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CITY SECRETARY
DALLAS, TEXAS

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
TUESDAY, MARCH 16, 2021**

MEMBERS PRESENT AT BRIEFING: Sarah Lamb, acting Chair, Lawrence Halcomb, regular member, Jay Narey, regular member, Jared Slade, alternate member

MEMBERS ABSENT FROM BRIEFING: Cheri Gambow, regular member

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, David Nevarez, Engineering Division, Phil Erwin, Arborist, Neva Dean, Assistant Director, and Kris Sweckard, Director.

MEMBERS PRESENT AT HEARING: Sarah Lamb, acting Chair, Lawrence Halcomb, regular member, Jay Narey, regular member, Jared Slade, alternate member

MEMBERS ABSENT FROM HEARING: Cheri Gambow, regular member

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, 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 **March 16, 2021** docket.

1:01 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, January 19, 2021 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: March 16, 2021

MOTION: Halcomb

Approval of the Board of Adjustment Panel A, January 19, 2021 public hearing minutes.

SECONDED: Narey

AYES: 4 – Slade, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MISCELLANEOUS ITEM NO. 2

Approval of the Board of Adjustment 2020 Annual Report.

BOARD OF ADJUSTMENT ACTION: March 16, 2021

MOTION: Halcomb

Approval of the Board of Adjustment 2020 Annual Report.

SECONDED: Narey

AYES: 4 – Slade, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-011(OA)

BUILDING OFFICIAL’S REPORT: Application of Stephane Besson for a variance to the front yard setback regulations at 3710 Knight Street. This property is more fully described as Part of Lot 10, Block F/1569, and is zoned an MF-2 Multifamily District within Planned Development District No. 193, which requires a front yard setback of 20 feet. The applicant proposes to construct a single-family residential structure and provide an eight-foot front yard setback, which will require a 12-foot variance to the front setback regulations.

LOCATION: 3710 Knight Street

APPLICANT: Stephane Besson

REQUEST:

A request for a variance to the front yard setback regulations of up to 12 feet is made to construct and maintain a three-story, single-family structure with, according to the submitted site plan, a total lot coverage of approximately 1,900 square feet, and, according to a document submitted with the application, a floor area of 2,900 square feet, as close as 8 feet from the front property line or as much as 12 feet into the required 20-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:

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the variance should be granted because of the restrictive area of the subject site. The 3,250 square-foot site is about 2,000 square feet less in area than 13 other properties that the applicant has listed in the same PD No. 193 (MF-2(A)) zoning district that average 5,300 square feet. Furthermore, the applicant has submitted a document indicating that the total floor area of the proposed home on the subject site at approximately 2,900 square feet is commensurate to 13 other structures in the same PD 193 (MF-2(A)) zoning district that have an average floor area of approximately 3,500 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2) (Multifamily district)

North: PD No. 193 (MF-2) (Multifamily district)

South: PD No. 193 (MF-2) (Multifamily district)

East: PD No. 193 (MF-2) (Multifamily district)

West: PD No. 193 (MF-2) (Multifamily district)

Land Use:

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

Zoning/BDA History:

1. BDA189-102, Property at 3710 Knight Street (the subject site)

On September 17, 2019, the Board of Adjustment Panel A approved a request for a variance to the front yard setback regulations of 12 feet.

The case report stated the request was made to construct and maintain a three-story single-family structure with a total “slab area” of approximately 1,900 square feet part of which is to be located eight-feet from the front yard setback or 12 feet into this 20-foot front yard setback on a site that is undeveloped.
2. BDA189-051, Property at 3710 Knight Street (the subject site)

On May 21, 2019, the Board of Adjustment Panel A denied a request for a variance to the front yard setback regulations of 15 feet without prejudice.

The case report stated the request was made to construct and maintain a three-story single-family structure with a total “slab area” of approximately 1,500 square feet part of which is to be located five feet from the front yard setback or 15 feet into this 20-foot front yard setback on a site that is

undeveloped.

GENERAL FACTS /STAFF ANALYSIS:

This request for a variance to the front yard setback requirement of up to 12 feet focuses on constructing and maintaining a three-story, single-family structure with, according to the submitted site plan, a total lot coverage of approximately 1,900 square feet and a combined floor area of 2,900 square feet, as close as eight-feet from the front property line or as much as 12 feet into the 20-foot front yard setback on a site that is undeveloped.

The property is located in PD No. 193 MF-2(A) zoning district which requires a minimum front yard setback of 20 feet.

The subject site is flat, virtually rectangular, and according to the submitted application, contains 0.075 acres (or 3,250 square feet) in area. According to DCAD records, there are “no main improvements” or “no additional improvements” for the property addressed at 3710 Knight Street.

The applicant submitted a document indicating that the lot area of the site is 3,250 square feet and the floor area of the proposed home to be on the subject site is 2,900 square feet. The applicant’s document represents that the average lot area of 13 other lots in the same PD No. 193 (MF-2) zoning district are approximately 5,300 square feet and the average floor area of homes is approximately 3,500 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 PD No. 193 (MF-2) zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD No. 193 (MF-2) zoning classification.

If the board were to grant the variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located as close as eight feet from the front property line or as much as 12 feet into the 20-foot front yard setback.

Timeline:

December 9, 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.

January 6, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9(k) of the Board of Adjustment Working Rules of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

January 8, 2021: The Board of Adjustment 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 January 26th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th 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.”

January 20, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of

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

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

BOARD OF ADJUSTMENT ACTION: March 16, 2021

APPEARING IN FAVOR: Stephane Besson 4325 Stanhope St, Dallas, TX
Dana Krieg 4325 Stanhope St, Dallas TX

APPEARING IN OPPOSITION: None.
MOTION: Slade

I move that the Board of Adjustment, in Appeal No. BDA 201-011, on application of Stephane Besson, **grant** the twelve foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

SECONDED: **Narey**
AYES: 4 – Slade, Lamb, Halcomb, Narey
NAYS: 0 –
MOTION PASSED: 4 - 0 (unanimously)

FILE NUMBER: BDA201-013(OA)

BUILDING OFFICIAL’S REPORT: Application of Miguel Zuniga for a special exception to the side yard setback regulations at 2622 Brandon Street. This property is more fully described as Lot 6, Block 14/3811, and is zoned an R-7.5(A) Single Family District, which requires a side yard setback of five feet. The applicant proposes to construct a single-family residential carport structure and provide a one-foot side yard setback, which will require a four-foot special exception to the side yard setback regulations.

LOCATION: 2622 Brandon Street

APPLICANT: Miguel Zuniga

REQUEST:

A request for a special exception to the side yard setback regulations of four-feet is made to maintain a 430 square-foot carport located one-foot from the site's eastern side property line or four feet into this five-foot required side yard setback on a site developed with a single-family structure.

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

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

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

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district)

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 and all surrounding properties 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:

This request for a special exception to the side yard setback of four feet focuses on maintaining a 430 square-foot carport located one-foot from the site's eastern side property line or four feet into this five-foot required side yard setback on a site developed with a single-family structure.

The R-7.5(A) Single Family District requires a five-foot side yard setback. The submitted site plan and elevations represent the size and materials of the carport and its location.

The submitted site plan represents the following:

- The carport is 35 feet-in-length and approximately 10 feet-in-width at the beginning of the carport (approximately 430 square feet in total area) of which approximately 45 percent is located in the eastern five-foot side yard setback.

The submitted elevation represents the following:

- Ranging in height from six feet nine inches to six feet seven inches.
- Metal roofing.
- Metal columns.

The Board Senior Planner conducted a field visit of the area approximately 500 feet east and west of the subject site and noted many other carports that appeared to be located in a side yard setback.

As of February 5, 2020, no letters had been submitted in support of or in opposition to this application.

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

- that granting this special exception to the side yard setback regulations of four feet will not have a detrimental impact on surrounding properties.

Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:

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

If the board were to grant this request and impose the submitted site plan and elevation as a condition to the request, the structure in the side yard setback would be limited to that what is shown on these documents – a carport located on the eastern side property line or four feet into this required five-foot side yard setback.

Timeline:

December 12, 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.

January 6, 2021: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 8, 2021: The Board Administrator emailed the applicant’s representative 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 January 26th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th 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.”

January 26, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: March 16, 2021

APPEARING IN FAVOR: Miguel Zuniga 2622 Brandon St Dallas TX
Zulma Jaso 4404 Central Ln. Balch Springs, TX

APPEARING IN OPPOSITION: None

MOTION#1: Slade

I move that the Board of Adjustment, in Appeal No. 201-013, on application of Miguel Zuniga, **grant** the request of this applicant for a four-foot special exception to the side yard setback requirements 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 the neighboring properties, the improvement is within the general building patterns of the neighborhood, and the special exception will preserve the character of the neighborhood.

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: 4 – Slade, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-016(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin for a variance to the front yard setback regulations, and for a variance to the maximum allowed lot coverage of at 427 N. Moore Street. This property is more fully described as Lots 54 and 55, Block 3/7675, and is zoned an R-5(A) Single Family District, which requires 45 percent maximum lot coverage and requires a front yard setback of 20 feet. The applicant proposes to construct a single-family residential structure and provide a 17-foot front yard setback, which will require a three-foot variance to the front yard setback regulations, and to construct a single-family residential structure with 1,824

square feet of floor area, which will require a 24-square-foot variance to the maximum allowed lot coverage of 45 percent.

LOCATION: 427 N. Moore Street

APPLICANT: Rob Baldwin of Baldwin Associates

REQUESTS:

The following requests have been made on an undeveloped site:

1. A variance to the front yard setback regulations of three-feet is made to construct and maintain an 1,824 square-foot, two-story, single-family structure three-feet from the front property line or 17-feet into the 20-foot front yard setback; and
2. A variance to the maximum allowed lot coverage of 45 percent is made to construct and maintain an 1,824 square-foot, two-story, single-family structure which will require one percent (24 square-foot) variance to the lot coverage regulations.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following 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 R-5(A) District considering its restrictive lot area of 3,840 square feet so that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-5(A) zoning district.

- The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed structure on the subject site is commensurate to 63 other lots located in the same R-5(A) District.

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district)
North: R-5(A) (Single family district)
South: R-5(A) (Single family district)
East: R-5(A) (Single family district)
West: R-5(A) (Single family district)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS /STAFF ANALYSIS:

The requests for variances to the front yard setback requirements and maximum lot coverage regulations focus on constructing and maintaining a 1,824-square-foot, two-story, single-family structure on an undeveloped lot zoned an R-5(A) Single Family District. In this district, a minimum front yard setback of 20 feet is required. Additionally, the maximum lot coverage is 45 percent.

The submitted site plan indicates that the proposed single-family structure will be located 17 feet from the front property line or three feet into this required 20-foot front yard setback. The subject site is slightly sloped, virtually rectangular (approximately 100 feet by 40 feet)—but narrow, and according to the submitted site plan 3,840 square feet in area. The site is zoned an R-5(A) District where lots are typically a minimum of 5,000 square feet in area. The subject site is 1,160 square feet smaller than the minimum size requirement.

The submitted site plan also indicates that the proposed 1,824-square-foot, two-story, single-family structure will exceed the allowed floor area by one percent (24 square feet) and provide a total of 46 percent lot coverage.

According to DCAD records, there are “no main improvements” or “no additional improvements” for property addressed at 427 N. Moore Street.

The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed additions on the subject site are commensurate to 63 other lots located in the same R-5(A) District.

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

- That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance 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-5(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-5(A) zoning classification.

If the board were to grant the variance requests and impose the submitted site plan as a condition, the structure would be limited to what is shown on this document– a 1,824-square-foot, two-story, single-family structure located 17 feet from the front property line or three feet into the 20-foot front yard setback, providing 46 percent lot coverage, one percent higher than the maximum.

Timeline:

December 18, 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.

January 6, 2021: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel A.

January 8, 2021: 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 January 26th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th 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.”

January 27, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable

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

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

BOARD OF ADJUSTMENT ACTION: March 16, 2021

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

APPEARING IN OPPOSITION: None.

MOTION#1: Slade

I move that the Board of Adjustment, in Appeal No. BDA 201-016, on application of Rob Baldwin of Baldwin Associates, **grant** the three foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required.

SECONDED: Halcomb

AYES: 4 – Slade, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

MOTION#2: Narey

I move that the Board of Adjustment, in Appeal No. BDA 201-016, on application of Rob Baldwin of Baldwin Associates, **grant** the 24 square-foot variance to the maximum lot coverage regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

Compliance with the submitted site plan is required

SECONDED: Halcomb

AYES: 4 – Slade, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-012(JM)

BUILDING OFFICIAL’S REPORT: Application of Scott Siers represented by Barbara Heile for a special exception to the visibility obstruction regulations at 2516 Thomas Avenue. This property is more fully described as Lot 6, Block E/551, and is zoned an H-25 and Tract 1 within PD No. 225, which requires a 20-foot visibility triangle at driveway approaches. The applicant proposes to maintain a single-family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

LOCATION: 2516 Thomas Avenue

APPLICANT: Scott Siers represented by Barbara Heile

REQUESTS:

A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of an six-foot-high solid wood fence in one of the two 20-foot visibility triangles at the driveway approach into the site from Routh Street. The property is 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: H-25 and Tract 1 within PD No. 225
- North: H-25 and Tract 1 within PD No. 225
- East: H-25 and Tract 1 within PD No. 225
- South: H-25 and Tract 1 within PD No. 225
- West: H-25 and Tract 1 within PD No. 225

Land Use:

The subject site and surrounding properties are developed with single family uses. The site to the south is development with a multifamily use.

Zoning/BDA History:

1. BDA156-117, Property at 2214 Routh Street (east of the subject site)

On November 16, 2016, the Board of Adjustment Panel B denied a request for variance to the off-street parking regulations of 6' 6" without prejudice.

The case report stated the request was made to locate and maintain parking spaces in enclosed structures (garages for a duplex structure use proposed on the undeveloped site) located 13 feet six inches from the Routh Street front property/right-of-way line or six feet six inches into the required 20-foot distance that parking spaces in enclosed structures must be from this street right-of-way.

2. DA167-017(SL), Property at 2214 Routh Street (east of the subject site)

On February 22, 2017, the Board of Adjustment Panel B denied a request for a variance to the off-street parking regulations with prejudice.

The case report stated the request was made to locate and maintain parking spaces in enclosed structures (garages for a duplex structure use proposed on the undeveloped site) located 13 feet six inches from the Routh Street front property/right-of-way line or six feet six inches into the required 20-foot distance that parking spaces in enclosed structures must be from this street right-of-way.

GENERAL FACTS/STAFF ANALYSIS:

A request for a special exception to the visual obstruction regulations is made to locate and maintain portions of an six-foot-high solid wood fence in one of the two 20-foot visibility triangles at the driveway approach into the site from Routh Street. The property is 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 H-25 and Tract 1 within PD No. 225 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 a six-foot-high solid wood fence is located within one of the two 20-foot visibility triangles at the driveway approach into the site from Routh Street.

The Sustainable Development Department Senior Engineer has objections to the request and determined that the fence should be designed and constructed outside of the visibility triangle. An exception should not compromise visibility of pedestrians or moving objects on future sidewalk or adjacent street. (**Attachment A**).

The applicant has the burden of proof in establishing how granting this request to maintain portions of an six-foot-high solid wood fence in one of the two 20-foot visibility triangles at the intersection of the Routh Street and the driveway approach into the property 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 one of the two 20-foot visibility triangles at the driveway approach into the site from Routh Street, to what is shown on these documents – a portion of a six-foot-high solid wood fence.

Timeline:

November 7, 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.

January 6, 2021: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 8, 2021: The Board Administrator emailed the applicant's representative 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 January 26th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th 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."

January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

January 29, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "objects to the request" (**Attachment A**).

BOARD OF ADJUSTMENT ACTION: March 16, 2021

APPEARING IN FAVOR: Scott Siers 2516 Thomas Ave. Dallas, TX
Rob Baldwin 3904 Elm St. Ste. B Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-012, on application of Scott Siers represented by Barbara Heile, **grant** the request to maintain items in the visibility triangle at the driveway 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: Narey

AYES: 4 – Slade, Lamb, Halcomb, Narey

NAYS: 0

MOTION PASSED: 4 – 0 (unanimously)

FILE NUMBER: BDA201-022(JM)

BUILDING OFFICIAL’S REPORT: Application of Judd Mullinix for a special exception to the parking regulations at 6255 W. Northwest Hwy. This property is more fully described as Block 5463 and is zoned Subarea B within Planned Development District No. 15, which requires parking to be provided. The applicant proposes to construct a multi-family residential structure for a multifamily use, and provide 286 of the required 353 parking spaces, which will require a 67-space special exception (19 percent reduction) to the parking regulation.

LOCATION: 6255 W. Northwest Hwy.

APPLICANT: Judd Mullinix

REQUEST:

A request for a special exception to the off-street parking regulations of 67 spaces is made to construct and maintain a multifamily use and to provide 268 of the 335 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: Subarea B within PD No. 15
North: MF-1(A) Multifamily District
East: Subarea B within PD No. 15
South: City of University Park
West: Subarea A within PD No. 15

Land Use:

The subject site is undeveloped. The areas to the north, east, and west are developed with multifamily uses. The property across W. Northwest Hwy. is a church.

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:

A request for a special exception to the off-street parking regulations of 67 spaces is made to construct and maintain a multifamily use and to provide 286 of the 353 required off-street parking spaces.

PD No. 15 references Chapter 51A. Accordingly, per SEC 51A-4.209(b)(5), a multifamily use is defined as three or more dwelling units located on a lot. The off-street parking requirement is one space per bedroom with a minimum of one space per dwelling unit. Additional guest parking is required the available parking is reserved. According to the information provided in review of the request, the multifamily development will consist of approximately 93 one-bedroom, 97 two-bedroom, and 22 three-bedroom units. A total of 338 off-street parking spaces are required. A revised building official's report submitted on February 8, 2021 indicates the parking to be provided is 286 spaces, which will require a 19 percent reduction in parking for the difference of 67 spaces (**Attachment D**).

The applicant provided two parking studies to support the request (**Attachments A and B**).

The Sustainable Development and Construction Department Senior Engineer has no objections to the request (**Attachment C**).

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

- The parking demand generated by the proposed multifamily structure does not warrant the number of off-street parking spaces required: and
- The special exception of 67 spaces (or a 20 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 67 spaces shall automatically and immediately terminate if and when the multifamily use is changed or discontinued.

Timeline:

December 23, 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.

January 6, 2021: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 8, 2021: The Board Administrator emailed the applicant’s representative 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 January 26th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th 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.”

January 25, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**)

- January 28, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- January 26, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment B**)
- January 29, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “no objection” (**Attachment C**).
- February 8, 2021: A revised building official’s report clarified the request to be a 19 percent reduction (**Attachment D**).

BOARD OF ADJUSTMENT ACTION: March 16, 2021

APPEARING IN FAVOR:

Judd Mullinix 13455 Noel Rd., Two Galleria Office Tower,
Suite 700 Dallas, TX
Scot Johnson 13455 Noel Rd., Two Galleria Office Tower,
Suite 700 Dallas, TX
Christopher Nash 1780 S. Post Oak Ln, Houston, Texas
77056
David Ott 1780 S. Post Oak Ln, Houston, Texas 77056
Troy Jamail 9600 Great Hills Trail, Suite 150 W, Austin, TX
Karl Crawley 2201 Main Street, Suite 1280 Dallas, TX
Andrew Reugg 2201 Main Street, Suite 1280 Dallas, TX
Margie Harris 5015 Tracy St. #102 Dallas, TX

APPEARING IN OPPOSITION:

William Kritzer 6211 W. Nw Hwy #2904 Dallas, TX
Mary Schulte 6211 W. Nw Hwy #1505 Dallas, TX
Sharon Stone 6306 Bandera Ave #C Dallas, TX

MOTION: Slade

Motion to grant FAILED. No Second.

MOTION: Halcomb

I move that the Board of Adjustment, in Appeal No. BDA 201-022, on application of Judd Mullinix, **deny** the off-street parking regulations special exception requested by this applicant **without** prejudice because our evaluation of the property and the testimony shows that granting the application would increase traffic hazards or increase traffic congestion on adjacent or nearby streets **and/or** the parking demand generated by the use does warrant the number of required parking spaces.

SECONDED: Narey

AYES: 4 – Slade, Lamb, Halcomb, Narey
NAYS: 0
MOTION PASSED: 4 – 0 (unanimously)

MOTION: Lamb

I move to adjourn the Panel A hearing.

SECONDED: Halcomb
AYES: 4 - Slade, Lamb, Halcomb, Narey
NAYS: 0 -
MOTION PASSED (unanimously): 4 - 0

3:10 P.M. Board Meeting adjourned for **March 16, 2021**

Chevi Hamboe

CHAIRPERSON
Jennifer Munoz
BOARD ADMINISTRATOR
Latonia Jackson

BOARD SECRETARY

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