

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, L1FN CONFERENCE CENTER AUDITORIUM  
WEDNESDAY, APRIL 17, 2013**

MEMBERS PRESENT AT BRIEFING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, Paula Leone, regular member, Robert Agnich, alternate member and Jim Gaspard, alternate member

MEMBERS ABSENT FROM BRIEFING: Christian Chernock, regular member, David Wilson, regular member

MEMBERS PRESENT AT HEARING: Darlene Reynolds, Vice Chair, Sam Gillespie, Panel Vice Chair, Paula Leone, regular member, Robert Agnich, alternate member and Jim Gaspard, alternate member

MEMBERS ABSENT FROM HEARING: Christian Chernock, regular member, David Wilson, regular member

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Todd Duerksen, Development Code Specialist, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Attorney, Todd Duerksen, Development Code Specialist, and Trena Law, Board Secretary

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**11:03 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **April 17, 2013 docket.**

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**1:03 P.M.**  
The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel B March 20, 2013 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION:    APRIL 17, 2013**

**MOTION: Gillespie**

I move approval of the **Wednesday, March 20, 2013** Board of Adjustment Public Hearing minutes.

**SECONDED: Agnich**

**AYES: 5– Reynolds, Gillespie, Leone, Agnich, Gaspard**

**NAYS: 0 –**

**MOTION PASSED 5 – 0 (unanimously)**

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**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:    BDA 112-009**

**REQUEST:**            To waive the two year limitation on a request for a variance to the height regulations of 95’ granted by Board of Adjustment Panel B on January 18, 2012, subject to the revised conceptual height limit site plan diagram submitted at the 1-18-12 public hearing and the submitted conceptual height limit elevation.

**LOCATION:**            2001 McKinney Avenue

**APPLICANT:**        Jackson Walker, LLP  
Represented by Jonathan Vinson

**STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION ON A FINAL DECISION REACHED BY THE BOARD:**

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

**GENERAL FACTS/TIMELINE:**

January 18, 2012:        The Board of Adjustment Panel B granted a request for variance to the height regulations of 95’ and imposed the revised conceptual height limit site plan diagram submitted at the 1-18-12 public hearing and the submitted conceptual height limit elevation as a condition to the request. The case report stated that the request was made in conjunction with constructing and maintaining a structure (described by the applicant as a “mixed use project, primarily office but with retail and residential components”), part of

which would exceed the 240' maximum height permitted for structures on properties zoned PD No. 193 (HC Subdistrict) on a site that was at the time undeveloped.

June 20, 2012: The Board of Adjustment Panel B granted a request to extend the time period to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment's favorable action on a request for variance to the height regulations of 95' granted by Board of Adjustment Panel B on January 18, 2012.

March 30, 2013: The applicant submitted a letter to staff requesting that the Board waive the two year limitation on waive the two year limitation on a request for a variance to the height regulations granted by Board of Adjustment Panel B on January 18, 2012, subject to the revised conceptual height limit site plan diagram submitted at the 1-18-12 public hearing and the submitted conceptual height limit elevation. This miscellaneous item request to waive the two year limitation was made in order for the applicant to file a new application for a height variance on the property.

Note that The Dallas Development Code states the following with regard to board action:

- Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
- If the board renders a final decision of denial without prejudice, the two year limitation is waived.
- The applicant may apply for a waiver of the two year limitation in the following manner:
  - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
  - The board may waive the two year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outlined in the code.

April 2, 2013: The Board Administrator emailed the applicant the following information:

- the public hearing date and panel that will consider the miscellaneous request (April 17, 2013 – Panel B);
- information related to BDA 112-009;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- information related to the original application; and

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

April 5, 2012: The applicant submitted additional information regarding this request to be included in the Board’s docket (see Attachment A).

**BOARD OF ADJUSTMENT ACTION: APRIL 17, 2013**

**APPEARING IN FAVOR:** Jonathan Vinson, 901 Main Street, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION: Gillespie**

I move to grant the waiver of the two year limitation on a request for a variance to the height regulations of 95’ granted by Board of Adjustment Panel B on January 18, 2012.

**SECONDED: Gaspard**

**AYES:** 5– Reynolds, Gillespie, Leone, Agnich, Gaspard

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 123-030

**BUILDING OFFICIAL’S REPORT:** Application of Rob Baldwin for variances to the front and side yard setback regulations at 8303 Skillman Street. This property is more fully described as a 6.241 acre tract in Block C/8107 and is zoned MF-1(A), which requires a front yard setback of 15 feet and requires a side yard setback of 10 feet. The applicant proposes to construct and/or maintain structures and provide an 11 foot front yard setback, which will require a variance to the front yard setback regulations of 4 feet, and to construct and/or maintain structures and provide a 9 foot side yard setback, which will require a variance to the side yard setback regulations of 1 feet.

**LOCATION:** 8303 Skillman Street

**APPLICANT:** Rob Baldwin

**REQUESTS:**

The following appeals have been made in conjunction with maintaining existing multifamily structures on a site that is currently developed with a multifamily development (Castle Rock Apartments):

1. Variances to the front yard setback regulations of up to 4’ are requested to maintain six of 17 multifamily structures on the site as close as 11’ from one of the site’s two front property lines (Skillman Street) or as much as 4’ into the required 15’ front yard setback.
2. A variance to the side yard setback regulations of up to 1’ is requested to maintain a one of 17 multifamily structures on the site as close as 9’ away from a side property line or as much as 1’ into the required 10’ side yard setback.

**STANDARD FOR A VARIANCE:**

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STAFF RECOMMENDATION (front and side yard setback variances):**

Approval of the requests, subject to the following condition:

- Compliance with the submitted revised site plan is required.

Rationale:

- The lot's irregular shape and slope precludes its development in a manner commensurate with other developments found on similarly-zoned MF-1(A) lots.
- Granting the variances is not contrary to public interest since the total amount of structure in the front and side yard setbacks is only slightly more than 100 square feet on the site developed with 160 apartments located within 17 structures.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-1(A) (Multifamily)  
North: MF-1(A) (Multifamily)  
South: MF-1(A) (Multifamily)  
East: MF-1(A) (Multifamily)  
West: MF-1(A) (Multifamily)

**Land Use:**

The subject site is developed with a multifamily use (Castle Rock Apartments). The areas to the north, east, south, and west are developed with multifamily uses.

**Zoning/BDA History:**

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

**Timeline:**

February 6, 2013: 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 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 19, 2013: 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 March 27th deadline to submit additional evidence for staff to factor into their analysis; and the April 5th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 1, 2013: The applicant submitted additional documentation to the Board Administrator beyond what was submitted with the original application (see Attachment A).

April 2, 2013: 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 Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

**GENERAL FACTS/STAFF ANALYSIS (front yard variance):**

- These request focus on maintaining six of 17 multifamily structures as close as 11’ from one of the site’s two front property lines (Skillman Street) or as much as 4’ into the required 15’ front yard setback.
- The minimum front yard setback for properties zoned MF-1(A) of 15’.
- A revised site plan has been submitted denoting portions of the six existing structures located in the 15’ front yard setback along Skillman Street, one of which is

located as close as 11' from the front property line or as much as 4' into the 15' required front yard setback.

- It appears from the submitted revised site plan that the total amount of the seven structures in the front yard setback is about 100 square feet in area.
- The applicant states the property is being refinanced and that the variances are requested to remedy structures built in 1978 not in compliance with the required zoning.
- DCAD records indicate the "improvements" for the property at 8303 Skillman Street is an "apartment" with 146,142 square feet built in 1978.
- The subject site is irregular in shape, somewhat sloped downward towards a creek bed, and according to the application, is 6.2 acres in area. The site is zoned MF-1(A).
- 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 MF-1(A) 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 same MF-1(A) zoning classification.
- If the Board were to grant the variance requests and impose the submitted revised site plan as a condition, the structures in the front yard setback would be limited to what is shown on this document– which are six of 17 multifamily structures on the site as close as 11' from one of the site's two front property lines or as much as 4' into the required 15' front yard setback.

#### **GENERAL FACTS/STAFF ANALYSIS (side yard variance):**

- This request focuses on maintaining one of 17 multifamily structures as close as 9' away from a side property line or as much as 1' into the required 10' side yard setback.
- The minimum side yard setback for multifamily structures on properties zoned MF-1(A) of 10'.
- A revised site plan has been submitted denoting portions of the one existing structure located in the 10' side yard setback along the site's northern boundary. This structure is located as close as 9' from the side property line or as much as 1' into the 10' required side yard setback.
- The submitted revised site plan shows that the total amount of the one structure in the side yard setback is about 15 square feet in area.

- The applicant states the property is being refinanced and that the variances are requested to remedy structures built in 1978 not in compliance with the required zoning.
- DCAD records indicate the “improvements” for the property at 8303 Skillman Street is an “apartment” with 146,142 square feet built in 1978.
- The subject site is irregular in shape, somewhat sloped downward towards a creek bed, and according to the application, is 6.2 acres in area. The site is zoned MF-1(A).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-1(A) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-1(A) zoning classification.
- If the Board were to grant the variance request and impose the submitted revised site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document– which is a one of 17 multifamily structures on the site as close as 9’ away from a side property line or as much as 1’ into the required 10’ side yard setback.

**BOARD OF ADJUSTMENT ACTION:    APRIL 17, 2013**

**APPEARING IN FAVOR:**                    Robert Baldwin, 3904 Elm St., #B, Dallas, TX

**APPEARING IN OPPOSITION:**    No one

**MOTION: Agnich**

I move that the Board of Adjustment, in Appeal No. **BDA 123-030**, on application of Rob Baldwin, **grant** a 4 foot variance to the minimum front yard setback regulations and a 1 foot variance to the minimum side yard setback regulations, 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 result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan is required.

**SECONDED: Leone**



AYES: 5– Reynolds, Gillespie, Leone, Agnich, Gaspard  
NAYS: 0 –  
MOTION PASSED 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 123-034

**BUILDING OFFICIAL’S REPORT:** Application of Roberto Romo for a special exception to the fence height regulations at 2206 Old Oaks Drive. This property is more fully described as Lot 1, Block 5/5957 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 6 foot high fence, which will require a special exception to the fence height regulations of 2 feet.

**LOCATION:** 2206 Old Oaks Drive

**APPLICANT:** Roberto Romo

**REQUEST:**

A special exception to the fence height regulations of 2’ is requested in conjunction with replacing an existing 4’ high solid wood fence with a proposed 6’ high solid wood fence in the site’s 15’ required front yard along Bonanza Lane on a site developed with a single family home. (No part of this application is made to construct and/or maintain a fence in the site’s Old Oaks Drive required front yard).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

## **Land Use:**

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

## **Timeline:**

February 22, 2013: 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 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 19, 2013: The Board Administrator contacted the applicant and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the March 27th deadline to submit additional evidence for staff to factor into their analysis; and the April 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

April 2, 2013: 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 Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

## **GENERAL FACT /STAFF ANALYSIS:**

- This request focuses on replacing an existing 4' high solid wood fence with a proposed 6' high solid wood fence in the site's 15' required front yard along Bonanza Lane on a site developed with a single family home. (No part of this application is made to construct and maintain a fence in the site's 30' Old Oaks Drive required front yard).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.

- The subject site is located at the southwest corner of Bonanza Lane and Old Oaks Drive. Regardless of how the existing single family structure is oriented westward to front Old Oaks Drive, the subject site has required front yards along both streets. The site has a 30' required front yard along Old Oaks Drive, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single family zoning district. The site also has a 15' required front yard along Bonanza Lane, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9' high fence could be constructed and maintained by right. But the site's Bonanza Lane frontage is deemed a front yard nonetheless to maintain the continuity of the established front yard setbacks established by the lots zoned and developed with single family homes to the east along Bonanza Drive that front northward.
- A scaled site plan and an elevation have been submitted that show the proposal in the Bonanza Lane front yard setback reaches a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
  - Approximately 85' in length parallel to the street (and approximately 10' in length perpendicular on the east and west sides of the site in the required front yard); approximately 5' from the Bonanza Drive front property line or approximately 16' from the pavement line where two homes would have direct frontage with no fences in their front yards.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences higher than 4' in the immediate area.
- As of April 8, 2013, a petition signed by 4 owners/neighbors had been submitted to staff in support of the request and no letters had been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 6' in height) will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the Bonanza Lane front yard to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION:    APRIL 17, 2013**

APPEARING IN FAVOR:                      No one

APPEARING IN OPPOSITION:    No one

**MOTION: Leone**

I move that the Board of Adjustment grant application **BDA 123-034** 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

**SECONDED: Agnich**

**AYES:** 5– Reynolds, Gillespie, Leone, Agnich, Gaspard

**NAYS:** 0 –

**MOTION PASSED** 5 – 0 (unanimously)

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**FILE NUMBER:** BDA 123-035

**BUILDING OFFICIAL’S REPORT:** Application of Thomas Bowen Wright for a variance to the front yard setback regulations at 4429 Pomona Road (AKA 8305 Catawba). This property is more fully described as Lot 4, Block G/4977 and is zoned R-10(A), which requires a front yard setback of 30 feet. The applicant proposes to construct and/or maintain a structure and provide a 13 foot 6 inch front yard setback, which will require a variance to the front yard setback regulations of 16 feet 6 inches.

**LOCATION:** 4429 Pomona Road (AKA 8305 Catawba)

**APPLICANT:** Thomas Bowen Wright

**REQUEST:**

A variance to the front yard setback regulations of 16’ 6” is requested in conjunction with maintaining a single family home structure located 13’ 6” from the front property line or 16’ 6” in the site’s 30’ front yard setback.

**STANDARD FOR A VARIANCE:**

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The lot's restrictive area of approximately 9,600 square feet precludes its development in a manner commensurate with other developments found on similarly-zoned R-10(A) lots. In this particular case, the area of the structure in the site's front yard setback is of a similar size as to how much less the property is in relation to other R-10(A) zoned properties: approximately 400 square feet.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-10(A) (Single family district 10,000 square feet)  
North: R-10(A) (Single family district 10,000 square feet)  
South: R-10(A) (Single family district 10,000 square feet)  
East: PD 455 & R-10(A) (Planned Development & Single family district 16,000 square feet)  
West: R-10(A) (Single family district 10,000 square feet)

**Land Use:**

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

**Zoning/BDA History:**

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

**Timeline:**

- February 21, 2013: 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 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- March 19, 2013: 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 March 27th deadline to submit additional evidence for staff to factor into their analysis; and the April 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

April 2, 2013: 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 Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

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

- This request focuses on maintaining a portion of an approximately 2,700 single-story single family home in the site's 30' front yard setback.
- Structures on lots zoned R-10(A) are required to provide a minimum front yard setback of 30'.
- The subject site is located at the west corner of Pomona Road and Catawba Road. Regardless of how the existing single family structure is oriented northeastward to Catawba Road, the subject site has a 6' side yard setback along Catawba Road and a 30' front yard setback on Pomona Road.
- A scaled site plan has been submitted indicating that part of the single family home structure is 13.5' from the site's front property line or 16.5' into the 30' front yard setback.
- According to DCAD records, the "main improvements" at 8305 Catawba Road (the subject site) is a structure built in 1935 with 2,011 square feet of living area and 2,011 square feet of total area. According to DCAD records, the "additional improvements" at 8305 Catawba Road is a 572 square foot attached garage and a pool.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the home located in the site's 30' front yard setback is approximately 370 square feet in area or approximately 14 percent of the total building footprint of approximately 2,700 square feet.
- The subject site is flat, rectangular in shape (165' x 60'), and according to the application, 0.22 acres (or approximately 9,600 square feet) in area. The site is zoned R-10(A) where lots are typically 10,000 square feet.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the



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.