



BOARD OF ADJUSTMENT

Panel C Minutes

February 23, 2023

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CITY SECRETARY
DALLAS, TEXAS

6ES Briefing Room

24957316190@dallascityhall.webex.com

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Robert Agnich, Vice-Chair

PRESENT: [5]

Robert Agnich, VC

Rodney Milliken

Jared Slade

Roger Sashington

Judy Pollock

ABSENT: [0]

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

Vice-Chair Agnich called the hearing to order at 1:03 P.M. with a quorum of the Board of Adjustment present.

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

PUBLIC SPEAKERS

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

We had no speakers for public testimony during this hearing.

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MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel C December 12, 2022 public hearing minutes.

Motion was made to approve Panel C December 12, 2022 public hearing minutes.

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

UNCONTESTED ITEMS

1. 4803 Victor Street

BDA223-021(ND)

FILE NUMBER: BDA223-021(ND)

BUILDING OFFICIAL’S REPORT: Application of Felicia Edoghotu for a variance to the front yard setback regulations at 4803 Victor Street. This property is more fully described as Block A/0795, ½ part of lot 7, and is zoned PD-98/Chapter 51, which requires a front yard setback of 25 feet. The applicant proposes to construct a single-family residential structure and provide a 10-foot front yard setback, which will require a 15-foot variance to the front yard setback regulations.

LOCATION: 4803 Victor Street

APPLICANT: Felicia Edoghotu

REQUEST:

A request for a variance to the front yard setback regulations of 15 feet is made to construct and/or maintain a two-story single family home structure with an approximately 2,700 square foot building footprint, part of which is to be located 10 feet from one of the site’s two front property lines (N. Prairie Avenue) or 15 feet into this 25-foot front yard setback on a site that is undeveloped.

STANDARD FOR A FRONT YARD VARIANCE FOR PD 98:

- Permit such variances of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum sidewalk or setback standards, off-street parking or off-street loading, or visibility obstruction regulations where the literal enforcement of the provision of this article would result in an unnecessary hardship and where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such restricted area, shape, or slopes that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district. A modification of

standards established by this article may not be granted to relieve a self-created or personal hardship, not for financial reason only, nor may such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this article to other parcels of land in this district.

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most residential lots in the PD-98 zoning district in that it is restrictive in area due to having two, 25' front yard setbacks when most lots in this zoning district have one 25' front yard setback. The 5,300 square foot site has 20' of developable width available once a 25' front yard setback is accounted for on N. Prairie Avenue and a 5' side yard setback is accounted for on the parallel. If the lot were more typical to others in the zoning district with only one front yard setback, the 50' wide site would have 40' of developable width.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that that the square footage of the proposed home on the subject site at approximately 2,660 square feet is commensurate to nine other homes in the same PD-98 zoning district that have average home size of approximately 4,835 square feet and three even more specific size comparable homes averaging 2,606 square feet.
- Staff concluded that granting the variance in this application would not be contrary to public interest in that the variance would allow a structure in one of the site's two front yard setbacks where the location of this structure would comply with the required 5' side yard setback if the

N. Prairie Avenue (longer street frontage) on this corner lot were able to be recognized as it is proposed to function as a side yard.

BACKGROUND INFORMATION:

Zoning:

Site: PD 98 (Planned Development)
North: PD 98 (Planned Development)
South: PD 98 (Planned Development)
East: PD 98 (Planned Development)
West: PD 98 (Planned Development)

Land Use:

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

Zoning/BDA History:

1. BDA145-040, Property at 4803 Victor Street (the subject site)
On November 12, 2018, the Board of Adjustment Panel C denied variance requests to the front yard setback and to the fence height regulations without prejudice.
The case report stated that the requests were made to construct/maintain a two-story single family home structure with a total "slab area" of approximately 1,800 square feet or with a total "home size" of approximately 3,100 square feet to be located 13' 10" from one of the site's two front property lines (N. Prairie Avenue) or 11' 2" into this 25' front yard setback and to construct/maintain a fence (an 8' high solid board-on-board wood fence) higher than 4' in height in one of the site's two required front yards (N. Prairie Avenue) on the subject site.
2. BDA145-040, Property at 4734 Tremont Street (two lots northwest of the subject site)
On April 22, 2015, the Board of Adjustment Panel B granted a variance to the front yard setback regulations.
The case report stated that the requests were made to replace an existing one-story nonconforming single-family home structure on the subject site with a two-story single family home with (according to the submitted revised site plan) a building footprint of about 2,000 square feet and a total living area of about 2,600 square feet, part of which would be located 5' from one of the site's two front property lines (N. Prairie Avenue) or 20' into this 25' front yard setback.

GENERAL FACTS/STAFF ANALYSIS:

- This request for variance to the front yard setback regulations of 15 feet focuses on constructing and maintaining a two-story single family home structure with a total "slab area" of approximately 1,800 square feet or with a total "home size" of approximately 3,200 square feet to be located 10 feet from one of site's two required front yards (N. Prairie Avenue) or 10 feet into this 25' front yard setback.
- PD 98 states that general standards for development of single-family uses with regard to setbacks must be in accordance with the provisions of the Residential - 7,500 Square Feet District of Chapter 51. Structures on lots zoned R-7.5 are required to provide a minimum front yard setback of 25.
- The subject site is located at the northwest corner of Victor Street and N. Prairie Avenue. Regardless of how the structure is proposed to be oriented to front Victor Street, the subject site has 25' front yard setbacks along both street frontages. The site has a 25' front yard setback along Victor Street, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 25' front yard setback along N. Prairie Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 5' side yard setback is required. However, the site's N. Prairie Avenue frontage that would function as a side yard on the property is treated as a front yard setback nonetheless, to maintain the continuity of the established front yard setback established by the lots to the northwest that front/are oriented southwest towards N. Prairie Avenue.
- The submitted site plan indicates that the proposed home structure is located as close as 15' from the N. Prairie Avenue front property line or 10 feet into this 25' front yard setback.
- According to DCAD records, there are no "main improvement" or "no additional improvements" for property addressed at 4803 Victor Street.
- The subject site is flat, regular in shape and according to the submitted application is 0.121 acres (or approximately 5,300 square feet) in area. The site is zoned PD 98 where lots are typically 7,500 square feet in area.
- Most lots in the PD 98 zoning district have one 25' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has two 25' front yard setbacks and one 5' side yard setback.
- The site plan represents that approximately 1/4 of the home structure is located in the 25' N. Prairie Avenue front yard setback.
- The 50' wide subject site has 20' of developable width available once a 25' front yard setback is accounted for on the southwest and a 5' side yard setback is accounted for on the northeast. If the lot were more typical to others in the zoning district with only one front yard setback, the 50' wide site would have 40' of developable width.
- The applicant submitted a document with this application, indicating among other things that the total living area of the proposed home on the subject site is approximately 2,660 square feet, and the average total living area of 9 other properties in the same zoning is approximately 4,835 square feet and three even more specific size comparable homes averaging 2,606 square feet.
- The applicant has the burden of proof in establishing the following:
 - That permitting such a variance of the front yard where the literal enforcement of the provision of this article would result in an unnecessary hardship and where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same PD 98 district by being of such restricted area, shape, or slopes that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same PD 98 district.

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- A modification of standards established by this article may not be granted to relieve a self-created or personal hardship, not for financial reason only, nor may such modification be granted to permit any person a privilege in developing a parcel of land not permitted by this article to other parcels of land in this district.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a home structure that would be located 15 feet from one of the site’s two front property lines (N. Prairie Avenue) or 10 feet into this 25’ front yard setback.\

Timeline:

December 16, 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.

January 5, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

January 20, 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 January 23rd deadline to submit additional evidence for staff to factor into their analysis; and the February 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.”

January 24,2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, the Board of Adjustment Development Code Specialist, the Board of Adjustment Consultant, the Chief Arborist, Development Services Senior Engineers, and the Board Attorney.

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

Speakers:

For: No Speakers

Against: No Speakers

Motion

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and evidence submitted that the applications satisfy the Dallas Development Code, as amended, and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA 223-021 —Application of Felicia Edoghotu, for a variance to the front yard setback regulations in the Dallas Development Code, is **granted** subject to the following condition:

Compliance with the submitted site plan is required.

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

HOLDOVER ITEMS

- 2. **3923 Frontier Ln.**
BDA212-105(OA)

FILE NUMBER: BDA212-105(OA)

BUILDING OFFICIAL’S REPORT: Application of **Baldwin Associates** for a variance to the front yard setback regulations, for a special exception to the fence height regulations, for a fence standards regulation, for a special exception to the visibility visual obstruction regulation (20’ by 20’ visibility triangle) and for a at 3923 Frontier Lane. This property is more fully described as Lot 18, Block 3/2972, and is zoned R-7.5(A), Single Family District which limits the height of a fence in the front yard to four feet, requires a 20’ visibility triangle at driveway approaches, a fence panel with a surface area that is less than 50 percent open and may not be located less than 5’ form the front lot line, and requires a front yard setback of 30’. The applicant proposes to construct a single family residential structure and provide a 5’ front yard setback, which will require a 25’variance to the front yard setback regulations and to construct an 8’ 9” high fence in the required front yard which will require a 4’ 9” special exception to the fence regulations and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area and located less than 5’ from the front lot line which will require a special exception to the fence regulation, and to construct a single family residential fence structure in a required visibility obstruction at the driveway approaches.

LOCATION: 3923 Frontier Lane

APPLICANT: Baldwin Associates

REQUESTS:

The following requests have been made on a site that is developed with a single family home:

1. A request for a variance to the front yard setback regulations of 25' is made to maintain an approximately 768 square-foot pool located 5' from one of the site's two recorded front property lines (Ellsworth Street) or 25' into this 30' recorded front yard setback on a site that is developed with a single-family structure.
2. A request for a special exception to the fence standards regulations related to the maximum fence height of 4' is made to construct and maintain an 8' 9" high solid wood fence and a 6' high solid wood gate in one of the site's two front property lines (Ellsworth Street).
3. A request for a special exception to the fence standards regulations related to fence panels with a surface area that is less than 50 percent open and less than 5' from the front lot line is made to construct and maintain the 8' 9" high solid wood fence and a 6' high solid wood gate located in one of the site's two front property lines (Ellsworth Street)
4. A request for a special exception to the visual obstruction regulations is made to locate and maintain an 8' 9" high wood fence and a 6' high solid wood gate located within both 20' visibility triangles at the driveway approaches into the site from Ellsworth Street.

UPDATE (2-23-23):

On December 12, 2022, the Board of Adjustment Panel C held this case to the February 23, 2023, public hearing date. On February 9, 2023, the applicant submitted a revised site plan and elevations. The applicant modified the fence location by the driveway approach and made some modifications to the fence elevations and materials at the driveway location. Note that these modifications were not included in the staff analysis since the revisions were provided after the deadline for staff review meeting.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d) (3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (front yard variance):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-7.5(A) single family zoning district due to its restrictive area, slightly irregular shape and slightly sloped with two front setbacks causing less area to be built compared to 20 other lots in the same R-7.5(A) single family zoning district. Ultimately, the property cannot be developed in a manner commensurate with the development upon five other parcels of land with the same the same R-7.5(A) single family zoning district.
- The applicant submitted a document (Attachment A) indicating, among other things, that the proposed pool addition on the subject site is commensurate to 20 other lots in the same R-7.5(A) single family zoning district.

STAFF RECOMMENDATION (fence standards regulations):

No staff recommendation is made on this or any request for a special exception to the fence standards 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.

STAFF RECOMMENDATION (visual obstruction special exceptions 20-foot visibility triangles):

No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Department Senior Engineer has no objections to the proposed requests to encroach into the required visual obstruction special exceptions to both 20-foot visibility triangles at the driveway approaches. (Attachment B).

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 and surrounding properties are developed with single family uses.

Zoning/BDA History:

There has been one related board or zoning cases in the immediate vicinity within the last five years.

- BDA189-022: On February 19, 2019, Panel C denied a variance to the front yard setback regulations without prejudice and granted a special exception to the height requirements to maintain an eight-foot-high fence in one of the site's two required front yards (Williamson) at 3956 Frontier Lane.

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

This request focuses on maintaining an approximately 768 square-foot pool located 5' from one of the site's two front property lines (Ellsworth Street) or 25' into this 30-foot recorded front yard setback on a site that is developed with a single-family structure.

Structures on lots zoned R-7.5(A) single family district must have a minimum front yard setback of 25'. However, the subdivision plat was recorded with a 30' front yard setback for Jerome Way, now Frontier Lane and Ellsworth Street. A site plan has been submitted denoting the existing pool

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structure located 5' from one of the two front property lines (Ellsworth Street). The site plan shows that approximately 75 percent of the pool structure will be in the site's 30' front yard setback. Note that the city of Dallas issued a permit for the pool. The permit was issued in error.

The subject site is slightly irregular in shape, slightly sloped and the lot is approximately 11,154 square feet in area. R-7.5(A) single family zoning district requires lots within this area to have a minimum lot size of 7,500 square feet.

The applicant submitted a document (Attachment A) indicating, among other things, that the proposed pool structure on the subject site is commensurate to five other lots in the same R-7.5(A) single family zoning district. Attachment A also notes the lot area to home size is 50 percent while 19 other lots have less than 50 percent to the lot area to home size. This may be adjudicated to the lot having two front yards.

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) 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(A) single family zoning classification.

If the board were to grant this front yard setback variance request and impose the submitted site plan as a condition, the pool structure in the front yard setback would be limited to what is shown on this document. Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than for an approximately 768 square-foot located 5' from the site's front property line or 25 feet into the 30-foot recorded front yard setback on a site that is developed with a 5, 551 square foot two-story residential structure.

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

These requests focus on constructing and maintaining an 8' 9" high solid wood fence and a 6' high solid wood gate in one of the site's two front property lines (Ellsworth Street) and maintaining this fence and gate with fence panels with a surface area that is less than 50 percent open and less than 5' from the front lot line in one of the site's two front property lines (Ellsworth Street).

The requests for special exceptions to the fence standards regulations related to height and fence panel materials/location from one of the site's two recorded front property lines (Ellsworth Street):

- constructing and maintaining an 8' 9" high solid wood fence and a 6' tall solid wood gate in one of the site's two front property lines (Ellsworth Street) and maintaining this fence and gate with fence panels with a surface area that is less than 50 percent open and less than 5' from the front lot line in one of the site's two front property lines (Ellsworth Street).

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Section 51A-4.602(a)(2) of the Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard. As noted, the proposed fence would be within the required 30' platted front yard setback.

Additionally, the Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five from the front lot line.

The submitted site plan and revised elevation denotes the proposed 8' 9" high solid wood panel fence with a 6' tall wood panel gates located within the required front yard and along the property line.

The following additional information was gleaned from the submitted site plan:

- The proposed/existing fence consists of a 6' tall cedar fence set on top of a 2'9" tall retaining wall with a 6' gate and it is approximately 45 feet in length parallel to Ellsworth Street to the front property line of this street.
- The distance between the proposed fence and the pavement line is 11'. The fence is located at the property line.

Staff conducted a field visit of the site and surrounding area and noted several fences that appeared to be above 4' in-height in the required front yard on Williamson Road and at Chantilly Lane and Frontier Lane.

As of December 2, 2022, 1 letter have been received in opposition and no letters in support of this request.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to the height of 4' and to location and materials located on Ellsworth Street will not adversely affect neighboring property.

Granting these special exceptions to the fence standards related to the height and opacity would require the proposal exceeding 4' in-height in the front yard setbacks located in one of the site's two front property lines (Ellsworth Street) and exceeding 50 percent opacity to be maintained in the locations and of the heights and materials as shown on site plan and revised elevation.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions 20' visibility triangles):

These requests for special exceptions to the visual obstruction regulations focus on constructing and maintaining portions of the 8' 9" solid wood fence and a 6' tall solid wood gate within the required 20-foot visibility triangle at the driveway approaches into the site on Ellsworth Street.

The Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45' visibility triangles at street intersections and 20' visibility triangles at drive approaches and at alleys on properties zoned single family); and
- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

The applicant is requesting special exceptions to the visual obstruction regulations for the two

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required 20' visibility triangles on each side of the driveway into the site on Ellsworth Street.

The applicant submitted a site plan and revised elevation indicating portions of the 8' 9" high solid wood fence and a 6' tall solid wood gate within the 20' visibility triangle located on the north and south sides of the driveway into the site on Ellsworth Street.

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".

As of December 2, 2022, one letter has been received in opposition and no letters support have been received of this request.

The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations, to locate and maintain portions of the of the 8' 9" high solid wood fence and a 6' tall solid wood gate within the required 20' visibility triangle at the driveway approaches, do not constitute a traffic hazard.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and revised elevation would require the fence exceeding 4' in-height in the front yard setback and all visual obstructions to be constructed in the locations and heights as shown on these documents.

Timeline:

August 26, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.

October 13, 2022: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

October 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 October 24th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th 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.

October 24, 2022: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**)

October 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included the Development Services Assistant Director, the Board of Adjustment Chief Planner/Board

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Administrator, The Development Services Chief Planner, Development Service Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Transportation Development Services Senior Engineer, Development Services Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

- October 31, 2022: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked “no objection to existing encroachment to visibility triangle at private residential driveway on Ellsworth Street” (**Attachment B**).
- November 1, 2022: The applicant submitted a revised fence elevation drawing to staff with new materials for the fence (**Attachment C**)
- November 14, 2022: The Board of Adjustment Panel C conducted a public hearing on this application, and delayed action on this application until their next public hearing to be held on December 12, 2022.
- November 16, 2022: The Senior Planner wrote the applicant a letter of the board’s action; the November 22nd deadline to submit additional evidence for staff to factor into their analysis; and the December 2nd deadline to submit additional evidence to be incorporated into the Board’s docket materials.
- November 29, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Senior Plans Examiner, the Development Services Chief Planner, the Assistant City Attorney to the Board, and the Senior Planner.
- December 13, 2022: The Senior Planner wrote the applicant a letter of the board’s action to hold this meeting to the February 23, 2023, public hearing; the January 23, 2023’s deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials.
- January 24, 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 Board of Adjustment Chief Planner/Board Administrator, The Development Services Chief Planner, Development Service Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Transportation Development Services Senior Engineer, Development Services Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- February 9, 2023: The applicant submitted a revised fence elevation drawing to staff with new materials for the fence (**Attachment D**)

BOARD OF ADJUSTMENT ACTION FEBRUARY 23, 2023

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX
Susan Wasilewski 6946 Ellsworth Ave. Dallas, TX

APPEARING IN OPPOSITION: No Speakers

1.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 212-105, **grant** the 25-foot variance to the front yard setback regulations of the Dallas Development Code.

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

Compliance with the revised submitted site plan is required.

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

2.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 212-105, **grant** the request of this applicant to construct and/or maintain an eight-foot nine-inch high fence as a special exception to the height requirement for fences contained in the Dallas Development Code.

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

Compliance with the submitted revised site plan and revised elevation is required.

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

3.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 212-105, **grant** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences contained in the Dallas Development Code.

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

Compliance with the submitted revised site plan and revised elevation is required.

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

4.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 212-105, **grant** the request of this applicant to maintain items in the visibility triangle at the driveway approach as a special exception to the visual obstruction regulations contained in the Dallas Development Code.

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

Compliance with the submitted revised site plan and revised elevation is required.

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

INDIVIDUAL ITEMS

3. 4327 Cabell Drive
BDA223-017(OA)

FILE NUMBER: BDA223-017(OA)

BUILDING OFFICIAL'S REPORT: Application of Julia White for special exceptions to the fence standards and visual obstruction regulations at 4327 Cabell Drive. This property is more fully described as Block F/0660, Lot 7 and is zoned MF-2(A), which limits the height of a fence in the front yard to 4 feet, requires a fence panel with a surface area that is less than 50 percent open to not be located less than 5 feet from the front lot line, requires a 20 foot visibility triangle at driveways, and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations, and 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 a special exception to the fence standards regulations, and to locate and/or maintain items in required 20 foot visibility triangles at driveways and in a required 45 visibility triangle at a street intersection, which will require special exceptions to the visual obstruction regulations.

LOCATION: 4327 Cabell Drive

APPLICANT: Julia White

REQUEST:

The following requests have been made on a site that is developed with townhouses:

1. Requests for special exceptions to the fence standards regulations related to fence height of 4' are made to maintain an 8' tall solid cedar fence with 8' tall steel posts and a pedestrian gate in the site's two front property lines (Cabell Drive & Ashby Street).
2. Requests for special exceptions to the fence standards regulations related to the fence panels with a surface area that is less than 50 percent open less than 5' from the front lot line are made to maintain an 8' high solid cedar fence with 8' tall steel posts along Cabell Drive and Ashby Street located less than 5' from these front lot lines.
3. Requests for special exceptions to the visual obstruction regulations is made to maintain the 8' tall solid cedar fence with 8' tall steel posts in the southeast 20' visibility triangle at a driveway into the site on Ashby Street.
4. A request for special exception to the visual obstruction regulations is made to maintain the 8' tall solid cedar fence with 8' tall steel posts 45-foot visibility triangle at the Cabell Drive and Ashby Street intersection.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (fence standards):

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.

STAFF RECOMMENDATION (standard for a special exception to the visual obstruction regulations):

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (visual obstruction regulations):

No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the board, the item will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the proposed obstructions for the fence and recommends denial of the requests stating that the fence obstructs visibility.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) Multifamily District
North: MF-2(A) Multifamily District
South: MF-2(A) Multifamily District

East: MF-2(A) Multifamily District
West: MF-2(A) Multifamily District

Land Use:

The subject site is developed with townhomes. The areas to the north, west, south, and is developed with multifamily use.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (fence standards):

The requests for special exceptions to the fence standards regulations are twofold. Special exceptions to the fence standards regulations related to fence height of 4' are made to maintain an 8' tall solid cedar fence with 8' tall steel posts and a pedestrian gate in the site's two front property lines and a special exceptions to the fence standard regulations related to a fence with panels with surface areas less than 50 percent open are made to maintain the aforementioned high solid an 8' tall solid cedar fence with 8' tall steel posts and less than 5' from these front lot lines.

The subject site is zoned MF-2(A) Multifamily District which requires a 15' front yard setback.

Section 51A-4.602(a)(4) of the Dallas Development Code states that in multifamily districts, a fence located in the required front yard may be built to a maximum height of six feet above grade if all conditions in the following subparagraphs are met:

- No lot in the blockface may be zoned as a single family or duplex lot.
- No gates for vehicular traffic may be located less than 20 feet from the back of the street curb.
- No fence panel having less than 50 percent open surface area may be located less than five feet from the property line.

Section 51A-4.602(a)(6) of the Dallas Development Code states that unless all of the conditions in Paragraphs (4) and (5) are met, a fence in a multifamily district may not exceed four feet above grade when located in the required front yard, except when the required front yard is governed by the side or rear yard regulations pursuant to Section 51A-4.401.

Since the applicant's fence proposal is unable to meet all the conditions required by Section 51A-4.602(a)(4) of the Dallas Development Code, the proposed fence may not exceed four feet above grade when located in the required front yard. Therefore, for the applicant to accomplish his proposal, the applicant requests the above special exceptions to the fence standards regulations.

The site is located at the southwest corner of Ashby Street and Cabell Drive. The site has two front yard setbacks given that it fronts two streets as any corner property would that is not zoned a single family, duplex, or agricultural district.

The applicant submitted site plan and a site plan/elevation representing the proposed fences in the front yard setbacks with notations indicating that the proposal reaches a maximum height of 8'. The submitted site plan and elevation indicating the proposed fence will be located along Cabell Drive and Ashby Street with fence panels having a surface area that is less than 50 percent open and located less than 5' from this front lot line – a 8' high solid wood fence approximately 30' in length parallel to Cabell Drive, and approximately 53' in length parallel to Ashby Street of the site in the front yard setbacks and located on these front lot lines.

The following additional information was gleaned from the submitted site plan:

- Cabell Drive: the proposal is represented as being approximately 30' in length parallel to the street and approximately 4' perpendicular to the street on the east side of the site in this required front yard; located approximately 12' from the pavement line.
- Along Ashby Street: the proposal is represented as being approximately 53' in length parallel to the street and at the property line perpendicular to the street on the southeast of the site in this required front yard; located approximately 15' from the pavement line.

The Development Service Department Senior Planner conducted a field visit of the site and

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surrounding area and noted several other fences that appeared to be above 4' in height along Cabell Drive and Ashby Steet located in a front yard setback.

As of February 10, 2023, 31 letters had been submitted in support of the requests, and no letters had been submitted in opposition.

The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height above 4' and to location and fence panels with surface areas that are less than 50 percent open will not adversely affect neighboring property. Granting these special exceptions to the fence standards related to height of up to 8' and to location fence panels with surface areas that are less than 50 percent open in certain areas on the site with a condition imposed that the applicant complies with the revised site plan and elevation documents, would require the proposals exceeding 4' in height 8' tall solid cedar fence with 8' tall steel posts and a pedestrian gate on the front lot lines of Cabell Drive and Ashby Steet) to be maintained in the location as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions 20' visibility triangles & 45-foot visibility triangle):

These requests for special exceptions to the visual obstruction regulations focus on maintaining portions of 8' tall solid cedar fence with 8' tall steel posts and a pedestrian gate within the southeast required 20-foot visibility triangle at the driveway approach from Ashby Street and within the required 45-foot visibility triangle at the street intersection (southwest corner of Ashby Street and Cabell Drive).

The Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

The applicant is requesting special exceptions to the visual obstruction regulations for the southeast required 20-foot visibility triangles on each side of the driveway into the site on Ashby Street as well as a special exception to the visual obstruction regulations for the required 45-foot visibility triangles at the intersection of Ashby Street and Cabell Drive.

The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "recommends that this be denied. Fence obstructs visibility".

As of February 10, 2023, 31 letters had been submitted in support of the requests, and no letters had been submitted in opposition.

The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations, to maintain portions of the 18' tall solid cedar fence with 8' tall steel posts and a pedestrian gate within the southeast required 20-foot visibility triangle

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at the driveway approach and within the required 45-foot visibility triangle at the street intersection (southwest corner of Ashby Street and Cabell Drive), do not constitute a traffic hazard.

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

TIMELINE:

- December 1, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.
- January 16, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- January 18, 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 January 23th deadline to submit additional evidence for staff to factor into their analysis; and the February 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.
- January 24, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included the Development Services Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, The Development Services Chief Planner, Development Service Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Transportation Development Services Senior Engineer, Development Services Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board).
- February 9, 2023: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

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Speakers:

For: Julia White, 4327 Cabell Drive Dallas TX

Against: None.

1.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-017, on application of Julia White, **grant** the request of this applicant to construct and/or maintain an eight-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

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

2.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-017, on application of Julia White, **grant** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

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

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		Against:	-	0	
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3.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-017, on application of Julia White, **grant** the request of this applicant to maintain items in the visibility triangle at the driveway approach as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

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

4.- Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-017, on application of Julia White, **grant** the request of this applicant to maintain a in the visibility triangle at the street intersection as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

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

4. 4502 Leland Avenue
BDA223-020(ND)

FILE NUMBER: BDA223-020(ND)

BUILDING OFFICIAL'S REPORT: Application of Bangaly Kaba represented by Andrew Thorpe for a variance to the front yard setback regulations at 4502 LELAND AVE. This property is more fully described as Block 2/1762, southwest part of Lot 1, and is zoned PD-595 subdistrict R-5(A), which requires a front yard setback of 20 feet. The applicant proposes to construct a two-story single-family residential structure and provide a 5-foot 6-inch front yard setback, which will require a 14-foot 6-inch variance to the front yard setback regulations.

LOCATION: 4502 Leland Avenue

APPLICANT: Bangaly Kaba/Andrew Thorpe

REQUEST:

A request for a variance to the front yard setback regulations of 14 feet 6 inches is made to construct and/or maintain a two-story single family home structure with an approximately 2,300 square foot building footprint, part of which is to be located 5 feet 6 inches from one of the site's two front property lines (Marburg Street) or 14 feet 6 inches into this 20 foot front yard setback on a site that is undeveloped.

STANDARD FOR A VARIANCE:

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

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

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 recommends denial. While staff recognizes that the site is different from most properties zoned R-5(A) in that it has two front yard setbacks, the applicant has not shown by submitting a document listing five properties with equivalencies of corner lot, zoning, and side yard setbacks of five feet of the proposed home on the subject site at approximately 2,300 square feet is commensurate to other homes in the same R-5(A) zoning district.

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district 5,000 square feet)
North: R-5(A) (Single family district 5,000 square-feet)
South: R-5(A) (Single family district 5,000 square-feet)
East: R-5(A) (Single family district 5,000 square-feet)
West: R-5(A) (Single family district 5,000 square-feet)

Land Use:

The subject site is undeveloped. The areas to the north, south, east, and west are developed with single family uses. Areas to the immediate Northwest and Southwest are commercial institutional uses.

Zoning/BDA History:

There has not been any BDA History in the past five years.

GENERAL FACTS /STAFF ANALYSIS:

- This request for variance to the front yard setback regulations of 14 feet 6 inches focuses on constructing and maintaining a two-story single family home structure with an approximately 1,750 square foot building footprint, part of which is to be located 5 feet 6 inches from one of the site's two front property lines (Marburg Street) or 14 feet 6 inches into this 20 foot front yard setback on an undeveloped site.
- The property is located in an R-5(A) zoning district which requires a minimum front yard setback of 20 feet.
- The subject site is located at the southwest corner of Leland Avenue and Marburg Street. The subject site has 20-foot front yard setbacks along both street frontages. The site has a 20-foot front yard setback along Leland Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 20-foot front yard setback along Marburg, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 5' side yard setback is required. However, the site's Marburg Street frontage that would function as a side yard on the property is treated as a front yard setback nonetheless, to maintain the continuity of the established front yard setback established by lots to the north that front/are oriented northward towards Marburg Street.
- The submitted site plan indicates that the proposed structure is located 5 feet 6 inches from the Marburg front property line or 14 feet 6 inches into this 20-foot front yard setback.
- According to DCAD records there are no improvements listed for property addressed at 4502 Leland Avenue.
- The subject site is flat, rectangular in shape (100' x 50') and is 5,000 square feet in area. The site is zoned R-5(A) where lots are typically 7,500 square feet in area.
- The site plan represents that approximately 1/2 of the structure is located in the 20' Marburg front yard setback.
- The 50' wide subject site has 25 feet of developable width available once a 20 foot front yard setback is accounted for on Marburg and a 5' side yard setback is accounted for on the parallel yard. If the lot were more typical to others in the zoning district with only one front yard setback, the 50' wide site would have 45 feet of developable width.
- No variance would be necessary if the Marburg frontage were a side yard since the site plan represents that the proposed home is 5 feet 6 inches' from the Marburg Street property line and the side yard setback for properties zoned R-5(A) is 5 feet.
 - A submitted floor plan represents that the "total under roof" area of the proposed home is about 2,300square feet. has not shown by submitting a document listing five properties with equivalencies of corner lot, zoning, and side yard setbacks of five feet of the proposed home on the subject site at approximately 2,300 square feet may not be commensurate to other homes in the same R-.5(A) zoning district.
- 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

BOARD OF ADJUSTMENT

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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-.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-.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 5 feet 6 inches from the site’s Marburg Street front property line (or 14 feet 6 inches into this 20 foot front yard setback).

Timeline:

November 14, 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.

January 5, 2023: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 20, 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 January 23rd deadline to submit additional evidence for staff to factor into their analysis; and the February 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.”

January 24, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planner, the Board of Adjustment Development Code Specialist, the Board of Adjustment Consultant, the Chief Arborist, Development Services Senior Engineers, and the Board Attorney.

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

January 26, 2023: The applicant emailed additional documentary evidence which will be considered Attachment A and includes written testimony, chart, and pictures.

Speakers:

For: Andrew Thorpe 4502 Leland Avenue, Dallas TX

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-020, on application of Bangaly Kaba represented by Andrew Thorpe, **grant** the 14-foot six-inch variance to the front yard setback regulations requested by this applicant because our evaluation of the property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

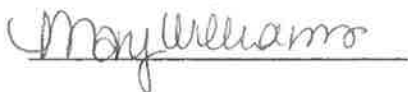
I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

Compliance with the submitted site plan is required.

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

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Agnich moved to adjourn the meeting at **2:04 P.M.**



Required Signature:
Mary Williams, Admin Specialist II
Development Services Dept.

05/15/2023

Date



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

5-15-23

Date



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

5/15/2023

Date