

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1 AUDITORIUM  
MONDAY, AUGUST 15, 2016**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Joe Carreon, regular member, Marla Beikman, regular member, Peter Schulte, regular member and Phil Foster, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Joe Carreon, regular member, Marla Beikman, regular member, Peter Schulte, regular member and Phil Foster, regular member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Mary McCullough, Asst. City Attorney, Todd Duerksen, Dev. Code Specialist, Clay Buehrle, Engineering, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Mary McCullough, Asst. City Attorney, Todd Duerksen, Dev. Code Specialist, Clay Buehrle, Engineering, and Trena Law, Board Secretary

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**1:05P.M.** The Board of Adjustment staff conducted a briefing and Public Hearing on the Board of Adjustment's **August 15, 2016** docket.  
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The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

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**MISCELLANEOUS ITEM NO. 1**

Approval of the Board of Adjustment Panel C, June 27, 2016 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2016**

MOTION:           None

The minutes were approved without a formal vote.

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**FILE NUMBER:**     BDA156-070(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Sylvia Rodriguez for a special exception to the side yard setback regulations at 1618 Nolte Drive. This property is more fully described as Lot 5, Block B/3796, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport and provide a 0 foot side yard setback, which will require a 5 foot special exception to the side yard setback regulations.

**LOCATION:**           1618 Nolte Drive

**APPLICANT:**        Sylvia Rodriguez

**REQUEST:**

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

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

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

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

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

## **STAFF RECOMMENDATION:**

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

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

### **Land Use:**

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

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

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

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

- This request focuses on maintaining and expanding an existing carport, part of which is located and to be expanded in the site's eastern 5' side yard setback, on a site developed with a single-family home structure/use.
- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The applicant has submitted two documents (a site plan/elevation and an elevation) indicating the size and materials of the carport, and its location on the site's eastern side property line.
- The following information was gleaned from the submitted site plan/elevation:
  - The carport is represented to be 39' in length and approximately 16' in width (approximately 624 square feet in total area) of which approximately 1/3 is located in the eastern side yard setback.
  - Constructed with 2 x 6 wood studs between 4 x 4 steel tube column, metal roof, and 1-hour fire wall
- The following information was gleaned from the submitted elevation:
  - Exterior hardiboard siding and 11' 8" in height.
- The subject site is approximately 193' x 50' (or approximately 9,700 square feet) in area.

- According to DCAD records, the “main improvement” for property addressed at 1618 Nolte Drive is a structure built in 1925 with 2,380 square feet of living/total area; and “no additional improvements”.
- The Board Administrator conducted a field visit of the area approximately 500 feet east and west of the subject site and noted two other carports that appeared to be located in a side yard setback, and one carport that appeared to be located in the front yard setback.
- As of August 5, 2016, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing the following:
  - that granting this special exception to the side yard setback regulations of 5’ will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be completed/maintained in the location and of the heights and materials as shown on these documents:
  1. Compliance with the submitted site plan/elevation and elevation is required.
  2. The carport structure must remain open at all times.
  3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
  4. All applicable building permits must be obtained.
  5. No item (other than a motor vehicle) may be stored in the carport.

**Timeline:**

- May 10, 2016: 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 14, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- July 15, 2016: The Board Administrator contacted the applicant and emailed 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 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 5<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.”
- August 2, 2016: 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 Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2016**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

**MOTION: Schulte**

I move to grant that the Board of Adjustment grant application **BDA 156-070** 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/elevation and elevation is required.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.
- No item (other than a motor vehicle) may be stored in the carport.

**SECONDED: Beikman**

AYES: 5 – Richardson, Carreon, Schulte, Beikman, Foster

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER:** BDA156-075(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Elena Salinas for a special exception to the fence height regulations at 3303 James Street. This property is more fully described as Lot 9, Block 3/5541, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 12 foot high fence, which will require an 8 foot special exception to the fence height regulations.

**LOCATION:** 3303 James Street

**APPLICANT:** Elena Salinas

**REQUEST:**

A request for a special exception to the fence height regulations of 8' is made to maintain a fence higher than 4' (an 8' high solid wood fence atop a concrete retaining wall that reaches 4' in height) in the site's 25' Gill Street front yard setback on the subject site that is developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

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

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

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

- This request focuses on maintaining an 8' high solid wood fence atop a concrete retaining wall that reaches 4' in height on the subject site that developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback.
- Given the single family zoning and location of the corner lot subject site, it has two 25' front yard setbacks – a front yard setback along James Street (the shorter of the two frontages of the subject site) and a front yard setback along Gill Street (the longer of the two frontages that while usually is considered a side yard is a front yard notwithstanding in order to maintain continuity of the established front yard setback along this street frontage where homes/lots to the north “front” westward to Gill Street).
- The applicant has submitted a site plan and an elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 12'.
- The submitted site plan and elevation only represents a fence to exceed 4' in height in the site's Gill Street front yard setback.
- The following additional information was gleaned from the submitted site plan:
  - The fence proposal is represented as being approximately 73' in length parallel to the Gill Street, and approximately 25' in length perpendicular to this street on the north and south sides of the site in this front yard setback.
  - The fence proposal is represented to be located on the Gill Street front property line or approximately 12' from the Gill Street pavement line.
- The existing 8' high solid wood fence atop a retaining wall that reaches 4' in height is located on the site where two single family homes/lots have direct frontage neither with a fence above 4' in height in the front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Gill Street (from James Street to approximately 400' north of the site) and noted no other fences above 4 feet high which appeared to be located in the front yard setback.
- As of August 5, 2016, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 8' will not adversely affect neighboring property.

- Granting this special exception of 8' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

June 16, 2016: 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 14, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

July 18, 2016: 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 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 5<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.”

August 2, 2016: 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 Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2016**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

**MOTION: Schulte**

I move to grant that the Board of Adjustment grant application **BDA 156-075** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Beikman**

**AYES: 5 – Richardson, Carreon, Schulte, Beikman, Foster**

**NAYS: 0 -**

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

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**FILE NUMBER: BDA156-077(SL)**

**BUILDING OFFICIAL’S REPORT:** Application of Robert Baldwin of Baldwin and Associates for a special exception to the fence height regulations at 5214 Royal Lane. This property is more fully described as part of Lot 3, Block A/5518, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 9 foot high fence, which will require a 5 foot special exception to the fence height regulations.

**LOCATION: 5214 Royal Lane**

**APPLICANT: Robert Baldwin of Baldwin and Associates**

**REQUEST:**

A request for a special exception to the fence height regulations of 5’ is made to construct and maintain a fence higher than 5’ (an approximately 7’ 8” high solid masonry fence with 8’ high masonry columns and an approximately 6’ 6” high ornamental iron gate flanked by two 9’ high, 6’ long solid walls/columns) in the site’s 100’ required front yard on a site that is being developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

- 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 being developed with a single family home. 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 focuses on constructing and maintaining an approximately 7’ 8” high solid masonry fence with 8’ high masonry columns and an approximately 6’ 6” high ornamental iron gate flanked by two 9’ high, 6’ long solid walls/columns in the 100’ required front yard on a site being developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
- The subject site is zoned R-1ac(A) and has a 40’ front yard setback. The subject site has a 100’ required front yard given a 100’ platted building line on the property.
- The applicant has submitted a revised site plan/elevation of the proposal with notations indicating that the proposal reaches a maximum height of 9’.
- The following additional information was gleaned from the submitted full site plan:
  - The proposal is represented as being approximately 200’ in length parallel to the street and as much as 92’ in length perpendicular to the street in the 100’ required front yard.
  - The proposed fence is represented as being located on approximately 8’ – 52’ from the front property line, or approximately 15’ – 52’ from the pavement line.

- Two single family lots front the proposal neither with what appears to be a fence higher than 4' in the front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 400 feet east and west of the subject site) and noted no other visible fences over 4' in height and in front yard setbacks.
- As of August 5, 2016, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' will not adversely affect neighboring property.
- Granting this special exception of 5' with a condition imposed that the applicant complies with the submitted revised site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on this document.

**Timeline:**

- May 23, 2016: 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 14, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- July 15, 2016: 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 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 5<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."
- July 27, 2016: The applicant submitted additional documentation to staff beyond what was submitted with the original application (see Attachment A).
- August 2, 2016: 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 Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the

Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2016**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** Schulte

I move to grant that the Board of Adjustment grant application **BDA 156-077** 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 revised site plan/elevation is required.

**SECONDED:** Beikman

**AYES:** 5 – Richardson, Carreon, Schulte, Beikman, Foster

**NAYS:** 0 -

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

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**FILE NUMBER:** BDA156-065(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Steven Wood for a variance to the front yard setback regulations at 6730 Sunnyland Lane. This property is more fully described as Lot 1, Block 1/2976, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide a 10 foot front yard setback measured at the foundation with a maximum 18" roof eave, which will require a 15 foot variance to the front yard setback regulations.

**LOCATION:** 6730 Sunnyland Lane

**APPLICANT:** Steven Wood

**August 15, 2016 Public Hearing Notes:**

- The Board Administrator submitted additional information from the applicant to the Board at the briefing (see Attachment A).

**REQUEST:**

A request for a variance to the front yard setback regulations of 15' is made to replace an existing one-story single family home structure with a two-story single family home structure, part of which is to be located 10' from the front property line or 15' into the 25' 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 recognizes that the subject site is unique and different from most lots in the R-7.5(A) zoning district in that it is irregular in shape, however, staff recommends denial because:
  - 1) the subject site is approximately 5,000 square feet larger in area than most lots in the R-7.5(A) zoning district; and
  - 2) the applicant had not provided information documenting that the replacement home with approximately 5,800 square feet of living space (approximately 4,000 square feet larger in area than the single family home that exists on the site) is commensurate with the development found upon other parcels of land with the same R-7.5(A) zoning district.

**BACKGROUND INFORMATION:**

## **Zoning:**

<u>Site:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>North:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>South:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>East:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>West:</u>	R-7.5(A) (Single family residential 7,500 square feet)

## **Land Use:**

The subject site is developed with a single family home structure that the applicant intends to demolish and replace with another single family home structure. 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 focuses on replacing an existing one-story single family home structure with a two-story, single family home structure with approximately 5,800 square feet of a/c space, part of which is to be located 10' from the site's front property line or 15' into the 25' front yard setback.
- The property is located in an R-7.5(A) zoning district which requires a minimum front yard setback of 25 feet.
- A scaled site plan has been submitted indicating that the proposed structure is located as close as 10' from the front property line or as much as 15' into this 25' front yard setback.
- According to DCAD records, the "main improvement" for property addressed at 6730 Sunnyland Lane is a structure built in 1950 with 1,974 square feet of living/total area with the following "additional improvements": a 72 square foot storage building.
- The subject site is relatively flat, triangular in shape, and according to the submitted application is 0.288 acres (or approximately 12,500 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- 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 structure that would be located 10’ from the site’s front property line (or 15’ into the 25’ front yard setback).

**Timeline:**

April 21, 2016: 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 10, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 11, 2016: 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 June 8<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 17<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 14, 2016: 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 Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection, Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

- June 27, 2016: 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 15, 2016.
- June 28, 2016: The Board Administrator wrote the applicant a letter that provided the board's action; and the July 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 5<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials. (Note that the applicant has not submitted any additional documents from what was presented before/at the June 27<sup>th</sup> public hearing).
- August 2, 2016: 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 Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.  
No review comment sheets were submitted in conjunction with this application.

**BOARD OF ADJUSTMENT ACTION: JUNE 27, 2016**

APPEARING IN FAVOR: Danny Sipes, P.O. Box 3293, Dallas, TX  
Jim Rorke, 6780 Sunnyland, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Schulte**

I move that the Board of Adjustment, in request No. **BDA 156-065**, hold this matter under advisement until **August 15, 2016**.

SECONDED: **Beikman**

AYES: 5 – Richardson, Carreon, Schulte, Beikman, Foster

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2016**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment, in Appeal No. **BDA156-065**, on application of Steven Wood, **deny** the variance to the front yard setback regulations **without prejudice** 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 not result in unnecessary hardship to this applicant.

SECONDED: **Schulte**

AYES: 5 – Richardson, Carreon, Schulte, Beikman, Foster

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

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FILE NUMBER: BDA156-081(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Shakeel Ahmed for a special exception to the off-street parking regulations at 19205 Wind Mill Lane. This property is more fully described as Lot 17A, Block F/8728, and is zoned NO(A), which requires parking to be provided. The applicant proposes to construct and maintain a structure for an office use, and provide 51 of the required 57 off-street parking spaces, which will require a 6 space special exception to the off-street parking regulations.

**LOCATION:** 19205 Wind Mill Lane

**APPLICANT:** Shakeel Ahmed

**August 15, 2016 Public Hearing Notes:**

- The Board Administrator submitted additional information from Sustainable Development and Construction Department Project Engineer to the Board at the briefing (see Attachment A).

**REQUEST:**

A request for a special exception to the off-street parking regulations of 6 spaces is made to construct and maintain an approximately 19,100 square foot office use structure (IEA Corporate Office), and provide 51 of the required 57 off-street parking spaces.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
  - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
  - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
  - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
  - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
  - (E) The availability of public transit and the likelihood of its use.
  - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
  - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
  - (B) Impose restrictions on access to or from the subject property; or
  - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance

establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:

- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
- (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends denial of the applicant’s request.
- Staff concluded that the applicant had not substantiated that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

**Zoning:**

Site: NO(A) (Neighborhood office)  
North: NO(A) (Neighborhood office)  
South: R-10(A) (Single family district 10,000 square feet)  
East: NO(A) (Neighborhood office)  
West: RR (Regional retail)

**Land Use:**

The subject site is undeveloped. The areas to the north and west are undeveloped, the area to the east is in part developed with office use and in part undeveloped, and the area to the south is developed with single family uses.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on constructing and maintaining an approximately 19,100 square foot office use structure (IEA Corporate Office), and providing 51 of the required 57 off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirements:

- Office use: 1 space per 333 square feet of floor area.
- The applicant has submitted a site plan that represents a 19,063 square foot structure to be an office use. The site plan denotes that 57 spaces are required, less the special exception of 6 spaces, resulting in providing 51 parking spaces. The site plan further denotes that of the 51 parking spaces to be provided that there is a reduction of 3 spaces for tree mitigation and 3 spaces for providing additional bicycle parking, therefore 45 spaces are shown as being provided on the site. (Note that staff has not verified the requirements for the applicant's representation on the site plan for the reduction of 6 spaces for bicycle parking and tree preservation).
- The Dallas Development Code states that the number of off-street parking spaces required under this article is reduced by one for each protected tree (as defined in Article X) retained that would otherwise have to be removed. The preserved tree must be protected from vehicular traffic through the use of concrete curbs, wheel stops, or other permanent barriers. The maximum reduction authorized by this section is five percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- The Dallas Development Code states that required off-street parking may be reduced by one space for every six Class I or four Class II bicycle parking spaces provided on a building site, and that the base number of bicycle parking spaces required to be provided per Section 51A-4.333 may count toward the parking reduction.
- The Sustainable Development Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "The applicant did not demonstrate that the special exception would not create a traffic hazard or increase traffic congestion on adjacent or nearby streets".
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the "office" use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 6 would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 6 spaces shall automatically and immediately terminate if and when the office use is changed or discontinued, the applicant would be allowed to construct and maintain the structure on the site with this specific use ("office") with the specified square footage, and provide 51 of the 57 code required off-street parking spaces.

**Timeline:**

- June 22, 2016: 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 14, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- July 15, 2016: The Board Administrator contacted the applicant and emailed 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 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 5<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."
- August 2, 2016: 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 Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- August 5, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "The applicant did not demonstrate that the special exception would not create a traffic hazard or increase traffic congestion on adjacent or nearby streets".

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2016**

**APPEARING IN FAVOR:** Shakeel Ahmed, 2932 Benchmark, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION: Schulte**

I move that the Board of Adjustment, in request No. **BDA 156-081**, on application of Shakeel Ahmed, **grant** the request of this applicant to reduce the number of required off-street parking spaces in the Dallas Development Code by 6 spaces because our evaluation of the property and the testimony shows that the parking demand generated by the proposed use on the site does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard and increase traffic congestion on adjacent and nearby streets. I further move that the

following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 6 spaces shall automatically and immediately terminate if and when the office use on the property is changed or discontinued.
- The required off-street parking spaces provided shall not be shared.

**SECONDED: Beikman**

**AYES:** 5 – Richardson, Carreon, Schulte, Beikman, Foster

**NAYS:** 0 -

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

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**MOTION: Schulte**

I move to adjourn this meeting.

**SECONDED: Carreon**

**AYES:** 5 – Richardson, Carreon, Schulte, Beikman, Foster

**NAYS:** 0 -

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

**1:17 P. M.** - Board Meeting adjourned for **August 15, 2016**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

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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.