

**BOARD OF ADJUSTMENT, PANEL A  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
TUESDAY, FEBRUARY 14, 2012**

MEMBERS PRESENT AT BRIEFING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Scott Housel, regular member and Scott Jackson

MEMBERS ABSENT FROM BRIEFING: Johnnie Goins, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Cossum, Asst. Director, Phil Erwin, Chief Arborist, Jerry Svec, Traffic Engineer and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Scott Housel, regular member and Scott Jackson

MEMBERS ABSENT FROM HEARING: Johnnie Goins, regular member

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Todd Duerksen, Development Code Specialist, David Cossum, Asst. Director, Phil Erwin, Chief Arborist, Jerry Svec, Traffic Engineer and Trena Law, Board Secretary

**11:30 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **February 14, 2012** docket.

**12:19 P.M.: Executive Session Begins**

**12:30 P.M.: Executive Session Ends**

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**1:00 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 A **January 17, 2012** public hearing minutes as amended.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 14, 2012**

**MOTION:** Hounsel

I move **approval** of the Tuesday, **January 17, 2012** public hearing minutes as amended.

**SECONDED:** Schweitzer

**AYES:** 4 – Richmond, Schweitzer, Hounsel, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA 112-021

**BUILDING OFFICIAL’S REPORT:**

Application of Thanh Nguyen for a special exception to the landscaping regulations at 703 McKinney Avenue. This property is more fully described as Lot 1A in City Block 1/405 and is zoned PD-193 (CA-2), which requires mandatory landscaping. The applicant proposes to construct a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 703 McKinney Avenue

**APPLICANT:** Thanh Nguyen

**REQUEST:**

- A special exception to the landscape regulations is requested in conjunction with maintaining a recently constructed approximately 1,500 square foot “patio addition” structure, and constructing and maintaining an outdoor stairwell structure on the subject site developed with a mixed use structure (The Brewery) with an approximately 36,000 square foot building footprint, and not fully providing required landscaping.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted revised landscape plan is required.

Rationale:

- The City's Chief Arborist recommends approval of this request whereby, if the submitted revised landscape plan is imposed as a condition, the special exception would not compromise the spirit and intent of the landscaping requirements of PD 193.
- The applicant is precluded from fully adhering to PD 193 landscaping requirements (triggered by relatively small additions recently added/to be added on a property developed before the creation of the landscape ordinance (according to DCAD, 1896) given the topography of the property, placement near the freeway, and placement of retaining walls along Continental and McKinney Avenues.

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

Section 26(a)(4) of Ordinance No. 21859, which establishes PD 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 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.
- A revised landscape plan has been submitted (see Attachment A) that, according to the City of Dallas Chief Arborist, is deficient from the general requirements for landscaping area for the tree planning zone (2.5' – 5' from back of curb), sidewalks (location and width), and screening of off-street parking requirements of PD 193.
- On February 3, 2012, the City of Dallas Chief Arborist submitted a memo to the Board Administrator (see Attachment B). The memo stated the following:
  - Trigger:
    - Construction of a building addition and a new stairwell on the property.
  - Deficiencies:
    - The property is deficient from meeting the PD 193 tree planning zone (2.5' – 5' from back of curb), sidewalks (location and width), and screening of off-street parking requirements.
  - Factors:

- The property and its evolved general condition extends to before the creation of the PD 193 ordinance. New landscaping has been added along the street frontages over time with other projects and roadway improvements. The current landscaping is non-compliant with current PD No. 193 standards but it is designed to benefit their patrons and to enhance the visible frontages along Continental, Houston, and McKinney.
  - Any new addition to floor area ratio on the property initiates landscaping requirements that would imply the entire property must be brought into compliance with PD 193 Standards. The new addition was for an enclosed patio on the north end of the building. The stairway is not yet built but the plan accommodates changes for the design of the stairwell and the path to it.
  - The topography of the property, placement near the freeway, and placement of retaining walls along Continental and McKinney restrict placement of required landscaping.
- Recommendation: Approval of the alternate landscape plan.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (CA-2) (Planned Development District, Central Area)  
North: PD 582 (Planned Development District)  
South: CA-1(A) (Central Area)  
East: CA-1(A) (Central Area)  
West: PD 193 (CA-2) (Planned Development District, Central Area)

**Land Use:**

The subject site is developed with a mixed use structure (The Brewery). The areas to the north, east and south is developed with mixed uses; the area to the west is developed with a freeway (Stemmons Freeway).

**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:**

- November 2, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 12, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 3<sup>rd</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.

January 27, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 31, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

February 3, 2012: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment B).

### **STAFF ANALYSIS:**

- This landscape special exception request is triggered with maintaining a recently constructed approximately 1,500 square foot "patio addition" structure, and constructing and maintaining an outdoor stairwell structure on the subject site developed with a decades-old mixed use structure (The Brewery) with an approximately 36,000 square foot building footprint.
- The applicant seeks exception from the landscaping requirements of PD 193, specifically sidewalk, tree, and off-street parking screening requirements of this ordinance.
- The City of Dallas Chief Arborist supports the request with the imposition of the submitted revised landscape plan as a condition to the request for reasons that are detailed in his February 3<sup>rd</sup> memo to staff (see Attachment B).
- The applicant has the burden of proof in establishing the following:
  - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the sidewalk, tree, and off-street parking screening requirements of the PD 193 landscape regulations) 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 the submitted revised landscape plan as a condition, the site would be granted exception from full compliance to the

sidewalk, tree, and off-street parking/screening requirements of the Oak Lawn PD landscape ordinance.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 14, 2012**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** Schweitzer

I move that the Board of Adjustment grant application **BDA 112-021** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

- Compliance with the submitted revised landscape plan is required.

**SECONDED:** Jackson

**AYES:** 4 – Richmond, Schweitzer, Hounsel, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA 112-023

**BUILDING OFFICIAL’S REPORT:**

Application of Kippen C. Schecht for a special exception to the off-street parking regulations at 1018 S. Akard Street. This property is more fully described as Lot 1A in City Block 13/84 and is zoned PD-317 (Subdistrict 3), which requires parking to be provided. The applicant proposes to construct a structure for a child-care facility use and provide 66 of the required 78 parking spaces, which will require a special exception of 12 spaces to the off-street parking regulations.

**LOCATION:** 1018 S. Akard Street

**APPLICANT:** Kippen C. Schecht

**REQUEST:**

- A special exception to the off-street parking regulations of 12 parking spaces (or a 15 percent reduction of the 78 off-street parking spaces that are required) is requested in conjunction with constructing and maintaining an approximately 39,000 square foot child-care facility use (Vogel Alcove) on a site that is undeveloped. The applicant proposes to provide 66 (or 85 percent) of the required 78 off-street parking spaces.

## **STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- The special exception shall automatically and immediately terminate if and when the child-care facility use is changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the proposed child-care facility 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 Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to the applicant's request.

## **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 already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 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.

**GENERAL FACTS:**

- The Dallas Development Code requires the following off-street parking requirement:
  - Child-care facility: One space per 500 square feet of floor area.
 The applicant proposes to provide 66 (or 85 percent) of the required 78 off-street parking spaces.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD No. 317 (Planned Development)  
North: CA-1(A) (Central Area)  
South: PD No. 317 (Planned Development)  
East: PD No. 317 (Planned Development)  
West: PD No. 317 (Planned Development)

**Land Use:**

The subject site is currently undeveloped. The area to the north is a freeway (Interstate 30); and the areas to the east, south, and west are developed with a mix of 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:**

- December 14, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 12, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 3<sup>rd</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.
- January 31, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.
- February 1, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

### **STAFF ANALYSIS:**

- This request focuses on the applicant’s proposal to construct and maintain an approximately 39,000 square foot child-care facility use (Vogel Alcove) on a site that is undeveloped, and provide 66 (or 85 percent) of the required 78 off-street parking spaces.
- The applicant has submitted a document stating how the majority of users of the proposed child-care facility use (day care for the homeless population) will arrive to the proposed facility by way of a DART system – either by bus (with a bus stop at the intersection of Akard and Griffin Streets) or by train (with a light rail station between 1,500- 1,600 feet from the site). The applicant has stated how the current existing facility that the use is in (a property immediately south of the subject site which the applicant intends to relocate to the proposed new facility on the subject site) serves the same purpose as what is proposed for the new facility to be located on the subject site.

- The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the proposed child-care facility use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 12 spaces (or a 15 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 12 spaces shall automatically and immediately terminate if and when the child-care facility use is changed or discontinued, the applicant would be allowed to construct/maintain the proposed structure on the undeveloped site with this specific use and provide only 66 of the 78 code required off-street parking spaces.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 14, 2012**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

**MOTION: Schweitzer**

I move that the Board of Adjustment grant application **BDA 112-023** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

- The special exception of 12 off-street parking spaces automatically and immediately terminates if and when the child-care facility use is changed or discontinued.

**SECONDED: Jackson**

**AYES:** 4 – Richmond, Schweitzer, Honsel, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 4– 0 (unanimously)

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**FILE NUMBER:** BDA 112-019

**BUILDING OFFICIAL’S REPORT:**

Application of Ann Stevenson, represented by Rob Baldwin, for a special exception to the off-street parking regulations at 2625 Elm Street. This property is more fully described as Lots 1-5 & 13-16 in City Block 286 and Lots 16-23 in City Block C/483 and is zoned PD-269 (Tract A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a public or private school use and provide 180 of the required 229 off-street parking spaces, which will require a special exception of 49 spaces to the off-street parking regulations.

**LOCATION:** 2625 Elm Street

**APPLICANT:** Application of Ann Stevenson  
Represented by Rob Baldwin

**February 14, 2012 Public Hearing Notes:**

- The Board Administrator circulated additional information submitted by the Sustainable Development and Construction Department Engineering Division Assistant Director the on February 9, 2012 to the Board members at the briefing (see Attachment C). This information included a copy of a revised review comment sheet marked “has no objections” along with a copy of an engineering study submitted to him by the applicant.

**REQUEST:**

- A special exception to the off-street parking regulations of 49 parking spaces (or a 21 percent reduction of the 229 off-street parking spaces that are required) is requested in conjunction with maintaining an existing approximately 85,000 square foot structure with a public or private school use (Uplift School). The applicant proposes to provide 180 (or 79 percent) of the required 229 off-street parking spaces in conjunction with maintaining the square footage within the existing structure with the proposed mix of middle and high school classrooms (This request is prompted by leasing the existing structure on the subject site with a use with a higher off-street parking requirement than what had originally been on the subject site – a public or private school use as opposed to office use).

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends that this application be denied because the applicant has not submitted a parking study by a registered professional engineer for review.
- The applicant had not substantiated how the parking demand generated by the proposed public or private school use does not warrant the number of off-street parking spaces required, nor how the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

**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 already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

- 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.

### **GENERAL FACTS:**

- The Dallas Development Code requires the following off-street parking requirement for "public or private school" use"
  - One and one-half spaces for each kindergarten/elementary school classroom;

- Three and one-half spaces for each junior high/middle school classroom,
- Nine and one-half spaces for each senior high school classroom.

PD No. 269 provides the following additional parking reduction for proximity to DART Stations: The off-street parking requirement for uses located within one-fourth mile of a DART light-rail station may be reduced by 10 percent.

The applicant proposes to provide 180 (or 79 percent) of the required 229 off-street parking spaces in conjunction with the structure on the subject site being leased/maintained with the a public or private school use with what is represented on the submitted site plan to include 18 middle school classrooms and 20 high school classrooms.

- The applicant’s representative forwarded additional information beyond what was submitted with the original application (see Attachments A and B).

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD No. 269 (Planned Development)  
North: PD No. 269 (Planned Development)  
South: PD No. 269 (Planned Development)  
East: PD No. 269 (Planned Development)  
West: PD No. 269 (Planned Development)

**Land Use:**

The subject site is currently developed with vacant structure that according to the applicant’s submitted site plan in conjunction with this request has approximately 85,000 square feet of building area. The areas to the north, east, south, and west are developed with a mix of 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:**

December 4, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 12, 2012: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 25<sup>th</sup> deadline to

submit additional evidence for staff to factor into their analysis; and the February 3<sup>rd</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.

January 23, 2012: The Sustainable Development and Construction Department Historic Preservation Planner emailed the Board Administrator a "no objection" comment to the request.

January 27, 2012: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 31, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

February 1, 2012: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

February 1, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" adding the following comments: "Need to submit parking study by a registered professional engineer for review."

### **STAFF ANALYSIS:**

- This request focuses on the applicant's proposal to lease the existing approximately 85,000 square foot structure on the subject site with a use with a higher off-street parking requirement than what had originally been on the subject site – a public or private school use (Uplift School) as opposed to office use, and provide 180 (or 79 percent) of the 229 off-street parking spaces required.
- The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked "Recommends that this be denied" commenting how the applicant should submit a parking study prepared by a registered professional engineer for review in order to justify his parking reduction request.

- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the public or private school use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 49 spaces (or a 21 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 49 spaces shall automatically and immediately terminate if and when the public or private school use is changed or discontinued, the applicant would be allowed to lease/maintain the site with this specific use and provide only 180 of the 229 code required off-street parking spaces.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 14, 2012**

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm St., #B, Dallas, TX  
Yasmin Bhatia, 4230 Beechwood Lane, Dallas, TX

APPEARING IN OPPOSITION: Audra Buckley, 2814 Main St., Ste. 102, Dallas, TX  
Ryan Johnson, 220 South 4<sup>th</sup> St., Waco, TX  
Paul Cameron, 2644 Elm St., Dallas, TX  
Frank Edwards, 2809 Elm St., Dallas, TX

MOTION #1: **Schweitzer**

I move that the Board of Adjustment, in Appeal No. **BDA 112-019**, on application of Ann Stevenson, represented by Rob Baldwin, **grant** the request of this applicant to reduce the number of required off-street parking spaces in the Dallas Development Code by 49 spaces, because our evaluation of the property and the testimony shows that the parking demand generated by the proposed use on the site does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard nor increase traffic congestion on adjacent and nearby streets. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

The special exception of 49 off-street parking spaces automatically and immediately terminates if and when the public or private school use is changed or discontinued.

SECONDED: **Hounsel**

AYES: 2 – Schweitzer, Hounsel

NAYS: 2 - Richmond, Jackson

MOTION FAILED: 2– 2

MOTION #2: **Schweitzer**

I move that the Board of Adjustment, in Appeal No. **BDA 112-019**, on application of Ann Stevenson, represented by Rob Baldwin, **deny** the special exception to the off-street parking regulations requested by this applicant **without** prejudice, because our evaluation of the property and the testimony shows that the use warrants the number of

off-street parking spaces required, and the special exception would create a traffic hazard and increase traffic congestion on adjacent and nearby streets.

**SECONDED: Jackson**

**AYES:** 4 – Richmond, Schweitzer, Hounsel, Jackson

**NAYS:** 0 -

**MOTION PASSED:** 4– 0 (unanimously)

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**MOTION: Hounsel**

I move to adjourn this meeting.

**SECONDED: Schweitzer**

**AYES:** 4– Richmond, Schweitzer, Hounsel, Jackson

**NAYS:** 0 -

**MOTION PASSED** 4– 0 (unanimously)

**1:59 P.M.** - Board Meeting adjourned for **February 14, 2012.**

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
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.