

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1 AUDITORIUM  
WEDNESDAY, OCTOER 19, 2016**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, Joe Carreon, regular member, Wini Cannon, regular member and Gary Sibley, alternate member

MEMBERS ABSENT FROM BRIEFING: Larry Brannon, regular member

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, Joe Carreon, regular member, Wini Cannon, regular member, Gary Sibley, alternate member and Robert Agnich, alternate member

MEMBERS ABSENT FROM HEARING: Larry Brannon, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Mary McCollough, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Clay Buerhle, Engineering, Chief Arborist, Donna Moorman, Chief Planner, Jennifer Munoz, Senior Planner and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Mary McCollough, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Clay Buerhle, Engineering, Chief Arborist, Donna Moorman, Chief Planner, Jennifer Munoz, Senior Planner and Trena Law, Board Secretary

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**11:09 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **October 19, 2016 docket.**

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**1:02 P.M.**  
The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand

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

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel B September 21, 2016, 2016 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: OCTOBER 19, 2016**

**MOTION:** None

The minutes were approved.

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Approval of the Board of Adjustment Panel B's, 2017 Public Hearing Calendar

**BOARD OF ADJUSTMENT ACTION: OCTOBER 17, 2016**

**MOTION:** None

The minutes were approved without a formal vote.

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**MISCELLANEOUS ITEM NO. 3**

**FILE NUMBER:** BDA156-036

**REQUEST:** To waive the two year limitation on a final decision reached by Board of Adjustment Panel B on April 20, 2016 - a request for a special exception to the landscape regulations that was granted with certain conditions.

**LOCATION:** 4407 W. Lovers Lane

**APPLICANT:** Ryan Bellomy of Bellomy Minerals and Kori Haug of Bella Firma

**STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION ON A FINAL DECISION REACHED BY THE BOARD:**

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

**GENERAL FACTS/TIMELINE:**

April 20, 2016: The Board of Adjustment Panel B granted a request for special exception to the landscape regulations and imposed the following

condition to this request: Compliance with the submitted revised alternate landscape plan is required. The case report stated that the request was made to construct and maintain an office use/structure (DSF Capital) on a site currently undeveloped, and not fully meet the landscape regulations (See Attachment A for information related to this application).

September 26, 2016: One of the applicants submitted a letter to staff requesting that the Board waive the two year limitation on the request for a special exception to the landscape regulations granted by Board of Adjustment Panel B on April 20, 2016 (see Attachment B). This miscellaneous item request to waive the two year limitation was made in order for the applicant to file a new application for a landscape special exception on the property. Note that The Dallas Development Code states the following with regard to board action:

- Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
- If the board renders a final decision of denial without prejudice, the two year limitation is waived.
- The applicant may apply for a waiver of the two year limitation in the following manner:
  - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
  - The board may waive the two year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outlined in the code.

September 30, 2016: The Board Administrator emailed the applicants information regarding this miscellaneous item request (see Attachment C).

**BOARD OF ADJUSTMENT ACTION    OCTOBER 19, 2016**

**APPEARING IN FAVOR:**                    Kori Haug, 4245 N Central Expw, Ste 501, Dallas, TX

**APPEARING IN OPPOSITION:**    No one

**MOTION:    Carreon**

I move that the Board of Adjustment, in request No. **BDA 156-036**, on application of Ryan Bellomy and Kori Haug, **grant** the request of this applicant to waive the two year limitation on a final decision reached by Board of Adjustment Panel B on April 20, 2016, because there are changed circumstances regarding the property sufficient to warrant a new hearing.

**SECONDED: Cannon**

**AYES: 5 – Hounsel, Carreon, Cannon, Sibley, Agnich**

**NAYS: 0 –**

**MOTION PASSED 5 – 0 (unanimously)**

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**FILE NUMBER:** BDA156-097(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Brad Oldham, represented by Aaron Wolf, for a special exception to the visual obstruction regulations at 2619 McKinney Avenue. This property is more fully described as part of Lot 4, Block 3/955, and is zoned PD-193 (PDS 103), which requires a 45 foot visibility triangle at street intersections. The applicant proposes to locate and maintain an item in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 2619 McKinney Avenue

**APPLICANT:** Brad Oldham  
Represented by Aaron Wolf

**REQUEST:**

A request for a special exception to the visual obstruction regulations is made to locate and maintain a 16’ high, 3’ 10” wide sculpture structure in the 45’ visibility triangle at the intersection of Routh Street and McKinney Avenue on a site being developed with a multistory multifamily structure/use (OneUptown).

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

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

Rationale:

- Staff concurred with the Sustainable Development and Construction Department Project Engineer who has no objection (with the suggested condition above imposed) to locate/maintain the 16’ high, 3’ 10” wide sculpture structure in the Routh Street/McKinney Avenue 45’ visibility triangle – an item in this location would not constitute a traffic hazard.

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	PD 193 (PDS 103) (Planned Development, Planned Development)
<u>North:</u>	PD 193 (LC) (Planned Development, Light Commercial)
<u>South:</u>	PD 193 (LC) (Planned Development, Light Commercial)
<u>East:</u>	PD 193 (LC) (Planned Development, Light Commercial)
<u>West:</u>	PD 9 (Planned Development)

### **Land Use:**

The subject site is developed as a surface parking lot. The areas to the north, east, south, and west are developed with mostly with office uses.

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

1. BDA123-123, Property at 2323 McKinney Avenue (the lot south of the subject site) On December 16, 2013, the Board of Adjustment Panel C denied a request for a special exception to the visual obstruction regulations without prejudice. The case report stated the request was made to maintain an existing 5' high open fence located in the 45' visibility triangle at the intersection of McKinney Avenue and Routh Street on a site developed with a restaurant without drive-in or drive-through service (Sfuzzi's).

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

- This request for a special exception to the visual obstruction regulations focuses on locating and maintaining a 16' high, 3' 10" wide sculpture structure in the 45' visibility triangle at the intersection of Routh Street and McKinney Avenue on a site being developed with a multistory multifamily structure/use (OneUptown).
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- PD 193 defines "visibility triangle" as
  1. where a street designated on the city's thoroughfare plan intersects another street, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street

- curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection;
2. where two streets not designated on the city's thoroughfare plan intersect, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 30 feet from the intersection;
  3. where an alley or driveway intersects with a street, the portion of a lot within a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and adjacent street curb line (or, if there are no street curbs, what would be the normal street curb line) and points on the driveway or alley edge and the street curb line 20 feet from the intersection.
- A site plan and elevation have been submitted indicating that a 16' high, 3' 10" wide sculpture structure is proposed to be in the 45' visibility triangle at the intersection of McKinney Avenue and Routh Street.
  - The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "subject to the site plan and sculpture elevation and cross-section".
  - The applicant has the burden of proof in establishing how granting this request for a special exception to the visual obstruction regulations to locate and maintain a 16' high, 3' 10" wide sculpture structure in the 45' visibility triangle at the intersection of Routh Street and McKinney Avenue does not constitute a traffic hazard.
  - Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation/cross section would limit the item in the Routh Street/McKinney Avenue 45' visibility triangle to that what is shown on this document – a 16' high, 3' 10" wide sculpture structure.

**Timeline:**

- July 25, 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.
- September 13, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- September 13, 2016: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the September 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 7<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."

October 4, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

October 6, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "subject to the site plan and sculpture elevation and cross-section".

**BOARD OF ADJUSTMENT ACTION    OCTOBER 19, 2016**

**APPEARING IN FAVOR:**            No one

**APPEARING IN OPPOSITION:**    No one

**MOTION:    Cannon**

I move to grant that the Board of Adjustment grant application **BDA 156-097** 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED:    Carreon**

**AYES:    5 – Hounsel, Carreon, Cannon, Sibley, Agnich**

**NAYS:    0 –**

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

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**FILE NUMBER:**    BDA156-103(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Mohammad Awad, represented by Jessica J. Kilgore, P.E., for a special exception to the landscape regulations at 11311 Stemmons Freeway. This property is more fully described as Lot 1, Block B/6547, and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:**            11311 Stemmons Freeway

**APPLICANT:** Mohammad Awad  
Represented by Jessica J. Kilgore, P.E.

**REQUEST:**

A request for a special exception to the landscape regulations is made to construct and maintain a new office/warehouse structure on a site that is in part undeveloped and in part developed with an office/warehouse structure, and not fully meet the landscape regulations, more specifically, to not provide the required number of street trees on the property.

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

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

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required with the additional condition that the owner must obtain applicable authorization for landscape improvements at Joe Field Road - the three trees shown on this submitted plan proposed at the corner of Joe Field Road in the public right-of-way under city jurisdiction.

Rationale:

- Staff concurs with the Chief Arborist and supports this request because strict compliance with the street tree requirements for this site will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring properties given that the area in which the exception is sought



(Stemmons Freeway right-of-way) is where the highway authority has determined that no improvements shall be made.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: IR (Industrial/research)  
North: IR (Industrial/research)  
South: IR (Industrial/research)  
East: IR (Industrial/research)  
West: IM (Industrial/manufacturing)

### **Land Use:**

The subject site is in part undeveloped, and in part developed with an office/warehouse use. The areas to the north, south, and west are developed with a mix of nonresidential uses; and the area to the east is Stemmons Freeway.

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

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

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

- This request for a special exception to the landscape regulations focuses on constructing and maintaining a new office/warehouse structure on a site that is in part undeveloped and in part developed with an office/warehouse structure, and not fully meeting the landscape regulations, more specifically not providing the required number of street trees.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by a new construction of commercial property.
- The Chief Arborist's memo stated that the proposed alternate landscape plan is deficient in that the proposed landscape plan does not provide the required 12 street trees for the over 600 feet of street frontage. (The plan identifies 6 trees for Joe Field Road (within public ROW) and Emerald Street (on the property)).
- The Chief Arborist's memo listed the following factors for consideration:
  1. The highway construction over the last decade has reduced the property size. Due to demands for parking and safe vehicular movement, the owner is

proposing pavement to the edge of the adjusted property boundary. The highway authority has determined that no improvements shall be made in the right-of-way along Stemmons Freeway. A group of four trees will be placed in the parking set back from the street frontage. Three trees are proposed at the corner of Joe Field Road in the public right-of-way under city jurisdiction. The owner is responsible for attaining license and permit for improvements in the public right-of-way prior to obtaining a certificate of occupancy.

2. A paved section in front of the existing building facing Stemmons Freeway is being converted to a grass groundcover. This will leave a standard sidewalk in front of the building for pedestrian use.
  3. All other minimum landscape requirements of Article X are met. Design standards are being met by enhanced pavements, allowed by ordinance.
- The City of Dallas Chief Arborist recommends approval of the proposed alternate landscape plan because in his opinion full compliance with the landscape regulations for street trees will unreasonably burden the use of the property, and the exception will not adversely affect neighboring properties. (The Chief Arborist notes that the owner must obtain applicable authorization for landscape improvements at Joe Field Road).
  - The applicant has the burden of proof in establishing the following:
    - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
  - If the Board were to grant this request and impose the staff suggested condition to the request, the site would be provided exception from full compliance with the required number of street trees on the subject site.

### **Timeline:**

August 24, 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.

September 13, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 13, 2016: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the September 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 7<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.”

October 4, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public

hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, 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.

October 6, 2016: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).

**BOARD OF ADJUSTMENT ACTION    OCTOBER 19, 2016**

APPEARING IN FAVOR:            No one

APPEARING IN OPPOSITION:    No one

MOTION:    **Cannon**

I move to grant that the Board of Adjustment grant application **BDA 156-103** 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan is required. Additionally, the owner must obtain the applicable authorization for the landscape improvements in the public right-of-way on Joe Field Road.

SECONDED:    **Carreon**

AYES: 5 – Hounsel, Carreon, Cannon, Sibley, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

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FILE NUMBER:    BDA 156-099(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Jose R. Castillo, represented by Andres Barragan, for a variance to the front yard setback regulations at 1521 Algonquin Drive. This property is more fully described as Lot 6, Block 7/6716, 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 9 foot 6 inch front yard setback measured at the foundation with a 1 foot roof eave, which will require a 15 foot 6 inch variance to the front yard setback regulations.

**LOCATION:** 1521 Algonquin Drive

**APPLICANT:** Jose R. Castillo  
Represented by Andres Barragan

**REQUEST:**

A request for a variance to the front yard setback regulations of 15'6" is made to maintain an approximately 396 square foot addition to a two story, approximately 2,324 square foot single family home, part of which is located 9'6" (roof eave) from the site's front property line or 15'6" 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:

- The applicant had not substantiated at the time of the October 4<sup>th</sup> staff review team meeting how the features of the flat, rectangular-shaped, and approximately 7,500 square foot lot precluded him from developing it in a manner commensurate with other developments found on similarly-zoned R-7.5(A). There do not seem to be any restrictions hindering the applicant from developing/maintaining the lot with a commensurately-sized single family home structure/use that can comply with setbacks.

**BACKGROUND INFORMATION:**

**Zoning:**

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

### **Land Use:**

The subject site is developed with a single family home. The areas to the north, east, and south are developed with single family uses. There is a floodplain to the west, part of St. Augustine Park. The property is owned by the City and zoned R-7.5(A) with no current structures on-site.

### **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 addition made to an existing single family home, part of which is located 15' 6" inside of the site's 25' front property line along Algonquin Drive.
- The subject site is located west line of Algonquin Drive, south of Mesita Drive.
- Lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The subject property currently provides a 9' 6" front yard setback.
- In addition, there is a 30' front yard setback dedicated by the plat. The board cannot provide relief to platted building lines. A replat is required to change a platted building line. Replatting is not allowed until the site meets the zoning regulations for a district. In order to replat the lot and remove or alter the platted 30' front yard building setback, the applicant must first rezone the lot or receive relief from current zoning standards by way of a variance from the board.
- According to DCAD records, the "main improvement" for property addressed at 1521 Algonquin Drive is a structure built in 1964 with 1,656 square feet of living/total area with a 480 square foot attached brick garage as an additional improvement.
- A site plan has been submitted identifying the total square footage to be 2,324. The new front porch adds 396 square feet to the total square footage. The entire addition is within the required 25' front yard setback.
- According to calculations taken by the Board Senior Planner from the submitted site plan, the addition in the Algonquin Drive front yard setback accounts for about 17 percent of the total square footage of the existing single family home on the subject site.
- 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 structure in the front yard setback would be limited to what is shown on this document– which in this case is a portion of a structure located as close as 9’6” from the site’s front property line along Algonquin Drive (or 15’6” into the 25’ front yard setback). Additionally, the board cannot provide relief to the platted front yard setback of 30’. A replat is required to remove the platted building line.
- Furthermore, granting this request for variance would not provide relief to remedy any nonconforming structure on the site or any existing/proposed noncompliance with the fence height regulations.

**Timeline:**

- August 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.
- September 13, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- September 28, 2016: The Board Administrator shared the following information with the applicant’s representative via email:
- 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 September 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 7<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.”
- October 4, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and

Construction Board of Adjustment Chief Planner, the Board Administrator, Building Inspection Chief Planners, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas 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    **OCTOBER 19, 2016****

**APPEARING IN FAVOR:**            Elias Rodriguez, 317 E Jefferson, Dallas, TX  
Mary Castillo, 1521 Algonguin Dr., Dallas, TX  
Tom Lockley, 9328 Trailville, Dallas, TX

**APPEARING IN OPPOSITION:**    No one

**MOTION:    **Sibley****

I move that the Board of Adjustment, in Appeal No. **BDA 156-099**, on application of Jose R. Castillo, **deny** the variance 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 – Hounsel, Carreon, Cannon, Sibley, Agnich

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

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**MOTION:    **Cannon****

I move to adjourn this meeting.

**SECONDED:    **Carreon****

**AYES:** 5 – Hounsel, Carreon, Cannon, Sibley, Agnich

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

**1:42 P.M.** Board Meeting adjourned for **October 19, 2016**

\_\_\_\_\_  
CHAIRPERSON

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

\_\_\_\_\_  
BOARD SECRETARY

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