



BOARD OF ADJUSTMENT

Panel B Minutes

August 16, 2023

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2023 OCT -19 AM 11:01

**CITY SECRETARY
DALLAS, TEXAS**

6ES Briefing Room
24974849659@dallascityhall.webex.com

Cheri Gambow, Vice-Chair

PRESENT: [5]

Cheri Gambow, VC	
Sarah Lamb	
Joe Cannon - Virtual	
Michael Karnowski	
Derrick Nutall - Virtual	

ABSENT: [0]

Vice-Chair Gambow called the briefing to order at **10:41 A.M.** with a quorum of the Board of Adjustment present.

Vice-Chair Gambow called the hearing to order at **1:04 P.M.** with a quorum of the Board of Adjustment present.

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

PUBLIC SPEAKERS

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

We had no speaker for public testimony during this hearing.

MISCELLANEOUS ITEMS

Approval of the Board of Adjustment Panel B May 17, 2023 public hearing minutes.

Motion was made to approve Panel B May 17, 2023 public hearing minutes.

Maker:	Sarah Lamb				
Second:	Derrick Nutall				
Results:	5-0 unanimously				Motion to approve
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

CONSENT ITEMS

1. 5100 Ross Avenue
BDA223-071(GB)

BUILDING OFFICIAL'S REPORT Application of Baldwin Associates for a special exception to the landscaping regulations at 5100 Ross Ave. This property is more fully described as Block A/706, Lot 2 and is zoned MF-2(A), which requires mandatory landscaping. The applicant proposes to construct and maintain a non-residential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 5100 Ross Avenue

APPLICANT: Baldwin Associates

REQUEST:

This is a request for a special exception to the landscaping regulations at 5100 Ross Ave. This property is more fully described as Block A/706, Lot 2 and is zoned MF-2(A), which requires mandatory landscaping. The applicant proposes to construct and maintain a non-residential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

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SEC. 51A-10.110. SPECIAL EXCEPTION.

(a) The board may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

(b) In determining whether to grant a special exception under Subsection (a), the board shall consider the following factors:

- (1) The extent to which there is residential adjacency.
- (2) The topography of the site.
- (3) The extent to which landscaping exists for which no credit is given under this article.
- (4) The extent to which other existing or proposed amenities will compensate for the reduction of landscaping. (Ord. Nos. 22053; 25155)

STAFF RECOMMENDATION:

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

Background information:

No BDA History within the last five years.

Zoning:

Site: CR
North: LO-1 and PD462
South: MF-2 (A) and CR
East: PD462
West: MF-2 (A) and CR

Land Use:

The subject site is developed with a nonresidential structure. Areas to the North, South, East, and West are developed with mixed uses, commercial, retail, and multi-family.

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a special exception to the landscape regulations.
- The subject property is located at 5100 Ross Avenue and is zoned CR.
- The applicant proposes to construct and maintain a nonresidential structure on the subject site.

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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 Secretary assigned this case to Board of Adjustment Panel B.
- 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
- June 29, 2023: The engineering department submitted a comment sheet.

Speakers:

For: No Speakers

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:

BDA223-071 - Application of Baldwin Associates for a special exception to the landscaping regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the revised site plan is required.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

2. 7704 Glen Albens Drive

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

BDA223-073(GB)

BUILDING OFFICIAL’S REPORT Application of Gretchen Raiff for a special exception to afford a handicapped person equal opportunity to use and enjoy a dwelling at 7704 Glen Albens Cir. This property is more fully described as Block 2/5454, Lot 66 and is zoned R-7.5(A), which allows 45% maximum lot coverage. The applicant proposes to construct a single-family residential structure with 7423 square feet of floor area (4196 sf lot coverage; 52.63%), which will require a 609 square foot special exception to the maximum allowed lot coverage of 45%.

LOCATION: 7704 Glen Albens Circle

APPLICANT: Michael and Gretchen Raiff

REQUEST:

This is a request for a special exception to afford a handicapped person equal opportunity to use and enjoy a dwelling at 7704 Glen Albens Cir. The applicant proposes to construct a single-family residential structure with 7423 square feet of floor area (4196 sf lot coverage; 52.63%), which will require a 609 square foot special exception to the maximum allowed lot coverage of 45%.

STANDARD FOR A SPECIAL EXCEPTION:

Section 51A-1.107 of the Dallas Development Code states the board of adjustment **shall grant** a special exception to any regulation in this chapter if, after a public hearing, the board finds that the **exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.**

(2) The board may impose reasonable conditions upon the granting of this special exception consistent with the purpose stated in this section.

(3) This section does not authorize the board to grant a change in the use of a building or structure. (Ord. 21183)

STAFF RECOMMENDATION:

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

Background information:

No BDA History within the last five years.

Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a special exception to afford a handicapped person equal opportunity to use and enjoy a dwelling at 7704 Glen Albens Circle.
- The subject property is located at 7704 Glen Albens Circle and is zoned R-7.5 (A)
- The R-7.5 (A) zoning only allows a maximum lot coverage of 45%. The additional square footage will increase the lot coverage by 7.63 %.
- There appears to be other homes in the subdivision commensurate with the applicant's request.

Timeline:

- June 02, 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 assigned this case to Board of Adjustment Panel C.
- 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: Gretchen Raiff, 7704 Glen Albens, Dallas TX 75225

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-073, on application of Gretchen Raiff, **GRANT** the request of this applicant to construct a single-family residential structure which will require a 609 square foot special exception to the maximum allowed lot coverage of 45%, as a special exception to afford a handicapped person equal opportunity to use and enjoy a dwelling, as contained in the Dallas Development Code, as amended.

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

Compliance with the submitted site plan and elevation is required.

Maker:	Sarah Lamb				
Second:	Derrick Nutall				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

3. 2021 Haymarket Road

BDA223-076 (GB)

BUILDING OFFICIAL'S REPORT Application of Jacob Salmeron for a special exception to the fence height regulations at 2021 Haymarket Rd. This property is more fully described as block 8503, Lots 29 and 30 and is zoned A(A), which limits the height of a fence in the front-yard to 4-feet. The applicant proposes to construct a 6-foot-high fence in a required front-yard, which will require a 2-foot special exception to the fence height regulations.

LOCATION: 2021 Haymarket Road

APPLICANT: Jacob Salmeron

REQUEST:

This is a request for a special exception to the fence height regulations at 2021 Haymarket Rd. The applicant proposes to construct a 6-foot-high fence in a required front-yard, which will require a 2-foot special exception to the fence height regulations.

STANDARD FOR A SPECIAL EXCEPTION:

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

STAFF RECOMMENDATION:

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

Background information:

No BDA History within the last five years.

Zoning:

Site: A (A)

North: A (A)

South: A (A)

East: A (A)

West: A (A)

Land Use:

The subject site is mostly undeveloped with grass and a metal shed. Areas to the North, South, East, and West are developed with agriculture uses.

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a special exception to the fence regulations.
- The subject property is located at 2021 Haymarket Road and is zoned A (A)- Agriculture.
- The maximum fence height for a required front yard is four feet. (51A-4.602 (a) 2)
- There appears to be other fences within the surrounding area that are commensurate with the applicant's request.

Timeline:

- June 02, 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 assigned this case to Board of Adjustment Panel C.
- 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."

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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: No Speakers

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:

BDA223-076 - Application of Jacob Salmeron for a special exception to the fence height regulations in the Dallas Development Code is granted subject to the following condition:

Compliance with the revised site plan is required.

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 Unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

HOLDOVER

4. 5215 Morningside Avenue

BDA223-038 (KMH)

BUILDING OFFICIAL'S REPORT: Application of Tim Myrick represented by James Barnes for a variance to the rear yard setback regulations at 5215 Morningside Ave. This property is more fully described as Block 17/2928, Lot 9, and is zoned CD-9, which requires a rear yard setback of 5 feet. The applicant proposes to construct a single-family residential accessory structure and provide a 4-foot front yard setback, which will require a 1-foot variance to the rear yard setback regulations.

LOCATION: 5215 Morningside Ave.

APPLICANT: Tim Myrick
Represented by Nick George

REQUEST:

A request for a variance to the rear yard setback regulations of 1-foot is made to construct a single-family residential accessory structure (detached garage). The applicant is proposing to construct a single-family residential accessory structure and provide a 4-foot rear yard setback, which will require a 1-foot variance to the rear yard setback regulations.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

Staff concluded, that when applying the evidence submitted to the relevant code standard, that granting the variance in this application would:

- A. **not be contrary to the public interest;**
- 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**, in that it is located within CD 9 and cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- C. **not be granted to relieve a self-created or personal hardship.**

ZONING/BDA HISTORY:

No BDA history in the past five years.

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 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 rear yard setback regulations of 4 feet is made to maintain a single family residential accessory structure.
- The applicant is proposing to construct a single-family residential accessory structure and provide a 4-foot rear yard setback, which will require a 1-foot variance to the rear yard setback regulations.
- The subject site is flat and rectangular in shape (130' x 65') and is 8,450 square feet in area.
- The height of this detached accessory structure (garage) exceeds 15 feet.
- The proposed accessory structure appears to be 22' in length and 20' in width.
- No variance would be necessary if the height of the garage was 15 feet or less and if the rear yard was not adjacent to an alley.
- The applicant submitted a document and photos to this submission to be utilized as attachments to this case.

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- The applicant has the burden of proof in establishing the following:
 - (10) 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:
 - (A) In general.
 - (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.
- If the Board were to grant the variance request, and impose the submitted site plan and elevation as a condition, the structure in the rear yard setback would be limited to what is shown on this document– which in this case is a garage that would be located 4 feet from the rear yard setback.

Timeline:

February 17, 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.

March 6, 2023: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

- March 23, 2023: The Board of Adjustment Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application
- an attachment that provided the public hearing date and panel that will consider the application; the January 23rd deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

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

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

March 31, 2023: The applicant provided documentary evidence.

May 17, 2023: The Board of Adjustment Panel B, at its public hearing held on Wednesday, May 17, 2023, moved to hold this matter under advisement until August 16, 2023.

July 26, 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.

Speakers:

For: Scott Jordan, 5215 Morningside Ave, Dallas TX 75206
James Barnes, 4447 N. Central Expwy., Dallas TX 75205(did not speak)

Against: No Speakers

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-038, on application of Tim Myrick, **GRANT** the 1-foot variance to the rear-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:	Joe Cannon				
Second:	Sarah Lamb				
Results:	5-0 unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

INDIVIDUAL CASES

5. 2730 N. Henderson Avenue
BDA223-062 (GB)

BUILDING OFFICIAL'S REPORT Application of Audra Buckley for a variance to the parking regulations at 2730 N HENDERSON AVE. This property is more fully described as Block 8/1973,

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Lot 5, and is zoned PD-462 Subarea 1, which requires parking to be provided. The applicant proposes to maintain a nonresidential structure for a general merchandise or food store 3500 square feet or less and provide 5 of the required 13 parking spaces, which will require an 8-space variance (61.54% reduction) to the parking regulation.

LOCATION: 2730 N. Henderson Ave
APPLICANT: Audra Buckley

REQUEST:

This is a request for a variance to the parking regulations at 2730 N HENDERSON AVE. This property is more fully described as Block 8/1973, Lot 5, and is zoned PD-462 Subarea 1, which requires parking to be provided. The applicant proposes to maintain a nonresidential structure for a general merchandise or food store 3500 square feet or less and provide 5 of the required 13 parking spaces, which will require an 8-space variance (61.54% reduction) to the parking regulation.

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 three (3) elements of the variance were met, namely that request is:

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. Necessary to permit development of a specific parcel of land because of the irregularity in the property. The subject site is triangular and encumbered by two street frontages and an

alley. As a result, the site differs from other parcels of land being not only of such a restrictive shape, but also of a restrictive area; so much so that the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning (because the subject property is an odd shape it is necessary to permit development due to the restrictive shape, so much that it cannot be developed in a manner commensurate with other parcels of land with the same zoning, consequently this element is met); and

3. Not a self-created or personal hardship because there is no evidence that this is a self-created or personal hardship.

ZONING/BDA HISTORY:

- BDA212-042 VARIANCE TO THE OFF-STREET PARKING REGULATIONS WAS APPROVED ON JUNE 02, 2022, BY PANEL B

Zoning:

Site: PD462 subarea 1
North: PD462 subarea 1
South: LO-1
East: CR
West: R-5 (A)

Land Use:

The subject site is developed with a structure that will be used for general merchandise store. Areas to the North, South, East, and West are developed with mixed-uses, residential, a school, a park, and retail.

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a variance to the parking regulations. The applicant proposes to maintain a nonresidential structure for a general merchandise or food store 3500 square feet or less and provide 5 of the required 13 parking spaces, which will require an 8-space variance (61.54% reduction) to the parking regulation.
- The subject property is located at 2730 N. Henderson Ave and is zoned PD462 subarea 1.
- The applicant intends to use the existing commercial structure as a general merchandise store.
- The Board of Adjustment Panel B approved the applicant's request for a variance to the parking regulations on June 02, 2022. The applicant failed to apply for a building permit within 180 days after the initial Board of Adjustment approval.

Timeline:

May 02, 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 assigned this case to Board of Adjustment Panel C.

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

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- 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

August 01, 2023: The engineering department submitted a comment sheet.

Speakers:

For: Audra Buckley, 1414 Belleview St # 150, Dallas TX 75215
Alan Rister, 5222 Homer St., Dallas TX 75206

Against: Kelly Smith (virtual) Did not speak

Motion

I move that the Board of Adjustment, in Appeal No. BDA 223-062, on application of Audra Buckley, **GRANT** the 8-space variance to the parking 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 revised site plan is required.

Maker:	Michael Karnowski				
Second:	Sarah Lamb				
Results:	5-0 unanimously				Motion to grant
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

6. 5505 Chatham Hill Road
BDA223-074(GB)

BUILDING OFFICIAL'S REPORT Application of Masterplan, Represented by Trenton Robertson for a special exception to the fence height regulations at 5505 CHATHAM HILL RD. This property is more fully described as Block 7/5597, Lot 22, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9-foot fence in a required front yard, which will require a 5-foot special exception to the fence regulations.

LOCATION: 5505 Chatham Hill

APPLICANT: Masterplan, Represented by Trenton Robertson

REQUEST:

This is a request for a special exception to the fence height regulations at 5505 CHATHAM HILL RD. This property is more fully described as Block 7/5597, Lot 22, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9-foot fence in a required front yard, which will require a 5-foot special exception to the fence regulations.

STANDARD FOR A SPECIAL EXCEPTION:

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

STAFF RECOMMENDATION:

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

Background information:

1. BDA190-068 Approved: Multiple electric meters to single-family use (August 31, 2020)
2. BDA178-086 Approved: Variance to front yard and additional dwelling unit for a single-family use and fence standards (October 24, 2018)

Zoning:

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

Land Use:

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

GENERAL FACTS/STAFF ANALYSIS:

- This is a request for a special exception to the fence height regulations. The applicant proposes to construct a 9-foot fence in a required front yard, which will require a 5-foot special exception to the fence regulations.
- The subject property is located at 5505 Chatham Hill Road and is zoned R-1ac (A)
- The applicant proposes the fence material will be chain link to metal mesh.
- BDA190-068 Approved: Multiple electric meters to single-family use (August 31, 2020)
- BDA178-086 Approved: Variance to front yard and additional dwelling unit for a single-family use and fence standards (October 24, 2018)

Timeline:

June 02, 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 assigned this case to Board of Adjustment Panel C.

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

June 29, 2023: The engineering department submitted a comment sheet.

Speakers:

For: Trenton Robertson, 2201 Main St, Suite 1280, Dallas TX 75201
Steve Long, 2201 Main St, Suite 1280, Dallas TX 75201

Against: No Speakers

BOARD OF ADJUSTMENT
August 16, 2023

Motion

I move that the Board of Adjustment in Appeal No. BDA 223-074, to **HOLD** this matter under advisement until October 20, 2023

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	5-0 unanimously				
		Ayes:	-	5	Cheri Gambow, Sarah Lamb, Joe Cannon, Michael Karnowski and Derrick Nutall
		Against:	-	0	

Motion to amend to reflect the correct date

Maker:	Sarah Lamb				
Second:	Michael Karnowski				

I move that the Board of Adjustment in Appeal No. BDA 223-074, to **HOLD** this matter under advisement until October 18, 2023

Maker:	Sarah Lamb				
Second:	Michael Karnowski				
Results:	3-2				Motion to hold
		Ayes:	-	3	Cheri Gambow, Sarah Lamb, Michael Karnowski
		Against:	-	2	Joe Cannon and Derrick Nutall

I move that the Board of Adjustment, in Appeal No. BDA 223-074, on application of Masterplan, **GRANT** the request of this applicant to construct and/or maintain a 9-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

Compliance with the submitted site plan and elevation is required.

Maker:	Joe Cannon				
Second:	Derrick Nutall				

BOARD OF ADJUSTMENT
August 16, 2023

****After consulting with the City Attorney Office, the majority of vote is required to HOLD the case**.**

ADJOURNMENT

After all business of the Board of Adjustment had been considered, Vice-Chair Gambow moved to adjourn the meeting at 2:33 p.m.

Recess: 2:08 p.m.; Resume: 2:10 p.m.

Recess: 2:24 p.m.; Resume: 2:32 p.m.

Mary Williams
Required Signature:

Mary Williams, Board Secretary
Development Services Dept.

10/18/2023
Date

Nikki Dunn
Required Signature:

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

10-18-23
Date

Cheri Gambow
Required Signature:

Cheri Gambow, Vice-Chair
Board of Adjustment

10-18-23
Date