



BOARD OF ADJUSTMENT

Panel A Minutes

August 15, 2023

RECEIVED

2023 SEP 20 AM 10: 05

CITY SECRETARY
DALLAS, TEXAS

6EN Council Chambers
24923176153@dallascityhall.webex.com

David A. Neumann, Chairman

PRESENT: [5]

David A. Neumann, Chairman	
Kathleen Davis	
Lawrence Halcomb	
Rachel Hayden	
Jay Narey	

ABSENT: [0]

Chair Neumann called the briefing to order at 10:30A.M. with a quorum of the Board of Adjustment present.

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

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

PUBLIC SPEAKERS

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

- We had no speakers for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel A July 18, 2023 public hearing minutes.

Motion was made to approve Panel A July 18, 2023 public hearing minutes.

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

Appeal the decision of the Administrative Official at 5511 Merrimac Avenue

***This case will be the last item**

CONSENT ITEMS

1. 510 Newell Avenue

***This Case was moved to Individual Cases**

BDA223-032(GB)

BUILDING OFFICIAL’S REPORT Application of Jason Meyer for a variance to the side yard setback regulations at 510 NEWELL AVE. This property is more fully described as Block 9/2722, Lot 12 and is zoned CD-6 tract 1, which requires a side-yard setback of 5-feet. The applicant proposes to construct and maintain a single-family residential structure and provide a 3-foot side-yard setback, which will require a 2-foot variance to the side yard setback regulations.

LOCATION: 510 Newell

APPLICANT: Jason Meyer

REQUEST:

This is a request for a variance to the side yard setback regulations at 510 NEWELL AVE The applicant proposes to construct and maintain a single-family residential structure and provide a 3-foot side-yard setback, which will require a 2-foot variance to the side yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

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

STAFF RECOMMENDATION:

Approval

Rationale:

Based upon evidence presented by the applicant staff concluded that:

All the elements of the variance standard were met:

1. Not contrary to the public interest evidenced by the absence of opposition (because there is no opposition it can be assumed that it is not contrary to public interest, and consequently this element is met).
2. This parcel of land does differ from neighboring parcels because it has a restrictive shape and cannot be developed commensurate to adjacent properties.
3. There is evidence that proves that the applicant's request is not a self-created hardship.

• **ZONING/BDA HISTORY:**

NO BDA History within the last five years

Zoning:

Site: CD-6 Tract 1 (Hollywood/Santa Monica)
North: PD462
South: LO-1
East: CR
West: R-5 (A)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a variance to the side yard setback regulations at 510 NEWELL AVE. The applicant proposes to construct and maintain a single-family residential structure and provide a 3-foot side-yard setback, which will require a 2-foot variance to the side yard setback regulations.
- The property is zoned CD-6 Tract 1 (Hollywood/Santa Monica). The minimum side yard for this district is 40 feet.
- The applicant intends to continue to use this parcel of land for residential uses only.

Timeline:

- February 14, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report. **(The applicant requested to postpone his case until August)**
- June 26, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- July 10, 2023: The applicant submitted documentary evidence and twelve letters of support. See Attachments
- July 11, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application
 - an attachment that provided the public hearing date and panel that will consider the application; the July 25, 2023, deadline to submit additional evidence for staff to factor into their analysis; and the Friday, August 04, 2023, deadline to submit additional evidence to be incorporated into the Board's docket materials
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August 16, 2023, public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Board of Adjustment Senior Planners, the Board of Adjustment Development Code Specialist, Project Coordinator the Chief Arborist, Assistant City Attorney (Matthew Sapp) and the Development Services Senior Engineers.

Speakers:

For: Jason Meyer, 510 Newell Ave, Dallas TX 75223

Against: No Speakers

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-032, on application of Jason Meyer, **GRANT** the 2-foot variance to the side-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this application.

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

Compliance with the submitted site plan is required.

Maker:	Lawrence Halcomb			
Second:	Jay Narey			

Results:	4-1				Moved to grant.
		Ayes:	-	4	David A. Neumann, Jay Narey, Rachel Hayden and Lawrence Halcomb
		Against:	-	1	Kathleen Davis

2. 5027 Alcott Street

***This Case was moved to Individual Cases**
BDA223-070(KMH)

BUILDING OFFICIAL’S REPORT: Application of Hannah Rogers for (1) a variance to the side yard setback regulations; and (2) for a variance to the front yard setback regulations at 5027 ALCOTT ST. This property is more fully described as Block D/1998, Lot 11 and is zoned R-5(A) NSO 6, which requires side yard setback of 5-feet and which requires a front yard setback of 28-feet. The applicant proposes to construct and maintain a single-family residential structure and provide both a 0-foot side yard setback and a 3-foot side yard setback, which will require (1) both a 5-foot variance to the side yard setback regulations and a 2-foot variance to the side yard setback regulations; and (2) provide a 20-foot front yard setback which will require an 8-foot variance to the front yard setback regulations.

LOCATION: 5027 Alcott St.

APPLICANT: Hannah Rogers

REQUEST:

A request for a variance to the side yard setback regulations of 5-feet; a request for a variance to the side yard setback regulations of 2-feet; and a request to the front yard setback regulations of 8-feet is made to maintain a single-family residential structure. The applicant is proposing to construct and/or maintain a single-family residential structure that encroaches into the sites required side yard and front yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Approval

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

- A. Not contrary to the public interest as no letters of opposition were received.
- B. Restrictive in area, and shape, in that the lot is rhombus shaped, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning.
- C. Not a self-created or personal hardship.

BDA HISTORY:

No BDA history within the last 5 years.

Zoning:

Site: R-5(A); NSO 6
North: R-5 (A)
South: TH-3 (A)
East: R-5 (A)
West: R-5 (A)

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback regulations of 5-feet and 2-feet; as well as a variance to the front yard setback of 8-feet is made to construct and/or maintain a single-family residential structure.
- The Dallas Development Code requires a setback of 5-feet for required side yards in the R-5(A) zoning district; additionally, the NSO-6 overlay district requires a front yard setback of 28-feet.
- The applicant proposes to construct and/or maintain a single-family residential structure and provide a 0-foot side yard setback along the west border of the property and a 3-foot side yard setback along the east border of the property, which will require a 5-foot variance to the side yard setback regulations as well as a 2-foot variance to the side setback regulations.
- Additionally, the applicant proposes to provide a 20-foot front yard setback which will require an 8-foot variance to the front yard setback regulations.
- The single-family residential structure lies within the required side and front yard setback regulations.

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

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

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

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

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Timeline:

- May 31, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 26, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- July 10, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 24, 2023, deadline to submit additional evidence for staff to factor into their analysis; and August 4, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.
- August 2, 2023: The Development Services Engineer submitted a response sheet with no comments.

Speakers:

- For: Hannah Rogers, 5027 Alcott Street, Dallas TX 75206
- Against: Tom Abraham (Virtual), (Did not speak)

Motion # 1

I move that the Board of Adjustment, in Appeal No. BDA223-070, on application of Hannah Rogers, **GRANT** the 5-foot variance to the side-yard setback regulations, and a 2-foot variance to the side-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

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

Motion # 2

I move that the Board of Adjustment, in Appeal No. BDA223-070, on application of Hannah Rogers, **GRANT** the 8-foot variance to the front-yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant

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

Compliance with the submitted site plan is required.

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

3. 6900 Wofford Road

BDA223-072(KMH)

BUILDING OFFICIAL’S REPORT: Application of Cristina Laredo for (1) a special exception to the side yard setback regulations at 6900 WOFFORD DR. This property is more fully described as Block 10/5813, Lot 1 and is zoned R-7.5(A), which requires a side yard setback of 5-feet. The applicant proposes to construct a carport for a single-family residential dwelling in a required side yard and provide a 0-foot setback, which will require (1) a 5-foot special exception to the side yard setback regulations.

LOCATION: 6900 Wofford Dr.

APPLICANT: Cristina Laredo

REQUEST:

A request for a special exception to the side yard setback regulations of five feet is made construct and/or maintain a carport for a single-family residential dwelling in a required side yard, providing a 0-foot side yard setback.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is **compatible** with the character of the neighborhood.
- (2) Whether the **value of surrounding properties** will be adversely affected.
- (3) The **suitability of the size and location** of the carport.
- (4) The **materials to be used in construction** of the carport.

(Storage of items other than motor vehicles are prohibited in a carport for which a special exception is granted in this section of the Code).

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5(A) (Single family district)
<u>North:</u>	R-7.5(A) (Single family district)
<u>South:</u>	R-7.5(A) (Single family district)
<u>East:</u>	R-7.5(A) (Single family district)
<u>West:</u>	R-7.5(A) (Single family district)

Land Use:

The subject site and all surrounding properties are developed with single family uses and a church to the immediate northeast.

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The purpose of this request is for a special exception to the side yard setback regulations of 5-feet focuses on constructing and/or maintaining a carport in a required side yard.
- The subject site and surrounding properties are zoned R-7.5(A).
- The Dallas Development Code states that required side yards must be open and unobstructed except for fences. The applicant is proposing to construct and/or maintain a carport in a required side yard on a lot developed with a single-family home.
- The submitted site plan and elevations illustrate the size of the carport and its location.
- As gleaned from the submitted site plan, the applicant is proposing to construct and/or maintain a 234 square foot carport in a required setback, providing a 0-foot setback; whereas the Dallas Development Code requires a 5-foot side yard setback for single-family dwellings in the R-7.5(A) zoning district.
- The applicant has the burden of proof in establishing that the special exception to the side yard setback regulations will not have a detrimental impact on surrounding properties.
- Granting this special exception to the side yard setback regulations to allow a carport in the required side yard providing a 0-foot side yard setback on the site with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed and maintained as shown on the submitted documents.

Timeline:

- June 2, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 26, 2023: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 10, 2023: The Senior Planner emailed the applicant's representative the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the July 24th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans

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Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

August 2, 2023: The Development Services Engineer submitted a response sheet with no comments.

Speakers:

For: Denise Laredo, 6900 Wofford Ave, Dallas TX 75227 (Did not speak)

Against: No Speakers

Motion

I move that the Board of Adjustment, **GRANT** the following application listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the application satisfy all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA223-072 - Application of Cristina Laredo for a special exception to the side-yard setback regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the submitted site plan is required.

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

4. 8334 Plainview Drive
BDA223-075(KMH)

BUILDING OFFICIAL’S REPORT: Application of Macedo Bulfrano for (1) a variance to the side yard setback regulations; and (2) a variance to the rear yard setback regulations at 8334 PLAINVIEW DR. This property is more fully described as Block 2/8526, Lot 3, and is zoned A(A), which requires a rear yard setback of 50-feet and requires a side yard setback of 20-feet. The applicant proposes to construct a single-family residential structure and provide a 10-foot side yard setback, which will require (1) a 10-foot variance to the side yard setback regulations, and to construct a single-family residential structure and provide a 27-foot rear yard setback, which will require (2) a 23-foot variance to the rear yard setback regulations.

LOCATION: 8334 Plainview Dr.

APPLICANT: Macedo Bulfrano

REQUEST:

A request for a variance to the side yard setback regulations of 10-feet and a request to the rear yard setback regulations of 23-feet is made to construct and maintain a single-family residential structure.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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- Compliance with the submitted site plan is required.

Rationale: Based upon evidence provided by the applicant, staff concluded that:

- A. Granting the variance in this application would not be contrary to public interest as no letters of opposition has been received.
- B. The lot is restrictive in that the lot is not large enough to meet the required side and rear yard setbacks; there is also a 10-foot utility easement in the rear which also makes it difficult to achieve the rear yard setback as required in the Dallas Development Code; for these reasons, the lot cannot be developed in a manner commensurate as other parcels of land in the same zoning district.
- C. The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons.

BDA HISTORY:

No BDA history within the last 5 years.

Zoning:

Site: A (A)
North: A (A)
South: A (A)
East: A (A)
West: A (A)

Land Use:

The subject site is a vacant lot surrounded by single-family homes.

GENERAL FACTS/STAFF ANALYSIS:

- A request for a variance to the side yard setback regulations of 10-feet is made as well as a variance to the rear yard setback regulations of 23-feet is made to construct and maintain a single-family residential structure.
- The A(A) Agricultural District of the Dallas Development Code requires a side yard setback of 20-feet and a rear yard setback of 50-feet.
- The applicant proposes to construct and maintain a single-family residential structure and provide a 10-foot side yard setback, which will require a 10-foot variance to the side yard setback regulations.
- Additionally, the applicant proposes to provide a 27-foot rear yard setback, which will require a 23-foot variance to the rear yard setback regulations.
- The size of the lot, along with the 10-foot utility easement in the rear, makes it somewhat difficult to develop the lot in a manner commensurate as other parcels of land in the same zoning district.

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

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

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

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

- (f) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
- (g) 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.
- (h) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
- (i) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (j) the municipality considers the structure to be a nonconforming structure.

Timeline:

- June 5, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 26, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- July 10, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 24, 2023, deadline to submit additional evidence for staff to factor into their analysis; and August 4, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: the Board of Adjustment

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Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.

August 2, 2023: The Development Services Engineer submitted a response sheet with no comments.

Speakers:

For: Macedo Bulfrano, 766 Pemberton Hill Rd., Dallas TX 75217 (Did not speak)
Sergio Sigala, 7354 Harris Prwy Apt. 1B101, Fort Worth, TX 76123 (Did not speak)

Against: No Speakers

Motion

I move that the Board of Adjustment, **GRANT** the following applications listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code, as applicable to wit:

BDA223-075 - Application of Macedo Bulfrano for the variance to the side-yard and rear-yard setback regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the submitted site plan is required.

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

HOLDOVER CASES

5. 7128 Hazel Road
BDA223-058(KMH)

BUILDING OFFICIAL’S REPORT: Application of Blanca Cardenas for a special exception to the single-family regulations, and for a variance to the floor area ratio regulations, and for a variance to the building height regulations at 7128 HAZEL RD. This property is more fully described as Block 3/6292, Lot 5 and is zoned R-7.5(A), which (1) prohibits an accessory structure from exceeding 25% of the floor area of the main structure; and (2) prohibits the height of an accessory structure from exceeding the height of the main building, and limits the number of dwelling units to one. The applicant proposes to construct an additional dwelling unit, which will require a special exception to the single family zoning use regulations (NOT FOR RENT); and to construct a single family residential accessory structure with 1,306 square feet of floor area (95% of the 1,244 square foot

floor area of the main structure), which will require a 995 square foot variance to the floor area regulations, and to construct and maintain a single-family residential accessory structure with a building height of 24 feet, which will require a 6 foot variance to the maximum building height regulations.

LOCATION: 7128 Hazel Rd

APPLICANT: Blanca Cardenas

REQUEST:

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

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

Section 51A-4.209(b)(6)(E)(i) of the Dallas Development Code specifies that the board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not:

- 1) be used as rental accommodations; or
- 2) adversely affect neighboring properties.

Section 51A-4.209(b)(6)(E)(ii) In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Special Exception:

No staff recommendation is made on this or any request for a special exception.

Variance:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that based on the following evidence:
 - A.) The request was **not contrary to the public interest** evidenced by the absence of opposition;
 - B.) **Is necessary to permit development of a specific parcel of land** due to the narrow shape of the lot; and
 - C.) **Not granted to relieve a self-created or personal hardship.**

BACKGROUND INFORMATION

Zoning:

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

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

Land Use:

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

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request is for a special exception to the single-family use regulations, and for a variance to the floor area ratio and building height regulations is made to construct and/or maintain an additional dwelling unit, not for rent, on a site developed with a single family home.
- The applicant proposes maintain a 24-foot single-family residential accessory structure (ADU-not for rent) with 1,306 square feet of floor area (95% of the 1,244 square feet of floor area of the main structure). The applicant states that the ADU has been existing for 15 years.
- The site is zoned an R-7.5(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.
- Additionally, the Dallas Development Code states that an accessory structure may not exceed 25% of the floor area of the main structure and the height of an accessory structure may not exceed that of the main structure.
- The main structure is approximately 1,244 square feet, an ADU not exceeding 25% of the main floor area would be approximately 311 square feet. The existing two story ADU is approximately 1,306 square feet; which exceeds the 25% of the main floor area.
- The height of the main structure is approximately 18-feet; the height of the existing ADU is 24-feet; therefore a 6-foot variance is required as the accessory structure cannot exceed the height of the main structure.
- According to the submitted plans, the first floor of the ADU consists of kitchen, dining/living area, bathroom and closets; the second floor of the ADU consists of two bedrooms, bathroom, living area and two closets.
- It is imperative to note that the Dallas Development Code defines a dwelling unit as, "one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms." The existing ADU consists of all three (kitchen, bathroom, and bedrooms).
- The single-family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: (1) be use as rental accommodations; or (2) adversely affect neighboring properties.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.

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

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

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

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

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

- (k) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
- (l) 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.
- (m) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
- (n) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (o) the municipality considers the structure to be a nonconforming structure.

Timeline:

- April 24, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 13, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2023, deadline to submit

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additional evidence for staff to factor into their analysis; and July 6, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.

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

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

June 30, 2023: The Development Services Engineer provided a response sheet with no objections.

July 18, 2023: The City of Dallas Board of Adjustments, Panel A, voted to hold this case under advisement until August 15, 2023.

Speakers:

For: Guadalupe Amaya, 7128 Hazel Road, Dallas TX 75217
Adam Musiel, 3232 McKinney Ave # 500, Dallas TX 75205

Against: No Speakers

Motion # 1

I move that the Board of Adjustment in request No. BDA 223-058, **GRANT** the request to construct and maintain an additional dwelling unit on a site developed with a single-family structure as a special exception to the single-family use regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

Compliance with the submitted site plan is required.

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

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

Motion # 2

I move that the Board of Adjustment in request No. BDA 223-058, **GRANT** the 995-square-foot variance to the floor area ratio regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

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

Motion # 3

I move that the Board of Adjustment in request No. BDA 223-058, **GRANT** the 6-foot variance to the maximum height regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

Compliance with the elevation plan is required.

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

6. 5518 Winston Court
BDA223-066(KMH)

BUILDING OFFICIAL’S REPORT Application of Baldwin Associates for a special exception to the fence regulations, and for a special exception to the fence standards regulations at 5518 WINSTON CT. This property is more fully described as Block B/5592, Lot 1A, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4-feet; and requires fence panel with a

surface area that is less than 50 percent open not be located less than 5 feet from the lot line. The applicant proposes to construct an 8-foot high fence in a required front yard, which will require a 4-foot special exception to the fence regulations; and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line, which will require a special exception to the fence opacity regulations.

LOCATION: 5518 Winston Court

APPLICANT: Baldwin Associates

REQUEST:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

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

STAFF RECOMMENDATION:

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

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

BDA History:

2019- BDA189-100 (fence height/fence standards)

- Applicant proposed an 11-foot fence; denied without prejudice

2021- BDA201-112 (fence standards)

- Applicant proposed an 8-foot fence; approved-not to exceed 8'

GENERAL FACTS/STAFF ANALYSIS:

- The purpose of this request is for a special exception to the fence regulations of 4-foot focuses on constructing and/or maintaining an 8-foot high fence in a required front yard; additionally, this request is also for a special exception to the fence standards regulations for a fence panel having less than 50 percent open surface area located less than 5-feet from the front lot line.
- The subject site and surrounding properties are zoned R-7.5 (A).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The Dallas Development Code also states that no fence panel having less than 50 percent open surface area may be located less than 5-feet from the lot line.
- As gleaned from the submitted site plan and elevations, the applicant is proposing an 8-foot high fence in the front yard along Winston Court and along Holloway Road.
- The proposed fence will be a 1" solid picket style fence with decorative iron lattice with iron trim work and solid sheet panel behind; with Granbury stone to match the house. It is also imperative to note that the proposed fence will consist of a drive/pedestrian gate.
- The applicant has the burden of proof in establishing that the special exception to the fence regulations will not adversely affect the neighboring property.
- Granting these special exceptions to the fence standards relating to height up to 8-feet and location of fence panels with surface areas that are less than 50 percent open on the site with a condition that the applicant complies with the submitted site plan, would require the proposal to be constructed as shown on the submitted documents.

Timeline:

- May 10, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 30, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 13, 2023: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

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- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the July public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.
- June 30, 2023: The Development Services Engineer provided a response sheet with no objections.
- July 18, 2023: The City of Dallas Board of Adjustments, Panel A, voted to hold this case under advisement until August 15, 2023.
- July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner, the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.
- July 28, 2023: The applicant provided revised drawings to staff.

Speakers:

For: Rob Baldwin, 3904 Elm Street #B, Dallas TX 75226
Harold Leidner, 1601 Surveyor Blvd., Carrollton, TX

Against: Dr. James Elbaor (virtual), 5507 Winston Ct., Dallas TX 75220

Motion # 1

I move that the Board of Adjustment in Appeal No. BDA 223-066, **DENY** the special exception requested by this applicant to construct and/or maintain a 8-foot high fence **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

Maker:	Kathleen Davis					
Second:	Jay Narey					
Results:	4-1					Moved to deny without prejudice
		Ayes:	-		4	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey
		Against:	-		1	Lawrence Halcomb

Motion # 2

I move that the Board of Adjustment in Appeal No. BDA 223-066, **DENY** the special exception requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property.

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Maker:	Kathleen Davis					
Second:	Jay Narey					
Results:	4-1					Moved to deny without prejudice
		Ayes:	-		4	David A. Neumann, Kathleen Davis, Rachel Hayden, Jay Narey
		Against:	-		1	Lawrence Halcomb

Recess: 2:53 p.m.; Resume: 3:00 p.m.

7. 3349 Coronet Blvd.
BDA223-077(KMH)

BUILDING OFFICIAL’S REPORT: Application of Lance Thames for (1) a variance to the building height regulations at 3349 CORONET BLVD. This property is more fully described as Block 2/7092, Lot 14, and is zoned R-5(A) NSO 13, which limits the maximum building height to 30-feet and also limits the height plane not to exceed the maximum height of 27-feet at the building line. The applicant proposes to construct and/or maintain a single-family residential structure with a building height of 32-feet, which will require (1) a 5-foot variance to the maximum building height regulations.

LOCATION: 3349 Coronet Blvd.

APPLICANT: Lance Thames

REQUEST:

A request for a variance to the building height regulations.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Approval

Rationale: Based upon evidence provided by the applicant, staff concluded that granting this variance:

- Would **not be contrary to public interest** as it would increase property value.
- The lot **is 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
- Would not be granted to relieve a **self-created or personal hardship**, nor for financial reasons.

Condition:

Must comply with submitted site plan and elevation.

BACKGROUND INFORMATION

Zoning:

Site: R-5 (A) NSO 13
North: R-5 (A) NSO 13
South: R-5 (A) NSO 13
East: R-5 (A) NSO 13
West: R-5 (A) NSO 13

Land Use:

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

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- This request is for a variance to the building height regulations.
- The site is zoned R-5(A) NSO 13. The R-5(A) Single-Family District limits the height of a single-family structure to 30-feet. The NSO 13 overlay limits the height plane not to exceed the maximum height of 27 feet at the building line.
- The applicant is proposing to construct and/or maintain a single-family residential structure with a building height of 32-feet, which will require a 5-foot variance to the maximum building height regulations.
- On September 6, 2022, a building permit application was applied for to construct a new single-family dwelling at 3349 Coronet Blvd; the permit was approved and issued on January 11, 2023.

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

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

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

- (p) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code.
- (q) 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.
- (r) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement.
- (s) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (t) the municipality considers the structure to be a nonconforming structure.

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Timeline:

- June 9, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 23, 2023: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- June 28, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.
- July 6, 2023: The Senior Development Project Coordinator for the Residential Division provided a copy of the BOA referral form. Attachment A
The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the June 26, 2023, deadline to submit additional evidence for staff to factor into their analysis; and July 6, 2023, deadline to submit additional evidence to be incorporated into the board's docket materials.
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 18, 2023: The City of Dallas Board of Adjustments, Panel A, voted to hold this case under advisement until August 15, 2023.
- August 3, 2023: The applicant provided revised plans to City Staff.

Speakers:

- For:** Lance Thames, 3349 Coronet, Dallas TX 75212
Philip Kingston, 5901 Palo Pinto, Dallas TX 75206
David Richard, 3349 Coronet Blvd., Dallas TX 75212
- Against:** Maria Lozada Garcia, 2422 Postbridge Rd., Grand Prairie, TX 75050
Stephanie Champion, 1842 McBroom St., Dallas TX 75212
Tony Carrillo, 3109 Parvia Ave, Dallas TX 75212
Sylvia Lagos, 131 N. Monclair, Dallas TX 75208
Brent Brown, 7135 Mudgrove Ave., Dallas TX 75214
Albert Salinas, 3328 Topeka Ave, Dallas TX 75212
John Gallegos(virtual), 524 Nomas St., Dallas TX 75212
Janie Cisneros(virtual), 2821 Bedford St., Dallas TX 75212
Evelyn Mayo(virtual), 7732 Village Trail Dr., Dallas TX 75254

Staff: Willie Franklin, Residential Manager

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-077, **GRANT** the 3-foot variance to the maximum building height regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

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

Motion to withdraw the motion

Maker:	Lawrence Halcomb				
Second:	Kathleen Davis				

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

Compliance with the original site plan, revised height plan submitted 6/15/2023, and revised elevation site plan submitted 8/7/2023 is required.

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

INDIVIDUAL CASES

8. 5511 Merrimac Avenue
BDA223-078(KMH)

BUILDING OFFICIAL'S REPORT: Application of Eileen Corkery to appeal the decision of the administrative official at 5511 Merrimac Ave. This property is more fully described as Block 6/2198, Lot 22 and is zoned CD-9, which requires compliance with the conservation district architectural standards. The applicant proposes to appeal the decision of an administrative official in the denial of a conservation district work review.

LOCATION: 5511 Merrimac Ave.

APPLICANT: Eileen Corkery

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the Building Official's authorized representative, the Chief Planner of Conservation Districts. The Chief Planner of Conservation Districts denied application CD23042705 to paint previously unpainted brick.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: CD-9
North: CD-9
South: CD-9
East: CD-9
West: CD-9

Land Use:

The subject site is developed with a single-family home. The surrounding properties are also developed with single-family homes.

BDA History:

No BDA history within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

- June 16, 2023: The applicant was sent a denial letter for CD23042705 application to paint previously unpainted brick.
- June 21, 2023: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 26, 2023: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 10, 2023: The Senior Planner emailed the applicant's representative the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the July 24th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- July 26, 2023: The Board of Adjustment staff review team meeting was held regarding this request and other requests scheduled for the August public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner the Assistant City Attorney to the Board, the Senior Planner and Code Compliance staff.
- August 2, 2023: The Applicant provided a letter explaining why application (CD23042705) should have been approved.
- August 2, 2023: The Development Services Engineer provided a response sheet with no comments.

BOARD OF ADJUSTMENT
 August 15, 2023

Speakers:

For: Eileen Corkery, 5511 Merrimac Ave., Dallas TX 75206

Against: No Speakers

Motion

Having fully reviewed the decision of the administrative official of the City of Dallas in Appeal No. BDA 223-078, on application of Eileen Corkery, and having evaluated the evidence pertaining to the property and heard all testimony and facts supporting the application, I move that the Board of Adjustment **REVERSE** the decision of the administrative official and **GRANT** the relief requested by this applicant.

Maker:	Kathleen Davis			
Second:	Rachel Hayden			
Results:	4-0			Moved to reverse the decision of the administrative official
		Ayes:	- 4	David A. Neumann, Lawrence Halcomb, Kathleen Davis, Rachel Hayden
		Against:	- 0	

Jay Narey absent to vote

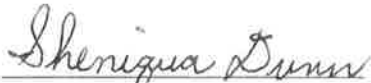
ADJOURNMENT

After all business of the Board of Adjustment had been considered, Lawrence Halcomb moved to adjourn the meeting, seconded by Rachel Hayden at 6:02 p.m.



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

9/19/2023
 Date



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

9-19-23
 Date



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

9/19/23
 Date