

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, APRIL 21, 2015**

MEMBERS PRESENT AT BRIEFING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Philip Lewis, alternate member and Lorlee Bartos, alternate member

MEMBERS ABSENT FROM BRIEFING: Paula Leone, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Lam, Engineer, Donna Moorman, Chief Planner and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Clint Nolen, Vice Chair, Larry French, regular member, Mark Rieves, regular member, Philip Lewis, alternate member and Lorlee Bartos, alternate member

MEMBERS ABSENT FROM HEARING: Paula Leone, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator
Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Lam, Engineer, Donna Moorman, Chief Planner and Trena Law, Board Secretary

11:05 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **April 21, 2015** docket.

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

To approve the Board of Adjustment Panel March 17, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: APRIL 21, 2015

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 145-041

BUILDING OFFICIAL'S REPORT: Application of Russell Peters for a variance to the front yard setback regulations at 1036 N. Oak Cliff Boulevard. This property is more fully described as Lot 14, Block 5/4610, and is zoned CD 20 (Subarea A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide an 18 foot 6 inch front yard setback, which will require a 6 foot 6 inch variance to the front yard setback regulations.

LOCATION: 1036 N. Oak Cliff Boulevard

APPLICANT: Russell Peters

REQUEST:

A request for a variance to the front yard setback regulations of 6' 6" is made to construct and maintain an approximately 520 square foot garage to attach to an existing single family home structure/use with (according to the application approximately) 2,500 square feet of living space to be located as close as 18' 6" (roof eave) from the site's front property line or as much as 6' 6" into the site's 25' front yard setback.

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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:

Denial

Rationale:

- While the subject site is irregular in shape, staff concluded that this characteristic/feature did not preclude the applicant from developing it (a lot with approximately 24,000 square feet or approximately 16,000 square feet larger than lots in the R-7.5(A) Single Family District in which CD 20 bases its development standards on) in a manner commensurate with the development upon other parcels of land in districts with the same CD 20 zoning classification.
- The area, shape, and slope of the subject site has not precluded it from being developed with a single family home with 2,500 square feet of living area (or more) and an attached two-vehicle garage. The square footage of the living area once the existing garage would be transitioned to living space would result (according to information taken from DCAD) in a home with almost 3,000 square feet of living area – a home with more living area square footage than the average of 10 other homes in CD 20 submitted by the applicant at approximately 2,200 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: CD 20 (Conservation District)
North: CD 20 (Conservation District)
South: CD 20 (Conservation District)
East: CD 20 (Conservation District)
West: CD 20 (Conservation District)

Land Use:

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

Zoning/BDA History:

There has 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:

- This request focuses on constructing and maintaining an approximately 520 square foot garage to attach to an existing single family home structure/use with (according

to the application) approximately 2,500 square feet of living space to be located as close as 18' 6" from the site's front property line or as much as 6' 6" into the site's 25' front yard setback.

- CD 20 states that generally the development standards for the R-7.5(A) Single Family District apply. CD 20 states that for existing main structures, the minimum front yard setback is 25 feet; for new main structures, the minimum front yard setback is the average of the blockface; and the purpose of these provisions is to provide an incentive for the retention of existing main structures.
- A site plan has been submitted indicating the "proposed new two car garage" is located 20' 2 ¾" from the front property. But the Building Official's report states that the applicant proposes to construct and maintain a single family residential structure and provide an 18' 6" setback that (according to the Building Inspection Senior Plans Examiners/Development Code Specialist) is to accommodate a roof eave that is not denoted on the site plan.
- According to calculations taken from the site plan by the Board Administrator, approximately 45 square feet (or about 9 percent) of the proposed approximately 520 square foot addition is to be located in the site's front yard setback.
- The site is flat, irregular in shape, and according to the application is 0.56 acres (or approximately 24,000 square feet) in area.
- According to DCAD records, the "main improvement" at 1036 N. Oak Cliff Boulevard is a structure built in 1940 with 2,785 square feet of living/total area; and with "additional improvements" listed as a pool and a 378 square foot attached garage.
- 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 to front yard setback regulations are 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 CD 20 zoning classification.
 - The variance to front yard setback regulations 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 CD 20 zoning classification.
- If the Board were to grant the front yard variance request, imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the front yard setback would be limited to that what is shown on the submitted plan – a structure that is located approximately 20' from the front property or where a roof eave would be located approximately 18' 6" from the front property line or 6' 6" into the 25' front yard setback.

Timeline:

January 23, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 11, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 11, 2015: The Board Administrator contacted the applicant and emailed 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 April 1st deadline to submit additional evidence for staff to factor into their analysis; and the April 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.

April 1, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

April 7, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: APRIL 21, 2015

APPEARING IN FAVOR: Russell Peters, 2118 Barberry Dr., Dallas, TX
Bill Cates, 2118 Barberry Dr., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: French

I move that the Board of Adjustment, in request No. **BDA 145-041**, on application of Russell Peters, **grant** a 6-foot 6-inch variance to the front yard setback regulations 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: **Bartos**

AYES: 5 – Nolen, French, Rieves, Lewis, Bartos

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-048

BUILDING OFFICIAL’S REPORT: Application of Jay Williams for special exceptions to the visual obstruction regulations at 10339 Sherbrook Lane. This property is more fully described as Lot 26, Block B/6423, and is zoned R-16(A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 10339 Sherbrook Lane

APPLICANT: Jay Williams

April 21, 2015 Public Hearing Notes:

- The applicant submitted additional written documentation to the Board at the public hearing.

REQUESTS:

Requests for special exceptions to the visual obstruction regulations are made to locate and maintain an 8’ high solid cedar fence in the two, 20’ visibility triangles on either side of the driveway into the site from Merrell Road on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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:

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends denial of these requests commenting: “Stopping and standing on the sidewalk and roadway are prohibited by Traffic Code Section 28.81.1(a)(1)(B) and (I) (see section 28.81.1). Merrel is on Thoroughfare Plan 4- lanes undivided.”
- The applicant had not substantiated how the location of the proposed fence in the 20’ visibility triangles at the driveway into the site from Merrell Road would not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single family district 16,000 square feet)
North: R-16(A) (Single family district 16,000 square feet)
South: R-16(A) (Single family district 16,000 square feet)
East: R-16(A) (Single family district 16,000 square feet)
West: R-16(A) (Single family district 16,000 square feet)

Land Use:

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

Zoning/BDA History:

There has 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:

- These requests focus on locating and maintaining an 8’ high solid cedar fence in the two, 20’ visibility triangles on either side of the driveway into the site from Merrell Road on a site developed with a single family home.
- The Dallas Development Code states the following: 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 at 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).
- A site plan and elevation have been submitted indicating portions of a fence located in the two 20’ visibility triangles on either side of the driveway into the site from Merrell Road.
- The Sustainable Development and Construction Department Project Engineer recommends denial of these requests commenting: “Stopping and standing on the sidewalk and roadway are prohibited by Traffic Code Section 28.81.1(a)(1)(B) and (I) (see section 28.81.1). Merrel is on Thoroughfare Plan 4- lanes undivided.”

- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate and maintain portions of an 8' high solid cedar fence located in the two 20' visibility triangles at the driveway into the site from Merrell Road 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 in the 20' drive approach visibility triangles into the site from Merrell Road to that what is shown on these documents – an 8' high solid cedar fence.

Timeline:

February 11, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 11, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 11, 2015: The Board Administrator contacted the applicant and emailed 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 April 1st deadline to submit additional evidence for staff to factor into their analysis; and the April 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.”

April 7, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

Undated: The Sustainable Development and Construction Department Project Engineer recommends denial of these requests commenting: “Stopping and standing on the sidewalk and roadway are prohibited by Traffic Code Section 28.81.1(a)(1)(B) and (I) (see

section 28.81.1). Merrel is on Thoroughfare Plan 4- lanes undivided.”

BOARD OF ADJUSTMENT ACTION: APRIL 21, 2015

APPEARING IN FAVOR: Jay Williams, 10339 Sherbrook LN., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Bartos

I move that the Board of Adjustment, in request No. **BDA 145-048**, on application of Jay Williams, **grant** the request to maintain items in the visibility triangles as a special exception to the visual obstruction regulations in the Dallas Development Code because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

SECONDED: NO ONE

*Motion Failed for Lack of a Second.

MOTION #2: Lewis

I move that the Board of Adjustment, in request No. **BDA 145-048**, on application of Jay Williams, **deny** the special exception requested **with prejudice** because our evaluation of the property and the testimony shows that granting the application would constitute a traffic hazard.

SECONDED: French

AYES: 3 – Nolen, French, Lewis

NAYS: 2 - Rieves, Bartos

MOTION PASSED: 3– 2

FILE NUMBER: BDA 145-052

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 5606 Bryan Parkway. This property is more fully described as Lot 6, Block G/679, and is zoned MF-2(A), which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure for a multifamily use, and provide 10 of the required 11 parking spaces, which will require a 1 space special exception to the off-street parking regulations.

LOCATION: 5606 Bryan Parkway

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 1 space is made to replace an existing single family home structure/use with a five-unit with two bedrooms each multifamily development on the subject site, and provide 10 (or 91 percent) of the 11 required off-street parking spaces.

Note that this application abuts a property to the east where the same applicant seeks a similar off-street parking special exception from Board of Adjustment Panel A on April 21st: BDA 145-053.

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

- 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 the 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 this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: "Development and zoning allows sufficient space for additional off-street parking at rear of lot. Bryan Parkway is a local road with 24-foot pavement width."
- The applicant had not substantiated how the parking demand generated by the proposed multifamily use on the site does not warrant the number of off-street parking spaces required, nor how the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: MF-2(A) (Multifamily)
South: MF-2(A) (Multifamily)
East: MF-2(A) (Multifamily)
West: MF-2(A) (Multifamily)

Land Use:

The subject site is developed with an existing one-story single family home structure/use that the applicant intends to demolish and replace with a five-unit

multifamily development. The areas to the north, east, south, and west appear to be developed with single family uses.

Zoning/BDA History:

1. BDA 145-053, Property at 5610 Bryan Parkway (the lot immediately east of the subject site)

On April 21, 2015, the Board of Adjustment Panel A will consider a request for a special exception to the off-street parking regulations of 1 space made in conjunction with replacing an existing single family home structure/use with five-unit with two bedrooms each development on the subject site, and provide 10 (or 91 percent) of the 11 required off-street parking spaces.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on replacing an existing single family home structure/use with a five-unit with two bedrooms each multifamily development on the subject site, and providing 10 (or 91 percent) of the 11 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
 - Multifamily: 1 space per bedroom with a minimum of one space per dwelling unit. An additional one-quarter space per dwelling unit must be provided for guest parking if the required parking is restricted to resident parking only. No additional parking is required for accessory uses that are limited principally to residents.
- The applicant proposes to provide 10 (or 91 percent) of the required 11 off-street parking spaces in conjunction with developing the property with a five-unit with two bedrooms each development.
- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: "Development and zoning allows sufficient space for additional off-street parking at rear of lot. Bryan Parkway is a local road with 24-foot pavement width."
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the multifamily use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 1 space (or a 9 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, and impose the condition that the special exception of 1 space shall automatically and immediately terminate if and when the multifamily use is changed or discontinued, the applicant would be allowed to construct and maintain the structure on the site with this specific use with the specified number of bedrooms per unit, and provide 10 of the 11 code required off-street parking spaces.

Timeline:

February 20, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 11, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

March 11, 2015: 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 April 1st deadline to submit additional evidence for staff to factor into their analysis; and the April 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.”

April 7, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

April 9, 2015: The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: “Development and zoning allows sufficient space for additional off-street parking at rear of lot. Bryan Parkway is a local road with 24-foot pavement width.”

BOARD OF ADJUSTMENT ACTION: APRIL 21, 2015

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Rieves

I move that the Board of Adjustment, in request No. **BDA 145-052**, on application of Robert Baldwin of Baldwin and Associates, **deny** the special exception to the off-street parking regulations requested by this applicant **without prejudice** because our evaluation of the property and the testimony shows that the use warrants the number of off-street parking spaces required, and the special exception would create a traffic hazard and increase traffic congestion on adjacent and nearby streets.

SECONDED: Nolen

AYES: 3 – Nolen, Rieves, Lewis

NAYS: 2 - French, Bartos

MOTION PASSED: 3– 2

FILE NUMBER: BDA 145-053

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 5610 Bryan Parkway. This property is more fully described as Lot 7, Block G/679, and is zoned MF-2(A), which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure for a multifamily use, and provide 10 of the required 11 parking spaces, which will require a 1 space special exception to the off-street parking regulations.

LOCATION: 5610 Bryan Parkway

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 1 space is made to replace an existing single family home structure/use with a five-unit with two bedrooms each multifamily development on the subject site, and provide 10 (or 91 percent) of the 11 required off-street parking spaces.

Note that this application abuts a property to the west where the same applicant seeks a similar off-street parking special exception from Board of Adjustment Panel A on April 21st: BDA 145-052.

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

- 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 the 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 this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: “Development and zoning allows sufficient space for additional off-street parking at rear of lot. Bryan Parkway is a local road with 24-foot pavement width.”
- The applicant had not substantiated how the parking demand generated by the proposed multifamily use on the site does not warrant the number of off-street parking spaces required, nor how the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: MF-2(A) (Multifamily)
South: MF-2(A) (Multifamily)
East: MF-2(A) (Multifamily)
West: MF-2(A) (Multifamily)

Land Use:

The subject site is developed with an existing one-story single family home structure/use that the applicant intends to demolish and replace with a five-unit multifamily development. The areas to the north, east, south, and west appear to be developed with single family uses.

Zoning/BDA History:

1. BDA 145-052, Property at 5606 Bryan Parkway (the lot immediately west of the subject site)

On April 21, 2015, the Board of Adjustment Panel A will consider a request for a special exception to the off-street parking regulations of 1 space made in conjunction with replacing an existing single family home structure/use with five-unit with two bedrooms each development on the subject site, and provide 10 (or 91 percent) of the 11 required off-street parking spaces.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on replacing an existing single family home structure/use with a five-unit with two bedrooms each multifamily development on the subject site, and providing 10 (or 91 percent) of the 11 required off-street parking spaces.

- The Dallas Development Code requires the following off-street parking requirement:
 - Multifamily: 1 space per bedroom with a minimum of one space per dwelling unit. An additional one-quarter space per dwelling unit must be provided for guest parking if the required parking is restricted to resident parking only. No additional parking is required for accessory uses that are limited principally to residents.
- The applicant proposes to provide 10 (or 91 percent) of the required 11 off-street parking spaces in conjunction with developing the property with a five-unit with two bedrooms each development.
- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: “Development and zoning allows sufficient space for additional off-street parking at rear of lot. Bryan Parkway is a local road with 24-foot pavement width.”
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the multifamily use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 1 space (or a 9 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, and impose the condition that the special exception of 1 space shall automatically and immediately terminate if and when the multifamily use is changed or discontinued, the applicant would be allowed to construct and maintain the structure on the site with this specific use with the specified number of bedrooms per unit, and provide 10 of the 11 code required off-street parking spaces.

Timeline:

- February 20, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 11, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 11, 2015: 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 April 1st deadline to submit additional evidence for staff to factor into their analysis; and the April 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.”

April 7, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

April 9, 2015: The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: "Development and zoning allows sufficient space for additional off-street parking at rear of lot. Bryan Parkway is a local road with 24-foot pavement width."

BOARD OF ADJUSTMENT ACTION: APRIL 21, 2015

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Rieves

I move that the Board of Adjustment, in request No. **BDA 145-053**, on application of Robert Baldwin of Baldwin and Associates, **deny** the special exception to the off-street parking regulations requested by this applicant **without prejudice** because our evaluation of the property and the testimony shows that the use warrants the number of off-street parking spaces required, and the special exception would create a traffic hazard and increase traffic congestion on adjacent and nearby streets.

SECONDED: Nolen

AYES: 4 – Nolen, Rieves, Lewis, Bartos

NAYS: 1 - French

MOTION PASSED: 4 – 1

FILE NUMBER: BDA 145-054

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 5706 Lindell Avenue. This property is more fully described as Lot 2, Block E/666, and is zoned MF-2(A), which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure for a multifamily use, and provide 10 of the required 11 parking spaces, which will require a 1 space special exception to the off-street parking regulations.

LOCATION: 5706 Lindell Avenue

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 1 space is made to replace an existing single family home structure/use with a five-unit with two bedrooms each multifamily “townhouse” development on the subject site, and provide 10 (or 91 percent) of the 11 required off-street parking spaces.

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

- 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 the 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 this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied commenting: “Development and zoning allows sufficient space for additional off-street parking at rear of lot. Lindell Avenue is a local road with 24-foot pavement width.”
- The applicant had not substantiated how the parking demand generated by the proposed multifamily structure on the site does not warrant the number of off-street parking spaces required, nor how the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: MF-2(A) (Multifamily)
South: MF-2(A) (Multifamily)
East: MF-2(A) (Multifamily)
West: MF-2(A) (Multifamily)

Land Use:

The subject site is developed with an existing one-story single family home structure/use that the applicant intends to demolish and replace with a five-unit multifamily development. The areas to the north, east, south, and west appear to be developed with single family uses.

Zoning/BDA History:

There has 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:

- This request focuses on replacing an existing single family home structure/use with a five-unit with two bedrooms each multifamily “townhouse” development on the subject site, and providing 10 (or 91 percent) of the 11 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
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BOARD OF ADJUSTMENT ACTION: APRIL 21, 2015

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Lewis

I move that the Board of Adjustment, in request No. **BDA 145-054**, on application of Robert Baldwin of Baldwin and Associates, **deny** the special exception to the off-street parking regulations requested by this applicant **without** prejudice because our evaluation of the property and the testimony shows that the use warrants the number of off-street parking spaces required, and the special exception would create a traffic hazard and increase traffic congestion on adjacent and nearby streets.

SECONDED: Nolen

AYES: 4 – Nolen, Rieves, Lewis, Bartos

NAYS: 1 - French

MOTION PASSED: 4 – 1

MOTION: Nolen

I move to adjourn this meeting.

SECONDED: Rieves

AYES: 5 – Nolen, French, Rieves, Lewis, Bartos

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

1:50 P. M.: - Board Meeting adjourned for **April 21, 2015**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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