

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
MONDAY, FEBRUARY 23, 2017**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Alex Winslow, regular member, Phil Foster, regular member, Cheri Gambow, regular member, and Ricardo Martinez, alternate member

MEMBERS ABSENT FROM BRIEFING: Marla Beikman, regular member

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Alex Winslow, regular member, Phil Foster, regular member, Cheri Gambow, regular member, and Ricardo Martinez, alternate member

MEMBERS ABSENT FROM HEARING: Marla Beikman, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Kanesia Williams, Asst. City Atty., Laura Morrison, Asst. City Attorney, Todd Duerksen, Dev. Code Specialist, Lloyd Denman, Asst. Director Engineering, Phil Erwin, Chief Arborist, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Kanesia Williams, Asst. City Atty., Laura Morrison, Asst. City Attorney, Todd Duerksen, Dev. Code Specialist, Lloyd Denman, Asst. Director Engineering, Donna Moorman, Chief Planner, and Trena Law, Board Secretary

11:06 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 23, 2017** docket.

1:05 P.M.

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

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel C, December 12, 2016 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 23, 2017

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA167-011(SL)

BUILDING OFFICIAL'S REPORT: Application of Thomas Nugent, represented by Lisa Ballew, for a special exception to the fence standards at 5531 Ursula Lane. This property is more fully described as Lot 10, Block B/5518, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence standards.

LOCATION: 5531 Ursula Lane

APPLICANT: Thomas Nugent
Represented by Lisa Ballew

REQUEST:

A request for a special exception to the fence standards related to fence height of 2' is made to construct and maintain a fence higher than 4' in the 65' required front yard (a 6' high, approximately 28' long solid "Lueders limestone" fence) on a site that is developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A) (Single family district 1 acre)
North: R-1ac(A) (Single family district 1 acre)
South: R-1ac(A) (Single family district 1 acre)
East: R-1ac(A) (Single family district 1 acre)
West: R-1ac(A) (Single family district 1 acre)

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:

- This request for a special exception to the fence standards related to fence height of 2' focuses on constructing and maintaining a 6' high, approximately 28' long solid "Lueders limestone" fence on a site that is developed with a single family home.
- The subject site is zoned R-1ac(A) which requires a 40' front yard setback; however because the site has a 65' platted building line on Ursula Lane, the site has a 65' required front yard on Ursula Lane.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the northwest corner of Ursula Lane and Netherland Drive.
- The subject site has one front yard along Ursula Lane (the shorter of the two frontages of the subject site which is always a front yard in this case) and a side setback along Netherland Drive (the longer of the two frontages). The property to the north of the subject site along Netherland Drive is the longer of its two street frontage (Lobello Drive being its shorter frontage) where there is no continuity of a front yard setback to be maintained on either property along Netherland Drive.
- The applicant has submitted a site plan and elevation of the proposal with notations indicating that the proposal reaches a maximum height of 6'.

- The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height in the front yard setback is represented as being approximately 28' in length parallel to Ursula Lane.
 - The proposal is represented as being located approximately 60' from the front lot line or approximately 75' from the pavement line.
- If the proposal located 5' further north it would no longer be in the setback or require this special exception.
- One single family lot fronts the proposed fence with no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of February 10, 2017, no letters had been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence standards related to fence height of 2' will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height to be constructed and maintained in the location and of the heights and materials as shown on these documents.

Timeline:

November 18, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 6, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 6, 2017: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant

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

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 23, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Winslow

I move to grant that the Board of Adjustment grant application **BDA 167-011(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevation is required.

SECONDED: Foster

AYES: 5 – Richardson, Winslow, Foster, Gambow, Martinez

NAYS: 0

MOTION PASSED: 5 – 0(unanimously)

FILE NUMBER: BDA167-015(SL)

BUILDING OFFICIAL’S REPORT: Application of Santos Martinez for a special exception to the fence standards at 5423 Hilton Head Drive. This property is more fully described as Lot 4, Block 1/8705, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards.

LOCATION: 5423 Hilton Head Drive

APPLICANT: Santos Martinez

REQUEST:

A request for a special exception to the fence standards related to fence height of 4' is made to maintain a fence higher than 4' (an 8' high solid wood fence) and to construct and maintain a 6' high open ornamental metal fence in one of the site's two required front yards (Harbor Town Drive) on a site that is developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

- Site: R-10(A) (Single family district 10,000 square feet)
- North: R-10(A) (Single family district 10,000 square feet)
- South: R-10(A) (Single family district 10,000 square feet)
- East: R-10(A) (SUP 770)(Single family district 10,000 square feet)
- West: R-10(A) (Single family district 10,000 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):

- This request for a special exception to the fence standards of 4' focuses on maintaining an 8' high solid wood fence and constructing and maintaining a 6' high open ornamental metal fence in one of the site's two required front yards (Harbor Town Drive) on a site that is developed with a single family home.
- The subject site is zoned R-10(A) which requires a 30' front yard setback.

- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the northeast corner of Hilton Head Drive and Harbor Town Drive.
- Given the single family zoning and location of the corner lot subject site, it has two required front yards – a 25' required front yard caused by a platted building line along Hilton Head Drive (the shorter of the two frontages of the subject site which is always a front yard in this case) and a 15' required front yard cause by a platted building line along Harbor Town Drive (the longer of the two frontages which is typically considered a side yard where on this R-10(A) zoned property a 9' high fence could be erected by right). However the site has a required front yard along Harbor Town Drive in order to maintain continuity of the established front yard setback along this street frontage where a home/lot to the east “fronts” on Harbor Town Drive.
- The applicant has submitted a site plan and elevations of the proposal/existing fence with notations indicating that the proposal reaches a maximum height of 8' in the Harbor Town Drive required front yard. (No part of this application is to address any existing or proposed fence exceeding 4' in height in the Hilton Head Drive required front yard).
- The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height in the front yard setback is represented as being approximately 78' in length parallel to Harbor Town Drive, and approximately 4' in length perpendicular to this street on the east and west sides in this required front yard. (All aspects of the fence proposal in this application is to maintain an 8' high wood fence with the exception of the 4' long fence on the east side of the site perpendicular to Harbor Town Drive that is proposed to be a 6' high open metal fence).
 - The proposal is represented as being located approximately 11' from the Harbor Town Drive front property line. (No pavement line is represented on the submitted site plan).
- One single family lot with no fence fronts the existing fence on Hilton Head Drive.
- The Board Administrator conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above 4' in height and located in a front yard setback. One is located two lots to the east and is an approximately 6' high solid masonry fence its front yard with no recorded BDA history, and the other is located two lots to the west and is an approximately 8' high solid wood fence with no recorded BDA history.
- As of February 10, 2017, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence standards related to height over 4' in the Harbor Town Drive required front yard will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4'

in height in the front yard setback to be maintained and constructed/maintained in the location and of the heights and materials as shown on these documents.

Timeline:

December 13, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 6, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 6, 2017: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 23, 2017

APPEARING IN FAVOR: Santos Martinez, 900 Jackson St., Dallas, TX
Bobby McMillian, 5416 Hilton Head Dr., Dallas, TX

APPEARING IN OPPOSITION: Jim Haney, 4808 Spyglass Drive, Dallas, TX

MOTION #1: Foster

I move that the Board of Adjustment, in Appeal No. **BDA 167-015**, on application of Santos Martinez, **grant** the request of this applicant to construct and maintain an eight-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevations is required.

SECONDED: Martinez

AYES: 2 – Foster, Martinez

NAYS: 3 - Richardson, Winslow, Gambow

MOTION FAILED: 2 – 3

MOTION #2: Martinez

I move that the Board of Adjustment, in Appeal No. **BDA 167-015**, on application of Santos Martinez, **deny** the special exception requested by this applicant to maintain an eight-foot high fence **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: Winslow

AYES: 5 – Richardson, Winslow, Foster, Gambow, Martinez

NAYS: 0 -

MOTION PASSED: 5 – 0(unanimously)

FILE NUMBER: BDA167-022(SL)

BUILDING OFFICIAL’S REPORT: Application of William Chase Corker for a variance to the front yard setback regulations at 2228 Madera Street. This property is a building site more fully described as Lot 11 and part of Lot 10, Block C/1978, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide a 14 foot front yard setback, which will require an 11 foot variance to the front yard setback regulations.

LOCATION: 2228 Madera Street

APPLICANT: William Chase Corker

REQUEST:

A request for a variance to the front yard setback regulations of up to 11' is made to replace an existing single family structure in the front yard setback with a new single family structure that would be located as close as 14' from the front property line or as much as 11' into the required 25' front yard setback.

STANDARD FOR A VARIANCE:

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, coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff has concluded that the variance should be granted because the subject site is irregular in shape and only approximately 3,900 square feet in the R-7.5(A) zoning district where lots are typically almost twice the size at 7,500 square feet. Furthermore, the applicant has substantiated how these features preclude the lot from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning. The applicant submitted a list of 11 other properties in the zoning district where the average living area is approximately 3,300 square feet - larger than that which is proposed on the site at approximately 2,700 square feet.
- Staff has concluded that granting this variance is not contrary to public interest in that the proposed home would be located further back from the front property line than the existing home on the site which is most likely a nonconforming structure given that DCAD states it was constructed in the 20's.

BACKGROUND INFORMATION:

Zoning:

- Site: R-7.5(A) (Single family district 7,500 square feet)
- North: R-7.5(A) (Single family district 7,500 square feet)
- South: R-7.5(A) (Single family district 7,500 square feet)
- East: R-7.5(A) (Single family district 7,500 square feet)
- West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA123-086, Property at 5410 Melrose Avenue (two lots northwest of the subject site) On September 17, 2013, the Board of Adjustment Panel B granted variances to the front yard setback regulations, lot coverage regulations, and off-street parking regulations. The case report stated that the requests were made to replace and existing one-story structure with a two story structure.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a variance to the front yard setback regulations of 11' focuses on replacing a one-story approximately 800 square foot single family home structure in the front yard setback with a new two-story single family home structure with an approximately 1,500 square foot footprint/2,600 square feet of AC space as close as 14' from the front property line or as much as 11' into the required 25' front yard setback.
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The applicant has submitted a site plan that shows a structure located as close as 14' 3" from the front property line or approximately 11' into the required 25' front yard setback.
- The applicant has submitted a document that represents the location of the existing home on the site and the proposed home on the site where the existing home is approximately 10.5' from the front property line and the proposed home would be approximately 14' from the front property line.
- The applicant has submitted a list of 11 other properties zoned R-7.5(A) where the average living area is approximately 3,300 square feet; and that the living area of the proposed structure is approximately 2,700 square feet.

- According to DCAD records, the “main improvement” for property at 2228 Madera Street is a structure built in 1926 with 841 square feet of living area/total area and “no additional improvements”.
- The subject site is irregular in shape and according to the application, is 0.09 acres (or 3,900 square feet) in area. The site is zoned R-7.5(A) where lots are typically rectangular in shape and 7,500 square feet in area. The site is about ½ the size of most lots in this zoning district.
- 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 R-7.5(A) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which, in this case, is a structure located as close as 14’ from the front property line or as much as 11’ into the 25’ front yard setback.

Timeline:

- December 21, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 6, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- January 13, 2017: The Board Administrator emailed the following information to the applicant:
- 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 February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 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.”

January 30, 2017: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 23, 2017

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Winslow

I move to grant that the Board of Adjustment grant application **BDA 167-022(SL)** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. 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: Foster

AYES: 5 – Richardson, Winslow, Foster, Gambow , Martinez

NAYS: 0

MOTION PASSED: 5 – 0(unanimously)

FILE NUMBER: BDA156-125(SL)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin of Baldwin and Associates for variances to the rear yard setback regulations and off-street parking regulations at 6615 Avalon Avenue. This property is more fully described as part of Lot 1, Block K/2796, and is zoned CD 2, which requires a rear yard setback of 6 feet, and requires a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and requires. The applicant proposes to construct and maintain a structure and provide a 0 foot rear yard setback, which will require a 6 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 9 feet, which will require a variance of 11 feet to the off-street parking regulations.

LOCATION: 6615 Avalon Avenue

APPLICANT: Robert Baldwin of Baldwin and Associates

February 23, 2017 Public Hearing Notes:

- The applicant submitted additional written documentation to the Board at the public hearing. This documentation included a revised site plan that the applicant represented eliminated his need for a variance to the rear yard setback regulations.

REQUESTS:

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

1. A variance to the rear yard setback regulations of up to 6’ is made to complete and maintain a two-story detached accessory structure (two-car garage/game room) to replace a recently demolished one-story detached garage structure in the same location/building footprint, located as close as on the site’s rear property line or as much as 6’ into the 6’ rear yard setback.
2. A variance to the off-street parking regulations of 11’ is made to locate and maintain parking spaces in an enclosed structure (the aforementioned replacement accessory structure) 9’ from the alley right-of-way line or 11’ into the required 20’ distance that parking spaces are required to be from this alley right-of-way line if in an enclosed structure.

STANDARD FOR A VARIANCE:

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, 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.

ORIGINAL December STAFF RECOMMENDATION (rear yard variance):

Denial

Rationale:

- Staff had concluded that the variance to the rear yard setback regulations should be denied because the applicant had not substantiated at the time of the November 29th staff review team meeting how the physical features of the flat, somewhat irregularly shaped, approximately 9,200 square foot site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same CD 2 zoning classification while simultaneously complying with code provisions including rear yard setback regulations.

ORIGINAL December STAFF RECOMMENDATION (off-street parking variance):

Denial

Rationale:

- While the Sustainable Development and Construction Department Project Engineer has no objections to the request if the Board imposes the submitted site plan and that no vehicles be allowed to park in the driveway were imposed as conditions, staff had concluded that the variance to the off-street parking regulations should be denied because the applicant had not substantiated at the time of the November 29th staff review team meeting how the physical features of the flat, somewhat irregularly shaped, approximately 9,200 square foot site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same CD 2 zoning classification while simultaneously complying with code provisions including off-street parking regulations

REVISED February STAFF RECOMMENDATION (rear yard variance):

Approval, subject to the following condition:

1. Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the variance should be granted because applicant had provided information indicating that the approximately 8,700 square foot subject site is the fourth smallest of 165 parcels of land in the CD 2 zoning district; and that the proposed development (a 2-story accessory structure) is commensurate to that which is found on a number of other lots the CD 2 zoning district, more specifically, that the vast majority of lots in CD 2 have detached garages, and that 46 of 165 properties have two-story garages.

REVISED February STAFF RECOMMENDATION (off-street parking variance):

Approval, subject to the following conditions:

1. Compliance with the submitted site plan is required.
2. An automatic garage door must be installed and maintained in working order at all times.
3. At no time may the area in front of the garage be utilized for parking of vehicles.

Rationale:

- Staff concluded that granting this request would not be contrary to public interest given that both the Sustainable Development and Construction Department Project Engineer and Sustainable Development Department Assistant Director Engineering have no objections to the request if the Board imposes the submitted site plan and that no vehicles be allowed to park in the driveway were imposed as conditions.
- In addition, staff concludes that the variance should be granted because applicant had provided information indicating that the approximately 8,700 square foot subject site is the fourth smallest of 165 parcels of land in the CD 2 zoning district; and that the proposed development (a 2-story accessory structure) is commensurate to that which is found on a number of other lots the CD 2 zoning district, more specifically, that the vast majority of lots in CD 2 have detached garages, and that 46 of 165 properties have two-story garages.

BACKGROUND INFORMATION:

Zoning:

Site: CD 2 (Tract III) (Conservation District)
North: CD 2 (Tract III) (Conservation District)
South: CD 2 (Tract III) (Conservation District)
East: CD 2 (Tract III) (Conservation District)
West: CD 2 (Tract III) (Conservation District)

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:

1. BDA067-060, Property located at 6625 Avalon Avenue (the property east of the subject site)

On April 16, 2007, the Board of Adjustment Panel C granted a request for a variance to the off-street parking regulations of up to 17' and imposed the following conditions: 1) compliance with the submitted site plan is required. 2) An automatic garage door must be installed and maintained in working order at all times. 3) At no time may the area in front of the garage be utilized for the parking of vehicles. 4) All applicable permits must be obtained.

The case report stated that the request was made to construct and maintain a detached accessory structure whereby enclosed parking spaces in the structure would be located less than the required 20' from the alley right-of-way line. (The site was developed with a detached garage/quarters structure that the applicant intended to replace with a new detached accessory garage structure).

GENERAL FACTS/STAFF ANALYSIS (rear yard variance):

- This request for a variance to the rear yard setback regulations of up to 6' focuses on completing and maintaining a two-story detached accessory structure (two-car garage/game room) with an approximately 700 square foot building footprint that would replace a recently demolished one-story detached garage structure in the same location/building footprint, located as close as on the site's rear property line or as much as 6' into the 6' rear yard setback on a site developed with a two-story single family home structure.
- The site is zoned CD 2 (Tract III) which requires that all building sites provide a minimum rear yard setback of 6'.
- The submitted site plan represents a detached accessory structure with an approximately 700 square foot building footprint that is located 7 inches from the rear property line or as much as 6' into the required 6' rear yard setback.
- The application has stated that the "previous detached 1-story garage was removed and rebuilt in the same location and footprint".
- According to DCAD records, the "main improvement" for the property addressed at 6615 Avalon Drive is a structure constructed in 1924 with 3,442 square feet of living area/total area with the following "additional improvements": 1) a 552 square foot detached garage; 2) 178 square feet of unfinished space; and 3) 552 square feet of

unfinished space. Because records show that the structures on this site were built in the 20's, it is assumed that the accessory structure recently demolished on the site was a nonconforming structure.

- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant is required to make a request for a variance to the rear yard setback regulations for the replacement accessory structure in (according to the applicant) the same location and with the same footprint because he intentionally destroyed what is assumed to be a nonconforming structure and he is causing it to become more nonconforming to the rear yard setback regulations because he proposes to add a second floor to align with the first floor.
- The subject site is flat, irregular in shape, and according to the submitted application is 0.21 acres (or approximately 9,200 square feet) in area. The site is zoned CD 2 where lots prior to its creation in 1988 were zoned R-10(A) where lots are typically 10,000 square feet in area.
- According to calculations taken from the site plan, about 45 square feet (or approximately 6 percent) of the replacement 700 square foot accessory structure building footprint is to be located in the site's 6' rear yard setback.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear 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 CD 2 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CD 2 zoning classification.
- If the Board were to grant the request for a variance to the rear yard setback regulations of up to 6', imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the rear yard setback would be limited to that what is shown on this plan – which in this case is an accessory structure located as close as on the rear property line or as much as 6' in the 6' rear yard setback.

GENERAL FACTS/STAFF ANALYSIS (off-street parking variance):

- The request for a variance to the off-street parking regulations of 11' focuses on locating and maintaining parking spaces in an enclosed two-story detached accessory structure (two-car garage/game room) which replaces a recently demolished one-story detached garage structure in the same location/building footprint 9' from the alley right-of-way line or 11' into the required 20' distance that parking spaces in an enclosed structure is required to be from this alley right-of-way line on a site developed with a two-story single family home structure.
- The site is zoned CD 2 which provides no specific provisions related to the location of enclosed parking spaces. As a result, off-street parking provisions of the Dallas Development Code apply on this property.
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan represents that the location of enclosed parking spaces in the detached accessory structure is 9' 1" from the alley right-of-way line or approximately 10' from the alley pavement line.
- The application has stated that the "previous detached 1-story garage was removed and rebuilt in the same location and footprint".
- According to DCAD records, the "main improvement" for the property addressed at 6615 Avalon Drive is a structure constructed in 1924 with 3,442 square feet of living area/total area with the following "additional improvements": 1) a 552 square foot detached garage; 2) 178 square feet of unfinished space; and 3) 552 square feet of unfinished space. Because records show that the structures on this site were built in the 20's, it is assumed that the accessory structure recently demolished on the site was a nonconforming structure.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant is required to make a request for a variance to the off-street parking regulations for the replacement accessory structure in (according to the applicant) the same location and with the same footprint because he intentionally destroyed what is assumed to be a nonconforming structure.
- The subject site is flat, irregular in shape, and according to the submitted application is 0.21 acres (or approximately 9,200 square feet) in area. The site is zoned CD 2 where lots prior to its creation in 1988 was zoned R-10(A) where lots are typically 10,000 square feet in area.
- On November 11, 2016, the Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request marked "Has no objections if certain conditions are met" commenting "Subject to the site plan, and that no vehicles at any time be allowed to park in the

driveway. The alley right-of-way shall remain unobstructed at all times". (On February 10, 2017, the Sustainable Development Department Assistant Director Engineering emailed the Board Administrator: "I concur with Claytons' original response which is attached.").

- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking 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 CD 2 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CD 2 zoning classification.
- If the Board were to grant the variance request, staff recommends imposing the following conditions:
 1. Compliance with the submitted site plan is required.
 2. An automatic garage door must be installed and maintained in working order at all times.
 3. At no time may the area in front of the garage be utilized for parking of vehicles. (These conditions are imposed to help assure that the variance will not be contrary to the public interest).

Timeline:

October 21, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

November 8, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

November 8, 2016: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 23rd deadline to submit additional evidence for staff to factor into their analysis; and the December 2nd 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

- November 29, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- November 30, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "Subject to the site plan, and that no vehicles at any time be allowed to park in the driveway. The alley right-of-way shall remain unobstructed at all times".
- December 2, 2016: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the November 29th staff review team meeting.
- December 12, 2016: The Board of Adjustment Panel C conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on February 23, 2017.
- December 16, 2016: The Board Administrator wrote the applicant a letter that provided the board's action; and the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board's docket materials. (Note that the applicant has not submitted any additional documents from what was presented before/at the December 12th public hearing).
- February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

February 10, 2017: The Sustainable Development Department Assistant Director Engineering emailed the Board Administrator: "I concur with Claytons' original response which is attached."

BOARD OF ADJUSTMENT ACTION: DECEMBER 12, 2016

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm St., #B, Dallas, TX
Lauren Cavenaghi, 6615 Avalon Ave, Dallas, TX
Gonzalo Cavenaghi, 6615 Avalon Ave, Dallas, TX

APPEARING IN OPPOSITION: William Angelley, 6608 Lakewood Blvd, Dallas, TX

MOTION: Foster

I move that the Board of Adjustment, in request No. **BDA 156-125**, hold this matter under advisement until **February 23, 2017**.

SECONDED: Gambow

AYES: 5 – Richardson, Beikman, Winslow, Foster, Gambow

NAYS: 0

MOTION PASSED: 5 – 0

BOARD OF ADJUSTMENT ACTION: FEBRUARY 23, 2017

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

APPEARING IN OPPOSITION: No one

MOTION #1: Foster

I move that the Board of Adjustment, in Appeal No. **BDA 156-125**, on application of Robert Baldwin, represented by Rob Baldwin of Baldwin and Associates, **deny** the variance to the rear yard setback regulations requested by this applicant **with prejudice**, because our evaluation of the property and the 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 not result in unnecessary hardship to this applicant.

SECONDED: Martinez

AYES: 5 – Richardson, Winslow, Foster, Gambow , Martinez

NAYS: 0

MOTION PASSED: 5 – 0(unanimously)

MOTION #2: Foster

I move that the Board of Adjustment, in Appeal No. **BDA 156-125**, on application of Robert Baldwin, represented by Rob Baldwin of Baldwin and Associates, **grant** the 11-

foot variance to the off-street parking 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required.
- An automatic garage door must be installed and maintained in working order at all times.
- At no time may the area in front of the garage be utilized for parking of vehicles.

SECONDED: Gambow

AYES: 5 – Richardson, Winslow, Foster, Gambow , Martinez

NAYS: 0

MOTION PASSED: 5 – 0(unanimously)

FILE NUMBER: BDA167-021(SL)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin, represented by Rob Baldwin of Baldwin and Associates, for a variance to the side yard setback regulations at 9103 Boedeker Circle. This property is more fully described as Lot 19, Block F/5454, and is zoned D(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a structure and provide a 0 foot side yard setback, which will require a 5 foot variance to the side yard setback regulations.

LOCATION: 9103 Boedeker Circle

APPLICANT: Robert Baldwin
Represented by Rob Baldwin of Baldwin and Associates

REQUEST:

A request for a variance to the side yard setback regulations of up to 5’ is made to add and maintain a 2nd floor (office) to an existing one-story garage accessory structure in the side yard setback on a property developed with a duplex that would be located as close as on the side property line or as much as 5’ into the required 5’ side yard setback.

STANDARD FOR A VARIANCE:

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, 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:

- Staff has concluded that the variance should be denied because there was no property hardship to the site that warranted a variance to the side yard setback. While staff recognized that the site is pan-handle in shape and with two required front yards, the applicant had not demonstrated how these physical features preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same D(A) zoning classification while simultaneously complying with code provisions including side yard setback regulations.

BACKGROUND INFORMATION:

Zoning:

Site: D(A) (Duplex)
North: D(A) (Duplex)
South: D(A) (Duplex)
East: R-7.5(A) (Single family district 7,500 square feet)
West: D(A) (Duplex)

Land Use:

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

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 for a variance to the side yard setback regulations of up to 5' focuses on adding and maintaining an approximately 980 square foot 2nd floor (office) to an existing approximately 980 square foot one-story garage accessory structure in the side yard setback on a property developed with a duplex that would be located as close as on the side property line or as much as 5' into the required 5' side yard setback.
- The site is located at the south corner of Boedeker Circle and Boedeker Street.
- Given the duplex zoning and location of the corner lot subject site, it has two required front yards – a 25' required front yard setback (caused by a platted building line) along Boedeker Circle (the shorter of the two frontages of the subject site which is always a front yard in this case) and 20' required front yard (caused by a platted building line) along Boedeker Street, (the longer of the two frontages which is typically considered a side yard). However the site has a front yard setback along Boedeker Circle in order to maintain continuity of the established front yard setback along this street frontage where a home/lot to the south of the subject site “fronts” on Boedeker Street.
- Structures on lots zoned D(A) are required to provide a minimum side yard setback of 5'.
- The applicant has submitted a site plan and an elevation that shows an approximately 23' high two-story structure located as close as 0.3' from a side property line or approximately 5' into the required 5' side yard setback.
- The Dallas Development Code states provides the following with regard to side yard provisions for residential districts:
In a residential district, a person need not provide a side yard setback for a structure accessory to a residential structure if the structure:
 1. Does not exceed 15' in height; and
 2. Is located in the rear 30 percent of the lot.
- The variance requested in this application is made only because the one-story accessory structure (that required no side yard setback) is proposed to be raised in height to exceed 15' which then requires a 5' side yard setback.
- According to DCAD records, the “main improvement” for property at 9103 Boedeker Circle is a structure built in 1966 with 4,478 square feet of living area/total area and “additional improvements” of two, 440 square foot attached garages.
- The subject site is pan-handle in shape and according to the application, is 0.35 acres (or approximately 15,200 square feet) in area. The site is zoned D(A).
- The subject site has two required front yards and two side yard setbacks. Most lots zoned D(A) have one front yard, two side yards, and one rear yard.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal

enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
- The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same D(A) zoning classification.
- If the Board were to grant the request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document– which, in this case, is a structure located as close as on a side property line or as much as 5’ into the 5’ side yard setback.

Timeline:

December 14, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 6, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 13, 2017: The Board Administrator emailed the following information to the applicant:

- 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 February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 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.”

January 30, 2017: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant

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

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 23, 2017

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Martinez**

I move that the Board of Adjustment, in Appeal No. **BDA 167-021**, on application of Robert Baldwin, represented by Rob Baldwin of Baldwin and Associates, **grant** the 5-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 submitted site plan is required.

SECONDED: **Winslow**

AYES: 2 –Winslow, Martinez

NAYS: 3 – Richardson, Foster, Gambow

MOTION FAILED: 2 – 3

***Motion failed therefore it is deemed denied with prejudice.**

MOTION: **Richardson**

I move to adjourn this meeting.

SECONDED: **Foster**

AYES: 5 – Richardson, Winslow, Foster, Gambow, Martinez

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

2:40 P. M. - Board Meeting adjourned for **February 23, 2017**

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.