

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1 AUDITORIUM  
WEDNESDAY, NOVEMBER 16, 2016**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, Joe Carreon, regular member, Wini Cannon, regular member, Peggy Hill, alternate member and Robert Agnich, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

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

MEMBERS ABSENT FROM HEARING: No one

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

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

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**11:06 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **November 16, 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 October 19, 2016, 2016 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: NOVEMBER 16, 2016**

**MOTION:** None

The minutes were approved.

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**FILE NUMBER:** BDA156-116(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Malcolm O. Perry for special exceptions to the fence height and visual obstruction regulations at 5544 Park Lane. This property is more fully described as Lot 3, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a 14 foot 6 inch high fence, which will require a 10 foot 6 inch special exception to the fence height regulations, and to locate and maintain items in visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 5544 Park Lane

**APPLICANT:** Malcolm O. Perry

**REQUESTS:**

The following requests have been made on a site that is developed with a single family home:

1. A request for a special exception to the fence height regulations of up to 10' 6" is made to construct and maintain a fence (a 6' high open metal picket fence with 7' high columns and an entry feature with a 14' 6" high open decorative metal gate flanked by two 11' high columns) higher than 4' in height in the site's front yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made to locate and maintain portions of a 6' high open metal picket fence in three 20' visibility triangles at the two driveways into the site from Hathaway Street.

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

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

**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 (fence height):**

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

**STAFF RECOMMENDATION (visual obstruction special exceptions):**

Approval, subject to the following condition:

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

Rationale:

- Staff concurred with the Sustainable Development and Construction Department Project Engineer who has no objections to the requests.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be granted because the proposed 6' high open metal picket fence in three 20' visibility triangles at the two driveways into the site from Hathaway Street does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

1. BDA156-119, Property located at 5600 Park Lane (the lot east of the subject site) On November 16, 2016, the Board of Adjustment Panel B will consider a requests to the fence standards are made to: 1) complete and maintain a fence higher than 4' in height in the Park Lane front yard setback (an 8' high solid stone fence with an approximately 7' high gate) and in the Hathaway Street front yard setback (an entry

feature with solid stone wing walls ranging from 4' – 6' in height); 2) complete and maintain fence panels with surface areas that are less than 50 percent open (solid stone fences/wing walls) located about 2' from the Park Lane and Hathaway Street front lot lines (or less than 5' from these front lot lines).

2. BDA145-125, Property located at 5545 Park Lane (the lot north of the subject site)

On December 14, 2015, the Board of Adjustment Panel C granted a request for special exception to the fence height regulations of 2', and imposed the following condition to the request: compliance with submitted site plan and partial elevations is required.

The case report stated that the requests were made in conjunction with constructing and maintaining an approximately 5' 4" high open iron picket fence and gate with 5' 6" high masonry columns in the site's front yard setback on a site that being developed with a single family home.

3. BDA 045-291, Property located at 5600 Park Lane (the lot east of the subject site)

On September 21, 2005, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 6', and imposed the following condition to the request: Compliance with the submitted revised site plan/landscape/elevation plan is required.

The case report stated that the requests were made in conjunction with maintaining an 8' high solid board-on-board wood fence and gate (with a 10'-high arbor over the gate) located in the 40'-front yard setbacks along Park Lane and Hathaway Street; and a 6'-high open chain link fence in the Hathaway Street front yard setback.

### **GENERAL FACTS/STAFF ANALYSIS (fence height):**

- This request for a special exception to the fence height regulations focuses on constructing and maintaining a 6' high open metal picket fence with 7' high columns and an entry feature with a 14' 6" high open decorative metal gate flanked by two 11' high columns on a site developed with a single family home.
- The subject site is zoned R-1ac(A).

- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the southwest corner of Park Lane and Hathaway Street. The subject site has one front yard setback along Park Lane, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 10' required side yard along Hathaway Street, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9' high fence would be allowed by right. The site's Hathaway Street frontage is a side yard since there is no continuity of an established front yard setback to maintain along this street. (The property to the south of the subject site faces/fronfs south to Kemper Court).
- No part of the application is made to address any fence height issue in the site's Hathaway Street side yard setback.
- The applicant has submitted a site plan and revised elevations of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 14' 6".
- The following additional information was gleaned from the submitted site plan:
  - The proposal is represented as being approximately 255' in length parallel to the Park Lane and approximately 40' perpendicular to Park Lane on the east and west sides of the site in the front yard setback.
  - The fence proposal is represented as being located approximately on the Park Lane front property line or approximately 20' from the pavement line.
- Two single family lots front the proposed fence, one with an approximately 5' 4" high open metal fence its front yard that appears to be a result of a granted fence height special exception in 2015 (BDA145-125); and the other with a fence that does not appear to exceed 4' in height.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence in progress that appeared to be above 4' in height and located in a front yard setback. This fence is located immediately west of the subject site and is an application filed to the Board for special exceptions to the fence standards scheduled for November 16, 2016: BDA156-119.
- As of November 4<sup>th</sup>, 2016 no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 10' 6" will not adversely affect neighboring property.
- Granting this special exception of 10' 6" with a condition imposed that the applicant complies with the submitted site plan and revised elevations would require the proposal exceeding 4' in height in the front yard setback to be constructed maintained in the location and of the heights and materials as shown on these documents.

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

- These requests for special exceptions to the visual obstruction regulations focus on locating and maintaining portions of a 6' high open metal picket fence in three 20' visibility triangles at the two driveways into the site from Hathaway Street.

- 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).
- The applicant submitted a site plan and revised elevations representing a 6' high open metal picket fence in the two, 20' visibility triangles at the two driveways into the site from Hathaway Street. Requests for special exceptions to the visual obstruction regulations are made to locate and maintain a 6' high open metal picket fence in both driveway triangles at the north driveway on Hathaway Street, and in the north driveway triangle at the south driveway on Hathaway Street. Note that while an existing fence is located in the south driveway triangle at the south driveway on Hathaway Street, this fence is not part of the application since it is located in the public right-of-way.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "subject to the site plan. This recommendation is not applicable to the visual obstruction of the visibility triangle with the R.O.W."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate and maintain portions of a 6' high open metal picket fence located in three 20' visibility triangles at the two driveways into the site from Hathaway Street do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and revised elevations would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.

**Timeline:**

September 22, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 10, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

October 11, 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 October 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 4<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 25, 2016: The applicant's representative withdrew the application.

November 1, 2016: The applicant requested that the application be retained on the Board of Adjustment Panel B docket for November 16, 2016.

November 1 & 2, 2016: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A and B).

November 1, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, 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.

November 3, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "subject to the site plan. This recommendation is not applicable to the visual obstruction of the visibility triangle with the R.O.W."

### **BOARD OF ADJUSTMENT ACTION    NOVEMBER 16, 2016**

APPEARING IN FAVOR:                    Malcolm O. Perry, 5544 Park Lane, Dallas, TX

APPEARING IN OPPOSITION: No one

#### **MOTION #1: Hounsel**

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

#### **SECONDED: Agnich**

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

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

**MOTION #2: Cannon**

I move that the Board of Adjustment, in Appeal No. **BDA 156-116** on application of Malcolm O. Perry, **grant** the request of this applicant to construct and maintain a 14-foot 6-inch-high fence in the property’s front yard as a special exception to the height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Agnich**

**AYES:** 4 – Hounsel, Carreon, Cannon, Hill

**NAYS:** 1 – Agnich

**MOTION PASSED** 4 – 1

**MOTION #3: Cannon**

I move that the Board of Adjustment, in Appeal No. **BDA 156-116**, on application of Malcolm O. Perry, **grant** the request of this applicant to locate and maintain items in a visibility triangle as a special exception to the visual obstruction regulation contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Carreon**

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

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA156-117(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Chris Johnson for a variance to the off-street parking regulations at 2214 Routh Street. This property is more fully described as Lot 1A, Block D/557, and is zoned PD 225 (H/25, Tr 1), which requires a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and maintain a structure with enclosed parking spaces setback 13 feet 6 inches, which will require a variance of 6 feet 6 inches to the off-street parking regulations.



**LOCATION:** 2214 Routh Street

**APPLICANT:** Chris Johnson

**REQUEST:**

A request for a variance to the off-street parking regulations of 6' 6" is made to locate and maintain enclosed parking spaces in garages for a duplex structure use proposed on the undeveloped site located 13' 6" from the Routh Street front property/right-of-way line or 6' 6" into the required 20' distance that enclosed parking spaces must be from this street right-of-way.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following conditions:

1. Compliance with the submitted site plan is required.
2. Automatic garage doors must be installed and maintained in working order at all times.
3. At no time may the areas in front of the garages be utilized for parking of vehicles.

Rationale:

- Staff concluded that the variance should be granted because the subject site is unique and different from other lots in PD 225 by being of a restrictive area (only approximately 3,000 square feet) which, according to the applicant, precludes it from being developed in a manner commensurate with development upon other parcels of land in PD 225.
- Furthermore, staff concluded that the variance should be granted because the applicant provided information documenting that the proposed structure is commensurate with development found on other properties in PD 225 that are more typical in size, more specifically, the applicant has provided documenting that the

structure on the site has an approximately 1,700 square foot building footprint with approximately 1,900 square feet of air conditioned square footage per unit where others in PD 225 have approximately 1,900 square foot building footprint with approximately 3,000 square feet of air conditioned square footage.

- Lastly, staff concluded that granting this variance would not be contrary to public interest because the Sustainable Development and Construction Department Project Engineer has no objections to the request if the Board imposed the submitted site plan and that no vehicles should be allowed to park in driveways conditions, and the fact that the distance between the enclosed parking spaces and the projected Routh Street pavement line is approximately 20 feet.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 225, H/25 (Planned Development, Historic)  
North: PD 225, H/25 (Planned Development, Historic)  
South: PD 225, H/25 (Planned Development, Historic)  
East: PD 225, H/25 (Planned Development, Historic)  
West: PD 225, H/25 (Planned Development, Historic)

### **Land Use:**

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

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

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

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

- The request for a variance to the off-street parking regulations of 6' 6" focuses on locating and maintaining enclosed parking spaces in garages for a duplex structure use proposed on the undeveloped site located 13' 6" from the Routh Street front property/right-of-way line or 6' 6" into the required 20' distance that enclosed parking spaces must be from this street right-of-way.
- The site is zoned PD 225, H/25 Core where the minimum front yard for main buildings on an interior or corner lot must have a front yard setback that is within 5 percent of the average setback of all main buildings in the same blockface.
- The applicant has stated that he meets all setback requirements in PD 225 Historic Core District, and that "Routh Street is our block face and the average setback is 10' - 0".
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.

- The applicant has submitted a site plan and floor plan denoting a duplex structure located between 10' – 13' 6" from the front property line with four enclosed parking spaces in two garage structures within this structure located 13' 6" from the Routh Street right-of-way line or approximately 20' from the Routh Street pavement line.
- The applicant has provided information that states that the structure on the site has an approximately 1,700 square foot building footprint with approximately 1,900 square feet of air conditioned square footage per unit where others in the same zoning have approximately 1,900 square foot building footprint with approximately 3,000 square feet of air conditioned square footage.
- The applicant has provided a letter stating that the owner will not be allowing cars to park in front of the garage doors or block the sidewalk.
- According to DCAD records, there are "no improvements" for the property addressed at 2214 Routh Street.
- The subject site is flat, rectangular in shape (60' x 50'), and according to the submitted application is 0.069 acres (or approximately 3,000 square feet) in area. The site is zoned PD 225, H/25.
- 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 that no vehicles at any time be allowed to park in the driveway. The pedestrian pathway shall remain unobstructed at all times".
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 225 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 PD 225 zoning classification.
- If the Board were to grant the variance request, staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. Automatic garage doors must be installed and maintained in working order at all times.
  3. At no time may the areas in front of the garages be utilized for parking of vehicles.

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

**Timeline:**

September 22, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 10, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 11, 2016: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 4<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 25, 2016: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

November 1, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, 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.

November 1, 2016: The Sustainable Development and Construction Department Historic Preservation Chief Planner emailed the following comment to the Board Administrator: BDA156-117 is located in the State-Thomas historic district. A Courtesy Review is being reviewed by the Landmark Commission on Monday, November 7<sup>th</sup>.

November 3, 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 that no vehicles at any time be allowed to park in the driveway. The pedestrian pathway shall remain unobstructed at all times".

## **BOARD OF ADJUSTMENT ACTION    NOVEMBER 16, 2016**

**APPEARING IN FAVOR:**      Chris Johnson, 204 N Main Street, #112, Duncanville, TX  
Paul Yasbeck, 2608 Thomas, Dallas, TX

APPEARING IN OPPOSITION: Judy Hearst, 2512 Thomas Ave., Dallas, TX

MOTION #1: **Agnich**

I move that the Board of Adjustment, in request No. **BDA 156-117**, on application of Chris Johnson, **grant** a variance of 6 feet, 6 inches to the off-street parking regulations requiring a parking space located in an enclosed structure that faces upon or can be entered directly from a street or alley to be at least 20 feet from the right-of-way line adjacent to the street or alle 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 result in unnecessary hardship to this applicant. 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 is required.
- Automatic garage doors must be installed and maintained in working order at all times; and
- At no time may the areas in front of the garages be utilized for parking of vehicles.

SECONDED: **Cannon**

AYES: 3 –Carreon, Cannon, Agnich

NAYS: 2 – Hounsel, Hill

MOTION FAILED 3 – 2

MOTION #2: **Hounsel**

I move that the Board of Adjustment, in request No. **BDA 156-117**, on application of Chris Johnson, **deny** the off-street parking regulations variance **without prejudice** because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Agnich**

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

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

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FILE NUMBER: BDA156-119(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Nancy Rodriguez for special exceptions to the fence standards at 5600 Park Lane. This property is more fully described as Lot 4A, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain a fence with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards, and to construct and/or

maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards.

**LOCATION:** 5600 Park Lane

**APPLICANT:** Nancy Rodriguez

**REQUESTS:**

The following requests for special exceptions to the fence standards have been made on a site that is being developed with a single family home:

- 1) A special exception is made to complete and maintain a fence higher than 4' in height in the Park Lane front yard setback (an 8' high solid stone fence with an approximately 7' high gate) and in the Hathaway Street front yard setback (an entry feature with solid stone wing walls ranging from 4' – 6' in height);
- 2) A special exception is made to complete and maintain fence panels with surface areas that are less than 50 percent open (solid stone fences/wing walls) located about 2' from the Park Lane and Hathaway Street front lot lines (or less than 5' from these front lot lines).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is being developed with a single family home. The areas to the north, south, and west are developed with single family uses; and the area to the east is the Dallas North Tollway.

**Zoning/BDA History:**

1. BDA156-116, Property located at 5544 Park Lane (the lot west of the subject site)
 

On November 16, 2016, the Board of Adjustment Panel B will consider requests for special exceptions to the fence height and visual obstruction regulations to construct and maintain a fence higher than 4' in height in the site's front yard setback and to locate and maintain items in driveway visibility triangles.
  
2. BDA145-125, Property located at 5545 Park Lane (the lot northwest of the subject site)
 

On December 14, 2015, the Board of Adjustment Panel C granted a request for special exception to the fence height regulations of 2', and imposed the following condition to the request: compliance with submitted site plan and partial elevations is required.

The case report stated that the requests were made in conjunction with constructing and maintaining an approximately 5' 4" high open iron picket fence and gate with 5' 6" high masonry columns in the site's front yard setback on a site that being developed with a single family home.
  
3. BDA 045-291, Property located at 5600 Park Lane (the subject site)
 

On September 21, 2005, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 6', and imposed the following condition to the request: Compliance with the submitted revised site plan/landscape/elevation plan is required.

The case report stated that the requests were made in conjunction with maintaining an 8' high solid board-on-board wood fence and gate (with a 10'-high arbor over the gate) located in the 40'-front yard setbacks along Park Lane and Hathaway Street; and a 6'-high open chain link fence in the Hathaway Street front yard setback.
  
4. BDA056-012, Property located at 9520 Hathaway Street (the lot south of the subject site)
 

On November 16, 2005, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 6', and imposed the following condition to the request: Compliance with the submitted revised site plan and revised elevation plan is required.

The case report stated that the requests were made in conjunction with maintaining a

6' high chain link fence with approximately 5.5' – 6' high entry wing walls with 6' high columns and a 10' high arched wood vehicular gate with 7' high entry columns on a site developed with a single family home.

**GENERAL FACTS/STAFF ANALYSIS):**

- These requests for special exceptions to the fence standards focus on a site being developed with a single family home on completing and maintaining a fence higher than 4' in height in the Park Lane front yard setback (an 8' high solid stone fence with an approximately 7' high gate) and in the Hathaway Street front yard setback (an entry feature with solid stone wing walls ranging from 4' – 6' in height); and completing and maintaining fence panels with surface areas that are less than 50 percent open (solid stone fences/wing walls) located about 2' from the Park Lane and Hathaway Street front lot lines (or less than 5' from these front lot lines).
- The subject site is zoned R-1ac(A).
- Note the following with regard to the request for special exceptions to the fence standards pertaining to the **height** of the proposed fences in the front yard setbacks:
  - The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
  - The site is located at the southeast corner of Park Lane and Hathaway Street.
  - Given the single family zoning and location of the corner lot subject site, it has two 40' front yard setbacks – a front yard setback along Park Lane (the shorter of the two frontages of the subject site which is always a front yard in this case) and a front yard setback along Hathaway Street, (the longer of the two frontages which is typically considered a side yard where on this R-1ac(A) zoned property a 9' high fence could be erected by right). However the site has a front yard setback along Hathaway Street in order to maintain continuity of the established front yard setback along this street frontage where homes/lots to the south “front” on Hathaway Street.
  - The applicant has submitted a site plan and elevation of the proposal in the front yard setbacks with notations indicating that the proposal reaches a maximum height of 8'.
  - The following additional information was gleaned from the submitted site plan:
    - The proposal over 4' in height is represented as being approximately 140' in length parallel to the Park Lane.
    - The fence proposal is represented as being located approximately on the Park Lane front property line or approximately 20' – 22' from the pavement line.
    - The proposal over 4' in height (entry wing walls) is represented as being approximately 20' in length parallel to the Hathaway Street.
    - The fence proposal is represented as being located approximately on the Hathaway Street front property line or approximately 20' – 22' from the pavement line.



- Note the following with regard to the request for special exceptions to the fence standards pertaining to the **location and materials** of the proposed fences:
  - The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line. (This does not apply to retaining walls).
  - With regard to the special exceptions to the fence standards pertaining to the location and materials of the proposed fences, the applicant has submitted a site plan and elevations of the fence panels with surface areas that are less than 50 percent open (solid stone fences/wing walls) located about 2' from the Park Lane and Hathaway Street front lot lines (or less than 5' from these front lot lines".
  - The following additional information was gleaned from the submitted site plan:
    - The fence panel with a surface area that is less than 50 percent open located less than 5' from the Park Lane front lot line is an 8' high solid stone fence with an approximately 7' high gate that is represented as being approximately 140' in length parallel to the Park Lane, and as being located on the Park Lane front property line or approximately 20' – 22' from the pavement line.
    - The fence panel with a surface area that is less than 50 percent open located less than 5' from the Hathaway Street front lot line is mostly a 4' high solid stone fence with an approximately 7' high gate that is represented as being approximately 320' in length parallel to the Hathaway Street, and as being located approximately on the Hathaway Street front property line or approximately 20' – 22' from the pavement line.
- One single family lot with no fence fronts the proposed fence on Park Lane, and no single family lots front the proposed fence on Hathaway Street.
- The Board Administrator conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above 4' in height and located in a front yard setback. One is located immediately northwest and is an approximately 5' 4" high open metal fence its front yard that appears to be a result of a granted fence height special exception in 2015 (BDA145-125); the other is located immediately south of the subject site and appears to be a result of a granted fence special exception in 2005 (BDA056-012).
- As of November 4<sup>th</sup>, 2016, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height over 4' in the front yard setbacks and materials/height/location of the proposed fences will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4' in height in the front yard setbacks and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot lines of Park Lane and Hathaway Street to be constructed maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

September 22, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

October 10, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

October 11, 2016: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 4<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.

November 1, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, 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.

**BOARD OF ADJUSTMENT ACTION NOVEMBER 16, 2016**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Carreon**

I move to grant that the Board of Adjustment grant application **BDA 156-119** 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 is required.

SECONDED: **Agnich**

AYES: 5 – Honsel, Carreon, Cannon, Hill, Agnich  
NAYS: 0 –  
MOTION PASSED 5 – 0 (unanimously)

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**FILE NUMBER:** BDA156-130(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Leslie Ford for a variance to the front yard setback regulations at 2103 N. Hall Street. This property is more fully described as Lot 5A, Block V/594, and is zoned PD-466 (Subdistrict B), which requires a maximum front yard setback of 15 feet. The applicant proposes to construct and maintain a structure and provide a 136 foot front yard setback, which will require a 121 foot variance to the maximum front yard setback regulations.

**LOCATION:** 2103 N. Hall Street

**APPLICANT:** Leslie Ford

**REQUESTS:**

Requests for variances to the maximum front yard setback regulations of up to 121’ are made to construct and maintain an approximately 800 square foot restaurant with drive-in or drive-through service use/structure (Starbucks) on an undeveloped lot, all of which will be located further back than or behind the required 15 foot maximum front yard setbacks on Cochran Street, North Hall Street, and the North Central Expressway/US 75.

**STANDARD FOR A VARIANCE:**

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

- (D) 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;
- (E) 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
- (F) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STAFF RECOMMENDATION:**

Approval of the requests, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the variances should be granted because the subject site is unique and different from other lots in PD 466 by being of a restrictive area caused by 4 front yard setbacks and of an irregular shape. These features of the subject site preclude it from being developed in a manner commensurate with development upon other parcels of land with the same zoning, more specifically, how if the applicant were held to code (constructing and maintaining a structure that complies with the maximum 15' front yard setback on all four frontages), there would be no area to provide required landscaping, circulation, or off-street parking.

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	PD 466 (Subdistrict B) (Planned Development)
<u>North:</u>	PD 466 (Subdistrict A) (Planned Development)
<u>South:</u>	PD 255 (Planned Development)
<u>East:</u>	PD 466 (Subdistrict A) (Planned Development)
<u>West:</u>	PD 255 (Planned Development)

**Land Use:**

The subject site is undeveloped. The areas to the north, south, and west is North Central Expressway/US 75 and the area to the east is developed with retail uses.

**Zoning/BDA History:**

The subject site and area to the north, east, and south were zoned PD 466 in 1997.

**GENERAL FACTS /STAFF ANALYSIS:**

- The requests for variances to the maximum front yard setback regulations of up to 121' focuses on constructing and maintaining approximately 800 square foot restaurant with drive-in or drive-through service use/structure (Starbucks) on an undeveloped lot, all of which will be located further back than or behind the required 15 foot maximum front yard setbacks on Cochran Street, North Hall Street, and the North Central Expressway/US 75.
- The subject site is located at the south corner of North Hall Street and North Central Expressway/US 75. The site has four front yard setbacks: one front yard setback on the north (North Central Expressway/US 75), one front yard setback on the east (North Hall Street), one front yard setback on the south (Cochran Street), and one front yard setback on the west (North Central Expressway/US 75).
- The subject site is located/zoned PD 466 (Subdistrict B).
- PD 466 states the following with regard to "Front yard" setbacks:
  1. Except as otherwise provided in this subsection, minimum front yard is 10 feet and maximum front yard is 15 feet.

2. Minimum front yard is Sudistrict A is 15 feet. There is no maximum front yard.
  3. To encourage construction of plazas and open spaces at the corners on Hall Street, Hall Street lots adjoining a street intersection may have additional setbacks up to 25 percent of the total building length parallel to Hall Street added to the setback for the portion of the building closest to the corner. For example, if a building on a corner lot has a building length parallel to Hall Street of 100feet, the 25-foot by 25-foot square area of the building closest to the corner may be added to the regular setback, as demonstrated below.
- The subject site has a maximum front yard setback of 15' along its four street frontages.
  - The applicant has submitted a site plan that represents that the approximately 800 square foot restaurant with drive-in or drive-through service use/structure is located 121' away from or behind the 15' maximum front yard setback on the north, approximately 52' away from or behind the 15' maximum front yard setback on the east, approximately 3' away from or behind the 15' maximum front yard setback on the south, and approximately 62' away from or behind the 15' maximum front yard setback on the west. The structure is proposed to be located as much as 136' away from a front property line or as much as 121' behind the maximum 15' front yard setback. The site plan indicates that the proposed structure meets the 10' minimum front yard setback on all four street frontages.
  - The applicant has provided a document stating among other things that if the applicant were held to city code, no building of any sort would be allowed once required circulation and parking were provided on this site.
  - According to DCAD records, there are "no improvements" at 2103 N. Hall Street.
  - The site is flat, irregular in shape, and according to the application is 0.5313 acres (or approximately 23,000 square feet) in area.
  - The applicant has the burden of proof in establishing the following:
    - That granting the variances 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 variances to front yard setback regulations are 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 466 zoning classification.
    - The variances to 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 466 zoning classification.
  - If the Board were to grant the requests for variances to the front yard setback regulations and impose the applicant's submitted site plan as a condition, the structure in the front yard setbacks would be limited to that what is shown on this plan which in this case is an approximately 800 square foot restaurant with drive-in or drive-through service use/structure to be located as far as 136' from one of the site's four front property lines or as much a 121' further back from or behind the required 15' maximum front yard setback.

## Timeline:

October 20, 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.

October 27, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 28, 2016: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 4<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."

November 1, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, 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.

## BOARD OF ADJUSTMENT ACTION    **NOVEMBER 16, 2016**

APPEARING IN FAVOR:                    Dallas Cothrum, 900 Jackson St., #640, Dallas, TX

APPEARING IN OPPOSITION:    No one

MOTION:    **Cannon**

I move that the Board of Adjustment, in Appeal No. **BDA 156-130**, on application of Leslie Ford, **grant** a 121-foot variance to the maximum front yard setback regulations, 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 – Hounsel, Carreon, Cannon, Hill

**NAYS:** 1 – Agnich

**MOTION PASSED** 4 – 1

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**FILE NUMBER:** BDA156-115(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Pedro Guerrero, Jr. for a special exception to the side yard setback regulations for a carport at 3107 Culver Street. This property is more fully described as Lot 8, Block F/2106, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport and provide a 0 foot setback, which will require a 5 foot special exception to the side yard setback regulations.

**LOCATION:** 3107 Culver Street

**APPLICANT:** Pedro Guerrero, Jr.

**November 16, 2016 Public Hearing Notes:**

- The Board Administrator forwarded a revised site plan and revised elevations submitted by the applicant to the Board at the briefing.

**REQUEST:**

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

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

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

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

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is developed with a single family home. The area to the north is I-30; and the areas to the east, south, and west are developed with single family uses.

**Zoning/BDA History:**

1. BDA045-170, 3114 Culver (the lot immediately southeast of the subject site)      On April 19, 2005, the Board of Adjustment Panel A granted a request for a special exception of 5' requested in conjunction with maintaining an approximately 756 square foot carport on the site's side property line. The board imposed the following conditions: the carport must remain open at all times; lot-to-lot drainage is prohibited; all applicable permits must be obtained; and compliance with the submitted site plan is required.
  
2. BDA045-256, 3110 Culver Street (two lots southeast of the subject site)      On August 16, 2005, the Board of Adjustment Panel A granted a request for a special exception of 5' requested in conjunction with maintaining an approximately 500 square foot carport on the site's side property line. The board imposed the following conditions: the carport must remain open at all times; lot-to-lot drainage is prohibited; all applicable permits must be



- obtained; and compliance with the submitted site plans and elevations is required.
3. BDA 978-217, Property at 3119 Culver Street (two lots east of the subject site) On August 25, 1998, the Board of Adjustment Panel A granted a request for a special exception to the side yard setback regulations of 5' and imposed the following conditions: 1) compliance with the submitted site plan is required; 2) the carport must remain open at all times; 3) all applicable building permits must be obtained; and 4) lot-to-lot drainage is prohibited. The case report stated that the request was made in conjunction with maintaining an approximately 900 square foot (75' x 12') three-vehicle metal carport.
4. BDA112-093, 3015 Culver Street (four lots west of the subject site) On October 15, 2012, the Board of Adjustment Panel C granted a request for a special exception of 5' requested in conjunction with maintaining an approximately 600 square foot carport on the site's side property line. The board imposed the following conditions: the carport must remain open at all times; lot-to-lot drainage is prohibited; all applicable permits must be obtained; and compliance with the submitted revised site plan and revised elevations is required.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the side yard setback regulations of 5' focuses on maintaining an existing approximately 400 square foot carport that may be located as close as on the site's eastern side property line or as much as 5' into this 5' side yard setback on a site developed with a single-family home structure/use.
- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The applicant has submitted a site plan and elevations indicating the size and materials of the carport, and its location 3' from the site's eastern side property line. However, given staff comments and observations made at the November 1<sup>st</sup> staff review team meeting, the applicant amended his request to account for the carport that may be as close as on the eastern side property line or as much as 5' into this 5' side yard setback.
- The following information was gleaned from the submitted site plan:
  - The carport is represented to be 40' in length and approximately 10' in width (approximately 400 square feet in total area) of which approximately 1/5 is located in the eastern side yard setback.
- The following information was gleaned from the submitted elevation:

- Metal roof, metal sheet panels, metal posts
- 8' in height.
- The subject site is approximately 150' x 50' (or approximately 7,500 square feet) in area.
- According to DCAD records, the “main improvement” for property addressed at 3107 Culver Street is a structure built in 1925 with 1,316 square feet of living/total area; and the “additional improvements” is a 400 square foot detached garage.
- Four other carports were identified on the block in a field visit conducted by the Board Administrator. Of these four, it appeared that 3 had recorded history with having special exceptions granted by the Board of Adjustment (see the “Zoning/BDA History” of this case report for additional details).
- As of November 4<sup>th</sup>, 2016, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing the following:
  - that granting this special exception to the side yard setback regulations of 3' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:
  1. Compliance with a site plan to be submitted that accurately conveys the size and location of the carport relative to property lines and elevations is required.
  2. The carport structure must remain open at all times.
  3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
  4. All applicable building permits must be obtained.
  5. No item (other than a motor vehicle) may be stored in the carport.

**Timeline:**

September 21, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 10, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 11, 2016: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 4<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.”

November 1, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, 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 with comments were submitted in conjunction with this application.

November 1, 2016: The Board Administrator contacted the applicant and requested that given what was reviewed at the November 1<sup>st</sup> staff review team meeting, that he would have until the morning of November 2<sup>nd</sup> to amend his application to something greater than that what he had originally applied for: a special exception to the side yard setback regulations of 2' to maintain a carport located 3' from the site's eastern side property line.

November 1, 2016: The applicant emailed the Board Administrator and requested to amend his application where the carport may be located as close as on the side property line, which will require a 5 foot special exception to the side yard setback regulations.

November 2, 2016: The Board Administrator emailed the applicant informing him that his application would be amended per his request; and that between now and the November 16<sup>th</sup> hearing, he must complete his application with Building Inspection by submitting a site plan and an elevation of the carport in the side yard setback that accurately reflects what he wants the board of adjustment to consider, and to be mindful of the fact that when the board grants this type of request, they impose the applicant's submitted site plan and elevation as a condition to the request.

## **BOARD OF ADJUSTMENT ACTION    NOVEMBER 16, 2016**

**APPEARING IN FAVOR:**            Pedro Guerrero, Jr., 3107 Culver St., Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION: Carreon**

I move that the Board of Adjustment, in request No. **BDA 156-115**, on application of Pedro Guerrero Jr., **grant** a 5-foot special exception to the side yard setback regulations for a carport because our evaluation of the property and testimony shows that the special exception will not have a detrimental impact on surrounding properties. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan and revised elevations is required.
- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted in conjunction with this carport special exception.
- All applicable building permits must be obtained.
- No item (other than a motor vehicle) may be stored in the carport.

**SECONDED: Hill**

**AYES:** 5 – Hounsels, Carreon, Cannon, Hill, Agnich

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

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**MOTION: Cannon**

I move to adjourn this meeting.

**SECONDED: Carreon**

**AYES:** 5 – Hounsels, Carreon, Cannon, Hill, Agnich

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

**2:28 P.M.** Board Meeting adjourned for **November 16, 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.