

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, February 19, 2019**

MEMBERS PRESENT AT BRIEFING: Jay Narey, regular member, John Jones, regular member, Temeckia Derrough, regular member

MEMBERS ABSENT FROM BRIEFING: Elizabeth Nelson, regular member, Gary Sibley, alternate member

STAFF PRESENT AT BRIEFING: 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

MEMBERS PRESENT AT HEARING: John Jones, regular member, Jay Narey, regular member, Temeckia Derrough, regular member, Gary Sibley, alternate member

MEMBERS ABSENT FROM HEARING: Elizabeth Nelson, regular member

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

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 19, 2019** docket.

1:08 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, January 15 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: February 19, 2019

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA189-013(SL)

BUILDING OFFICIAL'S REPORT: Application of Darryl Evans, represented by Michael Forbes, for variances to the side yard setback regulations and off-street parking regulations, and a special exception to the visual obstruction regulations, and at 1475 McKee Street. This property is more fully described as Lot 4, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a side yard setback of 10 feet, 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, and a 45 foot visibility triangle at street intersections. The applicant proposes to construct and/or maintain a structure and provide a 3 foot side yard setback, which will require a 7 foot variance to the side yard setback regulations, to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations, and to locate items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 1475 McKee Street

APPLICANT: Darryl Evans
Represented by Michael Forbes

REQUESTS:

The following requests have been made on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single-family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the side yard setback regulations of 7' is made to construct and maintain a single-family home with an approximately 620 square foot building footprint located 3' from the site's northwestern side property line or 7' into this required 10' side yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.
3. A request for a special exception to the visual obstruction regulations is made to construct and maintain the aforementioned single family home structure in the 45' visibility triangle at the intersection of McKee Street and Browder Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-014, 015, and 016).

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that 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 (setback variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had not substantiated how the variance to the side yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

STAFF RECOMMENDATION (parking variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

STAFF RECOMMENDATION (visual obstruction special exception):

Approval, subject to the following condition:

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

(Note that approval of this request with these conditions imposed will not in itself provide any relief to the regulations that the applicant is requesting a variance on this site – side yard setback and off-street parking regulations).

Rationale:

- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections if certain conditions are met” which in this case is compliance with the submitted site plan showing a 36’ x 36’ visibility triangle at the Browder Street/McKee Street intersection.
- Staff concluded that the request should be granted (with the suggested conditions imposed) because the item to be located in the Browder Street/McKee Street intersection visibility triangle would not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: PD 317 (Planned Development)
North: PD 317 (Planned Development)
South: PD 317 (Planned Development)
East: PD 317 (Planned Development)

West: PD 317 (Planned Development)

Land Use:

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single-family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

Zoning/BDA History:

1. BDA189-014, Property at 1467 McKee Street (the lot to the south of the subject site)
On February 19, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

2. BDA189-015, Property at 1459 McKee Street (two lots to the south of the subject site)
On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-016, Property at 1451 McKee Street (three lots to the south of the subject site)
On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and

maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

GENERAL FACTS/STAFF ANALYSIS (side yard setback variance):

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's northwestern side property line or 7' into this required 10' side yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street 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 applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback 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 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.

- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the side yard would be limited to that what is shown on this document.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single-family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single-family home provides an approximately 14' front yard setback on McKee Street.
- 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 17' from the McKee Street street right-of-way line or 3' 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 23' from the McKee Street pavement line).
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties) to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street 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 if certain conditions are met".
- 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 PD 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', 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.

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

- The request for special exception to the visual obstruction regulations focuses on locating and maintaining single family home structure in the 45' visibility triangle at the intersection of McKee Street and Browder Street on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- Section 51A-4.602(d) of 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).
- The property is located in PD 317 which requires a 45-foot visibility triangle at the intersection of two streets.
- A site plan and an elevation have been submitted a single-family home structure to be located in the 45' visibility triangle at the intersection of McKee Street and Browder Street.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met".
- The applicant has the burden of proof in establishing how granting this request to locate and maintain a structure in the 45' visibility triangle at the intersection of McKee Street and Browder Street does not constitute a traffic hazard.

- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the item to be located and maintained in the 45' intersection visibility triangle to that what is shown on these documents – a single-family home structure.
- Note that approval of this request with these conditions imposed will not in itself provide any relief to the regulations that the applicant is requesting a variance on this site – side yard setback and off-street parking regulations.

Timeline:

October 13, 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.

January 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 7, 2019: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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.

February 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: The Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, 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.

February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following additional comments: “No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36’ x 36’ visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street”.

February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5th staff review team meeting.

BOARD OF ADJUSTMENT ACTION: February 19, 2019

APPEARING IN FAVOR: Mike Forbes, P.O. Box 172725, Arlington, TX
Darryl Evans, 1021 Manchester, Mansfield, TX

APPEARING IN OPPOSITION: No one

MOTION 1 of 3: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-013, on application of Darryl Evans represented by Michael Forbes, **deny** the variance to the side yard setback regulations 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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION 2 of 3: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-013, on application of Darryl Evans represented by Michael Forbes, **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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION 3 of 3: Sibley

I move that the Board of Adjustment, in Appeal No. BDA 189-013, on application of Darryl Evans represented by Michael Forbes, **deny** the special exception to maintain

items in the visibility triangles **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

SECONDED: Derrough

AYES: 3 – Derrough, Jones, Sibley

NAYS: 1 - Narey

MOTION PASSED: 3 – 1

FILE NUMBER: BDA189-014(SL)

BUILDING OFFICIAL’S REPORT: Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations at 1467 McKee Street. This property is more fully described as Lot 3, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a rear yard setback of 10 feet, and 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 and The applicant proposes to construct and/or maintain a structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

LOCATION: 1467 McKee Street

APPLICANT: Darryl Evans
Represented by Michael Forbes

REQUESTS:

The following requests have been made on a property that is currently one building site (approximately 102’ in length and approximately 48’ in width) developed a vacant single-family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the rear yard setback regulations of 7’ is made to construct and maintain a single-family home with an approximately 620 square foot building footprint located 3’ from the site’s rear property line or 7’ into this required 10’ rear yard setback.
2. A request for a variance to the off-street parking regulations of 3’ is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17’ from the right-of-way line adjacent to the street or 3’ into the required 20’ distance from the right-of-way line adjacent to McKee Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-013, 015, and 016).

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 (setback variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had not substantiated how the variance to the rear yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

STAFF RECOMMENDATION (parking variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the

off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

BACKGROUND INFORMATION:

Zoning:

Site: PD 317 (Planned Development)
North: PD 317 (Planned Development)
South: PD 317 (Planned Development)
East: PD 317 (Planned Development)
West: PD 317 (Planned Development)

Land Use:

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single-family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

Zoning/BDA History:

1. BDA189-013, Property at 1475 McKee Street (the lot to the north of the subject site)

On February 19, 2019, the Board of Adjustment Panel A will consider variances to the side yard setback regulations of 7', the off-street parking regulations of 3', and a special exception to the visual obstruction regulations. These requests are made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street, and to locate and maintain the single family home in the 45' visibility triangle at the

intersection of McKee Street and Browder Street.

2. BDA189-015, Property at 1459 McKee Street (one lot to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-016, Property at 1451 McKee Street (two lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

GENERAL FACTS/STAFF ANALYSIS (rear yard setback variance):

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.

- The applicant has submitted a site plan that represents that the proposed single-family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear yard setback 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 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the rear yard would be limited to that what is shown on this document.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single-family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single-family home provides an approximately 14' front yard setback on McKee Street.
- 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 17' from the McKee Street street right-of-way line or 3' 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 23' from the McKee Street pavement line).

- DCAD records indicate “main improvements” for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a “converted residence” with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street 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 if certain conditions are met”.
- 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 PD 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', 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:

November 15, 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.

January 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

- January 7, 2019: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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.
- February 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, 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.
- February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comments: "No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36' x 36' visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street".
- February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5th staff review team meeting.

BOARD OF ADJUSTMENT ACTION: February 19, 2019

APPEARING IN FAVOR: Mike Forbes, P.O. Box 172725, Arlington, TX, 76003
Darryl Evans, 1021 Manchester, Mansfield, TX 76063

APPEARING IN OPPOSITION: No one

MOTION 1 of 2: Derrough

I move that the Board of Adjustment, in Appeal No. BDA 189-014, on application of Darryl Evans represented by Michael Forbes, **deny** the variance to the rear yard setback regulations 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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION 2 of 2: Derrough

I move that the Board of Adjustment, in Appeal No. BDA 189-014, on application of Darryl Evans represented by Michael Forbes, **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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA189-015(SL)

BUILDING OFFICIAL’S REPORT: Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations at 1459 McKee Street. This property is more fully described as Lot 2, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a rear yard setback of 10 feet, and 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 and The applicant proposes to construct and/or maintain a structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

LOCATION: 1459 McKee Street

APPLICANT: Darryl Evans
Represented by Michael Forbes

REQUESTS:

The following requests have been made on a property that is currently one building site (approximately 102’ in length and approximately 48’ in width) developed a vacant single-family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the rear yard setback regulations of 7' is made to construct and maintain a single-family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-013, 014, and 016).

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 (setback variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had not substantiated how the variance to the rear yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

STAFF RECOMMENDATION (parking variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

BACKGROUND INFORMATION:

Zoning:

Site: PD 317 (Planned Development)
North: PD 317 (Planned Development)
South: PD 317 (Planned Development)
East: PD 317 (Planned Development)
West: PD 317 (Planned Development)

Land Use:

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single-family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

Zoning/BDA History:

1. BDA189-013, Property at 1475 On February 19, 2019, the Board of

McKee Street (two lots to the north of the subject site)

Adjustment Panel A will consider variances to the side yard setback regulations of 7', the off-street parking regulations of 3', and a special exception to the visual obstruction regulations. These requests are made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street, and to locate and maintain the single family home in the 45' visibility triangle at the intersection of McKee Street and Browder Street.

2. BDA189-014, Property at 1467 McKee Street (one lot to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-016, Property at 1451 McKee Street (one lot to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

Street.

GENERAL FACTS/STAFF ANALYSIS (rear yard setback variance):

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear yard setback 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 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the rear yard would be limited to that what is shown on this document.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single-family home where these parking spaces entered from the street right-of-way

line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.

- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single-family home provides an approximately 14' front yard setback on McKee Street.
- 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 17' from the McKee Street street right-of-way line or 3' 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 23' from the McKee Street pavement line).
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street 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 if certain conditions are met".
- 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 PD 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', 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 13, 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.

January 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 7, 2019: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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.

February 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, 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.

February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following additional comments: “No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36’ x 36’ visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street”.

February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5th staff review team meeting.

BOARD OF ADJUSTMENT ACTION: February 19, 2019

APPEARING IN FAVOR: Mike Forbes, P.O. Box 172725, Arlington, TX, 76003
Darryl Evans, 1021 Manchester, Mansfield, TX 76063

APPEARING IN OPPOSITION: No one

MOTION 1 of 2: Derrough

I move that the Board of Adjustment, in Appeal No. BDA 189-015, on application of Darryl Evans represented by Michael Forbes, **deny** the variance to the rear yard setback regulations 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: **Sibley**

AYES: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION 2 of 2: Derrough

I move that the Board of Adjustment, in Appeal No. BDA 189-015, on application of Darryl Evans represented by Michael Forbes, **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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA189-016(SL)

BUILDING OFFICIAL'S REPORT: Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations at 1451 McKee Street. This property is more fully described as Lot 1, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a rear yard setback of 10

feet, and 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 and The applicant proposes to construct and/or maintain a structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

LOCATION: 1451 McKee Street

APPLICANT: Darryl Evans
Represented by Michael Forbes

REQUESTS:

The following requests have been made on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single-family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the rear yard setback regulations of 7' is made to construct and maintain a single-family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-013, 014, and 015).

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 (setback variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had not substantiated how the variance to the rear yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

STAFF RECOMMENDATION (parking variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that the applicant had 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 four separate lots, one of which is the subject site.

BACKGROUND INFORMATION:

Zoning:

Site: PD 317 (Planned Development)
North: PD 317 (Planned Development)
South: PD 317 (Planned Development)
East: PD 317 (Planned Development)
West: PD 317 (Planned Development)

Land Use:

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single-family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

Zoning/BDA History:

1. BDA189-013, Property at 1475 McKee Street (three lots to the north of the subject site)

On February 19, 2019, the Board of Adjustment Panel A will consider variances to the side yard setback regulations of 7', the off-street parking regulations of 3', and a special exception to the visual obstruction regulations. These requests are made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street, and to locate and maintain the single family home in the 45' visibility triangle at the intersection of McKee Street and Browder Street.

2. BDA189-014, Property at 1467 McKee Street (two lots to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the

street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-015, Property at 1459 McKee Street (one lot to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

GENERAL FACTS/STAFF ANALYSIS (rear yard setback variance):

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.
- The applicant has submitted a site plan that represents that the proposed single-family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear yard setback 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 317 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the rear yard would be limited to that what is shown on this document.

GENERAL FACTS/STAFF ANALYSIS (parking variance):

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single-family home provides an approximately 14' front yard setback on McKee Street.
- 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 17' from the McKee Street street right-of-way line or 3' 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 23' from the McKee Street pavement line).
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940).
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street 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 if certain conditions are met".
- 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 PD 317 (Subdistrict 1) 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 PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', 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:

- November 15, 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.
- January 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 7, 2019: The Board Administrator emailed the applicant's representative the following information:
 - an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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.
- February 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: The Building Official, the Assistant Building Official, the Board of

Adjustment Chief Planner/Board Administrator, the Chief Arborist, 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.

February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comments: "No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36' x 36' visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street".

February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5th staff review team meeting.

BOARD OF ADJUSTMENT ACTION: February 19, 2019

APPEARING IN FAVOR: Mike Forbes, P.O. Box 172725, Arlington, TX, 76003
Darryl Evans, 1021 Manchester, Mansfield, TX 76063

APPEARING IN OPPOSITION: No one

MOTION 1 of 2: Derrough

I move that the Board of Adjustment, in Appeal No. BDA 189-016, on application of Darryl Evans represented by Michael Forbes, **deny** the variance to the rear yard setback regulations 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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION 2 of 2: Derrough

I move that the Board of Adjustment, in Appeal No. BDA 189-016, on application of Darryl Evans represented by Michael Forbes, **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: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA189-022(OA)

BUILDING OFFICIAL’S REPORT: Application of Travis McElroy, represented by Erik Thornton, for a variance to the front yard setback regulations, and for a special exception to the fence standards regulations at 3956 Frontier Lane. This property is more fully described as Lot 16, Block 2/2972, and is zoned R-7.5(A), which requires a front yard setback of 25 feet, and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a structure and provide an 11-foot 3 inch front yard setback, which will require a 13 foot 9 inch variance to the front yard setback regulations, and to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations.

LOCATION: 3956 Frontier Lane

APPLICANT: Travis McElroy
Represented by Erik Thornton

February 19, 2018 Public Hearing Notes:

- The Sustainable Development and Construction Department Board of Adjustment Senior Planner circulated additional written materials that has been submitted by the applicant’s representative to the Board at the briefing/hearing.

REQUESTS:

The following requests have been made on a site developed with a single-family home:

1. A variance request to the front yard setback regulations is made to construct/maintain a pool structure part of which is to be located 11’ 3” from one of the site’s two front property lines (Williamson Road) or 13’ 9” into this 25’ front yard setback; and
2. A request for special exception to the fence standards regulations related to fence height of 4’ is made to maintain a fence (an 8’ high solid board-on-board wood fence) higher than 4’ in height in one of the site’s two required front yards (Williamson Road).

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.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

Denial

Rationale:

- While staff recognized that the site had two front yard setbacks, was slightly sloped and slightly irregular in shape, staff concluded that the applicant had not substantiated how these features of the site that is over 5,000 square feet larger than most lots in the zoning district preclude it from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district.

STAFF RECOMMENDATION (fence standards):

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

BACKGROUND INFORMATION:

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 areas to the north, south, west, and east are developed with single-family uses.

Zoning/BDA History:

There have 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 (front yard variance):

- The request for variance to the front yard setback regulations of 13' 9" focuses on constructing and maintaining a pool structure part of which is to be located 11' 3" from one of the site's two front property lines (Williamson Road) or 13' 9" into this 25' front yard setback on a site developed with a single-family home.
- The property is located in an R-7.5 (A) zoning district which requires a minimum front yard setback of 25'.
- The subject site has two front yard setbacks (a 30' front yard setback along Frontier Lane, and a 25' front yard setback along Williamson Road) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The submitted plan represents that a "pool and equipment" structure is proposed to be located as close as 11' 3" from one of the site's two front property lines (Williamson Road) or 20' 6" into this 25' front yard setback.
- The subject site is slightly sloped, slightly irregular in shape and according to the submitted application is 0.31 acres (or approximately 12,800 square feet) in area. The site is zoned R-7.5 (A) where lots are typically 7,500 square feet in area.
- Most lots in the R-7.5(A) zoning district have one 25' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has a 30' front yard setback a 25' front yard setback, one 30' side yard setback, and a 5' side yard setback.
- According to DCAD records, the "main improvement" for property addressed at 3956 Frontier Lane is a structure built in 2015 with 3,400 square feet of total living area with the following "additional improvement": a 650 square foot attached garage.
- The following additional information was gleaned from the submitted site plan/elevation:
 - The pool structure is represented as being 28' in length parallel to Williamson Road Street and 14' in width or approximately 400 square feet in area.
 - The pool structure is represented as being located approximately 11' 3" from the property line fronting Williamson Road.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback 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 R-7.5(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 R-7.5(A) zoning classification.
- If the Board were to grant this request and impose the submitted site plan/elevation as a condition, the structure in the front yard setback would be limited to what is shown on this document which is a pool structure to be located 11' 3" from one of the site's two front property lines (Williamson Road) or 13' 9" into this 25' front yard setback.

GENERAL FACTS/STAFF ANALYSIS (fence standards):

- This request for a special exception to the fence height of 4' focuses on maintaining an 8' high solid board-on-board wood fence in one of the site's two required front yards (Williamson Road) on a site developed with a single-family home.
- The property is located in an R-7.5 (A) (Single family district 7,500 square-foot) zoning district which requires a minimum front yard setback of 25 feet.
- The Dallas Development Code Sec. 4.602 (a) 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 submitted a site plan/elevation representing the proposed fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 65' in length parallel to Williamson Road and approximately 19' perpendicular to Williamson Road on the east and west side of the site in this front yard setback.
 - The proposal is represented as being located approximately 6' from the front property line. (The distance between the fence and the pavement line is approximately 7').
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area from Williamson Road to Huff Trail and noted similar fences that appeared to be over 4' in height and in a front yard setback – several solid wood fences that appeared to be above 8' in height located southeast of subject site all with no recorded BDA history.
- The applicant has the burden of proof in establishing that the special exception to the fence standards regulations related to fence height of 8' will not adversely affect neighboring property.

- As of February 8th, no letters have been submitted in support of or in opposition to this request.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height to be located in the front yard setback (Williamson Road) to be maintained in the location and of the heights as shown on this document.

Timeline:

December 10, 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.

January 16, 2019: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

January 17, 2019: 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 January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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.

February 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, 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.

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

BOARD OF ADJUSTMENT ACTION: February 19, 2019

APPEARING IN FAVOR: Erik Thornton, 3956, Dallas, Tx 75214

APPEARING IN OPPOSITION: No one

MOTION 1 of 3: Narey

I move that the Board of Adjustment, in Appeal No. BDA 189-022, on application of Travis McElroy represented by Erik Thornton, **grant** the thirteen-foot nine-inch variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

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

SECONDED: Derrough

AYES: 3 –Narey, Derrough, Jones

NAYS: 1- Sibley

MOTION PASSED: 3 – 1 (motion failed)

MOTION 2 of 3: Narey

I move that the Board of Adjustment, in Appeal No. BDA 189-022, on application of Travis McElroy represented by Erik Thornton, **deny** the variance to the front yard setback regulations 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: Sibley

AYES: 4 –Narey, Derrough, Jones, Sibley

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION 3 of 3: Narey

I move that the Board of Adjustment, in Appeal No. BDA 189-022, on application of Travis McElroy represented by Erik Thornton, **grant** the request of this applicant to maintain an eight-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

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

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

SECONDED: Sibley

AYES: 4 – Narey, Derrough, Jones, Sibley

NAYS: 0
MOTION PASSED: 4 – 0 (unanimously)

1:49 P. M.: Board Meeting adjourned for **February 19, 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.