 2024: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the March public hearings. Review team members in attendance included: The Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, Project Coordinator, Board Secretary, Conservation District Chief Planner, Chief Arborists, Zoning Senior Planner and Transportation Engineer.

**Speakers:**

For: Brenda Santos, 4823 Gurley Ave., Dallas TX 75223

Against: No Speakers

**Motion**

I move that the Board of Adjustment, in Appeal No. BDA 234-028, on application of Brenda Santos, **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.

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

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

Maker:	Kathleen Davis				
Second:	Michael Hopkovitz				

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March 19<sup>th</sup>, 2024

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

**\*\*Recess at 2:58 p.m. – 3:10 p.m.\*\***

**ADJOURNMENT**

After all business of the Board of Adjustment had been considered, Chairman moved to adjourn the meeting at 4:02 p.m.

Maker:	Kathleen Davis				
Second:	Jay Narey				
Results:	5-0 unanimously				Moved to adjourn



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

4/16/2024

Date



Required Signature:  
Dr. Kameka Miller-Hoskins, Board Administrator  
Development Services Dept.

4/16/24

Date



Required Signature:  
David A. Neumann, Chairman  
Board of Adjustment

4/16/24

Date