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CITY SECRETARY
DALLAS, TEXAS



City of Dallas
BOARD OF ADJUSTMENT
SPECIAL CALL MEETING

Public Notice

230936

POSTED CITY SECRETARY
DALLAS, TX

TUESDAY, OCTOBER 31, 2023 – 9:00 A.M. – 4:00 P.M.
Dallas City Hall, Council Chambers and Videoconference
Video Conference Link: <https://bit.ly/103123sc>
Telephone: (408) 418-9388, Access Code: 2484 586 4504

The City of Dallas will make Reasonable Accommodations/Modifications to programs and/or other related activities to ensure any and all residents have access to services and resources to ensure an equitable and inclusive meeting. Anyone requiring auxiliary aid, service, and/or translation to fully participate in the meeting should notify the Board of Adjustment by calling (214) 670-4127 three (3) business days prior to the scheduled meeting. A video stream of the meeting will be available twenty-four (24) hours after adjournment by visiting <https://dallastx.new.swagit.com/views/113>.

Individuals and interested parties wishing to speak must register with the Board of Adjustment at <https://form.iotform.com/232954755582064> by the close of **business Monday, October 30th, 2023**. **In Person speakers can register at the hearing.**

La Ciudad de Dallas llevará a cabo Adecuaciones/Modificaciones Razonables a los programas y/u otras actividades relacionadas para asegurar que todos y cada uno de los residentes tengan acceso a los servicios y recursos para asegurar una reunión equitativa e inclusiva. Cualquier persona que requiera asistencia adicional, servicio y/o interpretación para poder participar de forma íntegra en la reunión debe notificar a Junta de Ajustes llamando al (214) 670-4127 tres (3) días hábiles antes de la reunión programada. Una transmisión en video de la reunión estará disponible dos días hábiles luego de la finalización de la reunión en <https://dallastx.new.swagit.com/views/113>.

Las personas y las partes interesadas que deseen hacer uso de la palabra deben registrarse en Junta de Ajustes en <https://form.iotform.com/232954755582064> antes de cierre de oficina el Lunes, 30 de Octubre, 2023. Las personas que quieran hablar en persona, se pueden registrar en la Audiencia.

AGENDA

I. **Coffee and Registration (8:30 a.m.)**

II. **Call to Order (9:00 a.m.)**

David A. Neumann, Chairman

III. **Introductions (Board and Staff)**

IV. **Public Testimony (10:00 a.m.)**

V. **Chairman’s Report**

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- Update
- Panel Assignments for 2023-2025
- Rules of Procedure

VI. **Board Training**

- Ethics and Conflict of Interest – Baron Eliason, Chief Integrity Officer

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- City Attorney’s Office – Matthew Sapp, Board Attorney & Assistant city Attorney

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- Role of Board Officers, Members, Staff
- Practical Variance Analysis
 - Texas State Statues and Dallas City Code
 - City of Dallas v Vanesko

- HB14
- Practical Special Exception Analysis
- Open Records Requests – Brady Flannery, Assistant City Attorney
- Texas Open Meetings Act – Daniel Moore, Assistant City Attorney

- Development Services Department

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- Application Intake Process – Diana Barkume, Development Code Specialist Project Coordinator & Dr. Kameka Miller-Hoskins, Senior Planner
- 2022-2023 Objectives Review – Jason Pool, Development Services Administrator
- Strategic Efficiency Plan 2023-2024 – Jason Pool, Development Services Administrator

VII. **Board Member Response**

- Suggestions & Feedback
- Lunch Break

VIII. **Action Items**

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- Review/Adopt 2024 Meeting Calendar
- Review/Adopt Annual Report for City Council
 - 2022 - 2023 Accomplishments
 - 2023 - 2024 Goals and Objectives
- Board Recommendations

IX. **Adjournment (4:00 p.m.)**

Handgun Prohibition Notice for Meetings of Governmental Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."

"Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon into any open meeting on this property."

"De conformidad con la Sección 46.03, Código Penal (coloca armas prohibidas), una persona no puede llevar un arma de fuego u otra arma a ninguna reunión abierta en esta propiedad."

EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt . Code §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex Govt. Code §551.089]

City of Dallas
Board of Adjustment Chairman's Update
October 31, 2023

David A. Neumann, Chairman
Robert Agnich, Vice Chair
Cheri Gambow, Vice Chair

October 1, 2022 – September 30, 2023

Focus: Ensure Fairness for every property owner appeal to the Board of Adjustment through a Transparent process that culminates in Timely hearings where Accurate information is reasonably applied to the Board's preexisting legal standards.

Advocacy

- Met quarterly with Andrew Espinoza, Director Development Services, to review City staff support for Board and transition to Development Services from Planning & Urban Design. Applaud his commitment to being a "customer facing organization".
- Frequently solicited Board member feedback and forwarded to City staff on need for improvement on Timeliness, Accuracy, comprehensive staff analysis and Website.

Empowerment

- Met with several City Council members to review our proposed update to the BOA's Rules of Procedure. Successfully obtained unanimous Dallas City Council approval of our update to the BOA's Rules of Procedure on April 12, 2023.
- Implemented our updated Rules of Procedure providing greater empowerment of the Board and its Officers as a citizen appointed board of the City Council. All panel hearings were fully attended by 5 Members/Alternates to ensure fairness to the applicant.

Transition

- Challenged by city staff turnover of three city Board Administrators, Senior Planners, and resulting learning curves during last 12 months.

Progress

- Encouraged by the appointment of Jason Pool as Development Services Administrator in August 2023, to provide management oversight of City staff for BOA. Meeting monthly with Jason to review progress and plan process improvement to develop
 - 1) verifiable, predefined, and consistent measurement of days from application to hearing;
 - 2) more comprehensive staff analysis for hearings, and
 - 3) to leverage/utilize the BOA website to provide accurate and timely information to the public regarding all aspects of the BOA appeal process.

**BOARD OF ADJUSTMENT PANEL ASSIGNMENT
2023-2025
October 13, 2023**

<u>PANEL A</u>	<u>R/G/RDist/PCT</u>	<u>AD/TS</u>	<u>APPOINTED BY</u>
Kathleen Davis	W/F/01/4079	10-11-23/1	West (01)
Jay Narey	W/M/06/4130	09-20-23/3	Narvaez (06)
Rachel Hayden	W/F/09/1060	10-11-23/1	Blackmon (09)
Michael Hopkovitz	WM/12/2101	10-11-23/0	Mendelsohn (12)
Dave Neumann, Chair	W/M/11/2016	10-11-23/1	Johnson (15)
<u>PANEL B</u>			
Joseph O. Cannon	T/M/02/3096	09-27-23/1	Moreno (02)
Derrick Nutall (H)	B/M/07/1084	06-14-23/0	Bazaldua (07)
Lamb, Sarah	W/F/14/2144	03-08-23/1	McGough (10)
Cheri Gambow, Vice Chair (OH)	W/F/13/2011	09-13-23/2	Willis (13)
Michael Karnowski	W/M/14/2087	09-13-23/1	Ridley (14)
<u>PANEL C</u>			
Roger Sashington (H)	B/M/03/4050	09-18-19/0	Thomas (03)
Judy Pollock	W/F/04/3046	11-16-21/1	Arnold (04)
Rodney Keith Milliken (H)	W/M/07/1085	01-05-22/1	Resendez (05)
Jared M. Slade	W/M/13/4126	10-11-23/1	Atkins (08)
Robert F. Agnich, Vice Chair (OH)	W/M/11/2016	08-23-23/3	Schultz (11)
<u>ALTERNATE MEMBERS</u>			
Nicholas Brooks	W/M/01/4078	09-06-23/3	West (01)
Philip J. Sahuc	W/M/11/2020	09-13-23/1	Schultz (11)
Andrew Ryan Finney	W/M/01/4061	09-06-23/1	West (01)
VACANT			
Thomas C. Fleming	W/M/06/2085	09-13-23/1	Narvaez (06)
Emmanuel Glover	B/M/06/4082	09-20-23/1	Narvaez (06)

Legend:

R = Race
G = Gender
RDist = District of residence
PCT = Precinct
AD = Appointment Date
TS = Terms Served
H = Holdover
OH = Officer Holdover

4-12-23

CITY OF DALLAS

BOARD OF ADJUSTMENT

WORKING RULES OF PROCEDURE

April 2023

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CITY OF DALLAS BOARD OF ADJUSTMENT

RULES OF PROCEDURE

Section 1. Powers of the Board.

- (a) The powers of the board of adjustment, referred to as the board conferred upon it in Section 7, Chapter 282, Page 424, 40th Legislature, Acts 1927, and as thereafter amended, being codified in Chapter 211 of the Local Government Code, Chapter 8 of the Dallas City Code, as amended, and in Sections 51A-3.102, 51A-4.703, and 51A-4.704 of the Dallas Development Code, as amended, include, but are not limited to, the following:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of any order or ordinance pertaining to zoning.
 - (2) To hear and decide special exceptions to the terms of the zoning ordinance in the manner provided.
 - (3) To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice done.
 - (4) To regulate and discontinue nonconforming uses and structures.
- (b) In exercising its powers, the board and panels of the board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination appealed from and may make an order, requirement, decision, or determination as ought to be made, and to that end the board and panels of the board shall have all the powers of the officer from whom an appeal is taken.

Section 2. Composition of the Board.

- (a) The board shall consist of fifteen members and six alternates appointed by the city council for a term of two years. All members shall be removable for cause by the city council upon written charges and after a public hearing.
- (b) The officers of the board shall consist of a chair, two vice-chairs, appointed by the mayor, a board administrator, a board secretary, a board attorney, and any other officers the board may elect or the chair may appoint. The board administrator, board secretary, and board attorney shall have no voting rights.
- (c) The board shall be divided into three panels of five members. A board member may serve only on the panel to which the member is assigned. The chair and vice-chairs shall each be the presiding officer of one of the panels.
- (d) The board and panels of the board shall be provided the staff employees necessary to conduct its proceedings, as provided by the budget. The services of an accountant and abstract research company may be retained as needed for the preparation of compliance cases.

Section 3. Quorum. At the beginning of each regular or special meeting, the presiding officer shall determine whether a quorum exists. A quorum exists if 75 percent of the members (4 members for a panel or 12 members for the fully appointed board), either regular or alternate, are present. If a quorum exists, the presiding officer shall announce that a quorum is present. If a quorum does not exist 30 minutes after the time the meeting was called, the presiding officer shall adjourn the meeting.

Section 4. Duties of the Chair.

- (a) The chair shall preside over all meetings of the entire board. In the absence of the chair, the chair shall appoint a vice-chair to preside and fulfill all of the duties of the chair.
- (b) The chair shall approve a rotational schedule for attendance of alternate members at panel meetings.

- (c) The chair may consult with the board administrator to review the prepared board and panel agendas.
- (d) The chair may call and cancel meetings of the full board or of a panel.
- (e) The chair may create ad hoc committees and working groups from time to time to study and make recommendations on specific issues. Ad hoc committees must be made up of only members of the board of adjustment and cannot have more than six members.

Section 5. Duties of the Presiding Officers.

- (a) The chair and vice-chairs shall act as presiding officers of their respective panels. The duties of the presiding officers of a panel are to preside at all meetings of the panel to which they are assigned, to maintain order at all times, to administer oaths, and to rule on all points of procedure, and to dispense the business of the panel in a just and orderly manner. The presiding officer may impose a reasonable time limit for speakers in order to dispense the business of the board or panel in a just and orderly manner.
- (b) The presiding officer shall question all witnesses and/or staff, and request other members of the panel to ask any questions which may assist the board and panels of the board in arriving at a just and fair decision.
- (c) The presiding officer shall sign the minutes of the panel meetings over which he or she presides and each case decided upon in accordance with the decision of the panel.
- (d) In the absence of the presiding officer, , the panel shall elect a temporary presiding offer. This election does not survive the meeting in which it is had.
- (e) The presiding officer shall compel the attendance of witnesses when necessary.

Section 6. Duties of the Board Administrator.

- (a) The board administrator shall:
- (1) receive all complete applications to the board for processing;
 - (2) receive all evidence submitted for the board's review;
 - (3) provide technical assistance to the board;
 - (4) assist the general public with information, procedures, policies, case status, and site plans;
 - (5) gather needed information from outside sources and confer with all sections and departments of the city for case analysis;
 - (6) provide research on cases;
 - (7) prepare board documents, dockets, notices, and advertisements, and write necessary letters to the property owners;
 - (8) direct, conduct, and supervise all administrative functions of the board operation as may be deemed necessary;
 - (9) coordinate the work of the board in support of the chair and vice-chairs in their leadership of the board;
 - (10) serve as liaison between the board and the city plan commission, city manager, and various other officers of the City of Dallas, including, but not limited to, the building official, the director of transportation, the city attorney, and the director of planning; and
 - (11) after conferring with the chair, propose and maintain an annual calendar for the board and panel meeting dates, which are subject to initial board approval.
 - (12) balance the caseloads among the panels.
 - (13) prepare the board and panel agendas with consultation by the chair and vice-chairs.

- (14) initiate a comprehensive review of the request based on the current zoning, conduct a site visit of the subject property and the surrounding 200 feet, and consult relevant city departments
 - (15) prepare a staff recommendation or technical review for pending cases when appropriate and state all the staff members and their roles who participated in making the recommendation or technical review.
 - (16) no later than seven calendar days prior to each board or panel meeting, distribute to each member and make available to the public the complete agenda and case docket materials. The board or panel, by majority vote, can still hear the noticed cases even if the agenda and case docket materials were not disseminated in accordance with this paragraph.
 - (17) review all forms and intake and handling procedures for board applications for accuracy, equity, and efficiency.
 - (18) publish all board meeting dates and times, and list all pending cases filed with the board.
 - (19) conduct an orientation training for new members and alternate members upon appointment.
- (b) The board administrator shall also administer oaths and compel the attendance of witnesses when requested by the chair or other presiding officers to do so.
 - (c) For purposes of this section, BOARD means the full board or panels of the board.

Section 7. Duties of the Board Secretary.

- (a) The board secretary shall be generally responsible for the clerical work of the board and panels of the board, under the direction and supervision of the board administrator. The board secretary shall:
 - (1) keep the minutes of all meetings and proceedings in a substantially bound book showing the vote and motion of each

member upon each question, or if absent, or failing to vote, indicating that fact, and attesting the minutes;

- (2) compile the required records, log appeals and applications to the board, prepare case folders, type notices and envelopes, prepare route sheets, log favor and opposition letters, prepare certified mail to applicants, type letters and memoranda; and
 - (3) call board and panel members for meetings, maintain index files, number each case, and furnish each member of the board and each member of panel of the board with a copy of each petition, together with the building official's refusal.
 - (4) randomly and independently assign and reassign cases to the panels and balance the workloads of the panels.
 - (5) no later than seven calendar days prior to each board or panel meeting, distribute to each member and make available to the public the complete agenda and case docket materials. The board or panel, by majority vote, can still hear the noticed cases even if the agenda and case docket materials were not disseminated in accordance with this paragraph.
 - (6) Publish all board meeting dates and times, and list all pending cases filed with the board.
- (b) For purposes of this section, BOARD means the full board or panels of the board.

Section 8. Alternate Members.

- (a) In the absence of one or more regular members, alternate members shall attend panel meetings when requested to do so by the board chair, the presiding officer of a board panel, or by the city manager. The presiding officer of a panel may dismiss an alternate member when attendance is not necessary to complete a five-member panel.
- (b) The alternate members are subject to the same attendance and general rules as all other board members.

- (c) Alternate members who are not on the panel scheduled to attend will be called to serve only when one or more regular members are absent from the meeting.

Section 9. Attendance and General Rules.

- (a) The board shall be governed by the rules of procedure and decorum for city boards and commissions contained in Chapter 8 of the Dallas City Code, as amended, and applicable provisions of the City Charter.
- (b) All members shall comply with the attendance rules set forth in Chapter XXIV, Section 17, of the City of Dallas Charter and Chapter 8 of the Dallas City Code, as amended. No member may be excused from attendance at a board or panel meeting, except for medical reasons certified to by his or her physician or unless excused by the board and the city council. A member shall forfeit his or her office if the member misses more than three regular meetings in succession or misses more than 25 percent of the regular meetings during any 12-month period.

Section 10. Requests for Board Action.

- (a) All requests to the board must be made on the prescribed form provided by the director. The facts alleged must be attested to by a notary public.
- (b) The fee as provided by ordinance must accompany each request to defray the cost of advertising the public hearing.
- (c) The board or panel of the board may waive the filing fee if the board or panel of the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's or panel's miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket for predetermination, the applicant may not file the application until the merits of the request for waiver have been determined by the board or panel of the board.
- (d) Evidence submitted for the board's consideration on a request must be submitted to the board administrator or the board secretary. Evidence submitted is part of the public record and will not be returned. The board and panels are quasi-judicial bodies; therefore, no evidence may be

submitted to and no contact may be made with individual members regarding a pending request. All communications, oral or written, should be directed to the board administrator. Failure to comply with this rule may result in criminal prosecution for improper influence, which is a Class A misdemeanor under Texas Penal Code Section 36.04.

- (e) Unless expressly authorized by the concurring vote of 75 percent of the members of a panel when an extreme hardship is shown, no request may be heard at a regular panel meeting until the expiration of 21 days after it is filed with the building official.
- (f) The director shall schedule cases within a reasonable time from the receipt of a complete application.
- (g) An item may be placed on the board agenda by the director, the chair, or a written request of at least one-third of the members of the board. An item may be placed on a panel agenda by the director, the chair, the vice-chair of that panel, or a written request of at least two members of that panel.
- (h) The director may authorize the withdrawal of all applications except those to establish a compliance date, which must be authorized by the panel assigned the case. No request for withdrawal of an application may be considered by the director or a panel unless it is in writing. A request to the director for withdrawal must be received before 5:00 p.m. of the day that will leave five full working days (excluding Saturdays, Sundays, and official city holidays) before the date of the hearing. A request for withdrawal must be received in sufficient time to notify all interested parties before the hearing date. If the director or the panel finds in the consideration of such a request that there is an objection to the withdrawal and that allowing the withdrawal over the objection will unduly prejudice the objector, the director or panel shall deny the request. If the director denies a request for withdrawal, the applicant may appeal the withdrawal request to the panel assigned the case provided the appeal satisfies all of the requirements of this subsection for an application for withdrawal.
- (i) The director may authorize the amendment of all applications, except those to establish a compliance date and appeals from the decision of an administrative official, which must be authorized by the panel to

which the case is assigned. A request to the director for an amendment must be received before 5:00 p.m. of the day that will leave five full working days (excluding Saturdays, Sundays, and official city holidays) before the date of the hearing. If the director or panel finds in the consideration of such a request that there is an objection to the amendment, and that allowing the amendment over the objection will unduly prejudice the objector, the director or panel shall deny the request. If the director denies a request for amendment, the applicant may appeal to the panel assigned the case. If an amendment is authorized which requires newspaper advertisement and/or written notice to surrounding property owners, the amendment constitutes a new application and the requesting party must pay an additional filing fee to defray the cost of re-advertising.

- (j) A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a specific finding based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property. The person requesting the time extension shall have the burden of establishing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the panel extend the time period beyond 18 months from the date of its favorable action.
- (k) Only one panel may hear, handle, or render a decision in a particular case. If any preliminary action is required on a case, including but not limited to a fee waiver or waiver of the two-year waiting period, the case must be returned to the panel taking the preliminary action. If a case is dismissed or withdrawn and subsequently re-filed, it must be returned to the panel to which it was originally assigned. If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.

Section 11. Public Testimony and Public Hearings.

- (a) All meetings of the board and panels of the board are open to the public and must be held at a time and place determined by the board.
- (b) The chair shall have the authority to call special meetings of the board.

The presiding officer of a panel acts as the panel's chair pursuant to Section 8-3 of the Dallas City Code, and shall have the authority to call special meetings of that panel. The officer calling a special meeting shall designate the time and the place of the meeting subject to availability. Special meetings must be called by the chair at the request of at least one-third of the board.

- (c) The board secretary shall notify all affected members of the date, time, and place of either a regular or special meeting.
- (d) The applicant has the burden of proof to establish the necessary facts to warrant favorable action of the board.
- (e) Any interested party may appear in person or by agent or attorney at the public hearing.
- (f) Members of the public may offer public testimony at regular and special meetings of the board regarding any item on the board's posted agenda before or during the board's consideration of the item (e.g. minutes, appeals, compliance cases). Each speaker will have a maximum of three minutes to speak unless the time is shortened or extended by the presiding officer. Any member of the public requiring the use of a translator to relay public comments shall be afforded twice the amount of time as a member of the public who does not require a translator.
- (g) After a case is called, the applicant shall have up to five minutes to state his or her case. Anyone in favor shall be heard next for up to five minutes, then anyone in opposition shall be heard for up to five minutes. The applicant shall have up to five minutes to make a reply. Before the applicant begins, the presiding officer can limit the applicant's time, equally limit the time of the speakers in favor or opposition, or both.
- (h) All applicants, members of the public, or witnesses who wish to address the board during a public hearing shall be sworn in.
- (i) The director shall provide sufficient staff at hearings to ensure that the board can make a fair determination.
- (j) If a case is called for hearing in due order on the docket and the applicant or anyone on his or her behalf does not appear, the panel may hold the case over to the following hearing at which time it will be called

again. The panel may also approve a case or deny a case for lack of appearance at the first call at its discretion. If no one appears the second time, the case must be denied with prejudice.

- (k) If, after a public hearing on a request, the presiding officer duly calls for, but does not receive a motion, the request is deemed denied with prejudice.
- (l) A public hearing must be conducted for compliance proceedings on a nonconforming use. Prior to the hearing, the presiding officer may direct that a subpoena duces tecum and interrogatories be served on the owner(s) and/or operators of the use requesting that certain information and documents be produced to the board administrator within a reasonable time. The owner(s) and/or operators may supply the board administrator with any additional information or documents that are necessary for the panel to make its decision. At the hearing, the panel shall review the information and documents and set a date by which the nonconforming use must come into compliance with the current zoning regulations.
- (m) Notwithstanding subsection (f), the following rules apply to appeals of decision of administrative officials.
 - (1) After the case is called, the appellant shall have up to 20 minutes to present his or her case, during which time the appellant may give an opening statement, call witnesses, and offer evidence. If the appellant calls a witness, the administrative official may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The appellant can redirect his or her witness for up to five minutes, which shall not count towards the appellant's initial 20-minute time period.
 - (2) After the appellant's 20 minutes has expired, the administrative official shall have up to 20 minutes to present his or her case, during which time the administrative official may give an opening statement, call witnesses, and offer evidence. If the administrative official calls a witness, the appellant may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The administrative official can redirect his or her witness for up to five minutes, which shall not count towards the appellant's initial 20-minute

time period.

- (3) After the administrative official's 20 minutes have expired, the appellant shall have up to three minutes for a rebuttal and three minutes for a closing statement. The administrative official shall also have up to three minutes for a closing statement.
 - (4) The panel may ask questions at any time. The panel members' questions shall not count towards either party's time limitation.
- (n) Notwithstanding subsection (f), the following rules apply to compliance cases.
- (1) After the case is called, the applicant shall have up to 20 minutes to present his or her case, during which time the applicant may give an opening statement, call witnesses, and offer evidence. If the applicant calls a witness, the property owner may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The applicant may redirect his or her witness for up to five minutes, which shall not count towards the applicant's initial 20-minute time period.
 - (2) After the applicant's 20 minutes has expired, the property owner shall have up to 20 minutes to present his or her case, during which time the property owner may give an opening statement, call witnesses, and offer evidence. If the property owner calls a witness, the applicant may cross-examine that witness for up to five minutes and that time shall not count towards either party's time limit. The property owner can redirect his or her witness for up to five minutes, which shall not count towards the property owner's initial 20-minute time period.
 - (3) After the property owner's 20 minutes has expired, the applicant shall have up to five minutes for a rebuttal and a closing statement. The property owner shall also have up to five minutes for a closing statement.
 - (4) The panel may ask questions at any time. The panel member questions shall not count towards either party's time limitation.
- (o) The board administrator may place cases which are recommended for

approval without opposition on an uncontested docket. When the board administrator calls the uncontested docket, he or she shall state the case number, the applicant, the location, the nature of the case and the staff recommendation, and shall ask if there is anyone in favor or opposition. A case on the uncontested docket must be considered individually as a regular docket item if there is any opposition or a panel member so requests. Any cases remaining on the uncontested docket shall be approved as a group without the need for testimony from the applicants.

(p) Documentary evidence.

- (1) All typewritten documentary evidence including reduced-size copies of conceptual plans, development plans, landscape plans, and site plans must conform to the standard 8.5 x 11-inch letter-sized pages on a size 12 font or larger. Each page must be serially numbered and double-spaced.
- (2) All printed and typewritten documentary evidence in excess of five pages tendered by a party shall not be considered by the board unless such documentary evidence is submitted to the board administrator no later than 10 days prior to the scheduled hearing date at which the matter is to be considered. Upon oral request made by the party at the scheduled hearing, a panel of the board may, for good cause, suspend the operation of this rule and consider the excluded evidence or postpone the hearing on the application to a date certain to allow the panel sufficient time to consider the tendered evidence prior to the next scheduled hearing date.
- (3) For purposes of this subsection, DOCUMENTARY EVIDENCE means anything printed, written on paper, or a digital document and relied upon to record or prove something. This term does not include signed petitions or PowerPoints or slide shows offered during a presentation.
- (4) For purposes of this subsection, PARTY means the applicant or any person or entity that appears in favor of or against the request.

Section 12. Decisions of a Panel.

- (a) No action of a panel sets a precedent. Each case must be decided upon

its own merits and upon the circumstances of the case.

- (b) The concurring vote of 75 percent of the members of a panel (at least four members) is necessary to reverse any decision of an administrative official, or to decide in favor of an applicant on any matter which the board is required to pass under a zoning ordinance. If such an application does not receive the concurring vote of 75 percent of the members of a panel, the case is construed as denied with prejudice.
- (c) Reconsideration. The following rules apply for a motion to reconsider.
 - (1) A motion to reconsider may only be made at the same meeting the vote was taken and only by the same makeup of the panel that made the decision.
 - (2) A motion to reconsider may be made and seconded by any member of the panel regardless of their initial vote on the item and requires a simple majority vote. If the time for reconsideration of a case has expired, the panel may not change or modify its decision unless a new application is filed or the case is referred back to the panel.
 - (3) An item may not be twice reconsidered, except by unanimous consent.
- (d) Once a decision of a panel is appealed to district court, it may not be reconsidered or rescinded, unless the case is remanded by the district court.
- (e) The decisions and official records of the board and panels are public records.

Section 13. Executive Sessions.

- (a) The board or a panel may remove itself from an open meeting by moving to go into an executive session. Only matters authorized under the Texas Open Meetings Act to be discussed in executive session may be addressed in the executive session. All communication in an executive session is privileged information. The privilege can only be waived by a member by formal waiver. Members are cautioned that discussing the privileged communication with a member of the public,

the media, or any other person not privy to the executive session may damage the privilege. The board or a panel shall not hold an executive session except when discussing complaints about or evaluations of individual staff members, or seeking the advice of its attorney on the following matters:

- (1) Pending or contemplated litigation.
 - (2) Settlement offers.
 - (3) Risk or liability of the board, a panel or individual members thereof for taking an action.
 - (4) Any matter where the duty of the board's counsel to his client, pursuant to the Code of Professional Responsibility of the State Bar of Texas, conflicts with the Open Meetings Law.
- (b) A motion to go into an executive session must be seconded and requires a majority vote. If the motion passes, the board or panel shall follow the following procedure:
- (1) The presiding officer shall announce that the board or panel is going into an executive session, stating the category under the Texas Open Meetings Act that permits the executive session.
 - (2) The presiding officer shall announce the time.
 - (3) Members shall move quickly to the location of the executive session with no discussion among themselves or with members of the public or media.
 - (4) The executive session must be tape recorded.
 - (5) At the end of the executive session, members shall return quickly to the meeting room with no discussion among themselves or with members of the public or media.
 - (6) The presiding officer shall announce the time when the board or panel resumes the open meeting.

Section 14. Two-Year Limitation.

- (a) Except as provided in Subsections (b) and (c), after a final decision is reached by a panel, no further applications may be considered on the matter decided for that property for two years from the date of the final decision.
- (b) If a panel renders a final decision of denial without prejudice, the two-year limitation is waived.
- (c) A property owner may apply for a waiver of the two-year limitation in the following manner:
 - (1) The applicant shall submit his request in writing to the board administrator. The board administrator shall inform the applicant of the date on which his request shall be considered and shall advise the applicant of his right to appear before the panel to which the matter has been assigned.
 - (2) A panel may waive the time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote is required to grant the request. If a rehearing is granted, the applicant shall follow the appeal procedure.

Section 15. Amendments to Rules of Procedure.

These rules may be amended by a simple majority vote of the members present at a meeting of the entire board, or by a majority vote of the members of all three panels at separate meetings. Amendments approved by the entire board or by the panels sitting separately become effective once approved by the city council.

Chapter 12A Code of Ethics

**City Attorney's Office
Board of Adjustment**

October 31, 2023



City of Dallas





EMPATHY

We demonstrate compassion by listening and understanding.



We believe in being transparent, open and honest.

ETHICS



We are committed to continuous improvement.

EXCELLENCE



We seek intentional connection in our communities.

ENGAGEMENT

We understand the diverse needs of the community we serve.

EQUITY

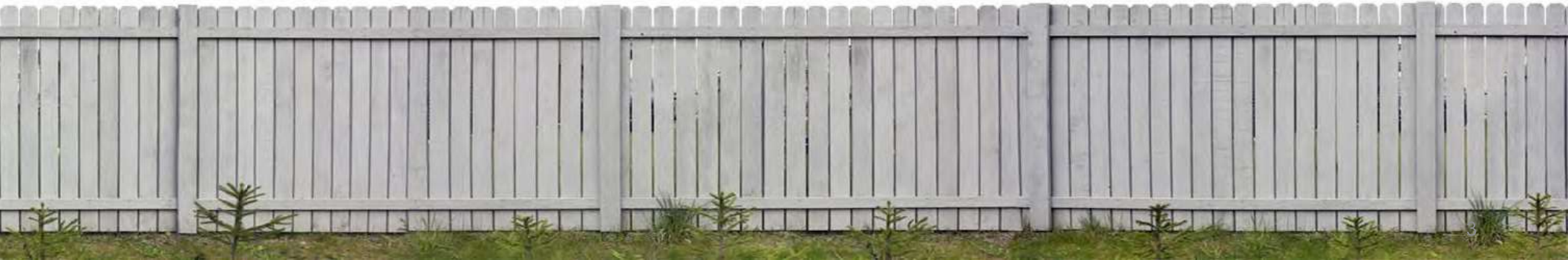


SERVICE FIRST
VALUES OF SERVICE



Why We Have the Code of Ethics

- Because values, morals, and social norms vary from person to person, we need a common guide.



Location for the fence: City Government



**employees, city officials, AND
people doing business with the city**



The BIG picture of ethics in our city



Because

- **We have access** that the public does not have to power, money, and authority, influence, information, and opportunity.
- **We have responsibility** to act with independence and impartiality, solely for the people of the city.

Classic Blunder: exploiting our access for personal gain

5



City of Dallas

Posts of the fence – the “Articles”

29

- Article One: Policy and Definitions.
- Article Two: Duty and conduct.
- Article Three: Conflicts of Interest (pickets).
- Article Six: Reporting (more pickets).



City of Dallas

Two Main Backers

30

1. Fiduciary duty

2. Six constant rules of conduct

7



City of Dallas

Fiduciary Duty

12A-3

BIG Word
Alert

- Utmost loyalty, care, and accountability.
- Owed by you in performance of official duties.
- Owed to the City of Dallas.
- **Scope: what you do (conduct) and how you do it (appearance).**

8

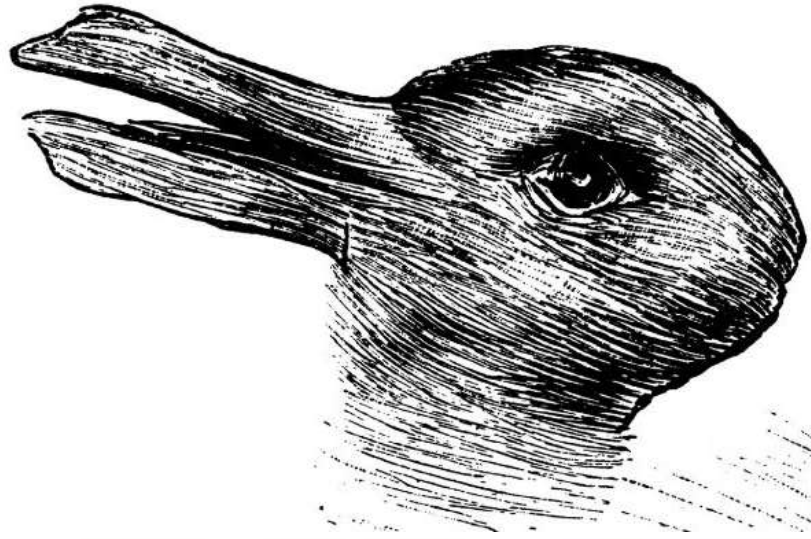


Standards of Conduct: Civility³²



Standards of Conduct: Appearance

You may be
a rabbit, but
if you
look, quack,
or walk
like a duck



in the
public's
eye, you
are a

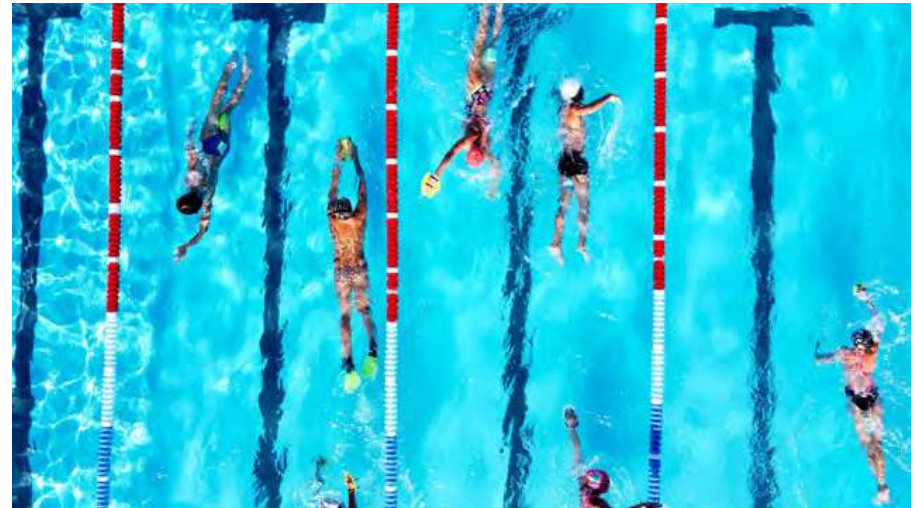
duck!



City Officials – avoid interference

Do's and Don'ts § 12A-4(b)(4), (5), and (6)

- **Do** work through channels, such as directors, to get work done.
- **Don't** interfere with, impair or influence the work of employees.
- Very similar rules exist for city council members working with boards and Commissions.



Standards of Conduct: Fundamental Requirements

35

• **MUST NOT:**

- Discriminate against **protected classes** § 12A-5.
- Retaliate against **whistleblowers** § 12A-6.
- **Incorporate others** to violate the Code § 12A-7.



• **MUSTS:**

- Training in ethics § 12A-9 to 11.



12



City of Dallas

The Pickets of Our Fence:



Provisions of the Code



Overview of Conflict Provisions

- Where you have authority, there may be a conflict if you are related to, own, represent, work for, do business with, receive gifts from, or have a job lined up - with a person or entity doing business with the city.
- See also:
 - Miscellaneous conflicts: § 12A-14.
 - Political activity and disclosures: § 12A-21.



12A Cheat Sheets (thick irony in an ethics program)

38



15



City of Dallas

TOPIC	Ethics	Crime	Charter	NOTES
	12A	Penal Code		
Standards of Behavior	4			
Standards of Civility	4			
Common Conflicts of Interest				
Discrimination	5			
Retaliation	6			
Actions of Others	7			
Procurement	9, 22		Ch. XXII, Sec 11	12A-9 applies per website; 12A-22 prohibits any financial interest in any city contract
Gifts	12	see Ch. 36		NOTE, some departments have more restrictive gift rules
Personal benefit to others	13	see Ch. 36		Applies to relatives and financial/business relationships
Substantial interest in business or property	13.1	see Ch. 36		See also, Local Gov't Code 171 covering substantial business interest in business entity or real property and voting by public officials. State Law requires filing of an affidavit regarding that interest. See also, Local Gov't Code 176 that requires a local gov't official to file disclosure when officer or family member has employment or business relationships with a vendor contracting with the city or has rec'd gifts >\$100 in 12 months time.
Acquisition of Interest in impending or decided matters, reciprocal favors, and benefits to previous employers.	14	see Ch. 36		Includes economic interest in property within zoning case including BOA zoning cases, thoroughfare right of way.



Donations	15			
Nepotism	16			see also Gov't Code 573
	17, 25			
Confidential Information	52			
Representation of Private Interests	18			
Conflicting Outside Employment	19			
Public Property and Resources	20			
Political Activity	21, Ch. 15A			See also - Texas Election Code, Texas Ethics Commission
Prohibited Interests in Contracts	22		Ch. XXII, Sec 11	see 12A-13 to 14 for related issues
Ex Parte Communications	23, 52	see Ch. 36		
Recusal and Disclosure	24			recuse, disclose, not even discuss, give form to city secretary
Lobbying	28			
Reporting Requirements	Art. VI			Sections cover annual, gift, donations, and travel reports. Top positions must submit verified reports per 145 of Local Gov't Code. Top positions can submit sworn short form provided by IG if no changes to finances in the last five years per section 41.



Interference with Investigation	61			
Fraud		Ch. 32		
Lobbyist	Article V.			
Bribery and Corrupt Influence		Ch. 36		
Perjury and Other Falsification	52, 60	Ch. 37		
Obstructing Governmental Operation	8, 52	Ch. 38		
Abuse of Office		Ch. 39		
Running for Office	20, 21(b)		Ch. III, Sec. 17	Becoming a candidate means current position is forfeited; however, this forfeiture does not apply to a city employee.
Advisory Opinions by the IG	47			We are responsible for these now. We can write them by request or at our discretion. In the past, CAO has routinely done these before election season.



Bumping into a conflict: § 12A-24

- If a conflict arises **recuse yourself**:
 - **From the time of recognition,**
 - **Immediately refrain** from participation,
 - **Promptly disclose** to the city secretary and your board.

BTW, after recusal you cannot be present during deliberations, but you must stay in the building.



Advisory Opinions: § 12A-47(d)

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- Ask for an opinion in writing
(ATTethicsadvisoryinquires@dallas.govisory)
- Covering future events.
- Give us all the facts.
- Follow the advice.
- Result: a safe harbor for you.

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City of Dallas

Complaint Process - § 12A-52

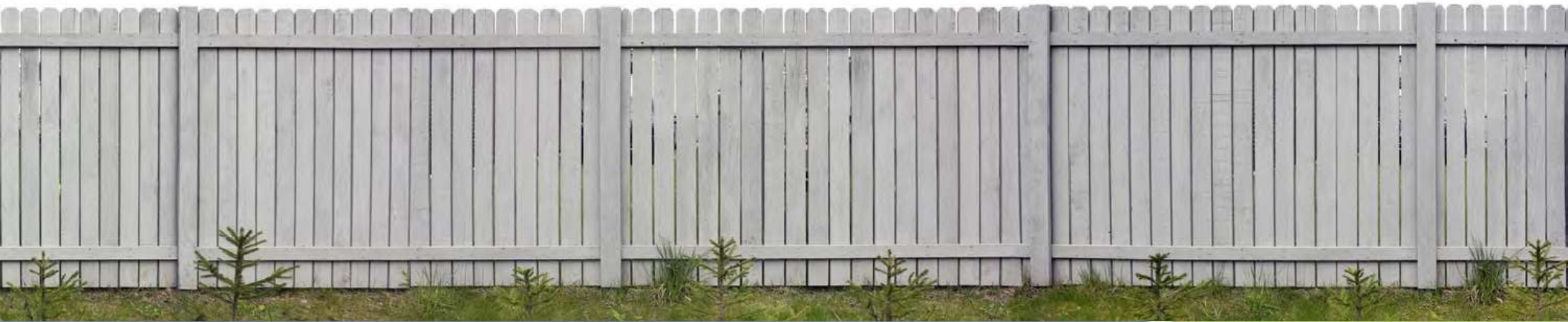
44

- **Who can file?** Any resident, city official, employee or person doing business with the city can file one.
- **How do you file?** Anonymous hotline, online, by phone, in person.
- **Duties related to the complaint process?**
 - Duty to report violations § 12A-8.
 - Duty to recuse § 12A-24 .
 - Duty to cooperate with an investigation § 12A-52(e).
 - Duty to keep investigations confidential § 12A-52(d)(1) .
 - Duty to be truthful in sworn statements § 12A-60.
 - Duty to avoid interference with investigations § 12A-61.
- **Retaliation** against people who cooperate is prohibited § 12A-6.



21

Questions and Answers



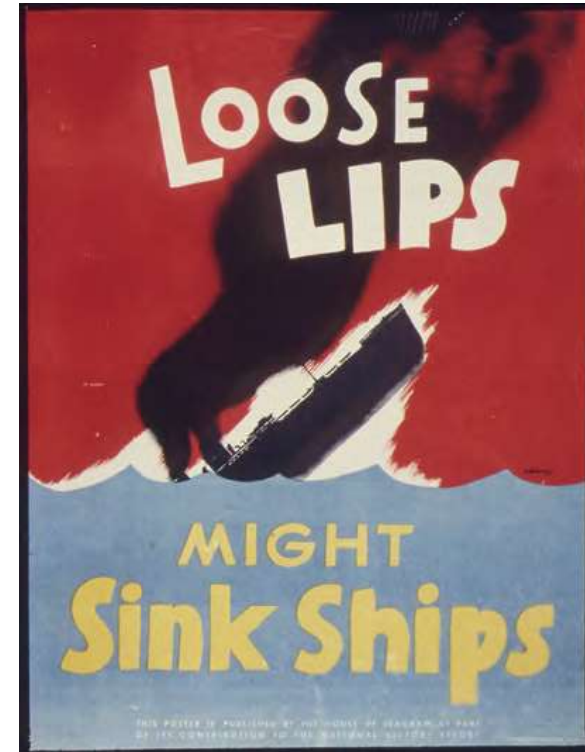
When Is It Best to Keep Quiet § 12A-17 ⁴⁶

Confidential information gained by reason of your position as a city official cannot be disclosed. This includes what happens in meetings closed to the public such as a certified agenda, recording or topics of discussion.



Ex Parte Is NOT Okay § 12A-23

- No person shall,
- directly or indirectly,
- communicate with any city official,
- about any adjudicative matter,
- that is or may reasonably be pending,
- unless a full disclosure is made to all parties simultaneously



Pro Tip



To stay out of the mud, always read the agenda as soon as it is available, so you have adequate time to find any of the following conflicts.



Reciprocal Favors § 12A-14

A board member may not enter into an agreement or understanding with any other person that official action will be rewarded or reciprocated.



Personal Benefit to Others § 12A-13

You cannot take, or refrain from taking, any official action that would result in a personal benefit for any of the following:

- Relatives,
- A person with whom the employee has an outside business or financial relationship – including, but not limited to, outside employers of the employee or relatives,
- A client or substantial customer of the employee or their relative,
- A debtor or creditor,
- People or a business you have engaged in negotiations pertaining to a business opportunity or solicited, received and not rejected an offer of employment, or accepted an offer of employment in the last twelve months.

There is a Disclosure and Recusal Process



Substantial Interests In A Business § 12A-13.1

51

- You must recuse if you or your relative:
 - Owns 10% or more of the voting stock or shares, or
 - Owns 10% or more or \$15,000 or more of the fair market value, or
 - funds received from the business exceed 10% of your gross income for the previous year, and
- The action on the matter will have a special economic effect on it that is different from the effect on the public

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City of Dallas

Benefits to Previous Employers § 12A-14⁵²

May not, within 12 months of beginning service with the city, participate in a matter benefiting a person or business entity that formerly employed you.



Area of Notification Conflicts § 12A-14

53

May not participate in a matter if you have an ownership interest, a lease, or other economic interest in a property within the area of notification listed in:

- §§ 51A-1.105(a) and (b) zoning and board of adjustment applications,
- §§ 51A-4.701 authorized zoning cases, or
- §§ 51A-9.201 and 202 thoroughfare realignment, state or county thoroughfare improvements.

There is a Disclosure and Recusal Process

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City of Dallas

Outside Employment § 12A-19

- You cannot have outside employment that could reasonably be expected to impair your independence of judgement or the performance of duties at the city.
- You cannot personally provide services for compensation to a person or organization that is seeking business or requesting an approval, investigation, or determination from the department of which you are a member.



Gifts § 12A-12

- **DO NOT** ask for or accept gifts that influence or reward official conduct or the discharge of official conduct or that you know are intended to do so.
- **DO NOT** accept cash or cash equivalent gift cards from people doing or seeking to do business with the city.
- There are special reporting requirements for gifts with a value over \$300 which must be submitted quarterly to the City Secretary's Office.



Reporting Chart – Financial Disclosure



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Financial Disclosure Report</p> <p>Section 12A-40</p>	<ol style="list-style-type: none"> 1. City of Dallas appointed members to the following boards, commissions, and committees <ol style="list-style-type: none"> a. Board of Adjustment and Board of Adjustment Alternate Members b. Building Inspection Advisory, Examining, and Appeals Board c. Business Development Corporation Board d. City Plan and Zoning Commission e. Civil Service Board and Civil Service Board Adjunct Members f. Community Development Commission g. Dallas Area Rapid Transit Board h. Dallas-Fort Worth International Airport Board i. Ethics Advisory Commission j. Fire Code Advisory and Appeals Board k. Housing Finance Corporation Board l. Landmark Commission and Landmark Commission Alternate Members m. Park and Recreation Board n. Permit and License Appeal Board o. All Reinvestment Zone Boards p. All Municipal Management District Boards 2. First Assistant City Attorney 3. Inspector General 4. City Auditor and City Secretary, and their First Assistants 5. Assistant City Managers and Chiefs 6. Municipal Judges 7. Chief Financial Officer 	<p>Annual Filing Date: 5:00 p.m., April 30th.</p> <p>* When the deadline falls on a Saturday or Sunday, or on an official city holiday as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or official city holiday.</p> <p>* The Inspector General may for good cause grant an extension of time in which to file a report upon written request submitted in advance of the deadline. The extension may not exceed 15 days.</p>	<p>City Secretary</p>



Reporting Chart – Financial Statement



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Financial Statement Report</p> <p>Texas Local Government Code Chapter 14</p>	<ol style="list-style-type: none"> 1. Mayor 2. City Council Members 3. City Attorney 4. City Manager 5. Candidates for a Place on the City Council 	<p>Annual Filing Date for the Mayor, City Council Members, City Attorney, and City Manager – 5:00 p.m., April 30th</p> <p>Filing Date for Candidates for a Place on City Council, not later than the earlier of:</p> <ol style="list-style-type: none"> 1. The 20th day after deadline for filing an application for a place on the ballot of an election; or 2. The fifth day before the date of the election. <p>* When the deadline falls on a Saturday, Sunday, or an official national or state holiday, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or an official national or state holiday.</p> <p>* The City Attorney or City Manager may request the City Secretary to grant an extension of not more than 60 days for filing the statement.</p>	<p>City Secretary</p>



Reporting Chart – Short Form



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Short Form Annual Report</p> <p>Section 12A-41</p>	<p>A person who is required to file an annual financial disclosure report may fulfill those filing obligations by submitting a short sworn statement if there have been no changes in the information disclosed by that person in a complete financial disclosure report filed within the past five years.</p>	<p>Annual Filing Date: 5:00 p.m., April 30th.</p> <p>* When the deadline falls on a Saturday or Sunday, or on an official city holiday as established by the city council, the deadline for receipt by the City Secretary is extended to 5:00 p.m. of the next day that is not a Saturday, Sunday, or official city holiday.</p>	<p>City Secretary</p>



Reporting Chart – Gifts



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Gift Reporting Section 12A-42</p>	<p>City officials and city employees who are <u>not</u> required to file an annual financial disclosure report:</p> <ol style="list-style-type: none"> Not required to report gifts with a monetary value of less than \$300, except that reporting is required for gifts from a single source in a single year with a cumulative value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less. Must also follow departmental reporting requirements for gifts. <p>City officials and city employees who <u>are</u> required to file an annual financial disclosure report:</p> <ol style="list-style-type: none"> Received gifts with a monetary value of \$300 or more, excluding gifts of perishable food or beverages of an estimated value of \$100 or less. May use the annual financial disclosure report as the first quarter's disclosure statement. Must also follow departmental reporting requirements for gifts. <p>The Mayor, City Council Members, City Attorney, City Manager, and City Officials and Employees under Section 12A-40(a) are required to report:</p> <ol style="list-style-type: none"> Gifts of \$300 or more in the financial disclosure report in addition to the quarterly report. If no reportable gifts were received, must file a quarterly gift report acknowledging that no reportable gifts were received. <p>No one is required to report gifts from a relative or person with whom the city official or employee has a personal, professional, or business relationship, unless the gift is accepted in the city official or employee's official capacity.</p> <p>*See Section 12A-12(b) for gifts that are not considered reportable gifts.</p>	<p>Disclosure statement must be filed on a quarterly basis, for all <u>reportable</u> gifts received in each three-month period in a calendar year.</p>	<p>City Secretary (electronic format)</p>



Reporting Chart – Donations



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Donations</p> <p>Section 12A-43</p>	<p>City Officials, city employees, and city departments:</p> <ol style="list-style-type: none"> Reporting is required for donations to the city of money, real estate, products, or services with a monetary value of \$1,000 or more or from a single source in a single year with a cumulative value of \$1,000 or more. The donation report must be filed in addition to any other documentation required for the donation. 	<p>Donations must be reported to the city secretary on a quarterly basis, received in each three-month period in a calendar year.</p> <p>Donations must be reported to the city manager within 30 days after receipt of the donation.</p>	<p>City Secretary (quarterly)</p> <p>City Manager (within 30 days of receipt of the donation)</p>



Reporting Chart – Travel



REPORT	WHO REPORTS	DUE DATE	SUBMITTED TO
<p>Travel</p> <p>Section 12A-44</p>	<p>Any person who, in connection with his or her official duties, accepts a trip or excursion to a location greater than 50 miles from the city that involves the gratuitous provision of transportation, accommodations, entertainment, meals, or refreshments paid for by a person or entity other than a public agency.</p>	<p>Travel must be reported on a quarterly basis in each three-month period in a calendar year.</p>	<p>City Secretary</p> <p>Subordinates of the City Manager shall also file with the City Manager.</p>



The Ethics Hotline

**ETHICS
MISCONDUCT?**

Report Fraud,
Abuse, Waste, and
Ethical Misconduct.

 *Confidential and
Independent*

 **877-860-1061**

 **Report a Violation
to the Inspector
General**



IGD Contact Information

Inspector General's Office

Kelly.bever@dallas.gov – Inspector General

Baron.Eliason@dallas.gov – Chief Integrity Officer

Rachel.craig@dallas.gov – Assistant City Attorney

Jordan.Hamilton@dallas.gov – Administrative Assistant





City of Dallas

BDA SPECIAL MEETING

Board Counsel Presentation

October 31, 2023

ROLES



- The Applicant's Role is to initiate the application and satisfy the Burden of Proof.
- The Staff's Role is to effectively prepare the application for review, it is not to bolster or advocate for an applicant.
- The Board's Role is to absorb information brought before the board by the Staff, the Applicant, and supporting / opposing parties.
- The Board may ask questions to elicit information and better understand the application.
- The Board's Role is to apply the applicable standard and balance all the relevant evidence to come to its conclusion.



HB 14

- **Summary:** House Bill 14 adds to the Local Government Code a provision that if a regulatory authority does not approve a development document (plat, plan or development permit) by the 15th day after the date prescribed for approval, then said review may be conducted by someone who is NOT the applicant or a person whose work is the subject of the application; and IS
 - (1) an employee of the regulatory authority;
 - (2) an employee of another political subdivision under the same regulatory authority; or
 - (3) a licensed engineer.

Similarly, if a regulatory authority does not conduct a required inspection by the 15th day after the date prescribed for the inspection, then said inspection may be conducted by someone who is NOT the owner of the land subject to the inspection; or a person who is the subject of the inspection, and who IS

- (1) a certified building inspector;
- (2) an employee of the regulatory authority; or
- (3) an employee of another political subdivision under the same regulatory authority. Additional Fees and waivers are prohibited.

These decisions are appealable.



HB 14

67

- **Impact:** If the Development Services Department is able to meet their goal of completing reviews in 15 days or less, there will be little to no impact. However, this could affect the number and types of cases coming before the Board of Adjustment.



City of Dallas

What are the Sources of Authority?

Sections 51A-3.102 and 51A-4.704 of the Dallas City Code provide the scope of the Board's activities (VANS):

- **VARIANCES**
- **Appeals** from decisions of administrative officials
- Regulation of **NON-CONFORMING USES**
- **Special exceptions**



Variations § 51A-3.102

The City Code allows the Board to grant variations 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:

- (i) 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;
- (ii) the variance is **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
- (iii) the variance is **not granted to relieve a self-created or personal hardship**, nor for financial reasons only, except as provided in Subparagraph (B)(i), 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.



PRACTICAL VARIANCE ANALYSIS

Although the elements for a variance in the Dallas Development Code are given in 1, 2, 3 order. It is probably best to analyze them in the order of 2, 3, 1.

- First analyze Element 2 to determine if there is a hardship.
- Second analyze Element 3 to determine if the hardship is self-created.
- Lastly analyze Element 1 to determine if the request is contrary to the public interest.



Variances § 51A-3.102(a)(ii)

- (ii) *the variance is 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*



AREA

72

- Identify the zoning classification and subsequent average lot size in the zoning classification.
 - R-5(A) = 5,000 square ft.
 - R-7.5(A) = 7,500 square ft.
 - R-10(A) = 10,000 square ft.
 - R-1ac(A) = 1 acre (equivalent to approximately 43,560 square ft.)

- Identify the square footage of the subject lot that is illustrated in the staff report, or by using the internal development research (IDR) link <https://developmentweb.dallascityhall.com/idr/>.



City of Dallas

SHAPE

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- The average shape is a rectangle. If the subject lot is a restrictive undersized rectangle (i.e., narrow rectangle) or a restrictive abnormal polygonal shape (i.e. a restrictive multi-sided shape) then **THIS ELEMENT IS MET**. A lot that is an oversized rectangle or an oversized polygonal shape would most likely not qualify as it still provides adequate area and is consequently NOT restrictive.



City of Dallas

SLOPE

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- To ascertain if it has an overly restrictive slope, the arbiter should look at the elevations provided or topographic maps of the subject lot to determine if there is a prohibitively difficult slope. Note that the mere existence of slope is not *prima facie* evidence of this element being met, but rather it is in the discretion of the arbiter to determine if the slope is overly restrictive, if satisfied **THIS ELEMENT IS MET.**



City of Dallas

PRE-EXISTING STRUCTURE

- Determine if existing structures are legal, non-conforming, or illegal.
- A “legal” structure is one that was built, and is in compliance with, all aspects of the Dallas Development Code, or is cured by some BDA action, as such it is not ripe to receive violations from Code Compliance.
- A “non-conforming” structure is a structure that is non-compliant with the Dallas Development Code but was built prior to the implementation of the current zoning rules, and consequently, deemed legal, as such it is not ripe to receive violations from Code Compliance.
- An “illegal” structure is one that is in violation of the Dallas Development Code and not “cured.” An illegal structure must be cured by a BDA decision, zoning change, or issuance of a proper permit bringing it into “legal” status. Illegal structures are ripe to receive Code Compliance Citations.



PRE-EXISTING STRUCTURE

- DALLAS DEVELOPMENT CODE §51A-3.102(d)(10)(b), formerly known as HB 1475, allows for the BDA to use their discretion and consider Element 2 of the Variance standard to be met, if:
 - (i) the financial cost of compliance is **greater than 50 percent of the appraised value** of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 of the Texas Tax Code;
 - (ii) compliance would result in a **loss** to the lot on which the structure is located **of at least 25 percent of the area** on which development is authorized to physically occur;
 - (iii) compliance would result in the structure **not** being in **compliance** with a requirement of a municipal ordinance, building code, or other requirement;
 - (iv) compliance would result in the **unreasonable encroachment** on an adjacent property or easement; or
 - (v) the municipality considers the structure to be a **nonconforming structure**.



AREA / SHAPE / SLOPE / PRE-EXISTING STRUCTURE ⁷⁷

- If the subject property has a restrictive area, shape, or slope that is different than what is normal in that zoning classification across the city, **THIS ELEMENT IS MET.**
- If the request is sought to remedy a pre-existing **illegal** structure, §51A-3.102(d)(10)(b) may be utilized, and potentially **THIS ELEMENT IS MET.**



Variances § 51A-3.102(a)(iii)

- (iii) *the variance is not granted to relieve a self-created or personal hardship, nor for financial reasons only, except as provided in Subparagraph (B)(i), 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.*



SELF-CREATED HARDSHIP

- The nature of something being self-created requires an “action” on the part of the applicant to make it self-created. Thus, generally, it is not self-created when an applicant purchases a property that has a pre-existing hardship.

GENERAL RULE of THUMB: 95% of the time YOU CANNOT PURCHASE A PROBLEM, YOU MUST CREATE THE PROBLEM YOURSELF.



Is the hardship due to a restrictive lot, prior structure or both?

- If hardship is due to restrictive lot, use LOT ANALYSIS;
- If hardship is due to an existing illegal structure, use STRUCTURE ANALYSIS;
- If hardship is due to both, determine whether it is the LOT or STRUCTURE causing the relevant hardship, then use the applicable analysis.



LOT ANALYSIS:

- Is the hardship due to a restrictive area shape or slope? If “Yes,” did the applicant purchase the restrictive lot? If “Yes,” this is not considered self-created.
- If the applicant did not purchase the lot, but rather the applicant purchased a non-restrictive lot, then subdivided it into two or more restrictive lots, then this is considered self-created.
- If the applicant purchased a non-restrictive lot and built or added some feature (like a pond or man-made mountain) that makes the lot restrictive, then this is considered self-created.



STRUCTURE ANALYSIS

- If the structure is non-conforming then it is non-issue and shouldn't be before the BDA.
- If the existing structure is illegal, did the applicant build the illegal structure with no prior structure present? If "Yes," this is self-created.
- If the existing structure is illegal, did the applicant build the illegal structure after previously demolishing a non-conforming structure, in an attempt to repair the non-conforming structure but lost their non-conforming rights when the illegal structure was demolished? If "Yes," this is self-created.
- If the structure is illegal, did the applicant innocently purchase the property? If "Yes," this is not self-created.
- If the structure is illegal, did the applicant innocently build it with an erroneously issued permit? If "Yes," this *could* be considered self-created (in the arbiter's discretion).



City of Dallas v. Vanesko

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- The Vaneskos wanted a larger home, so they decided to tear down their existing house and build a new one in its place on the same lot. To save money, they also decided to design the new structure themselves, without the assistance of architects and engineers, and act as their own general contractor. The City approved the plans as submitted and issued a building permit. During the following year, as the new house was being constructed, City inspectors frequently visited the site without complaint. After the roof was framed in, an inspector advised the Vaneskos that the structure was too high, in violation of the zoning ordinance.
- The Board denied their request for a variance. The District court sided with the Vaneskos, as did the Appellate Court.
- However, the Supreme Court of Texas concluded that a City can enforce a zoning ordinance against a property owner who had substantially completed new home had been built in violation of the ordinance, even though the city had given approval to the owner's building plans.
- The court determined the board did not err in denying a variance, when the board counsel advised the board not to consider the fact that the permit was issued in error.



City of Dallas

Variations § 51A-3.102(a)(i)

- (i) *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;*



Public Interest

- This element requires the arbiter to use a sliding scale to determine whether a variance request is contrary to the public interest.
- While a letter in opposition may illustrate convincing evidence that the request is contrary to the public interest, it is not absolute. It is ultimately in the discretion of the arbiter to make the decision.



MAS

- Although there are a myriad of subjects a court might look at to determine if a variance is contrary to the public interest. We have narrowed it down to three which we feel are a solid place to begin your analysis (MAS).
 - **Monetary**
 - Does the variance increase or decrease property value?
 - **Aesthetics**
 - Does the variance comport and fit-in with the character of the neighborhood?
 - **Safety**
 - Does the variance create or mitigate safety issues?
- The arbiter should look at all the evidence and use a sliding scale to determine in their opinion whether the variance is contrary to public interest.



PRACTICAL SPECIAL EXCEPTION ANALYSIS

- Chapter 51A authorizes over 50 special exceptions to specific prohibitions
- Common types of special exceptions the board deals with are:
 - Fence standards
 - Accessory dwelling units (rentable)
 - Additional dwelling units (non-rentable)
 - Off-street parking requirements
- The common denominator for most special exceptions is the standard which is that the request must not “ADVERSELY EFFECT NEIGHBORING PROPERTIES.”



MAS

- Although there are a myriad of subjects a court might look at to determine if a special exception will adversely affect neighboring property. We have narrowed it down to three which we feel are a solid place to begin your analysis (MAS).
 - **Monetary**
 - Does the variance increase or decrease property value?
 - **Aesthetics**
 - Does the variance comport and fit-in with the character of the neighborhood?
 - **Safety**
 - Does the variance create or mitigate safety issues?
- The arbiter should look at all the evidence and use a sliding scale to determine in their opinion whether the special exception will adversely affect neighboring property.



Texas Public Information Act

City Attorney's Office

The logo of the City of Dallas, featuring a stylized white 'D' with a three-lobed leaf inside, set against a dark blue background with a fine white grid pattern.

City of Dallas

Brady Flanery, Assistant City Attorney

What is Public Information?

- “Public Information” is information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with transacting **official business** (1) by the City; (2) for the City if the City owns it, has a right of access to it, or spends public funds to write, produce, collect, assemble or maintain it; or (3) by an individual officer or employee in their official capacity.

What is Official Business?

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- “Official Business” is any matter over which a governmental body has any authority, administrative duties, or advisory duties.

Applicability of the PIA

- “Public” means a requestor can either inspect or receive copies of information.
- The City may not withhold information based on its location.
- Information on a city employee’s personal computer, located at an elected official’s home office, or stored off-site or by a third party... is considered public if it relates to **official city business!**

Minimum Requirements

- Request must be in writing; no magic words required
- Request must ask for information in existence:
 - The City is not required to:
 - create new documents;
 - answer questions; or
 - perform research
 - BUT it **must** make a “good faith” effort to provide information
- Can set reasonable rules to submit a request
 - Methods of accepting requests

Email Addresses

- Personal email addresses are subject to the PIA if discussing "official business"
 - Example: elected officer forwarding an email to their personal email address to read at home
- Emailing a quorum (reply all and forwarding)
 - Texas Open Meetings Act
- **DO NOT DELETE ANYTHING RESPONSIVE IF YOUR EMAILS ARE SUBJECT TO AN OPEN RECORDS REQUEST**

Cell Phones and Social Media

- Information on a personal cell phone is subject to the PIA
- Call logs, text messages, and voicemails are public information if related to "official business"
- Social media
 - Conducting official city business
 - Quorum (Texas Open Meetings Act)
- **DO NOT DELETE RESPONSIVE INFORMATION IF YOUR DEVICE IS SUBJECT TO AN OPEN RECORDS REQUEST**

Calendars

- Avoid intermingling of city and personal calendars
- “Block for personal” is recommended
- Factors:
 - Use of city resources
 - Does someone maintain it as part of their job?
 - Who has access to the calendar?
 - Presence of significant city related entries

Exceptions to Release

- Most exceptions may only be raised through a request for a “determination” to the OAG
- Two types of exceptions:
 - A **mandatory exception** protects confidential information (e.g., SSN# or DOB) and typically benefits a third party and cannot be WAIVED
 - A **discretionary exception** (e.g., litigation exception) benefits the City and must be timely claimed, or it is WAIVED

Mandatory Exceptions

- Dates of birth
- Driver's license numbers
- Certain financial information
- Mental health information
- Child abuse investigations

Discretionary Exceptions

- Competitive bidding information before a contract is awarded (§ 552.104)
- Attorney-client privileged communications (§ 552.107).
- Litigation-related documents that have not been previously released (§ 552.103)
- Location and appraisals or purchase price of real or personal property for a public purpose prior to announcement of project or formal award for contracts for property (§ 552.105)
- An email that includes a draft document, drafts of policymaking documents (§ 552.111)

Super Public Information - Released

- Full list is in PIA Handbook under §§ 552.022, 552.0222
 - Information that is 75 years old and was withheld under a discretionary exception
 - Completed inspection reports, zoning reports, appraisals, audit report, evaluation or investigation, and executed contracts
 - Public court filings including recorded real estate records
 - Published policies and procedures
 - A settlement agreement if the City is a party
 - Information related to the receipt or expenditure of public funds (most contracting information)
 - Name, sex, ethnicity, salary, title and dates of employment of City employees and officers

Overview of Open Records Process

- Submission process and requirements
- 10-day deadline
 - Request to withhold sent to attorney general
 - Notify the requestor
 - Ask for clarification or time extension
- 15-day deadline.
- Provide written comments explaining why the claimed exceptions apply
 - Provide a copy of the specific information the city seeks to withhold (or a representative sample)
 - Notify the requestor
- **The requested information is presumed public if the city fails to comply with the deadlines**

Overview of Litigation Process

- Receive Ruling from the Office of Attorney General
 - Withhold All
 - Full Release/Partial Release.
 - Review for appeal
- No requests for reconsideration

Criminal Penalties

- Providing, distributing, or misusing confidential information:
 - Up to six months in jail and/or up to \$1,000 fine.
- For City officials, also constitutes official misconduct, which may result in removal from office.
- Destroying, removing, or altering governmental information:
 - Up to three months in jail and/or up to \$4,000 fine.

Public Access Option Form/SB 1082

- Elect to keep certain information confidential:
 - Home address, home telephone number, social security number, emergency contact information, and information that reveals whether you have family members.
- Fill out form and return to the City Secretary's Office no later than the 14th day after the date which:
 - the employee begins employment with the governmental body;
 - the official is elected or appointed; or
 - the former employee or official ends service with the governmental body.
- Tex. Gov't Code §§ 552.024, 552.117



City of Dallas

Texas Open Meetings Act

City Attorney's Office

Daniel Moore,
Assistant City Attorney

Open Meetings and Open Records Training

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- State law requires elected and appointed officials to complete training on open records and open meetings within 90 days of taking the oath of office.
- Public Information Act Training
<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/public-information-act-training>
- Open Meetings Act Training
<https://www.texasattorneygeneral.gov/open-government/open-meetings-act-training>

The Rule

- “Every regular, special, or called meeting or session of every governmental body shall be open to the public”
- TOMA’s requirements are mandatory for every governmental body.
- GOVERNMENTAL BODY means a municipal governing body (city council) or a board or commission.
- MEETING means:
 - (1) a quorum of the members of a governmental body;
 - (2) where public business that the governmental body has authority to supervise or oversee is deliberated or discussed.
- DELIBERATE or DISCUSS means a verbal exchange that includes:
 - Receiving information; giving information; asking questions; receiving questions from any third party, including government employees; or debate among the body.

Meeting

- Deliberation and discussion are synonymous for purposes of the Act.
- A verbal exchange clearly includes an exchange of spoken words, but it may also include an exchange of written materials or electronic mail.
- A quorum need not be established in real time.
- “Reply all” can create a quorum.
- Example: Quorum of a governmental body deliberating public business electronically (email, social media, etc.) or via telephone can be a meeting subject to the Act.

Walking Quorums

When a boardmember:

- knowingly attempts to avoid complying with the Act by engaging in at least one communication among a series of communications about public business in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of the members.
- knew at the time the member engaged in the communication that the series of communications:
 - involved or would involve a quorum; and
 - would constitute a deliberation once a quorum of members engaged in the series of communications.

Examples include:

- conducting secret deliberations;
- email communications;
- voting over the telephone; or
- deliberating through a series of closed meetings of members of less than a quorum.

Notice Requirements

- The Act requires written notice of meetings. The Act provides:
 - A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.
- Notice must be given at least 72 hours before a meeting and placed on the city's physical or electronic bulletin board at a place convenient to the public within city hall.
 - If the governmental entity maintains a website, notice must also be posted on that website.
 - Notice is required to be readily available during normal business hours.
- Notice must be sufficient to inform the public of the subject matter to be addressed during the meeting.

Videoconference

- City officials, city staff, and members of the public may attend an open meeting by videoconference.
- The person presiding over the meeting must be present in a location open to the public.
- City officials, city staff, and members of the public must have both an audio and video feed available in order to participate remotely in an open meeting.
- A city official is considered absent for any portion of an open meeting where the audio or video feed is lost.

Other Rules

- Governing body may not adjourn and start meeting again the same day.
- Governmental body must vote in public.
- No anonymous or secret ballots.
- What if we “forgot to post” an item?
 - It cannot be discussed, except to say: “Would staff please add this to the next agenda.”
- Limits on responding to questions during the open microphone period.

Closed Meeting (Executive Session)

- If a closed meeting is allowed under the Act, a governmental body may NOT conduct a closed session unless:
 - a quorum first convenes in open session;
 - during which the presiding officer publicly announces that a closed meeting will be held; and
 - identifies the section under which the closed meeting will be held.
- The item must comply with the notice requirements.
- Closed meeting may be called for such matters as:
 - Attorney consultation (§ 551.071).
 - Deliberations about real estate (§ 551.072).
 - Economic development considerations (§ 551.087).
- Any vote regarding the closed session item must occur in open session.

Closed Meeting: Who May Attend?

- Only a governmental body's members have a right to attend a closed meeting.
- Except that the governmental body's attorney must attend closed meetings under the attorney consultation exception.
- Although a governmental body may include others in a closed meeting if they are essential to the matter under consideration, or necessary for the full communication of attorney-client communications, it may not admit a person whose presence is against the interests of the governmental body.

Recordkeeping

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- Governmental body must keep minutes or tape recording of the open meeting.
- Minutes must:
 - State subject of each deliberation; and
 - Indicate the vote, order, decision, or other act taken.
- Record of meeting must be available to the public.
- Public allowed to make audio/visual record of the open meeting, but governmental body may reasonably regulate manner and location.

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Parliamentary Procedure

City Attorney's Office

The logo of the City of Dallas, featuring a stylized white 'D' with a three-lobed leaf inside, set against a dark blue background with a fine white grid pattern.

City of Dallas

Casey Burgess, Deputy Chief of General Counsel

Purpose

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- Allows a majority to decide...and...minority opinions to be heard.
- Make meetings efficient.
- “Common sense is the essence of parliamentary rules; fairplay is their guiding principle; reasonable discussion followed by prompt actions is what they are devised to achieve.” - O. Garfield Jones

Types of Motions

- Main: The main idea the body is working on.
- Subsidiary: A motion that modifies, delays, or disposes of the main motion.
- Privileged: Motions not related to the main motion, but immediate for the body to consider.
- Incidental: Motions relating to the manner in which the body conducts business.
- Reconsideration: Brings a motion back for further consideration.

The Main Motion

- Begins debate.
- Must be seconded.
- Debate must be confined to the merits of the motion.
- May be withdrawn until the motion is stated by the chair.
- The City Attorney's Office can assist you in preparing motions.

Voting

- Every member present shall either vote “Yes” or “No” unless prevented from doing so by a conflict of interest.
- A member who is present during a meeting who does not vote and is not prevented from voting by a conflict of interest will be recorded as voting in the affirmative, unless the member has obtained the consent of the chair to leave the meeting and is absent for the remainder of the meeting.

Postpone to Time Certain or Defer During the Meeting

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- Holds over an item to another meeting.
 - May not be made when another has the floor.
 - Requires a second.
 - Debatable.
 - Amendable.
 - Majority vote.

Amendments

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- Amends the main motion.
 - May not be made when another has the floor.
 - Requires a second.
 - Debatable.
 - Amendable. (Only one amendment to an amendment allowed. The second amendment is voted on before the first amendment.)
 - Majority vote.
- A contrary motion is out of order.
- Some privileged, incidental, or subsidiary motions are amendable.
- An amendment is always voted on before the motion to which it applies.

Reconsideration

- Brings back a motion previously voted on for further consideration.
 - May not be made when another has the floor.
 - Requires a second.
 - Debatable.
 - Not amendable.
 - Majority vote.
- Must be made no later than the next voting agenda meeting.
- Must be made by a person who voted with the prevailing side but may be seconded by any member.
- An item may not be reconsidered twice.*
- Unless reconsidered at the same meeting, the motion must include a date certain when the item will be placed on the agenda.
- Reconsideration must comply with the Texas Open Meetings Act and the city charter.
 - *Except by unanimous vote of the commission.

Debate

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- Must limit debate to the question under consideration.
- Discussion must be addressed to the chair and not to other commissioners.
- Commissioners can only speak once on any subject until any other commissioner wishing to speak has spoken. A commissioner may only speak twice on a subject for not more than five minutes without a two-thirds affirmative vote of the commission.
- Must preserve order and decorum, and must obey the orders of the chair, and follow the rules of the commission.
- May speak only if recognized by the chair.
- Commissioners should not be interrupted when speaking, except when a point of order is made and ruled upon by the chair.
- May not speak while a vote is being taken.
- Commissioners shall confine discussion to the question under debate, avoid discussion of personalities and indecorous language, and refrain from personal attacks and verbal abuse.

Frequently Asked Questions

Q: What happens if no one makes a motion?

A: If the body fails to take action, the agenda item is denied, and the status quo is preserved.

Q: What happens if you have a tie vote?

A: A majority is more than half of the body. Therefore, the motion fails, and the status quo is preserved. The floor is then open for another motion.



City of Dallas

Questions?



PRESENTS

The Intake Process

STEP 1 of 5

October 31, 2023

Nikki Dunn, Chief Planner

Dr. Kameka Miller-Hoskins, Senior Planner

Diana Barkume, Project Coordinator-Development

Development Services

City of Dallas



City of Dallas



Board of Adjustment Staff

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Mary Williams
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Senior Planner

VACANT

Senior Plans Examiner

VACANT

Presentation Overview

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- Development Services Board Processes Steps 1-5
- What Is The Intake Process
- Prescreen Process
- Complete Application Process





Development Services Processes Steps 1-5



Development Services Processes Steps 1-5



- **Step 1- Application Intake**
- Step 2- Planner Assignment/Case Start
- Step 3- Legal Notices, Meetings, & Deadlines
- Step 4- Hearing
- Step 5- Post -Hearing





What is the intake process?



What is the intake process?

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The intake process is a bicomponent procedure designed to streamline the application acceptance process for optimal timeliness, accuracy, transparency, and teamwork.

The intake components are **pre-screen** and **complete application acceptance**.



What is the intake process?

Timeliness- Development Services intake process mimics new upgraded permit procedures which allows for timelines of exactly sixty days or less from intake deadline to hearing.

Accuracy- The pre-screen portion of the intake process ensures accuracy and alleviates instances/occurrences of cases coming to the board in error.

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What is the intake process?

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Transparency-The newly implemented internal referral system allows for open context and accountability for the majority of cases that are referred to the board allowing staff to share information with the board of keen governance in order to help the board decide on cases.

Teamwork- Wholly, the intake process does/can include city staff from code, zoning, permitting, landscaping, and engineering heightening inter-departmental collaboration that gives synergy to alternative methods of securing a permit outside of the board saving the taxpayer money while not stagnating the permitting process.





Pre-Screen Process



What is the intake process?

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Pre-screen: consultation and precursory review

- Full-scale inventory of all required items on the checklist
- Checking for codified reason to be heard before the board
- Facilitation if possible or necessary
- Site plan review
- Discussion of standards and hearing process



Pre-screen Process



City of Dallas

"TOGETHER WE ARE BUILDING A SAFE AND UNITED DALLAS"


REQUIRED MATERIAL FOR FILING AN APPEAL TO THE BOARD OF ADJUSTMENT

- 2 original "Application" forms, filled out, signed, and notarized, describing the variance or special exception appeal requested, and the reason(s) why the appeal should be granted. Do not modify, revise, or alter the application form. Do not write on the back of the form.
- 2 original "City of Dallas Affidavit" forms signed and notarized (required only if the "owner of the property" and the "applicant" for the appeal are not the same. The "applicant" must be a person.)
- 1 original Certified Warranty Deed for the subject property (obtain from the county-500 Elm St).
- 1 original "Tax Certificate" showing property taxes are paid (obtain from the county-500 Elm St).
- All appeals must include a copy of a certified subdivision plat (obtain the most recent from the county-500 Elm St).
- 1 original signed Lien Statement from City Hall, Rm. 2DS-1500 Marilla St, showing no city liens on the property.
- 4 copies of the site plan drawn to scale (standard Engineer or Architect scale), showing the entire platted property with the proposed improvements and all existing improvements that will remain on the premises. *
- 4 copies of elevation drawings drawn to scale. *
- 4 copies of the floor plan drawn to scale. *
****See standard scale chart on page 2**
- For parking requirement appeals, a parking analysis and/or traffic study, describing all uses, the square footage of each use, the required parking of all the uses, and the parking to be provided. *
****Please contact David Nevarez with questions regarding a traffic study: parking analysis example on page 2.**
- For landscaping and tree mitigation appeals, 4 copies of the alternate landscape plan or mitigation plan drawn to scale specifying size and species of all existing and proposed landscaping. Please discuss with the city arborist your landscape or mitigation plan before filing the appeal. *
****For landscape and tree mitigation appeals, alternate landscape plans or mitigation plans must be reviewed/approved by the Chief Arborist prior to BDA submittal. Please contact Phil Erwin at philin.erwin@dallas.gov with any questions.**
- 3 copies of a site zoning map (Please outline your site in red ink & initial)
[City of Dallas Zoning Map \(dallascityhall.com\)](http://CityofDallasZoningMap(dallascityhall.com))
- 3 copies of a site plat map (Please outline your site in red ink & initial)
Records library-Vault; 320 E Jefferson, Dallas, TX. 75203, Room 314 or Contact Tommy Bullard at tommy.bullard@dallas.gov
- "Posting of Notification Sign" acknowledgment (see page 9 and 13 of this packet).



Pre-screen Process





Development Services

"TOGETHER WE ARE BUILDING A SAFE AND UNITED DALLAS"

REFERRAL FORM FOR BOARD OF ADJUSTMENT

APPLICANT: CHANDLER SIGNS, INC		OWNER: BLACK SHEEP COFFEE
ADDRESS: 6340 E MOCKINGBIRD LN	STATE: DALLAS	ZIP: 75214
LOT: 1A	BLOCK: B-2869	ZONING: CR

<input type="checkbox"/> Variance <input type="checkbox"/> Yard setback <input type="checkbox"/> Lot width <input type="checkbox"/> Lot Depth <input type="checkbox"/> Lot Coverage <input type="checkbox"/> Floor area for accessory structures for single family uses <input type="checkbox"/> Height <input type="checkbox"/> Minimum width of sidewalk <input type="checkbox"/> Off-street parking <input type="checkbox"/> Off-street loading <input type="checkbox"/> Landscape regulations <input type="checkbox"/> Other	<input type="checkbox"/> Special Exception <input type="checkbox"/> Fence height and standards <input type="checkbox"/> Visibility triangle obstructions <input type="checkbox"/> Parking demand <input type="checkbox"/> Landscaping <input type="checkbox"/> Additional dwelling unit for a single-family <input type="checkbox"/> Carport <input type="checkbox"/> Non-conforming use <input checked="" type="checkbox"/> Other
--	---

Please list the City of Dallas Development Code(s) this project is non-compliant with:
 SEC. 51A-7.304. (b)(3) DETACHED SIGNS.

Description: Non-monument signs are not allowed within 250 feet of either private property in a non-business zoning district or a public park of more than one acre. The board of adjustment may grant a special exception to this provision when, in the opinion of the board, the special exception will not adversely affect neighboring property.

Alternative resolutions discussed/offered: Property owner removed the original non-monument sign and replaced with a monument sign. Applicant prefers to have a non-monument sign so chose this option in lieu of using monument sign.

Referred by: Scott Roper, Sr Plans Examiner Contact: scott.roper@dallas.gov Date: 8/23/23

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Pre-screen Process



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Facilitation - a process by which we alleviate the possibility of cases coming to the board in error, forestall frequent communication gaps from one division to the next, strengthen interdepartmental collaboration and training, and forging needed and valued partnerships city-wide. This proactive stance has led to an impressive 69% rate of finding alternatives to the board, earning notable victories for Development Services and, importantly, the taxpayers they serve.



Pre-screen Process



FW: Fence in CD-12

 Dunn, Sheriqua
To: Pool, Jason

 Reply  Reply All  Forward 
Tue 9/26/2023 3:38 PM

From: Burgess, Casey <casey.burgess@dallas.gov>
Sent: Tuesday, September 26, 2023 8:42 AM
To: Lester, Tenisha <tenisha.lester@dallas.gov>
Cc: Dunn, Sheriqua <sheniqua.dunn@dallas.gov>; Barkume, Diana <diana.barkume@dallas.gov>; Pool, Jason <jason.pool@dallas.gov>; Sapp, Matthew <matthew.sapp@dallas.gov>
Subject: RE: Fence in CD-12

Hi Tenisha,

For special exceptions, you always have to look at the language in the standard to see if a special exception is available. The general fence special exception is located in § 51A-4.602(a)(11). It says: "The board may grant a special exception to the fence standards in *this subsection* (emphasis added) when, in the opinion of the board, the special exception will not adversely affect neighboring property." This special exception is not available because the standard the applicant is requesting a special exception from is in CD 12, not § 51A-4.602(a).

Variances are different. An applicant can request a variance in any zoning district if it is one of the categories listed in § 51A-3.102(d)(10): "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."

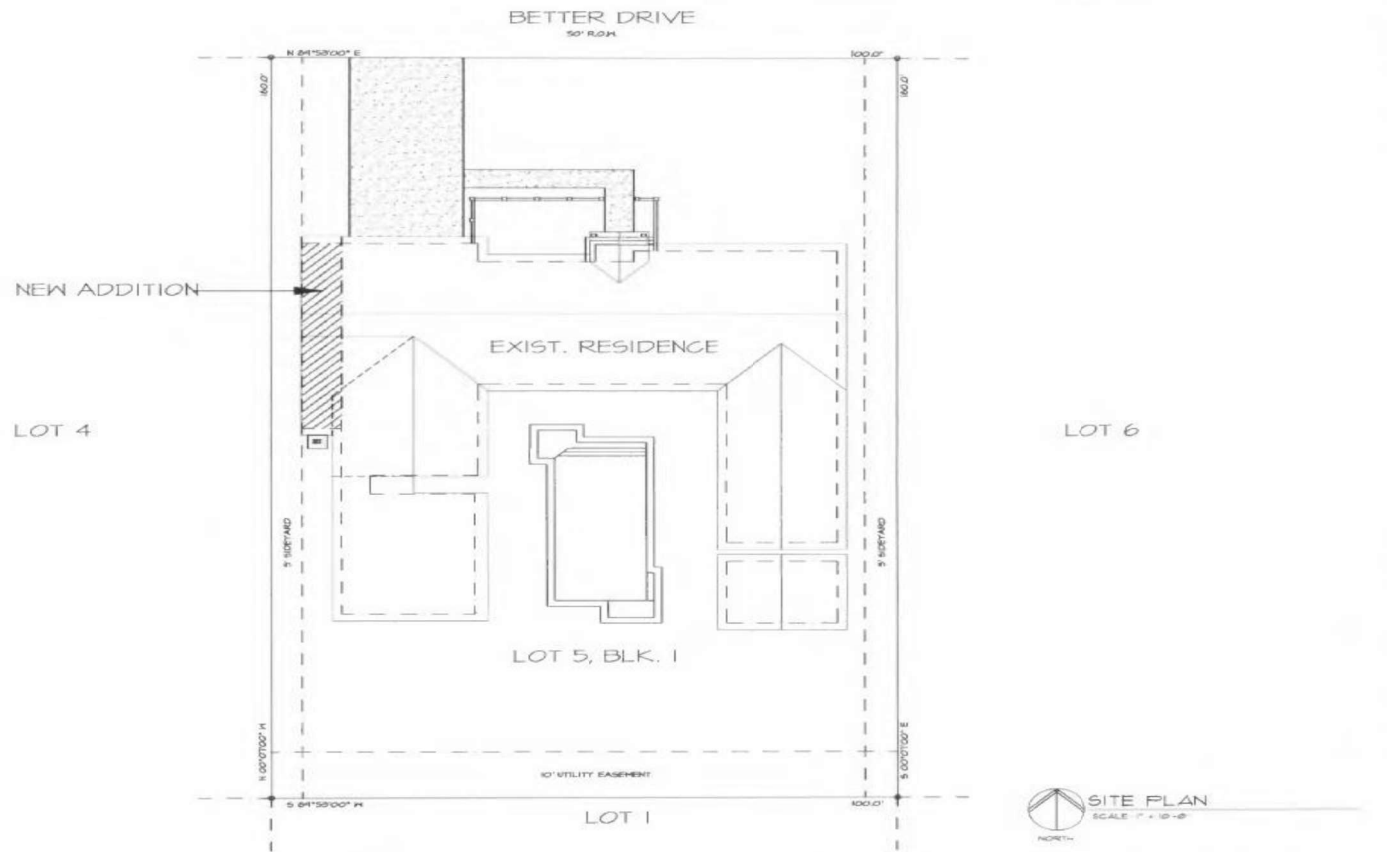

Casey Burgess
Executive Assistant City Attorney
City of Dallas
Dallas City Attorney's Office
Municipal/Regulatory Section
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Dallas, TX 75201
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Please be advised that this e-mail is subject to being disclosed pursuant to a request for public information under the Texas Public Information Act.

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Pre-screen Process





Complete Application



What is the intake process?

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Complete Application: code specialist's verification that all legal and technical documents have been provided

- Determination and approval of all required items on the checklist
- Stamped date of acceptance of the application with BDA#
- Full payment rendered
- Sign(s) and stake(s) given



Complete Application

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Development Services

"TOGETHER WE ARE BUILDING A SAFE AND UNITED DALLAS"

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 220097 FILED

Data Relative to Subject Property: St. Matthews Cathedral Date: FOR CONTAINERS RECORD

Location address: 5100 Ross Avenue Zoning District: BY

Lot No.: 2 Block No.: A/706 Acreage: 3.30 Census Tract: 48113001503

Street Frontage (in Feet): 1) 115 2) 374 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Corporation of the Episcopal Diocese of Dallas

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street, Suite B - Dallas, Texas Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street, Suite B - Dallas, Texas Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance or Special Exception of Landscape Requirements

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to Grant the described appeal for the following reason:
 The property is developed with a church, which has subdivided its property to allow for a new multifamily development. The non-residential use will require a landscape buffer adjacent to the new MF use. No construction is to occur on the church property except for a new parking lot, which is triggering Article X.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Rob Baldwin
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner or principal or authorized representative of the subject property

Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24 day of March, 2023
[Signature]
 Notary Public in and for Dallas County, Texas

MICHELE STOV
 Notary Public, State of Texas
 Comm. Expires 07-20-2024
 Notary ID: 130747026

3



Complete Application



Job Description: Variance to side yard, and Variance to rear yard

Job Type: Board of Adjustment Date Created: Jun 05, 2023

Status: Approved Created By: DBARKJME

Parent Job: Date Completed: Aug 21, 2023

Specific Location: 8334 FLAINVIEW DRIVE

Description	Transaction	Posted	Amount	Tax	Total	Balance External Reference	Responsible Party
Notification Signs	Jun 05, 2023		\$10.00	\$0.00	\$10.00	\$0.00	BULFRANO, MACED0766
Receipt Number: 816998 \$1,210.	Jun 05, 2023		(\$10.00)	\$0.00	(\$10.00)		
Board of Adjustment Fee	Jun 05, 2023		\$1,200.00	\$0.00	\$1,200.00	\$0.00	BULFRANO, MACED0766
Receipt Number: 816998 \$1,210.	Jun 05, 2023		(\$1,200.00)	\$0.00	(\$1,200.00)		
						\$0.00	



Complete Application

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THANK YOU!

QUESTIONS.....

City of Dallas

Nikki Dunn, Chief Planner
Dr. Kameka Miller-Hoskins, Senior Planner
Diana Barkume, Project Coordinator-Development
Development Services
City of Dallas



City of Dallas

FY 2022 – 2023 Objectives Review

**Board of Adjustment
Annual Meeting
October 31, 2023**

Jason Pool, DSD Administrator
Development Services Department
City of Dallas

Background



- The Board of Adjustment (BDA) transitioned from Planning & Urban Design (PUD) to Development Services (DSD) in October 2022.
- Following the transition, the BDA established these 8 objectives on November 1, 2022.
- This will highlight DSD's ongoing efforts and alignment with these objectives.



Background



- DSD's central mission is to provide top-tier service to residents & stakeholders.
- Realizing the intricacies of the BDA process our focus is on streamlining, teamwork, & open communication.
- Deficiencies in tracking performance and high staff turnover are identified as growth areas.



Objective One



- Improve all (staff, board, property owner) aspects of the Board of Adjustment's Timeliness, Transparency, Accuracy, & Teamwork.
 - FY22-23 Overview
 - Reduced A-to-H time from 82 to 73 days.
 - Added 3 New Trades to SRT Reviews.
 - Regular Collaboration with Board Chairman.



Objective Two



- Successfully transition City staff to DSD with new Board Administrator & Sr Planners.
 - FY22-23 Overview
 - Expanded team from 5 to 7 w/ 2 new Sr. positions & 2 reclassified positions.
 - Began Cross-Training & Mentoring programs.
 - Introduced Lunch & Learns for Nov & Aug.



Objective Three



- Significantly decrease A-to-H timeline.
 - FY22-23 Overview
 - Achieved slight reduction in A-to-H.
 - Noted decline in Board cases.
 - Potential for Enhanced Consultations to have facilitated > 30% of cases toward alternative (expedited) solutions, which align with the interpretation of the Building Official.



Objective Four



- Significant website enhancements to increase taxpayer/property owner access & awareness of pending zoning appeals.
 - FY22-23 Overview
 - Implemented revised app packet, refined intake, & live speaker registration system.
 - Faced setbacks in updates & no case log.
 - Equipped Board Coordinator w/ Site Access.



Objective Five

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- Meeting/agenda dockets publicly available 7-days in advance of hearings.
 - FY22-23 Overview
 - Faced setbacks in updates.
 - Equipped Board Coordinator w/ Site Access.
 - Showed timely availability for previous two months (Aug & Sept).



Objective Six



- Quarterly enhanced training of members/alternates on rules, COI, criteria for decision-making, & onboard of new members.
 - FY22-23 Overview
 - Board Staff provided two outreach training sessions to the public.
 - Staff training for the Board was not achieved.



Objective Seven



- Improving surrounding property owner notification process (area of notification increase to 300 ft, clarifying the format of notification, mailing days before hearing).
 - FY22-23 Overview
 - Initiated amendment process w/ CAO.



Objective Eight



- Obtain more comprehensive staff/technical report presentation for appeal hearings w/ enhanced photos & property comparisons.
 - FY22-23 Overview
 - Enlisted additional Staff support for SRTs & Hearings.
 - Incorporated use of video.



Looking Forward



- Build on a year of challenges & insights.
- Enhance metrics, training, & webpage
- Improve service delivery centered around:
 - Timeliness
 - Transparency
 - Accuracy
 - Teamwork





City of Dallas

FY 2022 – 2023 Objectives Review

**Board of Adjustment
Annual Meeting
October 31, 2023**

Jason Pool, DSD Administrator
Development Services Department
City of Dallas



City of Dallas

FY 23–24 Strategic Efficiency Plan

**Board of Adjustment
Annual Meeting
October 31, 2023**

Jason Pool, DSD Administrator
Development Services Department
City of Dallas

FY2023-2024 Strategic Efficiency Plan



2023/24

STRATEGIC EFFICIENCY

This Plan is to provide measurable goals & improvements that are targeted at reaching improved service levels & customer service. The following goals have been established for accomplishing the overarching goals of this Plan:



FY2023-2024 Goals



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TIMELINESS

20% DECREASE IN TIME TO HEARING

- ACHIEVE 60-DAY AVERAGE APPEAL TO HEARING
- EXPLORE PLANS FOR MORE DYNAMIC CASE SCHEDULING

TRANSPARENCY

100% WEEKLY WEBSITE UPDATES

- PROVIDE UPDATE TO CASE COUNT & CASE LOG
- POST HEARING DOCKET/AGENDA WITHIN 7-DAYS OF HEARING

ACCURACY

90% PASSING QUALITY CONTROL

- CREATE NEW QC CHECKS & METRICS
- TRANSITION TO ELECTRONIC PLAN REVIEW
- ENHANCE CASE REPORTING

TEAMWORK

50% INCREASE OUTREACH & TRAINING

- PROVIDE MIN. QUARTERLY OUTREACH & TRAINING SESSIONS FOR STAFF, PUBLIC, & BOARD MEMBERS



Timeliness



- Reduce average number of Appeal-to-Hearing (A-to-H) days.
- Explore more dynamic calendar to fully achieve 60-day A-to-H average.
- Publish clear timelines and introduce process improvements.



Timeliness (cont.)



- Current calendar gives a range of 53 to 82 days for A-to-H.
- This calendar moves the deadline one week closer to the hearing dates over previous years, giving a median of 67.8 days.

FULL SUBMISSION PERIOD		FULL SUB.		60-DAY	RANGE	HEARING
OPEN	CLOSED	TIME	RANGE	TARGET	AVERAGE	DATE
10/7/2023	11/22/2023	54	to 100	11/16/2023	77	1/15/2024
10/7/2023	11/22/2023	56	to 102	11/18/2023	79	1/17/2024
11/23/2023	12/29/2023	53	to 89	12/22/2023	71	2/20/2024
11/23/2023	12/29/2023	54	to 90	12/23/2023	72	2/21/2024
11/23/2023	12/29/2023	55	to 91	12/24/2023	73	2/22/2024
1/2/2024	1/26/2024	52	to 76	1/18/2024	64	3/18/2024
1/2/2024	1/26/2024	53	to 77	1/19/2024	65	3/19/2024
1/2/2024	1/26/2024	54	to 78	1/20/2024	66	3/20/2024
1/29/2024	2/23/2024	52	to 77	2/15/2024	64.5	4/15/2024
1/29/2024	2/23/2024	53	to 78	2/16/2024	65.5	4/16/2024
1/29/2024	2/23/2024	54	to 79	2/17/2024	66.5	4/17/2024
2/26/2024	3/29/2024	52	to 84	3/21/2024	68	5/20/2024
2/26/2024	3/29/2024	53	to 85	3/22/2024	69	5/21/2024
2/26/2024	3/29/2024	54	to 86	3/23/2024	70	5/22/2024
4/1/2024	4/26/2024	52	to 77	4/18/2024	64.5	6/17/2024
4/1/2024	4/26/2024	53	to 78	4/19/2024	65.5	6/18/2024
4/29/2024	5/24/2024	52	to 77	5/16/2024	64.5	7/15/2024
4/29/2024	5/24/2024	53	to 78	5/17/2024	65.5	7/16/2024
5/27/2024	6/28/2024	52	to 84	6/20/2024	68	8/19/2024
5/27/2024	6/28/2024	53	to 85	6/21/2024	69	8/20/2024
5/27/2024	6/28/2024	54	to 86	6/22/2024	70	8/21/2024
7/1/2024	7/26/2024	52	to 77	7/18/2024	64.5	9/16/2024
7/1/2024	7/26/2024	53	to 78	7/19/2024	65.5	9/17/2024
7/1/2024	7/26/2024	54	to 79	7/20/2024	66.5	9/18/2024
7/29/2024	8/30/2024	52	to 84	8/22/2024	68	10/21/2024
7/29/2024	8/30/2024	53	to 85	8/23/2024	69	10/22/2024
7/29/2024	8/30/2024	54	to 86	8/24/2024	70	10/23/2024
9/2/2024	9/27/2024	52	to 77	9/19/2024	64.5	11/18/2024
9/2/2024	9/27/2024	53	to 78	9/20/2024	65.5	11/19/2024
9/2/2024	9/27/2024	54	to 79	9/21/2024	66.5	11/20/2024
9/30/2024	10/25/2024	52	to 77	10/17/2024	64.5	12/16/2024
9/30/2024	10/25/2024	54	to 79	10/19/2024	66.5	12/18/2024
		53	to 82	67.8		



Transparency



- 100% Posting of All Agenda Dockets in 7-days or More of Schedule Hearing Date.
- 100% Weekly Webpage Updates.
- Dedicated Friday afternoon site updates with goal toward daily updates.



Transparency (cont.)



- Develop & maintain phased plan to declutter & restructure Board webpage.
- Introduce live Pending Board Case Log.



FY 2023 - 2024 Board of Adjustment Case Log

Updated: 10/20/2023

- Request Key -						
SE = Special Exception V = Variance AO = Administrative Appeal						
Fence: H = Height O = Opacity M = Material S = Standards Setback: FYS = Front Yard SYS = Side Yard						
BH = Building Height P = Parking HP = Handicap Parking AEM = Additional Electrical Meter						
VOR = Visibility Obstruction Regulations L&TM = Landscaping & Tree Mitigation Regulations						
Case No.	Address	Request	Status	Planner	Panel	Hearing Date
BDA212-078	5526 ERL Thornton Frwy	1) V-P; 2) SE-L&TM; 3) V-SYS	Assigned	Dr. Miller-Hoskins	Panel A	11/14/2023
BDA223-086	3344 Topeka Ave.	1) V - FYS	Assigned	Dr. Miller-Hoskins	Panel C	11/13/2023
BDA223-087	5327 Richard Ave.	1) V - FYS	Assigned	Dr. Miller-Hoskins	Panel C	11/13/2023
BDA223-088	12100 Preston Rd.	1) SE - L&TM	Assigned	Dr. Miller-Hoskins	Panel C	11/13/2023
BDA223-089	2622 Madera St.	1) V - FYS; 2) SE - Fence H; 3) SE - Fence S	Assigned	Dr. Miller-Hoskins	Panel C	11/13/2023
BDA223-090	2504 & 2508 Maple	1) V - P; 2) SE - HP	Assigned	Dr. Miller-Hoskins	Panel C	11/13/2023
BDA223-091	4301 Cobblers Ln.	1) V - FYS	Assigned	Nikki Dunn	Panel A	POSTPONED
BDA223-092	2851 W Jefferson	1) V - FYS; 2) V - BH;	Assigned	Dr. Miller-Hoskins	Panel B	11/15/2023
BDA223-093	4200 Duncanville	1) SE - L&TM	Assigned	Nikki Dunn	Panel B	11/15/2023
BDA223-094	5540 N Forty Pl.	1) SE - AEM	Assigned	Nikki Dunn	Panel B	11/15/2023
BDA223-095	4707 Allencrest Ln.	1) SE - SYS	Assigned	Dr. Miller-Hoskins	Panel A	11/14/2023
BDA223-096	4515 Harry's Ln.	1) SE - Fence H	Assigned	Dr. Miller-Hoskins	Panel A	11/14/2023
BDA223-097	2764 Catherine	1) SE - Fence H; 2) SE - VOR; 3) SE - VOR	Assigned	Dr. Miller-Hoskins	Panel A	11/14/2023
BDA223-098	4104 Sarnac	1) SE - Fence H; 2) SE - Fence S	Assigned	Dr. Miller-Hoskins	Panel B	11/15/2023
BDA223-099	4211 Irving Blvd.	1) SE - L&TM	Assigned	Nikki Dunn	Panel B	11/15/2023
BDA223-100	1057 Kessler	1) V - FYS	Assigned	Nikki Dunn	Panel B	11/15/2023
BDA223-102	5434 Ross Ave.	1) V - FYS; 2) V - FYS	Assigned	Nikki Dunn	Panel A	11/14/2023



Transparency (cont.)



- Roll-out new notification sign w/ QR Code in conjunction w/ the new Pending Case Log.



BOARD OF ADJUSTMENT
APPEAL

CASE NO. BDA

FOR MORE INFORMATION / PARA MÁS INFORMACIÓN

214-948-4066 | BDAReply@Dallas.gov



<https://bit.ly/Dallas-BDA>



City of Dallas

**MAXIMUM \$2000 FINE
FOR REMOVAL OF THIS
SIGN PRIOR TO
PUBLIC HEARING**



Accuracy



- Provide metrics & surveys to monitor staff key events.
- Implement QC program.
- Investigate integration of electronic plan review system to track BDA prescreen process.
- Explore development of Area Fact Sheets for reports.



Accuracy (cont.)



- Further incorporate use of 360 camera with report & presentation.
- Collaborate with internal & external sources to enhance presentation quality.



Teamwork



- Build Trust Through the Direct Facilitation of New DSD Administrator.
- Fill all staff vacancies within Q1.
- Implement performance incentive pay.
- Ensure min. 80% of staff is proficient in multiple roles



Teamwork (cont.)



- Increase Board Training, Outreach, & Team Building Events to one per quarter.
- Develop rotating system for Board training, in-lieu of Panel cancellations.
- Collaborate with CAO for on-boarding of new members.



Summary for FY 2023-2024



- Improve Timeliness, Transparency, Accuracy, & Teamwork.
 - Reduce the average number of A-to-H days.
 - Consistently update & develop the webpage.
 - Build enhanced metrics.
 - Enhance case reports.
 - Increase outreach, training, & team building.





City of Dallas

FY 23–24 Strategic Efficiency Plan

**Board of Adjustment
Annual Meeting
October 31, 2023**

Jason Pool, DSD Administrator
Development Services Department
City of Dallas



City of Dallas

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Development
Services
Department

STRATEGIC EFFICIENCY

IMPROVEMENT PLAN

BOARD OF ADJUSTMENT

Prepared by: Andrew Espinoza CBO, MCP, CFM, CCEA
Director/Chief Building Official

2023/2024

"Together We Are Building a Safe and United Dallas!"



Development
Services
Department

BOARD OF

ADJUSTMENT



2023/2024

STRATEGIC EFFICIENCY

This Plan is to provide measurable goals & improvements that are targeted at reaching improved service levels & customer service. The following goals have been established for accomplishing the overarching goals of this Plan:

Message From the Director/Chief Building Official

The Development Service Department (DSD) is committed to providing the highest quality of customer service delivery to its residents and development community stakeholders. The information in this document is intended to track short-term and long-term initiatives that are designed to help facilitate Board of Adjustments (BDA) processes. As the Director and Building Official of DSD I recognize that there are many opportunities for improvement as we work with our internal and external customers. I also understand that the permitting and appeal processes can be complex, strenuous, and rigid.

This document will highlight the need for collaboration, partnership, and a team approach to solving some of the most complex workflow processes involving the zoning appeal process. This plan will outline DSD's commitment to serving its applicants with responsive customer service, open communication, consistency, and ongoing partnerships.

In a continued effort to strengthen service and engagement, DSD has composed goals and objectives to inform its customers of these initiatives. Finally, this plan will help ensure that the Department is held accountable for ongoing improvements and implementation of this plan. In the spirit of "Service First", I am resolutely committed to building an improved and streamlined process.

"Together We Are Building a Safe and United Dallas!"

TIMELINESS

20% DECREASE IN TIME TO HEARING

- **ACHIEVE 60-DAY AVERAGE APPEAL TO HEARING**
- **EXPLORE PLANS FOR MORE DYNAMIC CASE SCHEDULING**

- DSD seeks to enhance timeliness by adopting a 60-day metric for the application to hearing duration. This goal will be supported by shifting all submission deadlines to between 50 and 60 days prior to the scheduled hearing dates.
- In an effort to progress more dynamically to achieve a 60-day application to hearing timeline DSD will be exploring the adoption of additional calendar structures that integrate multiple monthly timelines & deadlines for public hearings.
- To keep the public informed and to streamline processes, DSD will publish clear timelines and introduce process improvements. These steps are intended to enhance communication with the public, optimize DSD's efficiency, and sustainably decrease lead times.

- Recognizing the importance of current information, DSD will reserve Friday afternoons for website updates. Our eventual goal is to enable real-time updates as and when developments occur, making updates more up to the day.
- To enhance user navigation and clarity, DSD will be initiating a phase project over the coming months to declutter and reorganize the Board page, toward ensuring easy accessibility of necessary information.
- In acknowledgment of the demand for a pending case log and failure to integrate into the existing zoning case log system, DSD is launching a dedicated live Pending Board Case Log. This system is designed to show application details, current statuses, and upcoming hearing dates.
- Coinciding with the launch of the new Pending BDA Case Log, DSD is set to deploy the redesigned notification signs, aiming to provide clearer and more immediate access to details for the public.

TRANSPARENCY

100% WEEKLY WEBSITE UPDATES

- **PROVIDE UPDATE TO CASE COUNT & CASE LOG**
- **POST HEARING DOCKET/AGENDA WITHIN 7-DAYS OF HEARING**



ACCURACY

**90% PASSING
QUALITY CONTROL**

- **CREATE NEW QC CHECKS & METRICS**
- **TRANSITION TO ELECTRONIC PLAN REVIEW**
- **ENHANCE CASE REPORTING**

- DSD will implement enhanced metrics and solicit surveys to monitor key operational areas including consultations, case review, case reports, public information postings, presentations, and post hearing activities. To provide insight and optimize our processes to ensure swift outcomes.
- DSD is implementing increased and additional quality control mechanisms. Designed not only to enhance the precision of our operations but also to ensure every decision aligns with the best interests of those we serve. Via secondary reviews, strategically placed checkpoints, and new metrics, we aim to ensure accuracy in our case reports and presentations.
- DSD has engaged in incorporating the Board processes into our new Land Management system. This system is set to “go live” within 24-months. As a supplement to the data this new system will provide, DSD is investigating the enlistment of our current electronic plan review system to help provide data for our prescreen services.
- DSD will work to introduce an Area Fact Sheet throughout the coming year. This document aims to furnish elementary insights about the adjacent vicinity, consistently capturing relevant elements of data.
- To provide a more immersive experience, DSD has procured a 360 degree camera and intends to incorporate neighborhood tour videos into the reports and presentations. This will help improve case accuracy and consistency.
- For the sake of clarity and consistency, DSD will transition to a new presentation template, aligning with those in use throughout the City Organization.
- DSD will proactively collaborate with both intra-departmental and extra-departmental sources to enhance our methodologies toward presentation enhancement.



[https://bit.ly/Dallas-](https://bit.ly/Dallas-BDA)
BDA



TEAMWORK

50% INCREASE OUTREACH & TRAINING

- **PROVIDE MIN. QUARTERLY OUTREACH & TRAINING SESSIONS FOR STAFF, PUBLIC, & BOARD MEMBERS**
- **FILL VACANCIES WITHIN Q1**

- DSD's commitment in this area remains unwavering. We seek to promote a positive environment that will build synergy between Staff and the Board. Drawing from our experiences and feedback, DSD, moving forward will ensure the regular availability of the newly appointed Development Services Administrator to collaborate with the Board Chairman and Board Administrator. This is an initiative to bridge any communication gaps and to tailor the interactions for maximum efficiency and understanding.
- In our ongoing effort to sustain growth post transition, DSD will participate in recruitment efforts to fill all vacancies within the next quarter.
- In response to challenges in filling critical roles, DSD will implement a performance incentive pay initiative.
- DSD seeks to move beyond the transition by further investing in its cross-training sustainability and succession initiative, so that 80% of the Board Support Team is proficient in at least two roles by the end of the next year.

- DSD will seek to continue its public outreach, Lunch and Learn programs, through ongoing quarterly sessions.
- Given the observed decrease in Board cases and understanding the need for continuous learning and Panel readiness, we will be proposing a rotating monthly panel system. This to allow for Board training, in-lieu of Panel cancellations during months with lighter caseloads.
- Recognizing the unique needs and challenges of new panel members, DSD will collaborate with the CAO to refine the on-boarding process and ensure it is deployed efficiently as needed.
- To strengthen Team dynamics, DSD will seek to conduct quarterly team-building events or workshops. Initial activities will focus on feedback and skill-sharing sessions, recognition programs, and regular team check-ins.

EXECUTIVE SUMMARY

The Board of Adjustment is a quasi-judicial body that has the authority to hear and decide appeals from decisions officials made in the enforcement of City Ordinances. The Board of Adjustment consists of (15) fifteen members who are residents of the City. Each City Council member appoints one member to the board. The Chairman and two Vice-Chairs are appointed by the Mayor from among the Board members. The responsibility of administering the workflow processes of the Board of Adjustment were assigned to DSD on October 1st, 2022. Previously this responsibility was overseen by The Department of Planning and Urban Design. This realignment was intended to help facilitate quicker application turnaround times, communications, consistency, and partnerships among City Departments. These Departments presented approximately 402 cases in the past three (3) years. The inability to track Departmental performance metrics has directly impacted the ability to document expedient turnaround times and results in slower development in the City. Finally, the City experiences high employee turnover which impacts the Department's ability to retain and gain ongoing sustainable subject matter knowledge and experience.

As we transition into the new year, we are poised to expand upon our foundation of resilience and determination. While grappling with challenges, we've gained insight for areas of growth. In the coming months, we look to see a renewed emphasis on enhanced metrics and training modules, the roll-out of a more comprehensive and cutting-edge webpage, and ongoing efforts to refine our processes to provide better service. In recognition of the journey being a blend of achievements and learning curves, and as we press forward, our dedication to Timeliness, Accuracy, Transparency, and Teamwork will remain at the core of our mission.



DEVELOPMENT SERVICES DEPARTMENT
320 E. JEFFERSON BLVD., RM 210
DALLAS, TX 75203

"Together We Are Building a Safe and United Dallas!"



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BDA



Board of Adjustment

FY 2023 - 2024 Schedule

INTAKE/FILING DEADLINE	HEARING DATE - PANEL
<u>November 22, 2023</u> Prescreen Goal: November 10, 2023	<u>January 16 & 17, 2024</u> Panel Order: A & B
<u>December 29, 2023</u> Prescreen Goal: December 15, 2023	<u>February 20, 21, & 22, 2024</u> Panel Order: A, B, & C
<u>January 26, 2024</u> Prescreen Goal: January 12, 2024	<u>March 18, 19, & 20, 2024</u> Panel Order: C, A, & B
<u>February 23, 2024</u> Prescreen Goal: February 9, 2024	<u>April 15, 16, & 17, 2024</u> Panel Order: C, A, & B
<u>March 29, 2024</u> Prescreen Goal: March 15, 2024	<u>May 20, 21, & 22, 2024</u> Panel Order: C, A, & B
<u>April 26, 2024</u> Prescreen Goal: April 12, 2024	<u>June 17 & 18, 2024</u> Panel Order: C & A
<u>May 24, 2024</u> Prescreen Goal: May 10, 2024	<u>July 15 & 16, 2024</u> Panel Order: C & A
<u>June 28, 2024</u> Prescreen Goal: June 14, 2024	<u>August 19, 20, & 21, 2024</u> Panel Order: C, A, & B
<u>July 26, 2024</u> Prescreen Goal: July 12, 2024	<u>September 16, 17, & 18, 2024</u> Panel Order: C, A, & B
<u>August 30, 2024</u> Prescreen Goal: August 16, 2024	<u>October 21, 22, & 23, 2024</u> Panel Order: C, A, & B
<u>September 27, 2024</u> Prescreen Goal: September 13, 2024	<u>November 18, 19, & 20, 2024</u> Panel Order: C, A, & B
<u>October 25, 2024</u> Prescreen Goal: October 11, 2024	<u>December 16 & 18, 2024</u> Panel Order: C & B
Full Board Meeting	October 29, 2024

Intake/filing closes at 12:00 pm on the day of the deadline.

City of Dallas
Board of Adjustment
October 31, 2023

Progress Report 2022-2023 Goals and Objectives

1. GOAL: Improve all (Staff, Board, Property Owner) aspects of the Board of Adjustment's Timeliness, Transparency, Accuracy, and Teamwork

RESULT:

- City Council has delivered the funds and the resources necessary for the Board of Adjustment to achieve this goal.
- Excellent Member attendance at calendarized Panel Hearings with 30 minutes added to the briefing time to allow for better preparation for Public Hearing.
- Staffing challenges, learning curves, and inconsistencies in presentations sometimes created less than the well-informed hearings (based on our own stated standards and procedure) than we have been accustomed to and desire.

2. GOAL: Successfully transition city staff support to Development Services Department with new Board Administrator and Senior Planners

RESULT:

- Three Board Administrators (interim and full time) since our last Annual Meeting resulting in multiple transitions and unfilled Senior Planner positions.
- Insufficient communication between the Staff to the Board undercuts our collective capacity to execute our responsibilities on the Board.
- Jason Pool's addition as Development Services Administrator with BOA staff oversight brings hope for better communication, coordination, and consistency.

3. GOAL: Significantly decrease days to hearing timeline for the taxpayer/property owner

RESULT:

- 82 or 78 or 73 ? days from accepted application to hearing. Lack of a verifiable consistent measurement. Critical missed opportunity to better serve the taxpayer/property owner.

4. GOAL: Meeting agenda/dockets publicly available seven (7) days in advance of hearings

RESULT:

- Success. Staff has posted agenda/docket materials for the benefit of the public on time over 85% of the time.

Board of Adjustment
Progress Report 2022-2023 Goals and Objectives

5. GOAL: Significant website enhancements to increase taxpayer/property owner access and awareness of pending zoning appeals.

RESULT:

- BOA website was often inaccurate or outdated.
- Conflicting and inaccurate source of information about BOA hosted within multiple locations on City website.

6. GOAL: Quarterly enhanced training of Members/Alternates on rules, conflicts of interest, criteria for decision making and onboarding of new appointees.

RESULT:

- Successfully held training on an ad hoc basis but not quarterly.
 - New statutes affecting the Board.
 - New ethics rules and structure
- Still awaiting a standard onboarding process for new members

7. GOAL: Improving surrounding property owner notification process (area of notification increased to 300 feet from 200 feet, clarifying the format of notification, mailing days before hearing)

RESULT:

- Successful in revising surrounding property owner notification for clarity.
- Chose to hold with increasing notification area after receiving City Council feedback.

8. GOAL: Obtain more comprehensive staff/technical report presentation for appeal hearings with enhanced photos and property comparisons.

RESULT:

- Staff provided 360 videos requested by the Board. Need greater street orientation and identification.
- Some progress. The Board has too often been forced to be fact finders to obtain complete evaluation of case specific circumstances for application to the Board's legal standards in order to ensure a fair hearing.

City of Dallas
Board of Adjustment
October 31, 2023

Proposed 2023 - 2024 Goals & Objectives

1. Ensure Fairness to every property owner appeal to the Board of Adjustment (BOA) through Timeliness and Accuracy for a hearing, and Transparency to the public. Strive to consistently provide a fair and complete evaluation of all relevant facts from applicant and staff on each appeal as they apply to a predefined standard.
2. Staff and Board to provide a public hearing for property owner appeals to BOA within 60 days on average from taxpayer application. Streamline staff processing and potentially modify BOA Panel hearing calendar to accomplish. Create a verifiable predefined consistent measurement of days from application to Hearing, (State law requires a hearing within 60 days for a Building Administrative Official appeal and 30 days for Plats)
3. Staff to prepare a more comprehensive and technical analysis for appeal hearings with enhanced photos and property comparisons to include the surrounding properties within 200 feet of the appeal location.
4. Significant website enhancements to include a single/linked online accurate source of information for BOA, updated regularly to increase taxpayer/property owner understanding and awareness of all pending zoning appeals to include pending case look up and application flowchart/process.
5. Quarterly enhanced training of members/alternates on rules, conflicts of interest, criteria for decision making and onboarding of new appointees.

Board of Adjustment Recommendation to the City Council

1. Request City Council continued oversight to ensure Development Services Department's focus on Timeliness, Accuracy and Transparency for all phases of a Board of Adjustment appeal by a property owner.
2. Fund the hiring and training of Development Services professional and support staff to achieve reasonable/reduced days from application to public hearing, more comprehensive staff presentations, and enhanced website accessibility for BOA appeal hearings.