

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
CITY OF DALLAS- VIDEOCONFERENCE
MONDAY, JUNE 23, 2022**

RECEIVED

CITY SECRETARY
DALLAS, TEXAS

MEMBERS PRESENT AT BRIEFING: Robert Agnich, Vice Chair - regular member, Roger Sashington, regular member, Rodney Milliken, regular member, Judy Pollock, regular member, and Dr. Emmanuel Glover, alternate member

MEMBERS ABSENT FROM BRIEFING: Jared Slade, regular member

MEMBERS PRESENT AT HEARING: Robert Agnich, Vice Chair - regular member, Roger Sashington, regular member, Rodney Milliken, regular member, Judy Pollock, regular member, and Dr. Emmanuel Glover, alternate member

MEMBERS ABSENT FROM HEARING: Jared Slade, regular member

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Daniel Moore, Asst. City Attorney, Michael King, Senior Planner/meeting moderator, Pamela Daniel, Senior Planner, Jason Pool, Senior Planner/Sign Code Specialist, LaTonia Jackson, Board Secretary, and Sarah May, Chief Planner

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Daniel Moore, Asst. City Attorney, Michael King, Senior Planner/meeting moderator, Pamela Daniel, Senior Planner, Jason Pool, Senior Planner/Sign Code Specialist, LaTonia Jackson, Board Secretary, and Sarah May, Chief Planner.

11:11 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **June 23, 2022 docket.**

BOARD OF ADJUSTMENT ACTION: June 23, 2022

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.

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel C May 16, 2022 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: June 23, 2022

MOTION: Pollock

Approval of the Board of Adjustment Panel C May 16, 2022 public hearing minutes.

SECONDED: Sashington

AYES: 5 – Milliken, Glover, Pollock, Agnich, Sashington

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA212-FW2

BUILDING OFFICIAL’S REPORT: Application of Juan Jose Villanueva, for a fee waiver for special exceptions to the fence height and visibility triangle regulations at 7120 Cortland Avenue.

LOCATION: 7120 Cortland Avenue

APPLICANT: Juan Jose Villanueva

REQUESTS:

The applicant is requesting a fee waiver for special exceptions to the fence height and visibility triangle regulations. The fee waiver is requested to accommodate a fence taller than four feet-in-height in a front yard along the property line and driveway onto the site containing a single-family dwelling.

STANDARD FOR A FEE WAIVER:

Section 51A-1.105(b)(6) of the Dallas Development Code specifies the board of adjustment may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board’s miscellaneous docket for predetermination. If the issue is placed on the miscellaneous docket, the applicant may not apply to the merits of the request for a waiver have been determined by the board. In making this determination, the board may require the production of financial documents.

STAFF RECOMMENDATION:

The staff does not make a recommendation on fee waiver requests since the standard is whether the board finds that payment of the fee would result in substantial financial hardship to the applicant.

CASE HISTORY:

On March 21, 2022, Panel C denied a fee waiver for special exceptions to the fence height and visibility triangle regulations.

BOARD OF ADJUSTMENT ACTION: June 23, 2022

APPEARING IN FAVOR: Ricardo Villanueva 2111 Pond View Ct. Dallas, TX

APPEARING IN OPPOSITION: None.

MOTION: Pollock

I move that the Board of Adjustment, in Appeal No. BDA 212-FW2, on application of Juan Jose Villanueva, **deny** the request to waive the filing fees to be paid in association with a request for a special exception to the fence material regulations as requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that payment of the fee would not result in substantial financial hardship to this applicant.

SECONDED: Milliken

AYES: 5 – Milliken, Glover, Pollock, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 5 – 0

FILE NUMBER: BDA212-051(JM)

BUILDING OFFICIAL'S REPORT: Application of Trent Robertson of Masterplan Texas to appeal the decision of the administrative official at 9109 John W. Carpenter Freeway. This property is more fully described as a tract of land in Block 42/7940, zoned an IR Industrial Research District. The permit to relocate a non-premise sign was denied because the proposed relocation does not comply with Sec 51A7.307(d)(3) of the Dallas City Code, which requires all signs located on a railroad right-of-way must be relocated within that same railroad right-of-way. The applicant proposes to appeal the decision of an administrative official.

LOCATION: 9109 John W. Carpenter Freeway

APPLICANT: Trent Robertson of Masterplan Texas

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the Building Official's authorized representative, the Southwest Sign District Inspector in Development Services, to deny an application for the relocation of an existing non-premise sign located in DART right-of-way based on the relocation site not meeting the criteria in the code.

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).

STAFF RECOMMENDATION:

Staff does not make a recommendation on appeals of the decisions of administrative officials.

BACKGROUND INFORMATION:

Zoning:

- Site: IR Industrial Research District
- Northwest: IR Industrial Research District and PD No. 945
- Northeast: IR Industrial Research District
- Southeast: IR Industrial Research District
- Southwest: IR Industrial Research District

Land Use:

The site contains and a commercial amusement (inside) use. Surrounding uses include mostly office/showroom/warehouse and retail uses, with a general merchandise or food store and fueling station located to the northeast.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

The City's earliest digital records indicate the original 400-square-foot non-premise sign was permitted at 15602 Dallas Parkway on August 5, 1979. In 1985, the sign was demolished and a new 672-square-foot sign was installed. In 2001, Chapter 52 was amended to require that all non-premise signs register with the city. Multiple sign registration permits have been issued since, in accordance with the administrative code. The Dallas Development Code, Chapter 51A, contains the requirements based on size, location, and **relocation**—the subject of this AO appeal.

On April 14, 2022, the Southwest District Sign Inspector denied the relocation application citing:

- This letter is to inform you that the submitted address of 9109 John W. Carpenter Frwy, for the relocation of the non-premise sign formerly at 15602 Dallas Pkwy, permit number 2103094001, is hereby denied.
- Pursuant to Section 51A-7.307(d)(3) of the Dallas City Code, all signs located on a railroad right-of-way must be relocated within that same railroad right-of-way. The proposed site at 9109 John W. Carpenter Frwy is not located within the same railroad right-of-way and will not meet the code requirement.
- Information on how to appeal this decision was also provided.

Sec. 51A-7.307(d)(3) states that all signs located on a railroad right-of-way must be relocated within that same railroad right-of-way. Relocated signs must be relocated within 500 feet of their original location unless possible locations are not of a suitable size or configuration or are otherwise unusable. Signs that have been relocated within 500 feet of their original location may not be less conforming than the original sign. If a sign cannot be relocated within 500 feet of its original location, it can be relocated *anywhere in that same railroad right-of-way*, but must fully comply with the size, height, spacing, setback, and other restrictions in this article.

The proposed relocation site at 2436 Shorecrest Drive is located on private property, outside of the railroad or any public right-of-way. Relocation onto private property is not an option provided by the code.

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:

- May 2, 2022: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 2, 2022: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 4, 2022: The Board of Adjustment Chief 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 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;
- the criteria/standard that the board will use in their decision to approve or deny the request (amended ordinance);
- the appeal of a decision of an administrative official procedure outline; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

May 26, 2022: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner/Board Administrator, the Development Services Chief Arborist, the Development Services Senior Plans Examiner, and Development Services Chief Planner, the Transportation Development Services Senior Engineer, the Conservation District Chief Planner, the Board Senior Planner, and the Assistant City Attorney to the Board.

June 10, 2022: The applicant's attorney submitted additional evidence for consideration (**Attachment A**).

June 13, 2022: The City's attorney submitted additional evidence for consideration (**Attachment B**).

BOARD OF ADJUSTMENT ACTION: June 23, 2022

APPEARING FOR PUBLIC TESTIMONY: Doug Ralston 2220 Shorecrest Dallas, TX

APPEARING IN FAVOR: Trenton Robertson 2201 Main St. #1280 Dallas, TX
 Kiesha Kay 2201 Main St. #1280 Dallas, TX
 Byron Kelley 3333 Lee Pkwy. 8th Fl Dallas, TX
 Matt Landon 2201 Main St. #1280 Dallas, TX

APPEARING IN OPPOSITION: Kathleen Fones 1500 Marilla St. 7DN Dallas, TX
 Stacy Rodriguez 1500 Marilla St. 7DN Dallas, TX

MOTION: Sashington

Having fully reviewed the decision of the administrative official of the City of Dallas in Appeal No. BDA 212-051, on application of Trent Robertson, and having evaluated the evidence pertaining to the property and heard all testimony and facts supporting the application, I move that the Board of Adjustment **affirm** the decision of the administrative official and **deny** the relief requested by the applicant.

SECONDED: Agnich

AYES: 4 – Milliken, Glover, Agnich, Sashington

NAYS: 1 – Pollock

MOTION PASSED: 4-1

MOTION: Agnich

I move to adjourn the Panel C hearing.

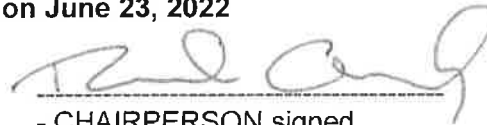
SECONDED: Sashington

AYES: 5 – Milliken, Glover, Pollock, Agnich, Sashington

NAYS: 0 -

MOTION PASSED (unanimously): 5 - 0

The meeting was adjourned **at 2:49 P.M. on June 23, 2022**



- CHAIRPERSON signed
8/15/22



- BOARD ADMINISTRATOR



BOARD SECRETARY

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