



BOARD OF ADJUSTMENT

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Panel B Minutes

March 22, 2023

2023 MAY 22 PM 2:51

CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room

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Cheri Gambow, Vice-Chair

PRESENT: [5]

Cheri Gambow, VC	
Michael Kanowski	
Joe Cannon	
Sarah Lamb	
Andrew Finney	

ABSENT: [0]

11:00 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **March 22, 2023 docket.**

Vice-Chair Gambow 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 speaker for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel B January 18, 2023 public hearing minutes.

Motion was made to approve Panel B January 18, 2023 public hearing minutes.

Maker:	Michael Karnowski				
Second:	Joe Cannon				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney
		Against:	-	0	

PUBLIC TESTIMONY:

Speakers: No Speakers

CONSENT ITEMS

1. 6010 Prestonsire Lane
BDA223-023(OA)

BUILDING OFFICIAL'S REPORT: Application of David Hosseiny for a special exception to the single-family use regulations at 6010 Prestonsire Lane. This property is more fully described as Block A/5482, Lot 1 and is zoned R-10(A), which limits the number of dwelling units to one. The applicant proposes to construct and/or maintain an additional dwelling unit, not for rent, which will require a special exception to the single-family use regulations.

LOCATION: 6010 Prestonsire Lane

APPLICANT: David Hosseiny

REQUEST:

A request for a special exception to the single-family use regulations is made to construct and maintain an approximately **1,237** square feet square additional dwelling unit structure on a site developed with single-family dwelling unit.

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

Section 51-4.201(b)(1)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

BACKGROUND INFORMATION

Zoning:

Site: R-10 (A) Single Family District
North: R-10 (A) Single Family District
South: R-10 (A) Single Family District
East: R-10 (A) Single Family District
West: R-1ac(A) Single Family District

Land Use:

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

Zoning/BDA History:

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

1. **BDA189-109:** On January 21, 2020, Panel A granted requests o construct and maintain an accessory dwelling unit and to install and maintain an additional electric meter on the property as special exceptions to the single-family zoning use regulations contained in the Dallas Development Code, as amended, are granted, subject to the 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.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the single-family use regulations focuses on constructing and maintaining a 1,237 additional dwelling unit structure on a site developed with a single-family dwelling unit.

The site is zoned an R-10(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.

The single-family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: (1) be use as rental accommodations; or (2) adversely affect neighboring properties.

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The Dallas Development Code defines:

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

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

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

According to DCAD records, the “main improvement” for the property at 6010 Prestonsire Lane is a structure built in 2020 with 3,756 square feet of total living area with the following “additional improvements”: a 575-square-foot attached garage a 496-brick veneer, a 32-brick veneer and concrete pool. The submitted site plan depicts a proposed 1237 square feet additional dwelling unit.

The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.

As of March 10, 2023, 1 letter has been submitted in support or no letters have been submitted in opposition to the request.

Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e., development on the site must meet all required code requirements).

The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Timeline:

December 12, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

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

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February 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 February 27, 2023, deadline to submit additional evidence for staff to factor into their analysis; and March 10, 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.

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

Speakers:

For: David Hosseiny 6010 Prestonshire, Dallas TX 75220

Against: No Speakers

Motion

I move that the Board of Adjustment **hold** this matter under advisement until **April 19, 2023**.

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	4-1 unanimously				
		Ayes:	-	4	Cheri Gambow, Joe Cannon, Sarah Lamb, Andrew Finney
		Against:	-	1	Michael Karnowski

2. 5253 Bonita Avenue
 BDA223-026(GB)

BUILDING OFFICIAL'S REPORT: Application of Shannon Lombardi for a variance to the front yard setback regulations at 5253 Bonita Avenue. This property is more fully described as Block 7/1973, Part of Lot 15 and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and/or maintain a structure and provide a 10-foot front yard setback, which will require a 15-foot variance to the front yard setback regulations.

LOCATION: 5253 Bonita Ave

APPLICANT: Shannon Lombardi

REQUEST:

- A request for variance of a 15 foot along the Laneri Ave to the front yard setback regulations to construct and maintain a two-story single-family structure with an approximately 1,409 square foot building footprint, part of which is to be located 10 feet from one of the site's two front property lines (Bonita and Laneri). The corner lot property is currently undeveloped with two 25 foot front yard setbacks; Bonita is the shorter front yard and Laneri is the longer front yard.

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:

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Denial.

Rationale:

Staff has not received evidence that compared the size and development on parcels with the same zoning to prove the hardship or commensurate nature of the request. Therefore, staff cannot establish whether the subject site is restrictive in area, shape, or slope, and thus cannot be developed in a manner commensurate with other properties within the same zoning district.

BACKGROUND INFORMATION:

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 undeveloped and zoned R-7.5(A). The areas to the north, south, east, and west are developed with residential uses.

Zoning/BDA History:

- I. June 26, 2022, the application (case number BDA-212-023-panel B) for a variance to the front yard setback was denied without prejudice.

GENERAL FACTS /STAFF ANALYSIS:

- This request focuses on constructing and maintaining a single-family dwelling unit that is situated along a front yard (Laneri Avenue). The lot is situated at the intersection of Bonita Avenue and Laneri Avenue, which provides two front yards, one along each corridor. Since the subject site is zoned an R-7.5 Single Family District, a 25-foot front yard setback must be maintained along both frontages to ensure continuity of the block.
- In a single-family district, a corner lot with frontage on two streets where one frontage is shorter than the other allow the longer frontage to be governed by the side yard regulations. In this case, Laneri Avenue provides the longer frontage and would be treated as a side yard. However, if another structure has an established setback along the block face of the longer frontage, that side must maintain an unobstructed front yard to comply with block continuity.
- A site plan has been submitted denoting the proposed single-family dwelling located five feet from the front property line along Laneri Avenue and containing gross site area of 4,748 square feet. The portion of the single-family structure fronting along Bonita Avenue is not proposed to encroach into the front yard setback and will provide a front yard setback of the required 25 feet. While the portion of the structure along Laneri Avenue will encroach into the required 25-foot front yard setback and proposes to provide a front yard setback of five feet.
- The applicant has the burden of proof in establishing the following:

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- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary (No variance would be necessary if the Laneri Ave frontage were a side yard) to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- According to DCAD records there are no improvements listed for property addressed at Bonita Ave
- The subject site is flat, rectangular in shape (100' x 50') and is 4,748 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. the applicant has not provided evidence that reflects the decrease in buildable lot area due to the double frontage.

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

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.

Additionally, 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:

- 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;
- 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;
- Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- The municipality consider the structure to be a nonconforming structure.

Timeline:

- January 19, 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.
- February 08, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- February 21, 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 February 27th deadline to submit additional evidence for staff to factor into their analysis; and the March 10th 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 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the following: the Chief Planner/Board Administrator, the Board of Adjustment Senior Planners (Giahanna Bridges and Oscar Aguilera), the Board of Adjustment Development Code Specialist, the Board of Adjustment Consultant, Development Services Senior Engineers, and the Board Attorney. No review comment sheets were submitted in conjunction with this application.
- February 26, 2023: The applicant emailed additional documentary evidence which will be considered Attachment A which includes illustrations of the setbacks and pictures of properties with similar setback.

Speakers:

For: Shannon Lombardi 5253 Bonita Ave, Dallas TX 75206

Against: No Speakers

Motion

I move that the Board of Adjustment **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 and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA 223-026—Application of Shannon Lombardi for the 15-foot variance to the front yard setback regulations in the Dallas Development Code, as amended, is granted subject to the following condition:

Compliance with the submitted revised site plan is required.

Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	4-1 unanimously				
		Ayes:	-	4	Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney
		Against:	-	1	Cheri Gambow

HOLDOVER ITEMS

3. 202 Beckleymeade Ave.
 BDA223-004(OA)

BUILDING OFFICIAL’S REPORT: Application of Deeper Life Bible Church, represented by Peter Kavanagh, Zone Systems, Inc., for a variance to the side yard setback regulations at 202 Beckleymeade Avenue. This property is more fully described as block D/7590, lot 1 and is zoned R-7.5(A), which requires a side yard setback of 10 feet. The applicant proposes to construct and/or maintain a structure and provide a 7-foot side yard setback, which will require a 3 foot variance to the side yard setback regulations.

LOCATION: 202 Beckleymeade Avenue

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

REQUEST:

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

UPDATE (3-22-23):

On January 18, 2023, the Board of Adjustment Panel B held this case to the March 22, 2023, public hearing date. On February 27, 2023, the applicant submitted the most recent appraisal roll certified and a construction estimate. Hence, staff is now recommending approval for a variance of 3’ to the side yard setback regulations.

STANDARD FOR A VARIANCE:

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

- 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.

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Approval

Rationale:

- Staff concluded that 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. The applicant provided the Dallas County assessment of the property. The property is assessed at \$1,293,600 and the cost to reconfigure the structure to meet the 10' setback is estimated at a value of \$689,984.00 or 53 percent the value of the structure.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) single family district
North: RR regional retail district
East: R-7.5(A) single family district
South: R-7.5(A) single family district
West: R-7.5(A) single family district

Land Use:

The subject site is developed with church use. The areas to the west, east, and south are developed with single-family uses. Properties to the north are developed with retail uses.

Zoning/BDA History:

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

GENERAL FACTS /STAFF ANALYSIS:

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

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

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

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

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

However, the R-7.5(A) single-family zoning district requires a side yard setback of 10 feet where there is residential adjacency. Therefore, changing the use from residential to nonresidential changed the setback requirements from 5' to 10 feet.

The applicant provided the Dallas County assessment of the property and an estimate for the proposed demolition and to reconstruct a new wall. The property is assessed at \$1,293,600 and the cost to reconfigure the structure to meet the 10' setback is estimated at a value of \$689,984.00 or 53 percent the value of the structure. Therefore, the applicant demonstrated how the variance is necessary to permit development of the subject site or whether the property differs from other parcels of land by (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, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) single-family district zoning designation.

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

- That granting the variance to the side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site

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cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5 single-family zoning classification.

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

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

Timeline:

- October 24, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- December 8, 2022: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel B.
- December 14, 2022: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and the January 6, 2023 deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- December 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.
- January 18, 2023: The Senior Planner wrote the applicant a letter of the board's action to hold this meeting to the March 22, 2023, public hearing; the February 27, 2023's deadline to submit additional evidence for staff to factor into their analysis; and the March 10th deadline to submit additional evidence to be incorporated into the Board's docket materials
- February 27, 2023: The applicant provided additional evidence (**Attachment A**).
- February 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the other requests scheduled for the January public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans

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Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.

Speakers:

For: Peter Kavanaugh 1620 Handley Dallas, TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-004, **hold** this matter under advisement until **April 19, 2023**, with instruction to add special exception for landscape regulations.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney
		Against:	-	0	

4. 10227 Gaywood Rd.

BDA223-011(OA)

BUILDING OFFICIAL’S REPORT: Application of Saul Mejia for a special exception to the fence standards regulations at 10227 Gaywood Road. This property is more fully described as Block E/5517, Lot 11A and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9-foot-high fence in a required front yard, which will require a 5-foot special exception to the fence standards regulations.

LOCATION: 10227 Gaywood Road

APPLICANT: Saul Mejia

REQUEST:

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

UPDATE (3-22-23):

On January 18, 2023, the Board of Adjustment Panel B held this case to the March 22, 2023, public hearing date to give time to the applicant to gain consensus from the neighborhood.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special

exception to the fence standards when in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

1. BDA223-006: On January 17, 2023, The Board of Adjustment Panel A will hear a request for a special exception to the fence height regulations at 10240 Gaywood Road, the property to the south of the subject site.
2. BDA212-113: On December 12, 2022, Panel C granted a request for an 8' special exception to the fence height regulations at 10203 Hollow Way Road.
3. BDA212-082: On September 19, 2022, Panel C denied without prejudice an eight-foot special exception to the fence height regulations at 10203 Hollow Way Road.
4. BDA212-022: On April 20, 2022, Panel B granted a special exception to the height requirement for fences a special exception to the surface area openness requirement subject to compliance with the submitted site plan, and elevation is required at 10007 Hollow Way Rd.
5. BDA212-033: On April 20, 2022, Panel B granted a special exception to the height requirement for fences a special exception to the surface area openness requirement subject to compliance with the submitted site plan, and elevation is required at 10007 Hollow Way Rd.
6. BDA212-089: On October 20, 2021, Panel B, Board of Adjustment granted a request for a special exception to the fence regulations, a special exception to the fence standards regulations, and two special exceptions to the visual obstruction regulations at 9646 Douglas Avenue.

GENERAL FACTS/STAFF ANALYSIS:

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

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.

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

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

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

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

As of March 10, 2023, 32 letters has been received in support and 13 letters in opposition of this request.

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

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

Timeline:

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

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

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

- an attachment that provided the public hearing date and panel that will consider the application; the December 23, 2022, deadline to submit additional evidence for staff to factor into their analysis; and January 6, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.

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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.

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

January 18, 2023: The Senior Planner wrote the applicant a letter of the board's action to hold this meeting to the March 22, 2023, public hearing; the February 27, 2023's deadline to submit additional evidence for staff to factor into their analysis; and the March 10th deadline to submit additional evidence to be incorporated into the Board's docket materials

February 23, 2023: The applicant provided additional evidence.

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

Speakers:

For: Garreth Sarosi 5909 Berkshire Ln, Dallas TX 75225
(Did not speak) Ariane Stern 4651 Irvin Simone Dr, Dallas TX 75229

Against: Robert Feldman 5358 Meaders Ln, Dallas TX 75229
Elizabeth Winslow 10111 Gaywood Rd, Dallas TX
Jay Hartnett 10243 Gaywood Rd, Dallas TX 75229
Elaine Everitt 5106 Kelsey Rd, Dallas TX
Maggie Murchison 10131 Gaywood Rd, Dallas TX
Munir Harbor 10151 Gaywood Rd, Dallas TX 75229
Cynthia Feldman 5358 Meaders Ln, Dallas TX 75229

Did not Speak: Hiaranne Wallenstein 10122 Gaywood Rd, Dallas TX
John & Chris Cousins 5233 Palomar Ln, Dallas TX
Deborah Hartnett 10243 Gaywood Rd, Dallas TX
Eric Maas 10311 Gaywood Rd, Dallas TX 75229

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-011, **deny** the special exception requested by this applicant to construct and/or maintain a nine-foot-high fence **with prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

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Maker:	Sarah Lamb				
Second:	Joe Cannon				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Michael Karnowski, Joe Cannon, Sarah Lamb, Andrew Finney
		Against:	-	0	

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Gambow moved to adjourn the meeting at 2:56 p.m.

Mary Williams
 Required Signature:

Mary Williams, Board Secretary
 Development Services Dept.

05/17/2023
 Date

Sheniqua Dunn
 Required Signature:

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

5-17-23
 Date

Cheri Gambow
 Required Signature:

Cheri Gambow, Vice-Chair
 Board of Adjustment

5/17/23
 Date