

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
CITY OF DALLAS- VIDEOCONFERENCE  
TUESDAY, AUGUST 17, 2021**

MEMBERS PRESENT AT BRIEFING: Cheri Gambow, Vice-Chair- regular member, Jay Narey, regular member, Sarah Lamb, regular member, Jared Slade, alternate member and Lawrence Halcomb, regular member

MEMBERS ABSENT FROM BRIEFING: None

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Atty., Pamela Daniel, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Public Information Officer, Charles Trammell, Development Code Specialist, David Nevarez, Engineering Division, Andreea Udrea, Interim Assistant Director, Carolina Yumet, Interim Assistant Director and Dr. Eric A. Johnson, Director

MEMBERS PRESENT AT HEARING: Cheri Gambow, Vice-Chair- regular member, Jay Narey, regular member, Sarah Lamb, regular member, Jared Slade, alternate member and Lawrence Halcomb, regular member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Anna Holmes, Asst. City Atty., Pamela Daniel, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Public Information Officer, Charles Trammell, Development Code Specialist, David Nevarez, Engineering Division, Andreea Udrea, Interim Assistant Director, Carolina Yumet, Interim Assistant Director and Dr. Eric A. Johnson, Director

**11:10 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **August 17, 2021** docket.

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**1:04 P.M.**

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

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**MISCELLANEOUS ITEM NO. 1**

Approval of the Board of Adjustment Panel A, June 22, 2021 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: August 17, 2021**

**MOTION: Lamb**

Approval of the Board of Adjustment Panel A, June 22, 2021 public hearing minutes.

**SECONDED: Slade**

**AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade**

**NAYS: 0**

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

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**FILE NUMBER: BDA201-060(PD)**

**BUILDING OFFICIAL’S REPORT:** Application of Ramon Suarez % Bishop Dunne Catholic School, Inc., for a special exception to the fence height regulations at 3900 Rugged Drive. This property is more fully described as Tract 2, in City Block 6036, and is zoned an R-7.5(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct a six-foot high in a required front yard, which will require a two-foot special exception to the fence regulations.

**LOCATION: 3900 Rugged Drive**

**APPLICANT: Ramon Suarez % Bishop Dunne Catholic School, Inc.**

**REQUESTS:**

A request for a special exception to the fence height regulations of two feet is made to construct and maintain a six-foot-high wrought iron fence with four six-foot-high, 30-foot-wide iron gates in the required front yard on a site developed with public or private school use [Bishop Dunne Catholic School].

**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:**

<u>Site:</u>	R-7.5(A) (Single family district)
<u>North:</u>	R-7.5(A) (Single family district)
<u>East:</u>	R-7.5(A) (Single family district)
<u>South:</u>	R-7.5(A) (Single family district)
<u>West:</u>	R-7.5(A) (Single family district)

### **Land Use:**

The subject site is developed with a high school [Bishop Dunne Catholic School]. The properties to the north, east, and south are developed with single family uses. The property to the west is developed with a public or private school use [John W. Carpenter Elementary School].

### **Zoning/BDA History:**

There have been no board and zoning cases recorded in the vicinity of the subject site within the last five years.

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

The purpose of this request for a special exception to the fence height standards focuses on constructing and maintaining a six-foot-high wrought iron fence with four six-foot-high iron gates in the required front yard on a site developed with a public or private school use [Bishop Dunne Catholic School].

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard.

The subject site is zoned an R-7.5(A) Single Family District where a 25-foot front yard setback is required.

The proposed fence is to be located in this required front yard. The following additional information was gleaned from the submitted site plan:

- The proposed fence is approximately 961 feet-in-length with four 30-foot wide sliding gates parallel to Rugged Drive and proposed to run five feet perpendicular to the front property line of this street.

Staff conducted a field visit of the site and surrounding area but did not observe other fences that appeared to be above four feet-in-height and located in a front yard setback. However, this may be because all surrounding uses consist of single family dwellings.

As of July 29, 2021, no letters have been received in opposition or support of this request.

The applicant has the burden of proof in establishing whether the special exception to the fence height regulation of two feet will or 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 four feet-in-the front yard setback to be constructed in the location and height as shown on the plans.

**Timeline:**

- May 13, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- July 8, 2021: The Board Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 2021 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.”
- July 19, 2021: The applicant submitted additional evidence for consideration (**Attachment A**).
- July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

**BOARD OF ADJUSTMENT ACTION: August 17, 2021**

**APPEARING IN FAVOR:** Ramon Suarez 3900 Rugged Dr. Dallas, TX

**APPEARING IN OPPOSITION:** None.

**MOTION: Lamb**

I move that the Board of Adjustment, in Appeal No. BDA 201-060, on application of Ramon Suarez c/o Bishop Dunne Catholic School Inc, **grant** the request of this applicant for a special exception to the fence height regulations contained in the Dallas Development Code, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

**SECONDED: Halcomb**

**AYES:** 5 – Gambow, Lamb, Halcomb, Narey, Slade

**NAYS:** 0 –

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

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**FILE NUMBER:** BDA201-063(PD)

**BUILDING OFFICIAL’S REPORT:** Application of Gregory S. Bowden for a special exception to the fence standards regulations and a special exception to the visibility obstruction regulations at 819 Rockwood Street. This property is more fully described as Lot 6, in City Block 7/3425, and zoned an R-7.5(A) Single Family District, which prohibits the use of certain materials for a fence and requires a 20-foot visibility triangle at an alley and driveway approach. The applicant proposes to construct a fence using prohibited material located within a visibility obstruction triangle which will require special exceptions to the fence regulations and the visibility obstruction regulations, respectively.

**LOCATION:** 819 Rockwood Street

**APPLICANT:** Gregory S. Bowden

**REQUEST:**

The applicant proposes to maintain a prohibited corrugated metal fence along the rear alley lot line, within a required visibility obstruction triangle at the Yarmouth Street and alley intersection.

**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.

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION**

**REGULATIONS:**

Section 51A-4.602(d)(3) of the Dallas Development Code states that the board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the board, the item will not constitute a traffic hazard.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to the visual obstruction regulations since the basis for this type of appeal is when in the opinion of the

board, the item will not constitute a traffic hazard. However, staff does provide a technical opinion to assist in the board's decision-making.

The Sustainable Development and Construction Senior Engineer has reviewed the request for a special exception to the visual obstructions regulation and does not have objections to the proposed request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5(A) (Single Family District)  
North: R-7.5(A) (Single Family District)  
East: R-7.5(A) (Single Family District)  
South: R-7.5(A) (Single Family District)  
West: R-7.5(A) (Single Family District)

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

The applicant proposes to maintain a prohibited corrugated metal fence along the rear alley lot line, within a required visibility obstruction triangle at the Yarmouth Street and alley intersection. The property is zoned and R-7.5(A) Single Family District and developed with a single-family home.

Section 51A-4.602(d) of the Dallas Development Code states that a person shall not erect, place, or maintain a structure, berm, plant life, or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections and 20-foot visibility triangles at drive approaches and alleys on properties zoned single family); and

Furthermore, Section 51A-4.602(9)(B) states that except as provided in this subsection, the following fence materials are prohibited:

- (A) Sheet metal;
- (B) Corrugated metal;
- (C) Fiberglass panels;
- (D) Plywood;
- (E) Plastic materials other than preformed fence pickets and fence panels with a minimum thickness of seven-eighths of an inch;

- (F) Barbed wire and razor ribbon (concertina wire) in residential districts other than an A(A) Agricultural District; and,
- (G) Barbed wire and razor ribbon (concertina wire) in nonresidential districts unless the barbed wire or razor ribbon (concertina wire) is six feet or more above grade and does not project beyond the property line.

The following information is shown on the submitted site plan:

- The corrugated metal fence is located at the rear lot line along the alley, adjacent to Yarmouth Street or approximately 15 feet from the pavement line.
- The length of the proposed fence in the rear yard along the alley is approximately 50 feet perpendicular to the alley on the west side of the property.

Staff conducted a field visit of the site and surrounding area and noticed no other fences that appear to be constructed of prohibited materials and obstructing the 20-foot visibility triangle at the alley or drive approach.

As of July 29, 2021, letters have not been submitted in support or opposition to this request.

The applicant has the burden of proof for both, the special exception to the fence regulations to construct a fence using prohibited material, and a special exception to construct the fence in a required visibility obstruction triangle, since the basis for these types of appeals are in the opinion of the board:

- Visibility obstructions items are made on the basis of the item(s) not constituting a traffic hazard, and
- Technical opinions provided from the city engineer.

As further noted on the site plan, the proposed fence would obstruct:

- A portion of the 20-foot visibility triangle at the alley adjacent to Yarmouth Street.

The Sustainable Development and Construction Department senior engineer does not have objections to the request for a special exception to construct a fence in a required visibility obstruction triangle (**Attachment D**).

Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the material of the fence and location within the 20-foot visibility triangle at the alley adjacent to Yarmouth Street, as shown on the plans.

**Timeline:**

- May 4, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

July 8, 2021: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 2021 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.

July 27, 2021: The applicant submitted email evidence with pictures depicting fencing materials in my direct neighborhood (Beckley, East Clarendon & I- 35) that are built of scrap metal, wooden pallets, plywood, metal refrigerator shelves, etc. as well as corrugated metal that he contends are unsightly fences affecting property values. Additionally, the applicant provided pictures depicting newly constructed homes showing corrugated metal fencing materials. **(Attachment A, B, & C)**

July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

July 30, 2021: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet **(Attachment D)**.

**BOARD OF ADJUSTMENT ACTION: August 17, 2021**

**APPEARING IN FAVOR:** Gregory Bowden 819 Rockwood St. Dallas, TX

**APPEARING IN OPPOSITION:** None

**MOTION: Lamb**

I move that the Board of Adjustment, in Appeal No. BDA 201-063, on application of Gregory Bowden **grant** the special exception to the fence standards regulations and a special exception to the visibility obstruction regulations contained in the Dallas Development Code, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

**SECONDED: Halcomb**

**AYES:** 5 – Gambow, Lamb, Halcomb, Narey, Slade

**NAYS:** 0

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

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**FILE NUMBER:** BDA201-069(JM)

**BUILDING OFFICIAL’S REPORT:** Application of Kiesha Kay of Masterplan Consultants for a special exception to the fence height regulations at 4906 Park Lane. This property is more fully described as Part of Lot 7, 8, 9, Block 13/5586, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct a six-foot-high fence in a required front yard, which will require a two-foot special exception to the fence regulations.

**LOCATION:** 4906 Park Lane

**APPLICANT:** Kiesha Kay of Masterplan Consultants

**REQUESTS:**

The applicant proposes to construct and maintain a six-foot fence of brick and steel in a required front yard along Park Lane.

**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)
- North:** R-1ac(A) (Single Family District)
- East:** R-1ac(A) (Single Family District)
- South:** R-1ac(A) (Single Family District)
- West:** R-1ac(A) (Single Family District)

### **Land Use:**

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

### **Zoning/BDA History:**

There have been five board cases and no relevant zoning cases recorded in the vicinity of the subject site within the last five years.

1. **BDA190-117:** On January 19, 2021, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of two feet in the front yard setback at 4923 Deloache Avenue.
2. **BDA189-063:** On May 22, 2019, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of six feet in the front yard setback at 9727 Audubon Place.
3. **BDA189-019:** On March 18, 2019, the Board of Adjustment Panel C: (1) denied requests for special exceptions to the fence standard regulations related to having less than 50 percent open surface area, and prohibited fence material, without prejudice; and, (2) granted a request for a special exception to the fence height regulations of five feet in the front yard setback at 5014 Lakehill Court.
4. **BDA178-142:** On December 10, 2018, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of four feet in the front yard setback at 5020 Park Lane.
5. **BDA167-131:** On November 13, 2017, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of four-foot eight-inches in the front yard setback at 4907 Deloache Avenue.
6. **BDA167-054:** On May 16, 2017, the Board of Adjustment Panel A granted a request for a special exception to the fence height regulations of two-foot eight-inches in the front yard setback at 9323 Sunny Brook Lane.

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

The Dallas Development Code states that in all residential districts except multifamily districts a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-1ac(A) Single Family District, which requires a 40-foot front yard setback.

The applicant proposes to construct and maintain a six-foot fence of brick and steel in a required front yard along Park Lane, which will require a two-foot special exception to the fence regulations.

The following additional information was observed from the submitted site plan and elevation:

- The proposed fence is approximately 365 feet-in-length facing Park Lane.
- Located from at the property line and up to 17-and-a-half feet into the property, still within the required front yard.
- The fence is composed of solid steel vertical rails with brick veneer columns no taller than six-feet-in-height.
- Pedestrian and vehicular gates along Park Lane.

Staff conducted a field visit of the site and surrounding area and noted various other fences that appear to be above four feet-in-height and located in a front yard setback.

As of August 10, 2021, no letters have been received in opposition or support of this request.

The applicant has the burden of proof in establishing whether the special exception to the fence height regulation of two feet will or 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 four feet in the front yard setback to be constructed in the location and height as shown on the plans.

**Timeline:**

- May 13, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board Administrator assigned this case to Board of Adjustment Panel A.
- July 8, 2021: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 2021 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.”
- July 20, 2021: The applicant submitted additional evidence for consideration (**Attachment A**)—updated 8-3-21.
- July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable

Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

**BOARD OF ADJUSTMENT ACTION: August 17, 2021**

**APPEARING IN FAVOR:** Kiesha Kay 2201 Main St. #1280 Dallas, TX  
Danielle Mahews 2201 Main St. #1280 Dallas, TX

**APPEARING IN OPPOSITION:** None

**MOTION: Lamb**

I move that the Board of Adjustment, in Appeal No. BDA 201-069, on application of Kiesha Kay of Masterplan Consultants **grant** the special exception to the fence height regulations contained in the Dallas Development Code, subject to the following condition:

Compliance with the submitted site plan and elevation is required.

**SECONDED: Halcomb**

**AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade**

**NAYS: 0**

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

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**FILE NUMBER: BDA201-070(JM)**

**BUILDING OFFICIAL’S REPORT:** Application of Rob Baldwin of Baldwin Associates to restore a nonconforming use at 2910 Botham Jean Boulevard. This property is more fully described as Part of Lot 12 and 13, Block 8/1135, and is zoned FWMU-3 Form Walkable Mixed-Use Subdistrict within Planned Development District No. 595 with an SH-3 Shopfront Overlay No. 3, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishment use, which will require a special exception to the nonconforming use regulations.

**LOCATION: 2910 Botham Jean Boulevard**

**APPLICANT: Rob Baldwin of Baldwin Associates**

**REQUEST:**

A request for a special exception to restore/reinstate nonconforming use rights for an alcoholic beverage establishment use that previously operated at the subject site since 2003 under Certificate of Occupancy (CO) 0212301022. The use ceased operations for over six months and is no longer allowed to operate/obtain a new CO.

**STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE:**

Section 51A-4.704(a)(2) of the Dallas Development Code states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more and that the board of adjustment may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

### **Zoning:**

Site: PD No. 595, FWMU-3, SH-3  
North: PD No. 595, FWMU-3  
East: PD No. 595, FWMU-3, SH-3  
South: IM Industrial Manufacturing District  
West: PD No. 595, FWMU-3, SH-3, SUP No. 2392

### **Land Use:**

The subject site is developed with commercial structures last used as an ABE alcoholic beverage establishment. The property adjacent to the northwest maintains an ABE use. A city park (Forest Park) is located farther northeast, separated by vacant lots and Parnell Street. A retail uses (automotive parts store and truck rental) are adjacent to the southeast. Across Botham Jean Boulevard to the south is a multifamily use.

### **Zoning/BDA History:**

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

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

This request focuses on restoring/reinstating nonconforming use rights for an alcoholic beverage establishment ABE use on the subject site that was discontinued for six months or more. The request is made for the applicant to obtain a Certificate of Occupancy (CO) for this use.

The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time”.

The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

The nonconforming use regulations also state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

The site is zoned PD No. 595, FWMU-3, SH-3 which only permits an ABE alcoholic beverage establishment use by SUP Specific Use Permit. According to documentary evidence provided by the representative (**Attachment A**), the ABE use has been operating since 1984. Historical zoning maps indicate the property was zoned an I-2 Industrial District in 1970, which allowed the ABE use by right. Zoning later transitioned from Chapter 51 to 51A in 1988, however, the

zoning history at that time was not available. Then in 2001, PD No. 595 was adopted maintaining the nonconforming status for this use since it still requires an SUP to operate.

According to the representative and supporting documents found in CO No. 8406182967, dated June 13, 1984, the use was maintained throughout the years. The latest CO, issued December 30, 2002, is No. 0212301022 for an ABE use DBA Old School Night Club. Notes on the record indicate the following remarks: “6-11-03 UPDATE ZONING, CORRECTION TO PD 595 SUB AREA CC. BG/BL 23820 UPDATED 6/18/03 DW. OCC. LOAD 154 12-17-03 BW. NONCONFORMING USE - AFFIDAVIT ON FILE.” The applicant maintains that the tenant was evicted by order of Dallas County Justice of the Peace on July 29, 2019. A new tenant signed a lease to operate a new alcoholic beverage establishment on November 1, 2019. The new tenant applied for a CO on February 12, 2021, which was denied due to the lapse in occupancy.

According to DCAD records, the site contains two structures. One was built in 1939 and contains 1,260 square feet of floor area. The other structure was erected in 1968 and contains 1,428 square feet of floor area. City records indicate a total square footage of 2,560—a bit off from the DCAD total of 2,688 square feet (a typical issue).

Building Inspection has stated that these types of special exception requests originate when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is nonconforming. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period over six months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.

The applicant has the burden of proof in establishing the following related to the special exception request:

- There was **not** a clear intent to abandon the nonconforming ABE use on the subject site even though the use was discontinued for six months or more.

Granting this request would reinstate/restore the nonconforming ABE use rights that were lost when the use was abandoned for six months or more.

If restored/reinstated, the nonconforming use would be subject to compliance with the use regulations of the Dallas Development Code as any other nonconforming use in the city.

**Timeline:**

- June 9, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- July 7, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- July 8, 2021: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the July 27, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the August 6, 2021 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."

July 16, 2021: The applicant submitted additional evidence for consideration (**Attachment A**).

July 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearing. The review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Chief Planner, Board of Adjustment 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: August 17, 2021**

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

APPEARING IN OPPOSITION: None

**MOTION: Lamb**

I move that the Board of Adjustment, in Appeal No. BDA 201-070, on application of Rob Baldwin of Baldwin Associates, **grant** the special exception to the nonconforming use regulations contained in the Dallas Development Code, subject to the following conditions:

Compliance with the use regulations of the Dallas Development Code is required.

**SECONDED: Halcomb**

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade

NAYS: 0-

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

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**FILE NUMBER:** BDA201-048(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Robert Lance Wakefield for a variance to the rear yard setback regulations, and for a variance to the side yard setback regulations at 7515 Lavendale Avenue. This property is more fully described as Lot 5, Block 5/7285, and is zoned an R-16(A) Single Family District, which requires a rear yard setback of 10 feet and requires a side yard setback of 10 feet. The applicant proposes to construct a single-family residential structure and provide a three-foot two-inch rear yard setback, which will require a six-foot 10-inch variance to the rear yard setback regulations, and to provide a six-inch side yard setback, which will require a nine-foot six-inch variance to the side yard setback regulations.

**LOCATION:** 7515 Lavendale Ave

**APPLICANT:** Robert Lance Wakefield

**REQUESTS:**

The applicant proposes to construct and maintain a detached 1,820-square-foot, two-story, three-car garage with three rooms on the upper level on a site developed with a single-family home.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial.

Rationale:

Staff concluded that the applicant had not substantiated how the variances 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 it cannot be developed in a manner commensurate with the development upon other parcels of land within the same R-16(A) zoning district.

### **BACKGROUND INFORMATION:**

#### **Zoning:**

Site: R-16(A) (Single Family District)  
North: R-16(A) (Single Family District)  
East: R-16(A) (Single Family District)  
South: R-16(A) (Single Family District)  
West: R-16(A) (Single Family 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.

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

The purpose of these requests for variances to the rear and side yard setback requirements focuses on maintaining an existing detached 1,820-square-foot, two-story, three-car garage with three rooms on the upper level. The accessory structure is located on a site developed with a lot zoned an R-16(A) Single Family District. In this district, a minimum rear and side yard setback of 10 feet is required.

The submitted site plan indicates that the proposed accessory structure is located three-feet two-inches from the rear property line or six-feet 10-inches into this required 10-foot rear yard setback. Additionally, the accessory structure will be located six-inches from the west side property line or as much as nine feet six-inches into the required 10-foot side yard setback.

The subject site is flat, rectangular, and according to the submitted site plan, contains 16,553 square feet in area. The minimum lot size in this district is 16,000 square feet.

According to DCAD records indicate the following improvements for property located at 7515 Lavendale Ave: “main improvement: a single structure with 5,300 square feet of living area built in 1990” and “additional improvements: a detached garage with 936 square feet, a detached garage with 1,190 square feet, and detached quarters with 1,190 square feet.

The applicant provided a comparable table (**Attachment A**) to support the request. However, staff concluded that the applicant had not substantiated how the variances 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 it cannot be developed in a manner commensurate with the development upon other parcels of land within the same R-16(A) zoning district.

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

- That granting the variances to the rear and 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 variances 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 R-16(A) zoning classification.
- The variances 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-16(A) zoning classification.

If the board were to grant the variance requests and impose the submitted site plan as a condition, the structure would be limited to what is shown on this document.

**Timeline:**

- April 22, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 14, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- May 21, 2021: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
  - an attachment that provided the public hearing date and panel that will consider the application; the June 1<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 4, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).
- June 4, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Sign Code Specialist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable

Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

June 22, 2021: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application per business owner's request until the next public hearing to be held on August 17, 2021.

August 10, 2021: No new information has been provided.

**BOARD OF ADJUSTMENT ACTION:** June 22, 2021

**APPEARING IN FAVOR:** Robert Lance Wakefield 7515 Lavendale Ave. Dallas, TX

**APPEARING IN OPPOSITION:** Christopher Bowers 1800 Valley View #36 Dallas, TX  
Scott Nelson 7506 Azalea Ln. Dallas, TX

**MOTION#1 & #2:** Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-048, hold this matter under advisement until August 17, 2021.

**SECONDED:** Slade

**AYES:** 5 – Gambow, Lamb, Brooks, Slade

**NAYS:** 1 - Narey

**MOTION PASSED:** 4 – 1

**BOARD OF ADJUSTMENT ACTION:** August 17, 2021

**APPEARING IN FAVOR:** Robert Lance Wakefield 7515 Lavendale Ave. Dallas, TX

**APPEARING IN OPPOSITION:** Christopher Bowers 1800 Valley View #36 Dallas, TX  
Dr. Scott Nelson 7506 Azalea Ln. Dallas, TX  
Dr. Kim Phillipi 7506 Azalea Ln. Dallas, TX  
Pascal Reina 7424 Azalea Ln. Dallas, TX  
Paul Hale 7423 Lavendale Ave. Dallas, TX  
Susan McCrum 7159 Lavendale Ln. Dallas, TX  
Doug McCrum 7159 Lavendale Ln. Dallas, TX  
Kenneth Davis 7415 Lavendale Ln. Dallas, TX

**MOTION#1:** Lamb

I move that the Board of Adjustment, in Appeal No. BDA 201-048, on application of Robert Lance Wakefield, **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:** Narey

**AYES:** 5 – Gambow, Lamb, Halcomb, Narey, Slade

**NAYS:** 0 -

MOTION PASSED: 5-0 (unanimously)

**Motion was amended to deny with prejudice after initial motion to deny without prejudice.**

MOTION#2: **Lamb**

I move that the Board of Adjustment, in Appeal No. BDA 201-048, on application of Robert Lance Wakefield, **deny** the variance to the side 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: **Halcomb**

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade

NAYS: 0 -

MOTION PASSED: 5-0 (unanimously)

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FILE NUMBER: BDA201-037(OA)

**BUILDING OFFICIAL'S REPORT:** Application of Dallas City Council Resolution 21-0264 to require compliance of a non-conforming use at 1519 Martin Luther King Blvd. This property is more fully described as part of Lot 6 and all of Lot 7, Block 5/1139, and is zoned an FWMU-3 Form Walkable Mixed-Use Subdistrict within Planned Development District No. 595 with an SH Shopfront Overlay, which limits the legal uses in a zoning district. The applicant proposes to request that the Board establish a compliance date for a non-conforming liquor store use.

LOCATION: 1519 Martin Luther King Blvd

APPLICANT: Dallas City Council by Resolution 20-0264  
Represented by Jill Haning and J. Evan Farrior

REQUEST:

A request is made for the Board of Adjustment to establish a compliance date for a non-conforming liquor store use (Good Price Liquor) on the subject site.

**COMPLIANCE REGULATIONS FOR NONCONFORMING USES:** SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES of the Dallas Development Code provides the following provisions:

- (a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

- (1) Amortization of nonconforming uses.

- (A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.
- (B) Factors to be considered. The board shall consider the following factors when determining whether continued operation of the nonconforming use will have an adverse effect on nearby properties:
- (i) The character of the surrounding neighborhood.
  - (ii) The degree of incompatibility of the use with the zoning district in which it is located.
  - (iii) The manner in which the use is being conducted.
  - (iv) The hours of operation of the use.
  - (v) The extent to which continued operation of the use may threaten public health or safety.
  - (vi) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.
  - (vii) The extent to which public disturbances may be created or perpetuated by continued operation of the use.
  - (viii) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.
  - (ix) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.
- (C) Finality of decision. A decision by the board to grant a request to establish a compliance date is not a final decision and cannot be immediately appealed. A decision by the board to deny a request to establish a compliance date is final unless appealed to state court within 10 days in accordance with Chapter 211 of the Local Government Code.
- (D) Determination of amortization period.

- (i) If the board determines that continued operation of the nonconforming use will have an adverse effect on nearby properties, it shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- (ii) The following factors must be considered by the board in determining a reasonable amortization period:
  - (aa) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.
  - (bb) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.
  - (cc) Any return on investment since inception of the use, including net income and depreciation.
  - (dd) The anticipated annual recovery of investment, including net income and depreciation.
- (E) Compliance requirement. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.
- (F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

### **GENERAL FACTS:**

The subject site is an FWMU-3 Form Walkable Mixed-Use Subdistrict within Planned Development District No. 595 with an SH Shopfront Overlay. On September 26, 2001, City Council passed Ordinance No. 24726 which added a requirement that liquor store uses must obtain a Specific Use Permit (SUP) in this zoning. However, a Certificate of Occupancy (CO) was issued for an alcoholic beverage establishment use, Good Price Liquor, April 30, 1998—predating the ordinance requiring an SUP. The Dallas Development Code defines a “nonconforming use” as “a use that does not conform to the use regulations of this chapter but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.” Therefore, the use was legally established in 1998 and became nonconforming with the passing of Ordinance No. 24726 in 2001. This use is still in operation today.

### **BACKGROUND INFORMATION:**

**Zoning:**

Site: PD No. 595, FWMU-3 Form Walkable Mixed-Use Subdistrict, SH Overlay

North: PD No. 595, FWMU-3 Form Walkable Mixed-Use Subdistrict, SH Overlay

South: PD No. 595, FWMU-3 Form Walkable Mixed-Use Subdistrict, SH Overlay

East: PD No. 595, FWMU-3 Form Walkable Mixed-Use Subdistrict, SH Overlay

West: PD No. 595, FWMU-3 Form Walkable Mixed-Use Subdistrict, SH Overlay

**Land Use:**

The subject site is developed with a commercial structure housing one nonconforming liquor store. The areas to the north, south, west, and east are developed with mixed uses.

**Zoning/BDA History:**

There have not been any recent related board or zoning cases recorded either on or near the subject site.

**TIMELINE:**

February 16, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 9, 2021: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

February 12, 2021: The Board of Adjustment Senior Planner sent the record owner of the property (SDL RE LLC) and the tenant/operator of the use (SHRESTHA ABHAY GOOD PRICE LIQUOR) a letter (with a copy to Jill Haning and James Farrior) informing them that a Board of Adjustment case had been filed against the nonconforming liquor store use. The letter included following enclosures:

1. A copy of the Board of Adjustment application and related materials.
2. Dallas Development Code Section 51A-3.102 describing the Board of Adjustment.
3. Dallas Development Code Section 51A-2.102(90), which defines a nonconforming use.
4. Dallas Development Code Section 51A-4.704, provisions for

nonconforming uses and structures.

5. Dallas Development Code Section 51A-4.703, Board of Adjustment hearing procedures.
6. City of Dallas Board of Adjustment Working Rules of Procedures.
7. The hearing procedures for Board of Adjustment amortization of a nonconforming use.

The letter also informed the owners and tenant/operator of the date, time, and location of the public hearing, and provided a deadline of May 7, 2021 to submit any information that would be incorporated into the board's docket.

- April 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.
- May 7, 2021: The representative for the tenant/operator requested the case be held under advisement to provide the representative time to adequately prepare for this case (**Attachment A**).
- May 7, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment B**).
- May 18, 2021: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application per business owner's request until the next public hearing to be held on June 21, 2021.
- June 4, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearing. The review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and

Construction Department Board of Adjustment Senior Planner, the Assistant City Attorney to the Board.

- June 11, 2021: The representative for the tenant/operator requested the case be held under advisement to provide the representative time to adequately prepare for this case (**Attachment C**).
- June 11, 2021: The representative for the tenant/operator requested the case be held under advisement to provide the representative time to adequately prepare for this case (**Attachment D**).
- June 14, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment F**).
- June 22, 2021: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application per business owner's request until the next public hearing to be held on August 17, 2021.
- August 10, 2021: No new information has been provided.

BOARD OF ADJUSTMENT ACTION: June 22, 2021

APPEARING FOR PUBLIC TESTIMONY: Vanessa Parker 128 Aspen Dallas, TX  
Glen Gipson 2613 Downing Dallas, TX  
Dr. Terry Flowers 401 Royal Crest Dallas, TX

APPEARING IN FAVOR: Evan Farris 1500 Marilla St. Dallas, TX  
Bernardo Bueno 5411 Bexar St. Dallas, TX  
Margarita Ortez 11405 Fenald Ave. Dallas, TX

APPEARING IN OPPOSITION: Shamaila Malik 320 Decker Dr. #100 Dallas, TX  
Parvez Malik 320 Decker Dr. #100 Dallas, TX  
Abhay Shrestha 1519 MLK Jr. Blvd Dallas, TX  
Charles Fiscus 8350 N. Central Expy. Dallas, TX

MOTION: Brooks

I move that the Board of Adjustment in Appeal No. BDA 201-037, hold this case under advisement until August 17, 2021.

SECONDED: Lamb

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: May 18, 2021

APPEARING IN FAVOR:

Evan Farris 1500 Marilla St. Dallas, TX  
Bernardo Bueno 5411 Bexar St. Dallas, TX  
Margarita Ortez 11405 Fenald Ave. Dallas, TX  
Dr. Terry Flowers 1600 Pennsylvania Dallas, TX  
Ferrell Fellows 2314 South Blvd. Dallas, TX  
Dennis Roosien 4120 Amherst Dallas, TX  
Danielle Lindsey 5005 Galleria Rd. #3133 Dallas, TX  
Jeanette Fellows 2314 South Blvd. Dallas, TX  
Jeremy Connally 1414 Bellevue St. #1111 Dallas, TX  
Dennis Bryant 2818 MLK Jr. Blvd Dallas, TX

APPEARING IN OPPOSITION:

Shamaila Malik 320 Decker Dr. #100 Dallas, TX  
Parvez Malik 320 Decker Dr. #100 Dallas, TX  
Abhay Shrestha 1519 MLK Jr. Blvd Dallas, TX  
Ang Sam Chrouk 516 Charrington Dr. Dallas, TX  
Hank Lawson 2402 Park Row Ave. Dallas, TX

MOTION: Lamb

I move that the Board of Adjustment in Appeal No. BDA 201-037, hold this case under advisement until June 22, 2021.

SECONDED: Halcomb

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: August 17, 2021

APPEARING IN FAVOR:

Evan Farris 1500 Marilla St. Dallas, TX

APPEARING IN OPPOSITION:

Abhay Shrestha 1519 MLK Jr. Blvd Dallas, TX  
Charles Fiscus 8350 N. Central Expy. Dallas, TX

MOTION: Slade

I move that the Board of Adjustment in Appeal No. BDA 201-037, **deny** the applicant's request for expedited compliance **without** prejudice because, based on the terms of the agreement entered into by the applicant and the property owner, we find that continued operation of this nonconforming use will not have an adverse effect on nearby properties.

SECONDED: Lamb

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Slade

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

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**MOTION: Gambow**

I move to adjourn the Panel A hearing.

**SECONDED: Lamb**

**AYES:** 5 - Gambow, Lamb, Brooks, Narey, Slade

**NAYS:** 0 -

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

**Recess: 2:35 p.m.**

**Resume: 2:41 p.m.**

**3:16 P.M.** Board Meeting adjourned for **August 17, 2021**

*Cheri Gambow*

CHAIRPERSON

*Jennifer Munoz*

BOARD ADMINISTRATOR

*Joe*

BOARD SECRETARY

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