

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, JANUARY 21, 2015**

MEMBERS PRESENT AT BRIEFING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair Paula Leone, regular member, Scott Housel, regular member and Robert Agnich, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING:

Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair Paula Leone, regular member, Scott Housel, regular member and Robert Agnich, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Ali Hatefi, Engineer, David Lam, Engineer, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Ali Hatefi, Engineer, David Lam, Engineer, and Trena Law, Board Secretary

11:06 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 21, 2015 docket.**

1:05 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.

*12:47 P.M.: Executive Session: Attorney Briefing (Sec. 551.071 T.O.M.A.) Legal Issues relating to *Christopher Faulkner et al. v. Board of Adjustment of the City of Dallas, No. DC-14-05792*

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B November 19, 2014 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 145-002

BUILDING OFFICIAL'S REPORT: Application of John T. Miller for a special exception to the side yard setback regulations for a carport at 7029 South Ridge Drive. This property is more fully described as Lot 19, Block S/2984, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a carport and provide a 0 foot side yard setback, which will require a 5 foot special exception to the side yard setback regulations for a carport.

LOCATION: 7029 South Ridge Drive

APPLICANT: John T. Miller

REQUEST:

A request for a special exception to the side yard setback regulations of 5' is made to replace and maintain a carport, part of which is to remain located in the site's eastern 5' side yard setback on a site developed with a single family home structure/use.

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

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

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

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

- Site: R-7.5(A) (Single family district 7,500 square feet)
- North: R-7.5(A) (Single family district 7,500 square feet)
- South: R-7.5(A) (Single family district 7,500 square feet)
- East: R-7.5(A) (Single family district 7,500 square feet)
- West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on replacing and maintaining an approximately 530 square foot carport, part of which is located in the site's eastern 5' side yard setback on a site developed with a single-family home structure/use.
- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The applicant has submitted a site plan and an elevation indicating the location of the carport (roof eave) on the site's eastern side property line.
- The applicant has stated the carport would replace an existing deteriorating carport (probably built in the 60's or 70's) in its current location – a carport of virtually the same size as the existing one.
- The following information was gleaned from the submitted site plan:

- The carport is represented to be 23' in length and 23' in width (approximately 530 square feet in total area) of which approximately 115 square feet (or approximately 20 percent) would remain in the eastern side yard setback.
- The following information was gleaned from the submitted elevation:
 - The carport is represented to be approximately 7.5' - 10' in height with steel columns and a metal roof.
- The subject site is approximately 160' x 65' (or 10,400 square feet) in area.
- According to DCAD records, the "main improvement" for property addressed at 7029 Southridge Drive is a structure built in 1950 with 2,125 square feet of living/total area; and with the following additional improvements: a 400 square foot detached garage, a 400 square foot detached carport, and a pool.
- The Board Administrator conducted a field visit of the area approximately 500 feet east and west of the subject site and noted no other carports that appeared to be located in a side yard setback.
- As of January 12, 2015, one letter had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing the following:
 - that granting this special exception to the side yard setback regulations of 5' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be modified/maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted site plan and elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.

Timeline:

October 31, 2014: 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 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 10, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th 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 11 & 19,
2014:

The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A and B).

January 6, 2015:

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

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

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move to grant that the Board of Adjustment grant application **BDA 145-002** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. 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.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.
- No item (other than a motor vehicle) may be stored in the carport.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 145-005

BUILDING OFFICIAL'S REPORT: Application of Stanley Castloo for special exceptions to the off-street parking, front yard setback for a carport, and visual obstruction regulations at 2122 Healey Drive. This property is more fully described as Lot 10, Block A/7404, and is zoned R-7.5(A), which requires off-street parking to be provided, and a front yard setback of 25 feet, a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a structure for a single family residential use, and provide 0 of the required 1 off-street parking spaces, which will require a 1 space special exception to the off-street parking regulations; to construct and/or maintain a carport structure and provide a 7 foot front yard setback, which will require an 18 foot special exception to the front yard setback regulations for a carport; and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 2122 Healey Drive

APPLICANT: Stanley Castloo

REQUESTS:

The following requests have been made on a site developed with a single family home structure/use:

1. A special exception to the off-street parking regulations of 1 space is made to maintain a single family home structure/use and provide 0 of the 1 required parking space.
2. A special exception to the front yard setback regulations of 18' is made to maintain an existing carport located in 7' from one of the site's two front property lines (Larry Drive) or 18' into this 25' front yard setback.
3. Special exceptions to the visual obstruction regulations are made to maintain carport columns in the two 20' visibility triangles at the drive approach into the site from Larry Drive, and to construct and maintain a 4' high open wrought iron fence to be located in one of the two 20' visibility triangles at the drive approach into the site from Larry Drive.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not

provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

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

The Board of Adjustment may grant a special exception to the minimum front yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the board:

(A) there is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and

(B) the carport will not have a detrimental impact on surrounding properties.

In determining whether to grant a special exception, the Board shall consider the following:

(5) Whether the requested special exception is compatible with the character of the neighborhood.

(6) Whether the value of surrounding properties will be adversely affected.

(7) The suitability of the size and location of the carport.

(8) The materials to be used in construction of the carport.

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (parking special exception):

Approval, subject to the following condition:

- The special exception of 1 space shall automatically and immediately terminate if and when the single family use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to the applicant's request.

STAFF RECOMMENDATION (front yard special exception for a carport) :

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is when in the opinion of the board, there is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and the carport will not have a detrimental impact on surrounding properties.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of the existing carport columns in the two 20' visibility triangles at the drive approach into the site from Larry Drive, and the proposed 4' high open wrought iron fence to be located in one of the two 20' visibility triangles at the drive approach into the site from Larry Drive does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (parking special exception):

- This request focuses on maintaining maintain a single family home structure/use and provide 0 of the 1 required parking space.
- The Dallas Development Code requires the following off-street parking requirement:
 - Single family use: 1 space
- The Dallas Development Code states that in a single family residential district, required off street parking for residential uses must be located behind a required front building line.
- While it appears that a parking space could be provided on the site under the existing carport structure, the applicant is technically providing 0 of the required 1 off-street parking space in conjunction with the maintaining the existing single family home structure on the site because this parking space is not located behind a 30' platted front building line along Larry Lane.
- Note that staff has informed the applicant that he will be required to request removal of 30' platted building line along Larry Drive from the City Plan Commission along

with obtaining this special exception request from the Board in order to obtain a final permit for the carport in its current location.

- The Sustainable Development Department Project Engineer has indicated that he has no objections to the applicant's request.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated single family use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 1 space would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 1 space shall automatically and immediately terminate if and when the single family use is changed or discontinued, the applicant would be allowed to maintain the structure/use on the site, and provide 0 of the 1 code required off-street parking spaces.

GENERAL FACTS/STAFF ANALYSIS (front yard special exception):

- This request focuses on maintaining an existing carport located 7' from one of the site's two front property lines (Larry Drive) or 18' into this 25' front yard setback.
- A 25' side yard setback is required in the R-7.5(A) zoning district.
- The site is located on the southwest corner of Healey Drive and Larry Drive. The site has two 25' front yard setbacks. The site has a 25' front yard setback along Larry Drive because it is the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 25' front yard setback along Healey Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 5' setback is required but is a side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes west of the site zoned R-7.5(A) that front/are oriented northward towards Healey Drive.
- Regardless of how the proposed home is oriented, the site has two 25' front yard setbacks where the focus of the applicant's request in this application is only to maintain the existing carport structure in the site's front yard setback on Larry Drive. (No part of the application is made to construct/maintain a structure in the site's Healey Road front yard setback).
- Note that staff has informed the applicant that he will be required to request removal of the 30' platted building line along Larry Drive from the City Plan Commission along with obtaining this special exception request from the Board in order to obtain a final permit for the carport in its current location.
- The applicant has submitted a site plan and an elevation indicating that the location of the carport is 7' from the site's Larry Drive front property line or 18' into this 25' front yard setback.
- The following information was gleaned from the submitted site plan:
 - The carport is represented to be 21' in length and 20' in width (approximately 410 square feet in total area) of which approximately 360 square feet (or approximately 90 percent) is located in the Larry Drive 25' front yard setback.
- The following information was gleaned from the submitted elevation:

- The carport is represented to be approximately 10' - 13' in height. (Building materials are not noted).
- The subject site is approximately 117' x 67' (or 7,800 square feet) in area.
- According to DCAD records, the "main improvement" for property addressed at 2122 Healey Drive is a structure built in 1959 with 1,365 square feet of living/total area; and with the following additional improvements: a 460 square foot attached carport, a 483 square foot enclosed garage.
- The Board Administrator conducted a field visit of the area approximately 500 feet east, west, and south of the subject site and noted no other carports that appeared to be located in a front yard setback.
- The applicant has the burden of proof in establishing the following:
 - there is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
 - that granting this special exception to the front yard setback regulations of 18' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would allow the carport to be maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted site plan and elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- These requests focus on maintaining carport columns in the two 20' visibility triangles at the drive approach into the site from Larry Drive, and constructing and maintaining a 4' high open wrought iron fence to be located in one of the two 20' visibility triangles at the drive approach into the site from Larry Drive.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevation has been submitted indicating that a portion of a 4' high open wrought iron fence is proposed to be located in the southern 20' visibility triangle at the drive approach into the site from Larry Drive.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request marked "Has no objections."

- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain carport columns in the two 20' visibility triangles at the drive approach into the site from Larry Drive, and to construct and maintain a 4' high open wrought iron fence to be located in one of the two 20' visibility triangles at the drive approach into the site from Larry Drive does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require the items as described above to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

November 11, 2014: 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 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 10, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th 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 requests;
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence;"
- the name and contact information of the Plats Administrator for him to determine how to go about filing an application to the City Plan Commission with regard to removing platted building lines on this property which will be necessary to maintain the carport in the proposed location in addition to his requests filed to the board for a special exception to the front yard setback and off-street parking regulations.

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

January 7, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet pertaining to the applicant's requests for special exceptions to the off-street parking and visual obstruction regulations marked "Has no objections."

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

APPEARING IN FAVOR: Stan Castloo, 2122 Healey Drive, Dallas, TX
Luetta A. Millsap, 2208 Larry Drive, Dallas, TX
Cathy Snyder, 2119 Healey Dr., Dallas, TX
Marrissa Wallace, 2120 Healey, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Hounsel

I move that the Board of Adjustment, in request No. **BDA 145-005**, on application of Stanley Castloo, **grant** the request of this applicant to reduce the number of required off-street parking spaces in the Dallas Development Code by 1 space, because our evaluation of the property and the testimony shows that the parking demand generated by the proposed use on the site does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 1 space shall automatically and immediately terminate if and when the single family use is changed or discontinued.

SECONDED: Agnich

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

MOTION #2: Hounsel

I move that the Board of Adjustment, in request No. **BDA 145-005**, on application of Stanley Castloo, **deny** the 18-foot special exception to the front yard setback regulations **without prejudice** because our evaluation of the property and testimony shows that the special exception will have a detrimental impact on surrounding properties.

SECONDED: Leone

AYES: 3 – Reynolds, Gillespie, Hounsel

NAYS: 2 – Leone, Agnich

MOTION PASSED 3 – 2

MOTION #3: Hounsel

I move that the Board of Adjustment, in request No. **BDA 145-005**, on application of Stanley Castloo, **grant** the request to maintain items in the visibility triangles as a special exception to the visual obstruction regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Agnich

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 145-007

BUILDING OFFICIAL’S REPORT: Application of Suzan Kedron for special exceptions to the pedestrian skybridge standards at 8301 Westchester Drive. This property is more fully described as Lot 6A, Block 5623, and at 8300 Westchester Drive, Tract 1, Block 5623, and are zoned PD-314, which requires that pedestrian skybridge supports must not be located within the public right-of-way, that a pedestrian skybridge must provide clearance above the public right-of-way of at least 18 feet above grade, that the interior passageway must be no greater than 20 feet in width, and must not diverge from a perpendicular angle to the right-of-way by more than 30 degrees. The applicant proposes to construct and maintain a pedestrian skybridge and locate supports within a public right-of-way, reduce the minimum 18 foot clearance above the public right-of-way to 14 feet, increase the maximum 20 foot interior passageway width to 61 feet, and increase the maximum 30 degree divergance from the perpendicular angle to the right-of-way to 45 degrees, which will require special exceptions to the pedestrian skybridge standards.

LOCATION: 8301 Westchester Drive

APPLICANT: Suzan Kedron

January 21, 2015 Public Hearing Notes:

- The Board Administrator circulated additional written documentation to the Board at the briefing (see Attachment C). This documentation was a letter from the applicant requesting that the Board move to hold the application over until their March 18th public hearing given that “we are continuing to work with our architects and engineers to further refine our plans, and to be able to continue our outreach with other stakeholders in the vicinity of our request.”

REQUESTS:

Requests for special exceptions to the mandatory pedestrian skybridge standards are made to construct and maintain a pedestrian skybridge over Westchester Drive between Berkshire Street and Luther Lane that would connect an existing retail structure to an existing parking garage:

1. With a clearance above public right-of-way of 14' above grade;
2. With an interior passageway width of 61';
3. With support columns located within the Westchester Drive public right-of-way; and
4. That will diverge from a perpendicular angle to the right-of-way by 45 degrees.

STANDARD FOR A SPECIAL EXCEPTION TO THE MANDATORY PEDESTRIAN SKYBRIDGE STANDARDS:

Section 51A-4.217 of the Dallas Development Code states that the board of adjustment may grant a special exception to the pedestrian skybridge standards if the board finds that:

1. Strict compliance with the requirements will unreasonably burden the use of either of the properties;
2. The special exception will not adversely affect neighboring property; and
3. The special exception will not be contrary to the public interest.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the pedestrian skybridge standards since the basis for this type of appeal is if the board finds that: strict compliance with the requirements will unreasonably burden the use of either of the properties; the special exception will not adversely affect neighboring property; and the special exception will not be contrary to the public interest.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD 314 (Planned Development)
<u>North:</u>	PD 314 (Planned Development)
<u>South:</u>	PD 314 (Planned Development)
<u>East:</u>	PD 314 (Planned Development)
<u>West:</u>	PD 314 (Planned Development)

Land Use:

The proposed skybridge would connect an existing two story retail structure to an existing one-story parking garage. The areas to the north, east, south, and west are developed with mostly with retail uses.

Zoning/BDA History:

1. Z 134-341 (the subject site)

On December 18, 2014, the City Plan Commission held a public hearing to consider a request for an application for a specific use permit for a pedestrian skybridge and delayed action until January 22, 2015. (The City Council date is pending upon the City Plan Commission recommendation).

GENERAL FACTS/STAFF ANALYSIS:

- These requests focus on constructing and maintaining a pedestrian skybridge over Westchester Drive between Berkshire Street and Luther Lane that would connect an existing retail structure to an existing parking garage – a skybridge that would have a clearance above public right-of-way of 14’ above grade, an interior passageway of 61’, support columns within the Westchester Drive public right-of-way, and that will diverge from a perpendicular angle to the right-of-way by 45 degrees.
- The Dallas Development Code provides 19 mandatory skybridge provisions of which the applicant seeks special exceptions from the following four:
 1. Pedestrian skybridges must have a clearance above the public right-of-way of at least 18 feet above grade. (The applicant has submitted a site plan and bridge section that indicates the clearance above the public right of way is 14’ above grade.)
 2. If the pedestrian skybridge has a length of less than 150 feet, the interior passageway must be no less than 10 feet and no greater than 20 feet in width. (While a site plan has not been submitted to date that appears to indicate a skybridge with an interior passageway of 61 feet, the applicant is requesting dimensions from 28 feet to a maximum of 61 feet).
 3. Pedestrian skybridge supports must not be located within the public right-of-way. (The applicant has submitted a site plan and bridge section that indicates 5 support columns in the public right-of-way, four on the west side of Westchester Drive, one on the east side of Westchester Drive);
 4. Pedestrian skybridges must not diverge from a perpendicular angle to the right-of-way by more than 30 degrees). (The applicant has stated on the application that a request to increase the divergence from 30 degrees to 45 degrees).
- The applicant has the burden of proof in establishing how strict compliance with the skybridge standards (constructing/maintaining a pedestrian skybridge that would have a clearance above public right-of-way of 18’ above grade, an interior passageway of a maximum of 61’, support columns within the Westchester Drive public right-of-way, and that will diverge from a perpendicular angle to the right-of-way by 45 degrees) will unreasonably burden the use of either of the properties; that the special exceptions will not adversely affect neighboring property; and the special exceptions will not be contrary to the public interest.

Timeline:

November 20, 2014: 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 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 10, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

December 24, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

January 9, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

APPEARING IN FAVOR: Jonathan Vinson, 901 Main St., Dallas, TX
Robert Dozier, 2000 McKinney, Dallas, TX
Jack O'brien, 5310 Harvest Hill, Dallas, TX

APPEARING IN OPPOSITION: Laura Miller, 5335 S. Dentwood Dr., Dallas, TX

MOTION: Gillespie

I move that the Board of Adjustment in request No. **BDA 145-007**, hold this matter under advisement until **March 18, 2015**.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 145-010

BUILDING OFFICIAL’S REPORT: Application of Arash Afzalipour, represented by Michael R. Coker, for a special exception to the fence height regulations at 9362 Hollow Way Road. This property is more fully described as Lot 19B, Block 7/5597, 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 10 foot high fence, which will require a 6 foot special exception to the fence height regulations.

LOCATION: 9362 Hollow Way Road

APPLICANT: Arash Afzalipour
Represented by Michael R. Coker

REQUEST:

A request for a special exception to the fence height regulations of 6’ is made to construct and maintain the following in the 40’ front yard setback on a site that is being developed with a single family home/use:

- a 6’ – 6’ 6” high “decorative wrought iron” fence with 8’ high masonry columns parallel to the street;
- two entry features: on the north side, a 7’ – 7’ 6” high “secondary” entry gate with 7’ high columns; on the south side, a 10’ high “main” entry gate with 10’ high columns flanked by two approximately 10’ long, 8’ high solid masonry wing walls; and
- 6’ high solid masonry fences with 7’ high stone columns perpendicular to the street on the north and south sides of the site in the 40’ front yard setback.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences 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 height 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:

Zoning:

<u>Site:</u>	R-1ac (A) (Single family district 1 acre)
<u>North:</u>	R-1ac (A) (Single family district 1 acre)
<u>South:</u>	R-1ac (A) (Single family district 1 acre)
<u>East:</u>	R-1ac (A) (Single family district 1 acre)
<u>West:</u>	R-1ac (A) (Single family district 1 acre)

Land Use:

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

Zoning/BDA History:

1. BDA 989-150, property at 5506 Deloache Avenue (the lot north of the subject site)
2. BDA 978-106, property at 5424 Deloache Avenue (the lot northwest of the subject site)

On January 19, 1999, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 6" and imposed the submitted revised site plan, landscape plan, and elevation as a condition.

The case report stated that the request was made in conjunction with constructing and maintaining a 6' predominantly open metal fence, 6' 6" high brick columns, 7' 4" high brick entry columns, and a 7' high open metal entry gate in the front yard setback along Deloache Avenue and Hollow Way Road.

On December 16, 1997, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' and imposed the submitted revised site/landscape plan and elevation plan as a condition.

The case report stated that the request was made in conjunction with replacing an existing fence with a predominantly open 8' high metal fence in the front yard setback along Deloache Avenue.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining the following in the front yard setback on a site being developed with a single family home/use:
 1. a 6' – 6' 6" high "decorative wrought iron" fence with 8' high masonry columns parallel to the street;

2. two entry features: on the north side, a 7' – 7' 6" high "secondary" entry gate with 7' high columns; on the south side, a 10' high "main" entry gate with 10' high columns flanked by two approximately 10' long, 8' high solid masonry wing walls; and
 3. 6' high solid masonry fences with 7' high stone columns perpendicular to the street on the north and south sides of the site in the 40' front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The applicant has submitted a site plan/elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 10'.
 - The following additional information was gleaned from the submitted site plan/elevation:
 - The fence proposal is represented as being approximately 200' in length parallel to the street, and approximately 40' in length perpendicular to the street on the north and south sides of the site in the front yard setback.
 - The fence and secondary gate proposal is represented as being located approximately on the front property line or about 22' from the pavement line. (The proposed main gate is represented as being located approximately 6' from the property line or approximately 28' from the pavement line).
 - The fence proposal is located on the site where no lot would have direct frontage to it – the homes to the west face either southward to Dentwood Drive or northward to Deloache Avenue.
 - The Board Administrator conducted a field visit of the site and surrounding area and noted one other visible fence above 4 feet high which appeared to be located in a front yard setback – an approximately 6' high solid board fence located immediately north of the subject site. The Board of Adjustment granted a fence height special exception on this adjacent property to the north (BDA 989-150) in 1999 (see the "Zoning/BDA History" section of this case report for additional details).
 - As of January 12, 2015, no letters have been submitted in support of or in opposition to the request.
 - The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 6' will not adversely affect neighboring property.
 - Granting this special exception of 6' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on this document.

Timeline:

November 18, 2014: 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 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 10, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move to grant that the Board of Adjustment grant application **BDA 145-010** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. 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 with elevation is required.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 145-012

BUILDING OFFICIAL’S REPORT: Application of Santos Martinez for a variance to the landscape regulations at 1414 (AKA 1420) Dragon Street. This property is more fully described as part of Lot 1, Block 16/6846, and is zoned PD 621 (Subdistrict 1), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a variance to the landscape regulations.

LOCATION: 1414 (AKA 1420) Dragon Street

APPLICANT: Santos Martinez

REQUEST:

A variance to the landscape regulations is made to complete and maintain a 2nd floor addition to an existing circa 1950’s structures/suites being redeveloped into restaurant/bar and office uses, and not fully meet the landscape regulations.

STANDARD FOR A VARIANCE:

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, 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.

ORIGINAL STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports this landscape variance request.
- The applicant has substantiated how the restrictive area (approximately 5,100 square feet) and irregular shape of the subject site precludes it from being

developed (in this case with a 775 square foot addition or a 15 percent increase to the original floor area of the structure that has been on the site since the early 1950's) in a manner commensurate with development found on other properties zoned PD 621 that are larger in area and more regular in shape.

BACKGROUND INFORMATION:

Zoning:

Site: PD 621 (Planned Development, Subdistrict1)
North: PD 621 (Planned Development, Subdistrict1)
South: PD 621 (Planned Development, Subdistrict1)
East: PD 621 (Planned Development, Subdistrict1)
West: PD 621 (Planned Development, Subdistrict1)

Land Use:

The site is currently developed with structures that according to DCAD were built in 1951. The area to the north is developed with a mixed use development; and the areas to the east, south, and west appear mostly developed as office/warehouse uses.

Zoning/BDA History:

1. BDA 134-093, Property located 1414 (AKA 1420) Dragon Street (the subject site) On November 19, 2014, the Board of Adjustment Panel B denied a request for a variance to the landscape regulations without prejudice. The case report states the application was made to complete and maintain a recent 2nd floor addition to an existing circa 1950's structures/suites being redeveloped into restaurant/bar and office uses, and not fully meet the landscape regulations

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on completing and maintaining a 2nd floor addition to an existing circa 1950's structure/suite being redeveloped into restaurant/bar and office uses, and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the proposed plan does not fully comply with the required landscape standards of PD 621, Subdistrict 1, for a project with a floor area expansion of less than 50 percent.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or

increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.

- Given specific provisions of the landscape provisions of PD No. 621, the applicant can only seek these leniencies from the board of adjustment by requesting a *variance* to the landscape regulations within this PD as opposed to the more typical *special exception* to the landscape regulations.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment C). The memo states this request is triggered since the owner has increased the story height of a building.
- The Chief Arborist's memo states the deficiencies in this case are that the proposed plan does not fully comply with the required landscape standards of PD 621, Subdistrict 1, for a project with a floor area expansion of less than 50 percent.
- The Chief Arborist's memo lists the following factors for consideration:
 1. PD 621 landscape requirements include the following:
 - Street trees: One street tree per 25 feet of street frontage with a minimum of one which would require 4 street trees on the site. The alternate landscape plan provides 5 additional trees in two added planting locations in the Dragon Street parkway.
 - Subdistrict 1 General Requirements:
 - Except as otherwise stated in the section, landscaping must be provided by Article X. The story height increase on the building required these additional regulations be applied:
 - Site trees: Minimum of 4 trees required, and 3 small trees are shown to be placed in planters on the roof;
 - Parking lot trees (not applicable); and
 - Design standards: Two are required, none are provided.
 2. PD 621 additional standards for non-compliance on-site:
 - PD 621 also provides for an "open space fund" for if a property owner cannot plant all of the required trees on the building site – in these situations, the property owner shall comply with this requirement for no more than 50 percent of the required trees. The owner must either: 1) make a payment into the Old Trinity And Design District Open Space Fund, or 2) plant trees within portals to the Trinity River, along a portion of the Old Trinity Trail within PD 621, or along the meanders of the Old Trinity Channel. This measure would account for only a portion of the overall landscape deficiency for the property. The applicant has stated intention to pay or plant, per this ordinance, in order to help mitigate for the lack of required site trees on the property.
 3. Additional items to consider in evaluation of this case:
 - Landscaping on the rooftops is considered in this district where applicable. A landscape plan must accompany any application for a building permit to expand floor area if the expansion is over 50 percent for a non-residential structure. This case does not require compliance with this additional provision. However, if it was applicable, the proposed plan could comply with 30 of a required minimum 50 points for the feature of "landscaping on rooftops and facades."
 - The variance standards apply for this case due to the non-Article X landscape requirements.

- Additional bamboo planters will be added on the roof facing the rear of the building.
- None of the planting on the roof is along the Dragon Street frontage.
- The applicant has demonstrated on the plan their intentions of planting two baldcypress trees on an adjacent property.
- The Chief Arborist supports the reduced landscaping for the property and recommends approval of the alternate landscape plan. The Chief Arborist states that he is in agreement with the staff opinion and recommendation the applicant has met the conditions for approval of the variance.
- The site is flat, irregular in shape, and is approximately 0.117 acres (or approximately 5,100 square feet) in area. The site is zoned PD 621 (Subarea 1).
- According to DCAD records, the “improvements” at 1414 Dragon Street is a 4,291 square foot “restaurant” built in 1951. According to DCAD records, the “improvements” at 1420 Dragon Street is a 1,346 square foot “office/showroom ” built in 1951.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape 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 PD No. 621 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 PD No. 621 zoning classification.
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted alternate landscape plan, the site would be “varied” from certain landscape standards of PD No. 621, Subdistrict 1, as shown on this submitted alternate landscape plan.

Timeline:

November 21, 2014: 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 10, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

December 10, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th 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 29, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

January 7, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

January 9, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment C).

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move to grant that the Board of Adjustment grant application **BDA 145-012** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan is required.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 145-004

BUILDING OFFICIAL’S REPORT: Application of Alejandro Singer, represented by Peter Kavanagh of Zone Systems, Inc. for a special exception to the off-street parking regulations at 3611 Swiss Avenue. This property is more fully described as Tract 1.1, Block 1/749, and is zoned PD-298 (Subarea 11), which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure for an office, medical clinic or ambulatory surgical center, and warehouse uses, and provide 43 of the required 54 parking spaces, which will require an 11 space special exception to the off-street parking regulations.

LOCATION: 3611 Swiss Avenue

APPLICANT: Alejandro Singer
Represented by Peter Kavanagh of Zone Systems, Inc.

REQUEST:

A request for a special exception to the off-street parking regulations of 11 spaces is made to lease and maintain square footage/space within an existing approximately 16,000 square foot three-story structure with a mix of medical clinic or ambulatory surgical center, office, and warehouse uses in an existing structure on the site, and provide 43 (or 80 percent) of the 54 required off-street parking spaces.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special

exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting that no adequate public parking is around the project site.
- The applicant had not substantiated how the parking demand generated by the mix of medical clinic or ambulatory surgical center, office, and warehouse uses in an

existing structure on the site does not warrant the number of off-street parking spaces required, nor how the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

BACKGROUND INFORMATION:

Zoning:

Site: PD 298 (Subarea 11) (Planned Development)
North: PD 298 (Subarea 11) (Planned Development)
South: PD 298 (Subarea 11) (Planned Development)
East: PD 298 (Subarea 12A) (Planned Development)
West: PD 298 (Subarea 11) (Planned Development)

Land Use:

The subject site is developed with an existing three-story structure that has approximately 16,000 square feet of floor area that the applicant intends to retain on the site and lease with a certain mix of uses some of which require a greater number of off-street parking spaces than the applicant proposes to provide. The areas to the north, south, east, and west are developed with a mix of mostly medical and office uses, and surface parking lots.

Zoning/BDA History:

1. BDA 056-144, Property at 3515 Swiss Avenue (two lots southwest of the subject site) On May 16, 2006, the Board of Adjustment Panel B granted a request for a variance to the off-street parking regulations of 21 spaces (or 46 percent of the required parking) and imposed the submitted revised site plan as a condition to this request. The case report stated that the request was made in conjunction with leasing an existing 11,480 square foot structure with a combination of “medical clinic” and “office” uses.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on leasing and maintaining square footage/space within an existing approximately 16,000 square foot three-story structure with a mix of medical clinic or ambulatory surgical center, office, and warehouse uses in an existing structure on the site, and provide 43 (or 80 percent) of the 54 required off-street parking spaces.

- The Dallas Development Code requires the following off-street parking requirement:
 - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area.
 - Office use: 1 space per 333 square feet of floor area.
 - Warehouse use: as a main use: 1 space per 1,000 square feet of floor area up to 20,000 square feet, and 1 space per 4,000 square feet over 20,000 square feet.
- The applicant proposes to provide 43 (or 80 percent) of the required 54 off-street parking spaces in conjunction with the existing structure on the site being leased with and/or maintained with a combination of the uses mentioned above.
- The Sustainable Development Department Project Engineer has indicated that he recommends denial of the request commenting that there is no adequate public parking around the project site.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the mix of medical clinic or ambulatory surgical center, office, and warehouse uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 11 spaces (or a 20 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 11 spaces shall automatically and immediately terminate if and when the mix of medical clinic or ambulatory surgical center, office, and warehouse uses are changed or discontinued, the applicant would be allowed to lease and maintain the structure on the site with these specific uses with the specified square footages, and provide 43 of the 54 code required off-street parking spaces.

Timeline:

November 17, 2014: 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 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

December 10, 2014: The Board Administrator contacted the applicant’s representative and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29th deadline to submit additional evidence for staff to factor into their analysis; and the January 9th 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 29, 2014: The applicant’s representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

January 7, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "no adequate public parking around the project site."

BOARD OF ADJUSTMENT ACTION: JANUARY 21, 2015

APPEARING IN FAVOR: Peter Kavanagh, 1620 Handley, Ste A, Dallas, TX
Alejandro Singer, 3611 Swiss Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move that the Board of Adjustment, in request No. **BDA 145-004**, on application Alejandro Singer, **grant** the request of this applicant to reduce the number of required off-street parking spaces in the Dallas Development Code by 11 spaces because our evaluation of the property and the testimony shows that the parking demand generated by the proposed use on the site does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 11 spaces shall automatically and immediately terminate if and when the mix of clinical or ambulatory surgical center, office, and warehouse uses are changed or discontinued.

SECONDED: Gillespie

AYES: 4 – Reynolds, Gillespie, Leone, Hounsel

NAYS: 1 – Agnich

MOTION PASSED 4– 1

MOTION: Leone

I move to adjourn this meeting.

SECONDED Hounsel

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

3:10 P.M. Board Meeting adjourned for **January 21, 2015**

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.