

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
MONDAY, AUGUST 17, 2020**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, Robert Agnich, regular member, Judy Pollock, regular member, Moises Medina, regular member, and Roger Sashington, regular member

MEMBERS ABSENT FROM BRIEFING: None.

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, Robert Agnich, regular member, Judy Pollock, regular member, Moises Medina, regular member, and Roger Sashington, regular member

MEMBERS ABSENT FROM HEARING: None.

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Sarah May, Chief Planner, David Nevarez, Senior Engineer, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Neva Dean, Assistant Director, Kris Sweckard, Director.

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Sarah May, Chief Planner, David Nevarez, Senior Engineer, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Neva Dean, Assistant Director, and Kris Sweckard, Director.

11:22 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's , **August 17,2020 docket.**

BOARD OF ADJUSTMENT ACTION: August 17, 2020

1:03 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 22, 2020 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: August 17, 2020

MOTION: Pollock

Approval of the Board of Adjustment Panel C, June 22, 2020 public hearing minutes.

SECONDED: Hounsel

AYES: 5 – Hounsel, Agnich, Pollock, Medina, Sashington

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-070(OA)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin for a special exception to the parking regulations at 1018 Gallagher Street. This property is more fully described as Lot 1A, Block B/7099, and is zoned an R-5(A) Single Family District with Specific Use Permit No. 1763 for a community service center use, which requires parking to be provided. The applicant proposes to maintain a nonresidential structure for a community service center use, and provide 19 of the required 25 parking spaces, which will require a six-space special exception (24 percent reduction) to the parking regulation.

LOCATION: 1018 Gallagher Street

APPLICANT: Rob Baldwin

REQUEST:

A request for a special exception to the off-street parking regulations of six spaces is made to maintain a playground area for an existing 4,977-square-foot community service center structure and provide 19 of the 25 off-street parking spaces required by code.

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

Section 51A-4.311 of the Dallas Development Code states the following:

- 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 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:

Approval, subject to the following condition:

- The special exception of six spaces shall automatically and immediately terminate if and when the community service center use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer indicated there are no objections to this request.

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) SUP 1763 (Specific use permit for a community service center)
North: R-5(A) (Single family district)
South: R-5(A) (Single family district)
East: R-5(A) (Single family district)
West: R-5(A) (Single family district)

Land Use:

The subject site is developed with a 4,977 square feet community service center structure. The area to the north, east, west, and south are developed with single family uses.

Zoning/BDA History:

- | | |
|---|--|
| 1. Z190-186, Property at 1018
Gallagher Street (the subject site) | On May 27, 2015, City Council approved a specific use permit for a community service center use and imposed a site plan with 25 parking spaces as a condition. |
| 2. BDA145-026 Property at 1018
Gallagher Street (the subject site) | On May 18, 2015 the Board of Adjustment denied a request for a variance to the off-street parking regulations of six off-street parking spaces. The applicant proposed to provide 19 of the required 25 off-street parking spaces on a site that is developed with a community service center use [Vickery Meadow Learning Center] in order to maintain a playground area. |
| 3. BDA089-063 Property at 1018
Gallagher Street (the subject site) | On May 18, 2009, The Board of Adjustment approved a 11-foot variance to the front yard regulations for off-street parking spaces on a site that is developed with a community service center use [Vickery Meadow Learning Center]. |

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the off-street parking regulations of six spaces focuses on maintaining a playground area for an existing 4,977-square-foot community service center structure and to provide 19 of the 25 off-street parking spaces required by code.

- Chapter 51A-4.205(1) (C) requires the following off-street parking requirement:
 - Community service center: one space per 200 square feet of floor area.

The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “no objections.” Overall, the request would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

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

- The parking demand generated by the proposed community service center use does not warrant the number of off-street parking spaces required, and
 - The special exception of six spaces (or a 24 percent reduction of the required off-street parking) 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 six spaces shall automatically and immediately terminate if and when the community service center specific use permit is changed or discontinued, the applicant could maintain a playground area for an existing 4,977-square-foot

community service center and provide 19 of the 25 required off-street parking spaces.

Timeline:

June 11, 2020: 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 20, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

July 20, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the July 28th deadline to submit additional evidence for staff to factor into their analysis; and the August 7th 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 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board, and Mike Martin and Jason Pool Building Inspections.

August 3, 2020: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked “no objections.”

BOARD OF ADJUSTMENT ACTION: August 17, 2020

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. #B Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: **Hounsel**

I move that the Board of Adjustment, in Appeal No. BDA 190-070, on application of Rob Baldwin of Baldwin Associates for a special exception to the parking regulations contained in the Dallas Development Code, is **granted**, subject to the following condition:

The special exception of six spaces shall automatically and immediately terminate if and when the community service center use is changed or discontinued.

SECONDED: **Pollock**

AYES: 5 – Hounsel, Agnich, Pollock, Medina, Sashington

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)

FILE NUMBER: BDA190-071(OA)

BUILDING OFFICIAL’S REPORT: Application of Robert Ward Williams for a variance to the building height regulations, and for a variance to the front yard setback regulations at 6720 Starbuck Dr. This property is more fully described as Lot 12, Block J/8727, and is zoned Planned Development District No. 106, which limits the maximum building height to 30 feet, and requires a front yard setback of 30 feet. The applicant proposes to construct a single family residential structure with a building height of 36 feet, which will require a six-foot variance to the maximum building height regulations, and to construct a single family residential structure and provide a 25-foot front yard setback, which will require a five-foot variance to the front yard setback regulations.

LOCATION: 6720 Starbuck Drive

APPLICANT: Robert Ward Williams

REQUESTS:

The following requests have been made on an undeveloped site:

1. A variance to the building height regulations of six feet is made to construct and maintain a three-story, approximately 4,200-square-foot, single family structure with a building height of 36 feet, which will require a six-foot variance to the maximum building height regulation; and
2. A variance to the front yard setback regulations of five feet is made to maintain the aforementioned single family structure 25 feet from the front property line, which will require a five-foot variance to the front yard setback regulations.

STANDARD FOR A VARIANCE:

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

- 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;
- 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
- 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 (front yard and building height regulations variances):

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how the variances are necessary to permit development of the subject site or whether the property 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 PD No. 106 zoning designation.
- Staff concluded from the information submitted by the applicant at the time of the July 30th staff review team meeting that while staff recognized that the site is in a 100-year floodplain and of a restrictive area due to being 7,500 square feet in area, the applicant had not substantiated how the variance is necessary to permit development of the subject site that differs from other parcels of land that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same PD No. 106 zoning designation or that the applicant had not substantiated how the variances are not contrary to the public interest and how granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 106 (Planned Development District)
North: PD No. 106 (Planned Development District)
South: PD No. 106 (Planned Development District)
East: PD No. 106 (Planned Development District)
West: PD No. 106 (Planned Development District)

Land Use:

The subject site is undeveloped. The areas to the north, south, east, and west are developed with single family uses or vacant lots.

Zoning/BDA History:

There have not been any related board or zoning cases recorded either on or in the immediate vicinity of the subject site within the last five years.

GENERAL FACTS /STAFF ANALYSIS

This property is within Collin County and located in a 100-year floodplain. According to CCAD records, there are “no main improvements” and “no additional improvements” for the property addressed at 6720 Starbuck Drive.

The subject site is rectangular, and according to the application, is 0.17 acres (or approximately 7,500 square feet) in area. The site is zoned PD No. 106 where lots are typically 10,000 square feet in area.

The current requests to vary the height and front yard setback are to allow for the development of a three-story, approximately 4,200-square-foot, single family structure.

Height Regulations:

The request for a variance the building height regulations of six feet is made to construct and maintain a single family structure with a building height of 36 feet on a site that is located in PD No. 106, which states the following with regard to the maximum structure height:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 have a maximum structure height of 30 feet.

According to Steve Parker from Dallas Water Utilities, the applicant's engineer has not finished updating the hydraulic model, which required some changes because of a plan revision to the site. Once completed, it will be submitted to FEMA for a Letter of Map Revision to the 100-year floodplain. Note that a permit for fill and grading work was issued in January 2019 (permit number 1812181118101). However, the property has not met all other permits required by county, state, and federal agencies as stipulated by Sec. 51A-5.105.

The applicant has submitted a site plan and elevation that represent the structure will be 36 feet-in-height; thereby, requiring the six-foot variance to the building height regulations.

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

- That granting the variance to the PD No. 106 building height 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 to the PD No. 106 building height regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.
- The variance to the PD No. 106 building height regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant the request for a variance to the PD No. 106 building height regulations and impose the applicant's submitted site plan and elevation as a condition, the structure that does not comply the 30-foot building height regulations would be limited to that what is shown on this document.

Front Yard Regulations:

This request focuses on maintaining a proposed single family structure 25 feet from the front property line which will require a five-foot variance to the front yard setback regulations.

The subject site is located in PD No. 106, which states the following with regard to the required setbacks:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 are required to provide a minimum front yard setback of 30 feet.

The applicant has submitted a site plan that represents the structure will be located 25 feet from the front property line; thereby, requiring the five-foot variance to the required front yard setback of 30 feet.

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

- That granting the variance to the PD No. 106 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 to the PD No. 106 front yard setback regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.
- The variance to the PD No. 106 front yard setback regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant this front yard setback 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 is a structure 25 feet from the front property line or five feet into the 30-foot front yard setback.

Timeline:

- June 18, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 20, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- July 20, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the July 28th deadline to submit additional evidence for staff to factor into their analysis; and the August 7th 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 4, 2020: The applicant submitted additional evidence (Exhibit A).

July 30, 2020: The statement provided by Steve Parker Dallas Water Utilities statement (Exhibit B).

July 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board, and Mike Martin and Jason Pool Building Inspectors.

July 31, 2020: The applicant submitted additional evidence (Exhibit C).

August 7, 2020: The applicant submitted additional evidence (Exhibit D).

BOARD OF ADJUSTMENT ACTION: August 17, 2020

APPEARING IN FAVOR: John Wingate 6712 Starbuck Dr. Dallas, TX
Robert Williams 6720 Starbuck Dr. Dallas, TX

APPEARING IN OPPOSITION: David Moyal 17631 Hillcrest Rd. Dallas, TX
Barry Mendelsohn 7120 Vanhook Dallas, TX
Shlomo Moyal 17631 Hillcrest Rd. Dallas, TX
Baruch Shawel 7334 Highlandglen Trl. Dallas, TX

Rabbi Keshner 6704 Starbuck Dr. Dallas, TX
Alan Tolmas 6009 Oakcrest Rd. Dallas, TX
Avi Grossman 6728 Shellflower Ln. Dallas, TX
Ernest Tacsik 6816 Crestland Ave. Dallas, TX

MOTION#1: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 190-071, on application of Robert Ward Williams, **deny** the variance to the maximum building height 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: Sashington

AYES: 5 - Agnich, Pollock, Medina, Sashington, Hounsel

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION#2: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 190-071, on application of Robert Ward Williams, **grant** the five-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

SECONDED: Hounsel

AYES: 4 - Agnich, Medina, Sashington, Hounsel

NAYS: 1 - Pollock

MOTION PASSED: 4 – 1

FILE NUMBER: BDA190-072(OA)

BUILDING OFFICIAL'S REPORT: Application of Joe Black represented by John Wingate for a variance to the building height regulations, and for a variance to the front yard setback regulations at 6722 Starbuck Dr. This property is more fully described as Lot 13, Block J/8727, and is zoned Planned Development District No. 106, which limits the maximum building height to 30 feet and requires a front yard setback of 30 feet. The applicant proposes to construct a single family residential structure with a building height of 36 feet, which will require a six-foot variance to the maximum building height

regulations, and to construct a single family residential structure and provide a 25-foot front yard setback, which will require a five-foot variance to the front yard setback regulations.

LOCATION: 6722 Starbuck Drive

APPLICANT: Joe Black Represented by John Wingate

REQUESTS:

The following requests have been made on an undeveloped site:

3. A variance to the building height regulations of six feet is made to construct and maintain a three-story, approximately 4,200-square-foot, single family structure with a building height of 36 feet, which will require a six-foot variance to the maximum building height regulation; and
4. A variance to the front yard setback regulations of five feet is made to maintain the aforementioned single family structure 25 feet from the front property line, which will require a five-foot variance to the front yard setback regulations.

STANDARD FOR A VARIANCE:

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

- 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;
- 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
- 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 (front yard and building height regulations variances):

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how the variances are necessary to permit development of the subject site or whether the property 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 PD No. 106 zoning designation.
- Staff concluded from the information submitted by the applicant at the time of the July 30th staff review team meeting that while staff recognized that the site is in a 100-year floodplain and of a restrictive area due to being 7,500 square feet in area, the applicant had not substantiated how the variance is necessary to permit development of the subject site that differs from other parcels of land that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same PD No. 106 zoning designation or that the applicant had not substantiated how the variances are not contrary to the public interest and how granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

BACKGROUND INFORMATION:

Zoning:

- Site: PD No. 106 (Planned Development District)
- North: PD No. 106 (Planned Development District)
- South: PD No. 106 (Planned Development District)
- East: PD No. 106 (Planned Development District)
- West: PD No. 106 (Planned Development District)

Land Use:

The subject site is undeveloped. The areas to the north, south, east, and west are developed with single family uses or vacant lots.

Zoning/BDA History:

There have not been any related board or zoning cases recorded either on or in the immediate vicinity of the subject site within the last five years.

GENERAL FACTS /STAFF ANALYSIS

According to CCAD records, there are “no main improvements” and “no additional improvements” for the property addressed at 6722 Starbuck Drive.

The subject site is rectangular, and according to the application, is 0.17 acres (or approximately 7,500 square feet) in area. The site is zoned PD No. 106 where lots are typically 10,000 square feet in area.

The current requests to vary the height and front yard setback are to allow for the development of a three-story, approximately 4,200-square-foot, single family structure.

Height Regulations:

The request for a variance the building height regulations of six feet is made to construct and maintain a single family structure with a building height of 36 feet on a site that is located in PD No. 106, which states the following with regard to the maximum structure height:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 have a maximum structure height of 30 feet

According to Steve Parker from Dallas Water Utilities, the applicant's engineer has not finished updating the hydraulic model, which required some changes because of a plan revision to the site. Once completed, it will be submitted to FEMA for a Letter of Map Revision to the 100-year floodplain. Note that a permit for fill and grading work was issued in January 2019 (permit number 1812181119101). However, the property has not met all other permits required by county, state, and federal agencies as stipulated by Sec. 51A-5.105.

The applicant has submitted a site plan and elevation that represent the structure will be 36 feet-in-height; thereby, requiring the six-foot variance to the building height regulations.

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

- That granting the variance to the PD No. 106 building height 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 to the PD No. 106 building height regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.

- The variance to the PD No. 106 building height regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant the request for a variance to the PD No. 106 building height regulations and impose the applicant's submitted site plan and elevation as a condition, the structure that does not comply the 30-foot building height regulations would be limited to that what is shown on this document.

Front Yard Regulations:

This request focuses on maintaining a proposed single family structure 25 feet from the front property line which will require a five-foot variance to the front yard setback regulations.

The subject site is located in PD No. 106, which states the following with regard to the required setbacks:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 are required to provide a minimum front yard setback of 30 feet.

The applicant has submitted a site plan that represents the structure will be located 25 feet from the front property line; thereby, requiring the five-foot variance to the required front yard setback of 30 feet.

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

- That granting the variance to the PD No. 106 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 to the PD No. 106 front yard setback regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.
- The variance to the PD No. 106 front yard setback regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons

only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant this front yard setback 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 is a structure 25 feet from the front property line or five feet into the 30-foot front yard setback.

Timeline:

- June 18, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 20, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- July 20, 2020: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the July 28th deadline to submit additional evidence for staff to factor into their analysis; and the August 7th 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 30, 2020: The statement provided by Steve Parker Dallas Water Utilities statement (Exhibit A).
- July 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board

of Adjustment Senior Planner, the Assistant City Attorney to the Board, and Mike Martin and Jason Pool Building Inspectors.

July 31, 2020: The applicant submitted additional evidence (Exhibit B).

BOARD OF ADJUSTMENT ACTION: August 17, 2020

APPEARING IN FAVOR: John Wingate 6712 Starbuck Dr. Dallas, TX

APPEARING IN OPPOSITION: David Moyal 17631 Hillcrest Rd. Dallas, TX
Barry Mendelsohn 7120 Vanhook Dallas, TX
Alan Tolmas 6009 Oakcrest Rd. Dallas, TX
Ernest Tacsik 6816 Crestland Ave. Dallas, TX

MOTION#1: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 190-072, on application of Joe Black, represented by John Wingate, **deny** the variance to the maximum building height 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: Sashington

AYES: 5 - Agnich, Pollock, Hounsel, Sashington, Medina

NAYS: 0

MOTION PASSED: 5-0 (unanimously)

MOTION#2: Sashington

I move that the Board of Adjustment, in Appeal No. BDA 190-072, on application of Joe Black, represented by John Wingate, **grant** the five-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

SECONDED: Agnich

AYES: 4 - Agnich, Hounsel, Sashington, Medina

NAYS: 1 - Pollock

MOTION PASSED: 4-1

FILE NUMBER: BDA190-073(OA)

BUILDING OFFICIAL’S REPORT: Application of Robert Ward Williams for a variance to the building height regulations, and for a variance to the front yard setback regulations, and for a variance to the side yard setback regulations at 6718 Starbuck Dr. This property is more fully described as Lot 11, Block J/8727, and is zoned Planned Development District No. 106, which limits the maximum building height to 30 feet and requires a front yard setback of 30 feet and requires side yard setback of six feet. The applicant proposes to construct a single family residential structure with a building height of 39 feet, which will require a nine-foot variance to the maximum building height regulations, and to construct a single family residential structure and provide a 25-foot front yard setback, which will require a five-foot variance to the front yard setback regulations, and to construct a single family residential structure and provide a one-foot six-inch side yard setback, which will require a four-foot six-inch variance to the side yard setback regulations.

LOCATION: 6718 Starbuck Drive

APPLICANT: Robert Ward Williams

REQUESTS:

The following requests have been made on an undeveloped site:

5. A variance to the building height regulations of nine feet is made to construct and maintain a three-story, approximately 3,200-square-foot, single family structure with a building height of 39 feet, which will require a nine-foot variance to the maximum building height regulations;
6. A variance to the front yard setback regulations of five feet is made to maintain the aforementioned single family structure 25 feet from the front property line, which will require a five-foot variance to the front yard setback regulations; and
7. A variance to the side yard setback regulations of four feet six inches is made to maintain the aforementioned single family structure one foot six inches from the east side property line or four feet six inches into the six-foot east side yard setback regulations.

STANDARD FOR A VARIANCE:

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

- 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;
- 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
- 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 (Height, Front Yard, and Side Yard Variances):

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how the variances are necessary to permit development of the subject site or whether the property 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 PD No. 106 zoning designation.
- Staff concluded from the information submitted by the applicant at the time of the July 30th staff review team meeting that while staff recognized that the site is in a 100-year floodplain and of a restrictive area due to being 7,500 square feet in area, the applicant had not substantiated how the variance is necessary to permit development of the subject site that differs from other parcels of land that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same PD No. 106 zoning designation or that the applicant had not substantiated how the variances are not contrary to the public interest and how granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

BACKGROUND INFORMATION:

Zoning:

- Site: PD No. 106 (Planned Development District)
- North: PD No. 106 (Planned Development District)
- South: PD No. 106 (Planned Development District)
- East: PD No. 106 (Planned Development District)
- West: PD No. 106 (Planned Development District)

Land Use:

The subject site is undeveloped. The areas to the north, south, east, and west are developed with single family uses or vacant lots.

Zoning/BDA History:

There have not been any related board or zoning cases recorded either on or in the immediate vicinity of the subject site within the last five years.

GENERAL FACTS /STAFF ANALYSIS

This property is within Collin County and located in a 100-year floodplain. According to CCAD records, there are “no main improvements” and “no additional improvements” for the property addressed at 6718 Starbuck Drive Starbuck Drive.

The subject site is rectangular, and according to the application, is 0.17 acres (or approximately 7,500 square feet) in area. The site is zoned PD No. 106 where lots are typically 10,000 square feet in area.

The current requests to vary the height and front yard setback are to allow for the development of a three-story, approximately 3,200-square-foot, single family structure.

Height Regulations:

The request for a variance the building height regulations of nine-feet is made to construct and maintain a single family structure with a building height of 39 feet on a site that is located in PD No. 106, which states the following with regard to the maximum structure height:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 have a maximum structure height of 30 feet.

According to Steve Parker from Dallas Water Utilities, the applicant’s engineer has not finished updating the hydraulic model, which required some changes because of a plan revision to the site. Once completed, it will be submitted to FEMA for a Letter of Map Revision to the 100-year floodplain. Note that a permit for fill and grading work was issued in January 2019 (permit number 1812181117). However, the property has not met all other permits required by county, state, and federal agencies as stipulated by Sec. 51A-5.105.

The applicant has submitted a site plan and elevation that represent the approximately 3,200 square-foot three-story single family home structure will be 39 feet, hence the nine-foot variance to the building height regulations.

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

- That granting the variance to the PD No. 106 building height 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 to the PD No. 106 building height regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.
- The variance to the PD No. 106 building height regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant the request for a variance to the PD No. 106 building height regulations and impose the applicant's submitted site plan and elevation as a condition, the structure that does not comply with the 30-foot building height regulations would be limited to that what is shown on this document.

Front Yard Regulations:

This request focuses on maintaining a proposed single family structure 25 feet from the front property line which will require a five-foot variance to the front yard setback regulations.

The subject site is located in PD No. 106, which states the following with regard to the required setbacks:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 are required to provide a minimum front yard setback of 30 feet.

The applicant has submitted a site plan that represents the structure will be located 25 feet from the front property line; thereby, requiring the five-foot variance to the required front yard setback of 30 feet.

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

- That granting the variance to the PD No. 106 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 to the PD No. 106 front yard setback regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.
- The variance to the PD No. 106 front yard setback regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant this front yard setback 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 is a structure 25 feet from the front property line or five feet into the 30-foot front yard setback.

Side Yard Regulations:

This request focuses on maintaining a proposed single family structure one-foot six-inches from the east side property line which will require a four-foot six-inch variance to the side yard setback regulations.

The subject site is located in PD No. 106, which states the following with regard to the required setbacks:

- Except as provided in this section and Section 51P-106.108, the utilization of lots within this district must comply with the development standards of Chapter 51 R-10 Single Family District.
- Structures on lots zoned an R-10 District under Chapter 51 are required to provide a minimum side yard setback of six feet.

The applicant has submitted a site plan that represents the structure will be located one-foot six-inches from the east side; thereby, requiring the four-foot six-inch variance to the required side yard setback of six feet.

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

- That granting the variance to the PD No. 106 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 to the PD No. 106 side yard setback regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 106 zoning classification.

- The variance to the PD No. 106 side yard setback regulations would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 106 zoning classification.

If the Board were to grant this side yard setback 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 is a structure one-foot six-inches from the side property line or four-feet six-inches into the six-foot side yard setback.

Timeline:

June 18, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

July 20, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

July 20, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the July 28th deadline to submit additional evidence for staff to factor into their analysis; and the August 7th 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 4, 2020: The applicant submitted additional evidence (Exhibit A).

July 30, 2020: The statement provided by Steve Parker Dallas Water Utilities statement (Exhibit B).

July 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist,

the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board, and Mike Martin and Jason Pool Building Inspectors.

July 31, 2020: The applicant submitted additional evidence (Exhibit C).

August 7, 2020: The applicant submitted additional evidence (Exhibit D).

BOARD OF ADJUSTMENT ACTION: August 17, 2020

APPEARING IN FAVOR: John Wingate 6712 Starbuck Dr. Dallas, TX
Robert Williams 6720 Starbuck Dr. Dallas, TX

APPEARING IN OPPOSITION: David Moyal 17631 Hillcrest Rd. Dallas, TX
Barry Mendelsohn 7120 Vanhook Dallas, TX
Shlomo Moyal 17631 Hillcrest Rd. Dallas, TX
Alan Tolmas 6009 Oakcrest Rd. Dallas, TX
Ernest Tacsik 6816 Crestland Ave. Dallas, TX

MOTION#1: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 190-073, on application of Robert Ward Williams, **deny** the variance to the maximum building height 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: Hounsel

AYES: 5 – Agnich, Pollock, Medina, Hounsel, Sashington

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION#2: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 190-073, on application of Robert Ward Williams, **grant** the five-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

SECONDED: Hounsel

AYES: 4 – Agnich, Medina, Housel, Sashington
NAYS: 1 - Pollock
MOTION PASSED: 4 – 1

MOTION#3: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 190-073, on application of Robert Ward Williams, **deny** the variance to the side yard setback regulations requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would NOT result in unnecessary hardship to this applicant.

SECONDED: Pollock

AYES: 5 – Agnich, Pollock, Medina, Housel, Sashington
NAYS: 0
MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-064(OA)

BUILDING OFFICIAL’S REPORT: Application of Texas Permit and Development, represented by Danny Sipes, for special exception to the visual obstruction regulations at 9924 Carnegie Drive. This property is more fully described as Lot 1, Block 3/5343, and is zoned an R-7.5(A) Single Family District, which requires a 20-foot visibility triangle at the driveway and alley approaches. The applicant proposes to construct a fence up to eight feet-in-height in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 9924 Carnegie Drive

APPLICANT: Texas Permit and Development
represented by Danny Sipes

REQUESTS:

A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of an eight-foot-high solid wood fence and solid wood gates in the two 20-foot visibility triangles at the intersection of the street and drive approaches into the site from Peavy Road and in the 20-foot visibility triangle where the alley meets Peavy Road on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (visual obstruction regulations):

Denial.

Rationale:

- The Sustainable Development Department Senior Engineer has objections to the requests. The Senior Engineer finds that the fence compromises visibility of pedestrians, bicyclists, and motorists without enough sight distance to see vehicles exiting (and potentially backing out) of the subject driveway onto a thoroughfare corridor if the aforementioned conditions are imposed as part of the requests.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should not be granted because the items to be located and maintained in the visibility triangles do constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is 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 have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

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

The request for a special exception to the visual obstruction regulations on a site developed with a single family home focus on locating and maintaining a portion of an eight-foot-high solid wood fence and solid wood gates in the two 20-foot visibility

triangles at the drive approaches into the site from Peavy Road and in the 20-foot visibility triangle at where the alley meets Peavy Road.

Section 51A-4.602(d) of the Dallas Development Code states that a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
- between two-and-a-half and eight feet-in-height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).

The property is located in an R-7.5(A) Single Family District which requires the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.

A site plan and elevation have been submitted indicating portions of an eight-foot-high solid wood fence and solid wood gate in the two 20-foot visibility triangles at the drive approaches into the site from Peavy Road and in the 20-foot visibility triangle at where the alley meets Peavy Road.

The Sustainable Development Department Senior Engineer has objections to the requests and determined the proposed fence in the visibility triangle to cause a traffic hazard (see Attachment A).

The applicant has the burden of proof in establishing how granting these requests to maintain portions of an eight-foot-high solid wood fence and solid wood gate in the two 20-foot visibility triangles at the drive approaches into the site from Peavy Road and in the 20-foot visibility triangle at where the alley meets Peavy Road does not constitute a traffic hazard.

Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be located and maintained in the two 20-foot visibility triangles at the drive approaches into the site from Peavy Road and in the 20-foot visibility triangle at where the alley meets Peavy Road, to that what is shown on these documents – portion of an eight-foot-high solid wood fence and a solid wood gates.

Timeline:

- April 1, 2020: 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 13, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- June 4, 2020: The Board of Adjustment Chief Planner/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 3rd deadline to submit additional evidence for staff to factor into their analysis; and the June 12, 2020 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, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included the following: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Sustainable Development and Construction Senior Engineer, the Board of Adjustment Senior Planner the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the board.
- June 11, 2020: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked “recommends denial” (see Attachment A).
- June 22, 2020: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application request until the next public hearing to be held on August 17, 2020 to give the applicant the opportunity to provide support for this request.
- June 25, 2020: The Board Administrator wrote the applicant a letter of the board’s action; the July 28 deadline to submit additional evidence for staff to factor into their analysis; and the August 7th deadline to submit

additional evidence to be incorporated into the Board's docket materials.

July 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

BOARD OF ADJUSTMENT ACTION: August 17, 2020

APPEARING IN FAVOR: Santos Martinez 12 Tanager Terrace Angel Fire, NM.

APPEARING IN OPPOSITION: None.

MOTION#1: Medina

I move that the Board of Adjustment, in Appeal No. BDA 190-064, on application of Danny Sipes of Texas Permit and Development, **grant** the request to maintain items in the visibility triangle at the driveway approach as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the submitted site plan and elevation is required.

SECONDED: Hounsel

AYES: 4 – Agnich, Medina, Hounsel, Sashington

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

Pollock: lost connection, no vote

MOTION#2: Agnich

I move that the Board of Adjustment, in Appeal No. BDA 190-064, on application of Danny Sipes of Texas Permit and Development, **deny** the special exception requested by this applicant to maintain items in the visibility triangle at the alley approach **without**

Recess: 3:06 p.m.

Resume: 3:14 p.m.

The meeting was adjourned at 5:28 P.M. on August 17, 2020.

Scott Hornsby

CHAIRPERSON

Jennifer Munoz

BOARD ADMINISTRATOR

Latonia Jackson

BOARD SECRETARY

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