

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, January 15, 2019**

MEMBERS PRESENT AT BRIEFING: Pete Schulte, Chair, Elizabeth Nelson, regular member, Jay Narey, regular member, John Jones, regular member, Temeckia Derrough, regular member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Chief Planner/Board Administrator, Bert Vanderberg, Asst. City Atty., Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist Elaine Hill, Board Secretary, David Nevarez, Engineer and Phil Erwin, Chief Arborist

MEMBERS PRESENT AT HEARING: Pete Schulte, Chair, Elizabeth Nelson, regular member, Jay Narey, regular member, John Jones, regular member, Temeckia Derrough, regular member

MEMBERS ABSENT FROM HEARING: No One

STAFF PRESENT AT HEARING: Steve Long, Chief Planner/Board Administrator, Theresa Pham, Asst. City Atty., Oscar Aguilera, Senior Planner, Charles Trammell, Development Code Specialist Elaine Hill, Board Secretary, David Nevarez, Engineer and Phil Erwin, Chief Arborist

**11:03 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 15, 2019** docket.

\*\*\*\*\*

**1:04 P.M.**

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.

\*\*\*\*\*

**MISCELLANEOUS ITEM NO. 1**

Approval of the Board of Adjustment Panel A, November 13 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

MOTION: None

The minutes were approved without a formal vote.

\*\*\*\*\*

**FILE NUMBER:** BDA189-012(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Karl A. Crawley of Masterplan for a special exception to the landscape regulations at 703 McKinney Avenue. This property is more fully described as Lot 1A, Block 1/405, and is zoned PD 193 (CA), which requires mandatory landscaping. The applicant proposes to construct and or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 703 McKinney Avenue

**APPLICANT:** Karl A. Crawley of Masterplan

**REQUEST:**

A request for a special exception to the landscape regulations is made to construct and maintain a parking structure on what is currently a surface parking lot for an existing mixed use/structure (The Brewery) on the subject site, and not to fully provide the required landscape regulations, more specifically, to not fully meet street tree, sidewalk, and screening of off-street parking requirements on the subject site.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:**

Section 51P-193-126(a) (4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property complies with a landscape plan as a condition to granting the special exception.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because it is designed in line with the spirit and intent of the PD 193 landscape requirements.

**BACKGROUND INFORMATION:**

Site: PD 193 (CA-2) (Planned Development District, Central Area)  
North: PD 582 (Planned Development District)  
South: CA-1(A) (Central Area)  
East: CA-1(A) (Central Area)  
West: PD 193 (CA-2) (Planned Development District, Central Area)

**Land Use:**

The subject site is developed with a mixed-use structure (The Brewery). The areas to the north and south are developed with mixed uses; the area to the west is developed with a freeway (Stemmons Freeway).

**Zoning/BDA History:**

<p>1. BDA112-021, Property at 703 McKinney Avenue (the subject site)</p>	<p>On February 14, 2012, the Board of Adjustment Panel A granted a special exception to the landscape regulations and imposed the submitted revised alternate landscape plan as a condition. The case report stated the landscape special exception request was made to maintain an approximately 1,500 square foot “patio addition” structure and constructing and maintaining an outdoor stairwell structure on the subject site developed with a mixed-use structure (The Brewery) with an approximately 36,000 square foot building footprint.</p>
--	--

**GENERAL FACTS/ STAFF ANALYSIS:**

- This request for a special exception to the landscape regulations focuses on constructing and maintaining a parking structure on what is currently a surface parking lot for an existing mixed use/structure (The Brewery) on the subject site, and not to fully providing the required landscaping regulations, more specifically, not meeting street tree, sidewalk, and screening of off-street parking requirements on the subject site.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

- The applicant has submitted an alternate landscape plan in conjunction with this application. Note that the alternate landscape plan submitted in conjunction with this application is a revision to an alternative landscape plan that was imposed as a condition with a request for a special exception to the landscape regulations granted on this site by the Board of Adjustment in February 2012: BDA112-021).
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment B).
- The Chief Arborist's memo states the following with regard to "request":
  - The applicant is requesting a special exception to the landscape regulations of PD 193 (CA-2) for renovation and new construction on the property. The plan is a revision of an alternative landscape plan approved for a special exception by the Board of Adjustment in February 2012.
- The Chief Arborist's memo states the following with regard to "provision":
  - The PD 193 (CA-2) requirements include street trees in the tree planting zone, sidewalks and screening of off-street parking only. The 2012 alternate landscape plan excepted these requirements based on the scale of development and on the existing street configurations and limited space provisions. At that time, existing landscaping and minor pedestrian site adjustments for access to Continental were applied. The new plan refreshes the site with improved landscape conditions.
- The Chief Arborist's memo states the following with regard to "deficiencies":
  - The existing configuration of street width, retaining walls and designed sidewalks prohibit the ordinance-required locations for tree planting zone and sidewalks. Screening is of little effect due to topographic conditions.
- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because it is designed in line with the spirit and intent of the PD 193 ordinance regulations.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a alternate landscape plan has been submitted that is deficient in meeting the street tree, sidewalk, and screening of off-street parking of the PD 193 landscape requirements) will not compromise the spirit and intent of Section 51P-193-126: Landscape, streetscape, screening, and fencing standards".
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted an exception from full compliance to the requirements of the PD 193 landscape ordinance.

**Timeline:**

November 12, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 3, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the

same request, that case must be returned to the panel hearing the previously filed case”.

December 5, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 19<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 18, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

January 2, 2019: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment B).

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION: Jones**

I move to **grant** the Board of Adjustment application **BDA189-012** 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 is consistent with the general purpose and intent of the Code, as applicable, to wit. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan is required.

**SECONDED: Narey**

**AYES: 5 – Schulte, Nelson, Narey, Derrough, Jones**

**NAYS: 0**

**MOTION PASSED: 5 – 0 (unanimously)**

\*\*\*\*\*

**FILE NUMBER:** BDA189-001(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Steve Wood of Texas Permit for a variance to the off-street parking regulations at 183 S. Prairie Avenue. This property is more fully described as Lot 1, Block 801-1/2 and is zoned MF-2(A), which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain parking spaces in an enclosed structure with a setback of 16 feet, which will require a variance of 4 feet to the off-street parking regulations.

**LOCATION:** 183 S. Prairie Avenue

**APPLICANT:** Steven Wood of Texas Permit

**REQUEST:**

A request for a variance to the off-street parking regulations of 4’ is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 16’ from the right-of-way line adjacent to the street or as much as 4’ into the required 20’ distance from the right-of-way line adjacent to S. Prairie Avenue.

(Note that this application is similar to four others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on January 15, 2019: BDA189-002, 003, 004, and 005).

**STANDARD FOR A VARIANCE:**

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

(C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While granting this request does not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request, the applicant has not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, rectangular-shaped, approximately 2,100 square foot site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning. The applicant has not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- The applicant has not substantiated how granting the variance is not to relieve a self-created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into five separate lots, one of which is the subject site.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-2(A) (Multi-family district)  
North: CR (Community retail)  
South: MF-2(A) (Multi-family district)  
East: MF-2(A) (Multi-family district)  
West: MF-2(A) (Multi-family district)

**Land Use:**

The subject site is undeveloped. The areas to the north and south are undeveloped; the area to the east is developed with retail use; and the area to the west is developed with multifamily use.

**Zoning/BDA History:**

1. BDA189-002, Property at 175 S. Prairie (the lot to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

2. BDA189-003, Property at 167 S. Prairie (two lots to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

3. BDA189-004, Property at 159 S. Prairie (three lots to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

4. BDA189-005, Property at 151 S. Prairie (four lots to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage)

of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16’ from the right-of-way line adjacent to the street or as much as 4’ into the required 20’ distance from the right-of-way line adjacent to S. Prairie Avenue.

### **GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 4’ focuses on locating parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where these parking spaces entered from the street right-of-way line would be located 16’ from the S. Prairie Avenue right-of-way line or 4’ into the required 20’ distance from this right-of-way line.
- The subject site is zoned MF-2(A) where the minimum front yard setback is 15’.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 16’ front yard setback.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 16’ from the street right-of-way line or 4’ into the 20’ setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure are approximately 26’ from the S. Prairie Avenue pavement line).
- Floor plans of the proposed home have been submitted documenting that the total “conditioned” space of the three-floor single family home is approximately 1,900 square feet. The 1<sup>st</sup> floor includes an entry, a garage, and a bedroom; the 2<sup>nd</sup> floor includes a living/dining area, bath, and bedroom; and the 3<sup>rd</sup> floor includes a master bedroom, laundry, and master bath.
- DCAD records indicate “no main improvements” for the property at 4729 East Side Avenue (which is the area that includes the subject site and the four other properties that the applicant has filed for similar variances on).
- The subject site is flat, rectangular in shape (approximately 60’ x 35’) and is approximately 2,100 square feet in area. While this site is located at the corner of S. Prairie Avenue and East Side Avenue and has two front yard setbacks, this feature is typical of any lot on a corner that is not zoned single family, duplex, or agricultural district.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal

enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) zoning classification.
- If the Board were to grant the request for a variance of 4', staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. An automatic garage door must be installed and maintained in working order at all times.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single-family home as represented on the site plan without enclosing the parking spaces in it.

### **Timeline:**

October 9, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 4, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 4, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 19<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: The Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building

Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

December 27, 2018: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections".

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

**APPEARING IN FAVOR:** Danny Sipes  
1113 E. Jefferson, #200  
Dallas, TX 75201

**APPEARING IN OPPOSITION:** No one

**MOTION: Nelson**

I move that the Board of Adjustment, in Appeal No. BDA 189-001, on application of Steve Wood of Texas Permit, **deny** the off-street parking variance requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

**SECONDED: Narey**

**AYES:** 5 – Schulte, Nelson, Narey, Derrough, Jones

**NAYS:** 0

**MOTION PASSED:** 5 – 0 (unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA189-002(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Steve Wood of Texas Permit for a variance to the off-street parking regulations at 175 S. Prairie Avenue. This property is more fully described as Lot 2, Block 801-1/2, and is zoned MF-2(A), which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain parking spaces in an enclosed structure with a setback of 16 feet, which will require a variance of 4 feet to the off-street parking regulations.

**LOCATION:** 175 S. Prairie Avenue

**APPLICANT:** Steven Wood of Texas Permit

**REQUEST:**

A request for a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

(Note that this application is similar to four others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on January 15, 2019: BDA189-001, 003, 004, and 005).

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While granting this request does not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request, the applicant has not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, rectangular-shaped, approximately 1,400 square foot site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning. The applicant has not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- The applicant has not substantiated how granting the variance is not to relieve a self-created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into five separate lots, one of which is the subject site.

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	MF-2(A) (Multi-family district)
<u>North:</u>	CR (Community retail)
<u>South:</u>	MF-2(A) (Multi-family district)
<u>East:</u>	MF-2(A) (Multi-family district)
<u>West:</u>	MF-2(A) (Multi-family district)

### **Land Use:**

The subject site is undeveloped. The areas to the north and south are undeveloped; the area to the east is developed with retail use; and the area to the west is developed with multifamily use.

### **Zoning/BDA History:**

1. BDA189-001, Property at 183 S. Prairie (the lot to the south of the subject site)  
On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.
2. BDA189-003, Property at 167 S. Prairie (the lot to the north of the subject site)  
On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

- |  |   |
|--|---|
| <p>3. BDA189-004, Property at 159 S. Prairie (two lots to the north of the subject site)</p>   | <p>On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.</p> |
| <p>4. BDA189-005, Property at 151 S. Prairie (three lots to the north of the subject site)</p> | <p>On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.</p> |

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 4' focuses on locating parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where these parking spaces entered from the street right-of-way line would be located 16' from the S. Prairie Avenue right-of-way line or 4' into the required 20' distance from this right-of-way line.
- The subject site is zoned MF-2(A) where the minimum front yard setback is 15'.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 16' front yard setback.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 16' from the street right-of-way line or 4' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure are approximately 26' from the S. Prairie Avenue pavement line).

- Floor plans of the proposed home have been submitted documenting that the total “conditioned” space of the three-floor single family home is approximately 1,900 square feet. The 1<sup>st</sup> floor includes an entry, a garage, and a bedroom; the 2<sup>nd</sup> floor includes a living/dining area, bath, and bedroom; and the 3<sup>rd</sup> floor includes a master bedroom, laundry, and master bath.
- DCAD records indicate “no main improvements” for the property at 4729 East Side Avenue (which is the area that includes the subject site and the four other properties that the applicant has filed for similar variances on).
- The subject site is flat, rectangular in shape (approximately 60’ x 23.5’) and is approximately 1,400 square feet in area.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections” given the distance between the pavement and the building footprint”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) zoning classification.
- If the Board were to grant the request for a variance of 4’, staff recommends imposing the following conditions:
  3. Compliance with the submitted site plan is required.
  4. An automatic garage door must be installed and maintained in working order at all times.

(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single-family home as represented on the site plan without enclosing the parking spaces in it.

**Timeline:**

October 9, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 4, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 4, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 19<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

December 27, 2018: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections".

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

APPEARING IN FAVOR: Danny Sipes  
1113 E. Jefferson, #200  
Dallas, TX 75201

APPEARING IN OPPOSITION: No one

MOTION: **Nelson**

I move that the Board of Adjustment, in Appeal No. BDA 189-002, on application of Steve Wood of Texas Permit, **deny** the off-street parking variance requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

SECONDED: **Derrough**

AYES: 5 – Schulte, Nelson, Narey, Derrough, Jones

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA189-003(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Steve Wood of Texas Permit for a variance to the off-street parking regulations at 167 S. Prairie Avenue. This property is more fully described as Lot 3, Block 801-1/2, and is zoned MF-2(A), which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain parking spaces in an enclosed structure with a setback of 16 feet, which will require a variance of 4 feet to the off-street parking regulations.

**LOCATION:** 167 S. Prairie Avenue

**APPLICANT:** Steven Wood of Texas Permit

**REQUEST:**

A request for a variance to the off-street parking regulations of 4’ is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 16’ from the right-of-way line adjacent to the street or as much as 4’ into the required 20’ distance from the right-of-way line adjacent to S. Prairie Avenue.

(Note that this application is similar to four others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on January 15, 2019: BDA189-001, 002, 004, and 005).

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

## Denial

### Rationale:

- While granting this request does not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request, the applicant has not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, rectangular-shaped, approximately 1,400 square foot site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning. The applicant has not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- The applicant has not substantiated how granting the variance is not to relieve a self-created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into five separate lots, one of which is the subject site.

### **BACKGROUND INFORMATION:**

#### **Zoning:**

Site: MF-2(A) (Multi-family district)  
North: CR (Community retail)  
South: MF-2(A) (Multi-family district)  
East: MF-2(A) (Multi-family district)  
West: MF-2(A) (Multi-family district)

#### **Land Use:**

The subject site is undeveloped. The areas to the north and south are undeveloped; the area to the east is developed with retail use; and the area to the west is developed with multifamily use.

**Zoning/BDA History:**

1. BDA189-001, Property at 183 S. Prairie (two lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

2. BDA189-002, Property at 175 S. Prairie (one lot to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

3. BDA189-004, Property at 159 S. Prairie (one lot to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

4. BDA189-005, Property at 151 S. Prairie (two lots to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

#### **GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 4' focuses on locating parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where these parking spaces entered from the street right-of-way line would be located 16' from the S. Prairie Avenue right-of-way line or 4' into the required 20' distance from this right-of-way line.
- The subject site is zoned MF-2(A) where the minimum front yard setback is 15'.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 16' front yard setback.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 16' from the street right-of-way line or 4' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure are approximately 26' from the S. Prairie Avenue pavement line).
- Floor plans of the proposed home have been submitted documenting that the total "conditioned" space of the three-floor single family home is approximately 1,900 square feet. The 1<sup>st</sup> floor includes an entry, a garage, and a bedroom; the 2<sup>nd</sup> floor includes a living/dining area, bath, and bedroom; and the 3<sup>rd</sup> floor includes a master bedroom, laundry, and master bath.
- DCAD records indicate "no main improvements" for the property at 4729 East Side Avenue (which is the area that includes the subject site and the four other properties that the applicant has filed for similar variances on).
- The subject site is flat, rectangular in shape (approximately 60' x 23.5') and is approximately 1,400 square feet in area.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections" given the distance between the pavement and the building footprint".

- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) zoning classification.
- If the Board were to grant the request for a variance of 4', staff recommends imposing the following conditions:
  5. Compliance with the submitted site plan is required.
  6. An automatic garage door must be installed and maintained in working order at all times.

(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single-family home as represented on the site plan without enclosing the parking spaces in it.

**Timeline:**

October 9, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 4, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 4, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 19<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included:

The Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

December 27, 2018: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections".

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

**APPEARING IN FAVOR:** Danny Sipes  
1113 E. Jefferson, #200  
Dallas, TX 75201

**APPEARING IN OPPOSITION:** No one

**MOTION:** Nelson

I move that the Board of Adjustment, in Appeal No. BDA 189-003, on application of Steve Wood of Texas Permit, **deny** the off-street parking variance requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

**SECONDED:** Narey

**AYES:** 5 – Schulte, Nelson, Narey, Derrough, Jones

**NAYS:** 0

**MOTION PASSED:** 5 – 0 (unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA189-004(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Steve Wood of Texas Permit for a variance to the off-street parking regulations at 159 S. Prairie Avenue. This property is more fully described as Lot 4, Block 801-1/2, and is zoned MF-2(A), which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain parking spaces in an enclosed structure with a setback of 16 feet, which will require a variance of 4 feet to the off-street parking regulations.

**LOCATION:** 159 S. Prairie Avenue

**APPLICANT:** Steven Wood of Texas Permit

**REQUEST:**

A request for a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

(Note that this application is similar to four others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on January 15, 2019: BDA189-001, 002, 003, and 005).

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While granting this request does not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request, the applicant has not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, rectangular-shaped, approximately 1,400 square foot site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning. The applicant has not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- The applicant has not substantiated how granting the variance is not to relieve a self-created or personal hardship, nor for financial reasons, particularly when this

request focuses on dividing what is currently one building site into five separate lots, one of which is the subject site.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-2(A) (Multi-family district)  
North: CR (Community retail)  
South: MF-2(A) (Multi-family district)  
East: MF-2(A) (Multi-family district)  
West: MF-2(A) (Multi-family district)

**Land Use:**

The subject site is undeveloped. The areas to the north and south are undeveloped; the area to the east is developed with retail use; and the area to the west is developed with multifamily use.

**Zoning/BDA History:**

1. BDA189-001, Property at 183 S. Prairie (three lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

2. BDA189-002, Property at 175 S. Prairie (two lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

- |   |   |
|---|---|
| <p>3. BDA189-003, Property at 159 S. Prairie (one lot to the south of the subject site)</p> | <p>On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.</p> |
| <p>4. BDA189-005, Property at 151 S. Prairie (one lot to the north of the subject site)</p> | <p>On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.</p> |

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 4' focuses on locating parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where these parking spaces entered from the street right-of-way line would be located 16' from the S. Prairie Avenue right-of-way line or 4' into the required 20' distance from this right-of-way line.
- The subject site is zoned MF-2(A) where the minimum front yard setback is 15'.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 16' front yard setback.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 16' from the street right-of-way line or 4' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure are approximately 26' from the S. Prairie Avenue pavement line).
- Floor plans of the proposed home have been submitted documenting that the total "conditioned" space of the three-floor single family home is approximately 1,900

square feet. The 1<sup>st</sup> floor includes an entry, a garage, and a bedroom; the 2<sup>nd</sup> floor includes a living/dining area, bath, and bedroom; and the 3<sup>rd</sup> floor includes a master bedroom, laundry, and master bath.

- DCAD records indicate “no main improvements” for the property at 4729 East Side Avenue (which is the area that includes the subject site and the four other properties that the applicant has filed for similar variances on).
- The subject site is flat, rectangular in shape (approximately 60’ x 23.5’) and is approximately 1,400 square feet in area.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections” given the distance between the pavement and the building footprint”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) zoning classification.
- If the Board were to grant the request for a variance of 4’, staff recommends imposing the following conditions:
  7. Compliance with the submitted site plan is required.
  8. An automatic garage door must be installed and maintained in working order at all times.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single-family home as represented on the site plan without enclosing the parking spaces in it.

**Timeline:**

October 9, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 4, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 4, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 19<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

December 27, 2018: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “Has no objections”.

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

APPEARING IN FAVOR: Danny Sipes  
1113 E. Jefferson, #200  
Dallas, TX 75201

APPEARING IN OPPOSITION: No one

MOTION: Nelson

I move that the Board of Adjustment, in Appeal No. BDA 189-004, on application of Steve Wood of Texas Permit, **deny** the off-street parking variance requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

SECONDED: Jones  
AYES: 5 – Schulte, Nelson, Narey, Derrough, Jones  
NAYS: 0  
MOTION PASSED: 5 – 0 (unanimously)

\*\*\*\*\*

FILE NUMBER: BDA189-005(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Steve Wood of Texas Permit for a variance to the off-street parking regulations at 151 S. Prairie Avenue. This property is more fully described as Lot 5, Block 801-1/2, and is zoned MF-2(A), which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct a single family residential structure with a setback of 16 feet, which will require a variance of 4 feet to the off-street parking regulations.

**LOCATION:** 151 S. Prairie Avenue

**APPLICANT:** Steven Wood of Texas Permit

**REQUEST:**

A request for a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

(Note that this application is similar to four others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on January 15, 2019: BDA189-001, 002, 003, and 004).

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While granting this request does not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request, the applicant has not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, rectangular-shaped, approximately 1,500 square foot site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same MF-2(A) zoning. The applicant has not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- The applicant has not substantiated how granting the variance is not to relieve a self-created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into five separate lots, one of which is the subject site.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-2(A) (Multi-family district)  
North: CR (Community retail)  
South: MF-2(A) (Multi-family district)  
East: MF-2(A) (Multi-family district)  
West: MF-2(A) (Multi-family district)

**Land Use:**

The subject site is undeveloped. The areas to the north and south are undeveloped; the area to the east is developed with retail use; and the area to the west is developed with multifamily use.

**Zoning/BDA History:**

1. BDA189-001, Property at 183 S. Prairie (four lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

2. BDA189-002, Property at 175 S. Prairie (three lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

3. BDA189-003, Property at 159 S. Prairie (two lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

4. BDA189-004, Property at 151 S. Prairie (one lot to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider a variance to the off-street parking regulations of 4' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of a single family home that is proposed on the undeveloped subject site – spaces in an

enclosed structure that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to S. Prairie Avenue.

### **GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 4' focuses on locating parking spaces in an enclosed structure (an attached garage) of a three-story single family home that is proposed on the undeveloped subject site where these parking spaces entered from the street right-of-way line would be located 16' from the S. Prairie Avenue right-of-way line or 4' into the required 20' distance from this right-of-way line.
- The subject site is zoned MF-2(A) where the minimum front yard setback is 15'.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 16' front yard setback.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 16' from the street right-of-way line or 4' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure are approximately 26' from the S. Prairie Avenue pavement line).
- Floor plans of the proposed home have been submitted documenting that the total "conditioned" space of the three-floor single family home is approximately 1,900 square feet. The 1<sup>st</sup> floor includes an entry, a garage, and a bedroom; the 2<sup>nd</sup> floor includes a living/dining area, bath, and bedroom; and the 3<sup>rd</sup> floor includes a master bedroom, laundry, and master bath.
- DCAD records indicate "no main improvements" for the property at 4729 East Side Avenue (which is the area that includes the subject site and the four other properties that the applicant has filed for similar variances on).
- The subject site is flat, rectangular in shape (approximately 60' x 25') and is approximately 1,500 square feet in area.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections" given the distance between the pavement and the building footprint".
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the

development upon other parcels of land in districts with the same MF-2(A) zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) zoning classification.
- If the Board were to grant the request for a variance of 4', staff recommends imposing the following conditions:
  9. Compliance with the submitted site plan is required.
  10. An automatic garage door must be installed and maintained in working order at all times.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single-family home as represented on the site plan without enclosing the parking spaces in it.

**Timeline:**

October 9, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 4, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 4, 2018: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 19<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: The Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

December 27, 2018: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections".

**BOARD OF ADJUSTMENT ACTION: January 15, 2019**

APPEARING IN FAVOR: Danny Sipes  
1113 E. Jefferson, #200  
Dallas, TX 75201

APPEARING IN OPPOSITION: No one

**MOTION: Nelson**

I move that the Board of Adjustment, in Appeal No. BDA 189-005, on application of Steve Wood of Texas Permit, **deny** the off-street parking variance requested by this applicant **without** prejudice, because our evaluation of the property and the 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 NOT result in unnecessary hardship to this applicant.

**SECONDED: Jones**

AYES: 5 – Schulte, Nelson, Narey, Derrough, Jones

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

\*\*\*\*\*

**MOTION: Jones**

I move to adjourn this meeting.

**SECONDED: Schulte**

AYES: 5 – Schulte, Nelson, Narey, Derrough, Jones

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

**1:28 P. M.:** Board Meeting adjourned for **January 15, 2019.**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
BOARD SECRETARY

\*\*\*\*\*

**Note:** For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.