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CITY SECRETARY
DALLAS, TEXAS

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
TUESDAY, JANUARY 19, 2021**

MEMBERS PRESENT AT BRIEFING: Cheri Gambow, Chair, Taylor Adams, regular member Sarah Lamb, regular member, Lawrence Halcomb, regular member, Jay Narey, regular member

MEMBERS ABSENT FROM BRIEFING: None.

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Atty., Oscar Aguilera, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Public Information Officer, Charles Trammell, Development Code Specialist, Jason Pool, Sign Code Specialist, David Nevarez, Engineering Division, Phil Erwin, Arborist, Neva Dean, Assistant Director, and Kris Sweckard, Director.

MEMBERS PRESENT AT HEARING: Cheri Gambow, Chair, Taylor Adams, regular member Sarah Lamb, regular member, Lawrence Halcomb, regular member, Jay Narey, regular member.

MEMBERS ABSENT FROM HEARING: None.

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Atty., Oscar Aguilera, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Public Information Officer, Charles Trammell, Development Code Specialist, Jason Pool, Sign Code Specialist, David Nevarez, Engineering Division, Phil Erwin, Arborist, Neva Dean, Assistant Director, and Kris Sweckard, Director.

11:06 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 19, 2021** docket.

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.

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel A, November 17, 2020 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: January 19, 2021

MOTION: Lamb

Approval of the Board of Adjustment Panel A, November 17, 2020 public hearing minutes.

SECONDED: Adams

AYES: 5 – Gambow, Lamb, Adams, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-117(OA)

BUILDING OFFICIAL’S REPORT: Application of Baldwin Associates for a special exception to the fence height regulations at 4923 Deloache Avenue. This property is more fully described as Part of Lot 4 and Part of Lot 5, Block 10/5583, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct a six-foot-high fence in a required front yard, which will require a two-foot special exception to the fence regulations.

LOCATION: 4923 Deloache Avenue

APPLICANT: Baldwin Associates represented by Rob Baldwin

REQUEST:

A request for a special exception to the fence standards regulations related to height of two feet is made to construct and maintain a six-foot-high wrought iron fence with two wrought iron vehicular gates and masonry columns located in the site’s required front yard on a site developed with a single family home.

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)
- North: R-1ac(A) (Single Family District)
- East: R-1ac(A) (Single Family District)
- South: R-1ac(A) (Single Family District)
- West: R-1ac(A) (Single Family District)

Land Use:

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

Zoning/BDA History:

- 1. BDA167-131, Property at 4907 Deloache Avenue (northwest of the subject site)

On November 13, 2017, the Board of Adjustment Panel B approved requests for special exceptions to the fence height regulations of four-feet-in-height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than five feet from the front lot line.

- 2. BDA156-045, Property at 4926 Deloache Avenue (southeast, across the street, of the subject site)

On May 18, 2016, the Board of Adjustment Panel B approved a request for a special exception to the fence height regulations of six-feet six-inches. The case report stated that the request was made to construct/maintain a six-foot three-inch-high open wrought iron fence with seven-foot-high cement plaster columns; an approximately eight-foot-high open metal pedestrian gate with approximately eight-foot-high cement plaster columns topped with approximately two-foot-high decorative urns, and an approximately nine-foot six-inch-high open metal vehicular entry gate with an approximately eight-foot six-inch-high cement plaster columns topped with two-foot-high decorative urns.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the fence standards regulations related to height of two feet is made to construct and maintain a six-foot-high wrought iron fence with two wrought iron vehicular gates and masonry columns located in the site’s required front yard on a site developed with a single family home.

Dallas Development Code states that in all residential districts except multifamily districts a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-1ac(A) Single Family District, which requires a 40-foot front yard setback.

The applicant has submitted a site plan and elevation of the proposal showing the proposed fence in the front yard setback reaches a maximum height of six feet.

The following additional information was gleaned from the submitted site plan:

- The location of the proposed fence is located two feet from the front lot line parallel to Deloache Avenue or approximately 22 feet from the pavement line.
- The length of the proposed fence in the front yard setback parallel to Deloache Avenue is approximately 170 feet and 40 feet along the west side.

Staff conducted a field visit of the site and the surrounding area. One other fence which appears to be above four feet-in-height was noted northwest of the subject site. The existing fence has a recorded BDA history as stated in this report (BDA167-131).

As of January 8, 2021, no letters have been submitted in support of or in opposition to this request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach six-feet-in-height) will not adversely affect neighboring property.

Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding two-feet-in-height to be located in the front yard setback and to be constructed and maintained in the location and of the heights as shown on this document.

Timeline:

- October 26, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- December 9, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.
- December 11, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application;

- an attachment that provided the public hearing date and panel that will consider the application; the December 28, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”

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

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

BOARD OF ADJUSTMENT ACTION: January 19, 2021

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

APPEARING IN OPPOSITION: None.

MOTION: Narey

I move that the Board of Adjustment, in Appeal No. BDA 190-117, on application of Rob Baldwin, **grant** the request of this applicant to construct and/or maintain a six-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, 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 elevation is required.

SECONDED: Halcomb

AYES: 5 – Gambow, Adams, Halcomb, Lamb, Narey

NAYS: 0 -

MOTION PASSED: 5-0 (unanimously)

FILE NUMBER: BDA201-001(OA)

BUILDING OFFICIAL'S REPORT: Application of Baldwin Associates for a special exception to the parking regulations at 2615 Elm Street. This property is more fully described as Lots 6 and 12, Block 286, and is zoned Planned Development District No. 269 (Tract A), which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for a commercial amusement (inside) use, and provide 46 of the required 115 parking spaces, which will require a 69-space special exception (60 percent reduction) to the parking regulation.

LOCATION: 2615 Elm Street

APPLICANT: Baldwin Associates represented by Rob Baldwin

REQUEST:

A request for a special exception to the off-street parking regulations of 69 spaces is made to remodel and maintain an commercial amusement (inside) use within a structure containing 15,230 square feet of floor area and to provide 46 of the 115 required off-street parking spaces.

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

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

1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article *if the board finds*, after a public hearing, that *the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets*. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

2) In determining whether to grant a special exception, the board shall consider the following factors:

- (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.

- (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
- (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Approval.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer reviewed the provided parking study and has no objections to the request.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 269, Tract A
North: PD No. 269, Tract A
South: PD No. 269, Tract A
East: PD No. 269, Tract A
West: PD No. 269, Tract A

Land Use:

The subject site is proposed to be a commercial amusement (inside) use. The areas to the north, south, and west are developed with commercial uses. The area to the east is developed with institutional use.

Zoning/BDA History:

There have not been any related board or zoning cases in the immediate vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the off-street parking regulations of 69 spaces is made to remodel and maintain a structure containing 15,230 square feet of floor area to be utilized as a commercial amusement (inside) use and provide 46 of the 115 required off-street parking spaces.

PD No. 269 does not require inside commercial amusement (the PD refers to the use in this manner) uses to provide off-street parking spaces for the first 2,500 square feet of floor area in a ground-level use that has a separate certificate occupancy in an original building. A minimum of one space per 100 square feet of floor area is required for the remaining floor area of an inside commercial amusement use. PD No. 269 also allows a 10-percent reduction to off-street parking requirements when the use is located within a one-fourth mile of a DART light-rail station.

The Sustainable Development and Construction Department Senior Engineer has no objections to the request.

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

- The parking demand generated by the proposed commercial amusement (inside) use in a structure with 15,230 square feet of floor area does not warrant the number of off-street parking spaces required: and
- The special exception of 69 spaces (or a 60 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

If the board were to grant this request a condition may be imposed that the special exception of 69 spaces shall automatically and immediately terminate if and when the inside commercial amusement use with 15,230 square feet of floor area is changed or discontinued.

TIMELINE:

November 11, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 11, 2020: The Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the December 29, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:

- a copy of the application materials including the Building Official’s report on the application;
- 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.”

December 16, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**)

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

December 31, 2020: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “no objections” (**Attachment B**)

BOARD OF ADJUSTMENT ACTION: January 19, 2021

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B, Dallas, TX
Christy Lambeth 8637 CR 148 Kaufman, TX

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-001, on application of Baldwin Associates, represented by Rob Baldwin, **grant** the request of this applicant to provide 46 off-street parking spaces to the off-street parking regulations contained in the Dallas Development Code, as amended, which require 115 off-street parking spaces, because our evaluation of the property use and the testimony shows that this special exception will not increase traffic hazards or increase traffic congestion on adjacent or nearby streets, and the parking demand generated by the use does not warrant the number of required parking spaces. This special exception is granted for a commercial amusement (inside) use only.

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

The special exception of 69 spaces shall automatically and immediately terminate if and when the commercial amusement (inside) use is changed or discontinued.

SECONDED: Halcomb

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA201-002(OA)

BUILDING OFFICIAL'S REPORT: Application of Robert B. Vaughan for a variance to the front yard setback regulations at 5420 Bryan Street. This property is more fully described as Lot 6 and Part of Lot 7, Block R/1860, and is zoned Planned Development District No. 63 (Area C), H-1 (Swiss Avenue Historic District), which requires a front yard setback of 30 feet. The applicant proposes to construct a single family residential accessory structure and provide an 18-foot front yard setback, which will require a 12-foot variance to the front yard setback regulations.

LOCATION: 5420 Bryan Street

APPLICANT: Robert B. Vaughan

REQUESTS:

A request for a variance to the front yard setback regulations of 12 feet is made to construct and maintain an approximately 1,100 square-foot pool located 18 feet from the site's front property line or 12 feet into the 30-foot front yard setback on a site that is developed with a two-story single family structure.

STANDARD FOR A VARIANCE:

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

- (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 (front yard variance):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the PD No. 63 (Area C) H-1 zoning district due to its restrictive area and irregular shape creating a smaller lot size than nine other lots in Area C of PD No. 63. Ultimately, the property cannot be developed in a manner commensurate with the development upon other parcels of land with the same Area C portion of PD No. 63.
- The applicant submitted a document (Attachment A) indicating, among other things, that the proposed pool addition on the subject site is commensurate to nine other lots in Area C of PD No. 63.

BACKGROUND INFORMATION:

Zoning:

Site: Planned Development No.63, Area C, H-1 Overlay District
North: MF-2(A) Multifamily District
South: Planned Development No.63, Area A, H-1 Overlay District
East: Planned Development No.63, Area A, H-1 Overlay District
West: Planned Development No.63, Area A, H-1 Overlay District

Land Use:

The subject site and surrounding properties are developed with multi-family and single family uses.

Zoning/BDA History:

1. BDA190-060, Property at 5507 Bryan Street (northeast of the subject site)

On June 24, 2020, the Board of Adjustment Panel B approved the request for a variance to the rear yard setback regulations of four-feet six-inches made to add and maintain an attached covered rear patio to the existing single family structure 45-feet six-inches from the rear property line or up to four-feet six-inches into the required 50-foot rear yard setback on a site that is developed with a two-story residential structure and imposed the submitted site plan as a condition.

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

This request focuses on adding and maintaining an approximately 1,100 square-foot pool located 18 feet from the site's front property line or 12 feet into the 30-foot front yard setback on a site that is developed with a two-story residential structure.

Structures on lots zoned PD No. 63 (Area C) H-1 must have a minimum front yard setback of 30 feet. A site plan has been submitted denoting the proposed pool structure will be located 18-feet from the front property line. The site plan shows that approximately 40 percent of the pool structure will be located in the site's 30-foot front yard setback.

The subject site is irregular in shape and the lot is approximately 16,166 square feet in area. PD No.63, Area C, H-1 zoning requires lots within this area to have a minimum lot size of 7,500 square feet.

The applicant submitted a document (Attachment A) indicating, among other things, that the proposed pool structure on the subject site is commensurate to nine other lots in the same PD No. 63 zoning district. Attachment A also notes the average lot size of nine lots in this district is 23,074 square feet while the subject lot is 16,116 square feet.

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

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same Planned Development No.63, Area C, H-1 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 Planned Development No.63, Area C, H-1 zoning classification.

If the board were to grant this front yard setback variance request and impose the submitted site plan as a condition, the pool structure in the front yard setback would be limited to what is shown on this document. Granting this special exception request will not provide any relief to the Dallas Development Code regulations other than for an approximately 1,100 square-foot pool located 18 feet from the site's front property line or 12 feet into the 30-foot front yard setback on a site that is developed with a two-story residential structure.

Timeline:

November 11, 2020: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

December 11, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 28, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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."

December 29, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**)

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

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

BOARD OF ADJUSTMENT ACTION: January 19, 2021

APPEARING IN FAVOR: Robert Vaughan 5420 Bryan St. Dallas, TX
Vince Liggett 5420 Bryan St. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-002, on application of Robert B. Vaughan, **grant** the request for a twelve-foot variance to the front yard setback regulations contained in the Dallas Development Code, as amended, is granted, subject to the following condition:

Compliance with the submitted site plan is required.

SECONDED: Narey

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA201-008(OA)

BUILDING OFFICIAL’S REPORT: Application of Jessica Brewer represented by Kevin Brewer for a variance to the front yard setback regulations at 4536 Garrison Street. This property is more fully described as Lot 10, Block B/5148, and is zoned an R-7.5(A) Single Family District, which requires a front yard setback of 25 feet. The applicant proposes to construct a single-family residential structure and provide a 10-foot front yard setback, which will require a 15-foot variance to the front yard setback regulations.

LOCATION: 4536 Garrison Street

APPLICANT: Kevin Brewer

REQUEST:

A request for a variance to the front yard setback regulations of 15 feet is made to construct and maintain a one-story single family structure with a total of approximately 1,730 square feet, part of which is to be located 10 feet from one of the site’s two front property lines (Kilburn Avenue) or 15 feet into this 25-foot front yard setback on a site that is undeveloped.

STANDARD FOR A VARIANCE:

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

- (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, subject to the following condition:

- compliance with the submitted site plan is required.

C

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-7.5(A) zoning district in that it is restrictive in area due to having two, 25-foot front yard setbacks when most lots in this zoning district have one front yard setback. Additionally, the lot is restricted by only being 7,000 square feet when most lots in this zoning district are a minimum of 7,500 square feet. These restrictions make the subject property incapable of being developed in a manner commensurate with the development upon other parcels of land with the same zoning.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that the total home size of the proposed home on the subject site at approximately 1,730 square feet is commensurate to 12 other homes in the same R-7.5(A) zoning district that have an average home size of approximately 2,340 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district)
North: R-7.5(A) (Single family district)
South: R-7.5(A) (Single family district)
East: R-7.5(A) (Single family district)
West: R-7.5(A) (Single family district)

Land Use:

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

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS /STAFF ANALYSIS:

The property is currently undeveloped and located in an R-7.5(A) Single Family District which requires a minimum front yard setback of 25 feet. This request for a 15-foot variance to the front yard setback requirement focuses on constructing and maintaining a one-story single family structure with a total of approximately 1,730 square feet.

The subject site is located at the northeast corner of Garrison Street and Kilburn Avenue. Regardless of how the structure is proposed to be oriented to front Garrison Street, the subject site has a 25-foot front yard setback along both street frontages. The site has a 25-foot front yard setback along Garrison Street, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 25-foot front yard setback along Kilburn Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a five-foot side yard setback is required. However, the site's Kilburn Avenue frontage that would function as a side yard on the property is treated as a front yard setback nonetheless, to maintain the continuity of the front yard setback established by the lots to the east that are oriented to front southeast towards Kilburn Avenue.

The submitted site plan indicates the proposed structure is located 10 feet from the Kilburn Avenue front property line or 15 feet into this 25-foot front yard setback.

According to DCAD records, there are "no main improvement" or "no additional improvements" for this property.

The subject site is flat, rectangular (approximately 140 feet by 50 feet), and according to the submitted application is 0.160 acres (or approximately 7,000 square feet) in area. The site is zoned an R-7.5(A) District where lots are typically 7,500 square feet in area. Most lots in the R-7.5(A) zoning district have one 25 foot front yard setback, two five-foot side yard setbacks, and one five-foot rear yard setback. As noted, this site has two 25-foot front yard setbacks and two five-foot side yard setbacks. The submitted site plan represents that approximately 40 percent of the structure is located in the 25-foot Kilburn Avenue front yard setback. No variance would be necessary if the Kilburn Avenue frontage were a side yard since the site plan represents that the proposed home is 10 feet from the Kilburn Avenue property line which would exceed the five-foot side yard setback for properties zoned an R-7.5(A) District.

The applicant has submitted a document indicating among other things that the total home size of the proposed home on the subject site is approximately 1,730 square feet, and the average of 12 other properties in the same zoning is approximately 2,340 square feet.

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

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) Single Family District 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) Single Family District zoning classification.

If the board were to grant the variance request and impose the submitted site plan as a condition, the single-family structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 10 feet from the site’s Kilburn Avenue front property line (or 15 feet into this 25-foot front yard setback).

Timeline:

- November 20, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- December 9, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.
- December 11, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:
 - a copy of the application materials including the Building Official’s report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the December 28, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”
- December 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of

Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Sign Code Specialist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

December 31, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

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

BOARD OF ADJUSTMENT ACTION: January 19, 2021

APPEARING IN FAVOR: Kevin Brewer 280 Brookbend Waxahachie, TX

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-008, on application of Jessica Brewer, represented by Kevin Brewer, for a fifteen-foot variance to the front yard setback regulations contained in the Dallas Development Code, is **granted**, subject to the following condition:

Compliance with the submitted site plan is required.

SECONDED: Narey

AYES: 5 –Halcomb, Narey, Gambow, Adams, Lamb

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA201-010(OA)

BUILDING OFFICIAL’S REPORT: Application of Thomas W. Taylor for a variance to the floor area for structures accessory to single-family uses regulations at 4516 Bluffview Boulevard. This property is more fully described as the Northeast 1/2 of Lot 2, Block O/4984, and is zoned Planned Development District No. 455 (Subdistrict B), in which all accessory structures may not exceed 50 percent of the floor area of the main structure. The applicant proposes to construct and maintain all single family residential accessory structures with 1,761 square feet of floor area (67.8 percent of the 2,598-square-foot floor area of the main structure), which will require a 462-square-foot variance to the floor area ratio regulations.

LOCATION: 4516 Bluffview Boulevard

APPLICANT: Thomas W. Taylor

REQUESTS:

A request for a variance to the floor area regulations of 462 square feet (or 67.8 percent) for structures accessory to single-family uses is made to construct and maintain an accessory structure with 512 square feet of floor area. The proposed additional accessory structure would raise the total floor area to 1,761 square feet for all accessory structures, which is 67.8 percent of the existing 2,598-square-foot floor area of the main structure on a site that is developed with a single-family home.

STANDARD FOR A VARIANCE:

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

- (G) 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;
- (H) 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
- (I) 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 condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is restrictive in area due to being smaller in lot size than nine lots in Planned Development District No. 455 (Subdistrict B). Ultimately, the lot cannot be developed in a manner commensurate with the development upon other parcels of land within PD No. 455.
- The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed addition on the subject site is commensurate to nine other lots in the same zoning district.

BACKGROUND INFORMATION:

Zoning:

- Site: Planned Development District No. 455 (Subdistrict B)
- North: Planned Development District No. 455 (Subdistrict B)
- South: R-10(A) (Single Family District)

East: Planned Development District No. 455 (Subdistrict B)
West: Planned Development District No. 455 (Subdistrict B)

Land Use:

The subject site and all surrounding properties are developed with a single-family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on constructing and maintaining an accessory structure with 512 square feet of floor area. The proposed additional accessory structure would raise the total floor area to 1,761 square feet for all accessory structures, which is 67.8 percent of the existing 2,598-square-foot floor area of the main structure on a site that is developed with a single-family home. The site is located in Planned Development District No. 455 (Subdistrict B) which refers to the R-10(A) Single Family District regulations within the Dallas Development Code and where the maximum lot coverage for residential structures is 45 percent. Furthermore, the Dallas Development Code states that the total floor area of all accessory structures on a lot may not exceed 50 percent of the floor area of the main building.

DCAD records indicate the following improvements for the property located at 4516 Bluffview Boulevard: “main improvement: a structure with 3,045 square feet of living area built-in 2012” and “additional improvements: a 156-square-foot storage building and a 456-square-foot detached carport”.

The submitted site plan makes the following notations:

- Existing house: 2,598 square feet.
- Total floor area for accessory structures: 1,761 square feet
- Proposed studio accessory structure: 512 square feet.
- Guest room: 484 square feet.
- Daughter’s Room: 619 square feet
- Carport: 156
- Maximum floor area for accessory structures: 50 percent.
- Total floor area of all accessory structures: 67.8 percent.

The site plan represents that the proposed accessory structure would push the total floor area for the collection of accessory structures to exceed the maximum of 50 percent floor area of the main building requirements on the subject site.

The subject site is rectangular, flat, and according to the application, is 0.55 acres (or approximately 24,000 square feet) in area. The site is zoned PD No. 455 where lots are a minimum of 21,780 square feet in area for Subdistrict B.

The applicant has submitted a document indicating among other things that the total home size and proposed additional improvements on the subject site is 4,359 square feet, and the average of nine other properties in the same zoning have a lot average of 25,500 square feet with about 5,968 square feet in improvements.

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

- That granting the variance to the floor area regulations for structures accessory to single-family uses 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 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 zoning classification.

If the board were to grant a variance to the floor area regulations for structures accessory to single-family uses and impose the submitted site plan as a condition, the building footprints of the structures on the site would be limited to what is shown on this document.

Timeline:

November 25, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel A.

December 11, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 28, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”

December 23, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

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

December 31, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment B**).

January 5, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment C**).

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

BOARD OF ADJUSTMENT ACTION: January 19, 2021

APPEARING IN FAVOR: Thomas Taylor 4516 Bluffview Blvd. Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-010, on application of Thomas W. Taylor, **GRANT** the 269.5 square foot variance to the floor area ratio regulations requested by this applicant because our evaluation of the property and testimony shows that the property is restrictive in area such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would prevent development in a manner commensurate with the development of other parcels of land in PD No. 455.

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: Halcomb

AYES: 5 –Halcomb, Narey, Gambow, Adams, Lamb

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

FILE NUMBER: BDA201-007(OA)

BUILDING OFFICIAL’S REPORT: Application of Texans Can Academy represented by National Signs Inc. for a special exception to the sign regulations at 325 W. 12th Street. This property is more fully described as Lot 1A, Block 57/3177, and is zoned Planned Development District No. 316 (Subarea 3), which limits the number of detached signs on a premises to one per street frontage other than expressways and allows only one detached sign for every 450 feet of frontage or fraction thereof on an expressway. The applicant proposes to construct one additional detached premises sign on a nonresidential premise, which will require a special exception to the sign regulations.

LOCATION: 325 W. 12th Street

APPLICANT: Texans Can Academy represented by National Signs Inc.

REQUEST:

A request for a special exception to the sign regulations is made to construct and maintain an additional detached premises sign on a site that developed as a Texas Can Academy Charter School.

STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:

Section 51A-7.703(d)(2) of the Dallas Development Code states that the Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on-premises in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

STAFF RECOMMENDATION (additional detached sign):

Denial

Rationale:

- The applicant did not provide any evidence as to how strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

BACKGROUND INFORMATION:

Zoning:

Site: Planned Development District No. 316, Subarea 3

North: Planned Development District No. 316, Subarea 3

East: Planned Development District No. 316, Subarea 3

South: Planned Development District No. 316, Subarea 4

West: Planned Development District No. 316, Subarea 4

Land Use:

The site is developed with an institutional use. The area to the north, south, east, and west are developed with retail, institutional, and single family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS (additional detached sign):

The property consists of 2.11 acres of land developed with a charter school. The request for a special exception to the sign regulations focuses on adding and maintaining an additional sign along 12th Street.

Section 51A-7.304(b) (4) of the Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways. The size of the property is not taken into account.

The submitted site plan indicates the location of two detached non-monument signs, (represented as “sign LS” for the existing sign and as “sign I” for the proposed sign) on the site’s 12th Street frontage; hence, this request for a special exception to the sign regulations for an additional detached sign. The plan shows the property has approximately 500 feet of frontage along 12th Street. The proposed sign is 420 feet from the existing sign. A sign elevation denoting the proposed detached non-monument sign has been submitted.

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

- That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only one sign along the street frontage) will result in

substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

If the board were to approve the request for a special exception to the sign regulations, the board may consider imposing a condition that the applicant complies with the submitted site plan and sign elevation.

Timeline:

November 11, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

December 9, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

December 11, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the December 28, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the January 8, 2021 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.”

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

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

BOARD OF ADJUSTMENT ACTION: January 19, 2021

APPEARING IN FAVOR: Mary Crim 2611 El Camino Houston, TX
Kristi Lowery 2611 El Camino Houston, TX

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-007, on application of Texans Can Academy, represented by National Signs, Inc., **deny** the special exception requested by this applicant **without** prejudice, because our evaluation of the property and the testimony did not demonstrate a substantial financial hardship or inequity to the applicant.

SECONDED: Adams
AYES: 3 –Halcomb, Adams, Lamb
NAYS: 2 - Narey, Gambow
MOTION PASSED: 5 – 0 (unanimously)

2:15 P.M. Board Meeting adjourned for January 19, 2021

CHAIRPERSON
Jennifer Munoz

BOARD ADMINISTRATOR
JAC

BOARD SECRETARY

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