

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL A
TUESDAY, SEPTEMBER 18, 2007

Briefing: 11:00 A.M.
Public Hearing: 1:00 P.M.

5/E/S
COUNCIL CHAMBERS

Purpose: To take action on the attached agenda, which contains the following:

1. Zoning Board of Adjustment appeals of cases the Building Official has denied.
2. And any other business which may come before this body and is listed on the agenda.

***All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla, Dallas, Texas 75201**

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09-18-2007

BOARD OF ADJUSTMENT, PANEL A
TUESDAY, SEPTEMBER 18, 2007
AGENDA

BRIEFING	5/E/S	11:00 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS	1:00 P.M.

Donnie Moore, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

	Approval of the Tuesday, August 14, 2007 Board of Adjustment Public Hearing Minutes	M1
BDA 067-134	633 Murdock Road REQUEST: Of Isidro Torres to reimburse the filing fee submitted in conjunction with a request for a variance to the front yard setback regulations	M2

UNCONTESTED CASES

BDA 067-133	4938 Brookview Drive REQUEST: Application of Mark Hurley, represented by Palatial Properties, Ltd., for a special exception to the single family use regulations	1
BDA 067-134	633 Murdock Road REQUEST: Application of Isidro Torres for a variance to the front yard setback regulations	2

REGULAR CASES

BDA 067-126	3410 Armstrong Avenue REQUEST: Application of City Of Dallas (Parks Department), represented by Zone Systems, Inc., for a special exception to the landscape regulations	3
BDA 067-132	3922 N. Hall Street	4

REQUEST: Application of 3922 N. Hall St. Condominium Association, represented by Phillip Groves, for a variance to the rear yard setback regulations

EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A August 14, 2007 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA067-134

REQUEST: To reimburse the filing fee to be submitted in conjunction a request for a variance to the front yard setback regulations

LOCATION: 633 Murdock Road

APPLICANT: Isidro Torres

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that the board may waive the filing fee for a board of adjustment application if the board finds that payment of the fee would result in substantial financial hardship to the applicant.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waivers/reimbursements:
 - The board may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant.
 - The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination.
 - If the issue is placed on the miscellaneous docket, the applicant may not file the application until the merits of the request for a waiver have been determined by the board.
 - In making this determination, the board may require the production of financial documents.
- The applicant submitted a letter with the submittal of the application requesting a reimbursement of the filing fee submitted in conjunction with the request for a variance to the front yard setback regulations (see Attachment A).

Timeline:

July 27, 2007 The applicant submitted a letter with his application requesting a reimbursement of the filing fee submitted in conjunction with the request for a variance to the front yard setback regulations.

August 16, 2007: The Board of Adjustment Secretary randomly assigned BDA067-134 to Board of Adjustment Panel A.

August 16, 2007: The Board Administrator contacted the applicant and shared the following information by phone and email:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the requests;
- the August 27th deadline to submit additional evidence for staff to factor into their analysis;
- the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

FILE NUMBER: BDA 067-133

BUILDING OFFICIAL'S REPORT:

Application of Mark Hurley, represented by Palatial Properties, Ltd., for a special exception to the single family use regulations at 4938 Brookview Drive. This property is more fully described as Lot 10 in City Block 12/5585 and is zoned R-1ac(A) which limits the number of dwelling units to one. The applicant proposes to construct an additional dwelling unit which will require a special exception to the single family use regulations.

LOCATION: 4938 Brookview Drive

APPLICANT: Mark Hurley
Represented by Palatial Properties, Ltd

REQUEST:

- A special exception to the single family regulations is requested in conjunction with constructing and maintaining a second dwelling unit/"staff residence" on a site developed with a single family home.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit in any single family zoning district since the basis for this type of appeal is *when in the opinion of the board*, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT IN A SINGLE FAMILY ZONING DISTRICT:

The board may grant a special exception within the single family use regulations to authorize an additional dwelling unit in any single family zoning district when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties. In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

GENERAL FACTS:

- The Dallas Development Code limits the number of dwelling units on a lot zoned R-1ac(A). In addition, the Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
A site plan has been submitted that denotes a “proposed structure” that is located in the southeast corner of the site.
Building Inspection has determined from the submitted site and floor plans that this proposed structure is a “dwelling unit.”
- Submitted floor plans indicate that first floor of the proposed structure will be comprised of a living area, a kitchen area, two bedrooms, closet, and three bathrooms, and laundry room; and that the second floor will be comprised of a bedroom, closet, a bathroom, and powder room.
- According to calculations taken from the plan by the Board Administrator, the footprint of the proposed structure is approximately 50’ x 35’ or 1,750 square feet in area, and the footprint of the existing main structure is approximately 7,500 square feet.
- Submitted elevations of the proposed structure indicate a 2-story structure that is approximately 23’ high.
- The application states that the site is 1.02 acres in area.
- The subject site is developed with, according to DCAD records, the following:
 - a single family home built in 1998 with 9,060 square feet of living area;
 - a 506 square foot attached garage;
 - a pool; and
 - a 767 square foot attached garage.
- The site plan indicates that the additional “dwelling unit” structure is located nearest the southeast corner of the site, approximately 10’ at its closest point to the property to the south, and approximately 18’ at its closest point to the property to the east.

BACKGROUND INFORMATION:

Zoning:

- Site: R-1ac(A) (Single Family Residential 1 acre)
- North: R-1ac(A) (Single Family Residential 1 acre)
- South: R-1ac(A) (Single Family Residential 1 acre)
- East: R-1ac(A) (Single Family Residential 1 acre)
- West: R-1ac(A) (Single Family Residential 1 acre)

Land Use:

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

Zoning/BDA History:

1. BDA 989-211, 4938 Brookview Drive (the subject site) On April 27, 1999, the Board of Adjustment Panel A granted a special exception to the fence height regulations of 2' 3". The board imposed the following condition in conjunction with this request: compliance with the submitted site plan, landscape plan, and revised elevation is required. The case report stated that the request was made to construct/maintain a 5' 10" high metal fence, 6' high brick columns, and a 6' 3" high metal entry gate.

Timeline:

- July 26, 2007 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 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 16, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis;
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 28, 2007: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

The Dallas Code Compliance Manager submitted a review comment sheet marked “Has no objections.”

STAFF ANALYSIS:

- The site is zoned R-1ac(A) where the Dallas Development Code permits one dwelling unit per lot. The site is developed with a single family home/dwelling unit, and the applicant proposes to construct/maintain a 2nd dwelling unit/“staff residence” structure on the site hence the special exception request.
- The request is to allow an additional dwelling unit on the subject site. This request centers on the function of what is proposed inside the structure. Building Inspection has deemed the proposed structure a “dwelling unit” based on what is shown on the submitted floor plans. If the board were to deny this request, the structure could be built with modifications to the function/use inside the structure (or to the floor plans). If the board were to deny the request, no modifications to structure’s footprint, height, or location would be necessary since the structure complies with zoning code development standards.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions) and not adversely affect neighboring properties.
- If the Board were to approve the request for a special exception to the single family regulations, subject to imposing a condition that the applicant comply with the submitted site plan, the “dwelling unit” structure would be restricted to the specific location and footprint shown on this plan, which in this case is a “dwelling unit” structure with a 1,750 square foot building footprint situated on a 1 acre site with a single family home (with an approximately 7,500 square foot building footprint) that is approximately 10’ at its closest point to the property to the south, and approximately 18’ at its closest point to the property to the east.
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

FILE NUMBER: BDA 067-134

BUILDING OFFICIAL'S REPORT:

Application of Isidro Torres for a variance to the front yard setback regulations at 633 Murdock Road. This property is more fully described as Lot 43 in City Block 7970 and is zoned R-7.5(A) which requires a front yard setback of 25 feet. The applicant proposes to construct a residential structure and provide a 6 foot front yard setback which will require a variance to the front yard setback regulations of 19 feet.

LOCATION: 633 Murdock Road

APPLICANT: Isidro Torres

REQUEST:

- A variance to the front yard setback regulations of 19' is requested in conjunction with constructing and maintaining a single family home in the site's S. Nassau Circle 25' front yard setback on a site that is under development.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The site is different from other parcels of land in that it has two 25' front yard setbacks (one along Murdock Road, another along S. Nassau Circle). The two front yard setbacks leave only 20' of developable space left on the 50' wide site once a 25' front yard setback is accounted for on the north side of the site, and a 5' side yard setback is accounted for on the south side of the site.

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 ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance

may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'. The site is located at the southwest corner of Murdock Road and S. Nassau Circle and has two front yard setbacks: one along Murdock Road (the shorter of the lot's two frontages), and the other along S. Nassau Circle (the longer of the two frontages but a front yard setback nonetheless in order to maintain continuity of the established setback of homes directly west that front onto northward on Nassau Circle).
A scaled site plan has been submitted that shows that the home will be located 6' from the site's S. Nassau Circle front property line (or 19' into the 25' front yard setback). According to calculations taken from the site plan by the Board Administrator, the proposed home has an approximately 1,700 square foot building footprint of which approximately 800 square foot (or 42' x 19') of the home is located in the site's S. Nassau Circle 25' front yard setback. (Submitted floor plans indicate that about half of the three proposed bedrooms in the house would be located in this front yard setback).
- The site is flat, rectangular in shape (145' x 50') and 7,250 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The site has two 25' front yard setbacks. (No encroachment is shown or requested to be located in the site's Murdock Road 25' front yard setback).
- Once a 25' front yard setback is accounted for on the north and a 5' side yard setback is accounted for on the south, the developable width remaining on the 50' wide site is 20'.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5ac (A) (Single family district 7,500 square feet)
<u>North:</u>	R-7.5ac (A) (Single family district 7,500 square feet)
<u>South:</u>	R-7.5ac (A) (Single family district 7,500 square feet)
<u>East:</u>	NS (A) (SUP 1279)(Neighborhood Service, Specific Use Permit)
<u>West:</u>	R-7.5ac (A) (Single family district 7,500 square feet)

Land Use:

The subject site is under development. The areas to the north, south, and west are developed with single family uses, and the area to the east is developed with a electrical substation.

Zoning/BDA History:

1. Miscellaneous Item #2, 633
Murdock Road (the subject site)

On September 18, 2007, the Board of Adjustment Panel A will consider granting a fee reimbursement in conjunction with this application.

Timeline:

July 26, 2007: 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 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

August 16, 2007: The Board Administrator contacted the applicant and shared the following information by phone and email:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the requests;
- the August 27th deadline to submit additional evidence for staff to factor into their analysis;
- the September 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

August 28, 2007: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The submitted site plan indicates that about half of the proposed single family structure's 1,700 square foot building footprint is to be located in the site's S. Nassau Circle 25' front yard setback.
- The site is flat, rectangular in shape (145' x 50') and 7,250 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The site has two 25' front yard setbacks. (No encroachment is shown or requested to be located in the site's Murdock Road 25' front yard setback).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations of 19' requested in conjunction with constructing/maintaining a single family home in the site's S. Nassau Circle front yard setback 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 (a site that is flat, rectangular in shape (145' x 50') and 7,250 square feet in area) 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 R-7.5(A) zoning classification.
- If the Board were to grant the front yard variance request of 19', imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the front yard setback would be limited to that shown on this plan – which in this case is a single family structure located 6' from the site's S. Nassau Circle front property line (or 19' into one of the site's two 25' front yard setbacks).

FILE NUMBER: BDA 067-126

BUILDING OFFICIAL'S REPORT:

Application of City Of Dallas (Parks Department), represented by Zone Systems, Inc., for a special exception to the landscape regulations at 3410 Armstrong Avenue. This property is more fully described as Lots 41-43 in City Block M/1537 and is zoned PD-193 (LC) which requires mandatory landscaping. The applicant proposes to construct a nonresidential use and provide an alternate landscape plan which will require a special exception to the landscape regulations.

LOCATION: 3410 Armstrong Avenue.

APPLICANT: City Of Dallas (Parks Department)
Represented by Zone Systems, Inc.

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with paving an existing unimproved parking lot.

STAFF RECOMMENDATION:

Denial

Rationale:

- The City's Chief Arborist recommends denial of this request since there is insufficient landscape information to provide an adequate review to advise the board.
- The applicant has not substantiated how approval of this request (subject to the submitted site plan) would not compromise the spirit and intent of the landscaping requirements of PD No. 193.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS
IN OAK LAWN:**

Section 26(a)(4) of Ordinance No. 21859, which establishes PD No. 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

GENERAL FACTS:

- PD No. 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

The applicant's representative has submitted a site plan where, according to the City of Dallas Chief Arborist, the applicant seeks relief from compliance with the PD No. 193's landscape, streetscape, screening and fencing standards.

- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Board of Adjustment Chief Planner pertaining to the submitted site plan (see Attachment A). The memo stated the following:
 - The special exception request is triggered by the construction of a new parking lot with improved surface.
 - Deficiencies:
 1. PD 193 landscape standards are not addressed on the proposed landscape plan. The landscape area on the property is not described. The screening landscaping for the Katy Trail is not located on the property.
 2. The required sidewalk is not located under PD 193 landscaping standards. The site does not have the required street trees at the required ratio of 1:25 linear feet. The site does not provide 10% landscape area required for LC zoning standards.
 3. The landscape plan is not descriptive for the identification of plant materials or irrigation standards. There is insufficient information to give analysis of the landscape areas shown on the plans.
 - Factors for consideration:
 - The corner triangular parking area is adjacent to an electric utility substation. It is recommended that any landscaping on this property be irrigated with only low-pressure direct irrigation systems for public safety purposes.
 - The landscape plan does not provide plant material information or irrigation methods that would be utilized on the property of the Katy Trail. It is unclear how irrigation will be provided to the triangular planting area near the drive entry.
 - Recommendation:
 - Denial:
 - The site is deficient of PD 193 standard for screening from the street and street trees. At the time of this report, there is insufficient landscape information to provide an adequate review to advise the Board. The applicant has not provided a suitable planting plan or irrigation plan for analysis.
 - If the Board chooses to approve the submitted plan, the Chief Arborist also recommends that a separate landscape plan identifying specific plant materials and irrigation system be provided with an application for the grading/paving permit for the installation of the parking lot. Plant materials must comply with PD 193 approved plant species.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (LC Subdistrict) (Planned Development District, Light Commercial)
North: PD No. 193 (LC Subdistrict) (Planned Development District, Light Commercial)
South: PD No. 193 (LC Subdistrict) (Planned Development District, Light Commercial)
East: PD No. 193 (LC Subdistrict) (Planned Development District, Light Commercial)
West: PD No. 193 (LC Subdistrict) (Planned Development District, Light Commercial)

Land Use:

The subject site is developed as an unimproved parking lot. The areas to the north and west are developed as the Katy Trail; the area to the east is developed with retail and warehouse uses; and the area to the south is developed with a utility use.

Zoning/BDA History:

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

Timeline:

- July 16, 2007: 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 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 17, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis and discuss at the staff review team meeting;
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and

- that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

August 28, 2007: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

The Dallas Code Compliance Manager submitted a review comment sheet marked “Has no objections.”

Sept. 7, 2007 The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment A).

STAFF ANALYSIS:

- A site plan has been submitted with, according to the City of Dallas Chief Arborist, insufficient landscape information to provide an adequate review to advise the Board. The city arborist has identified that PD 193 landscape standards are not addressed on the plan, that sidewalks are not meeting locational requirements of the ordinance, that the site does not meet the required number of street trees or 10% landscape area, and that the plan is not descriptive for the identification of plant materials or irrigation standards.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where a plan has been submitted that does not provide adequate landscape information to allow the City’s Chief Arborist the ability to provide an adequate review of the issues at hand) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request and impose a condition merely that the applicant must comply with the submitted site plan, the final Certificate of Occupancy could be issued on the site, where the site could be developed with a surface parking lot and be “excepted” from full compliance to the requirements of the Oak Lawn PD landscape ordinance including but not necessarily limited to (given the vagueness of information on the site plan) the site not meeting the standards related to location of sidewalks, the number of street trees, the amount of required landscape area, and plant materials and irrigation.
- The City’s Chief Arborist recommends that if the Board chooses to approve the request that in addition to imposing the submitted site plan as a condition, that a separate landscape plan identifying specific plant materials and irrigation system be provided with an application for the grading/paving permit for the installation of the parking lot whereby the plant materials on this plan be of those that must comply with PD 193 approved plant species.

FILE NUMBER: BDA 067-132

BUILDING OFFICIAL'S REPORT:

Application of 3922 N. Hall St. Condominium Association, represented by Phillip Groves, for a variance to the rear yard setback regulations at 3922 N. Hall Street. This property is more fully described as Lot 4 in City Block H/1320 and is zoned PD-193 (MF-2) which requires a rear yard setback of 10 feet. The applicant proposes to construct and maintain a residential structure for a multifamily use and provide a 0 foot rear yard setback which will require a variance to the rear yard setback regulations of 10 feet.

LOCATION: 3922 N. Hall Street

APPLICANT: 3922 N. Hall St. Condominium Association
Represented by Phillip Groves

REQUEST:

- A variance to the rear yard setback regulations of 10' has been made in conjunction with constructing and maintaining a six-vehicle, three-bay garage/"secured carport structure" on a site developed with a six-unit condominium structure.

STAFF RECOMMENDATION:

Denial

Rationale:

- The site is flat, rectangular in shape, and over 11,000 square feet in area. These physical features do not preclude the applicant from developing the parcel of land/subject site in a manner commensurate with development found on other PD No. 193 (MF-2 Subdistrict) zoned lots while simultaneously complying with zoning code development standards including setback requirements. (The applicant had written in a document submitted with the original application that it was possible to build the proposed structure at the front of the building and meet the minimum setback requirements imposed by the building code, but had made application for variance to avoid opposition from neighbors and to preserve the aesthetics of the building).
- The applicant had not substantiated at the time of the staff review team meeting how the site's restrictive area, shape and/or slope justify the proposed structure's encroachment into the site's 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, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- The minimum rear yard setback for structures on lots zoned PD No. 193 (MF-2 Subdistrict) is 10' when the building site backs up to a multiple-family or nonresidential subdistrict whether the two subdistricts are separated by an alley or not.
A plot/site plan has been submitted that shows "6 parking spaces" that appear to be located on the site's rear property line (or 10' into the 10' rear yard setback).
- According to calculations taken from the submitted plot/site plan by the Board Administrator, 600 square feet (or 60' x 10') of the proposed garage's 1,320 square foot (or 60' x 22') building footprint would be located in the site's 10' rear yard setback. The plot/site plan denotes that the structure comprised of 6 condominiums has an approximately 3,700 square foot building footprint (or 124' x 30' in area).
- The site is flat, rectangular in shape (190' x 60'), and 11,400 square feet in area. The site is zoned PD No. 193 (MF-2).
- DCAD records indicate that the site is developed with a condominium structure in good condition built in 1980.
- On September 7, 2007, the applicant submitted additional information beyond what was submitted with the original application, and beyond what was discussed at the August 28th staff review team meeting where the staff formed a recommendation of denial on the request (see Attachment A). This information included the following:
 - a document that provided additional details about the request;
 - photographs of the rear of the subject site;
 - a partial landscape plan of the subject site; and
 - a 2005 letter of support of the request from the Oak Lawn Committee.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2) (Planned Development Multifamily)
North: PD No. 193 (MF-2) (Planned Development Multifamily)

South: PD No. 193 (MF-2) (Planned Development Multifamily)
East: PD No. 193 (MF-2) (Planned Development Multifamily)
West: PD No. 193 (MF-2) (Planned Development Multifamily)

Land Use:

The subject site is developed with a condominium structure. The areas to the north, east, south, and west are developed with residential 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.

Timeline:

- July 26, 2007: 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 16, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 16, 2007: The Board Administrator contacted the applicant and shared the following information by phone and email:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the August 27th deadline to submit additional evidence for staff to factor into their analysis;
 - the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the September public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- August 28, 2007: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building

Inspection Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

The Dallas Code Compliance Manager submitted a review comment sheet marked "Has no objections."

In addition to the review comment sheet mentioned above, the Chief Arborist expressed a concern at the staff review team meeting as to whether the proposed addition would trigger landscape requirements, and if so, whether the applicant would be able to comply with the requirements. The applicant responded back to an email sent by the Board Administrator stating that he had full understanding that if the variance is granted and a building permit is issued, the actions will require the site to fully comply with the landscape regulations, and that the goal would be to become compliant with the landscape requirements.

Sept. 7, 2007: The applicant submitted information beyond what was submitted with the original application, and beyond what was discussed at the August 28th staff review team meeting where staff formed a recommendation of denial on the request (see Attachment A).

STAFF ANALYSIS:

- It appears that about 1/2 of the proposed garage/"secured carport structure" would be in the site's rear yard setbacks.
- The site is flat, rectangular in shape (190' x 60'), and 11,400 square feet in area. The site is zoned PD No. 193 (MF-2). The site is developed with a condominium structure built in 1980.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear yard setback regulations requested in conjunction with constructing and maintaining a garage/"secured carport structure" 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 (a site that is developed with a condominium structure, and is flat, rectangular in shape, and 11,400 square feet in area) 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 No. 193 (MF-2) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 193 (MF-2) zoning classification.

- If the Board were to grant the variance request, imposing a condition whereby the applicant must comply with the submitted plot/site plan, the structure in the rear yard setback would be limited to what is shown on this plan – which in this case is a garage/”secured carport structure” located on the site’s rear property line (or 10’ into the site’s 10’ rear yard setback).