

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL COUNCIL CHAMBERS  
WEDNESDAY, September 19, 2018**

MEMBERS PRESENT AT BRIEFING: Scott Hounsel, Chair, Ruth Torres, regular member, Marla Beikman, regular member, Philip Sahuc, alternate member

MEMBERS ABSENT FROM BRIEFING: Terrance Perkins, regular member

MEMBERS PRESENT AT HEARING: Scott Hounsel, Chair, Ruth Torres, regular member, Marla Beikman, regular member, Philip Sahuc, alternate member

MEMBERS ABSENT FROM HEARING: Terrance Perkins, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Chief Planner/ Board Administrator, Theresa Pham, Asst. City Attorney, Charles Trammell, Development Code Specialist, Oscar Aguilera, Senior Planner, Elaine Hill, Board Secretary, Neva Dean, Asst. Dir.

STAFF PRESENT AT HEARING: Steve Long, Chief Planner/ Board Administrator, Theresa Pham, Asst. City Attorney, Charles Trammell, Development Code Specialist, Oscar Aguilera, Senior Planner, Elaine Hill, Board Secretary, Neva Dean, Assistant Director

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**11:19 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **September 19, 2018 docket.**

**BOARD OF ADJUSTMENT ACTION September 19, 2018**

**1:02 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**

To approve the Board of Adjustment Panel B August 22, 2018 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: September 19, 2018**

**MOTION:** None

The minutes were approved.

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**FILE NUMBER:** BDA178-099(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Rutilio Antonio Bernal, represented by Bryan Esquivel of Iron Horse Custom Homes, for a variance to the front yard setback regulations at 3943 Atlanta Street. This property is more fully described as Lot 1, Block A/1728, and is zoned PD-595 (R-5(A)), which requires a front yard setback of 20 feet. The applicant proposes to construct and/or maintain a structure and provide a 5 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

**LOCATION:** 3943 Atlanta Street

**APPLICANT:** Rutilio Antonio Bernal  
Represented by Bryan Esquivel of Iron Horse Custom Homes

**REQUEST:**

A request for a variance to the front yard setback regulations of 15’ is made to construct and maintain a one-story single family home structure with a total “slab area” of approximately 1,530 square feet or with a total “home size” of approximately 1,200 square feet, part of which is to be located 5’ from one of the site’s two front property lines (Eugene Street) or 15’ into this 20’ front yard setback on a site that is undeveloped.

**STANDARD FOR A VARIANCE:**

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and  
(C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the PD-595 (R-5(A)) zoning district in that it is restrictive in area due to having two, 20' front yard setbacks when most lots in this zoning district have one 20' front yard setback. The 35' wide subject site has 10' of developable width available once a 20' front yard setback is accounted for on the southwest and a 5' side yard setback is accounted for on the northwest. If the lot were more typical to others in the zoning district with only one front yard setback, the 35' wide site would have 25' of developable width.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that the total home size of the proposed home on the subject site at approximately 1,200 square feet is commensurate to 7 other homes in the same PD-595 (R-5(A)) zoning district that have average home size of approximately 1,500 square feet.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD595 (R-5(A)) (Planned Development) (Single family district 5,000 square-feet)  
North: PD595 (R-5(A)) (Planned Development) (Single family district 5,000 square-feet)  
South: PD595 (R-5(A)) (Planned Development) (Single family district 5,000 square-feet)  
East: PD595 (R-5(A)) (Planned Development) (Single family district 5,000 square-feet)  
West: PD595 (R-5(A)) (Planned Development) (Single family district 5,000 square-feet)

**Land Use:**

The subject site is undeveloped. The area to the north is developed with single family uses and vacant lots; the area to the east and south are developed with a public park and single family uses; and the area to the west is developed with single family uses.

**Zoning/BDA History:**

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

**GENERAL FACTS /STAFF ANALYSIS:**

- This request for variance to the front yard setback requirement of 15' focuses on constructing and maintaining a one-story single family home structure with a total "slab area" of approximately 1,530 square feet or with a total "home size" of approximately 1,200 square feet, part of which is to be located 5' from one of the site's two front property lines (Eugene Street) or 15' into this 20' front yard setback on a site that is undeveloped.
- The property is located in PD-595 (R-5(A)) zoning district which requires a minimum front yard setback of 20 feet.
- The subject site is located at the northwest corner of Atlanta Street and Eugene. Regardless of how the structure is proposed to be oriented to front Atlanta Street, the subject site has a 20' front yard setback along both street frontages. The site has a 20' front yard setback along Atlanta Street, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 20' front yard setback along Eugene Street, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 5' side yard setback is required. However, the site's Eugene Street frontage that would function as a side yard on the property is treated as a front yard setback nonetheless, to maintain the continuity of the established front yard setback established by the lots to the southwest that front/are oriented southeast towards Eugene Street.
- The submitted site plan indicates the proposed structure is located 5' from the Eugene Street's front property line or 15' into this 20' front yard setback.
- According to DCAD records, there are "no main improvement" or "no additional improvements for property addressed at 3943 Atlanta Street.
- The subject site is flat, slightly irregular in shape (approximately 35' x 91'), and according to the submitted application is 0.655 acres (or approximately 2900 square feet) in area. The site is zoned PD-595 (R-5(A)) where lots are typically 5,000 square feet in area.
- Most lots in the PD-595 (R-5(A)) zoning district have one 20' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has two 20' front yard setbacks and two 5' side yard setbacks.
- The site plan represents that approximately 3/4 of the structure is located in the 20' Eugene Street front yard setback.
- The 35' wide subject site has 10' of developable width available once a 20' front yard setback is accounted for on the southwest and a 5' side yard setback is accounted for on the northwest. If the lot were more typical to others in the zoning district with only one front yard setback, the 35' wide site would have 25' of developable width.
- No variance would be necessary if the Eugene Street frontage were a side yard since the site plan represents that the proposed home is 5' 2" from the Eugene Street property line and the side yard setback for properties zoned PD-595 (R-5(A)) is 5'.
- The applicant has submitted a document indicating among other things that that the total home size of the proposed home on the subject site is approximately 1,200 square feet, and the average of 7 other properties in the same zoning is approximately 1500 square feet.
- The applicant has the burden of proof in establishing the following:

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD-595 (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 PD-595 (R-5(A)) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 5’ from the site’s Eugene Street front property line (or 15’ into this 20’ front yard setback).

**Timeline:**

- June 1, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 14, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 16, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 28, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- August 29, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).
- September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September

public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Authorized Hearing/Development Code Amendment Chief Planner, the Sustainable Development and Construction Department 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 September 19, 2018**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment **grant** the following application **BDA 178-099** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and is consistent with the general purpose and intent of the Code, as applicable, to wit. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Torres**

AYES: 4 - Hounsel, Torres, Beikman, Sahuc

NAYS: 0

MOTION PASSED: 4– 0 (unanimously)

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FILE NUMBER: BDA178-103(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Jose J Rodriquez, represented by Santos T. Martinez of Masterplan, for special exceptions to the front and side yard setback regulations for a carport at 1026 S. Montclair Avenue. This property is more fully described as Lot 1, Block G/3543, and is zoned R-7.5(A), which requires a front yard setback of 25 feet and a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport and provide a 1 foot front yard setback, which will require a 24 foot special exception to the front yard setback regulations, and to provide a 0 foot side yard setback, which will require a 5 foot special exception to the side yard setback regulations.

**LOCATION:** 1026 S. Montclair Avenue

**APPLICANT:** Jose J. Rodriguez  
Represented by Santos T. Martinez of Masterplan

**REQUESTS:**

The following requests have been made on a site developed with a single family home:

1. a special exception to the front yard setback regulations of 24' is made to maintain a carport located as close as 1' from the site's Clarendon Drive front property line or as much as 24' into this 25' required front yard setback
2. a special exception to the side yard setback regulations of 5' is made to maintain the aforementioned carport located 0' from the site's eastern side property line or 5' into this 5' required side yard setback.

**STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE FRONT YARD:**

The Board of Adjustment may grant a special exception to the minimum front yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and the carport will not have a detrimental impact on surrounding properties.

In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

**STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:**

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

**STAFF RECOMMENDATION (front yard special exception):**

No staff recommendation is made on this or any request for a special exception to the front yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and the carport will not have a detrimental impact on surrounding properties.

**STAFF RECOMMENDATION (side yard special exception):**

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- The special exceptions to the front yard setback side yard setback regulations of 24' and to the side yard setback regulations of 5' focus on maintaining an approximately 800 square foot carport 1' away from the site's W. Clarendon Drive front property line or 24' into this 25' front yard setback, and 0' from the site's eastern side property line or 5' into the site's eastern 5' required side yard setback on a site developed with a single family home structure/use.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback and a 5' side yard setback.

- The subject site is located at the northeast corner of S. Montclair Avenue and W. Clarendon Drive. The site has two 25' front yard setbacks (one on the west, the other on the south), and two 5' side yard setbacks (one on the east, the other on the north).
- The submitted site plan and the submitted three elevations represent the size and materials of the carport, and its location in the site's W. Clarendon Drive 25' front yard setback, and in the site's 5' eastern side yard setback.
- The submitted site plan represents the following:
  - The carport is approximately 45' in length and approximately 18' in width (approximately 800 square feet in total area) of which approximately half is located in the W. Clarendon Drive front yard setback and approximately 1/3 is located in the eastern 5' side yard setback.
- The submitted elevations represent the following:
  - Ranging in height from approximately 12' – 12.5'.
  - Composite deck roof.
  - Notes "structure constructed of non-combustible materials".
  - Notes "minimum 1 hour rated wall, non-combustible materials and UL listing per Dallas Building Code".
- The Board Administrator conducted a field visit of the area approximately 500 feet east and west of the subject site and noted no other carports that appeared to be located in a front or side yard setback.
- As of September 7, 2018, no letters had been submitted in support of or in opposition to this application.
- With regard to the request for a special exception to the front yard setback regulations of 24', the applicant has the burden of proof in establishing the following:
  - that there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and the carport will not have a detrimental impact on surrounding properties.
- With regard to the request for a special exception to the side yard setback regulations of 5', the applicant has the burden of proof in establishing the following:
  - that granting this special exception to the side yard setback regulations of 5' will not have a detrimental impact on surrounding properties.
- Granting one or both of these requests and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:
  1. Compliance with the submitted site plan and elevations is required.
  2. The carport structure must remain open at all times.
  3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
  4. All applicable building permits must be obtained.
  5. No item (other than a motor vehicle) may be stored in the carport.
- If the Board were to grant one or both of these request and impose the submitted site plan and elevations as a condition to the request, the structure in the setbacks would be limited to that what is shown on these documents – a carport located 1' away from the W. Clarendon Drive front property line or 24' into this required 25' front yard setback, and on the eastern side property line or 5' into this required 5' side yard setback.

- Granting either one or both of these special exceptions on this site will not provide any relief to any existing or proposed noncompliance on the site related to fence standard or visual obstruction regulations.

**Timeline:**

June 26, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 14, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

August 14, 2018: The Board Administrator emailed the applicant’s representative the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Authorized Hearing/Development Code Amendment Chief Planner, the Sustainable Development and Construction Department 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 September 19, 2018**

**APPEARING IN FAVOR:** Santos Martinez, 900 Jackson #640, Dallas, TX

**APPEARING IN OPPOSITION:** Florencio Escobar, 614 S. Brighton, Dallas, TX  
Cartier Caldwell, 912 S. Brighton Ave., Dallas, TX

**MOTION 1 of 2: Torres**

I move that the Board of Adjustment, in Appeal No. BDA 178-103, on application of Jose J. Rodriguez, represented by Santos T. Martinez of Masterplan, **deny** the special exception to the side yard setback regulations for a carport requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will detrimentally impact surrounding properties.

**SECONDED: Beikman**

**AYES:** 4 - Hounsel, Torres, Beikman, Sahuc

**NAYS:** 0

**MOTION PASSED:** 4– 0 (unanimously)

**MOTION 2 of 2: Torres**

I move that the Board of Adjustment, in Appeal No. BDA 178-103, on application of Jose J. Rodriguez, represented by Santos T. Martinez of Masterplan, **deny** the special exception to the front yard setback regulations for a carport requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that this special exception will detrimentally impact surrounding properties and there is adequate vehicular access to an area behind the required front building line that would accommodate a parking space.

**SECONDED: Beikman**

**AYES:** 4 - Hounsel, Torres, Beikman, Sahuc

**NAYS:** 0

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA178-104(OA)

**BUILDING OFFICIAL’S REPORT:** Application of Steven John Kubik for special exceptions to the fence standards regulations at 7710 Cliffbrook Drive. This property is more fully described as Lot 5, Block J/8041, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations, and to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards regulations.

**LOCATION:** 7710 Cliffbrook Drive

**APPLICANT:** Steven John Kubik

**REQUEST:**

The following requests for special exceptions to the fence standards regulations have been made on a site that is developed with a single family home:

- 1) A request for a special exception to the fence standards regulations related to height of 4' is made to complete and maintain a fence (an 8' high solid board-on-board wood fence) higher than 4' in height in one of the site's two required front yards (Edgecrest Drive); and
- 2) A request for a special exception to the fence standards regulations related to a fence panel with a surface area that is less than 50 percent open is made to complete and maintain the aforementioned 8' high solid board-on-board wood fence located on the Edgecrest Drive front lot line (or less than 5' from this front lot line).

### **STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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

### **STAFF RECOMMENDATION:**

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

### **BACKGROUND INFORMATION:**

#### **Zoning:**

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

#### **Land Use:**

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

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

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

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

- The requests for special exceptions to the fence standard regulations are twofold. A special exception to the fence standards regulations related to height of 4' is to

complete and maintain an 8' high solid board-on-board wood fence in one of the site's two required front yards (Edgecrest Drive). A special exception to the fence standard regulations related to a fence with panels with surface areas less than 50 percent open is made to complete and maintain an 8' high solid board-on-board wood fence located on Edgecrest Drive front lot line (or less than 5' from this front lot line).

- The subject site is zoned R-10(A) which requires a 30' front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the southeast corner of Cliffbrook Drive and Edgecrest Drive.
- Given the single family zoning and location of the corner lot subject site, it has two required front yards. The site has a 25' required front yard along Edgecrest Drive and a 35' required front yard along Cliffbrook Drive caused by a platted building lines.
- The applicant has submitted a site plan and elevation of the proposal along Edgecrest Drive with fence panels having a surface area that is less than 50 percent open and located less than 5' from this front lot line.
- The following additional information was gleaned from the submitted site plan:
  - The proposal is represented as being approximately 95' in length parallel to Edgecrest Drive and approximately 25' perpendicular to Edgecrest Drive on the north and south sides of the site in this front yard setback.
- The proposal is represented as being located at the Edgecrest Drive front property line or approximately 16' from the pavement line.
- The Sustainable Development and Construction Department Senior Planner, conducted a field visit of the site. Staff noted several solid board-on-board wood fences that appeared to be above over 6' in height located along Edgecrest Drive. However, these fences, located on the properties along Edgecrest Drive are located in what appears to be side yards therefore most likely permitted by right.
- As of September 7, 2018, one letter had been submitted in support of the request, a petition of support with 8 signatures, and no letters had been submitted in opposition. (see Attached A & B)
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards regulations related to height over 4' in the front yard setback and related to a fence with panels with surface areas less than 50 percent open less than 5' from the front lot line will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

- July 2, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 14, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 16, 2018: The Sustainable Development and Construction Department Senior Planner, emailed the applicant’s representative the following information:
- a copy of the application materials including the Building Official’s report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- August 27, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- August 28, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).
- September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Authorized Hearing/Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

I move that the Board of Adjustment **grant** the following application **BDA 178-104** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence that the applications satisfy all the requirements of the Dallas Development Code and is consistent with the general purpose and intent of the Code, as applicable, to wit. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Torres**

**AYES:** 4 - Hounsel, Torres, Beikman, Sahuc

**NAYS:** 0

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA178-090(SL)

**BUILDING OFFICIAL’S REPORT:** Application of Alexander Remington, represented by Michael R. Coker, for a variance to the front yard setback regulations at 1813 Caddo Street. This property is more fully described as Lot 1, Block 1/600, and is zoned MF-2(A), which requires a front yard setback of 15 feet. The applicant proposes to construct and/or maintain a structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

**LOCATION:** 1813 Caddo Street

**APPLICANT:** Alexander Remington  
Represented by Michael R. Coker

**September 19, 2018 Public Hearing Notes:**

- The Board Administrator circulated additional written documentation from the applicant to the Board members at the briefing (see Attachment B).

**REQUEST:**

A variance to the front yard setback regulations of 15’ is made to construct and maintain five step/railing/landing structures to be located on the site’s Caddo Street front property line or 15’ into this 15’ front yard setback on an undeveloped site that is proposed to be developed with a 10-unit multifamily development.

**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 variance was 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 with the same MF-2(A) zoning district.
- Staff concluded that the characteristics/features of the subject site does not preclude the applicant from developing it commensurate with others in the same zoning district, and in a way that complies with all zoning code provisions including front yard setback regulations.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF2(A) (Multifamily)  
North: MF2(A) (Multifamily)  
South: MF2(A) (Multifamily)  
East: MF2(A) (Multifamily)  
West: MF2(A) (Multifamily)

**Land Use:**

The subject site is undeveloped. The areas to the north, east, south, and west are developed with a mixture of single family and multifamily 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 (variance):**

- This request for a variance focuses on constructing and maintaining five step/railing/landing structures to be located on the site's Caddo Street front property line or 15' into this 15' front yard setback on a site proposed to be developed with a 10-unit multifamily development.
- The subject site is located at the south corner of Caddo Street and Munger Avenue.
- The site is zoned MF-2(A) which requires a minimum front yard setback of 15'.
- The site has two front yard setbacks and two side yard setbacks.
- The submitted site plan denotes five step/railing/landing structures to be located on the site's Caddo Street front property line or 15' into this 15' front yard setback.
- According to DCAD records, there are "no improvements" listed at 1813 Caddo Street.
- The subject site is generally flat, rectangular in shape, and according to the submitted application is 0.440 acres (or approximately 19,000 square feet) in area. The site is zoned MF-2(A).
- The site has two front yard setbacks as any corner property has in this zoning district.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance 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 MF-2(A) zoning classification.
  - If the Board were to grant the variances, it would not be 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 MF-2(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structures located in the front yard setback would be limited to what is shown on these documents which in this case are five step/railing/landing structures located on the site's Caddo Street front property line or 15' into this 15' front yard setback.

**Timeline:**

- May 8, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 14, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

August 14, 2018: The Board Administrator emailed the applicant's representative the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 7<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Authorized Hearing/Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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

September 5, 2018: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report regarding the application (see Attachment A). This revised report reflected the applicant's withdrawal of a request for a special exception to the fence standards regulations he had made with the original application.

APPEARING IN FAVOR: Michael R. Coker, 3111 Canton St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Sahuc**

I move that the Board of Adjustment, in Appeal No. BDA 178-090, on application of Alexander Remington, represented by Michael R. Coker, **grant** the 15-foot variance to the front yard setback regulations requested by this applicant because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant.

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

- Compliance with the submitted site plan is required.

**SECONDED: Beikman**

**AYES:** 4 - Hounsel, Torres, Beikman, Sahuc

**NAYS:** 0

**MOTION PASSED:** 4– 0 (unanimously)

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**MOTION: Beikman**

I move to adjourn this meeting.

**SECONDED: Hounsel**

**AYES:** 4 – Torres, Beikman, Hounsel, Sahuc

**NAYS:** 0

**MOTION PASSED:**4 – 0 (unanimously)

**2:20 P.M.** Board Meeting adjourned for **September 19, 2018**

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CHAIRPERSON

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BOARD ADMINISTRATOR

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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.