

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
MONDAY, AUGUST 14, 2017**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Phil Foster, regular member, Cheri Gambow, regular member, Robert Agnich, alternate member and Philip Lewis, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Phil Foster, regular member, Cheri Gambow, regular member, Robert Agnich, alternate member and Philip Lewis, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Dev. Code Specialist, Neva Dean, Asst. Director, Jennifer Munoz, Senior Planner, Phil Erwin, Chief Arborist, Lloyd Denman, Engineering, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Kanesia Williams, Asst. City Atty., Todd Duerksen, Dev. Code Specialist, Neva Dean, Asst. Director, Jennifer Munoz, Senior Planner, Phil Erwin, Chief Arborist, Lloyd Denman, Engineering, and Trena Law, Board Secretary

11:13 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **August 14, 2017** docket.

1:07 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand

upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel C, June 19, 2017 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: AUGUST 14, 2017

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA167-079(SL)

BUILDING OFFICIAL'S REPORT: Application of Stephan Courseau, represented by Margine Biswas, for a special exception to the landscape regulations at 3230 Knox Street. This property is more fully described as Lot 1A, Block A/1618, and is zoned PD-193 (LC), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 3230 Knox Street

APPLICANT: Stephan Courseau
Represented by Margine Biswas

August 14, 2017 Public Hearing Notes:

- The applicant's representative submitted a revised landscape plan to the Board at the public hearing.

REQUEST:

A request for a special exception to the landscape regulations is made to obtain a final building permit/Certificate of Occupancy triggered by a recent approximately 390 square foot addition to one of a number of retail structures/uses on the subject site, and not fully provide required landscaping.

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

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section.

When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request because the submitted alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements.
- In this case, the Chief Arborist noted among other things:
 1. The alternative landscape plan submitted for this application is based on a design and the existing conditions of mature landscaping to have been authorized by a special exception granted by the Board of Adjustment in October of 1992;
 2. The current application is only made to cover a previously open structure which technically adds new floor area to the existing floor area of one of the structures on the subject site; and
 3. The proposed alternate landscape plan retains the existing landscaping on the Property, including a design alteration to the street front along Travis Street near Knox Street which was approved soon after the design of the original 1992 landscape plan.

BACKGROUND INFORMATION:

Site: PD 193 (LC) (Planned Development, Light Commercial)
North: PD 193 (MF-2) (Planned Development, Multifamily)
South: PD 193 (LC) (Planned Development, Light Commercial)
East: PD 193 (LC) (Planned Development, Light Commercial)
West: PD 193 (LC) (Planned Development, Light Commercial)

Land Use:

The subject site is developed with retail uses. The area to the north is developed with residential uses, and the areas to the south, east, and west are developed with a mix of residential and retail uses.

Zoning/BDA History:

1. BDA92-123, Property at 3230 Knox Street, 4611 Cole Street (the subject site)

On October 13, 1992, the Board of Adjustment granted requests for a variance to the front yard setback regulations and a special exception to the landscape regulations. The Board imposed the submitted revised site plan as a condition to the variance request but no condition to the special exception request.

It appears from minutes that the requests were made to address buildings located on property lines built before setback requirements along Travis Street and Knox Street, and to seek leniency to landscape requirements along the north side of the subject site and along Cole Street.

GENERAL FACTS/ STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on obtaining a final building permit/Certificate of Occupancy triggered by a recent approximately 390 square foot addition to one of a number of retail structures/uses on the subject site built, according to DCAD, in the 40's totaling approximately 42,000 square feet on the subject site, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the proposed alternate landscape plan is deficient in street tree and landscape site area requirements of the PD 193 landscape code.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment B). The Chief Arborist states that the alternative landscape plan is based on a design and the existing conditions of mature landscaping that is determined by the arborist to have been authorized by a special exception granted by the Board of Adjustment in October of 1992 (BDA92-123).
- The Chief Arborist states how this request is made in conjunction with the renovation of a small portion of the site for a restaurant use and the covering a previously open structure to add new floor area to the existing floor area. The proposed alternate landscape plan retains the existing landscaping on the site, including a design alteration to the street front along Travis Street near Knox Street which was approved soon after the design of the original 1992 landscape plan.
- The Chief Arborist's memo states the following regarding deficiencies:
 - The property is deficient in street tree and landscape site area requirements of the PD 193 landscape code. Three street trees were removed from the previous

landscape plan on Travis Street adjacent to Knox Street. The area was renovated in the 1990's for outdoor seating with a new restaurant use for that portion of the property. In respect to a 1992 landscape plan reviewed by staff, a few plant materials were removed and were not re-planted through minor site adjustments, but the great majority of landscape has matured within the designed planting areas

- The Chief Arborist's memo lists the following factors for consideration:
 - The alternate landscape plan includes the full existing Property which extends to Cole Avenue. The plan identifies as-built conditions.
 - On September 9, 1992, the City Council authorized a license agreement for alteration to the Travis Street frontage and a portion of Knox Street, including curb and sidewalk areas.
- The City of Dallas Chief Arborist recommends approval of this request because the plan does not compromise the spirit and intent of the PD 193 landscape requirements.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the street tree and landscape site area requirements of the PD 193) will not compromise the spirit and intent of Section 51P-193-126: Landscape, streetscape, screening, and fencing standards".
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to street tree and landscape site area requirements of the Oak Lawn PD 193 landscape ordinance.

Timeline:

- April 4, 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.

- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- July 11, 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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.

July 26, 2017: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, 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.

August 3, 2017: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment B).

BOARD OF ADJUSTMENT ACTION: AUGUST 14, 2017

APPEARING IN FAVOR: Margine Biswas, 5908 Woodwind Dr., Plano, TX

APPEARING IN OPPOSITION: No one

MOTION: Foster

I move that the Board of Adjustment, in Appeal No. **BDA 167-079**, on application of Stephan Courseau represented by Margine Biswas, **grant** the request of this applicant for a special exception to the landscaping requirements contained in PD 193, because our evaluation of the property, the testimony presented to us, and the facts that we have determined show that this special exception will not compromise the spirit and intent of Section 51P-193.126 of the Dallas Development Code. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised alternate landscape plan is required.

SECONDED: Agnich

AYES: 5 – Richardson, Foster, Gambow, Agnich, Lewis

NAYS: 0

MOTION PASSED:5 – 0 (unanimously)

FILE NUMBER: BDA167-083(SL)

BUILDING OFFICIAL'S REPORT: Application of Luisa Garfias, represented by Arturo Vera, for special exceptions for the handicapped to the front and side yard setback regulations at 3510 Falls Drive. This property is more fully described as Lot 10, Block

5/5960, and is zoned R-7.5(A), which requires a front yard setback of 25 feet and requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a structure for a handicapped person and provide a 17 foot front yard setback, which will require an 8 foot special exception for the handicapped to the front yard setback regulations, and provide a 4 foot side yard setback, which will require a 1 foot special exception for the handicapped to the side yard setback regulations.

LOCATION: 3510 Falls Drive

APPLICANT: Luisa Garfias
Represented by Arturo Vera

REQUESTS:

The following requests are made on a site that is developed with a single family home constructed (according to DCAD) in the 40's:

1. A request for a special exception for the handicapped of 8' to the front yard setback regulations is made to construct and maintain a ramp structure, which is to be located 17' from the site's front property line or 8' into the 25' front yard setback.
2. A request for a special exception for the handicapped of 1' to the side yard setback regulations is made to construct and maintain a proposed porch addition structure (that would connect to the aforementioned proposed ramp structure proposed to be located in the front yard setback), which is to be located 4' from the site's western side property line or 1' into this required 5' side yard setback.

STANDARD FOR A SPECIAL EXCEPTION FOR THE HANDICAPPED: Section 51A-1.107.(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception for the handicapped since the basis for this type of appeal is when the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

BACKGROUND INFORMATION:

Zoning:

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

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

Land Use:

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

Zoning/BDA History:

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

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

- The request for a special exception for the handicapped of 8' to the front yard setback regulations focuses on constructing and maintaining an approximately 72 square foot ramp structure, which is to be located 17' from the site's front property line or 8' into the 25' front yard setback on a site that is developed with a single family home that (according to DCAD) was built in the 40's.
- The property is zoned R-7.5(A) which requires a minimum front yard setback of 25 feet.
- The submitted site plan denotes that the proposed ramp structure is located 17' from the site's front property line or 8' into the required 25' front yard setback.
- The submitted site plan denotes that the entire approximately 72 square foot ramp structure is to be located in the 25' front yard setback.
- Section 51A-1.107(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.
- A copy of the "handicap" definition from this act was provided to the Board Administrator by the City Attorney's Office. Section 3602 of this act states the following:
 - “(h) “Handicap” means, with respect to a person -
 1. a physical or mental impairment which substantially limits one or more of such person's major life activities,
 2. a record of having such an impairment, or
 3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21).”
- Unlike most requests where the board is considering a structure that encroaches into a setback via a variance (where property hardship must be demonstrated), the board is to consider this special exception for the handicapped request solely on

whether they conclude that the special exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

- The applicant has the burden of proof in establishing the following:
 - The special exception (which in this case is requested to construct and maintain a ramp structure in the front yard setback) is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling; and
 - there is a person with a “handicap” (as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended) who resides and/or will reside on the site.
- If the Board were to grant the request, and impose conditions that compliance with the submitted site plan is required, and that the special exception expires when a handicapped person no longer resides on the property, the ramp structure would be required to be constructed and maintained in the location shown on the submitted site plan for as long as the applicant or any other handicapped person resides on the site.

GENERAL FACTS/STAFF ANALYSIS (handicapped special exception side yard):

- The request for a special exception for the handicapped of 1’ to the side yard setback regulations focuses on constructing and maintaining an approximately 50 square foot porch addition structure that would connect to the aforementioned proposed ramp structure to be located in the front yard setback, which is to be located 4’ from the site’s western side property line or 1’ into this required 5’ side yard setback on a site that is developed with a single family home that (according to DCAD) was built in the 40’s.
- The property is zoned R-7.5(A) which requires a minimum side yard setback of 5 feet.
- The submitted site plan denotes that an “existing one story residence” structure, an “existing porch” structure, and a “proposed addition”/ porch structure are all located 4’ from the site’s western side property line or 1’ into the required 5’ side yard setback.
- According to DCAD records, the “main improvement” for property addressed at 3510 Falls Drive is structure built in 1947. Because records show that the main improvement/structure on this site was built in the 40’s, it is assumed that the “existing one story residence” and the “existing porch” structures are nonconforming structures.
- 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 a special exception for the handicapped to the side yard setback regulations for only the “proposed addition” in the western side

yard setback, and not to remedy/address the nonconforming aspect of the existing structure in the side yard setback.

- The submitted site plan denotes that approximately 3' of the approximately 50 square foot porch addition structure is to be located in the western 5' side yard setback.
- Section 51A-1.107(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.
- A copy of the "handicap" definition from this act was provided to the Board Administrator by the City Attorney's Office. Section 3602 of this act states the following:
 - “(h) “Handicap” means, with respect to a person -
 1. a physical or mental impairment which substantially limits one or more of such person's major life activities,
 2. a record of having such an impairment, or
 3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21).”
- Unlike most requests where the board is considering a structure that encroaches into a setback via a variance (where property hardship must be demonstrated), the board is to consider this special exception for the handicapped request solely on whether they conclude that the special exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.
- The applicant has the burden of proof in establishing the following:
 - The special exception (which in this case is requested to construct and maintain a porch addition in the western side yard setback) is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling; and
 - there is a person with a "handicap" (as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended) who resides and/or will reside on the site.
- If the Board were to grant the request, and impose conditions that compliance with the submitted site plan is required, and that the special exception expires when a handicapped person no longer resides on the property, the porch addition structure would be required to be constructed and maintained in the location shown on the submitted site plan for as long as the applicant or any other handicapped person resides on the site.
- Granting the request for a special exception for the handicapped to the side yard setback regulations will not provide any relief to the existing nonconforming structures in the side yard setback since the applicant did not request that the Board consider this aspect as part of this application.

Timeline:

- April 5, 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.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- July 11, 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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;
 - A copy of the “handicap” definition from the Federal Fair Housing Amendments Act of 1988; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, 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: AUGUST 14, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move to grant that the Board of Adjustment grant application **BDA 167-083(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.
- The special exception expires when a handicapped person no longer resides on the property.
- The porch addition structure would be required to be constructed and maintained in the location shown on the submitted site plan for as long as the applicant or any other handicapped person resides on the property.

SECONDED: Foster

AYES: 5 – Richardson, Foster, Gambow, Agnich, Lewis

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA167-088(SL)

BUILDING OFFICIAL’S REPORT: Application of Ricky Hawkins for a variance to the off-street parking regulations at 6222 S. Lancaster Road. This property is more fully described as Lot 16, Block 15/6887, and is zoned R-7.5(A), which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to locate and maintain parking spaces in an enclosed structure with a setback of 10 feet, which will require a variance of 10 feet to the off-street parking regulations.

LOCATION: 6222 S. Lancaster Road

APPLICANT: Ricky Hawkins

REQUEST:

A request for a variance to the off-street parking regulations of up to 10’ is made to locate and maintain parking spaces in an enclosed structure (an attached garage for a single family structure use proposed on the undeveloped site) as close as 10’ from the Kahn Street front property/right-of-way line or as much as 10’ into the required 20’ distance that parking spaces in enclosed structures must be from this street right-of-way.

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:

Approval, subject to 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.

Rationale:

- Staff concluded that the subject site is unique and different from other lots in the R-7.5(A) zoning district by being of an irregular shape, a somewhat restrictive slope, and a restrictive area caused by a 50' wide Lone Star Gas easement that encompasses a significant amount of area on the approximately 8,500 square foot site that can be developed in this case with an approximately 2,100 square foot single family home.
- In addition, granting this variance does not appear to be contrary to public interest because the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked "Has no objections", and because only a part of the parking spaces in the proposed enclosed structure require this variance.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family residential 7,500 square feet)
North: R-7.5(A) (Single family residential 7,500 square feet)
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 undeveloped. The areas to the north, south, and west are undeveloped, and the area to the east is developed with a single family use.

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:

- The request for a variance to the off-street parking regulations of up to 10' focuses on locating and maintaining parking spaces in an enclosed structure (an attached garage for a single family structure use with an approximately 2,100 square foot building footprint proposed on the undeveloped site) as close as 10' from the Kahn Street front property/right-of-way line or as much as 10' into the required 20' distance that parking spaces in enclosed structures must be from this street right-of-way.
- The site is zoned R-7.5(A) where the minimum front yard setback is 25' and the minimum side yard setback is 5'.
- The site is located at the northeast corner of S. Lancaster Road and Kahn Street, and has one front yard setback on S. Lancaster Road on the west, two 5' side yard setbacks on the north and south (Kahn Street); and one 5' rear yard setback on the east.
- The submitted site plan represents that the proposed single family home complies with front, side, and rear yard setbacks.
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan and floor plan denotes a single family structure where parking spaces in it (garage) are located as close as 10' from the Kahn Street right-of-way line or approximately 22' from the Kahn Street pavement line.
- The submitted floor plan denotes that the total square footage of the home is 2,145.
- According to DCAD records, there are "no main or additional improvements" for the property addressed at 6222 S. Lancaster Road.
- The subject site is sloped, irregular in shape, and according to the submitted application is 0.20 acres (or approximately 8,700 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The submitted site plan denotes two 25' Lonestar Gas Easements on the northeast side of the site. (The Building Inspection Senior Plans Examiner/Development Code Specialist has commented that technically the site has a 50' easement, 25' either side of a buried gas line).
- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing the following:

- That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same 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 the variance request, staff recommends imposing the following conditions:
 1. Compliance with the submitted site plan is required.
 2. An automatic garage door must be installed and maintained in working order at all times.

(These conditions are imposed to help assure that the variance will not be contrary to the public interest).

Timeline:

- June 8, 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.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- July 11, 2017: The Board Administrator emailed the following information to the applicant:
 - 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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.”
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of

Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, 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.

August 2, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections."

BOARD OF ADJUSTMENT ACTION: AUGUST 14, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move to grant that the Board of Adjustment grant application **BDA 167-088(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.
- An automatic garage door must be installed and maintained in working order at all times.
- All applicable permits must be obtained.

SECONDED: Foster

AYES: 5 – Richardson, Foster, Gambow, Agnich, Lewis

NAYS: 0

MOTION PASSED:5 – 0 (unanimously)

FILE NUMBER: BDA167-090(SL)

BUILDING OFFICIAL’S REPORT: Application of Jose M. Torres for a special exception to the side yard setback regulations for a carport at 1439 Rowan Avenue. This property is more fully described as Lot 3, Block 1453, and is zoned R-5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport in a required side yard and provide a 0 foot setback, which will require a 5 foot special exception to the side yard setback regulations.

LOCATION: 1439 Rowan Avenue

APPLICANT: Jose M. Torres

REQUEST:

A request for a special exception to the side yard setback regulations of 5' is made to modify and maintain a carport located on the site's northwestern side property line or 5' into this 5' required side yard setback on a site developed with a single family home structure/use.

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

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

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

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district 5,000 square feet)
North: R-5(A) (Single family district 5,000 square feet)
South: R-5(A) (Single family district 5,000 square feet)
East: R-5(A) (Single family district 5,000 square feet)
West: R-5(A) (Single family district 5,000 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the side yard setback of 5' focuses on modifying and maintaining an approximately 450 square foot carport located on the site's northwestern side property line or 5' into the site's northwestern 5' required side yard setback, on a site developed with a single family home structure/use.
- A 5' side yard setback is required in the R-5(A) zoning district.
- Two documents have been submitted (a site plan and an elevation plan) indicating the size and materials of the carport, and its location on the site's northwestern side property line.
- The submitted site plan represents the following:
 - The carport is approximately 45' in length and approximately 10.5' in width (approximately 450 square feet in total area) of which approximately 1/2 is located in the northwestern 5' side yard setback.
- The submitted elevation plan represents the following:
 - 10' in height.
 - Energy star shingles or comp. shingles with radiant barrier.
 - 1 hour related fire wall.
- The Board Administrator conducted a field visit of the area approximately 500 feet northwest and southeast of the subject site and noted no other carports that appeared to be located in a side yard setback.
- As of August 4, 2017, no letters had been submitted in support of or in opposition to this application.
- The applicant has the burden of proof in establishing the following:
 - that granting this special exception to the side yard setback regulations of 5' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted site plan and elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.
- Granting this request for a special exception to the side yard setback regulations will not provide any relief on the subject site with regard to visual obstruction regulations.

Timeline:

June 5, 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.

July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

July 11, 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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.”

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, 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 with comments were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: AUGUST 14, 2017

APPEARING IN FAVOR: Christie Torres, 1439 Rowan Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move that the Board of Adjustment, in Appeal No. **BDA 167-090**, on application of Jose Torres, **grant** the request of this applicant to construct and/or maintain a carport in the required side yard setback and provide a five foot setback as a special exception to

the side yard setback requirement in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not detrimentally impact surrounding properties and there is not adequate vehicular access to an area behind the required side building line that would accommodate a parking space. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevation is required.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.

SECONDED: Foster

AYES: 5 – Richardson, Foster, Gambow, Agnich, Lewis

NAYS: 0

MOTION PASSED:5 – 0 (unanimously)

FILE NUMBER: BDA167-076(JM)

BUILDING OFFICIAL’S REPORT: Application of Colby Craig for a variance to the front yard setback regulations at 6143 Royalton Drive. This property is more fully described as Lot 8, Block 3/5500-1/2, and is zoned R-16(A), which requires a front yard setback of 35 feet. The applicant proposes to construct and/or maintain a structure and provide a 14-foot front yard setback measured at the foundation with a roof eave not to exceed 1 foot, which will require a 21-foot variance to the front yard setback regulations.

LOCATION: 6143 Royalton Drive

APPLICANT: Colby Craig

REQUEST:

A request for a variance to the front yard setback regulations of 21’ is made to construct and/or maintain a single family structure, part of which would be located 14’ from the site’s front property line (with a maximum 1-foot roof eave) or 14’ into the 35’ front yard setback along Azalea Lane.

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:

- While the subject site is unique and different from most lots zoned R-16(A) in that it has two front yard setbacks, the applicant had not substantiated at the time of the June 6th staff review team meeting how the features of the flat, rectangular-shaped, and approximately 16,409-square-foot lot precludes him from developing it in a manner commensurate with other developments found on similarly-zoned R-16(A). While the site has two 35' front yard setbacks, the site is about 409 square feet larger than most lots in the R-16(A) zoning district with 16,000 square feet. The two front yard setbacks do not appear to restrict the applicant from developing/maintaining it with a single family home structure/use that is commensurate with development found in the same R-16(A) zoning that can comply with setbacks. Finally, no new evidence was submitted by the August 1st Staff Review Meeting to substantiate the request for a variance to the front yard setback.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-16(A) Single Family District (16,000 sq. ft.)
<u>North:</u>	R-16(A) Single Family District (16,000 sq. ft.)
<u>East:</u>	R-16(A) Single Family District (16,000 sq. ft.)
<u>South:</u>	R-16(A) Single Family District (16,000 sq. ft.)
<u>West:</u>	R-16(A) Single Family District (16,000 sq. ft.)

Land Use:

The subject site is currently undeveloped. Properties to the north, east, south, and west are developed with single-family homes.

Zoning/BDA History:

No history.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing/maintaining a single family structure, part of which would be located 14' from the site's front property line (with a maximum 1-foot roof eave) or 21' into the 35' front yard setback along Azalea Lane.
- The subject site is flat, rectangular in shape (curved, approximately 160' x 104'), and according to the submitted application is approximately 16,409 square feet) in area.
- The site is zoned R-16(A) where lots are typically 16,000 square feet in area.
- R-16(A) Single Family District requires a 35' front yard setback.
- The subject site has two front yards: the shorter side facing Royalton Drive, and the longer side facing Azalea Lane (area of request).
- The applicant wishes to construct and maintain a 7,596 square foot single-family structure on a site that is undeveloped, part of which would be located up to 21' into the required front yard on Azalea Lane.
- Lots zoned a R-16(A) Single Family District are required to provide a minimum front yard setback of 35'. The subject site is located at the northwest corner of Azalea Lane and Royalton Drive. Regardless of how the home is being constructed or oriented, the site has two front yard setbacks. A 35' front yard setback is required along Royalton Drive, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in an R-16(A) zoning district. The site also has a 35' front yard setback along Azalea Lane, the longer of the two frontages of this corner lot, which is typically regarded as a side yard, but is considered a front yard setback nonetheless to maintain the continuity of the established lot developed within the block north of the subject property with the front yard on Azalea Lane.
- The site plan submitted with this request identifies how the applicant would like to provide a 14' front yard along Azalea Lane, as measured from the foundation.
- Additional evidence submitted by the applicant indicates that a survey of surrounding properties in the area found the average home size to be approximately 6,901 square feet. The applicant would like to build a 7,596 square-foot house, over 600 square feet larger than the average home in the list provided. A list of nine properties was provided of homes the applicant found to be 1) located on a corner lot in the R-16(A) District, and 2) seemingly not providing the required front yard. No photos were associated with either list (Attachment A).
- 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 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.
- If the board were to grant the variance request, and impose the submitted 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 is a portion of a structure located as close as 14’ from the site’s front property line along Azalea Lane (or 21’ into the 35’ front yard setback).

Timeline:

April 10, 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 C.

May 16, 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 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

June 5, 2017: The applicant submitted new evidence, provided in “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 19, 2017: The Board of Adjustment Panel C conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on August 14, 2017.

June 19 &
July 26, 2017: The Board Senior Planner wrote the applicant a letter of the board's action; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials.

No new evidence was submitted with this case.

BOARD OF ADJUSTMENT ACTION: JUNE 19, 2017

APPEARING IN FAVOR: Colby Craig, 6429 Orchid Lane, Dallas, TX
Danielle Brasher, 6429 Orchid Lane, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION# 1: Agnich

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

SECONDED: **Bartos**

AYES: 3 – Richardson, Agnich, Bartos

NAYS: 1 - Foster

MOTION PASSED: 3 – 1

MOTION# 2: Foster

I move that the Board of Adjustment, in Appeal No. **BDA 167-076**, hold this matter under advisement until **August 14, 2017**.

SECONDED: **Agnich**

AYES: 4 – Richardson, Foster, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 4 – 0(unanimously)

BOARD OF ADJUSTMENT ACTION: AUGUST 14, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Foster

I move that the Board of Adjustment, in Appeal No. **BDA 167-076**, on application of Colby Craig, **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: Agnich

AYES: 4 - Foster, Gambow, Agnich, Lewis

NAYS: 1– Richardson

MOTION PASSED:4 – 1

FILE NUMBER: BDA167-081(SL)

BUILDING OFFICIAL’S REPORT: Application of Fred Brown for variances to the front and side yard setback regulations at 400 Bobbie Street. This property is more fully described as Lot 1, Block 7/7679, and is zoned R-5(A), which requires a front yard setback of 20 feet and requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a structure and provide a 10 foot front yard setback measured at the foundation, which will require a 10 foot variance to the front yard setback regulations, and provide a 2 foot 6 inch side yard setback measured at the foundation, which will require a 2 foot 6 inch variance to the side yard setback regulations.

LOCATION: 400 Bobbie Street

APPLICANT: Fred Brown

August 14, 2017 Public Hearing Notes:

- A person appeared on behalf of the applicant and submitted additional information to the Board at the public hearing.

REQUESTS:

The following requests are made on a site that is undeveloped:

1. A variance to the front yard setback regulations of 10’ is made to construct and maintain a 1 ½ -story single family home structure to be located 10’ from the site’s front property line or 10’ into this 20’ front yard setback.
2. A variance to the side yard setback regulations of 2’ 6” is made to construct and maintain the aforementioned structure to be located 2’ 6” from the site’s northern side property line or 2’ 6” into this 5’ required side 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, 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

- While staff recognized that subject site was somewhat sloped and slightly irregular in shape, and that the proposed single family home with approximately 2,000 of “livable area” was commensurate with others homes in the R-5(A) zoning district (the average of 10 other properties zoned R-5(A) from the applicant was approximately 2,300 square feet), staff concluded the slope and shape of the site with slightly over 5,000 square feet in area did not preclude the applicant from developing it with a single family home/use that could comply with the front and side yard setbacks.

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district 5,000 square feet)
North: R-5(A) (Single family district 5,000 square feet)
South: R-5(A) (Single family district 5,000 square feet)
East: R-5(A) (Single family district 5,000 square feet)
West: R-5(A) (Single family district 5,000 square feet)

Land Use:

The subject site is undeveloped. The areas to the north, south, east, and west are undeveloped.

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 (front yard variance):

- The request for a variance to the front yard setback regulations of 10' focuses on constructing and maintaining a 1 ½ -story single family home structure with an approximately 1,500 square foot building footprint to be located 10' from the site's front property line or 10' into the 20' required front yard setback on a site that is undeveloped.
- A 20' front yard setback is required in the R-5(A) zoning district.
- The subject site is located at the northeast corner of Canyon Street and Bobbie Street. The site has one 20' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback.
- The submitted site plan represents that the proposed structure is located 10' from the front property line or 10' into the 20' required front yard setback.
- There are no DCAD records found for property addressed at 400 Bobbie Street.
- The subject site is somewhat sloped, slightly irregular in shape, and according to the submitted application is 0.12 acres (or approximately 5,200 square feet) in area. The site is zoned R-5(A) where lots are typically 5,000 square feet in area.
- The applicant submitted a document (Attachment A) that denoted that the "livable area" of the proposed home on the subject site was approximately 2,000 square feet, and that the average "livable area" of 10 other properties zoned R-5(A) was approximately 2,300 square feet.
- 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-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-5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 10' from the site's front property line (or 10' into the 20' required front yard setback).

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- The request for a variance to the side yard setback regulations of 2' 6" focuses on constructing and maintaining a 1 ½ -story single family home structure with an approximately 1,500 square foot building footprint to be located 2' 6" from the site's northern side property line or 2' 6" into this 5' required side yard setback on a site that is undeveloped.
- A 5' side yard setback is required in the R-5(A) zoning district.
- The subject site is located at the northeast corner of Canyon Street and Bobbie Street. The site has one 20' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback.
- The submitted site plan represents that the proposed structure is located 2' 6" from the northern side property line or 2' 6" into this 5' required side yard setback.
- There are no DCAD records found for property addressed at 400 Bobbie Street.
- The subject site is somewhat sloped, slightly irregular in shape, and according to the submitted application is 0.12 acres (or approximately 5,200 square feet) in area. The site is zoned R-5(A) where lots are typically 5,000 square feet in area.
- The applicant submitted a document (Attachment A) that denoted that the "livable area" of the proposed home on the subject site was approximately 2,000 square feet, and that the average "livable area" of 10 other properties zoned R-5(A) was approximately 2,300 square feet.
- 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 R-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-5(A) zoning classification.
- If the Board were to grant the side yard variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document— which in this case is a structure that would be located 2' 6" from the site's northern side property line or 2' 6" into this 5' required side yard setback.

Timeline:

April 21, 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.

July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

July 11, 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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.

August 1, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, 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: AUGUST 14, 2017

APPEARING IN FAVOR: Brian Williams, 134666 Thunderbrook Dr.. DeSoto, TX

APPEARING IN OPPOSITION: No one

MOTION: **Foster**

I move that the Board of Adjustment, in Appeal **No. BDA 167-081**, hold this matter under advisement until **September 18, 2017**.

SECONDED: **Agnich**

AYES: 5 – Richardson, Foster, Gambow, Agnich, Lewis

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION: Agnich

I move to adjourn this meeting.

SECONDED: Foster

AYES: 5 – Richardson, Gambow, Foster, Agnich, Lewis

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

2:48 P. M. - Board Meeting adjourned for August 14, 2017

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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