

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, JUNE 20, 2017**

MEMBERS PRESENT AT BRIEFING: Peter Schulte, vice-chair, Michael Gibson, regular member, Elizabeth Nelson, regular member, and Robert Agnich, alternate member

MEMBERS ABSENT FROM BRIEFING: Renee Dutia, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Development Code Specialist, David Lam, Engineering, Donna Moorman, Chief Planner and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Peter Schulte, vice-chair, Michael Gibson, regular member, Elizabeth Nelson, regular member, and Robert Agnich, alternate member

MEMBERS ABSENT FROM HEARING: Renee Dutia, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Development Code Specialist, David Lam, Engineering, Donna Moorman, Chief Planner and Trena Law, Board Secretary

**11:05 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 20, 2017** docket.

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**1:01 P.M.**

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

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel May 16, 2017 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

MOTION:           None

The minutes were approved without a formal vote.

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**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:**     BDA167-072(SL)

**REQUEST:**        To reimburse the filing fee submitted in conjunction with a request  
variance to the off-street parking regulations.

**LOCATION:**         7103 Mumford Court

**APPLICANT:**      Grant Schmidt

**STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:**

The Dallas Development Code states that the board may waive the filing fee for a board of adjustment application if the board finds that payment of the fee would result in substantial financial hardship to the applicant.

The Dallas Development Code further states:

- The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination.
- In making this determination, the board may require the production of financial documents.

**Timeline:**

February 24, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

May 9, 2017: 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 May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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."

May 22, 2017: The Board Administrator emailed the applicant the following information regarding his request for reimbursement of the filing fee: the code provision as it relates to fee waivers/reimbursements (Sec 51A-1.105(b)(6)) to the applicant, and informed him that typically when this type of request is made, the applicant will submit documentation that shows how payment of the filing fee results in substantial financial hardship to the applicant (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*). The Board Administrator also resent the applicant that the deadline to submit information to be included in the Board's docket, and the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence".

June 9, 2017: The applicant submitted additional documentation on this fee reimbursement request to the Board Administrator beyond what was submitted with the original application (see Attachment A).

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

APPEARING IN FAVOR: Grant Schmidt, 2501 N Harwood, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment **deny** the request to reimburse the filing fee submitted in conjunction with a request variance to the off-street parking regulations.

SECONDED: **Agnich**

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

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**FILE NUMBER:** BDA167-068(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin, represented by Rob Baldwin of Baldwin and Associates, for a variance to the front yard setback regulations at 2201 Kings Road. This property is more fully described as Lot 25, Block 5743, and is zoned IR and PD 193, which requires a front yard setback of 15 feet. The applicant proposes to construct and/or maintain a structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

**LOCATION:** 2201 Kings Road

**APPLICANT:** Robert Baldwin  
Represented by Rob Baldwin of Baldwin and Associates

**REQUEST:**

A request for a variance to the front yard setback regulations of 15' is made to maintain an existing auto storage/shed structure, part of which is located in one of the site's two 15' front yard setbacks (Macatee Drive). (No portion of this request is made to construct/maintain any portion of a structure in the site's Kings Road front yard setback).

The applicant had represented that this application was only made because the owner failed to apply for a building permit within 6 months of the previous variance that was granted on this site by Board of Adjustment Panel A in May of 2011 (BDA101-011), and that there was no material change to the conditions that triggered the need for the variance at that time.

However upon further review, staff and the applicant have discussed how the existing structure on the subject site (2201 Kings Road) appears to be different from what is represented on the applicant's submitted site plan; appears to be located in the Macatee Drive public right-of-way; and that the board of adjustment is only able to consider a variance to allow a structure in a required setback and is unable to consider a variance for any structure in public right-of-way; and that the applicant was planning to meet with the owner/client and discuss options to address any structure that is located in public right-of-way on this property.

**STANDARD FOR A VARIANCE:**

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;

- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The applicant has substantiated how the variance is necessary to permit development of the site which is different from other lots by its irregular shape, its slope, and restrictive area caused by the floodplain on property.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: IR and PD 193 (Industrial Research and Planned Development)
- North: PD 712 (Planned Development)
- South: PD 193 (Planned Development)
- East: PD 712 (Planned Development)
- West: IR (Industrial Research)

**Land Use:**

The subject site is developed with a commercial storage/shed structure. The areas to the north, east, and south appear to be undeveloped; and the area to the west is developed with commercial/office uses.

**Zoning/BDA History:**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. BDA167-069, Property at 4701 Bengal Street (the property to the south and west of the subject site)</li> </ol> | <p>On June 20, 2017, the Board of Adjustment Panel A will consider a request for a variance to the front yard setback regulations of 15' in conjunction with a maintaining a structure in the front yard setback. Note that the applicant for BDA167-069 is the same as the applicant for BDA167-068.</p> |
| <ol style="list-style-type: none"> <li>2. BDA101-011, Property at 2201 Kings Road (the subject site)</li> </ol>  | <p>On May 17, 2011, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a</p>  |

3. BDA 101-040, Property at 4701 Bengal Street (the property to the south and west of the subject site)

condition to the request.

The case report stated the request was made to maintain an existing auto storage/shed structure, part of which was located in one of the site's two 15' front yard setbacks (Macatee Drive).

On May 17, 2011, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a condition to the request.

The case report stated the request was made to maintain an existing auto storage/shed structure, part of which was located in the 15' Macatee Drive front yard setback.

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

- The request for a variance to the front yard setback regulations of 15' focuses on maintaining an existing auto storage/shed structure that is located on site's Macatee Drive front property line or 15' into this 15' front yard setback.
- The minimum front yard setback for lots zoned IR is 15 feet.
- The subject site is a lot that runs from one street to another (Macatee Drive on the north and Kings Avenue on the south) and has double frontage.
- A site plan has been submitted denoting an "existing building" located on the Macatee Drive front property line, or 15' into the 15' required front yard setback. (No encroachment is proposed in the site's Kings Road 15' front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the structure footprint to be maintained in the site's Macatee Drive 15' front yard setback is approximately 2,500 square feet in area or approximately 1/2 of the approximately 5,400 square foot building footprint.
- According to DCAD records, the "improvement" for property addressed at 2201 Kings Road is a 5,244 square foot "storage warehouse" structure built in 1980.
- The subject site is somewhat sloped down to what appears to be a creekbed, irregular in shape, and (according to the application) is 1.094 acres in area. A portion of the site appears to be located in floodplain. The site is zoned IR (Industrial Research) and PD 193 (Planned Development).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Macatee Drive front yard setback regulation 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 IR and PD 193 zoning classifications.

- 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 IR and PD 193 zoning classifications.
- If the Board were to grant the variance request, subject to the submitted site plan, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure located on the front property line or 15’ into the 15’ Macatee Drive front yard setback.
- Note that the applicant is aware that granting his request for a variance to the front yard setback regulations will not provide any relief to any existing/proposed condition on the site that is/would become in noncompliance with the Code’s visual obstruction regulations, or provide relief to any structure located in public right-of-way.

**Timeline:**

March 28, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

May 9, 2017: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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.

June 5, 2017: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official’s report to the Board Administrator (see Attachment A).

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of

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

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

- June 8, 2017: The Board Administrator emailed the applicant the following points discussed at a June 5<sup>th</sup> meeting:
- the structure on the subject site (2201 Kings Road) appears to be: 1) different from what is represented on your submitted site plan and 2) located in the Macatee Drive public right-of-way;
  - the board of adjustment is only able to consider a variance to allow a structure in a required setback and is unable to consider a variance for any structure in public right-of-way; and
  - that the applicant would plan to meet with the owner/client and discuss options to address any structure that is located in public right-of-way on this property.

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move to grant that the Board of Adjustment grant application **BDA 167-068(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Agnich**

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

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FILE NUMBER: BDA167-069(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Robert Baldwin, represented by Rob Baldwin of Baldwin and Associates, for a variance to the front yard setback regulations at 4701 Bengal Street. This property is more fully described as Lot 29, Block 5743, and



is zoned IR, which requires a front yard setback of 15 feet. The applicant proposes to construct and/or maintain a structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

**LOCATION:** 4701 Bengal Street

**APPLICANT:** Robert Baldwin  
Represented by Rob Baldwin of Baldwin and Associates

**REQUEST:**

A request for a variance to the front yard setback regulations of 15' is made to maintain an existing auto storage/shed structure, part of which is located in the site's 15' Macatee Drive front yard setback. (Note that although the subject site is developed with two structures in the 15' Macatee Drive front yard setback, the applicant is only making application for variance to what is described as the "new structure to be varied" on the site plan, and not to what is described as the "building not a part of application – existing single story metal building 24,517 SQ. FT." on this plan).

The applicant has represented that this application is only made because the owner failed to apply for a building permit within 6 months of the previous variance that was granted on this site by Board of Adjustment Panel A in May of 2011 (BDA101-040), and that there is no material change to the conditions that triggered the need for the variance at that time.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The applicant has substantiated how the variance is necessary to permit development of the site which is different from other lots by its irregular shape, its slope, and restrictive area caused by the floodplain on property.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: IR (Industrial Research)
- North: PD No. 663 & 712 (Planned Development)
- South: PD No. 193 (Planned Development)
- East: IR (Industrial Research)
- West: IR (Industrial Research)

**Land Use:**

The subject site is developed with what appears to be an auto storage/shed and a garage/office structure. The area to the north is developed with multifamily use and undeveloped land; the area to the east is developed with commercial use; the area to the south appears to be undeveloped; and the area to the west is developed with commercial/office uses.

**Zoning/BDA History:**

1. BDA167-068, Property at 2201 Kings Road ( the property to the north and east of the subject site)      On June 20, 2017, the Board of Adjustment Panel A will consider a request for a variance to the front yard setback regulations of 15' in conjunction with a maintaining a structure in one of two front yard setbacks on the site. Note that the applicant for BDA167-068 is the same as the applicant for BDA167-069.
2. BDA101-040, Property at 4701 Bengal Street( the subject site)      On May 17, 2011, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a condition to the request.  
The case report stated the request was made to maintain an existing auto storage/shed structure, part of which was located in the 15' Macatee Drive front yard setback
3. BDA 101-011, Property at 2201 Kings Road (the property to the north and east of the subject site)      On May 17, 2011, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 15' and

imposed the submitted site plan as a condition to the request.

The case report stated the request was made to maintain an existing auto storage/shed structure, part of which was located in one of the site's two 15' front yard setbacks (Macatee Drive). (No portion of the request is made in this application to construct/maintain any portion of a structure in the site's Kings Road front yard setback).

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

- The request for a variance to the front yard setback regulations of 15' focuses on maintaining an existing auto storage/shed structure that is located on site's Macatee Drive front property line or 15' into this 15' front yard setback.
- The minimum front yard setback for lots zoned IR is 15 feet.
- A site plan has been submitted denoting two structures located in the site's 15' front yard setback. However, this site plan specifically notes that only one of these two structures is "to be varied" – that being the structure denoted on this plan as "new structure to be varied" that is located on the site's front property line or 15' into the 15' required front yard setback on Macatee Drive. (The site plan denotes the other structure in the Macatee Drive front yard setback as "Building not a part of application – existing single story metal building 24,517 sq.ft").
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the structure footprint to be varied/maintained in the site's 15' Macatee Drive front yard setback is approximately 900 square feet in area or approximately 16 percent of the approximately 5,700 square foot building footprint.
- According to DCAD records, the "improvement" for property addressed at 4701 Bengal Street is a 20,800 square foot "office showroom" structure built in 1964.
- The subject site is somewhat sloped down to what appears to be a creekbed, irregular in shape, and (according to the application) is 39,552 square feet in area. (Note that according to the submitted site plan, the site or "Tract 1" is 47,148 square feet or 1.082 acres in area). A portion of the site appears to be located in floodplain. The site is zoned IR (Industrial Research).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Macatee Drive front yard setback regulation 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 IR 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 IR zoning classification.

- If the Board were to grant the variance request, subject to the submitted site plan, the structure in the front yard setback would be limited to what is shown on this document– which in this case is one of two structures (the structure on this site plan marked “new structure to be varied”) located on the front property line or 15’ into the 15’ Macatee Drive front yard setback.
- Note that the applicant is aware that granting his request for a variance to the front yard setback regulations will not provide any relief to any existing/proposed condition on the site that is/would become in noncompliance with the Code’s visual obstruction regulations.

### **Timeline:**

March 28, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

May 9, 2017: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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.

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** Schulte

I move to grant that the Board of Adjustment grant application **BDA 167-069(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

**SECONDED:** Agnich

**AYES:** 4 – Schulte, Gibson, Nelson, Agnich

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA167-061(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Donald J. Carry for a special exception to the visual obstruction regulations at 5446 N. Dentwood Drive. This property is more fully described as Lot 4, Block A/5600, and is zoned R-1ac(A), which requires a 45 foot visibility triangle at street intersections. The applicant proposes to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 5446 N. Dentwood Drive

**APPLICANT:** Donald J. Carry

**REQUEST:**

A request for a special exception to the visual obstruction regulations is made to maintain plant materials (according to the site plan and elevations, 10’ ± high Nellie Stevens Holly bushes) in the 45’ visibility triangle at the intersection of Chatham Hill Road and Hollow Way Road on a site developed with a single family use.

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The Sustainable Development Department Assistant Director of Engineering recommended that this request be denied because the hedges in the 45’ visibility triangle at Chatham Hill Road and Hollow Way Road obstruct view of oncoming traffic.
- The applicant had not substantiated how the location of plant materials in the 45’ visibility triangle at Chatham Hill Road and Hollow Way Road does not constitute a traffic hazard.

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the visual obstruction regulations focuses on maintaining a number of 10’ ± high Nellie Stevens Holly bushes in the 45’ visibility triangle at the intersection of Chatham Hill Road and Hollow Way Road on a site developed with a single family use.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevations have been submitted indicating a number of plant materials located in the 45’ visibility triangle at the intersection of Chatham Hill Road

and Hollow Way Road. Some of these plant materials are on the applicant's property and some in the public right-of-way. (Note that the request to the Board is limited to only the items in this intersection visibility triangle on private property).

- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet along with a photo (see Attachment A). The review comment sheet was marked "Recommends that this be denied" with the following additional comment: "Hedges obstruct view of oncoming traffic".
- The applicant has the burden of proof in establishing how granting this request for a special exception to the visual obstruction regulations to maintain a number of 10' ± high Nellie Stevens Holly bushes in the 45' visibility triangle at the intersection of Chatham Hill Road and Hollow Way Road does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevations would limit the items located in the 45' visibility triangle at the intersection of Chatham Hill Road and Hollow Way Road on private property to that what is shown on these documents – a number of 10' ± high Nellie Stevens Holly bushes.

### **Timeline:**

March 20, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 9, 2017: 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 May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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."

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet along with a photo (see Attachment A). The review comment sheet was marked "Recommends that this be denied" with the following additional comment: "Hedges obstruct view of oncoming traffic".

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

**APPEARING IN FAVOR:** Donald J. Carry, 5446 N Dentwood, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** Nelson

I move that the Board of Adjustment, in Appeal No. **BDA 167-061(SL)**, on application of Donald J. Carry, **grant** the request to construct and maintain items in the required visibility triangle as a special exception to the visual obstruction regulation contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED:** Gibson

**AYES:** 4 – Schulte, Gibson, Nelson, Agnich

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA167-070(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Jeannie Terilli, represented by J. Prabha Cinclair and Robert Miklos, for a variance to the front yard setback regulations at 2815 Greenville Avenue. This property is more fully described as part of Lots 10, 11, & 12, Block 8/1926, and is zoned CR, which requires a front yard setback of 15 feet. The applicant proposes to construct and/or maintain a structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

**LOCATION:** 2815 Greenville Avenue

**APPLICANT:** Jeannie Terilli  
Represented by J. Prabha Cinclair and Robert Miklos

**REQUESTS:**



Requests for variances to the front yard setback regulations of 15' are made on a site that is developed with restaurant and retail uses/a three storefront structure:

1. To maintain an "existing canopy" structure attached to one of the storefronts located on the Greenville Avenue front property line or 15' into the 15' Greenville Avenue front yard setback; and
2. To construct/maintain additional canopy structures located to the north and south of the "existing canopy" on one of the storefronts to be located on the Greenville Avenue front property line or 15' into the 15' front yard setback.

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

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

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

### **STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff concluded that applicant had not substantiated how the variance to the front yard setback regulations was 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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same CR zoning district.
- Staff concluded that the variance should be denied because there was no property hardship to the site that warranted a variance to the front yard setback regulations. The applicant had not demonstrated to staff how the features of the site (which is flat, rectangular in shape, and approximately 24,000 square feet in area) preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same CR zoning classification – the site can remain developed with a retail use in a nonconforming structure built in the 30's without variance to front yard setback regulations for a canopy structures most of which would appear to enable additional dining area to the existing restaurant in one of the storefronts on the subject site.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CR (Community retail)  
North: CR (Community retail)  
South: CD 15 (Conservation District)  
East: CR (Community retail)  
West: CD 15 (Conservation District)

**Land Use:**

The subject site is developed with restaurant/retail uses/a three storefront structure. The areas to the north and east are developed with restaurant and retail uses; the areas to the south and west are developed with residential uses.

**Zoning/BDA History:**

1. BDA101-039, Property at 2815 Greenville Avenue (the subject site)

On May 17, 2011, the Board of Adjustment Panel A granted a request for a variance to the height regulations (specifically to the residential proximity slope or RPS), and imposed the submitted site plan and elevation as a condition.

The case report stated the request was made to construct and maintain a 33' high, approximately 96 square foot "roof access enclosure" structure to be located atop a structure under redevelopment on the site, which would be located above RPS (residential proximity slope) line that begins at the CD No. 15/single family residentially-zoned undeveloped/vacant property immediately south of the site. The structure that was under development on the site appeared from submitted plans to include three storefronts/restaurant uses (Terilli's, Rohst, and Dodie's) each with "roof access enclosure" structures to roof patios only one of which was to exceed the RPS line – that being the "roof access enclosure" structure to be located atop the southernmost store front (Terilli's) nearest the single family residentially zoned undeveloped/vacant property immediately to the south. (The two other 33' high "roof access enclosure" structures had been recently constructed atop the building on the site and are shown on the submitted elevation and site plan to be in compliance with the RPS given their height and their distance from the adjacent residentially-zoned property to the south and west).

2. BDA93-152, Property at 2831 Greenville Avenue (the subject site)
- On September 14, 1993, the Board of Adjustment granted a request for a variance to the front yard setback regulations of 15' subject to the applicant submitting a landscape plan to be approved by the Board Administrator. The landscape plan should be submitted no later than October 1, 1993.
- The case report stated that the request was needed in conjunction with the placement of an existing awning located on the front property line at 2831 Greenville Avenue; that the awning was added to the 3,100 square foot building in July of 1993 and was assumed to be in compliance because a neighboring restaurant on the request site at 2815 Greenville (Terilli's) had a similar type awning. The case report stated that according to Building Inspection, Terilli's would most likely be submitting a similar type appeal for their awning in the near future.

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

- The request for variances to the front yard setback regulations of 15' focuses on maintaining an approximately 4.5' wide by 11' long "existing canopy" structure attached to one of the storefronts located on the front property line or 15' into the 15' front yard setback, and constructing/maintaining additional canopy structures located to the north (approximately 11' wide by approximately 28' long) and south (approximately 11' wide by 20 long) of the "existing canopy" on one of the storefronts to be located on the front property line or 15' into the 15' front yard setback on a site that is developed with restaurant and retail uses.
- The site is located at the southwest corner of Goodwin Avenue and Greenville Avenue and has two front yard setbacks as would any lot with two street frontages that is not zoned single family, duplex, or agricultural.
- Structures on lots zoned CR are required to provide a minimum front yard setback of 15'.
- The submitted site plan indicates the following structures in the Greenville Avenue 15' front yard setback/on the Greenville Avenue front property line: an existing "one-story brick building"; an "existing canopy"; and what appears to be two proposed canopy structures. (The submitted site plan represents that part of the "existing canopy" is located in the public right of way for which the Board has no jurisdiction to grant variance for this part of the structure).
- The submitted elevation represents side and front elevations of the existing and proposed canopies.

- According to DCAD records, the “improvements” for property addressed at 2815 Greenville Avenue is a “retail strip” built in 1930 with 10,875 square feet of area. Because records show that the structure on this site was built in the 30’s, it is assumed that the existing “one-story brick building” is a nonconforming structure.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner’s agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant has chosen to seek variance to the front yard setback regulations for only the existing canopy and proposed canopy structures in the Greenville Avenue front yard setback and not to remedy/address the nonconforming aspect of the existing nonconforming structure in the site’s front yard setback on Greenville Avenue.
- The subject site is flat, rectangular in shape (150’ x 160’), and, according to the application, is 0.55 acres (or approximately 24,000 square feet) in area. The site is zoned CR (Community retail).
- The subject site has two front yard setbacks as would any lot with two street frontages that is not zoned single family, duplex, or agricultural.
- 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 CR 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 CR zoning classification.
- If the Board were to grant the variance request, and impose a site plan as a condition, the structures in the front yard setback would be limited to what is shown on this document– which in this case are canopy structures located as close as on the site’s Greenville Avenue front property line or 15’ into this 15’ Greenville Avenue front yard setback.
- Note that the applicant is aware that granting the request for a variance to the front yard setback regulations will not provide any relief to any part of a structure located in public right-of-way nor to the existing nonconforming structure in the front yard setback since the applicant did not request that the Board consider this aspect as part of this application.

**Timeline:**

March 23, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

May 9, 2017: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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.

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

**APPEARING IN FAVOR:** Robert Miklos, 1800 Valley View Lane, Dallas, TX  
Amanda Terilli, 2815 Greenville Ave., Dallas, TX  
Diane Nabholtz, 4809 Cole Ave #210, Dallas, TX

**APPEARING IN OPPOSITION:** Rick Bentley, 5551 Vickery Blvd., Dallas, TX  
Patricia Carr, 5843 Vanderbilt, Dallas, TX  
Kurt Schwarz, 5611 Vickery Blvd, Dallas, TX

**MOTION: Schulte**

I move that the Board of Adjustment, in Appeal No. **BDA 167-070(SL)**, on application of Jeannie Terilli, represented by J. Prabha Cinclair and Robert Miklos, **grant** the 15-foot variance to the front yard setback regulations for the existing canopy as indicated by the submitted site plan 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, as noted for the existing canopy only. No relief is granted as to the proposed canopy on the submitted site plan.

**SECONDED: Gibson**

**AYES:** 4 – Schulte, Gibson, Nelson, Agnich

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA167-072(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Grant Schmidt for a variance to the off-street parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758, and is zoned R-7.5(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a church use, and provide 0 of the required 27 off-street parking spaces, which will require a 27 space variance to the off-street parking regulations.

**LOCATION:** 7103 Mumford Court

**APPLICANT:** Grant Schmidt

**June 20, 2017 Public Hearing Notes:**

- The applicant submitted additional written documentation to the Board at the public hearing which in this case was a paper copy of the applicant’s power point show presented to the board at this hearing.

**REQUEST:**

A request for a variance to the off-street parking regulations of 27 spaces is made to obtain a Certificate of Occupancy/maintain an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and provide 0 of the 27 required off-street parking spaces.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations was 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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.
- While staff recognized that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

**BACKGROUND INFORMATION:**



**Zoning:**

Site: R-7.5(A) (Single family residential 7,500 square feet)  
North: PD 173 (Planned Development)  
South: R-7.5(A) (Single family residential 7,500 square feet)  
East: R-7.5(A) (Single family residential 7,500 square feet)  
West: R-7.5(A) (Single family residential 7,500 square feet)

**Land Use:**

The subject site is developed with an existing approximately 3,000 square foot church use (Congregation Toras Chaim). The areas to the north, south, east, and west are developed with single family residential uses.

**Zoning/BDA History:**

- |  |   |
|--|---|
| 1. Miscellaneous Item 2, BDA167-072, Property at 7103 Mumford Court (the subject site) | On June 20, 2017, the Board of Adjustment Panel A will consider reimbursing the filing fee made in conjunction with this application. |
|--|---|

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 27 spaces focuses on obtaining a Certificate of Occupancy/maintaining an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and providing 0 of the 27 required off-street parking spaces.
- The site is zoned R-7.5(A) and is bounded by three streets: Frankford Road on the north, Mumford Court on the south, and Meandering Way on the west. The site has two 25' front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The Dallas Development Code requires the following off-street parking requirement for "church" use:
  - One space per 333 square feet in floor area if a church has less than 5,000 square feet of floor area and is located in a shopping center with more than 20,000 square feet in floor area, otherwise one space for each four fixed seats in the sanctuary or auditorium. If fixed benches or pews are provided, each 18 inches of length of the fixed bench or pew constitutes one fixed seat for purposes of this paragraph. If portions of seating areas in the sanctuary or auditorium are not equipped with fixed seats, benches, or pews, the parking requirement for those portions is one space for each 28 square feet of floor area.
  - Definitions. For purposes of this subsection, "remote parking" means required off-street parking provided on a lot not occupied by the main use. "Shared parking" means the use of the same off-street parking stall to satisfy the off-street parking requirements for two or more uses.

- Reconciliation with Divisions 51A-4.300 et seq. Except as otherwise expressly provided in this subsection, the off-street parking regulations in Divisions 51A-4.300 et seq. apply to this use. In the event of a conflict between this subsection and Divisions 51A-4.300 et seq., this subsection controls.
  - Remote and shared parking. A church may use remote and/or shared parking to satisfy up to 50 percent of its off-street parking requirement, provided that the remote and/or shared parking is on a lot that is:
    - (aa) dedicated to parking use by an instrument filed with the building official and approved by the city attorney's office;
    - (bb) located in a non-residential district; and
    - (cc) located within 600 feet (including streets and alleys) of the lot occupied by the church. The distance measured is the shortest distance between the lots.
  - Distance extension with shuttle service. A remote parking lot for a church may be located up to one and one-half miles (including streets and alleys) from the lot occupied by the church if a shuttle service is provided to transport persons between the church and the remote parking lot. The shuttle service route must be approved by the traffic engineer.
  - Remote parking agreement. An agreement authorizing a church to use remote parking may be based on a lease of the remote parking spaces if:
    - (aa) the lease is for a minimum term of three years; and
    - (bb) the agreement provides that both the owner of the lot occupied by the church and the owner of the remote lot shall notify the city of Dallas in writing if there is a breach of any provision of the lease, or if the lease is modified or terminated.
- The Building Inspection Senior Plans Examiner/Development Code Specialist has stated that a plan review of the seating areas in the sanctuary or auditorium that are not equipped with fixed seats, benches, or pews, was conducted on the property whereby it was determined with the parking requirement for those portions being 1 space for each 28 square feet of floor area that 27 off-street parking spaces were required for the use on the subject site.
  - The applicant has submitted a document that states among other things that no parking analysis or traffic study has been provided because church members generally do not drive to worship.
  - The applicant must seek this parking reduction request as a variance since the maximum reduction authorized by this code for a special exception to off-street parking regulations is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A).
  - According to Collin CAD records, the "total improvement main area" for property addressed at 7103 Mumford Court is a "residential" improvement with 3,572 square feet constructed in 1986.
  - The subject site is flat, rectangular in shape, and (according to the application) is 0.29 acres (or approximately 12,500 square feet) in area. The site is zoned R-7.5(A) where most lots in this zoning district are 7,500 square feet in area.
  - The site has two front yard setbacks and two side yard setbacks. Most lots in this zoning district have one front yard setback, one rear yard setback, and two side yard setbacks.

- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces”.
- 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 R-7.5(A) zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant this request, the applicant would be able to obtain a Certificate of Occupancy for a church use on the subject site, and provide 0 of the 27 required off-street parking spaces.

**Timeline:**

February 24, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 9, 2017: 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 May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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.”

May 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" commenting "Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces".

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

APPEARING IN FAVOR: Grant Schmidt, 2501 N Harwood St., Dallas, TX  
Chulsey Youman, 1000 Plano Pkwy, Plano, TX

APPEARING IN OPPOSITION: David Schneider, 7035 Mumford, Dallas, TX  
Robert Colmery, 7123 Mumford, Dallas, TX  
Kevin Arligton, 7003 Mumford, Dallas, TX

**MOTION #1: Schulte**

I move that the Board of Adjustment suspend its rules and accept the evidence that is being presented today.

**SECONDED: Agnich**

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

**2:51 P.M.: Executive Session Begins**

**3:08 P.M.: Executive Sessions Ends**

**MOTION #2: Agnich**

I move that the Board of Adjustment, in request No. **BDA 167-072(SL)**, hold this matter under advisement until **August 15, 2017**.

**SECONDED: Nelson**

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

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MOTION: Agnich

I move to adjourn this meeting.

SECONDED:

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

**3:25 P. M.:** Board Meeting adjourned for **June 20, 2017**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
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.