

**BOARD OF ADJUSTMENT, PANEL C
PUBLIC HEARING MINUTES
DALLAS CITY HALL, AUDITORIUM
MONDAY, MAY 18, 2015**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Ross Coulter, regular member, Joe Carreon, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Ross Coulter, regular member, Joe Carreon, regular member, Peter Schulte, regular member and Marla Beikman, regular member

MEMBERS ABSENT FROM HEARING: No one

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

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

11:13 a.m. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **May 18, 2015** 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 April 20, 2015 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: MAY 18, 2015

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 145-051

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin for variances to the side and rear yard setback regulations at 3620 Edgewater Street. This property is more fully described as the eastern half of Lot 4, Block 5/2022, and is zoned PD193 (D), which requires a side yard setback of 5 feet and a rear yard setback of 10 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, and a 0 foot rear yard setback, which will require a 10 foot variance to the rear yard setback regulations.

LOCATION: 3620 Edgewater Street

APPLICANT: Robert Baldwin

REQUESTS:

The following appeals have been made to construct and maintain structures on property developed with one half of a duplex structure on the subject site (the attached single family home structure located on the east side of the subject site at 3622 Edgewater Street):

1. a variance to the side yard setback regulations of 5' is requested to construct and maintain portions of stairway, deck and plant container structures to be located on the site's eastern side property line or 5' into this required 5' side yard setback;
2. A request for a variance to the rear yard setback regulations is made to construct and maintain a portion of stairway, deck and plant container structures to be located

as close as on the site's rear property line or as much as 10' into the required 10' rear 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, 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:

Approval of the side and rear yard variances, subject to the following condition:

- Compliance with the submitted revised site plan is required.

Rationale:

- The lot's slightly irregular shape, slope, and restrictive area of approximately 6,000 square preclude it from being developed in a manner commensurate with other developments found on similarly-zoned PD 193 (D) lots. In this case, according to the applicant, other lots in this PD 193 (D) zoning district are approximately 2,500 square feet larger in area and at least 20 feet longer/deeper than the subject site.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (D) (Planned Development District, Duplex)
North: CD 17 (Conservation District)
South: PD 193 (D) (Planned Development District, Duplex)
East: PD 193 (D) (Planned Development District, Duplex)
West: PD 193 (D) (Planned Development District, Duplex)

Land Use:

The subject site is developed with a duplex – a single family home on the east side of the site at 3620 Edgewater Street, and a single family home on the west side of the site at 3622 Edgewater Street. The areas to the north, south, east and west are developed with residential uses.

Zoning/BDA History:

1. BDA 123-080, Property at 3622 Edgewater Drive (the west side of the subject site)

On August 19, 2013, the Board of Adjustment Panel C granted requests for variances to the front, side, and rear yard setback regulations (imposing the submitted revised site plan as a condition), and special exceptions to the side and rear yard fence height regulations of 3' 6" (imposing the submitted revised site plan and elevation as a condition). The case report stated the appeals were made in conjunction with maintaining development for portions of one half of a duplex structure and fence on the subject site (the attached single family home structure and fence located on the west side of the subject site at 3622 Edgewater Street): 1) a variance to the front yard setback regulations of 10' was requested to maintain a storage structure/stucco fountain structure located 15' from the front property line or 10' into the required 25' front yard setback; 2) a variance to the side yard setback regulations of 5' was requested to maintain portions of deck, Jacuzzi/hot tub, and fountain structures located on the site's western side property line or 5' into the required 5' side yard setback; 3) a variance to the rear yard setback regulations of 10' was requested to maintain a portion of deck and planter container structures located on the site's rear property line or 10' into the required 10' rear yard setback; and 4) special exceptions to fence height regulations of 3' 6" were requested in conjunction with maintaining 12' 6" high solid board fences in the side and rear yard setbacks.

2. BDA 090-057, Property at 3620 Edgewater Drive (the subject site)

On August 16, 2010, the Board of Adjustment Panel C denied requests for variances to the side yard setback regulations with prejudice. The case report stated that the variances to the side yard setback regulations were requested in conjunction with obtaining a final building permit on a recently constructed three-story duplex, portions of which (existing staircases) were located and to be redesigned in the site's eastern and western 5' side yard setbacks. According to documents submitted with the application, the "structures" located in the setbacks were "flatwork, stairs and landings" structures and/or concrete stair structures in the site's eastern and western 5' side yard setbacks, however, according to a document submitted by the applicant's representative on June 4, 2010, the existing concrete stair structures that completely fill the 5' setbacks were to be redesigned to be 3' 8" wide, and to be made of steel and wood.

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on constructing and maintaining a portion of stairway, deck and plant container structures located as close as on the site's eastern side property line or as much as 5' into this required 5' side yard setback.
- Single family structures on lots zoned PD 193 (D) are required to provide a minimum side yard setback of 5'.
- A revised site plan and an elevation have been submitted in conjunction with this application. The revised site plan denotes a "wood deck – elevated 4' ", stairs, and plant container structures located as close as on the site's eastern rear property line or as much as 5' into this 5' side yard setback.
- Note that while the submitted elevation shows what appears to be a 10' high fence in the rear yard setback and while the application notes that the owner is in a wheelchair, the applicant conveyed to the Board Administrator in a March 26th email that he is not asking for a fence height variance (with an understanding that the existing fences are in compliance with city codes and not asking permission to modify the existing fences) nor is he requesting a special exception for the handicapped.
- According to calculations taken from the submitted revised site plan by the Board Administrator, the total area of structures to be located in the side yard setback is approximately 50 square feet
- According to DCAD records, the "main improvement" at 3620 Edgewater Drive (subject site) is a structure with 2,979 square feet of living/total area built in 2008 with "additional improvements" of a 440 square foot attached garage and deck.

- According to DCAD records, the “main improvement” at 3622 Edgewater Drive (adjacent site) is a structure with 2,800 square feet of living/total area built in 2008 with “additional improvements” of a 399 square foot attached garage and a 1,006 square foot deck.
- The subject site is somewhat sloped, slightly irregular in shape, and, according to the application, 0.069 acres (approximately 3,000 square feet) in area. The site is zoned PD 193 (D). (Note that the 0.06 acre area noted on the application appears to reflect the area of one half of the building site – or the property at 3620 Edgewater Drive).
- 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 PD 193 (D) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (D) zoning classification.
- If the Board were to grant the variance request and impose the submitted revised site plan as a condition, the structures in the side yard setback would be limited to that what is shown on this document– which are structures located as close as on the site’s eastern side property line (or as much as 5’ into the 5’ side yard setback).

GENERAL FACTS/STAFF ANALYSIS (rear yard variance):

- This request focuses on constructing and maintaining a portion of stairway, deck and plant container structures located as close as on the site’s rear property line or as much as 10’ into the required 10’ rear yard setback.
- Single family structures on lots zoned PD 193 (D) are required to provide a minimum rear yard setback of 10’.
- A revised site plan and an elevation have been submitted in conjunction with this application. The revised site plan denotes a “wood deck – elevated 4’ ”, stairs, and plant container structures located as close as on the site’s rear property line or as much as 10’ into the 10’ rear yard setback.
- Note that while the submitted elevation shows what appears to be a 10’ high fence in the rear yard setback and while the application notes that the owner is in a wheelchair, the applicant conveyed to the Board Administrator in a March 26th email that he is not asking for a fence height variance (with an understanding that the existing fences are in compliance with city codes and not asking permission to modify the existing fences) nor is he requesting a special exception for the handicapped.

- According to calculations taken from the submitted revised site plan by the Board Administrator, the total area of structures to be located in the rear yard setback is approximately 200 square feet
- According to DCAD records, the “main improvement” at 3620 Edgewater Drive (subject site) is a structure with 2,979 square feet of living/total area built in 2008 with “additional improvements” of a 440 square foot attached garage and deck.
- According to DCAD records, the “main improvement” at 3622 Edgewater Drive (adjacent site) is a structure with 2,800 square feet of living/total area built in 2008 with “additional improvements” of a 399 square foot attached garage and a 1,006 square foot deck.
- The subject site is somewhat sloped, slightly irregular in shape, and, according to the application, 0.069 acres (approximately 3,000 square feet) in area. The site is zoned PD 193 (D). (Note that the 0.06 acre area noted on the application appears to reflect the area of one half of the building site – or the property at 3620 Edgewater Drive).
- 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 PD 193 (D) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (D) zoning classification.
- If the Board were to grant the variance request and impose the submitted revised site plan as a condition, the structures in the rear yard setback would be limited to that what is shown on this document– which are structures located as close as on the site’s rear property line (or as much as 10’ into the 10’ rear yard setback).

Timeline:

February 3, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 11, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

March 11, 2015: The Board Administrator emailed the applicant the following information:

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

April 3, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

May 5, 2105: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B).

BOARD OF ADJUSTMENT ACTION: MAY 18, 2015

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm Street, #B, Dallas, TX
Phyllis Hozak,

APPEARING IN OPPOSITION: Judy Desanders, 3619-21 Springbrook, Dallas, TX

MOTION: **Coulter**

I move that the Board of Adjustment, in request No. **BDA 145-051**, on application of Robert Baldwin, **grant** a 5-foot variance to the side yard setback regulations **and** a 10-foot variance to the rear yard regulations because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required.
- Landscape and planters must be a maintained to a minimum height of top of fence within 3 years is required.

SECONDED: Schulte

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 145-026

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin for a variance to the parking regulations at 1018 Gallagher Street. This property is more fully described as Lot 1A, Block B/7099, and is zoned R-5(A), which requires parking to be provided. The applicant proposes to construct and/or maintain a nonresidential structure for a community service center use and provide 19 of the required 25 parking spaces, which will require a 6 space variance to the parking regulation.

LOCATION: 1018 Gallagher Street

APPLICANT: Robert Baldwin

REQUEST:

A request for a variance to the off-street parking regulations of 6 spaces is made where the applicant proposes to provide 19 of the required 25 off-street parking spaces on a site that is developed with a community service use [Vickery Meadow Learning Center] in order to maintain a playground area.

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:

- While the Sustainable Development and Construction Project Engineer has no objections to the request based on supply and demand, staff recommends denial

because the standard for a variance has not been met. The site is flat, rectangular in shape, and, according to the application, 0.512 acres in area where none of these features/conditions preclude the applicant from developing the subject site in a manner commensurate with the development of other parcels of land in the same R-5(A) zoning.

- The applicant has also not substantiated how this variance for this specific use (community service center) at its proposed size is not needed to relieve a self-created hardship. The features/conditions of this flat, rectangular-shaped site do not appear to restrict the applicant from developing it with a smaller sized development that could provide the number of off-street parking spaces required by code.

BACKGROUND INFORMATION:

Site: R-5(A) (Single family residential district, 5,000 square feet)
North: R-5(A) (Single family residential district, 5,000 square feet)
South: R-5(A) (Single family residential district, 5,000 square feet)
East: R-5(A) (Single family residential district, 5,000 square feet)
West: R-5(A) (Single family residential district, 5,000 square feet)

Land Use:

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

Zoning/BDA History:

1. Z134-245, Property at 1018 Gallagher Street (Subject Site)
On August 27, 2014, December 10, 2014, and March 25, 2015, the City Council voted to hold under advisement an application for the amendment and renewal of SUP No. 1763 so the applicant could submit an application to the Board of Adjustment for a parking reduction.
2. BDA 089-063(K), Property at 1018 Gallagher Street (Subject Site)
On May 18, 2009, the Board of Adjustment Panel C granted a variance to the front yard setback and imposed the following condition: Compliance with the submitted site plan is required.
The case report stated the request for a variance of 11 feet to the front yard setback regulations was made to provide for off-street parking.

GENERAL FACTS/ STAFF ANALYSIS:

- The request focuses on being able to maintain a tree and a playground area that was constructed over six of the required off-street parking spaces for the community service center [Vickery Meadow Learning Center]. The applicant proposes to provide 19 of the required 25 required off-street parking spaces.
- The subject site is zoned R-5(A) but is developed with a community service use that requires the following off-street parking requirement:
 - Community Service Center Use: One space per 200 square feet of floor area.
- Normally, a request for a parking reduction that equals 25 percent or less of the required off-street parking would qualify for a special exception to the off-street parking regulations.
- Dallas Development Code Section 51A-4.311(a)(1) states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required *under this article* if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- However, Dallas Development Code Section 51A-311(a)(5) states that the Board of Adjustment *shall not* grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- On June 24, 2009, City Council approved Ordinance No. 27576, which granted, for a five-year time period, a community service use at 1018 Gallagher Street under Specific Use Permit No. 1763. Condition No. 8 of SUP No. 1763 states: “Off-street parking spaces must be located as shown on the attached site plan.”
- Therefore, the applicant may only apply for a *variance* and only the variance standard applies on this request to reduce the off-street parking regulations for a community service center use even though the reduction request is 24 percent of the required off-street parking.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The site is flat, rectangular in shape, and according to the application, 0.512 acres in area. The site is zoned R-5(A).
- DCAD records indicate that the “improvements” at 1018 Gallagher Street is a “church building” with 4,096 square feet built in 1985.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to 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 R-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-5(A) zoning classification.
- If the Board were to grant this request for a variance, the applicant would be allowed to provide 19 of the 25 off-street parking spaces required for a community service center use at approximately 4,977 square feet in order to maintain a playground area.

Timeline:

December 18, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 9, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

February 18, 2015: The Current Planner shared the following information with the applicant via e-mail:

- 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 25th deadline to submit additional evidence for staff to factor into their analysis; and the March 6th 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.

February 27, 2015: The Current Planner e-mailed the applicant to inform him that the Board could not consider a special exception to the off-street parking regulations. There is a Specific Use Permit (SUP No. 1763) at the site, and condition number eight states that off-street parking spaces must be located as shown on the site plan attached to the ordinance. Therefore, because there is an ordinance granting a specific use permit that requires parking at the site, the Board can only consider an application to reduce the number of off-street parking spaces under the standard for a variance and not as a special exception to parking demand.

March 3, 2015: The applicant contacted the Building Inspection Senior Plans Examiners/Development Code Specialist and updated the application to request a variance to the off-street parking regulations.

- March 16, 2015: The Current Planner updated the applicant with the following information via e-mail:
- a copy of the application materials, including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the April 1st deadline to submit additional evidence for staff to factor into their analysis; and the April 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 26, 2015: The applicant submitted revised site plans on this application to the Building Inspection Senior Plans Examiner/Development Code Specialist.
- April 7, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- April 9, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."
- April 20, 2015: The Board of Adjustment Panel C voted to hold this item under advisement until May 18, 2015.
- May 7, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

BOARD OF ADJUSTMENT ACTION: MAY 18, 2015

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

APPEARING IN OPPOSITION: No one

MOTION #1: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-026**, on application of Robert Baldwin, **grant** a 6 space variance to the off-street parking regulations because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

SECONDED: Carreon

AYES: 3 –Coulter, Carreon, Schulte

NAYS: 2 - Richardson, Beikman

MOTION FAILED: 3 – 2

MOTION #2: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-026**, on application of Robert Baldwin, **deny** the off-street parking regulations variance **without 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, and that it is not a restrictive 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 is a self-created or personal hardship.

SECONDED: Beikman

AYES: 4 – Richardson, Coulter, Schulte, Beikman

NAYS: 1 - Carreon

MOTION PASSED: 4 – 1

FILE NUMBER: BDA 145-042

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 4331 Belmont Avenue. This property is more fully described as Lot 16 and Lot 17, a 0.166 acre building site, Block 21/2005, and is zoned CS, which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a personal service use, and provide 10 of the required 13 parking spaces, which will require a 3 space special exception to the off-street parking regulations.

LOCATION: 4331 Belmont Avenue

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 3 spaces is made to transition the use within an existing approximately 2,600 square foot one-story structure on the subject site from office use to personal service use, and provide 10 (or 77 percent) of the 13 required off-street parking spaces.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;

- (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
 - 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 3 spaces shall automatically and immediately terminate if and when the personal service use that would normally need no more than 13 required parking spaces is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: CS (Commercial service)
North: PD 889 (Planned Development)
South: PD 698 (Planned Development)
East: CS (Commercial service)
West: CS (Commercial service)

Land Use:

The subject site is developed with an existing one-story structure that has approximately 2,600 square feet of floor area that the applicant intends to retain on the site and lease with personal service use which requires a greater number of off-street parking spaces than the previous use on the subject site (office) and what the applicant proposes to provide. The area to the north is undeveloped; the areas to the east and west are developed with commercial uses; and the area to the south is developed as a school (Spence Middle School).

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on transitioning the use within an existing approximately 2,600 square foot one-story structure on the subject site from office use to personal service use, and providing 10 (or 77 percent) of the 13 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
 - Personal service use: 1 space per 200 square feet of floor area.
- The applicant proposes to provide 10 (or 77 percent) of the required 13 off-street parking spaces in conjunction with the existing structure on the site being leased with and/or maintained with a combination of the uses mentioned above.
- The Sustainable Development Department Project Engineer has indicated that he has no objections to the request.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the personal service use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 3 spaces (or a 23 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 3 spaces shall automatically and immediately terminate if and when the personal service use is changed or discontinued, the applicant would be allowed to lease and maintain the structure on the site with this specific use with the specified square footage, and provide 10 of the 13 code required off-street parking spaces.

Timeline:

- January 22, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 11, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- March 11, 2015: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the April 1st deadline to submit additional evidence for staff to factor into their analysis; and the

April 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

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

April 9, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

April 20, 2015: The Board of Adjustment Panel C conducted a public hearing on this application and delayed action on this application until their next public hearing to be held on May 18, 2015.

April 21, 2015: The Board Administrator sent a letter to the applicant that noted the decision of the panel, the April 29th deadline to submit any additional information to staff for their review, and the May 8th deadline to submit additional evidence to be incorporated into the Board's docket materials.

May 5, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

May 7, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

BOARD OF ADJUSTMENT ACTION: MAY 18, 2015

APPEARING IN FAVOR: Robert Baldwin, 3904 Elm Street, #B, Dallas, TX
Jonas Park, 2319 Rusk Ct., Dallas, TX
Carl Smith, 4517 Weldon St, Dallas, TX
John Matthews, 1001 Bellevue St, #405, Dallas, TX

APPEARING IN OPPOSITION: Mike Luckick, 6131 Bordeaux Ave., Dallas, TX

Break: 2:50 p.m.
Resumed: 2:55 p.m.

MOTION: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-042**, on application of Robert Baldwin, **grant** a 6 space variance to the off-street parking regulations because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception of 3 spaces shall automatically and immediately terminate if and when the personal service use that would normally need no more than 13 required parking spaces is changed or discontinued.
- Compliance with the submitted site plan is required.

SECONDED: Coulter

AYES: 3 – Richardson, Coulter, Carreon, Schulte

NAYS: 1 - Beikman

MOTION PASSED: 4 – 1

FILE NUMBER: BDA 145-050

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a variance to the off-street parking regulations at 3620 Inwood Road. This property is more fully described as an unplatted 0.31 acre tract, Block 2477, and is zoned PD193 (LC), which requires off-street parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for retail and office uses and provide 19 of the required 27 off-street parking spaces, which will require an 8 space variance to the off-street parking regulations.

LOCATION: 3620 Inwood Road

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a variance to the off-street parking regulations of 8 spaces is made to lease vacant space and re-lease motor vehicle repair use space within an approximately 5,900 square foot structure with a mix of retail and/or office uses, where the applicant proposes to provide 19 (or 70 percent) of the required 27 required off-street parking spaces.

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:

- While the flat, subject site is irregular in shape, and, according to the applicant, was reduced in size to its current approximately 13,500 square feet when Inwood Road was widened to a six lane divided road, the applicant had not substantiated how these features preclude it from being developed in a manner commensurate with the development upon other parcels of land with the same PD 193 (LC) zoning. The features of the site do not appear to restrict the applicant from developing/leasing the existing structure or a replacement structure with uses permitted in this zoning where the number of off-street parking spaces could be provided without a variance.

- In addition, granting the variance appears to be contrary to public interest since the Sustainable Development and Construction Department Project Engineer has recommended that this request be denied based on his conclusion that the City of Dallas PD 193 parking requirements are within comparable range of ITE (Institute of Transportation Engineers), and that Inwood Road and Fairfax Avenue cannot accommodate any supplemental parking that may be needed.

BACKGROUND INFORMATION:

Site: PD 193 (LC) (Planned Development, Light commercial)
North: PD 193 (MF-2) (Planned Development, Multifamily)
South: PD 193 (PDS 5) (Planned Development, Planned Development)
East: PD 193 (MF-2) (Planned Development, Multifamily)
West: CS (Commercial service)

Land Use:

The subject site is developed with a structure part of which is vacant and part of which is developed with a motor vehicle repair use (Aamco). The areas to the north and east are developed with multifamily uses; and the areas to the south and west are developed with retail 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:

- The request focuses on leasing vacant space and re-leasing motor vehicle repair use space within an approximately 5,900 square foot structure with a mix of retail and/or office uses, where the applicant proposes to provide 19 (or 70 percent) of the required 27 required off-street parking spaces.
- The subject site is zoned PD 193 (LC) that requires the following off-street parking requirement:
 - Retail uses: 1 space for each 220 square feet of floor area; other than “feed store” which has a parking requirement of 1 space for each 500 square feet of floor area.
 - Office: 1 space for each 366 square feet of floor area
- Dallas Development Code Section 51A-4.311(a)(1) states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required *under this article* if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space,

whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

- Therefore, because the applicant seeks a parking reduction request of 30 percent, the applicant must request a variance to the off-street parking regulations.
- The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked “Recommends that this be denied” commenting “City of Dallas PD 193 parking requirements are within comparable range of ITE. Inwood Road and Fairfax Avenue cannot accommodate any supplemental parking that may be needed.”
- The site is flat, irregular in shape, and according to the application, 0.31 acres in area. The site is zoned PD 193 (LC).
- DCAD records indicate that the “improvements” at 3620 Inwood Road is a “retail strip” with 5,595 square feet built in 1952.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to 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 PD193 (LC) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (LC) zoning classification.
- If the Board were to grant this request, the applicant would be required to provide 19 (or 70 percent) of the 27 off-street parking spaces required to lease and maintain the existing approximately 5,900 square foot structure on the site with a mix of retail and office uses.

Timeline:

March 16, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

April 16, 2015: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the April 29th deadline to

submit additional evidence for staff to factor into their analysis; and the May 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

April 30, 2015: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator, and the applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

May 5, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

May 7, 2015: The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked "Recommends that this be denied" commenting "City of Dallas PD 193 parking requirements are within comparable range of ITE. Inwood Road and Fairfax Avenue cannot accommodate any supplemental parking that may be needed."

BOARD OF ADJUSTMENT ACTION: MAY 18, 2015

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

APPEARING IN OPPOSITION: No one

MOTION: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-050**, on application of Robert Baldwin, **deny** the off-street parking variance **without 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, and that it is not a restrictive parcel 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 is a self-created or personal hardship.

SECONDED: Beikman

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimous)

FILE NUMBER: BDA 145-055

BUILDING OFFICIAL’S REPORT: Application of Wilson Hernandez for a variance to the side yard setback regulations at 5902 Bent Trail. This property is more fully described as Lot 13, Block 1/8225, and is zoned R-7.5(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 (provide 1 foot setback at foundation and 0 foot setback at roof eave), which will require a 5 foot variance to the side yard setback regulations.

LOCATION: 5902 Bent Trail

APPLICANT: Wilson Hernandez

May 18, 2015 Public Hearing Notes:

- The Board Administrator circulated additional written documentation from one of the owners of the property to the Board at the briefing.

REQUEST:

A request for a variance to the side yard setback regulations of 5’ is made to construct and maintain an approximately 855 square foot “outdoor living/kitchen”/closet”/storage accessory structure on a lot developed with a single family home structure/use, which would be located as close as on the site’s western side property line (roof eave) or as much as 5’ into this 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, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;

- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Denial

Rationale:

- While the site is irregular in shape and includes over 6,000 square feet of “community pond” area, staff had concluded that these features do not preclude the applicant from developing it in a manner commensurate with the development of other parcels of land in the same R-7.5(A) zoning. The site has almost 33,000 square feet of area left for development once the approximately 6,300 square foot community pond area is accounted for in a zoning district where lots are typically 7,500 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)(deed restricted)
North: R-7.5(A) (Single family district 7,500 square feet)(deed restricted)
South: R-1ac(A) (Single family district 1 acre)
East: R-1ac(A) (Single family district 1 acre)
West: R-7.5(A) (Single family district 7,500 square feet)(deed restricted)

Land Use:

The subject site is developed with a single family home structure/use. The areas to the north and west are developed with single family uses, and the areas to the east and west are developed with a private membership country club use (Bent Tree Country Club).

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately an approximately 855 square foot “outdoor living/kitchen”/closet”/storage accessory structure on a lot developed with an approximately 6,000 square foot single family home structure/use, which would be located as close as on the site’s western side property line (roof eave) or as much as 5’ into this 5’ side yard setback.
- Structures on lots zoned R-7.5(A) are required to provide a minimum side yard setback of 5’.
- A revised site plan submitted on May 8th denotes a portion of the proposed “outdoor living/kitchen”/closet”/storage accessory structure located as close as on the site’s western side property line (roof eave) or as much as 5’ into this 5’ side yard setback.
- According to DCAD records, the “main improvement” at 5902 Bent Trail is a structure built in 1979 with 7,033 square feet of living area/total area. According to DCAD records, the “additional improvements” at this address are a 1,406 square foot attached garage, a 695 square foot deck, and a pool.
- The subject site is sloped to a “community pond”, irregular in shape, and approximately 39,000 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The zoning map indicates that a portion of the site is located in flood plain. The submitted site plan notes that an “existing community pond” accounts for 6,268 square feet of the subject site.
- The applicant submitted a revised site plan on May 8th and noted that this plan reflected changes made to the originally submitted site plan and the revised site plan submitted on May 5th. The applicant noted that the revised site plan submitted on May 8th created a shorter storage closet to be compliant with building in the rear 30 percent of the property if the rear property line would be considered to be where one can actually build which is at the upper retention wall. (Note that the applicant submitted a revised elevation of the proposed structure on May 5th representing that the proposed structure does not/would not exceed 15’ in height).
- Note that Sec. 51A-4.402(b)(3) of the Dallas Development Code states that in a residential district, a person need not provide a side yard setback for a structure accessory to the a residential use if the structure does not exceed 15’ in height and is located in the rear 30 percent of the lot.
- 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 R-7.5(A) zoning classification.

- If the Board were to grant the variance request and impose the revised site plan submitted on May 8th as a condition, the structure in the side yard setback would be limited to what is shown on this document – which is a structure located as close as 0’ from the western side property line (roof eave) or as much as 5’ into this 5’ side yard setback.
- Note that if the Board were to grant the applicant’s request for a variance to the side yard setback regulations, and impose the revised site plan submitted on May 8th as a condition, no relief would be provided to any existing or future issue related to flood plain requirements/regulations.

Timeline:

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

April 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

April 16, 2015: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the April 29th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th 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”; and
- copies of deed restrictions on the site and surrounding area with a note to review them and represent to the board that they in no way affect the application to the board.

May 5, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A). Among other things, the applicant stated in this attachment that she had reviewed the deed restrictions for the neighborhood and does not believe that her application for variance interferes in any way with them.

May 5, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the

Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

May 8, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B).

BOARD OF ADJUSTMENT ACTION: MAY 18, 2015

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Schulte

I move that the Board of Adjustment, in request No. **BDA 145-055**, on application of Wilson Hernandez, **deny** the side yard setback variance **without 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, and that it is not a restrictive parcel 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 is a self-created or personal hardship.

SECONDED: Beikman

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimous)

MOTION: Richardson

I move to adjourn this meeting.

SECONDED: Schulte

AYES: 5 – Richardson, Coulter, Carreon, Schulte, Beikman,

NAYS: 0 –

MOTION PASSED: 5 – 0 (unanimously)

3:45 P. M. - Board Meeting adjourned for **May 18, 2015.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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