

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, MAY 15, 2012**

MEMBERS PRESENT AT BRIEFING: Robert Moore, Vice Chair, Jordan Schweitzer, regular member, Scott Hounsel, regular member, and Clint Nolen, regular member

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, Phil Erwin, Chief Arborist, Lloyd Denman, Building Official, David Cossum, Asst. Director and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Robert Moore, Vice Chair, Jordan Schweitzer, regular member, Scott Hounsel, regular member, and Clint Nolen, regular member

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, Phil Erwin, Chief Arborist, Lloyd Denman, Building Official, David Cossum, Asst. Director and Trena Law, Board Secretary

11:00 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **May 15, 2012** docket.

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.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A **April 17, 2012** public hearing minutes as amended.

BOARD OF ADJUSTMENT ACTION: MAY 15, 2012

MOTION: Schweitzer

I move **approval** of the Tuesday, **April 17, 2012** public hearing minutes.

SECONDED: Hounsel

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: Unassigned

REQUEST: To waive the \$600.00 filing fee to be submitted in conjunction with potentially a request for variance to the rear yard setback regulations

LOCATION: 707 N. Windomere Avenue

APPLICANT: Ashley K. Ness

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.

Timeline:

August 16, 2011: The Board of Adjustment Panel A granted the applicant's (Ashley Ness) request for a variance to the rear yard setback regulations (imposing the submitted site plan as a condition) and denied a request for a special exception to the rear yard setback regulations for property located at 707 N. Windomere Avenue. (See Attachment A for a copy of the decision letter and applications made in conjunction with BDA 101-028).

April 27, 2012: The applicant submitted an email requesting a waiver of the \$600.00 filing fee to be submitted in conjunction with a potential request for a variance to the rear yard setback regulations (see Attachment B).

April 27, 2012: The Board Administrator emailed the applicant information related to her fee waiver request (see Attachment B).

BOARD OF ADJUSTMENT ACTION: MAY 15, 2012

APPEARING IN FAVOR: Ashley Ness, 707 N. Windomere, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Nolen

I move that the Board of Adjustment **grant** the request to waive the filing fee to be submitted in conjunction with a potential appeal.

SECONDED: No One

***Motion Failed for Lack of Second**

MOTION #2: Schweitzer

I move that the Board of Adjustment **deny** the request to waive the filing fee to be submitted in conjunction with a potential appeal.

SECONDED: Hounsel

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 112-048

BUILDING OFFICIAL’S REPORT:

Application of Manuel Calvillo for a special exception to the front yard setback regulations at 815 N. Justin Avenue. This property is more fully described as Lot 17 in City Block 9/8335 and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct/maintain a carport for a single family residential dwelling in a front yard and provide a 12 foot 11 inch setback, which will require a special exception of 12 feet 1 inches.

LOCATION: 815 N. Justin Avenue

APPLICANT: Manuel Calvillo

REQUEST:

- A special exception to the front yard setback regulations of 12’ 1” is requested in conjunction with locating and maintaining what is represented on the submitted revised site plan as an approximately 420 square foot carport attached to a single-family home, part of which is located in the site’s 25’ front yard setback.

STAFF RECOMMENDATION:

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.

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:

- (1) there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
- (2) 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).

GENERAL FACTS:

- A 25' front yard setback is required in the R-7.5(A) zoning district. The applicant submitted a revised site plan and revised elevation to staff on April 30, 2012 (see Attachment B) indicating that the location of the "existing metal carport" is 12' 11" away from the site's front property line or 12' 1" into the 25' front yard setback.
- The following information was gleaned from the submitted revised site plan:
 - The carport is represented to be approximately 20' in length and approximately 21' in width (approximately 420 square feet in total area) of which approximately 240 square feet (or approximately 1/2) is located in the front yard setback.
- The following information was gleaned from the submitted revised elevation:
 - Corrugated metal roof
 - 9' 4" metal columns
- The subject site is approximately 175' x 50' (or 8,750 square feet) in area.
- According to DCAD, the property at 815 Justin has the following:
 - "main improvement" - a structure built in 1992 with 1,244 square feet of living area,
 - "additional improvements" – "attached carport" with 440 square feet.
- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the front yard with a specific basis for this type of appeal. (Note that the Dallas Development Code does not provide a definition of "carport" however Building Inspection interprets a "carport" to be a structure that would cover a vehicle and be open on at least one side).
- The Dallas Development Code provides for the Board of Adjustment to consider *variances for structures* in the front yard setback with a different basis for appeal than that of *special exceptions for carports* in the front yard setback.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>North:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>South:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>East:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>West:</u>	R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north, south, and west are developed with single family uses; and the area to the east is developed with a school (Arcadia Park School).

Zoning/BDA History:

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

Timeline:

March 15, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 17, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 17, 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 24, 2012: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded support letters to the Board Administrator that had been inadvertently left out of the application materials forwarded with the original application materials (see Attachment A).

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded additional documentation to the Board Administrator – a revised site plan and revised elevation that are represented as showing a carport that is in compliance with side yard setbacks (see Attachment B).

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

STAFF ANALYSIS:

- This request focuses on locating/maintaining locating and maintaining what is represented on the submitted revised site plan as an approximately 420 square foot carport attached to a single-family home, part of which is located in the site's 25' front yard setback.
- The submitted revised site plan represents that the 'existing metal carport' is 12' 11" away from the site's front property line or 12' 1" into the 25' front yard setback.
- The revised site plan indicates a 7' distance between the southern side property line and the existing home on the property and a 5' distance between the northern side property line and the existing home on the property – neither distance wide enough to allow a driveway.
- The submitted plat map shows no alley on the west side of the subject site.
- The following information was gleaned from the submitted site plan:
 - The carport is represented to be 21' ½" in length and 12' 6" in width (approximately 260 square feet in total area) of which approximately 95 square feet (or approximately 1/3) is located in the southwestern side yard setback.
- The applicant has the burden of proof in establishing the following:
 - 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.
- As of May 7, 2012, 30 neighbors/owners had written letters and/or signed petitions in support of the request and no letters had been submitted in opposition.
- Typically, staff has suggested that the Board impose conditions with this type of appeal. The following conditions would restrict the location and size of the carport in the front yard setback; would require the carport in the front yard setback to be maintained (in this case) in a specific design with specific materials and in a specific configuration; and would require the applicant to mitigate any water drainage-related issues that the carport may cause on the lot immediately west:
 1. Compliance with the submitted revised site plan and revised elevation 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.

No item (other than a motor vehicle) may be stored in the carport.

BOARD OF ADJUSTMENT ACTION: MAY 15, 2012

APPEARING IN FAVOR: Lisette Calvillo, 815 N. Justin Ave

APPEARING IN OPPOSITION: No one

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. **BDA 112-048**, on application of Manuel Calvillo, **grant** the request to maintain a carport in the front yard as a special exception to the minimum front yard requirements in the Dallas Development Code because our evaluation of the property and testimony shows that the carport will not have a detrimental impact on surrounding properties. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The carport structure must remain open at all times.
- No lot-to-lot drainage is permitted with this carport special exception.
- All applicable building permits must be obtained.
- Compliance with the submitted revised site plan and revised elevation is required.
- No item (other than a motor vehicle) may be stored under the carport.

SECONDED: Nolen

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 112-051

BUILDING OFFICIAL’S REPORT:

Application of Ann Stevenson c/o Uplift Education, 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/maintain a public or private school use/structure and provide 174 of the required 228 parking spaces, which will require a special exception of 54 spaces.

LOCATION: 2625 Elm Street

APPLICANT: Ann Stevenson c/o Uplift Education
Represented by Rob Baldwin

REQUEST:

- A special exception to the off-street parking regulations of 54 parking spaces (or a 24 percent reduction of the 228 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 174 (or 76 percent) of the required 228 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:

Approval, subject to the following condition:

- The special exception of 54 off-street parking spaces shall automatically and immediately terminate if and when the public or private school use is changed or discontinued.

Rationale:

- The applicant substantiated how the parking demand generated by the public or private school 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 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 174 (or 76 percent) of the required 228 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.

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:

1. BDA 112-019, Property at 2625 Elm Street (the subject site)

On February 14, 2012, the Board of Adjustment Panel A denied a request for 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) without prejudice. The case report stated that the request was made in conjunction with maintaining an existing approximately 85,000 square foot structure with a public or private school use (Uplift School). The applicant proposed 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 was 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).

Timeline:

March 27, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 17, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

April 17, 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

May 4, 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 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 174 (or 76 percent) of the 228 off-street parking spaces required.
- 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 public or private school use on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 54 spaces (or a 24 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 54 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 174 of the 228 code required off-street parking spaces.

BOARD OF ADJUSTMENT ACTION: MAY 15, 2012

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment grant application **BDA 112-051** 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 54 off-street parking spaces automatically and immediately terminates if and when the public or private school use is changed or discontinued.

SECONDED: **Nolen**

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 112-040

BUILDING OFFICIAL’S REPORT:

Application of Herbert B. Story, Jr., represented by Rob Baldwin, for a variance to the front yard setback regulations and a special exception to the landscape regulations at 2612 Boll Street. This property is more fully described as being a .106 acre parcel out of Lot 3 in City Block 2/955 and is zoned PD-193(LC), which requires a front yard setback of 10 feet and requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide a 0 foot front yard setback, which will require a variance to the front yard setback regulations of 10 feet, and to provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2612 Boll Street

APPLICANT: Herbert B. Story, Jr.
Represented by Rob Baldwin

May 15, 2012 Public Hearing Notes:

- The applicant’s representative submitted a revised site plan and a revised landscape plan to the Board at the public hearing.

REQUESTS:

- The following appeals have been made on a site that is currently developed with an office structure use that the applicant intends to demolish:
 1. A variance to the front yard setback regulations of 10’ in conjunction with constructing and maintaining a “raised planting bed” structure, a staircase structure, and the westernmost wall of a “proposed two story brick addition” structure (with an approximately 600 square foot building footprint that is proposed to be located on the lot immediately to the east/adjacent to the subject site); and
 2. A special exception to the PD 193 landscape regulations in conjunction with the proposed new construction.

STAFF RECOMMENDATION (variance):

Denial

Rationale:

- The applicant had not substantiated how either the restrictive area, shape, or slope of the site/lot preclude it from being developed in a manner commensurate with development found on other PD 193 (LC Subdistrict) zoned lots.

STAFF RECOMMENDATION (landscape special exception):

Denial

Rationale:

- The City of Dallas Chief Arborist recommends denial of this request because the applicant had not submitted an alternate landscape plan for review.
- The applicant had not substantiated how the special exception would not compromise the spirit and intent of the landscaping requirements of PD 193.

STANDARD FOR A VARIANCE:

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

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

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

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 (variances):

- The minimum front yard setback on a PD 193 (LC) zoned lot is 10 feet.
- The applicant submitted a site plan indicating what appears to be a “raised planting bed” structure, a staircase structure, and the westernmost wall of a “proposed two story brick addition” structure (with an approximately 600 square foot building footprint) that is proposed to be located on the lot immediately to the east/adjacent to the subject site – a separate parcel of land developed with an existing one story structure/restaurant use immediately east (S & D Oyster House). The “raised planting bed” structure, the staircase structure, and the westernmost wall are all shown to be located on the site’s front property line or 10’ into the required 10’ front yard setback.
- The site is flat, irregular in shape, and according to the application, 0.106 acres in area.
- The site is zoned PD 193 (LC).
- DCAD records indicate that the improvements at 2612 Boll Street are a “converted residence” with 2,100 square feet built in 1940.
- On May 2, 2012, the applicant’s representative submitted additional information beyond what was submitted with the original application (see Attachment A). This documentation included a document entitled “Site Plan, General Notes, 1.01.” (Note that this plan, where an understanding was reached by staff as a plan that would substitute for all other previously submitted plans, does not appear to show a clear representation of the side property line that separates this site from the neighboring site).

GENERAL FACTS (landscape special exception):

- 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.

- On May 2, 2012, the applicant’s representative submitted additional information beyond what was submitted with the original application (see Attachment A). This documentation included a document entitled “Site Plan, General Notes, 1.01.”
- On May 4, 2012, the City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the landscape special exception and the related adjoining property to which this applicant is seeking similar requests (see Attachment B).
- The memo stated among other things how the requests in both cases are triggered by new construction on both properties, and that the landscaping on both properties involve requirements related to trees in planting zones, sidewalks, screening of off-street parking, landscape site area, general planting area, and special planting area.
- The Chief Arborist stated that when the memo was prepared there was no confirmation available that this site is in compliance with the requirements of PD 193.
- The property will be completely renovated after demolition of the existing structure and re-grading. Two large protected trees will be removed as shown the submitted site plan. One of two of these trees (large cottonwood) has an existing defect that makes the tree a high risk to several properties. An additional planting bed and new street trees in grates will be added to the Boll Street frontage. The sidewalk is intended to be in continuity with the 2701 McKinney Avenue sidewalk. The Chief Arborist has not seen a revised alternate landscape plan that conforms with the revised site plan that the applicant provided on May 2, 2012.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (Planned Development District, Light commercial)
North: PD 193 (LC) (Planned Development District, Light commercial)
South: PD 193 (LC) (Planned Development District, Light commercial)
East: PD 193 (LC) (Planned Development District, Light commercial)
West: PD 193 (LC) (Planned Development District, Light commercial)

Land Use:

The subject site is developed with an office use. The areas to the north, east, south, and west are a mix of office and retail uses.

Zoning/BDA History:

1. BDA 112-058, Property at 2701 McKinney Avenue (the lot immediately east of the subject site)

On May 15, 2012, the Board of Adjustment Panel A will consider requests for variances to the front yard setback regulations of 10’ and a special exception to the landscape regulations requested in conjunction with constructing and maintaining a “proposed two story brick addition” structure with an approximately with an approximately 600 square foot building footprint (with the

exception of its westernmost wall that is proposed to be located on the lot immediately to the adjacent property to the west of the subject site – a separate parcel of land developed with an office structure use that the applicant intends to demolish and the subject site of an application made by this applicant for variance to the front yard setback regulations and special exception to the landscape regulations to be heard by Panel A on May 15, 2012: BDA 112-040) to be located in the site's 10' front yard setback along Boll Street; and addressing and remedying the nonconforming aspect of the existing nonconforming structure on this site that is located in the site's two front yard setbacks along McKinney Avenue and Boll Street.

Timeline:

February 24, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 20, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

March 21, 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 March 30th deadline to submit additional evidence for staff to factor into their analysis; and the April 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 3, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

- April 4, 2012: The applicant requested that this application be postponed from Panel A's April hearing to Panel A's May hearing.
- April 18, 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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 requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.
- May 2, 2012: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- May 4, 2012: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment B).

STAFF ANALYSIS (variance):

- This request focuses on demolishing an existing office structure/use and constructing/maintaining a "raised planting bed" structure, a staircase structure, and the westernmost wall of a "proposed two story brick addition" structure (with an approximately with an approximately 600 square foot building footprint) that is proposed to be located on the lot immediately to the east/adjacent to the subject site – a separate parcel of land developed with an existing one story structure/restaurant use immediately east (S & D Oyster House) and the subject site of an application made by this applicant for variance to the front yard setback regulations and special exception to the landscape regulations to be heard by Panel A on May 15, 2012 (BDA 112-058), all to be located in the site's 10' front yard setback along Boll Street.
- According to calculations taken by the Board Administrator from the originally submitted site plan, the entire approximately 120 square foot "raised planting bed" structure, approximately ¾ (or approximately 64 square feet) of the staircase structure, and 10 linear feet of the westernmost wall of the structure is proposed to be located in the 10' front yard setback.

- DCAD records indicate that the improvements at 2612 Boll Street are a “converted residence” with 2,100 square feet built in 1940.
- 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 193 (LC) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD 193 (LC) zoning classification.
- If the Board were to grant this front yard variance request, imposing a condition whereby the applicant must comply with the submitted revised site plan, the structures in the front yard setback would be limited to what is shown on this plan.

STAFF ANALYSIS (related to the landscape special exception) :

- This request focuses on demolishing an existing office structure/use, constructing and maintaining the aforementioned structures on the site, and not fully meeting the landscape requirements of PD 193.
- The City of Dallas Chief Arborist has stated that the landscaping on this property (and the other adjoining one where the applicant has made similar requests) involves requirements related to trees in planting zones, sidewalks, screening of off-street parking, landscape site area, general planting area, special planting area, and that when his memo was prepared there was no confirmation available that either site was in compliance with any requirements of PD 193.
- The applicant has the burden of proof in establishing the following:
 - The special exception 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, imposing an alternate landscape plan as a condition would assure that the landscape special exception does not compromise the spirit and intent of the requirements of PD 193.

BOARD OF ADJUSTMENT ACTION: MAY 15, 2012

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm Street, Ste B, Dallas, TX
Herbert Story, 5901 Armstrong Pkwy, Dallas, TX

APPEARING IN OPPOSITION: Michael Longcrier, 2614 Boll St., Dallas, TX

MOTION #1: Hounsel

I move that the Board of Adjustment, in Appeal No. **BDA 112-040**, on application of Rob Baldwin, **grant** the 10-foot variance to the minimum front yard setback regulations because our evaluation of the property and testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan dated 5-15-12 is required.

SECONDED: Schweitzer

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

MOTION #2: Hounsel

I move that the Board of Adjustment, in Appeal No. **BDA 112-040**, on application of Rob Baldwin, **grant** the request to provide an alternate landscape plan as a special exception to the landscape requirements contained in PD 193 because our evaluation of the property and the testimony shows that this special exception will not compromise the spirit and intent of the Oak Lawn Ordinance. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan dated 5-15-12 is required.

SECONDED: Nolen

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

FILE NUMBER: BDA 112-058

BUILDING OFFICIAL’S REPORT:

Application of Herbert B. Story, represented by Rob Baldwin, for variances to the front yard setback regulations and a special exception to the landscaping regulations at 2701 McKinney Avenue. This property is more fully described as being an approximately .08 acre parcel out of Lot 3 in City Block 2/955 and is zoned PD-193(LC), which requires a front yard setback of 10 feet and requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide up to a 0 foot front yard setback, which will require variances to the front yard setback regulations of up to 10 feet, and to provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2701 McKinney Avenue

APPLICANT: Herbert B. Story, Jr.
Represented by Rob Baldwin

May 15, 2012 Public Hearing Notes:

- The applicant’s representative submitted a revised site plan and a revised landscape plan to the Board at the public hearing.

REQUESTS:

- The following appeals have been made on a site that is currently developed with a restaurant use (S & D Oyster House):
 1. Variances to the front yard setback regulations of up to 10’ in conjunction with:
 - a. constructing and maintaining a “proposed two story brick addition” structure with an approximately 600 square foot building footprint (with the exception of its westernmost wall that is proposed to be located on the lot immediately adjacent to this property. See BDA112-040); and
 - b. remedying the nonconforming aspect of the existing nonconforming structure that is located in the site’s two front yard setbacks along McKinney Avenue and Boll Street;
 2. A special exception to the landscape regulations in conjunction with the proposed new addition/construction and not fully meeting the landscape requirements of PD 193.

STAFF RECOMMENDATION (variances):

Denial

Rationale:

- The applicant had not substantiated how either the restrictive area, shape, or slope of the site/lot preclude it from being developed in a manner commensurate with development found on other PD 193 (LC Subdistrict) zoned lots.

STAFF RECOMMENDATION (landscape special exception):

Denial

Rationale:

- The City of Dallas Chief Arborist recommends denial of this request because the applicant has not submitted an alternate landscape plan for review.
- The applicant had not substantiated how the special exception would not compromise the spirit and intent of the landscaping requirements of PD 193.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor

area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (D) 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;
- (E) 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
- (F) 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.

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 (variances):

- The subject site is located at the northwest corner of McKinney Avenue and Boll Street. Because the property with two street frontages is zoned PD 193 (LC), it has two 10' front yard setbacks.
- The minimum front yard setback on a PD 193 (LC) zoned lot is 10 feet.
- The applicant had submitted a site plan with the original application indicating (with the exception of the westernmost wall) a "proposed two story brick addition" structure (with an approximately with an approximately 600 square foot building footprint) that is proposed to be located on the Boll Street front property line or 10' into the required 10' front yard setback. The site plan also indicates an "existing one story brick building" that is located on the Boll Street front property line or 10' into the required 10' front yard setback along this street, and approximately 3' from the McKinney Avenue front property line or 7' into the required 10' front yard setback along this street.
- The site is flat, irregular in shape, and according to the amended application, 0.08 acres in area. The site is zoned PD 193 (LC). The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
- DCAD records indicate that the improvements at 2701 McKinney are a "restaurant" with 2,450 square feet built in 1927.
- On May 2, 2012, the applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A). This documentation included a document entitled "Site Plan, General Notes, 1.01." (Note

that this plan where an understanding was reached by staff as a plan that would substitute for all other previously submitted plans does not appear to show a clear representation of the side property line that separates this site from the neighboring site).

GENERAL FACTS (landscape special exception):

- 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.
- On May 2, 2012, the applicant’s representative submitted additional information beyond what was submitted with the original application (see Attachment A). This documentation included a document entitled “Site Plan, General Notes, 1.01.”
- On May 4, 2012, the City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the landscape special exception (see Attachment B). The memo states that the requests in both cases are triggered by new construction and that the landscaping on both properties involve requirements related to trees in planting zones, sidewalks, screening of off-street parking, landscape site area, general planting area, and special planting area.
- The Chief Arborist stated that when the memo was prepared there was no confirmation available that either site is in compliance with any requirements of PD 193.
- The property has a pre-existing structure that will have a rear addition. The following landscaping will remain: four street trees, enhanced sidewalk pavement along McKinney Avenue, and benches. The existing structure prevents compliance with the ordinance regarding the placement of the sidewalk. The Chief Arborist has not seen a revised alternate landscape plan that conforms with the revised site plan submitted on May 2, 2012.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (Planned Development District, Light commercial)
North: PD 193 (LC) (Planned Development District, Light commercial)
South: PD 193 (LC) (Planned Development District, Light commercial)
East: PD 193 (LC) (Planned Development District, Light commercial)
West: PD 193 (LC) (Planned Development District, Light commercial)

Land Use:

The subject site is developed with a restaurant use (S & D Oyster House). The areas to the north, east, south, and west are a mix of office and retail uses.

Zoning/BDA History:

1. BDA 112-040, Property at 2612 Boll Street (the lot immediately west of the subject site)

On May 15, 2012, the Board of Adjustment Panel A will consider a request for a variance to the front yard setback regulations of 10' and a special exception to the landscape regulations requested in conjunction with constructing and maintaining what appears to be from the submitted site plan a "raised planting bed" structure, a staircase structure, and the westernmost wall of a "proposed two story brick addition" structure (with an approximately with an approximately 600 square foot building footprint that is proposed to be located on the lot immediately to the east/adjacent to the subject site – a separate parcel of land developed with an existing one story structure/restaurant use immediately east (S & D Oyster House) and the subject site of an application made by this applicant for variance to the front yard setback regulations and special exception to the landscape regulations to be heard by Panel A on May 15, 2012: BDA 112-058), all to be located in the site's 10' front yard setback along Boll Street.

Timeline:

- April 4, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 17, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- April 19, 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 April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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 requests; and

- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 3, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

April 4, 2012: The applicant requested that this application be postponed from Panel A's April hearing to Panel A's May hearing.

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

May 2, 2012: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

May 4, 2012: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment B).

STAFF ANALYSIS (variances):

- The site is flat, irregular in shape, and according to the amended application, 0.08 acres in area. The site is zoned PD 193 (LC). The site is a corner property with two front yard setbacks.
- DCAD records indicate that the improvements at 2701 McKinney are a "restaurant" with 2,450 square feet built in 1927.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances 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 variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with

the development upon other parcels of land in districts with the same PD 193 (LC) zoning classification.

- The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD 193 (LC) zoning classification.
- If the Board were to grant the front yard variance requests, imposing a condition whereby the applicant must comply with the submitted revised site plan, the structures in the front yard setbacks would be limited to what is shown on this plan – which in this case portions of proposed and existing structures in the 10' required front yard setbacks along Boll Street and McKinney Avenue.

STAFF ANALYSIS (related to the landscape special exception):

- This request focuses on constructing/maintaining the aforementioned new addition on the site and not fully meeting the landscape requirements of PD 193.
- The applicant has the burden of proof in establishing the following:
 - The special exception 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, imposing an alternate landscape plan as a condition assures that the landscape special exception does not compromise the spirit and intent of the requirements of the PD 193 ordinance.

BOARD OF ADJUSTMENT ACTION: MAY 15, 2012

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

APPEARING IN OPPOSITION: No one

MOTION #1: Hounsel

I move that the Board of Adjustment, in Appeal No. **BDA 112-058**, on application of Rob Baldwin, **grant** the request of this applicant to provide an alternate landscape plan as a special exception to the landscape requirements contained in PD 193 because our evaluation of the property and the testimony shows that this special exception will not compromise the spirit and intent of the Oak Lawn Ordinance. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted alternate landscape plan dated 5-15-12 is required.

SECONDED: Schweitzer

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

MOTION #2: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA 112-058**, on application of Rob Baldwin, **deny** the front yard setback variance requested by this applicant along **McKinney Avenue with prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Schweitzer**

AYES: 3 –Schweitzer, Hounsel, Nolen

NAYS: 1 - Moore,

MOTION PASSED: 3– 1

MOTION #3: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA 112-058**, on application of Rob Baldwin, **grant** the 10-foot variance to the minimum front yard setback regulations along **Boll Street** 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 revised site plan dated 5-15-12 is required.

SECONDED: **Schweitzer**

AYES: 4 – Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

MOTION: **Schweitzer**

I move to adjourn this meeting.

SECONDED: **Hounsel**

AYES: 4– Moore, Schweitzer, Hounsel, Nolen

NAYS: 0 -

MOTION PASSED 4– 0 (unanimously)

2:00 P. M. - Board Meeting adjourned for **May 15, 2012.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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