

RECEIVED

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
CITY OF DALLAS- VIDEOCONFERENCE  
WEDNESDAY, JANUARY 20, 2021**

2021 APR 28 AM 08:26

CITY SECRETARY  
DALLAS, TEXAS

MEMBERS PRESENT AT BRIEFING: Michael Schwartz, Chair, Matthew Vermillion regular member, Matt Shouse, regular member, Damian Williams, regular member, Catrina Johnson, regular member

MEMBERS ABSENT FROM BRIEFING: None.

MEMBERS PRESENT AT HEARING: Michael Schwartz, Chair, Matthew Vermillion regular member, Matt Shouse, regular member, Damian Williams, regular member, Catrina Johnson, regular member

MEMBERS ABSENT FROM HEARING: None.

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

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

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**11:15 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **January 20, 2021 docket.**

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

**1:03 P.M.**

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

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**MISCELLANEOUS ITEM NO. 1**

Approval of the Board of Adjustment Panel B, November 18, 2020 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

**MOTION: Shouse**

Approval of the Board of Adjustment Panel B, November 18, 2020 public hearing minutes.

**SECONDED: Vermillion**

**AYES:** 5 – Schwartz, Vermillion, Johnson, Shouse, Williams

**NAYS:** 0

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

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**FILE NUMBER:** BDA201-006(OA)

**BUILDING OFFICIAL'S REPORT:** Application of Pegasus Ablon Properties, LLC represented by Santos Martinez of La Sierra Planning Group to restore a nonconforming use at 2808 Greenville Avenue. This property is more fully described as Lot 24A, Block 8/1918, and is zoned a CR Community Retail District, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming multifamily use, which will require a special exception to the nonconforming use regulations.

**LOCATION:** 2808 Greenville Avenue

**APPLICANT:** Pegasus Ablon Properties, LLC represented by Santos Martinez

**REQUEST:**

A request for a special exception to restore/reinstate nonconforming use rights for a multifamily use on the subject site that was discontinued for six months or more is made to obtain a Certificate of Occupancy (CO) for this use.

**STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE:**

Section 51A-4.704(a)(2) of the Dallas Development Code states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more and that the board of adjustment may grant a special exception to this provision only if the owner

can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

**Zoning:**

Site: CR Community Retail District  
North: CR Community Retail District  
East: CR Community Retail District  
South: CR Community Retail District  
West: CR Community Retail District

**Land Use:**

The subject site is developed with a few structures containing multiple uses according to permit records including apartment units, a retail shop, and several units being remodeled (a restaurant and three apartments). The areas to the north, east, south, and west are developed with single-family uses, multifamily uses, retail stores, and restaurant uses.

**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 focuses on restoring/reinstating nonconforming use rights for a multifamily use on the subject site that was discontinued for six months or more. The request is made for the applicant to obtain a Certificate of Occupancy (CO) for this use.

The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time”.

The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

The nonconforming use regulations also state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

The site is zoned a CR Community Retail District which does not permit a multifamily use. According to documentary evidence provided by the representative (**Attachment A**), the multifamily use has been operating since 1986 when the property was originally zoned a GR General Retail District. The district allowed the use by right before the adoption of Chapter 51A. When Chapter 51A was adopted in 1988, the zoning district became a CR Community Retail District which made the use legal nonconforming.

According to the representative and supporting documents found in permit number 8510211071, dated October 21, 1985, the parking of a multifamily unit for three units and a restaurant addition was approved. Currently, the property is being remodeled.

According to DCAD records, the site contains two apartments and two retail units containing 15,250 square feet of floor area.

Building Inspection has stated that these types of special exception requests originate when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is nonconforming. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period over six months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.

The applicant has the burden of proof in establishing the following related to the special exception request:

- There was **not** a clear intent to abandon the nonconforming multifamily use on the subject site even though the use was discontinued for six months or more.

Granting this request would reinstate/restore the nonconforming multifamily use rights that were lost when the use was abandoned for six months or more.

If restored/reinstated, the nonconforming use would be subject to compliance with the use regulations of the Dallas Development Code as any other nonconforming use in the city.

**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 B.

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 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;
- 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 22, 2020: Additional evidence was submitted by the representative via email—see Exhibits (**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.

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

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

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

**APPEARING UNDECIDED:** Walter Bell 5720 Vickery Blvd. Dallas, TX

**APPEARING IN OPPOSITION:** Bruce Richardson 5607 Richmond Ave. Dallas, TX.

**MOTION: Vermillion**

I move that the Board of Adjustment, in Appeal No. BDA 201-006, on application of Pegasus Ablon Properties, LLC, represented by Santos Martinez of La Sierra Planning Group, **grant** the request to restore a nonconforming use as a special exception to the use regulations contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

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

Compliance with the use regulations of the Dallas Development Code is required.

**SECONDED: Williams**

**AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams**

**NAYS: 0**

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

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**FILE NUMBER:** BDA201-009(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Deborah S. Thomas represented by Robert Reeves and Associates for a special exception to the fence height regulations at 4611 N. Lindhurst Avenue. This property is more fully described as Lot 1, C/5540, 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:** 4611 N. Lindhurst Avenue

**APPLICANT:** Deborah S. Thomas represented by Robert Reeves

**REQUESTS:**

A request for a special exception to the fence standards regulations related to the fence height of two-feet is made to construct and maintain a five-foot six-inch-high iron fence with six-foot stucco columns and two iron gates in the 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-1 ac (A) (Single family district)
- North: R-1 ac (A) (Single family district)
- East: R-1 ac (A) (Single family district)
- South: R-1 ac (A) (Single family district)
- West: R-1/2 ac (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 purpose of this request for a special exception to the fence height standards focuses on constructing and maintaining a five-foot six-inch-high iron fence with six-foot stucco columns and two iron gates in the required front yard on a site developed with a single-family home.

The 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 where a 40-foot front yard setback is required.

The proposed fence is to be located in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 170 feet-in-length parallel to Lindhurst Avenue and runs approximately 40 feet perpendicular to this street on both sides of the property.
- The distance between the proposed fence and the pavement line is 10 feet.

The 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.

Staff conducted a field visit of the site and surrounding area (approximately 400 feet north, south, east, and west of the subject site) and noticed no other fences that appear to be above four feet-in-height and located in a front yard setback.

As of January 8, 2020, no letters have been received in opposition or support of this request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulation of two feet will not adversely affect neighboring property.

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

**Timeline:**

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

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

December 11, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the 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;
- 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 21, 2020: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see 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 20, 2021**

**APPEARING IN FAVOR:** Robert Reeves 3807 Vinecrest Dr. Dallas, TX  
Tom Thomas 4611 N. Lindhurst Ave.

**APPEARING IN OPPOSITION:** None.

**MOTION: Vermillion**

I move that the Board of Adjustment, in Appeal No. BDA 201-009, Application of Deborah S. Thomas, represented by Robert Reeves and Associates **grant** a special exception

to the fence height regulations contained in the Dallas Development Code, as amended, because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

**SECONDED: Shouse**

**AYES:** 5 - Schwartz, Shouse, Johnson, Williams, Vermillion

**NAYS:** 0

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

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**FILE NUMBER:** BDA190-103(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Jeff Saba for a special exception to the fence height regulations, and a special exception to the fence standards regulations at 6749 Hillbriar Drive. This property is more fully described as Lot 17, Block 8/8189, and is zoned an R-10(A) Single Family District, which limits the height of a fence in the front yard to four feet and requires 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. The applicant proposes to construct an eight-foot-high fence in a required front yard, which will require a four-foot special exception to the fence regulations, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line, which will require a special exception to the fence regulations.

**LOCATION:** 6749 Hillbriar Drive

**APPLICANT:** Jeff Saba

**REQUESTS:**

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

1. A request for a special exception to the maximum fence height of four feet to construct and maintain an eight-foot-high factory edge cedar plank fence with two pedestrian gates located in the required Hillbriar Drive front yard.
2. A request for a special exception to the fence standards regulations related to fence panels having less than 50 percent open surface area when located less than five feet from the front lot line is made to construct and maintain the aforementioned eight-foot-high solid wood fence as close as two feet from the front lot line.

**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-10(A) (Single Family District)  
North: R-10(A) (Single Family District)  
East: R-10(A) (Single Family District)  
South: R-10(A) (Single Family District)  
West: R-10(A) (Single Family District)

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

The requests for special exceptions to the fence standards regulations on a site developed with a single-family home focus on:

1. constructing/maintaining an eight-foot-high factory edge cedar plank fence with two pedestrian gates located in the required Hillbriar Drive front yard;
2. constructing/maintaining the aforementioned eight-foot-high solid wood fence located less than five feet from this front lot line.

The 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-10(A) Single Family District. The minimum front yard setback is 30 feet. The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet-in-height above grade when located in the required

front yard and states that no fence panel having less than 50 percent open surface area may be located less than five feet from the front lot line

The proposed fence is to be located in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 195 feet-in-length parallel to Hillbriar Drive along the property line.
- The distance between the proposed fence and the property line is approximately between two feet and 25 feet.

Staff conducted a field visit of the site and surrounding area (approximately 400 feet north, east and west, and south of the subject site) and noted no other fences that appeared to be above four feet-in-height and located in a front yard setback.

The Sustainable Development and Construction Senior Engineer advised that the residential property at 6749 Hillbriar Drive is located along a pronounced roadway curve that limits sight distance from approaching vehicular and pedestrian traffic. The fence further encroaches into the horizontal sight distance and presents a traffic safety hazard. This existing condition must be mitigated. Theoretically speaking, the location of the fence limits a motorist's reaction time and the distance required to brake. If the exception is approved or the fence remains in place, the City should install traffic warning signs indicating the horizontal alignment combined with an advisory speed of 20 MPH, based on calculations for stopping sight distance for horizontal curves.

Furthermore, images from the staff's recent site visit show recently planted trees along the parkway (adjacent to the curb). These trees constitute a code violation and must be removed immediately or allowed with the written permission of the City Arborist and Director of Park Department, as stated in Sec 48-4 of the Dallas Development Code. However, the location of the trees will further block traffic visibility through the curve which is a public safety concern. The new trees should not be approved for planting in their current location but rather should be relocated to an area that does not block the visibility of oncoming traffic. Note: If approved, the special exception to the front fence height does not grant an exception to any encroachment to the visibility triangle at the intersection of the alley.

As of December 4, 2020, four letters have been submitted in support and none in opposition to this request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulation of four feet will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposed fence reaching up to eight-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 to be maintained in the location and of the heights and materials as shown on these documents.

## Timeline:

- July 23, 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.
- November 5, 2020: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.
- November 6, 2020: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the November 24, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the December 4, 2020 deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- December 1, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Assistant Director of Engineering, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.
- December 2, 2020: The Sustainable Development and Construction Senior Engineer submitted a memo regarding this request (**Attachment A**).
- November 14, 2020: The Board of Adjustment Secretary reassigned this case to the Board of Adjustment Panel B.
- December 18, 2020: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the 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;

- 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.

**BOARD OF ADJUSTMENT ACTION:** December 14, 2020

**APPEARING IN FAVOR:** None

**APPEARING IN OPPOSITION:** None

**MOTION:** Sashington

I move that the Board of Adjustment in request No. BDA 190-103, moved and readvertise this matter to Panel B Public Hearing on January 20, 2020

**SECONDED:** Adams

**AYES:** 4 - Agnich, Hounsel, Sashington, Pollock

**NAYS:** 0

**MOTION PASSED:** 4 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION:** **January 20, 2021**

**APPEARING IN FAVOR:** Jeff Saba 6749 Hillbriar Dr. Dallas, TX.

**APPEARING IN OPPOSITION:** None.

**MOTION#1:** **Shouse**

I move that the Board of Adjustment, in Appeal No. BDA 190-103, on application of Jeff Saba, **grant** the request of this application to construct and/or maintain a eight-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: Williams**

**AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams**

**NAYS: 0**

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

**MOTION#2: Shouse**

I move that the Board of Adjustment, in Appeal No. BDA 190-103, on application of Jeff Saba, **grant** the request of this applicant to construct and/or maintain fence panels with a surface area less than 50 percent open located less than 5 feet from the front lot lines as a special exception to the surface area openness requirement for fences 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/elevation is required

**SECONDED: Vermillion**

**AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams**

**NAYS: 0**

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

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**FILE NUMBER:** BDA201-004(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Eric Messer for a special exception to the visibility obstruction regulations at 5707 Williamstown Road. This property is more fully described as Lot 1, Block B/6991, and is zoned an R-16(A) Single Family District, which requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to construct a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

**LOCATION:** 5707 Williamstown Road

**APPLICANT:** Eric Messer

**REQUESTS:**

A request for special exceptions to the visual obstruction regulations is made to locate and maintain portions of an eight-foot-high wrought iron/solid wood fence and a portion of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approaches into the property from Nuestra Drive on a site developed with a single family home.

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

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

**STAFF RECOMMENDATION (visual obstruction regulations):**

- No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-16(A) (Single Family District)  
North: R-16(A) (Single Family District)  
South: R-16(A) (Single Family District)  
East: R-16(A) (Single Family District)  
West: R-16(A) (Single Family District)

**Land Use:**

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

**Zoning/BDA History:**

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

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

The requests for special exceptions to the visual obstruction regulations on a site developed with a single family home focus on locating and maintaining a portion of an eight-foot-high wrought iron/solid wood fence and a portion of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approaches into the property from Nuestra Drive on a site developed with a single family home.

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

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

The property is located in an R-16(A) Single Family District which requires the portion of a lot with a triangular area formed by connecting the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.

A site plan and elevation have been submitted indicating portions of an eight-foot-high wrought iron/solid wood fence and a portion of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approach into the site from Nuestra Drive.

The Sustainable Development Department Senior Engineer has objections to the request and determined that the City of Dallas should aggressively manage obstructions to visibility triangles (**Attachment A**).

The applicant has the burden of proof in establishing how granting these request to maintain portions of an eight-foot-high wrought iron/solid wood fence and portions of a motorized wrought iron gate in the two 20-foot visibility triangles at the intersection of the street and driveway approaches into the property from Nuestra Drive does not constitute a traffic hazard.

Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items to be located and maintained in the two 20-foot visibility triangles at the drive approaches into the site from Nuestra Drive, to that what is shown on these documents – a portion of an eight-foot-high wrought iron/solid wood fence and a portion of a wrought iron motorized gate.

**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 assigned this case to Board of Adjustment Panel B.

December 11, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the 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;
- 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 30, 2020: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "objects to the request" (**Attachment A**).

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

**APPEARING IN FAVOR:** Eric Messer 6312 Widgeon Dr. Plano, TX

**APPEARING IN OPPOSITION:** None.

**MOTION#1: Vermillion**

I move that the Board of Adjustment, in Appeal No. BDA 201-004, on application of Eric Messer, **grant** the request to maintain items in the visibility triangle at the intersection as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the submitted site plan and elevation is required

**SECONDED: Shouse**

**AYES:** 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

**NAYS:** 0

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

**MOTION#2: Vermillion**

I move that the Board of Adjustment, in Appeal No. BDA 201-004, on application of Eric Messer, **grant** the request to maintain items in the visibility triangle at the driveway approach as a special exception to the visual obstruction regulation contained in the Dallas Development Code, as amended, because our evaluation of the property and testimony shows that this special exception will not constitute a traffic hazard.

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

Compliance with the submitted site plan and elevation is required.

**SECONDED: Johnson**

**AYES:** 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

**NAYS:** 0

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

\*\*\*\*\*

**FILE NUMBER:** BDA190-090(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3016 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which states that the

rights to nonconforming delta parking credits are lost if the use is vacant for 12 months or more. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

**LOCATION:** 3016 Greenville Avenue

**APPLICANT:** Thomas Shields  
Represented by Steven Dimitt

**UPDATE:**

On November 18, and October 21, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing.

**REQUEST:**

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use for the vacant commercial structure on the subject site.

**STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:**

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited to* the following:

1. A decline in the rental rates for the area which has affected the rental market.
2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**STAFF RECOMMENDATION:**

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how extensive renovation or remodeling was necessary because the structure on the site was in poor condition. Construction was ongoing from December 2018 through approximately February 2020.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CD No. 11 with an MD Overlay District No. 1
- North: CD Nos. 9 and 11 with an MD Overlay District No. 1
- South: CD No. 11 with an MD Overlay District No. 1
- East: CD No. 11 with an MD Overlay District No. 1
- West: CD Nos. 9 with an MD Overlay District No. 1

**Land Use:**

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

**Zoning/BDA History:**

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

**GENERAL FACTS/STAFF ANALYSIS:**

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to maintain a Certificate of Occupancy for a general merchandise or food store use [Uptown Dog] which is currently in question due to the period of vacancy discovered since the prior tenant.

The subject site is zoned Conservation District No. 11 with Modified Delta Overlay District No.1. According to DCAD, the property at 3016 Greenville Avenue is developed with a “retail strip” with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in

the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.

- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
  1. A decline in the rental rates for the area which has affected the rental market.
  2. An unusual increase in the vacancy rates for the area which has affected the rental market.
  3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

## Timeline:

- August 4, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- September 18, 2020 The Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 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.”
- September 30, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).
- October 2, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. The review team members in attendance included the Sustainable Development and Construction: Assistant Director, Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Building Inspection Senior Plans Examiner/Development Sign Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- October 21, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the next public hearing to be held on November 18, 2020.
- October 26, 2020: The Board Administrator wrote the applicant a letter of the board’s action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board’s docket materials.
- October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official,

the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing 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.

November 18, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing to be held on January 20, 2021.

November 23, 2020: The Board Administrator wrote the applicant a letter of the board's action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.

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

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Shouse

I move that the Board of Adjustment in Appeal No. BDA 190-090, hold this matter under advisement until November 18, 2020.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Tom Shields 418 E. Shore Dr. Clearlake Shores, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Pasha Heidari 3020 Greenville Ave. Dallas, TX.  
Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.  
Mike Northrup 5703 Goliad Ave., Dallas, TX

MOTION#1: Brooks

I move that the Board of Adjustment, in Appeal No. BDA 190-090, on application of Thomas Shields, represented by Steve Dimitt, grant the request to carry forward delta credits as a special exception to the Modified Delta Overlay District No. 1 regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance including:

Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties is affecting the marketability of the property.

SECONDED: Schwartz

AYES: 3 - Schwartz, Brooks, Jones

NAYS: 2 – Vermillion, Shouse

MOTION FAILED: 3 – 2

MOTION#2: Vermillion

I move that the Board of Adjustment, in Appeal No. BDA 190-090, on application of Thomas Shields, represented by Steven Dimitt, deny the special exception requested by this applicant without prejudice, because our evaluation of the property and the testimony did not demonstrate an extreme circumstance to justify a lack of intent to abandon the use that was discontinued or vacant for 12 months or more.

SECONDED: Jones

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION#3 (Motion to Reconsider): Brooks

I move that the Board of Adjustment reconsider the decision to deny the applicant's request in appeal number BDA 190-090.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

MOTION#4: Brooks

I move that the Board of Adjustment in Appeal No. BDA 190-090, hold this matter under advisement until January 20, 2021.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

**APPEARING IN FAVOR:** Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

**APPEARING IN OPPOSITION:** Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Richard Soltes 5607 Monticello Dallas, TX.  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

**MOTION: Vermillion**

I move that the Board of Adjustment in Appeal No. BDA 190-090, hold this matter under advisement until **August 18, 2021**.

**SECONDED: Williams**

**AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams**

**NAYS: 0**

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

\*\*\*\*\*

**FILE NUMBER: BDA190-091(JM)**

**BUILDING OFFICIAL’S REPORT:** Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3018 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which states that the rights to nonconforming delta parking credits are lost if the use is vacant for 12 months or more. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

**LOCATION: 3018 Greenville Avenue**

**APPLICANT: Thomas Shields  
Represented by Steven Dimitt**

**UPDATE:**

On November 18, and October 21, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the next public hearing.

**REQUEST:**

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use for the vacant commercial structure on the subject site.

**STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:**

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited to* the following:

4. A decline in the rental rates for the area which has affected the rental market.
5. An unusual increase in the vacancy rates for the area which has affected the rental market.
6. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**STAFF RECOMMENDATION:**

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how extensive renovation or remodeling was necessary because the structure on the site was in poor condition. Construction was ongoing from December 2018 through approximately February 2020.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CD No. 11 with an MD Overlay District No. 1  
North: CD Nos. 9 and 11 with an MD Overlay District No. 1  
South: CD No. 11 with an MD Overlay District No. 1  
East: CD No. 11 with an MD Overlay District No. 1  
West: CD Nos. 9 with an MD Overlay District No. 1

**Land Use:**

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

### Zoning/BDA History:

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

### GENERAL FACTS/STAFF ANALYSIS:

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to maintain a Certificate of Occupancy for a restaurant without drive-in service use [Window Seat] which is currently in question due to the period of vacancy discovered since the prior tenant.

The subject site is zoned Conservation District No. 11 with Modified Delta Overlay District No.1. According to DCAD, the property at 3018 Greenville Avenue is developed with a "retail strip" with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created "Modified Delta Overlay Districts" in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
  4. A decline in the rental rates for the area which has affected the rental market.
  5. An unusual increase in the vacancy rates for the area which has affected the rental market.
  6. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**Timeline:**

August 4, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 18, 2020 The Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 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.”

- September 30, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).
- October 2,2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. The review team members in attendance included the Sustainable Development and Construction: Assistant Director, Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Building Inspection Senior Plans Examiner/Development Sign Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- October 21, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing to be held on November 18, 2020.
- October 26, 2020: The Board Administrator wrote the applicant a letter of the board's action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.
- October 29,2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing 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.
- November 18, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing to be held on January 20, 2021.
- November 23, 2020: The Board Administrator wrote the applicant a letter of the board's action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.
- No review comment sheets with comments were submitted in conjunction with this application.

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Kristen Boyd 6801 Lochwood Garland, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Vermillion

I move that the Board of Adjustment in Appeal No. BDA 190-091, hold this matter under advisement until November 18, 2020.

SECONDED: Williams

AYES: 5 - Schwartz, Shouse, Johnson, Vermillion, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Tom Shields 418 E. Shore Dr. Clearlake Shores, TX  
Kristin Boyd 6801 Lochwood, Garland, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Pasha Heidari 3020 Greenville Ave. Dallas, TX.  
Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION#1: Shouse

I move that the Board of Adjustment, in Appeal No. BDA 190-091, on application of Thomas Shields, represented by Steve Dimitt, grant the request to carry forward delta credits as a special exception to the Modified Delta Overlay District No. 1 regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance including:

Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties is affecting the marketability of the property.

SECONDED: Jones

AYES: 3 - Schwartz, Shouse, Jones,

NAYS: 2 - Vermillion, Brooks

MOTION FAILED: 3 – 2

MOTION#2: Shouse

I move that the Board of Adjustment in Appeal No. BDA 190-091, hold this matter under advisement until January 20, 2021.

SECONDED: Brooks

AYES: 5 - Schwartz, Shouse, Jones, Vermillion, Brooks

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Kristen Boyd 6801 Lochwood Garland, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Richard Soltes 5607 Monticello Dallas, TX.  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: **Vermillion**

I move that the Board of Adjustment in Appeal No. BDA 190-091, hold this matter under advisement until **August 18, 2021**.

SECONDED: **Williams**

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER:** BDA190-092(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3018 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which requires that the building official shall revoke a certificate of occupancy if the building official determines that the certificate of occupancy was issued in error. The applicant proposes to appeal the decision of an administrative official in the revocation of a certificate of occupancy.

**LOCATION:** 3018 Greenville Avenue

**APPLICANT:** Thomas Shields  
Represented by Steven Dimitt

**REQUEST:**

A request is made to appeal the decision of the administrative official, more specifically, the Building Official’s authorized representative, the Chief Planner in the Building Inspection Division, revocation of a certificate of occupancy for a restaurant use located at 3018 Greenville Avenue.

**UPDATE:**

On November 18, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing.

**STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:**

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CD No. 11 with an MD Overlay District No. 1
- North: CD Nos. 9 and 11 with an MD Overlay District No. 1
- South: CD No. 11 with an MD Overlay District No. 1
- East: CD No. 11 with an MD Overlay District No. 1
- West: CD Nos. 9 with an MD Overlay District No. 1

**Land Use:**

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

**Zoning/BDA History:**

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

**GENERAL FACTS/STAFF ANALYSIS:**

The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

**Timeline:**

- August 4, 2020: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 18, 2020 The Board Administrator emailed the applicant's representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 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."

October 5, 2020: The applicant's representative requested a postponement to the November docket (**Attachment A**).

October 29, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing 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.

November 6, 2020: Additional evidence was submitted by the city attorney for the administrative official (**Attachment B**).

November 18, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing to be held on January 20, 2021.

November 23, 2020: The Board Administrator wrote the applicant a letter of the board's action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.

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

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX

Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Tom Shields 418 E. Shore Dr. Clearlake Shores, TX  
Kristin Boyd 6801 Lochwood, Garland, TX  
Brad Williams 2728 N. Harwood St. #500, Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Pasha Heidari 3020 Greenville Ave. Dallas, TX.  
Chuck DeShazo 400 S. Houston St. #330, Dallas, TX.  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Vermillion

I move that the Board of Adjustment in Appeal No. BDA 190-092, hold this matter under advisement until January 20, 2021.

SECONDED: Jones

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas, TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Kristin Boyd 6801 Lochwood, Garland, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Richard Soltes 5307 Monticello Dallas, TX  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX  
Sarah May 320 E. Jefferson Dallas TX  
Chris Gunter 1500 Marilla St Dallas, TX

MOTION: Vermillion

I move that the Board of Adjustment in Appeal No. BDA 190-092, hold this matter under advisement until **August 18, 2021**.

SECONDED: Johnson

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

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**FILE NUMBER:** BDA190-093(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Thomas Shields, represented by Steven Dimitt for a special exception to the Modified Delta Overlay District No. 1 regulations at 3024 Greenville Avenue. This property is more fully described as Lot 11, Block 2168, and is zoned Conservation District No. 11 with Modified Delta Overlay District No.1, which states that the rights to nonconforming delta parking credits are lost if the use is vacant for 12 months or more.

The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

**LOCATION:** 3024 Greenville Avenue

**APPLICANT:** Thomas Shields  
Represented by Steven Dimitt

**UPDATE:**

On November 18, and October 21, 2020, the Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing.

**REQUEST:**

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use for the vacant commercial structure on the subject site.

**STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:**

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited to* the following:

7. A decline in the rental rates for the area which has affected the rental market.
8. An unusual increase in the vacancy rates for the area which has affected the rental market.
9. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**STAFF RECOMMENDATION:**

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how extensive renovation or remodeling was necessary because the structure on the site was in poor condition. Construction was ongoing from December 2018 through approximately February 2020.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CD No. 11 with an MD Overlay District No. 1
- North: CD Nos. 9 and 11 with an MD Overlay District No. 1
- South: CD No. 11 with an MD Overlay District No. 1
- East: CD No. 11 with an MD Overlay District No. 1
- West: CD Nos. 9 with an MD Overlay District No. 1

**Land Use:**

The subject site is developed with a commercial structure. The areas to the north, south, and west are developed with residential uses; and the area to the east is developed with commercial uses.

**Zoning/BDA History:**

While there have been no zoning/BDA cases within the area in the last five years, there are three other BDA cases at the subject site currently.

**GENERAL FACTS/STAFF ANALYSIS:**

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to obtain a Certificate of Occupancy for a proposed new tenant. The previous alcoholic beverage establishment use [San Francisco Rose] Certificate of Occupancy was revoked due to an extended period of vacancy.

The subject site is zoned Conservation District No. 11 with Modified Delta Overlay District No.1. According to DCAD, the property at 3024 Greenville Avenue is developed with a “retail strip” with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

7. A decline in the rental rates for the area which has affected the rental market.

8. An unusual increase in the vacancy rates for the area which has affected the rental market.
9. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**Timeline:**

- August 4, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- September 18, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- September 18, 2020 The Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the September 30, 2020 deadline to submit additional evidence for staff to factor into their analysis; and the October 9, 2020 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.”
- September 30, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).
- October 2, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearings. The review team members in attendance included the Sustainable Development and Construction: Assistant Director, Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Building Inspection Senior Plans Examiner/Development Sign Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- October 21, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant’s request until the next public hearing to be held on November 18, 2020.
- October 26, 2020: The Board Administrator wrote the applicant a letter of the board’s action; the deadline to submit additional evidence for staff to factor into

their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.

October 29,2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Sing 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.

November 18, 2020: The Board of Adjustment Panel B conducted a public hearing on this application and delayed action per the applicant's request until the next public hearing to be held on January 20, 2021.

November 23, 2020: The Board Administrator wrote the applicant a letter of the board's action; the deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the board's docket materials.

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

BOARD OF ADJUSTMENT ACTION: October 21, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas,TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Shouse

I move that the Board of Adjustment in Appeal No. BDA 190-093, hold this matter under advisement until November 18, 2020.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: November 18, 2020

APPEARING IN FAVOR: Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas,TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: Jones

I move that the Board of Adjustment in Appeal No. BDA 190-093, hold this matter under advisement until January 20, 2021.

SECONDED: Vermillion

AYES: 5 - Schwartz, Shouse, Vermillion, Jones, Brooks

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: January 20, 2021**

APPEARING IN FAVOR:

Steven Dimitt 1501 N. Riverfront Blvd. #150 Dallas TX  
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING NEUTRAL:

Jeffrey Karetnick 5739 Marquita Ave. Dallas, TX  
April Segovia 5739 Marquita Ave. Dallas, TX

APPEARING IN OPPOSITION:

Roger Albright 1701 N. Collins Blvd. #1100  
Richardson, TX  
Richard Soltes 5607 Monticello Dallas, TX  
Mike Northrup 5703 Goliad Ave., Dallas, TX  
Bruce Richardson 5607 Richmond Ave. Dallas, TX.

MOTION: **Vermillion**

I move that the Board of Adjustment in Appeal No. BDA 190-093, hold this matter under advisement until **August 18, 2021**.

SECONDED: **Williams**

AYES: 5 - Schwartz, Shouse, Vermillion, Johnson, Williams

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

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The meeting was adjourned at 2:22 P.M. on January 20, 2021.

  
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.