

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
CITY OF DALLAS- VIDEOCONFERENCE  
MONDAY, SEPTEMBER 20, 2021**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Vice-Chair, regular member, Judy Pollock, regular member, Robert Agnich, regular member, Roger Sashington, regular member, Moises Medina, regular member

MEMBERS ABSENT FROM BRIEFING: None

MEMBERS PRESENT AT HEARING: Scott Hounsel, Vice-Chair, regular member, Judy Pollock, regular member, Robert Agnich, regular member, Roger Sashington, regular member, Moises Medina, regular member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Attorney, Pamela Daniel, Senior Planner, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Andreea Udrea, Interim Assistant Director, Carolina Yumet, Interim Assistant Director

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Attorney, Pamela Daniel, Senior Planner, Robyn Gerard, Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Andreea Udrea, Interim Assistant Director, Carolina Yumet, Interim Assistant Director.

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**11:16 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's, **September 20, 2021 docket.**

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

**1:08 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 C, August 16, 2021 public hearing minutes.

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

**MOTION: Pollock**

Approval of the Board of Adjustment Panel C, August 16, 2021 public hearing minutes.

**SECONDED: Agnich**

**AYES:** 5 – Hounsel, Pollock, Agnich, Sashington, Slade

**NAYS:** 0

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

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**FILE NUMBER:** BDA201-078(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Baldwin Associates for a variance to the front yard setback regulations at 4000 Stonebridge Drive. This property is more fully described as Lot 6, Block 5/2023, and is zoned an R-7.5 Single Family Subdistrict within Planned Development District No. 193, which requires a front yard setback of 25 feet, and limits the height of a fence in the front yard to four feet. The applicant proposes to construct a single family residential accessory structure (swimming pool) and provide a 16-foot front yard setback, which will require a nine-foot variance to the front yard setback regulations. Additionally, a retaining wall up to nine-feet six-inches-in-height is proposed in the front yard, requiring a five-foot six-inch special exception to the fence height regulations.

**LOCATION:** 4000 Stonebridge Drive

**APPLICANT:** Rob Baldwin of Baldwin Associates

**REQUEST:**

The applicant proposes to construct and maintain a swimming pool, spa structure, and retaining wall located as close as 16 feet from the front property line. The site is currently 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:

- 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;

- 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
- 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 zoned and R-7.5 Single Family District within PD No. 193 in that it is somewhat sloped (elevation ranging from 484 feet on the west to 493 feet on the east) and irregular in shape (ranging from about 43 to 103 feet-in-width).
- Staff concluded that the applicant has shown by submitting a document (**Attachment A**) indicating among other things that the size of the proposed pool on the subject site with approximately 475 square feet of floor area is commensurate with 30 properties in the same zoning district which have an average lot area of 19,217 square feet.

**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: PD 193 (R-7.5) (Single family subdistrict)  
North: PD 193 (R-7.5) (Single family subdistrict)  
South: PD 193 (R-7.5) (Single family subdistrict)

East: PD 193 (MF-2) (Multifamily subdistrict)  
West: PD 193 (R-7.5) (Single family subdistrict)

**Land Use:**

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

**Zoning/BDA History:**

1. **BDA201-031** Property at 4000 Stonebridge Drive (the subject site): On April 19, 2021, the Board of Adjustment Panel C denied a request for a variance to the front yard setback regulations of 12 feet without prejudice. The case report stated the request was made to construct and maintain an accessory pool structure, part of which is to be located as close as 13 feet from the front property line or as much as 12 feet into the 25-foot front yard setback on a site that is undeveloped.
2. **BDA189-082** Property at 4000 Stonebridge Drive (the subject site): On August 19, 2019, the Board of Adjustment Panel C denied a request for a variance to the front yard setback regulations of ten feet without prejudice. The case report stated the request was made to construct and maintain a two-story single-family structure with a 2,600 square foot building footprint (and with approximately 4,500 square feet of “conditioned” space), part of which is to be located as close as 15 feet from the front property line or as much as 10 feet into the 25-foot front yard setback on a site that is undeveloped.

**GENERAL FACTS /STAFF ANALYSIS:**

This request for a variance to the front yard setback regulations of up to nine feet is made to construct and maintain a residential accessory structure, a swimming pool and a spa structure, with approximately 475 square feet of floor area. The site is undeveloped and located in an R-7.5 Single Family District within PD No. 193 which requires a minimum front yard setback of 25 feet.

The submitted site plan indicates that the proposed structure is located as close as 16 feet from the front property line or as much as nine feet into the 25-foot front yard setback.

Lots in this district are typically 7,500 square feet in area. The subject site is somewhat sloped, irregular in shape, and, according to the application, is 0.26 acres (or approximately 11,300 square feet) in area.

According to DCAD records, there are no improvements listed for the property addressed at 4000 Stonebridge Drive.

The applicant has submitted a document that represents that the lots average square footage of 30 other properties with a pool in the PD 193 (R-7.5) zoning district is about 19,212 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 (R-7.5) 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 (R-7.5) zoning classification.

Additionally, the applicant is now requesting a special exception to the fence height regulations for a retaining wall proposed in the front yard. This retaining wall was included on the last requests for this case, but not as a special exception. The applicant was advised that due to the measurement of the fence being taken from the interior of the property, that despite the retaining wall not being visible from the street, the retaining wall is considered a fence structure above four feet-in-height in a front yard setback.

According to the site plan and elevation submitted, the portion of the one-foot wide, solid concrete retaining wall fence structure is located on the southern portion of the site, around the driveway and garage area, and is up to nine-feet six-inches-in-height and 26 feet-in-length along the Stonebridge frontage, about 15 feet from the property line.

As of September 14, 2021, letters and petitions of support had been received regarding the requests.

If the board were to grant the variance request and impose the submitted site plan as a condition, the accessory structure, a swimming pool and a spa structure with approximately 475 square feet of floor area located partially in the front yard setback, would be limited to what is shown on this document. If the board were to grant the special exception to the fence height standards and impose the submitted site plan and elevation, the fence located in the front yard along the Stonebridge Drive frontage would be limited to the location and height, as depicted.

**Timeline:**

- June 30, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 5, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C, due to case history.

August 23, 2021: 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 August 31st deadline to submit additional evidence for staff to factor into their analysis; and the September 10th 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."

August 30, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

September 3, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board.

No review comment sheets were submitted in conjunction with this application

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

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Logan Waller 5115 McKinney Ave. Ste. F Dallas, TX

APPEARING IN OPPOSITION: Daniel Crow 4015 Stonebridge Dallas, TX  
Raymond Francis 3521 Arrowhead Dallas, TX  
Randy Kender 4116 Stonebridge Dallas, TX  
William James 4103 Rock Creek Dr Dallas, TX  
John Doubleday 4018 Stonebridge Dallas, TX

**MOTION: Agnich**

I move that the Board of Adjustment, in Appeal No. BDA 201-078, hold this matter under advisement until **October 18, 2021**.

**SECONDED: Pollock**

AYES: 4 - Agnich, Hounsel, Pollock, Medina

NAYS: 0 –

MOTION PASSED: 4-0 (unanimously)

Roger Sashington had to leave the meeting: 2:00 p.m.

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FILE NUMBER: BDA201-079(PD)

**BUILDING OFFICIAL'S REPORT:** Application of Rob Baldwin of Baldwin Associates for a special exception to the multifamily use regulations to afford a handicapped person equal opportunity to use and enjoy a dwelling at 212 Melba Street. This property is more fully described as Lots 13, 14, and 15, Block 31/3151, and is zoned Subdistrict 3, The East Garden District within Planned Development District No. 830, in which the maximum structure height is 50 feet. The applicant proposes to construct a multifamily use with a maximum structure height of 66 feet which will require a 16-foot special exception for an elevator to allow handicapped residents to access the roof deck.

**LOCATION:** 212 Melba Street

**APPLICANT:** Rob Baldwin of Baldwin Associates

**REQUESTS:**

The proposed request is to allow a multifamily use to exceed the maximum structure height of 50 feet to provide an elevator to allow handicapped residents to access and ensure equal enjoyment of the common roof deck.

**STANDARD FOR A SPECIAL EXCEPTION FOR THE HANDICAPPED:**

Section 51A-1.107(b)(1) states that the board of adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception for the handicapped since the basis for this type of appeal is when the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

**Zoning:**

- Site: Subdistrict 3 within Planned Development District No. 830
- North: Conservation District No. 7
- East: Subdistrict 3 within Planned Development District No. 830
- South: Subdistrict 3 within Planned Development District No. 830 with a D Liquor

Control Overlay  
West: Subdistrict 3 within Planned Development District No. 830

**Land Use:**

The subject property is under construction with a multifamily use. The surrounding properties to the north include an undeveloped tract and single-family uses, to the west and east are single family uses, and to the south is a surface parking lot use.

**Zoning/BDA History:**

There have been no recent board or zoning cases in the vicinity within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

The following request for a special exception for the handicapped focuses on constructing and maintaining a four-story multifamily use exceeding the maximum structure height of 50 feet for a maximum structure height of 66 feet to provide an elevator to allow handicapped residents to access and ensure equal enjoyment of the common roof deck.

The site is zoned Subdistrict 3 within Planned Development District No. 830 where the Dallas Development Code permits a maximum structure height of 50 feet in this subdistrict.

The submitted site plan and elevation plans denote one four-story multifamily dwelling structure with a maximum height of approximately 66 feet inclusive of an elevator overrun shaft. City records indicate a total floor area of 59,447 square feet and 55 dwelling units.

Section 51A-1.107(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.

A copy of the "handicap" definition from this act was provided to the Board Administrator by the City Attorney's Office. Section 3602 of this act states the following:

"(h) "Handicap" means, with respect to a person -

1. a physical or mental impairment which substantially limits one or more of such person's major life activities,
2. a record of having such an impairment, or
3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21)."



Therefore, the board is to consider this special exception for the handicapped request solely on whether they conclude that the special exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

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

- The special exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling; and
- There is a person with a “handicap” (as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended) who resides and/or will reside on the site.

If the board were to grant the request, typical conditions include compliance with the submitted site plan and that the special exception expires when a handicapped person no longer resides on the property.

**Timeline:**

July 7, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 5, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

August 17, 2021: The 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 August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 10<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 31, 2021: The applicant provided additional information (**Attachment A**).

September 3, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building

Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board

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

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. Ste. B Dallas, TX  
Katherine Slade 5328 Waneta Dr. Dallas, TX  
Jenny Thomason 6343 Palo Pinto Dallas, TX

APPEARING IN OPPOSITION: Charlcye Bryson 505 W. 10<sup>th</sup> St. Dallas, TX

**MOTION#1: Hounsel**

I move that the Board of Adjustment, in Appeal No. BDA 201-079, on application of Rob Baldwin of Baldwin Associates, **grant** the sixteen-foot special exception for the handicapped to the multi-family development regulations requested by this applicant because our evaluation of the property and testimony shows that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy the dwelling.

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

1. Compliance with the submitted site plan is required.
2. The special exception expires when a handicapped person no longer resides on the property.
3. The elevator shaft is required to be constructed and maintained in the location shown on the submitted site plan for as long as a handicapped person resides on the property.

**SECONDED: Medina**

AYES: 2 - Hounsel, Medina

NAYS: 2 - Pollock, Agnich

MOTION FAILED: 2-2

**MOTION#2: Agnich**

I move that the Board of Adjustment, in Appeal No. BDA 201-079, on application of Rob Baldwin of Baldwin Associates, **deny** the special exception for the handicapped to the multifamily development regulations requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that the relief is not necessary to afford a handicapped person equal opportunity to use and enjoy the dwelling.

**SECONDED: Pollock**

AYES: 3 - Agnich, Hounsel, Pollock,

NAYS: 1 – Medina

MOTION PASSED: 3 – 1

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**FILE NUMBER:** BDA201-081(PD)

**BUILDING OFFICIAL’S REPORT:** Application of Cinthya A. Barrera Castillo for 1) a variance to the single-family use regulations to construct and maintain a 1,242 square foot additional dwelling unit (41.5 percent of the 2,986 square foot floor area of the main structure) which will require a 746-square-foot variance to the floor area ratio of the main structure; and 2) a special exception to the single-family use regulations to construct and maintain a two-story additional dwelling unit for non-rent on a site developed with an existing single-family dwelling unit at 1535 Beauford Road. This property is more fully described as Lot 23 in City Block D/8827 and is zoned Planned Development District No. 258, in which an accessory structure may not exceed 25 percent of the floor area of the main structure and not more than one single family dwelling unit can be constructed on a lot.

**LOCATION:** 1535 Beauford Road

**APPLICANT:** Cinthya A. Barrera Castillo

**REQUESTS:**

The applicant proposes to construct and maintain an additional dwelling unit for non-rent with approximately 1,242 square feet of floor area, exceeding 25 percent of the floor area of the main structure.

**STANDARD FOR A VARIANCE:**

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

- 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;
- 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
- 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.

**STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:**

The board may grant a special exception to the single-family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**STAFF RECOMMENDATIONS:**

**Variance to exceed 25 percent of the floor area of the main structure:**

Denial.

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the September 3<sup>rd</sup> staff review team meeting that the applicant had not substantiated how the variance is necessary to construct and maintain an additional dwelling unit greater than 25 percent of the floor area ratio of the main structure. The subject site is approximately 0.34 acres or 15,007 square feet in area and therefore not irregular in shape or size since PDD No. 258 requires a minimum lot area of 7,500 square feet. Therefore, it is staff's opinion that the applicant maintains the ability to construct an ADU in a manner commensurate with developments of other parcels of land within the Planned Development District No. 258 zoning district.

**Special exception for an additional dwelling unit:**

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when *in the opinion of the board*, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: Planned Development District No. 258  
North: Planned Development District No. 258  
South: R-7.5(A) Single Family District  
East: Planned Development District No. 258  
West: Planned Development District No. 258

**Land Use:**

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

**Zoning/BDA History:**

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

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

The request for a variance to the maximum floor area ratio regulations focus on constructing and maintaining a 1,242-square-foot additional dwelling unit (41.5 percent of the 2,986 square foot floor area of the main structure) which will require a 746-square-foot variance to the floor area ratio of the main structure. The property is zoned Planned Development District No. 258 which was established on November 19, 1986. Except for the minimum lot width requirement of 55 feet with concessions for "Z" barred lots and the minimum depth of 100 feet, the PDD wholly reverts to the R-7.5(A) Single Family District requirements. Thus, in this district, an additional dwelling unit (ADU) cannot exceed 25 percent of the floor area ratio of the main structure.

DCAD records indicate the following improvements for the property located at 1535 Beauford Road: "main improvement: a structure with 782 square feet of living area built-in 1925" and "additional improvements: a 400-square-foot detached garage.

City records reflect permits for electrical trades for the existing one-story dwelling completed on June 23, 1996 and April 28, 1998. A remodel permit was issued on July 7, 2020 to remodel 432 square feet of the roof by removing the existing roof and installing a new roof. However, a complaint was lodged on August 28, 2020 where a City Inspector was dispatched and observed that while only a remodel permit for a reroof was issued, a remodel of the structure was in progress. Additionally, city records reflect submittals of a second story addition of 700 square feet of the floor area to the main structure created on February 24, 2021 and an addition and remodel permit created on March 3, 2021.

The proposed site plan denotes four structures: the main structure with approximately 744 square feet of floor area, a proposed two-story addition with approximately 672 square feet of floor area, an existing detached garage with approximately 400 square feet of floor area, a structure labeled "existing area" with approximately 247 square feet of floor area, and an existing two-story "guest house" or proposed ADU with approximately 1,848 square feet of floor area.

The property is not irregular in shape since it is rectangular in size and according to the application, contains 0.344 acres, or approximately 15,007 square feet in lot area. In PDD No. 258 which reverts to an R-7.5(A) Single Family District the minimum lot size is 7,500 square feet.

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

- That granting the variance to the floor area regulations for structures accessory to single-family uses will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification.

- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same zoning classification.

As of September 9, 2021, seven letters have been submitted in support of and none in opposition to the request.

If the board were to grant a variance to the floor area regulations for structures accessory to single-family uses and impose the submitted site plan as a condition, the building footprint of the ADU on the site would be limited to what is shown on this document. Furthermore, the Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations. However, granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all other code requirements).

**Timeline:**

- July 9, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 5, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- August 18, 2021: The 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 August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 10<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 30, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).
- September 3, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building

Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board.

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

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

APPEARING IN FAVOR: Cinthya Barrera 1535 Beauford Rd Dallas, TX

APPEARING IN OPPOSITION: None

**MOTION#1: Hounsel**

I move that the Board of Adjustment, in Appeal No. BDA 201-081, on application of Cinthya A Barrera Castillo **grant** the 746 square foot variance to the floor area ratio 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: Pollock**

AYES: 4 - Agnich, Hounsel, Pollock, Medina

NAYS: 0 -

MOTION PASSED (unanimously): 4 – 0

**MOTION#2: Hounsel**

I move that the Board of Adjustment, in Appeal No. BDA 201-081, on application of Cinthya A Barrera Castillo **grant** the request to construct and maintain an accessory dwelling unit on a site developed with a single-family structure as a special exception to the single family use regulations requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring properties.

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

- (1) Compliance with the submitted site plan is required.
- (2) The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

**SECONDED: Agnich**

AYES: 4 - Agnich, Hounsel, Pollock, Medina

NAYS: 0 -

MOTION PASSED (unanimously): 4 – 0

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**FILE NUMBER:** BDA201-082(PD)

**BUILDING OFFICIAL'S REPORT:** Application of Mark Jenkins for 1) a variance to the side yard setback regulations of four-feet to construct an accessory dwelling unit one-foot from the property line, within a required five-foot side yard setback; 2) a variance to the single-family use regulations to construct and maintain a 699-square-foot accessory structure (34.8 percent of the 2,005-square-foot floor area of the main structure) which will require a 198-square-foot variance to the floor area ratio of the main structure at 1107 South Canterbury Court. This property is more fully described as Lot 21 in City Block 14/3801 and is zoned Subarea 1 within Conservation District No. 13, in which an accessory structure may not exceed 25 percent of the floor area of the main structure, and a minimum side yard setback of five feet must be maintained.

**LOCATION:** 1107 South Canterbury Court

**APPLICANT:** Mark Jenkins

**REQUESTS:**

The applicant proposes to construct and maintain an accessory structure with approximately 699 square feet of floor area, four feet into a required five-foot side yard setback on a site developed with a single-family dwelling.

**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:

- 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;
- 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
- 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 (first & second requests):**

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 Subarea 1 within Conservation District No. 13 considering its restrictive lot area according to the submitted site plan. The plan and the attachment show the site has a restrictive area due to the subject site having less land area and lot width of 9,068 square feet comparable to six other adjacent lots with an average lot size of 10,017 square feet and 69 feet of lot width, respectively. Additionally, the subject contains a mature 80-100-year-old native Texas pecan tree that restricts development. All things considered; the site cannot be developed in a manner commensurate with development upon other parcels of land with the same Conservation District No. 13 zoning.

The applicant submitted a document (**Attachment A**) indicating, among other things, that the proposed structure on the subject site is commensurate to six comparable lots located in the same zoning district.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: Subarea 1 within Conservation District No. 13
- North: Subarea 1 within Conservation District No. 13
- South: Subarea 1 within Conservation District No. 13
- East: Subarea 1 within Conservation District No. 13
- West: Subarea 1 within Conservation District No. 13

**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 in the vicinity within the last five years.

**GENERAL FACTS/STAFF ANALYSIS:**

The subject property zoned Subarea 1 within Conservation District No. 13. In this district, a minimum side yard setback of five feet is required. Additionally, an accessory structure cannot exceed 25 percent of the floor area ratio of the main structure. The requests for variances to the side yard setback and maximum floor area ratio regulations focus on constructing and maintaining a 699-square-foot accessory structure. The proposed unit is 34.8 percent of the 2,005 square foot floor area of the main structure, which will require a 198-square-foot variance to the floor area ratio of the main structure. The proposed unit is to be constructed one foot from the side property line, or four feet into a required five-foot side yard setback.

DCAD records indicate the following improvements for the property located at 1107 South Canterbury Court: “main improvement”: a structure with 2,005 square feet of living area built-in 1924” and “additional improvements”: a 480-square-foot detached garage.

City records reflect electrical permits for the existing one-story accessory structure issued on April 24, 1984 and a permit for an approximately 420-square-foot in-ground swimming pool. The site plan depicts an existing one-story accessory structure with approximately 239 square feet of floor area. The applicant proposes to construct a second story accessory structure with approximately 430 square feet, with the proposed second story addition encroaching four feet into a required five-foot side yard setback. The second story addition with stairs will equal to 34.8 percent of the existing 2,005-square-foot floor area ratio of the main structure.

The property is irregular in shape since it is neither rectangular nor square and according to the application, contains 0.21 acres, or approximately 9,068 square feet in lot area. In Subarea 1 within Conservation District No. 13 the minimum lot size is 7,500 square feet. However, properties within the vicinity are one-and-a half times greater than the minimum lot size.

The applicant has submitted a document comparing the lot sizes and improvements of the subject site with six adjacent properties in the same zoning district. The average lot is 10,017 square feet with an average of 3,001 square feet for improvements. The proposed 699-square-foot accessory structure on the site is commensurate to six comparable lots in the Conservation No. 13 district.

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

- That granting the variance to the floor area regulations for structures accessory to single-family uses will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same zoning classification.

As of September 10, 2021, staff has received one letter in opposition of and no letter in support of the request.

If the board were to grant a variance to the floor area regulations and a variance to the side yard setback for structures accessory to single-family uses and impose the submitted site plan as a condition, the building footprint of the structure on the site would be limited to what is shown on this document. However, granting these variances will not provide any relief to the Dallas Development Code regulations other than allowing an additional structure on the site to exceed

the floor area ratio and encroach into the side yard setback as depicted on the site plan (i.e. development on the site must meet all other code requirements).

**Timeline:**

July 14, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 5, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

August 26, 2021: The 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 August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 10<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 3, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board.

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

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

APPEARING IN FAVOR: Mark Jenkins 1107 S. Canterbury Ct. Dallas, TX

APPEARING IN OPPOSITION: None.

**MOTION#1: Hounsel**

I move that the Board of Adjustment, in Appeal No. BDA 201-082, on application of Mark Jenkins, **grant** the 4 foot variance to the side 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 current submitted site plan is required

**SECONDED: Agnich**

**AYES: 4 - Agnich, Housel, Pollock, Medina**

**NAYS: 0 -**

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

**MOTION#2: Housel**

I move that the Board of Adjustment, in Appeal No. BDA 201-082, on application of Mark Jenkins **grant** the 198 square foot variance to the floor area ratio 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: Agnich**

**AYES: 4 - Agnich, Housel, Pollock, Medina**

**NAYS: 0 -**

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

Sashington returned to the meeting: 3:30 p.m.

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**MOTION: Housel**

I move to adjourn the Panel C hearing.

**SECONDED: Agnich**

**AYES: 5 - Agnich, Housel, Pollock, Medina, Sashington**

**NAYS: 0 -**

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

The meeting was adjourned at 3:42 P.M. on September 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.