

**BOARD OF ADJUSTMENT, PANEL B
PUBLIC HEARING MINUTES
DALLAS CITY HALL, L1FN AUDITORIUM
WEDNESDAY, NOVEMBER 19, 2014**

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

MEMBERS ABSENT FROM BRIEFING: No one

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

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Neva Dean, Interim Asst. Director, Lloyd Denman, Asst. Director, and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Donna Moorman, Chief Planner, Jamilah Way, Asst. City Attorney, Todd Duerksen, Development Code Specialist, Phil Erwin, Chief Arborist, Lloyd Denman, Asst. Director, and Trena Law, Board Secretary

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **November 19, 2014 docket.**

1:20 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 B October 22, 2014 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

MOTION: None

The minutes were approved without a formal vote.

FILE NUMBER: BDA 134-024

BUILDING OFFICIAL'S REPORT: Application of John Weninger for variances to the front yard setback and landscape regulations, and special exceptions to the visual obstruction regulations at 3121 N. Fitzhugh Avenue. This property is more fully described as a 4,871 square foot unplatted parcel, Block 1/1519 and is zoned PD 193 (GR), which requires a front yard setback of 10 feet, mandatory landscaping, and compliance with visibility triangles at the street intersection, the alley, and drive approaches. The applicant proposes to construct and maintain a structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulations, and to provide an alternate landscape plan, which will require a variance to the landscape regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 3121 N. Fitzhugh Avenue

APPLICANT: John Weninger

REQUESTS:

The following appeals have been made on a site developed with an existing nonconforming structure that is an office use (123 Divorce Company):

1. a variance to the front yard setback regulations of 10' is made to maintain a portion of the existing nonconforming structure with an approximately 1,800 square foot building footprint located as close as on the site's N. Fitzhugh Avenue front property line or as much as 10 into this required 10' front yard setback;
2. a variance to the front yard setback regulations of 10' is made to construct, align and maintain a portion of a proposed 2nd floor addition atop the existing nonconforming structure that like the approximately 1,800 square foot building footprint would be located as close as on the N. Fitzhugh Avenue front property line or as much as 10 into this required 10' front yard setback;

3. a variance to the landscape regulations is made to construct and maintain the proposed 2nd floor addition and related stairway structure, and not fully provide required landscaping; and
4. special exceptions to the visual obstruction regulations are made to locate what could be vehicles parked in striped off-street parking spaces required to fulfill the required off-street parking for the office use/structure located in the 45' visibility triangle at the intersection of N. Fitzhugh Avenue and Cole Avenue, and in four, 20' visibility triangles at the two driveways into the site from N. Fitzhugh Avenue; and, according to what is represented on the submitted site plan, to maintain a portion of the existing nonconforming structure located in the 20' visibility triangle at where the alley intersects/meets N. Fitzhugh Avenue.

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 VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (front yard setback variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site appears to be unique and different from most lots in the PD 193 (GR) zoning district in that it is only approximately 21' wide on the west, and approximately 30' wide on the east. Once a 10' front yard setback is accounted for along N. Fitzhugh Avenue, the amount of developable space left of the property ranges from only 11' on the west to 20' on the east.
- Granting the variances do not appear to be contrary to public interest in that they would only allow an existing nonconforming structure built in the 1950's to be replaced back in the 10' N. Fitzhugh Avenue front yard setback if ever intentional destroyed and a second floor to align atop it.

STAFF RECOMMENDATION (landscape variance):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the request, and has noted among other things how the landscape provisions in this case is merely triggered by adding a second floor to a nonconforming structure on a site that is encumbered with a restrictive area in which to provide required landscaping.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following conditions:

1. Compliance with the submitted site plan is required.
2. Vegetation located within the 20' visibility triangle at where the alley meets/intersects with N. Fitzhugh Avenue must comply with the Dallas Development Code visual obstruction regulations.

Rationale:

- The applicant has substantiated how granting these requests to locate what could be vehicles parked in striped off-street parking spaces required to fulfill the required off-street parking for the office use/structure located in the 45' visibility triangle at the intersection of N. Fitzhugh Avenue and Cole Avenue, and in four, 20' visibility triangles at the two driveways into the site from N. Fitzhugh Avenue; and, according to what is represented on the submitted site plan, to maintain a portion of the existing nonconforming structure located in the 20' visibility triangle at where the alley intersects/meets N. Fitzhugh Avenue would not constitute a traffic hazard.
- The Sustainable Development and Construction Department Project Engineer supports the requests on the condition that vegetation located within the visibility triangle at the intersection of the alley and N. Fitzhugh Avenue must comply with Dallas Development Code visual obstruction regulations.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>North:</u>	PD 193 (PDS 100) (Planned Development District, Planned Development)
<u>South:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>East:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>West:</u>	PD 193 (GR) (Planned Development District, General Retail)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (front yard variances):

- These requests focus on maintaining an existing nonconforming structure with an approximately 1,800 square foot building footprint and adding/aligning/maintaining a 2nd floor addition as close as on the site's N. Fitzhugh Avenue front property line or as much as 10 into this required 10' front yard setback.
- The subject site is located at the southeast corner of N. Fitzhugh Avenue and Cole Street and is zoned PD 193 (GR). The site has two front yard setbacks.
- Structures, other than single family structures, on lots zoned PD 193 (GR) are required to provide a minimum front yard setback of 10'.
- A site plan has been submitted denoting that the existing structure is located as close as on the site's N. Fitzhugh Avenue front property line or as much as 10' into this the 10' front yard setback.
- About 1/3 of the existing of the approximately 1,800 square foot, 30' wide office structure is located in the 10' N. Fitzhugh Avenue front yard setback.
- According to DCAD records, the "improvements" at 3121 N. Fitzhugh Avenue is an "office building" that is 1,575 square feet in area built in 1957.
- The applicant has chosen to seek variance to the front yard setback regulations for the new construction to be added atop the existing nonconforming structure on the site, and to seek variance to remedy/address the nonconforming aspect of the existing nonconforming structure that is located in the site's N. Fitzhugh Avenue front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.

- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The subject site is flat, somewhat irregular in shape (approximately 188' on the north and south, approximately 21' on the west, and approximately 30' on the east) and is approximately 4,700 square feet in area. The site is zoned PD 193 (GR).
- 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.
- According to calculations taken from the submitted site plan by the Board Administrator, if a new structure were proposed in the same location as the existing nonconforming structure, it could be 18' – 20' in width once a 10' front yard setback is accounted for along Fitzhugh Avenue on the lot that ranges in width from approximately 21' on the west, and approximately 30' on the east.
- 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 (GR) 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 PD 193 (GR) zoning classification.
- If the Board were to grant the variance requests and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which is a structure located as close as on the site's N. Fitzhugh Avenue front property line (or as much as 10' into this 10' front yard setback).

GENERAL FACTS/ STAFF ANALYSIS (landscape variance):

- This request focuses on constructing and maintaining the proposed 2nd floor addition and related stairway structure, and not fully provide required landscaping. More specifically, according to the City of Dallas Chief Arborist, the site does not conform to PD 193 landscape regulation standards related to sidewalks, trees, and off-street parking and screening.
- 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.

- The City of Dallas Chief Arborist states in a memo (see Attachment A) that the request in this case is triggered by proposed new construction of an addition to building height on the site.
- The Chief Arborist notes that the submitted site plan is deficient in the following ways:
 1. Sidewalks at a minimum of 6' in width placed 5' – 12' from back of curb.
 2. Large trees in the tree planting zone between 2.5' – 5' from back of curb.
 3. Screening of off-street parking.
 4. A landscape site area of 10 percent and 60 percent of the required front yard containing appropriate general and special planting areas.
- The Chief Arborist listed several factors for consideration:
 1. The site at street level is fully developed with a structure and paved surface for parking and maneuvering. The property is long and narrow which provides only one possible location for a tree and other plant materials. This location is on the property and adjacent to parking space #3 as identified on the submitted site plan. However, the Fitzhugh frontage and this possible location is encumbered with overhead power lines and a school zone signal adjacent to the structure a short distance to the east. The site has two wide driveways restricting plant locations.
 2. A very narrow planting bed is provided along the building frontage adjacent to the existing sidewalk. This is somewhat kept of small vegetation which can provide for a minor green edge to soften the building frontage with proper maintenance. On the street side of the sidewalk, a one-foot wide strip is maintained with groundcover in front of the building and adjacent to the parking lot between driveways. The only existing permeable area for planting trees or other vegetation is on the Cole Avenue parkway but this is also restricted by the visibility triangle at the street intersection.
- The Chief Arborist has no objection to the proposed plan and recommends approval.
- The subject site is flat, somewhat irregular in shape (approximately 188' on the north and south, approximately 21' on the west, and approximately 30' on the east) and is approximately 4,700 square feet in area. The site is zoned PD 193 (GR).
- 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.
- According to calculations taken from the submitted site plan by the Board Administrator, if a new structure were proposed in the same location as the existing nonconforming structure, it could be 18' – 20' in width once a 10' front yard setback is accounted for along Fitzhugh Avenue on the lot that ranges in width from approximately 21' on the west, and approximately 30' on the east.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape 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 (GR) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 193 (GR) zoning classification.
- If the Board were to grant this request and impose the submitted site plan as a condition to the request, the site would be granted exception from full compliance to sidewalk, street tree, off-street parking screening, and front yard and special planting area requirements of the Oak Lawn PD 193 landscape ordinance.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- These requests focus on locating what could be vehicles parked in striped off-street parking spaces required to fulfill the required off-street parking for the office use/structure located in the 45' visibility triangle at the intersection of N. Fitzhugh Avenue and Cole Avenue, and in four, 20' visibility triangles at the two driveways into the site from N. Fitzhugh Avenue; and maintaining what is represented on the submitted site plan, to maintain a portion of the existing nonconforming structure located in the 20' visibility triangle at where the alley intersects/meets N. Fitzhugh Avenue.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- PD 193 defines "visibility triangle" as
 1. where a street designated on the city's thoroughfare plan intersects another street, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection;
 2. where two streets not designated on the city's thoroughfare plan intersect, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 30 feet from the intersection;
 3. where an alley or driveway intersects with a street, the portion of a lot within a triangular area formed by connecting together the point of intersection of

the edge of a driveway or alley and adjacent street curb line (or, if there are no street curbs, what would be the normal street curb line) and points on the driveway or alley edge and the street curb line 20 feet from the intersection.

- A site plan has been submitted indicating two striped parking spaces located in the 45' visibility triangle at the intersection of N. Fitzhugh Avenue and Cole Avenue, and in one striped parking space located in the four, 20' visibility triangles at the two driveways into the site from N. Fitzhugh Avenue, and a portion of the existing nonconforming structure located in the 20' visibility triangle at where the alley intersects/meets N. Fitzhugh Avenue
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request for special exceptions to the visual obstruction regulations marked "Has no objections if certain conditions are met" commenting "vegetation located within the visibility triangle at intersection of Alley and Fitzhugh must comply with Dallas Development Code."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate what could be vehicles parked in striped off-street parking spaces required to fulfill the required off-street parking for the office use/structure located in the 45' visibility triangle at the intersection of N. Fitzhugh Avenue and Cole Avenue, and in four, 20' visibility triangles at the two driveways into the site from N. Fitzhugh Avenue, and to maintain a portion of the existing nonconforming structure located in the 20' visibility triangle at where the alley intersects/meets N. Fitzhugh Avenue do not constitute a traffic hazard.
- Granting these requests with conditions imposed that the applicant complies with the submitted site plan and that vegetation comply with code would limit the items located in the 45' visibility triangle at the intersection of N. Fitzhugh Avenue and Cole Avenue, and in four, 20' visibility triangles at the two driveways into the site from N. Fitzhugh Avenue, and in the 20' visibility triangle at where the alley intersects/meets N. Fitzhugh Avenue to that what is shown on this document-parked vehicles and a portion of a nonconforming structure.

Timeline:

January 23, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 17, 2014: The Board Administrator shared the following information with the applicant via email:

- an attachment that provided the public hearing date and panel that will consider the application; the February 26th deadline to submit additional evidence for staff to factor into their analysis; and the March 7th 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.”

February 19, 2014: The Board Administrator emailed the applicant that this application would not be heard by Board of Adjustment Panel B in March of 2014 since the application was deemed incomplete.

March 24, 2014: The Board Administrator emailed the applicant that this application would be scheduled for a public hearing once the Building Inspection Senior Plans Examiners/Development Code Specialist had deemed it complete.

October 14, 2014: 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 October 29th deadline to submit additional evidence for staff to factor into their analysis; and the November 7th 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.

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

November 5, 2014: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the visual obstruction special exception requests marked “Has no objections if certain conditions are met” commenting vegetation located within the visibility triangle at intersection of Alley and Fitzhugh must comply with Dallas Development Code.”

November 10, 2014: The City of Dallas Chief Arborist submitted a memo regarding the landscape special exception request (see Attachment A).

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: John Weninger, 3121 N. Fitzhugh, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: **Leone**

I move that the Board of Adjustment grant application **BDA 134-024**, on application of John Weninger, **grant** the request to maintain items in the visibility triangle as special exceptions to the visual obstruction regulations in the Dallas Development Code, because our evaluation of the property and the testimony shows that these special exceptions will not constitute a traffic hazard. I further move that the following conditions be imposed to further the purpose and intent of the Oak Lawn Ordinance:

- Compliance with submitted site plan is required.
- Vegetation in the 20 foot visibility triangle, where the alley meets/intersects with N. Fitzhugh Avenue, must comply with the Dallas Development Code's visual obstruction regulations.

SECONDED: **Agnich**

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

MOTION #2: **Leone**

I move that the Board of Adjustment grant application **BDA 134-024**, on application of John Weninger, **grant** 10 foot variances to the front yard setback regulations, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted site plan is required.

SECONDED: **Hounsel**

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0(unanimously)

MOTION #3: **Leone**

I move that the Board of Adjustment grant application **BDA 134-024**, on application of John Weninger, **grant** the request to provide an alternate landscape plan as a variance to the landscape regulations in Article X of the Dallas Development Code, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted site plan is required.

SECONDED: Agnich

AYES: 1 – Leone,

NAYS: 4 – Reynolds, Gillespie, Hounsel, Agnich

MOTION FAILED 1– 4

MOTION #4: Leone

I move that the Board of Adjustment grant application **BDA 134-024**, on application of John Weninger, **deny** the requested variance to the landscape regulations **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of the 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, or is a self-created or personal hardship.

SECONDED: Agnich

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

Break: 3:35 P.M.

Resumed: 3:45 P.M.

FILE NUMBER: BDA 134-106

BUILDING OFFICIAL'S REPORT: Application of Ed Simons for a variance to the minimum sidewalk regulations at 1615 Market Center Boulevard. This property is more fully described as Lots 1-9 & 11-16, Block 7/6837, and is zoned PD 621 (Subdistrict 1), which requires sidewalks be constructed per the site design requirements. The applicant proposes to construct and maintain a structure and provide an alternate sidewalk plan, which will require a variance to the minimum sidewalk regulations.

LOCATION: 1615 Market Center Boulevard

APPLICANT: Ed Simons

November 19, 2014 Public Hearing Notes:

- The Board Administrator circulated additional information submitted by the applicant (Attachment B) to the Board at the briefing.

REQUEST:

A request for a variance to the minimum sidewalk regulations is made to construct and maintain a “building”/structure on a site that is currently partly developed with a commercial structure/use the applicant intends to retain, and not fully meet the sidewalk standards.

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 alternate landscape/site plan is required.

Rationale:

- As was concluded by staff in March of 2014 when the applicant applied for and was granted a variance to the landscape regulations on this site by Board of Adjustment Panel B, the subject site is unique and different from most lots in the PD 621 zoning district in that it is of a restrictive size and of an irregular/virtually triangular shape. The narrowness of the site and its irregular shape precludes the applicant from developing it in a manner commensurate with development on other similarly zoned properties that are wider and are not irregularly shaped.

BACKGROUND INFORMATION:

Zoning:

Site: PD 621 (Planned Development, Subdistrict1)
North: PD 621 (Planned Development, Subdistrict1)
South: PD 621 (Planned Development, Subdistrict1)
East: PD 621 (Planned Development, Subdistrict1)
West: PD 621 (Planned Development, Subdistrict1)

Land Use:

The site is currently developed with a commercial structure/use that the applicant intends to retain. The areas to the north, south, east, and west appear to be developed mostly with commercial/retail uses.

Zoning/BDA History:

1. BDA 134-022, Property at 1615 Market Center Boulevard (the subject site)

On March 19, 2014, the Board of Adjustment Panel B granted a request for a variance to the landscape regulations, and imposed the submitted alternate landscape plan as a condition to the request. The case report stated that the request was made to construct and maintain a “building”/structure on a site currently developed with a number of commercial structure/uses, some of which the applicant intends to retain, others that he intends to demolish, and not fully meeting the landscape regulations.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a “building”/structure on a site currently developed with a commercial structure/use which the applicant intends to retain, and not fully meet the sidewalk standards.
- PD 621 provides a number of sidewalk standards for new construction. In general, sidewalks complying with the standards must be provided for all new construction; if a sidewalk is to be located in a front yard, a sidewalk easement must be dedicated to the city to assure its availability to the public for pedestrian access; and except as otherwise provided in PD 621, the requirements of Chapter 43, “Streets and Sidewalks,” apply to all sidewalks. PD 621 provides for specific sidewalk requirements related to location and width.
- The sidewalk standards for new construction of PD 621 state that: 1) sidewalks must be located along the entire length of the street frontage; and 2) sidewalks must be located between 5’- 10’ from back of the projected street curb, except that sidewalks on Oak Lawn Avenue, Irving Boulevard, Market Center Boulevard, and Turtle Creek Boulevard must be located between 5’ – 12’ from back of the projected street curb.
- The applicant has stated that the code requires that the sidewalks be located along the entire frontage between 5 – 10 feet from the curb lines, and that the sidewalks are located on the curb line.
- The submitted site plan appears to show sidewalks on Oak Lawn Avenue, Irving Boulevard, and Market Center Boulevard to be located on the curb lines.
- The applicant has stated that he has submitted the same plan in this application as to what was imposed as a condition to the request for a variance to the landscape

regulations granted by Board of Adjustment Panel B on this property in March of 2014.

- The site is flat, virtually triangular in shape, and is approximately 1.3 acres in area. The site is zoned PD 621 (Subarea 1). The site has three front yard setbacks along each street frontages which is typical of any lot that encompasses virtually an entire block not zoned agricultural, single family, or duplex.
- According to DCAD records, the “improvements” at 1615 Market Center Boulevard is a 7,425 square foot “cocktail lounge” built in 1951.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the minimum sidewalk 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 No. 621 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 621 zoning classification.
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted site/landscape plan, the site would be “varied” from certain minimum sidewalk regulations of PD No. 621 as shown on this submitted site/landscape plan.

Timeline:

August 29, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2014: The Sustainable Development and Construction Interim Assistant Director assigned this case to Board of Adjustment Panel B.

October 15, 2014: 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 October 29th deadline to submit additional evidence for staff to factor into their analysis; and the November 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 15, 2014: The Board Administrator requested the applicant specify which of these specific sidewalk standards he is seeking variance from and to specify what the use is of the new construction on the site other than “building” by noon, October 29th.

September 26, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: Ed Simons, 900 Jackson St., #640, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Leone

I move that the Board of Adjustment grant application **BDA 134-106**, on application of Ed Simons, **grant** the variance to the minimum sidewalk regulations, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted alternate site/landscape plan is required.

SECONDED: Hounsel

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 134-113

BUILDING OFFICIAL'S REPORT: Application of Robert Reeves of Robert Reeves and Associates for a special exception to the single family use regulations at 414 N. Windomere Avenue. This property is more fully described as Lot 2, Block 13/3272, and is zoned PD 87 (Tract 1), H/15, which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit, which will require a special exception to the single family use regulations.

LOCATION: 414 N. Windomere Avenue

APPLICANT: Robert Reeves of Robert Reeves and Associates

REQUEST:

A request for a special exception to the single family use development standard regulations is made to convert and maintain with interior renovations only an existing two-story accessory structure into an additional "dwelling unit" on a site currently developed with a separate two-story dwelling unit/single family home structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE DEVELOPMENT STANDARDS REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

The board may grant a special exception to the single family use development standards regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting a special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Zoning:

Site: PD 87, H 15 (Planned Development, Historic)
North: PD 87, H 15 (Planned Development, Historic)
South: PD 87, H 15 (Planned Development, Historic)
East: PD 87, H 15 (Planned Development, Historic)
West: PD 87, H 15 (Planned Development, Historic)

Land Use:

The subject site is developed with a single family use – a main two story dwelling unit structure with a detached two-story accessory structure that the applicant intends to convert with interior modifications only to an additional “dwelling unit”. The areas to the north, south, east, and west are developed with single family uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on converting and maintaining with interior renovations only an existing two-story accessory structure into an additional “dwelling unit” on a site currently developed with a separate two-story dwelling unit/single family home structure.
- The site is zoned PD 87, H 15 (Tract 1) that states that except as otherwise provided in the ordinance, the development standards in the Dallas Development Code applicable to an R-7.5 Single-Family District applies. The R-7.5 zoning district permits “single family” use.
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and defines a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- The single family use regulations of the Chapter 51 state that one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit in any district when, in the opinion of the board, the additional dwelling will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.
- A site plan and a site plan/elevation/floor plan has been submitted denoting the locations of two building footprints on the site, the larger of the two denoted as “existing two story framed residence” and the smaller of the two denoted as “existing two story detached garage.” In addition to these documents, the applicant has submitted a document entitled “second floor new construction” that appears to be a representation of the rooms the applicant wants to convert in the second floor of the “existing two story detached garage.” While the submitted site plan/elevation/floor plan indicates that the second floor of the “existing two story detached garage” as a “game room,” the separate submitted floor plan entitled “second floor for new

construction” shows the following rooms: bedroom, living, kitchen/dining, and while not labeled, what appears to be a bathroom.

- Building Inspection staff has reviewed the submitted floor plan of the accessory structure and deemed it to be a dwelling unit - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- This request appears to center on the function of what is proposed to be located inside the existing two story accessory structure on the site. The applicant has stated that he is not expanding the existing accessory building and that regardless of the board action, the structure will remain in its current form and this client can still proceed with the same remodeling plan shown in the application but remove the kitchen, bathroom, or bedroom.
- The applicant has represented that the structure as it is represented on his submitted site plans complies with the all other applicable zoning code development standards since no application has been made for variance to setbacks or any other zoning code provision.
- It appears that if certain notations were removed from the second floor plan of the accessory structure (elimination of the “kitchen/dining” notation of the accessory structure) the structure then could be modified and maintained by right.
- DCAD records indicate that the property at 414 N. Windomere Avenue has the following improvements:
 - “main improvement:” a structure built in 1927 with 2,246 square feet of living and total area; and
 - “additional improvement:” a 540 square foot detached garage.
- As of November 10, 2014, three letters had been submitted to staff in support of the application and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve this request, the Board may choose to impose a condition that the applicant comply with the submitted site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements including setback and lot coverage requirements).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Timeline:

September 19, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 14, 2014: 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 October 29th deadline to submit additional evidence for staff to factor into their analysis; and the November 7th 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.

October 30, 2014: The Sustainable Development and Construction Historic Preservation Senior Planner emailed the Board Administrator the following comment: "414 N. Windomere is located within the Winnetka Heights historic district. Any exterior changes require review by the Landmark Commission through the Certificated of Appropriateness application process." (Note that the applicant has indicated that his client has been meeting with the staff on proceeding with an application for a CA).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Agnich

I move to grant that the Board of Adjustment grant application **BDA 134-113** 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 applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

SECONDED: Leone

AYES: 5 – Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5– 0 (unanimously)

FILE NUMBER: BDA 134-070

BUILDING OFFICIAL’S REPORT: Application of Abdul Hafeez Khan, represented by Warren Packer, for a special exception to the fence height regulations at 4820 Northaven Road. This property is more fully described as Lot 7, Block 1/6391, and is zoned R-1/2ac(A)(NSO 1), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 13 foot 1 inch high fence, which will require a 9 foot 1 inch special exception to the fence height regulations.

LOCATION: 4820 Northaven Road

APPLICANT: Abdul Hafeez Khan
Represented by Warren Packer and Ed Simons

REQUEST:

A request for a special exception to the fence height regulations of 9’ 1” had been originally made to construct and maintain a 7’ high fence (4’ high open metal fence atop a 3’ high solid base) with approximately 8’ high columns and an entryway feature that includes a 12’ high vehicular and pedestrian gates with 13’ 1” high entry column finials in the site’s 75’ front yard setback on a site being developed with a single family home.

Note the following:

1. this application is adjacent to a property to the west where the same applicant and owner sought a similar fence height special exception from Board of Adjustment Panel B: BDA 134-071; and
2. as of October 13, 2014, the applicant’s representative had submitted no additional or new information to staff.

But on October 31, 2014, the owner/applicant emailed the Board Administrator his request for the Board to deny his application (see Attachment C).

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-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)
- North: R-1/2 ac(A) (Single family district ½ acre)
- South: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)
- East: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)
- West: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)

Land Use:

The subject site is being developed with a single family home. The areas to the north, south, and west are developed with single family uses; the area to the east (and the subject site of BDA 134-071) is undeveloped.

Zoning/BDA History:

1. BDA 134-071, Property at 11217 Strait Lane (the lot immediately east of the subject site) On August 20, 2014, the Board of Adjustment Panel B considered requests for special exceptions to the fence height regulations of 9' 1" to construct/maintain a 7' high fence (4' high open metal fence atop a 3' high solid base) with approximately 8' high columns and an entryway feature that includes 12' high vehicular and pedestrian gates with 13' 1" high entry column finials, and delayed action until October 22, 2014. On October 22, 2014, the board delayed action on this request until November 19, 2014.
2. BDA 001-123, Property at 4821 Northaven Road (the lot immediately north of the subject site) On December 12, 2000, the Board of Adjustment Panel A granted a request to the fence height special regulations of 4'. The board imposed the following conditions with

the request: compliance with the elevation and a revised site plan that shows the location of the fence behind the shrub is required; and the retention of the approximately 8 foot high Japanese Ligustrum shrubs now existing on the property, (or its replacement with similar species) between the street curb and the proposed fence. The case report states the request was made to construct and maintain a 6' high open wrought iron fence, a 6' chain link fence, 7' high stone columns, and two 8' high wrought iron entry gates.

3. BDA 85-145, Property at 4719 Northaven Road (two lots northwest of the subject site)

On May 14, 1985, the Board of Adjustment denied a request for a "front yard variance" of 2' 6" without prejudice. The case report states the request was made to construct a masonry fence with wrought iron gates 6' 6" in height.

4. BDA 92-001, Property at 11220 Strait Lane (two lots east of the subject site)

On February 11, 1992, the Board of Adjustment granted a request for a fence height special exception of 4' to maintain a 6' fence with 8' columns and gates, and imposed the "submitted Landscape Plan "B"" as a condition to the request.

GENERAL FACTS/STAFF ANALYSIS:

- The original request focused on constructing and maintaining a 7' high fence (4' high open metal fence atop a 3' high solid base) with approximately 8' high columns and an entryway feature that includes 12' high vehicular and pedestrian gates with 13' 1" high entry column finials in the site's 75' front yard setback on a site being developed with a single family home.
- 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 applicant had originally submitted a site plan and elevation of the proposal in the front yard setbacks that reaches a maximum height of 13' 1".
- The following additional information was gleaned from the originally submitted site plan:
 - The fence is approximately 450' in length, approximately 4' from the property line, and approximately 12' from the pavement line; the gate is approximately 12' from the property line, and approximately 20' from the pavement line.
- There are two single family homes that have direct frontage to the proposal, one of which appears to have fence in its front yard – a fence that appears to be a result of

a granted fence height special exception from 2000: BDA 001-123 (see the “Zoning/BDA History” section of this case report for additional details).

- The Board Administrator conducted a field visit of the site and surrounding area (approximately 300’ east and west of the subject site) and noted no other visible fences higher than 4’ in a front yard setback other than the one previously mentioned directly north of the subject site.
- One letter had been submitted in support of the request and 16 letters had been submitted in opposition by/at the August 20th public hearing.
- As of October 13, 2014, no additional letters had been submitted in support of the request and 3 additional letters had been submitted in opposition.
- On October 31, 2014, the owner/applicant emailed the Board Administrator his request for the Board to deny his application (see Attachment C).

Timeline:

- June 16, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 15, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."
- July 15, 2014: 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 July 30th deadline to submit additional evidence for staff to factor into their analysis; and the August 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 5, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Chief Planner, the Assistant Building Official, the Board Administrator, Building Inspection Senior Plans Examiners/Development Code Specialists, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- August 4, 2014: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- August 20, 2014: The Board of Adjustment Panel B held a public hearing on this application and delayed action on this application until October 22, 2014 in order for the applicant to meet with neighboring property owners.

August 28, 2014: The Board Administrator sent a letter to the applicant's representative that noted the decision of the panel, the September 26th deadline to submit additional evidence for staff review and the October 10th deadline to submit additional evidence to be incorporated into the Board's docket materials.

October 7, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

October 22, 2014: The Board of Adjustment Panel B held a public hearing on this application, where the Board Administrator circulated additional written documentation to the Board at the briefing (see Attachment B). This documentation included a revised site plan and elevation submitted by the newly designated applicant's representative on October 17th. The Board delayed action on this application until November 19, 2014 in order for the newly designated applicant's representative to meet with neighboring property owners.

October 31, 2014: The owner/applicant emailed the Board Administrator his request for the Board to deny his application (see Attachment C).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: AUGUST 20, 2014

APPEARING IN FAVOR: Warren Packer, 1680 Prince William Lane, Frisco, TX

APPEARING IN OPPOSITION: Shelton Hopkins, 4707 Crooked LN, Dallas, TX
Judy Askew, 4719 Northaven Rd., Dallas, TX
Christopher Center, 4811 Northaven Rd., Dallas, TX
Kevin Bride, 4933 Mangold Cr., Dallas, TX
Bill Woodall, 4821 Northaven, Dallas, TX
Barbara Hannon, 4745 Crooked LN, Dallas, TX
Pat McBride, 4933 Mangold, Dallas, TX 7

MOTION: Gillespie

I move that the Board of Adjustment in Appeal No. **BDA 134-070**, hold this matter under advisement until **October 22, 2014**.

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2014

APPEARING IN FAVOR: Ed Simons, 900 Jackson St., Dallas, TX

APPEARING IN OPPOSITION: Shelton Hopkins, 4707 Crooked LN, Dallas, TX
Christopher Center, 4811 Northaven Rd., Dallas, TX
Jack Dugan, 4618 Crooked Lane, Dallas, TX
Mark Hannon, 4745 Crooked Lane, Dallas, TX

MOTION: Hounsel

I move that the Board of Adjustment in Appeal No. **BDA 134-070**, hold this matter under advisement until **November 19, 2014**.

SECONDED: Leone

AYES: 5– Reynolds, Leone, Hounsel, Brannon, Bartos

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: Ed Simons, 900 Jackson St., Dallas, TX

APPEARING IN OPPOSITION: Lisa Wyly, 4520 Melissa Lane, Dallas, TX
Katie Weaver, 4931 Crooked LN., Dallas, TX
Shelton Hopkins, 4707 Crooked LN, Dallas, TX

MOTION: Gillespie

I move that the Board of Adjustment in Appeal No. **BDA 134-070**, on application of Abdul Hafeez Khan, represented by Ed Simons, **deny** the special exception requested by this applicant **with prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: Agnich

AYES: 4 – Reynolds, Gillespie, Hounsel, Agnich

NAYS: 1 – Leone

MOTION PASSED 4 – 1

FILE NUMBER: BDA 134-071

BUILDING OFFICIAL’S REPORT: Application of Abdul Khan, represented by Warren Packer, for a special exception to the fence height regulations at 11217 Strait Lane. This property is more fully described as Lot 4A, Block 1/6391, and is zoned R-1/2ac(A)(NSO 1), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 13 foot 1 inch high fence in a required front yard, which will require a 9 foot 1 inch special exception to the fence height regulations.

LOCATION: 11217 Strait Lane

APPLICANT: Abdul Khan
Represented by Warren Packer and Ed Simons

REQUESTS:

Requests for special exceptions to the fence height regulations of 9’ 1” were originally made to construct and maintain the following on a site undeveloped site:

1. In the Northaven Road front yard setback: a 7’ high fence (4’ high open metal fence atop a 3’ high solid base) with approximately 8’ high columns in the site’s 75’ front yard setback.
2. In the Strait Lane front yard setback: a 7’ high fence (4’ high open metal fence atop a 3’ high solid base) with approximately 8’ high columns and an entryway feature that includes 12’ high vehicular and pedestrian gates with 13’ 1” high entry column finials.

Note the following:

- this application is adjacent to a property to the west where the same applicant and owner seeks a similar fence height special exception from Board of Adjustment Panel B: BDA 134-070; and

- as of October 13, 2014, the applicant's representative had submitted no additional or new information to staff.

But on October 31, 2014, the owner/applicant emailed the Board Administrator his request for the Board to deny his application (see Attachment B).

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.

Zoning:

Site: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)

North: R-1/2 ac(A) (Single family district ½ acre)

South: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)

East: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)

West: R-1/2ac (A)(NSO 1) (Single family district ½ acre, Neighborhood Stabilization Overlay)

Land Use:

The subject site is undeveloped. The areas to the north, south, and east are developed with single family uses; the area to the west (and the subject site of BDA 134-070) is being developed with a single family home.

Zoning/BDA History:

1. BDA 134-070, Property at 4820 Northaven (the lot immediately west of the subject site)

On August 20, 2014, the Board of Adjustment Panel B considered a request for special exception to the fence height regulations of 9' 1" to construct and maintain a 7' high fence (4' high open metal fence atop a 3' high solid base) with approximately 8' high columns and an entryway feature that includes a 12' high vehicular and pedestrian gates with 13' 1" high entry column finials in the site's 75' front yard setback on a site being developed with a single family home and delayed action until October 22, 2014. On October 22, 2014, the board delayed action on this request until November 19, 2014.

2. BDA 001-123, Property at 4821 Northaven Road (the lot immediately northwest of the subject site)

On December 12, 2000, the Board of Adjustment Panel A granted a request to the fence height special regulations of 4'. The board imposed the following conditions with the request: compliance with the elevation and a revised site plan that shows the location of the fence behind the shrub is required; and the retention of the approximately 8 foot high Japanese Ligustrum shrubs now existing on the property, (or its replacement with similar species) between the street curb and the proposed fence. The case report states the request was made to construct and maintain a 6' high open wrought iron fence, a 6' chain link fence, 7' high stone columns, and two 8' high wrought iron entry gates.

3. BDA 85-145, Property at 4719 Northaven Road (three lots northwest of the subject site)

On May 14, 1985, the Board of Adjustment denied a request for a "front yard variance" of 2' 6" without prejudice. The case report states the request was made to construct a masonry fence with wrought iron gates 6' 6" in height.

4. BDA 92-001, Property at 11220 Strait Lane (the lot immediately east of the subject site)

On February 11, 1992, the Board of Adjustment granted a request for a fence height special exception of 4' to maintain a 6' fence with 8' columns and gates, and imposed the "submitted Landscape Plan "B"" as a condition to the request.

GENERAL FACTS/STAFF ANALYSIS:

- The original requests focused on constructing and maintaining the following in the two front yard setbacks for the site located at the southwest corner of Northaven Road and Strait Lane on a site being developed with a single family home:
 - in the Northaven Road front yard setback a 7’ high fence (4’ high open metal fence atop a 3’ high solid base) with approximately 8’ high columns; and
 - in the Strait Lane front yard setback: a 7’ high fence (4’ high open metal fence atop a 3’ high solid base) with approximately 8’ high columns and an entryway feature that includes 12’ high vehicular and pedestrian gates with 13’ 1” high entry column finials.
- 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 applicant had submitted a site plan and elevation of the proposal in the front yard setbacks that reaches a maximum height of 13’ 1”.
- The following additional information was gleaned from the submitted site plan:
 - Along Northaven Road: The fence is approximately 150’ in length, approximately 4’ from the property line, and approximately 12’ from the pavement line.
 - Along Strait Lane: the fence is approximately 120’ in length, approximately 4’ from the property line, and approximately 18’ from the pavement line; the gate is approximately 12’ from the property line, and approximately 24’ from the pavement line.
- There is one single family home that has direct frontage to the proposal on Northaven Road and one single family home that has direct frontage to the proposal on Strait Lane, neither of which have visible fences in their front yards.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 300’ north, south, east, and west of the subject site) and noted one visible fence higher than 4’ in a front yard setback: an approximately 6’ high fence immediately northwest of the subject site that appears to be a result of a granted fence height special exception from 2000: BDA 001-123 (see the “Zoning/BDA History” section of this case report for additional details).
- One letter had been submitted in support of the request and 15 letters had been submitted in opposition by/at the August 20th public hearing.
- As of October 13, 2014, no additional letters had been submitted in support of the request and 3 additional letters had been submitted in opposition.
- On October 31, 2014, the owner/applicant emailed the Board Administrator his request for the Board to deny his application (see Attachment B).

Timeline:

- June 16, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 15, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

- July 15, 2014: 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 July 30th deadline to submit additional evidence for staff to factor into their analysis; and the August 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 5, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Chief Planner, the Assistant Building Official, the Board Administrator, Building Inspection Senior Plans Examiners/Development Code Specialists, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- August 20, 2014: The Board of Adjustment Panel B held a public hearing on this application and delayed action on this application until October 22, 2014 in order for the applicant to meet with neighboring property owners.
- August 28, 2014: The Board Administrator sent a letter to the applicant's representative that noted the decision of the panel, the September 26th deadline to submit additional evidence for staff review and the October 10th deadline to submit additional evidence to be incorporated into the Board's docket materials.
- October 7, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

October 22, 2014: The Board of Adjustment Panel B held a public hearing on this application, where the Board Administrator circulated additional written documentation to the Board at the briefing (see Attachment A). This documentation included a revised site plan and elevation submitted by the newly designated applicant's representative on October 17th. The Board delayed action on this application until November 19, 2014 in order for the newly designated applicant's representative to meet with neighboring property owners.

October 31, 2014: The owner/applicant emailed the Board Administrator his request for the Board to deny his application (see Attachment B).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: AUGUST 20, 2014

APPEARING IN FAVOR: Warren Packer, 1680 Prince William Lane, Frisco, TX

APPEARING IN OPPOSITION: Shelton Hopkins, 4707 Crooked LN, Dallas, TX
Judy Askew, 4719 Northaven Rd., Dallas, TX
Christopher Center, 4811 Northaven Rd., Dallas, TX
Kevin Bride, 4933 Mangold Cr., Dallas, TX
Bill Woodall, 4821 Northaven, Dallas, TX
Barbara Hannon, 4745 Crooked LN, Dallas, TX
Pat McBride, 4933 Mangold, Dallas, TX

MOTION: Gillespie

I move that the Board of Adjustment in Appeal No. **BDA 134-071**, hold this matter under advisement until **October 22, 2014**.

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Gaspard

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2014

APPEARING IN FAVOR: Ed Simons, 900 Jackson St., Dallas, TX

APPEARING IN OPPOSITION: Shelton Hopkins, 4707 Crooked LN, Dallas, TX
Christopher Center, 4811 Northaven Rd., Dallas, TX
Jack Dugan, 4618 Crooked Lane, Dallas, TX
Mark Hannon, 4745 Crooked Lane, Dallas, TX

MOTION: **Hounsel**

I move that the Board of Adjustment in Appeal No. **BDA 134-071**, hold this matter under advisement until **November 19, 2014**.

SECONDED: **Leone**

AYES: 5– Reynolds, Leone, Hounsel, Brannon, Bartos

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: Ed Simons, 900 Jackson St., Dallas, TX

APPEARING IN OPPOSITION: Lisa Wyly, 4520 Melissa Lane, Dallas, TX
Katie Weaver, 4931 Crooked LN., Dallas, TX
Shelton Hopkins, 4707 Crooked LN, Dallas, TX

MOTION: **Gillespie**

I move that the Board of Adjustment in Appeal No. **BDA 134-071**, on application of Abdul Hafeez Khan, represented by Ed Simons, **deny** the special exception requested by this applicant **with prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: **Agnich**

AYES: 4 – Reynolds, Gillespie, Hounsel, Agnich

NAYS: 1 – Leone

MOTION PASSED 4 – 1

FILE NUMBER: BDA 134-093

BUILDING OFFICIAL’S REPORT: Application of Brian Rutt for a variance to the landscape regulations at 1414 (aka: 1420) Dragon Street. This property is more fully described as part of Lot 1, Block 16/6846, and is zoned PD621 (Subdistrict 1), which requires mandatory landscaping. The applicant proposes to construct and maintain a

structure and provide an alternate landscape plan, which will require a variance to the landscape regulations.

LOCATION: 1414 (aka: 1420) Dragon Street

APPLICANT: Brian Rutt
Represented by Melissa Kingston

November 19, 2014 Public Hearing Notes:

- The Board Administrator circulated additional information submitted by the applicant's representative (Attachment F) to the Board at the briefing. Opposing citizens submitted written documentation to the Board at the public hearing.

REQUEST:

A variance to the landscape regulations is made to complete and maintain a recent 2nd floor addition to an existing circa 1950's structures/suites being redeveloped into restaurant/bar and office uses, and not fully meet the landscape regulations.

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.

ORIGINAL STAFF RECOMMENDATION (October 22, 2014):

Denial

Rationale:

- While the subject site is unique and different from most lots in the PD 621 zoning district in that it is of an irregular/virtually triangular shape, staff had concluded that the applicant had not substantiated how granting this variance was not needed to relieve a self-created or personal hardship since the applicant's second floor addition was what manifested the landscape requirements to this property.

UPDATED STAFF RECOMMENDATION (November 19, 2014):

Denial

Rationale:

- While the City of Dallas Chief Arborist has no objections to the applicant's revised landscape plan, and while the subject site is unique and different from most lots in the PD 621 zoning district in that it is of an irregular/virtually triangular shape, staff concluded that the applicant had not substantiated how these features precluded it from being developed in a manner commensurate with the development upon other parcels of land with the same PD 621 zoning – development most of which appear to be one-story, or if more than one story, such as the property to the north – properties that have not sought variance to the landscape regulations from the Board of Adjustment.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD 621 (Planned Development, Subdistrict1)
<u>North:</u>	PD 621 (Planned Development, Subdistrict1)
<u>South:</u>	PD 621 (Planned Development, Subdistrict1)
<u>East:</u>	PD 621 (Planned Development, Subdistrict1)
<u>West:</u>	PD 621 (Planned Development, Subdistrict1)

Land Use:

The site is currently developed with structures that according to DCAD were built in 1951. According to the applicant, he recently added a 2nd floor atop one of the suites on the site in conjunction with his plans to transition what had been a structure with office and gallery uses to office and restaurant/bar uses. The area to the north is developed with a mixed use development; and the areas to the east, south, and west appear mostly developed as office/warehouse uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on completing and maintaining a recent 2nd floor addition to an existing circa 1950's structure/suite being redeveloped into restaurant/bar and office uses, and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the proposed plan complies with no required landscape standards of PD 621, Subdistrict 1, for a floor area expansion of less than 50 percent.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- Given specific provisions of the landscape provisions of PD No. 621, the applicant can only seek these leniencies from the board of adjustment by requesting a *variance* to the landscape regulations within this PD as opposed to the more typical *special exception* to the landscape regulations.
- On October 10, 2014, the City of Dallas Chief Arborist submitted a memo regarding the applicant's original request (see Attachment A). The memo stated this request was triggered since the owner has increased the story height of a building.

- The Chief Arborist's October 10th memo stated the deficiencies in this case are that the proposed plan complied with no required landscape standards of PD 621, Subdistrict 1, for a floor area expansion of less than 50 percent.
- The Chief Arborist's October 10th memo listed the following factors for consideration:
 1. PD 621 landscape requirements include the following:
 - Street trees: One street tree per 25 feet of street frontage with a minimum of one. (This would require 4 street trees).
 - Subdistrict 1 General Requirements (that are triggered by the story height increase): Site trees (minimum of 4 trees required, none clearly provided); parking lot trees (not applicable); and design standards (two are required, none are provided).
 2. PD 621 additional standards for non-compliance on-site:
 - PD 621 also provides for an "open space fund" for if a property owner cannot plant all of the required trees on the building site – in these situations, the property owner shall comply with this requirement for no more than 50 percent of the required trees. (This measure would only account for only a portion of the overall landscape deficiency for the property).
 - For landscaping in the right-of-way, the City Council has not revoked a right-of-way landscape permit or private license agreement therefor the owner is required to comply with right-of-way landscape requirements if applicable.
 3. Non-required factors to consider in evaluation:
 - Landscaping on the rooftops is considered in this district where applicable. A landscape plan must accompany any application for a building permit to expand floor area if the expansion is over 50 percent for a non-residential structure. But this case does not required compliance with this additional provision.
 - Landscaping does not account for Architectural Design Guidelines or Site Design Requirements.
 - The variance standards apply for this case due to the non-Article X landscape requirements.
- While on October 10th, the Chief Arborist supported the reduced landscape based on how he felt that the variance was not contrary to public interest when owing to special conditions, a literal enforcement of this chapter results in unnecessary hardship and that the variance would permit developed of a specific parcel of lands by it restrictive area and shape, he recommended denial of the request since the applicant had not substantiated how the variance was not needed to relieve a self-created or personal hardship with the height addition that manifested the landscape requirements to this property.
- The site is flat, irregular in shape, and is approximately 0.117 acres (or approximately 5,100 square feet) in area. The site is zoned PD 621 (Subarea 1).
- According to DCAD records, the "improvements" at 1414 Dragon Street is a 4,291 square foot "restaurant" built in 1951. According to DCAD records, the "improvements" at 1420 Dragon Street is a 1,346 square foot "office/showroom " built in 1951.

- On October 29, 2014, the applicant's newly designated representative submitted, among other things included in this report as Attachment C, a revised landscape plan.

- On November 7, 2014, the the City of Dallas Chief Arborist submitted a memo regarding the applicant's revised request (see Attachment D). This memo stated that after reviewing plans for a revised alternate landscape plan by the applicant, he had no objections to the proposed plan; and that if variance is granted, it should apply to requirements in Article X and PD 621 regulations including Sections 51P-621.112(a)(3), Street Trees, and 51P621.112(b)(6) Open Space Fund.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape 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 No. 621 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 621 zoning classification.
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted revised alternate landscape plan, the site would be "varied" from certain landscape standards of PD No. 621, Subdistrict 1, as shown on this submitted revised alternate landscape plan.

Timeline:

- July 25, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- September 9, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- September 10, 2014: The Board Administrator shared the following information with the applicant via email:
- an attachment that provided the public hearing date and panel that will consider the application; the September 26th deadline to submit additional evidence for staff to factor into their analysis; and the October 10th 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."
- October 7, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public

hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

October 10, 2014: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).

October 22, 2014: The Board of Adjustment Panel B held a public hearing on this application, where the Board Administrator circulated additional written documentation to the Board at the briefing (see Attachment B). The Board delayed action on this application until November 19, 2014.

October 29, 2014: The Board Administrator sent a letter to the applicant's newly designated representative that noted the decision of the panel, and the November 7th deadline to submit additional evidence to be incorporated into the Board's docket materials.

October 29, 2014: The applicant's newly designated representative forwarded additional information to staff on this application (see Attachment C).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

November 7, 2014: The City of Dallas Chief Arborist submitted a revised memo regarding the request (see Attachment D).

November 7, 2014: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment E). Note that this information was not factored into the

staff recommendation given that it was received after the November 4th staff review team meeting.

BOARD OF ADJUSTMENT ACTION: OCTOBER 22, 2014

APPEARING IN FAVOR: Melissa Kingston, 5301 Spring Valley Road, Dallas, TX
Santos Martinez, 900 Jackson Street, Dallas, TX

APPEARING IN OPPOSITION: Shelly Stanzel, 154 Glass Street, Dallas, TX
Don Sallinger, 15150 Preston Road, Dallas, TX
Richard Stanzel, 315 Cole Street, Dallas, TX
Stanley Fagin, 14339 Regency Place, Dallas, TX
Robert Blankenship, 4851 JBJ Fwy, Dallas, TX

MOTION: **Bartos**

I move that the Board of Adjustment in Appeal No. **BDA 134-093**, hold this matter under advisement until **November 19, 2014**.

SECONDED: **Hounsel**

AYES: 5– Reynolds, Leone, Hounsel, Brannon, Bartos

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: Santos Martinez, 900 Jackson Street, Dallas, TX
Melissa Kingston, 5301 Spring Valley Road, Dallas,
TX
Stanley Fagin, 14339 Regency Place, Dallas, TX

APPEARING IN OPPOSITION: Shelly Stanzel, 154 Glass Street, Dallas, TX
Richard Stanzel, 315 Cole Street, Dallas, TX

MOTION #1: **Hounsel**

I move that the Board of Adjustment grant application **BDA 134-093**, on application of Brian Rutt represented by Melissa Kingston, **grant** the request to provide an alternate landscape plan as a variance to the landscape regulations in Article X of the Dallas Development Code, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with revised submitted alternate landscape plan is required.

SECONDED: **Leone**

AYES: 3 – Gillespie, Leone, Hounsel

NAYS: 2 – Reynolds, Agnich
MOTION FAILED 3 – 2

MOTION #2: Agnich

I move that the Board of Adjustment grant application **BDA 134-093**, on application of Brian Rutt represented by Melissa Kingston, **deny** the request to provide an alternate landscape plan as a variance to the landscape regulations **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of the 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, or is a self-created or personal hardship..

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 134-103

BUILDING OFFICIAL’S REPORT: Application of Christian Chernock, represented by Paul Zubiato, for a variance to the front yard setback regulations at 1038 Kings Highway. This property is more fully described as Lot 8, Block 8/3462, and is zoned CD 1, which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide a 0 foot front yard setback, which will require a 25 foot variance to the front yard setback regulations.

LOCATION: 1038 Kings Highway

APPLICANT: Christian Chernock
Represented by Paul Zubiato

November 19, 2014 Public Hearing Notes:

- The applicant’s representative submitted written documentation to the Board at the public hearing.

REQUESTS:

Requests for variances to the front yard setback regulations of up to 25’ are made to construct and maintain a 4-unit multifamily structure on an undeveloped site, part of which is to be located in the site’s two 25’ front yard setbacks on Kings Highway and Willomet Avenue.

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.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated at the time of the November 4th staff review team meeting how the features of the flat, virtually rectangular in shape, (approximately 150' x 50'), or 0.17 acre (or approximately 7,400 square foot) site precluded him from developing it in a manner commensurate with other developments found on similarly-zoned CD 1 lots.

BACKGROUND INFORMATION:

Zoning:

Site: CD 1 (Conservation District)
North: CD 1 (Conservation District)
South: PD 830 (Planned Development District)
East: CD 1 (Conservation District)
West: CD 1 (Conservation District)

Land Use:

The subject site is undeveloped. The areas to the north, east, and west are developed with multifamily uses; and the area to the south is developed with commercial uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 4-unit multifamily structure, part of which is to be located in the site's 25' Kings Highway and Willomet Avenue front yard setbacks.
- Structures on lots zoned CD 1 (Subarea 3) are required to provide a minimum front yard setback of 25'.
- The subject site is located at the southeast corner of Kings Highway and Willomet Avenue. Regardless of how the proposed structure is oriented, the subject site has two 25' front yard setbacks along both streets. The site has a 25' front yard setback along Kings Highway, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district subarea. The site also has a 25' front yard setback along Willomet Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where 10' setback is required for permitted uses other than single family or duplex. But the site's Willomet Avenue frontage is side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lot to the south zoned PD 830 that fronts/is oriented westward towards Willomet Avenue.
- A scaled site plan has been submitted indicating that a portion of the proposed 4-unit structure is located 20' from the Kings Highway front property line or 5' into this 25' front yard setback, and on the Willomet Avenue front property line or 25' into this 25' front yard setback.
- According to calculations taken by the Board Administrator from the submitted site plan, approximately 50 square feet of the structures approximately 3,400 square foot building footprint is located in the site's 25 Kings Highway front yard setback, and over half of the structure's approximately 3,400 square foot building footprint is to be located in the site's 25' Willomet Avenue front yard setback.
- According to DCAD records, there is no "main improvement" for property addressed at 1038 Kings Highway.
- The subject site is flat, virtually rectangular in shape, (approximately 150' x 50'), and according to the submitted application is 0.17 acres (or approximately 7,400 square feet) in area. The site is zoned CD 1 (Subarea 3) where this lot has two 25' front yard setbacks; and two 10' side yard setbacks when most lots in this zoning have one front yard setback, two side yard setbacks, and one rear yard setback.
- The 50' wide site has an approximately 15' width for development once a 25' front yard and a 10' side yard setback is accounted for. Other lots of this width in this zoning district with one front yard, two side yards, and one rear yard of the same width would have a 30' width for development.
- 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 CD 1 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 CD 1 zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structure in the front yard setbacks would be limited to what is shown on this document– which in this case is a portion of a structure located 20’ from the site’s Kings Highway front property line (or 5’ into this 25’ front yard setback) and as close as on the site’s Willomet Avenue front property line (or 25’ into this 25’ front yard setback).

Timeline:

August 20, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 14, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 29th deadline to submit additional evidence for staff to factor into their analysis; and the November 7th 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;
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- to meet within the next week with the Building Inspection Senior Plans Examiners/Development Code Specialist to amend his application by designating a representative given his recent service on the board of adjustment and the related provisions from Chapter 12, A-14.

November 4, 2014: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official’s report to the Board Administrator (see Attachment A).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable

Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

November 4, 2014: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment B). Note that this information was not factored into the staff recommendation given that it was received after conclusion of the November 4th staff review team meeting.

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: Paul Zubiata, P.O. Box 22211, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Gillespie

I move that the Board of Adjustment grant application **BDA 134-103**, on application of Christian Chernock, represented by Paul Zubiata, grant a 25 foot variance to the front yard setback regulations, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted site plan is required.

SECONDED: Leone

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

FILE NUMBER: BDA 134-114

BUILDING OFFICIAL'S REPORT: Application of Cynthia Walker, represented by William Chase Corker for variances to the front and side yard setback regulations at 6840 Lakewood Boulevard. This property is more fully described as part of Lot 1, Block J/2825, and is zoned R-10(A), which requires a front yard setback of 30 feet and requires a side yard setback of 6 feet. The applicant proposes to construct and

maintain a structure and provide a 10 foot front yard setback, which will require a 20 foot variance to the front yard setback regulations, and provide a 4 foot side yard setback, which will require a 2 foot variance to the side yard setback regulations.

LOCATION: 6840 Lakewood Boulevard

APPLICANT: Cynthia Walker
Represented by William Chase Corker

November 19, 2014 Public Hearing Notes:

- The Board Administrator circulated additional information submitted by the applicant's representative (Attachment B) to the Board at the briefing. Opposing citizens submitted written documentation to the Board at the public hearing.

REQUESTS:

The following requests have been made on a site developed with a nonconforming structure that is a single family home use:

- (1) a request for a variance to the front yard setback regulations of 20' is made to modify/renovate/add to an existing nonconforming single family home structure, part of which is/would be located 10' from one of the site's two front property lines: Hideaway Drive or 20' into this 30' front yard setback; and
- (2) a request for a variance to the side yard setback regulations of 2' is made to modify/renovate/add to an existing nonconforming single family home structure, part of which would be located 4' from one of the site's two side property lines: the southern side property line or 2' into this 6' side yard setback.

(No variances are requested for any structure to be located in the site's 30' front yard setback along Lakewood Boulevard or in the site's 6' western 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 variances):

Denial

Rationale:

- The applicant had not substantiated at the time of the November 4th staff review team meeting how the features of the R-10(A)-zoned, somewhat sloped, somewhat irregular in shape, and according to the submitted application is 0.44 acre (or approximately 19,200 square foot) subject site with two 30' front yard setbacks precluded him from developing it in a manner commensurate with other developments found on similarly-zoned R-10(A) lots.

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) (Single family residential 10,000 square feet)
North: R-7.5(A) (Single family residential 7,500 square feet)
South: R-10(A) (Single family residential 10,000 square feet)
East: R-10(A) (Single family residential 10,000 square feet)
West: R-10(A) (Single family residential 10,000 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- This request focuses on modifying/renovating/adding to an existing nonconforming single family home structure, part of which is/would be located 10' from one of the site's two 30' front property lines: Hideaway Drive (No variance is requested to locate any structure in the site's 30' front yard setback along Lakewood Boulevard).
- 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 southwest corner of Lakewood Boulevard and Hideaway Drive. Regardless of how the existing structure is oriented to front Lakewood Boulevard, the subject site has two 30' front yard setbacks along both streets. The site has a 30' front yard setback along Lakewood Boulevard, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 30' front yard setback along Hideaway Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where 6' setback is required. But the site's Hideaway Avenue frontage is side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the

lots to the south zoned R-10(A) that front/are oriented eastward towards Hideaway Drive.

- A scaled site plan has been submitted indicating that a portion of the proposed renovated structure is to be located 10' from the Hideaway front property line or 20' into this 30' front yard setback.
- According to DCAD records, the "main improvement" for property addressed at 6840 Lakewood Boulevard is a structure built in 1927 with 2,832 square feet of living/total area; and with the following additional improvements: a 216 square foot storage building, a 342 square foot attached garage, and a pool.
- The applicant has chosen only to seek variance to the front yard setback regulations for the new construction/addition to the existing structure on the site, and to not seek variance to remedy/address the nonconforming aspect of the existing nonconforming structure that is located in the site's Hideaway Drive front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The subject site is somewhat sloped, somewhat irregular in shape, and according to the submitted application is 0.44 acres (or approximately 19,200 square feet) in area. The site is zoned R-10(A) where this lot has two 30' front yard setbacks; and two 6' side yard setbacks when most lots in this zoning have 10,000 square feet, one 30' front yard setback, two 6' side yard setbacks, and one 6' rear yard setback.
- 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 R-10(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 R-10(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a portion of a structure located as close as 10' from the site's Hideaway Drive front property line (or 20' into this 30' front yard setback).

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on modifying/renovating/adding to an existing nonconforming single family home structure, part of which is/would be located 4' from one of the site's two 6' side property lines: the southern side property line. (No variance is requested to locate any structure in the site's 6' side yard setback on the west side of the site).
- Structures on lots zoned R-10(A) are required to provide a minimum side yard setback of 6'.
- The subject site is located at the southwest corner of Lakewood Boulevard and Hideaway Drive. Regardless of how the existing structure is oriented to front Lakewood Boulevard, the subject site has two 30' front yard setbacks along both streets. The site has a 30' front yard setback along Lakewood Boulevard, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 30' front yard setback along Hideaway Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where 6' setback is required. But the site's Hideaway Avenue frontage is side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots to the south zoned R-10(A) that front/are oriented eastward towards Hideaway Drive. Because the four-sided site has two front yard setbacks, it has two side yard setbacks and no rear yard setback.
- A scaled site plan has been submitted indicating that a portion of the proposed renovated structure is to be located 4' from the southern side property line or 2' into this 6' side yard setback.
- According to DCAD records, the "main improvement" for property addressed at 6840 Lakewood Boulevard is a structure built in 1927 with 2,832 square feet of living/total area; and with the following additional improvements: a 216 square foot storage building, a 342 square foot attached garage, and a pool.
- The applicant has chosen only to seek variance to the side yard setback regulations for the new construction/addition to the existing structure on the site, and to not seek variance to remedy/address the nonconforming aspect of the existing nonconforming structure that is located in the site's southern side yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The subject site is somewhat sloped, somewhat irregular in shape, and according to the submitted application is 0.44 acres (or approximately 19,200 square feet) in area. The site is zoned R-10(A) where this lot has two 30' front yard setbacks; and two 6' side yard setbacks when most lots in this zoning have 10,000 square feet, one 30' front yard setback, two 6' side yard setbacks, and one 6' rear yard setback.
- 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 R-10(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 R-10(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document– which in this case is a portion of a structure located as close as 4’ from the site’s southern side property line (or 2’ into this 6’ side yard setback).

Timeline:

September 23, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2014: The Interim Assistant Director of Sustainable Development and Construction acting on behalf of the Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 15, 2014: 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 October 29th deadline to submit additional evidence for staff to factor into their analysis; and the November 7th 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.

October 28, 2014: The applicant’s representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

November 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Assistant Building Official, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable

Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: NOVEMBER 19, 2014

APPEARING IN FAVOR: Chase Corker, 330 E. Tyler Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Hounsel

I move that the Board of Adjustment grant application **BDA 134-114**, on application of Cynthia Walker, represented by William Chase Corker, grant a 20 foot variance to the front yard setback regulations, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted site plan is required.

SECONDED: Gillespie

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION #2: Hounsel

I move that the Board of Adjustment grant application **BDA 134-114**, on application of Cynthia Walker, represented by William Chase Corker, grant a 2 foot variance to the side yard setback regulations, because our evaluation of the property and the testimony shows that the physical character of the 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 conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with submitted site plan is required.

SECONDED: Gillespie

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION: **Leone**

I move to adjourn this meeting.

SECONDED: **Agnich**

AYES: 5– Reynolds, Gillespie, Leone, Hounsel, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

4:50 P.M. Board Meeting adjourned for **November 19, 2014**

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.