

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
CITY OF DALLAS- VIDEOCONFERENCE/COUNCIL CHAMBERS  
TUESDAY, MARCH 22, 2022**

MEMBERS PRESENT AT BRIEFING: David A. Neumann, Chair, regular member, Jay Narey, regular member, Sarah Lamb, regular member, Lawrence Halcomb, regular member and Kathleen Frankford, regular member

MEMBERS ABSENT FROM BRIEFING: None

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Daniel Moore, Asst. City Atty., LaTonia Jackson, Board Secretary, Robyn Gerard, Senior Public Information Officer, Charles Trammell, Development Code Specialist, David Nevarez, Senior Traffic Engineer

MEMBERS PRESENT AT HEARING: David A. Neumann, Chair, regular member, Jay Narey, regular member, Sarah Lamb, regular member, Lawrence Halcomb, regular member and Kathleen Frankford, regular member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Daniel Moore, Asst. City Atty., LaTonia Jackson, Board Secretary, Robyn Gerard, Senior Public Information Officer, Charles Trammell, Development Code Specialist, David Nevarez, Senior Traffic Engineer

**9:00 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **March 22, 2022** docket.

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**11:00 A.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.

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**MISCELLANEOUS ITEM NO. 1**

Approval of the Board of Adjustment Panel A, February 22, 2022 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

**MOTION: Lamb**

Approval of the Board of Adjustment Panel A, February 22, 2022 public hearing minutes.

**SECONDED: Halcomb**

**AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann**

**NAYS: 0**

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

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**FILE NUMBER: BDA212-018(JM)**

**BUILDING OFFICIAL’S REPORT:** Application of Jonathan Vinson to appeal the decision of the administrative official at 11814 Harry Hines Boulevard, Suite 135. This property is more fully described as Lot 1, Block A/6572, and is zoned an MU-2(SAH) Mixed-Use District, which requires that the building official shall revoke a certificate of occupancy if the building official determines that the certificate of occupancy was issued in error and or the use is being operated in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the revocation of a certificate of occupancy.

**LOCATION: 11814 Harry Hines Boulevard, Suite 135**

**APPLICANT: Jonathan Vinson, Jackson Walker, LLP**

**REQUEST:**

A request is made to appeal the decision of the administrative official, more specifically, the Building Official’s authorized representative, the Assistant Building Official in Development Services, to deny an application for a Certificate of Occupancy for a restaurant and/or commercial amusement (inside) use determined to be a gambling place, which does not comply with other regulations.

**STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:**

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

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

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

**PRIOR BOARD ACTION:**

On February 22, 2022, Panel A held a hearing for this request. The Panel held the case to allow for a five-member Panel decision.

**STAFF RECOMMENDATION:**

Staff does not make a recommendation on appeals of the decisions of administrative officials.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MU-2(SAH) Mixed-Use District  
North: IR Industrial Research District  
East: IR Industrial Research District  
South: PD No. 498  
West: MU-3 Mixed-Use District

**Land Use:**

The subject site is developed with a mix of commercial uses within multiple suites. Surrounding land uses include warehouses to the north, a church to the east, and Stemmons Freeway wrapping the property to the south and west.

**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:**

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

- CO No. 2003031040 for a commercial amusement (inside) use issued on 10/23/20.
- CO revoked by Assistant Building Official Megan Wimer on 12/17/21.
  - Issued in error.
  - In violation of the Texas Penal Code Section 47.04, "Keeping a Gambling Place."
  - Pursuant to Paragraph (1) of Section 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code, the building official shall deny an application for a CO if determined that the request does not comply with the codes, the Dallas Development

Code, other city ordinances, rules, or regulations, or any county, state, or federal laws of regulations.

**Timeline:**

- January 5, 2022: 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 6, 2022: The Board of Adjustment Chief Planner randomly assigned this case to Board of Adjustment Panel A.
- January 10, 2022: The Board of Adjustment Chief Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the deadline to submit additional evidence for staff to factor into their analysis; and the 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;
  - the appeal of a decision of an administrative official procedure outline; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- January 26, 2022: The applicant’s attorney submitted additional evidence for consideration (**Attachment A**).
- January 27, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearing. The review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted in conjunction with this application.
- February 9, 2022: The applicant’s attorney submitted additional evidence for consideration (**Attachment B**).
- February 9, 2022: The City’s attorney submitted additional evidence for consideration (**Attachment C**).
- February 22, 2022: Panel A held a public hearing regarding this request. The item was held to March 22, 2022 to allow for a five-member decision.

March 11, 2022: The applicant's attorney submitted additional evidence for consideration **(Attachment D)**.

**BOARD OF ADJUSTMENT ACTION:** February 22, 2022

**APPEARING for PUBLIC TESTIMONY:**

Victor Leone 7865 Firefall Way Dallas, TX  
Darren Brown 4313 Dunning Ln. Austin, TX  
Vanessa Russell 1403 Kerley St. Denton, TX  
Clint Roberson 105 E.Scott, Wichita Falls, TX  
Tiffany Hernandez 196 W.Davis St. Dallas, TX  
Matthew Bizub 17878 Preston Rd. Dallas, TX  
Thomas DuPree 5132 Bellerive Dr. Dallas, TX  
Michael Gaudalupe 1817 Caney Creek Dr. Dallas,

TX

Sam Moon 11826 Harry Hines Dallas, TX  
Ryan Johnson 4500 Vitruvian Way Addison, TX  
Clayton Daniels 815 Sherbrook Richardson, TX  
Mitch Lloyd 4770 Teel Pkwy Frisco, TX  
Eugene Plarp 1431 Julie St. Seagoville, TX  
MC Dorsey 10456 Lake Park Hurst, TX  
Matthew Lopez 5609 SMU Blvd. Dallas, TX  
Robert Slagle 207 Simpson Sherman, TX  
Joe Benavides 1012 W. Pioneer Irving, TX  
Patrick Contrell 2700 Pomponesett Dr Arlington

TX

Eric Brown 730 CR 1917 Yartis, TX  
Talmage Brown 2312 Dampton Dr. Dallas, TX  
James Gonzales 2719 Mark Twain Dr. Dallas, TX  
Tyler Mawhinney 1890 Mercer Crossing Farmers

Branch

Jeffrey Hurt 5012 Spyglass Dr. Dallas, TX

**APPEARING IN FAVOR:**

Jonathan Vinson 2323 Ross Ave. Dallas, TX  
Ryan Crow 4600 Secluded Hollow Austin, TX

**APPEARING IN OPPOSITION:**

Gary Powell 1500 Marilla St. 7DN Dallas, TX  
Megan Wimer 320 E. Jefferson Blvd. Dallas, TX

**MOTION:** Neumann

I move that the Board of Adjustment, in Appeal No. BDA 212-018, hold this matter under advisement until March 22, 2022.

**SECONDED:** Lamb

**AYES:** 5 – Lamb, Halcomb, Narey, Frankford, Neumann

**NAYS:** 0-

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

**BOARD OF ADJUSTMENT ACTION:** **March 22, 2022**

APPEARING for PUBLIC TESTIMONY: Sandy Greyson 7238 Heathermore Dr.  
Dallas, TX  
Patrick Cantrell 2700 Pomponessett Dr. Arlington,  
TX  
Ty Ramsey 2154 Kimbrough Dr. Irving, TX  
Minh Huyn 3416 Stampede Garland, TX  
Dennis Moore 2217 Ivan St. #607 Dallas, TX  
Travis Heryla 1121 Cemetery Hill Carrollton, TX  
Thomas DuPree 5132 Bellerive Dr. Dallas, TX  
Doug Rogers 401 Boyd Dr. Grapevine, TX  
Rick Brown 1741 Elmhurst Ct. Prosper, TX  
Joe Benavides 2420 E. McKinney. Denton, TX.  
Talmage Brown 2312 Dampton Dr. Dallas, TX

APPEARING IN FAVOR: Jonathan Vinson 2323 Ross Ave. Dallas, TX  
Ryan Crow 4600 Secluded Hollow Austin, TX

APPEARING IN OPPOSITION: Gary Powell 1500 Marilla St. 7DN Dallas, TX  
Megan Wimer 320 E. Jefferson Blvd. Dallas, TX

MOTION: Lamb

Having fully reviewed the decision of the administrative official of the City of Dallas in Appeal No. BDA 212-018, on application of Moon Ventures, Ltd., represented by Jonathan Vinson, and having evaluated the evidence pertaining to the property and heard all testimony and facts supporting the application, I move that the Board of Adjustment **reverse** the decision of the administrative official and **grant** the relief requested by this applicant.

SECONDED: Halcomb

AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann

NAYS: 0 –

MOTION PASSED: 5 - 0 (unanimously)

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FILE NUMBER: BDA201-125(JM)

BUILDING OFFICIAL'S REPORT: Application of Patrick Griot for a variance to the front yard setback regulations, and for a special exception to the fence height regulations, and for a special exception to the fence standards regulations, and for a special exception to the visibility obstruction regulations at **9943 Coppedge Lane**. This property is more fully described as Lot 8, Block 1/6220, and is zoned an R-7.5(A) Single Family District, which **(1)** limits the height of a fence in the front yard to four feet; **(2)** requires a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line; **(3)** requires a 20-foot visibility triangle at driveway approaches and alleys; and, **(4)** requires a front yard setback of 25 feet. The applicant proposes to construct a nine-foot-high fence with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line in a required front yard with portions of the fence structure located in required visibility obstruction triangles, which will require a five-foot special exception to the fence regulation, a second special exception to the fence regulations relating to the solid nature of the fence, and special exceptions to the visibility obstruction regulations. The fence will surround the single-

family residential accessory pool structure and provide an 11-foot six-inch front yard setback, which will require a 13-foot six-inch variance to the front yard setback regulations.

**LOCATION:** 9943 Coppedge Lane

**APPLICANT:** Patrick Griot

**REQUEST:**

The applicant is redeveloping the 10,450-square-foot site with a 3,742-square-foot single-family structure that meets the setback requirements. The encroachment into the southern Coppedge Lane second front yard is for a swimming pool. The pool and second front yard area are proposed to be enclosed by an eight-foot-tall solid wood fence. Portions of the fence sit atop a three-foot-high solid retaining wall making the maximum fence and gate height nine feet. Portions of the solid fence located approximately on the property line are located in three 20-foot visibility triangles at the southwest corner of the property from the alleyway, and from the driveway beside the alleyway, onto Coppedge Lane from the south.

**UPDATES:**

On February 11, 2022, the applicant submitted revised plans indicating a reduction in the overall fence height from 11 feet to nine feet. On February 22, 2022, Panel A held a public hearing for the requests and delayed action until March 22, 2022 to allow time for neighborhood interaction. On March 7, 2022, the applicant's representative submitted a request to rescind the requests for special exceptions to the fence standards relating to height and the visual obstruction regulations. ***The remaining request is for a variance to allow the pool structure in the southern Coppedge Lane second front yard setback.***

**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 (fence height and opacity):**

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. The applicant provided evidence comparing the prospective solid fence on the secondary frontage of the corner lot, to seven other corner lots in the area with solid fences on one of the two street frontages (**Attachment B**).

**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:**

No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer reviewed the proposed obstructions for the fence and has no objection to the requests (**Attachment C**).

**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.

**State Law/HB 1475 effective 9-1-21**

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
  - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;



- (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (e) the municipality consider the structure to be a nonconforming structure.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots zoned an R-7.5(A) Single Family District in that it is slightly slopped, and, according to the application, contains 10,450 square feet in area. Lots in this district are a minimum of 7,500 square feet in area. However, evidence submitted by the applicant (**Attachments A and B**) identified six lots in the immediate vicinity with an average of 10,680 square feet of lot area.
- The evidence also showed the average house size is about 3,836 square feet. The proposed development is for a commensurate 3,742 square feet.
- Finally, the subject site is encumbered with the unnecessary hardship of two front yards. Between the slight slope and additional front yard setback, the evidence presented notes the site in its current condition has less developable area than other lots in the vicinity with one required front yard. The applicant is seeking relief from the additional front yard setback along the southern frontage of Coppedge Lane and plans to provide a minimum of 30 feet along the eastern frontage, as required. The southern portion is to be used as a backyard. The variance will allow for the construction of a swimming pool. The main structure is maintaining both front yard setbacks of 30 feet, as established by the build line on the existing plat.

**BACKGROUND INFORMATION:**

**Zoning:**

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

### **Land Use:**

The subject site is being redeveloped with a single-family structure. All surrounding properties are developed with single-family uses.

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

There have not been any recent related board or zoning cases recorded either on or near the subject site.

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

This request for a variance to the front yard setback regulations is made to construct and maintain a swimming pool structure. The site is being redeveloped with a single-family structure and is located in an R-7.5(A) Single Family District which requires a minimum front yard setback of 25 feet. However, this property is encumbered with two front yards due to a provision in the Dallas Development Code meant to maintain block continuity when lots face upon a street and provide a front yard setback. This second front yard setback is required to maintain block continuity established by lots to the north and west of the subject site, which all front along the meandering Coppedge Lane. Furthermore, the plat for this property requires a 30-foot build line on both the eastern and southern frontages along Coppedge Lane. The board cannot provide relief to this requirement. Only a replat of the property to remove the build line will resolve the encumbrance.

The applicant is seeking relief from the additional front yard setback along the southern frontage of Coppedge Lane and plans to provide a minimum of 25 feet along the eastern frontage, as required. Additionally, use of the southern portion of the lot for the swimming pool, backyard, and driveway surrounded by a fence and retaining wall solid in nature and located along the property line. The submitted site plan indicates:

- the proposed pool structure would be located as close as 11-feet six-inches from the front property line along the southern Coppedge Lane frontage or as much as 13-feet six-inches into the 25-foot front yard setback.
- A six-foot solid wood fence is proposed along the northern, western, and southern portions of the lot. Southern portions are proposed atop a three-foot solid retaining wall due to the slope of the site, making the fence and driveway gates up to nine feet-in-height.
- Portions of the solid fence located approximately on the property line are located in three 20-foot visibility triangles at the southwest corner of the property from the alleyway, and from the driveway beside the alleyway.

In all, the southern portion of the lot would function as a backyard with a tall privacy fence, driveway into the garage, and swimming pool. The main structure is maintaining both front yard setbacks.

Lots in this district are a minimum of 7,500 square feet in area. However, evidence submitted by the applicant (**Attachment A**) identified six lots in the immediate vicinity with an average of 10,680 square feet of lot area. The subject site is unique and different from most lots zoned an R-7.5(A) Single Family District because it is slightly sloped, and, according to the application, contains 10,450 square feet in area—slightly less than the average.

The evidence also showed the average house size is about 3,836 square feet. The proposed development is for a commensurate 3,742 square feet.

Finally, the subject site is encumbered with the unnecessary hardship of two front yards. Between the slight slope and additional front yard setback, the evidence presented notes the site in its current condition has less developable area than other lots in the vicinity with one required front yard. The applicant is seeking relief from the additional front yard setback along the southern frontage of Coppedge Lane and plans to provide a minimum of 25 feet along the eastern frontage, as required.

According to DCAD records, the new house was constructed in 2021 and contains 3,601 square feet of floor area.

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.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. Additionally, the Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line.

Staff conducted a field visit of the site and surrounding area and did not notice other fences within a 400-foot radius of the property that seemed taller than four feet-in-height or solid in nature located in obvious front yards.

The applicant has the burden of proof in establishing that the special exception to the fence height regulation of up to seven feet and having fence panels less than 50 percent open will not adversely affect neighboring properties.

The last request is due to the proposed obstruction of three visibility triangles according to Section 51A-4.602(d) of the Dallas Development Code which states that 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 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 Sustainable Development Department Senior Engineer has no objections to the request **(Attachment C)**.

If the board were to grant the variance request and impose the submitted site plan as a condition, the proposed swimming pool structure located within the front yard setback along the southern frontage of Coppedge Lane would be limited to what is shown on this document. No additional relief is provided with this request, including relief from the platted build line which will require a replat. The applicant was also made aware of sidewalk requirements for the southern frontage of the property. Additionally, the applicant has the burden of proof in establishing how granting these special exceptions to allow the fence in the front yard will not adversely affect neighboring properties. Finally, the applicant must prove how maintaining portions of a six-foot-tall solid wood fence atop a three-foot retaining wall for a total height of nine feet located in two 20-foot visibility triangles at the intersection of the alley and driveway approach into the property from the southern Coppedge Lane frontage, and the 20-foot visibility triangle at the intersection of the alleyway and Coppedge Lane does not constitute a traffic hazard.

**Timeline:**

- Nov. 18, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Nov. 23, 2021: The Board Administrator assigned this case to Board of Adjustment Panel A.
- Dec. 16, 2021: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the December 29, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the

January 7, 2022 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.

Dec. 28-29, 2021: The representative submitted evidence (**Attachment A and B**) to staff.

Dec. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

Dec. 31, 2021: The Transportation Senior Engineer submitted a review sheet marked "no objection" to the visual obstructions (**Attachment C**).

January 18, 2022: Panel A held this case under advisement until February 22, 2022.

February 11, 2022: The applicant submitted revised plans to staff (**Attachment D**).

February 14, 2022: A revised BO report (**Attachment E**) was issued reducing the overall height of the request by two feet. No changes to the front yard variance or visual obstructions proposed.

February 22, 2022: Panel A held this case under advisement until March 22, 2022.

March 7, 2022: The applicant's representative requested to rescind the special exceptions to the fence height and visual obstruction regulations, leaving solely the request for a variance to the front yard setback regulations along the southern Coppedge Lane frontage for the pool structure (**Attachment F**).

**BOARD OF ADJUSTMENT ACTION:** February 22, 2022

**APPEARING IN FAVOR:** Patrick Griot 3901 Sailmaker Ln. Plano, TX

**APPEARING IN OPPOSITION:** Michael Ayer 9961 Coppedge Ln. Dallas, TX

**MOTION#1:** Halcomb

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application of Patrick Griot, grant the 13-foot six-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 is required.

SECONDED: Lamb

AYES: 3 – Lamb, Halcomb, Neumann

NAYS: 2- Narey, Frankford

MOTION FAILED: 3-2

MOTION#2: Narey

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application of Patrick Griot, 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: Frankford

AYES: 0 –

NAYS: 0-

MOTION WITHDRAWN:

MOTION#3: Narey

I move that the Board of Adjustment, in Appeal No. BDA 201-125, hold this matter under advisement until March 22, 2022.

SECONDED: Frankford

AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann

NAYS: 0-

MOTION PASSED: 5-0 (unanimously)

BOARD OF ADJUSTMENT ACTION: January 18, 2022

APPEARING IN FAVOR: Patrick Griot 3901 Sailmaker Ln. Plano, TX

APPEARING IN OPPOSITION: None

MOTION#1: Narey

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application of Patrick Griot, 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: Frankford  
AYES: 2 – Narey, Frankford  
NAYS: 3 - Lamb, Halcomb, Neumann

MOTION FAILED: 2-3

MOTION#2: Narey

I move that the Board of Adjustment, in Appeal No. BDA 201-125, hold this matter under advisement until February 22, 2022.

SECONDED: Lamb  
AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann  
NAYS: 0-

MOTION PASSED: 5-0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

APPEARING IN FAVOR: Patrick Griot 3901 Sailmaker Ln. Plano, TX

APPEARING IN OPPOSITION: None.

MOTION#1: **Lamb**

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application of Patrick Griot, **grant** the 13-foot six-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 revised site plan is required

SECONDED: **Narey**  
AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann  
NAYS: 0  
MOTION PASSED: 5 – 0 (unanimously)

MOTION#2: **Neumann**

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application of Patrick Griot, **deny** the special exception requested by this applicant to construct and/or maintain an 11-foot high fence **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: **Lamb**  
AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann  
NAYS: 0  
MOTION PASSED: 5 – 0 (unanimously)

**MOTION#3: Neumann**

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application Patrick Griot, **deny** the special exception requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will adversely affect neighboring property.

**SECONDED: Lamb**

**AYES:** 5 – Lamb, Halcomb, Narey, Frankford, Neumann

**NAYS:** 0

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

**MOTION#4: Neumann**

I move that the Board of Adjustment, in Appeal No. BDA 201-125, on application of Patrick Griot, **deny** the special exception requested by this applicant to maintain items in the visibility triangle at the drive approach **without** prejudice, because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

**SECONDED: Lamb**

**AYES:** 5 – Lamb, Halcomb, Narey, Frankford, Neumann

**NAYS:** 0

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

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**FILE NUMBER:** BDA212-017(PD)

**BUILDING OFFICIAL’S REPORT:** Application of Joseph F. DePumpo for variances to the side yard setback regulations at 4715 Reiger Avenue. This property is more fully described as a part of Lot 1 in City Block F/799 and is zoned Planned Development District No. 98, a Multiple Family designation, which requires a side yard setback of ten feet. The applicant proposes to maintain the existing multiple family dwelling and construct and maintain an addition to the multiple family structure and provide a four-foot side yard setback on the northeast side, which will require a six-foot variance to the side yard setback regulations on the northeast side, and provide an eight-foot-seven-inch setback on the southwest side which will require a one-foot-five-inch variance to the side yard setback regulations on the southwest side.

**LOCATION:** 4715 Reiger Avenue

**APPLICANT:** Joseph F. DePumpo

**REQUESTS:**

A request for a variance to the side yard setback regulations of four feet on the northeast side, and one-foot-five-inch on the southwest side is made to maintain the existing structure and construct and maintain additions to the multiple family structure along both side yard setbacks.



### **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:

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

### **State Law/HB 1475 effective 9-1-21**

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

### **STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

Staff concluded that the subject site is unique and different from most lots in this MF-2 Multiple Family District considering its restrictive lot area of 11,950 square feet. The applicant submitted evidence with the submitted application materials (**Attachment A**) comparing lot size and floor area ratios within the same zoning district. Per the comparative analysis, the average lot area is 19,464 square feet and the average floor area of structures being 11,491 square feet. Thus, in

analyzing the comparative properties the restrictive area of the subject site ensures that the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.

### **BACKGROUND INFORMATION:**

#### **Zoning:**

Site: PDD No. 98 Multiple Family  
North: PDD No. 98 Single Family  
South: PDD No. 98 Multiple Family  
East: PDD No. 98 Single Family  
West: PDD No. 98 Multiple Family

#### **Land Use:**

The subject site and surrounding properties to the west and south are developed with multiple family dwelling units while the properties to the north and east are developed with single family dwellings.

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

There have been no related board or zoning cases in the vicinity within the last five years.

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

This request focuses on maintaining the existing portion of the structure along the northeast, southeast, and southwest portions of the structure that encroach into the 10-foot side yard setbacks. However, since the Development Code regulates compliance with the most restrictive requirement, the variance will only focus on the northeast and southwest encroachments. The proposed site plan will ensure compliance with the less restrictive portion along the southeast. The request proposes to construct and maintain an addition to an existing covered porch along the southwestern portion of the structure of approximately 96 square feet of floor area and will encroach one-foot-five-inches into the side yard setback along the southwestern portion of the structure.

An addition is proposed of approximately 300 square feet of floor area to the first floor of the existing structure to enclose the existing first floor unenclosed porch and an approximately 426 square feet of floor area to the second floor to align the second story with the façade and footprint of the first story along the southeastern portion of the structure. While additions are proposed along the front façade of the structure, neither the existing structure or additions are proposed to extend beyond the existing footprint or encroach into the required 30-foot front yard setback.

The portions of the structure along the southeastern façade where an encroachment of two-feet-seven-inches already exists is being brought into compliance while the proposed second-story addition proposes to follow the same footprint and encroachment. Additionally, the applicant proposes to provide an addition of approximately 475-square-feet to the first and second story

along the rear of the structure and proposes to align the addition with the portion of the façade and roofline currently encroaching into the seven-foot-five-inch side yard setback along the northeastern façade of the structure.

The site is currently developed with a multiple family dwelling unit consisting of three dwelling units, constructed in 1918, according to Dallas County Appraisal District records, and situated along an interior yard and the north line of Reiger Avenue. The additions are proposed to total 1,297 square feet of floor area. The existing structure contains approximately 2,945 square feet. The proposed additions, while not increasing the number of dwellings, will enlarge two of the existing dwelling units and provide a total of 4,242-square feet of floor area.

Structures on lots designated multiple family must have a minimum side yard setback of ten feet. A site plan has been submitted denoting the portions of the existing multiple family structure and the proposed addition to provide varied setbacks of four-feet along the northeast side, seven-feet-five-inches on the southeast side, and eight-feet-seven-inches on the southwest side.

PDD No. 98 differs from most Planned Development Districts since the district designates uses permitted on individual lots. The subject site is designated an MF-2 Multiple Family District with the regulations prescribed in Chapter 51. An MF-2 District in Chapter 51 regulates minimum lot area/size per bedroom per dwelling unit. The following exists for a MF-2 Multiple Family District in Chapter 51:

- No separate bedroom/efficiency requires a minimum of 800 square feet of lot area,
- One bedroom requires a minimum of 1,000 square feet or floor area,
- Two bedrooms require a minimum of 1,200 square feet of floor area, and
- More than two bedrooms add this amount (150 square feet of floor area) for each bedroom over two.

In accordance with the above floor area ratios, the proposed floor plan containing eight bedrooms within three dwelling units require a minimum of 3,900 square feet of lot area. However, the minimum lot area of 3,900 square feet does not include the minimum lot area for the off-street parking requirements of one space per bedroom and .25 per guest for a total of ten off-street parking spaces with a minimum area of 8-feet x 15-feet for a minimum area of 1,200 square feet of lot area. The minimum lot area of 3,900 square feet plus 1,200 feet lot area for a total lot area of 5,100 square feet of lot area does also not include the minimum requirement for infrastructure which typically constitutes ten percent of the lot area, the setback regulations or landscape requirements for the site which can further reduce the lot area or buildable area.

The subject site is not irregular in shape and contains approximately 11,950 square feet of lot area and 2,945 square feet of floor area. The applicant submitted evidence with the submitted application materials (**Attachment A**) comparing lot size and floor area ratios within the same

zoning district. Per the comparative analysis, the average lot area is 19,464 square feet and the average floor area of structures is 11,491 square feet. Thus, in analyzing the comparative properties the restrictive area of the subject site ensures that the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.

Additionally, PDD No. 98 Sec. 51P-98.105(3) establishes that existing residential structures may not be remodeled or replaced so as to exceed the existing number of dwellings in each existing structure. Any multiple-family or duplex structure that is remodeled for a lesser number of units will thereafter be limited to the more restrictive number of units.

Thus, staff concludes that the subject site is unique and different from most lots in this MF-2 Multiple Family designation within PDD No. 98 considering its restrictive lot area and restrictive floor area which neither can be increased through enlarging the number of dwellings on the lot which restricts the site from being developed in a manner commensurate with development upon other parcels of land with the same zoning.

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 MF-2 Multiple Family zoning classification/designation.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2 Multiple Family zoning classification/designation.

Additionally, the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

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

As of March 11, 2022, no letters have been submitted in support of nor in opposition of the request.

If the board were to grant these side yard setback variance requests and impose the submitted site plan as a condition, development would be limited to what is shown on this document. Granting these variance requests will not provide any relief to the Dallas Development Code regulations.

**Timeline:**

January 3, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report. Additionally, the applicant submitted evidence (**Attachment A**) with the application.

January 23, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 3, 2022: The Board of Adjustment Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the February 23<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

March 2, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Senior Engineer, and the Assistant City Attorney to the board.

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

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

**APPEARING IN FAVOR:** Joseph DePumpo 4715 Reiger Ave. Dallas, TX.

**APPEARING IN OPPOSITION:** Leah Kagan 4728 Victor St. Dallas, TX.  
Jim Anderson 4706 Swiss Ave. Dallas, TX.

**MOTION: Lamb**

I move that the Board of Adjustment in request No. BDA 212-017, **hold** this matter under advisement until **April 19, 2022**.

**SECONDED: Halcomb**

**AYES:** 5 – Narey, Frankford Lamb, Halcomb, Neumann

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA212-019(PD)

**BUILDING OFFICIAL’S REPORT:** Application of Mark Drumm represented by Nate Parrott of KFM Engineering and Design for a special exception to the landscape regulations at 536 W. 9<sup>th</sup> Street. This property is more fully described as Part of Lots 18, 19, and 20, in City Block 35/3155, and is zoned (Subdistrict 3) within Planned Development District No. 830, which requires mandatory landscaping. The applicant proposes to construct a multifamily structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 536 W. 9<sup>th</sup> Street

**APPLICANT:** Mark Drumm represented by Nate Parrott of KFM Engineering and Design

**REQUEST:**

A request for a special exception to the landscape regulations is made to demolish the existing structure and construct a 9,779-square-foot retail structure that will not meet the landscape regulations or, more specifically, will not provide the required street buffer zone along the street frontage due to an existing underground 12-inch water utility and overhead electrical lines along the property boundary which prohibit planting in the right-of-way and within ten feet of the utility line.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:**

The board may grant a special exception to the landscape and tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property.

- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

- the extent to which there is residential adjacency.
- the topography of the site.
- the extent to which landscaping exists for which no credit is given under this article.
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION:**

The City of Dallas chief arborist submitted a memo regarding the applicant's request and recommending approval(**Attachment A**).

Rationale:

- The chief arborist recommends approval of the proposed revised alternate landscape plan. While the landscape plan has several deficiencies, these deficiencies are based primarily on building proximity to the street right-of-way and the amount of lot coverage relative to open space, all allowed by city zoning regulations. The conditions of PDD No. 830 made supportive conditions to allow 1) site trees to be planted in the right-of-way, and 2) for street trees to be minimized to small trees due to reduced planting spaces as well as the location of public utilities. Thus, staff believes that strict compliance with the landscaping regulations in Article X unreasonably burdens this use of this property under this design.

**BACKGROUND INFORMATION:**

**Zoning**

Site: Subdistrict 3 within PDD No. 830  
Northwest: Subdistrict 8 within PDD No. 830  
North: Subdistrict 3 within PDD No. 830  
East: Subdistrict 3 within PDD No. 830  
South: Subdistrict 3 within PDD No. 830  
West: Subdistrict 8 within PDD No. 830

**Land Use:**

The subject sites are developed with single family dwelling units. Surrounding properties to the northwest and west are developed with single-family dwelling units while the properties immediately adjacent to the south and east are developed with multifamily dwelling units. The property immediately adjacent to the north across, W. 9<sup>th</sup> Street is developed with a public school [Bishop Arts Academy].

**Zoning/BDA History:**

There have not been any recent board or zoning cases in the vicinity within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

The request for a special exception to the landscape regulations is made to raze the existing single-family dwelling units and construct a multifamily structure that will not meet the minimum landscape requirements.

The subject site consists of three parcels (Lots 18, 19, and 20). at the intersection of N. Llewellyn Avenue and W. 9<sup>th</sup> Street. The first parcel (Pt Lots 19 & 20) is developed with two one-story, single family dwelling units consisting of approximately 1,057 square feet and 1,252 square feet, respectively, and constructed in 1945, according to Dallas County Appraisal District records. The second parcel (Lot 19) is developed with a one-story, dilapidated, single-family dwelling unit and detached garage consisting of approximately 1,806 square feet, constructed in 1945. The third and last parcel (Lot 18) is developed with a one-story, single family dwelling units and a detached garage consisting of approximately 1,638 square feet and constructed in 1945.

The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period. In this case, the existing structure will be demolished. The construction of the proposed multifamily structure triggers compliance with landscape regulations.

The City of Dallas chief arborist submitted a memo regarding the applicant's request (**Attachment A**).

**The chief arborist's memo states the following with regard to "request":**

The applicant is seeking a special exception to the landscaping requirements of Article X. The property is in the PDD No. 830 Subdistrict 3 which contains additional requirements for street trees.

**The chief arborist's memo states the following with regard to "provision":**

The proposed landscape plan provides a narrow strip of landscaping on the property at the edge of the building foundation on both street fronts and two enclosed areas facing 9<sup>th</sup> Street.

- Street buffer zone: Meets Article X urban streetscape (street buffer zone) requirements on 9<sup>th</sup> Street, but not on Llewellyn Street.



- Street trees are provided with two small trees for a required one large tree, as allowed by PDD No. 830. All street trees are small trees.
- The requirement for site trees is met on the parkway, as allowed by PDD No. 830.

**The chief arborist’s memo states the following with regard to “deficiencies”:**

- The plan does not provide for the Article X urban streetscape conditions along Llewellyn Street. Requirements include a minimum six-foot wide planting area and one design option.
- The property requires 15 landscape design option points (Sec. 10.126) but are not provided for, or listed, on the landscape plan. Partial points may have been provided but are not stated.

**The chief arborist’s revised memo states the following with regard to the “recommendation”:**

The chief arborist recommends approval of the proposed revised alternate landscape plan. The landscape plan has several deficiencies based primarily on building proximity to the street right-of-way and the amount of lot coverage relative to open space, all allowed by city zoning regulations. The conditions of PDD No. 830 made supportive conditions to allow 1) site trees to be planted in the right-of-way, and 2) for street trees to be minimized to small trees due to reduced planting spaces as well as the location of public utilities. I believe that strict compliance with the landscaping regulations in Article X unreasonably burdens this use of this property under this design.

As of March 11, 2022, no letters have been submitted in support of nor in opposition of the request.

If the board were to grant this request and impose the submitted alternate revised landscape plan as a condition to the request, the site would be provided an exception from compliance with minimum landscape requirements for the street buffer zone requirements.

**Timeline:**

- January 6, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- January 23, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 3, 2022: The Board Senior Planner emailed the applicant the following information:
  - a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the February 23<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;

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

March 2, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Senior Engineer, and the Assistant City Attorney to the board.

March 3, 2022: The Sustainable Development and Construction Chief Arborist submitted a report detailing the recommendation (**Attachment A**) based on a revised landscape plan.

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

APPEARING IN FAVOR: Nate Parrott 4005 Pecan Dr. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: **Lamb**

I move that the Board of Adjustment in request No. BDA 212-019, **hold** this matter under advisement until **April 19, 2022**.

SECONDED: **Halcomb**

AYES: 5 – Narey, Frankford Lamb, Halcomb, Neumann

NAYS: 0 -

MOTION PASSED: 5-0 (unanimously)

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**FILE NUMBER:** BDA212-020(PD)

**BUILDING OFFICIAL’S REPORT:** Application of Stephen Marley represented by Alfred Pena for 1) a variance to the side yard setback regulations of five-feet to construct an accessory structure zero feet from the property line, within a required five-foot side yard setback; and, 2) a variance to the single-family use regulations to construct and maintain a 798-square-foot accessory structure (39.54 percent of the 2,018-square-foot floor area of the main structure) which will require a 294-square-foot variance to the floor area ratio of the main structure at 1218 N. Clinton Avenue. This property is more fully described as Lot 5 in City Block 15/3802 and is zoned Subarea 1 within Conservation District No. 13, in which a minimum side yard setback of five feet must be maintained, and an accessory structure may not exceed 25 percent of the floor area of the main structure.

**LOCATION:** 1218 N. Clinton Avenue

**APPLICANT:** Stephen Marley represented by Alfred Pena

**REQUESTS:**

The applicant proposes to construct and maintain an accessory structure with approximately 798 square feet of floor area wholly into a required five-foot side yard setback on a site developed with a single-family dwelling.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION (first & second requests):**

Denial:

Rationale:

Staff concluded that the subject site is not unique and different from most lots in Subarea 1 within Conservation District No. 13 considering the evidence (**Attachment A**) neither meets the variance standard by comparing the parcels of land nor proved how the subject land is of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning. While the evidence (**Attachment A**) reflected a comparative analysis of twelve properties, the analysis focused on year built, floor area of structures, floor area of variances submitted, average percentage of these variances, average floor area allowed by these variances, and the floor area of existing quarters for five of the comparative properties. Additionally, the evidence (**Attachment A**) provides an overview of how the regulations for the zoning district restrict development on the subject site yet fails to address that the same twelve properties contain the same zoning and regulations that are not prohibitive. All things considered; the evidence (**Attachment A**) does not provide a substantive comparative analysis of the land(s) to meet the variance standard and reflect how the site cannot be developed in a commensurate manner. Subsequently, a cost analysis reflecting how compliance of CD No. 13 regulations would exceed 50 percent of the

appraised value of the structure as shown on the most recent appraisal roll certified to the assessor would have received a more favorable recommendation.

### **BACKGROUND INFORMATION:**

#### **Zoning:**

Site: Subarea 1 within Conservation District No. 13  
North: Subarea 1 within Conservation District No. 13  
South: Subarea 1 within Conservation District No. 13  
East: Subarea 1 within Conservation District No. 13  
West: Subarea 1 within Conservation District No. 13

#### **Land Use:**

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

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

There have been five recent related board cases in the vicinity within the last five years.

1. **BDA201-082:** On September 20, 2021, Panel C, Board of Adjustment approved  
1) a variance to the side yard setback regulations of four-feet to construct an accessory dwelling unit one-foot from the property line, within a required five-foot side yard setback; and 2) a variance to the single-family use regulations to construct and maintain a 699-square-foot accessory structure (34.8 percent of the 2,005-square-foot floor area of the main structure) at 1107 S. Canterbury.
2. **BDA189-040:** On April 16, 2019, Panel A, Board of Adjustment denied a variance for to the off-street parking regulations of 15' is made to replace an existing approximately 360 square foot garage with parking spaces in it that are accessed from N. Edgefield Avenue to the east with a new approximately 650 square foot garage with parking spaces in it that would be accessed from the alley to the west – parking spaces in this new enclosed structure/garage that would be located 5' from the right-of-way line adjacent to the alley or 15' into the 20' required distance these enclosed parking spaces must be from the alley right-of-way line on a site developed with a single family home at 1107 N. Edgefield Avenue.
3. **BDA189-052:** On May 21, 2019, Panel A, Board of Adjustment approved a variance to the front yard setback regulations to provide a 21-foot front yard setback, which will require a 51-foot variance to the front yard setback at 1828 Kessler Parkway.
4. **BDA178-033:** On March 21, 2018, Panel B, Board of Adjustment approved a variance to the front yard setback regulations of 19' is requested to construct and maintain the aforementioned structure 16' from the front property line or 19' into the required 35' front yard setback; 2. a variance to the off-street parking regulations of 4' is requested as the proposed home would have parking spaces in an enclosed structure (an attached garage) that would be located 16' from the right-of-way line adjacent to the street or as much as 4' into the required 20' distance from the right-of-way line adjacent to Kessler Parkway at 2016 Kessler Parkway.

5. **BDA178-030:** On March 19, 2018, Panel C, Board of Adjustments approved a variance to the front yard of setback 11-foot-3-inch variance to the front yard setback regulations to provide a 20 foot three inch front yard setback at 1520 Olympia Drive.

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

The subject property zoned Subarea 1 within Conservation District No. 13. In this district, a minimum side yard setback of five feet is required. Additionally, an accessory structure cannot exceed 25 percent of the floor area ratio of the main structure. The requests for variances to the side yard setback and maximum floor area ratio regulations focus on constructing and maintaining a 798-square-foot accessory structure. The proposed unit is 39.54 percent of the 2,018 square foot floor area of the main structure, which will require a 294-square-foot variance to the floor area ratio of the main structure. The proposed unit is to be constructed wholly within the required five-foot side property line, or five feet into a required five-foot side yard setback.

DCAD records indicate the following improvements for the property located at 1218 N. Clinton Avenue: “main improvement”: a structure with 2,018 square feet of living area built-in 1924” and “additional improvements”: a 400-square-foot detached garage, a 232 square foot “detached quarters,” and a swimming pool.

The site plan depicts an existing one-story accessory structure with approximately 287 square feet of floor area. The applicant proposes to construct a second story accessory structure with approximately 798 square feet, with the proposed second story addition encroaching wholly into a required five-foot side yard setback. The second story addition with stairs will equate to approximately 39.5 percent of the existing 2,018-square-foot floor area ratio of the main structure.

The property is irregular in shape since it is neither rectangular nor square and according to the application, contains 0.248 acres, or approximately 10,802 square feet in lot area. In Subarea 1 within Conservation District No. 13 the minimum lot size is 7,500 square feet. However, properties within the vicinity are one-and-a half times greater than the minimum lot size.

The applicant has submitted a document comparing the lot sizes and improvements of the subject site with 12 adjacent properties in the same zoning district. However, information contained within the evidence did not provide a comparative analysis of lot area, shape, or slope. Thus, staff cannot determine whether the subject property is restrictive in a manner to prevent commensurate development.

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

- That granting the variances 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 variances are 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 zoning classification.

- The variances 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 zoning classification.

As of March 11, 2022, staff has received no letters in opposition of and no letters in support of the request.

If the board were to grant a variance to the floor area regulations and a variance to the side yard setback for structures accessory to single-family uses and impose the submitted site plan as a condition, the building footprint of the structure on the site would be limited to what is shown on this document. However, granting these variances will not provide any relief to the Dallas Development Code regulations other than allowing an additional structure on the site to exceed the floor area ratio and encroach into the side yard setback as depicted on the site plan (i.e. development on the site must meet all other code requirements).

### **Timeline:**

- January 7, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report. Additionally, the applicant submitted evidence (**Attachment A**) with the application.
- March 1, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 3, 2022: The Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the February 23<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 2, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the

Chief Arborist, the Conservation Districts Chief Planner, the Senior Engineer, and the Assistant City Attorney to the board.

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

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

**APPEARING IN FAVOR:** Alfredo Pena 410 E. 5<sup>th</sup> St. Dallas, TX  
Stephen Marley 1218 N. Clinton Ave. Dallas, TX  
Jason Michael 1300 W. Canterbury Dallas TX

**APPEARING IN OPPOSITION:** None.

**MOTION: Halcomb**

I move that the Board of Adjustment in request No. BDA 212-020, **hold** this matter under advisement until **April 19, 2022**.

**SECONDED: Frankford**

**AYES:** 5 – Narey, Frankford Lamb, Halcomb, Neumann

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA212-028(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Matthew Morgan represented by Roger Albright to appeal the decision of the administrative official at 11411 E. Northwest Hwy., Suite 111. This property is more fully described as Lot 1C, Block A/8043, and is zoned RR Regional Retail District, which requires that the building official shall revoke a certificate of occupancy if the building official determines that the certificate of occupancy was issued on the basis of false, incomplete, or incorrect information; the use is being operated in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the revocation of a certificate of occupancy.

**LOCATION:** 11411 E. Northwest Highway, Suite 111

**APPLICANT:** Matthew Morgan represented by Roger Albright

**REQUEST:**

A request is made to appeal the decision of the administrative official, more specifically, the Building Official’s authorized representative, the Assistant Building Official in Development Services, to deny an application for a Certificate of Occupancy for a restaurant and/or commercial amusement (inside) use determined to be a gambling place, which does not comply with other regulations.

**STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:**

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

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

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

**STAFF RECOMMENDATION:**

Staff does not make a recommendation on appeals of the decisions of administrative officials.

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	RR Regional Retail District
<u>Northwest:</u>	R-7.5(A) Single Family District
<u>North:</u>	MF-1(A) Multifamily District
<u>East:</u>	MC-4 Multiple Commercial District
<u>South:</u>	MC-4 Multiple Commercial and CR Community Retail Districts
<u>West:</u>	RR Regional Retail District

**Land Use:**

The subject site is developed with a mix of commercial uses within multiple suites. Surrounding land uses include single-family to the northwest; multifamily to the north; and commercial uses to the east, south, and west.

**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:**

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

- CO No. 2105031098 for a commercial amusement (inside) use issued on 6/22/21.



- CO revoked by Assistant Building Official Megan Wimer on 12/17/21.
  - Issued in error.
  - In violation of the Texas Penal Code Section 47.04, “Keeping a Gambling Place.”
  - Pursuant to Paragraph (1) of Section 306.5, “Denial,” of Chapter 52, “Administrative Procedures for the Construction Codes,” of the Dallas City Code, the building official shall deny an application for a CO if determined that the request does not comply with the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws of regulations.

**Timeline:**

- February 2, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 14, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 15, 2022: The Board of Adjustment Chief Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the deadline to submit additional evidence for staff to factor into their analysis; and the 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;
  - the appeal of a decision of an administrative official procedure outline; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- February 28, 2022: The applicant’s attorney submitted additional evidence for consideration (**Attachment A**).
- March 2, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the

Chief Arborist, the Conservation Districts Chief Planner, the Senior Engineer, and the Assistant City Attorney to the board. No review comment sheets were submitted in conjunction with this application.

March 11, 2022: The City’s attorney submitted additional evidence for consideration (**Attachment B**).

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

**APPEARING IN FAVOR:** Roger Albright 11411 W. NW Hwy. #111 Dallas, TX  
Matt Morgan 11411 W. NW Hwy #111 Dallas, TX

**APPEARING IN OPPOSITION:** Gary Powell 1500 Marilla St. Dallas, TX  
Megan Wimer 320 E. Jefferson Blvd. Dallas TX

**MOTION: Lamb**

I move that the Board of Adjustment in request No. BDA 212-028, **hold** this matter under advisement until **April 19, 2022**.

**SECONDED: Halcomb**

**AYES:** 5 – Narey, Frankford Lamb, Halcomb, Neumann

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA212-021(PD)

**BUILDING OFFICIAL’S REPORT:** Application of Dimitri Morris for a variance to the off-street parking regulations at 5531 Anita Street. This property is more fully described as Lot 3 in City Block J/2901 and is zoned a D(A) Duplex District, which requires a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and maintain an addition to the existing single-family dwelling unit with a setback of five-feet one-inch which will require a variance of 14-feet 11-inches to the off-street parking regulations.

**LOCATION:** 5531 Anita Street

**APPLICANT:** Dimitri Morris

**REQUEST:**

A request for a variance to the off-street parking regulations of 14-feet 11-inches is made to construct and maintain addition to the existing single-family dwelling unit (garage with second story) with a setback of five-feet one-inch in lieu of the 20-foot setback requirement.

### **STANDARD FOR A VARIANCE:**

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

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

### **State Law/HB 1475 effective 9-1-21**

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

### **STAFF RECOMMENDATION:**

**Approval**, subject to the following condition:

- Compliance with the submitted site plan is required and an automatic garage door must be installed and maintained in working order at all times.

Rationale:

Staff concluded that the subject site is unique and different from most lots in the D(A) Duplex District considering its restrictive lot area of 7,923 square feet. The applicant submitted documents (**Attachment A**) comparing the minimum lot size and total floor area ratio for all structures, to six properties within the same zoning district. Per the comparative analysis, the

average lot area is 8,768 square feet and the average floor area for structures is 3,666 square feet while the subject site is reported as containing an existing floor area of approximately 2,079 square feet with the proposed addition providing 1,071 square feet for a total of 3,150 square feet for the single-family dwelling. Thus, the restrictive area of the subject site ensures that the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.

The Transportation Development Services Department Senior Engineer reviewed the information provided for review and has a recommendation of denial to the request. (**Attachment B**). The recommendation cites maneuvering into proposed garage access would encroach onto private property (across the alley).

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	D(A) Duplex District
<u>North:</u>	D(A) Duplex District
<u>East:</u>	D(A) Duplex District
<u>South:</u>	D(A) Duplex District
<u>West:</u>	D(A) Duplex District

**Land Use:**

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

**Zoning/BDA History:**

There have not been any related board or zoning cases in the immediate vicinity within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

This request for a variance to the off-street parking regulations focuses on constructing and maintaining a two-story addition containing a two-car garage (an enclosed area) that would be located five-feet one-inch from the property line adjacent to the improved alley, into the required 20-foot distance requirement on a property developed with a one-story single-family dwelling unit.

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 an enclosed structure and if the space faces upon or can be entered directly from a street or alley.

According to DCAD records, the “main improvements” consist of an approximately 2,079-square-foot one-story dwelling unit and “additional improvements” consist of an approximately 100-square-foot structure titled “storage building” which has been removed or demolished.

The subject site is flat, rectangular in shape and, according to the submitted application, 7,923 square feet in lot area whereas the minimum lot area for an D(A) Single Family District is 6,000 square feet.

The applicant provided evidence (**Attachment A**) representing a comparative analysis of six properties within the same zoning district. The analysis compared the total floor area ratios of the main structures and all structures on these properties. The analysis proved that the site provides a delta of 1,333 square feet total floor area for the main structure and a delta of 1,587 square feet overall for all structures on the six comparative lots.

The Transportation Development Services Department Senior Engineer reviewed the information provided and has a recommendation of denial to the request. (**Attachment B**).

- 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 D(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 D(A) zoning classification.

The board may also consider the new criteria for unnecessary hardship and how they relate to the proposed structure and/or existing main structure constraints.

As of March 11, 2022, staff has received one letter in opposition and no letters in support of the request.

If the board were to grant the request for a variance for an enclosed garage to be located five-foot one-inch from the right-of-way line adjacent to a street or alley into the required 20-foot setback, 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.

However, granting the variance request will not provide any further relief to the Dallas Development Code regulations (i.e. development on the site must meet all other code requirements).

**Timeline:**

- January 7, 2022: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 3, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 3, 2022: The Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the February 23<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 4<sup>th</sup>, 2022 deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 2, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- March 7, 2022: The applicant submitted evidence to staff. (**Attachment A**).
- March 14, 2022: The Senior Engineer submitted a review comment sheet (**Attachment B**).

**BOARD OF ADJUSTMENT ACTION: March 22, 2022**

**APPEARING IN FAVOR:**

Dmitri Morris 5531 Anita St. Dallas, TX  
Sam Kessler 5531 Anita St. Dallas, TX  
Gary Kessler 5531 Anita St. Dallas, TX

**APPEARING IN OPPOSITION:**

Peter Somerville 5531 Anita St. Dallas, TX.

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 212-021, on application of Dimitri Morris, **deny** the variance to the off-street parking 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: Halcomb

AYES: 5 – Lamb, Halcomb, Narey, Frankford, Neumann

NAYS: 0-

MOTION PASSED: 5-0 (unanimously)

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MOTION: Neumann

I move to adjourn the Panel A hearing

SECONDED: Lamb

AYES: 5 - Lamb, Halcomb, Narey, Frankford, Neumann

NAYS: 0 -

MOTION PASSED (unanimously): 5 – 0

Recess- 1:54 p.m.

Resume- 2:00 p.m.

Recess- 2:32 p.m.

Resume- 2:35 p.m.

Recess- 3:23 p.m.

Resume- 3:30 p.m.

**5:13 P.M.** Board Meeting adjourned for **March 22, 2022.**

CHAIRPERSON 5-17-22

BOARD ADMINISTRATOR

BOARD SECRETARY

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