

**BOARD OF ADJUSTMENT, PANEL C  
PUBLIC HEARING MINUTES  
DALLAS CITY HALL, COUNCIL CHAMBERS  
MONDAY, JUNE 18, 2012**

MEMBERS PRESENT AT BRIEFING: Bruce Richardson, Chair, Joel Maten, regular member, Ross Coulter, regular member, Bob Richard, regular member and Hilda Duarte, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

MEMBERS PRESENT AT HEARING: Bruce Richardson, Chair, Joel Maten, regular member, Ross Coulter, regular member, Bob Richard, regular member and Hilda Duarte, alternate member

MEMBERS ABSENT FROM HEARING: No one

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

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Tammy Palomino, Asst. City Atty., Todd Duerksen, Development Code Specialist, Lloyd Denman, Building Official, Phil Erwin, Chief Arborist and Trena Law, Board Secretary

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**11:00 A.M.** The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **June 18, 2012** docket.

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**1:04 P.M.**

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

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**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel C May 14, 2012 public hearing minutes.

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

**MOTION:** Richard

I move **approval** of the Monday, **May 14, 2012** public hearing minutes.

**SECONDED:** Maten

**AYES:** 5– Richardson, Maten, Coulter, Richard, Duarte

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:** Unassigned

**REQUEST:** To waive the \$1,200.00 filing fee for potential special exception requests to fence height and visual obstruction regulations

**LOCATION:** 322 Guthrie Street

**APPLICANT:** Daniel Rodriguez

**STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:**

The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waivers/reimbursements:

- The board may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant.
- The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board’s miscellaneous docket for predetermination.
- If the issue is placed on the miscellaneous docket, the applicant may not file the application until the merits of the request for a waiver have been determined by the board.
- In making this determination, the board may require the production of financial documents.

**Timeline:**

April 26, 2012: The applicant's son (Adrian Rodriguez) emailed a letter (and related attachments) requesting a waiver of the \$1,200.00 filing fee to be submitted in conjunction with potentially requests for special exceptions to fence height and visual obstruction regulations (see Attachment A) at property at 324 Guthrie Street.

May 22, 2012: The Board Administrator established with the applicant's son established that his father's request was for a waiver of the \$1,200.00 filing fee to be submitted in conjunction with potentially requests for special exceptions to fence height and visual obstruction regulations at property at 322 and 324 Guthrie Street.

May 24, 2012: The Board Administrator emailed the applicant's son information related to his father's fee waiver requests (see Attachment B).

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

**APPEARING IN FAVOR:** Daniel Rodriguez, 324 Guthrie, Dallas, TX  
Cindy Giodinez (translator), 330 Nimetz, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION:** **Maten**

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

**SECONDED:** **Coulter**

**AYES:** 5– Richardson, Maten, Coulter, Richard, Duarte

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**MISCELLANEOUS ITEM NO. 3**

**FILE NUMBER:** Unassigned

**REQUEST:** To waive the \$1,200.00 filing fee for potential special exception requests to fence height and visual obstruction regulations

**LOCATION:** 324 Guthrie Street

**APPLICANT:** Daniel Rodriguez

**STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:**

The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waivers/reimbursements:

- The board may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant.
- The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination.
- If the issue is placed on the miscellaneous docket, the applicant may not file the application until the merits of the request for a waiver have been determined by the board.
- In making this determination, the board may require the production of financial documents.

**Timeline:**

April 26, 2012: The applicant's son (Adrian Rodriguez) emailed a letter (and related attachments) requesting a waiver of the \$1,200.00 filing fee to be submitted in conjunction with potentially requests for special exceptions to fence height and visual obstruction regulations (see Attachment A) at property at 324 Guthrie Street.

May 22, 2012: The Board Administrator established with the applicant's son established that his father's request was for a waiver of the \$1,200.00 filing fee to be submitted in conjunction with potentially requests for special exceptions to fence height and visual obstruction regulations at property at 322 and 324 Guthrie Street.

May 24, 2012: The Board Administrator emailed the applicant's son information related to his father's fee waiver requests (see Attachment B).

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

APPEARING IN FAVOR: Daniel Rodriguez, 324 Guthrie, Dallas, TX  
Cindy Giodinez (translator), 330 Nimetz, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

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

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Duarte

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

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**FILE NUMBER:** BDA 112-057

**BUILDING OFFICIAL'S REPORT:**

Application of Richard Montesana for a special exception to the fence height regulations at 4447 Abrams Road. This property is more fully described as Lot 1 in City Block 7/2954 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a special exception of 4 feet.

**LOCATION:** 4447 Abrams Road

**APPLICANT:** Richard Montesana

**June 18, 2012 Public Hearing Notes:**

- The applicant submitted a revised site plan to the Board at the public hearing.

**REQUEST:**

- A special exception to the fence height regulations of 4' is requested along with replacing an approximately 6' high solid wood fence with an 8' high solid board-on-board wood fence and gate in the site's Lange Circle 20' required front yard. This site is developed with a single family home. (No part of this application is made to construct and/or maintain a fence higher than 4' in the site's Abrams Road required front yard).

**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.

**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.

**GENERAL FACTS:**

- The subject site is a corner lot zoned R-7.5(A) with two street frontages of unequal distance. The site is located at the southwest corner of Abrams Road and Lange Circle. Even though the Abrams Road frontage appears to function as its front yard and the Lange Circle frontage appears to function as its side yard, the subject site has two required front yards created by platted building lines: a 20' required front

yard along Lange Circle and a 35' required front yard along Lange Circle. The site has a required front yard along Abrams Road (the shorter of the two frontages is always deemed the front yard setback on a corner lot of unequal frontage distance in a single family zoning district), and a required front yard along Lange Circle (the longer of the two frontages of this corner lot of unequal frontage distance, which typically is regarded as a side yard where a 9' high fence could be maintained by right). The site's Lange Circle frontage is deemed a front yard to maintain the continuity of the established front yard setback along this street because the lots immediately south and west front Lange Circle and have front yard setbacks along this street.

- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally 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 scaled site and elevation that shows the proposal in the Lange Circle required front yard reaching a maximum height of 8 feet.
- The following additional information was gleaned from the submitted site plan:
  - Approximately 95' in length parallel to Lange Circle and approximately 17' in length perpendicular on the east and west sides of the site in the front yard setback.
  - Approximately 3' from the Lange Circle front property line and approximately 18' from the pavement line.

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

### **Land Use:**

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

### **Zoning/BDA History:**

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

### **Timeline:**

- April 12, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 17, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 5, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

### **STAFF ANALYSIS:**

- This request focuses on replacing an approximately 6’ high solid wood fence with an 8’ high solid board-on-board wood fence and gate in the site’s Lange Circle 20’ required front yard.
- The submitted scaled site plan and elevation documents the location, height, and materials of the fence over 4’ in height in the required front yard. The site plan shows the proposal to be approximately 95’ in length parallel to Lange Circle and approximately 17’ in length *perpendicular* on the east and west sides of the site in the required front yard; and to be located approximately 3’ from the front property line or about 18’ from the pavement line.
- Three single family homes “front” to the proposed fence/wall, none of which has a fence in their front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 500 feet east and west of the subject site) and noted no other fences above 4 feet high in a front yard setback.

- As of June 11, 2012, no letters had been submitted to staff in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8' in height) will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the Lange Circle required front yard to be constructed/maintained in the location and of the heights and materials as shown on these documents.

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

APPEARING IN FAVOR: Richard Montesana, 4447 Abrams Rd., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Richard**

I move that the Board of Adjustment, in Appeal No. **BDA 112-057**, on application of Richard Montesana, **grant** the request of this applicant to construct and maintain an 8-foot-high fence on the property as a special exception to the height requirement for fences in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted revised site plan and elevation is required.
- 15 bushes as shown on the revised site plan must be dwarf holly or an equivalent as determined by the chief arborist.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Duarte

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)

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FILE NUMBER: BDA 112-067

**BUILDING OFFICIAL'S REPORT:**

Application of Mark C. Webb for a variance to the front yard setback regulations at 8610 Eustis Avenue. This property is more fully described as Lot 44A in City Block A/5248 and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct a structure and provide a 10 foot front yard setback, which will require a variance of 15 feet.

**LOCATION:** 8610 Eustis Avenue

**APPLICANT:** Mark C. Webb

**REQUEST:**

- A variance to the front yard setback regulations of 15' is requested in conjunction with constructing and maintaining a two-story single family home structure, part of which would be located in one of the site's two 25' front yard setbacks (Eustis Avenue) on a site that is currently undeveloped. (No request has been made in this application to construct/maintain any structure in the site's Lakeland Avenue front yard setback).

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-7.5(A) in that it is a slightly irregularly-shaped corner lot with a restrictive area due to its size and its two front yard setbacks. The atypical two front yard setbacks on the approximately 8,600 square foot slightly irregularly-shaped lot precludes it from being developed in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property being the maintenance of a single family home with an approximately 1,500 square foot building footprint. The site has a 0 – 14' width for development once a 25' front yard setback and a 5' side yard setback is accounted for on the 27' – 48' wide subject site.

**STANDARD FOR A VARIANCE:**

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

## **GENERAL FACTS:**

- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25’.
- The subject site is located at the east corner of Lakeland Avenue and Eustis Avenue. Regardless of how the proposed single-family structure appears to be oriented to Eustis Avenue, the subject site has two 25’ front yard setbacks along both streets. The site has a 25’ front yard setback along Lakeland Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 25’ front yard setback along Eustis Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 5’ setback is required. But the site’s Eustis Avenue frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes northeast of the site that front/are oriented northwestward onto Eustis Avenue.
- A scaled site plan has been submitted indicating that the proposed single family home would be located 10’ from the Eustis Avenue front property line or 15’ into the 25’ front yard setback. (No encroachment is proposed in the Lakeland Avenue 25’ front yard setback).
- According to DCAD records, there are “no main improvements” at 8610 Eustis Avenue.
- The subject site is sloped, somewhat irregular in shape (48’ on the northeast, 27’ on the southwest, and approximately 231’ on the northwest and southeast), and approximately 8,600 square feet in area. The site has two 25’ front yard setbacks; and two 5’ side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- Although the zoning map shows that the site is located in Flood Plain, the City of Dallas Flood Plain Manager has emailed the Board Administrator that “this area comes out of the floodplain with the new 2010 maps... and is an area that has been consistently mapped incorrectly.”

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>North:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>South:</u>	R-10(A) (Single family district 10,000 square feet)
<u>East:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>West:</u>	R-10(A) (Single family district 10,000 square feet)

### **Land Use:**

The subject site is undeveloped. The areas to the north, south, east, and west are either undeveloped parcels of land or developed with single family uses.

**Zoning/BDA History:**

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| 1. BDA 101-124, Property at 8610 Eustis Avenue (the southwestern half of the subject site) | On December 12, 2011, the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a condition. The case report stated that the request was made in conjunction with constructing and maintaining a two-story single family home structure, part of which would be located in one of the site's two 25' front yard setbacks (Eustis Avenue) on a site that is currently undeveloped. (No request was made in this application to construct/maintain any structure in the site's Lakeland Avenue front yard setback). |
|--|--|

**Timeline:**

- April 16, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. 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."
- May 17, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- June 5, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant

Director, the Board Administrator, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- This request focuses on constructing and maintaining a two-story single family structure, part of which would be located in one of the two 25' front yard setbacks (Eustis Avenue).
- Regardless of how the proposed structure is oriented, the site has two 25' front yard setbacks along both streets -- Lakeland Avenue and Eustis Avenue.
- The site's Eustis Avenue frontage is deemed a front yard setback to maintain the continuity of the established front yard setback established by the lots developed with single family homes northeast of the site that front/are oriented northwestward onto Eustis Avenue.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed home to be located in the site's Eustis Avenue 25' front yard setback is approximately 1,000 square feet in area or approximately 66 percent of the approximately 1,500 square foot building footprint.
- The subject site is flat, somewhat irregular in shape (44' on the northeast, 27' on the southwest, and approximately 231' on the northwest and southeast). The application states that the site is 0.14 acres or approximately 8,600 square feet in area. The site has two 25' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback. The site has a 0 – 14' width for development once a 25' front yard and a 5' side yard setback is accounted for on the 27' – 48' wide subject site.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Eustis Street 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-7.5(A) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(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 structure to be located 10' from the Eustis Street front property line (or 15' into this 25' front yard setback).

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

**APPEARING IN FAVOR:** No one

**APPEARING IN OPPOSITION:** No one

**MOTION:** **Maten**

I move that the Board of Adjustment grant application **BDA 101-067** 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 the intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

**SECONDED:** **Maten**

**AYES:** 5– Richardson, Maten, Coulter, Richard, Duarte

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 112-073

**BUILDING OFFICIAL’S REPORT:**

Application of Kevin Taylor for a special exception to the single family regulations and variances to the side and rear yard setback regulations at 6938 Wildgrove Avenue. This property is more fully described as Lot 14 in City Block D/2810 and is zoned R-10(A), which limits the number of dwelling units to one and requires a 6 foot side and rear yard setback. The applicant proposes to construct and maintain an additional dwelling unit, which will require a special exception to the single family zoning use regulations; to provide a 3 foot 6 inch side yard setback, which will require a 2 foot 6 inch variance to the side yard setback regulations; and provide a 0 foot rear yard setback, which will require a 6 foot variance to the rear yard setback regulations.

**LOCATION:** 6938 Wildgrove Avenue

**APPLICANT:** Kevin Taylor

**REQUESTS:**

- The following appeals have been made on a site that is currently developed with an existing two-story single family home structure and an existing detached

garage/accessory structure that is in the process of being enlarged with a second story and with an outdoor staircase structure on its western wall:

- a variance to the side yard setback regulations of approximately 2' 6" to complete and maintain a second story addition to align with the existing accessory structure , part of which is located in the site's eastern 6' side yard setback;
- a variance to the rear yard setback regulations of up to 6' to complete and maintain a second story addition to align with the existing nonconforming accessory structure, part of which is located in the site's 6' rear yard setback;
- a variance to the rear yard setback regulations of up to 6' is requested to construct and maintain an outdoor stairway structure, part of which would be located in the site's 6' rear yard setback; and
- a special exception to the single family use development standard regulations to replace a "living space" that included a full bath and kitchen on the first floor of the accessory structure and completing and maintaining the proposed second story addition/dwelling unit on a site currently developed with a dwelling unit/single family home structure.

#### **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:

- 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;
- 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
- 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 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 special exception 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 (variances):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-10(A) in that it is: 1) slightly-sloped, 2) slightly irregular in shape (a rectangular-shaped property without any 90 degree angles); and 3) restrictive in area caused by: a) being approximately 2,200 square feet less than the typical lot in the zoning district (10,000 square feet); b) a large, mature Pecan tree located in virtually the center of the property's back yard; and c) National Register of Historic Places-designated main and accessory structures/building footprints, all of which creates hardship on the lot and precludes the applicant from further developing it with additional living and garage area that appears to be commensurate with development found on other properties zoned R-10(A).
- The applicant has submitted a document that states among other things how the total living area of the property after proposed completion of the second floor of the accessory structure would be approximately 3,700 square feet – a size that the applicant states is of similar size as 50 others in the area zoned R-10(A) with 45 of these having more than the proposal on the site, and with 6 of these being within a block of the property.

**STAFF RECOMMENDATION (single family special exception):**

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.

**GENERAL FACTS (variances):**

- Structures on lots zoned R-10(A) are required to provide a minimum side and rear yard setback of 6'.
- A site plan has been submitted denoting a portion of a "two story stone/stucco" accessory structure with what appears to be a stairway structure attached to its western wall that is as located 3.8' from the site's eastern side property line (or about 2' 6" into the 6' required side yard setback) and as close as 0' from the rear property line (or as much as 6' into the 6' required rear yard setback).
- The subject site is somewhat sloped, virtually rectangular in shape (60' on the north, 60 feet on the south, 137.5 feet on the east, and 134.7 feet on the west) and

according to the application, is 0.18 acres (or approximately 7,800 square feet) in area. The site is zoned R-10(A) where lots in this zoning district are typically 10,000 square feet in area.

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

**GENERAL FACTS (single family use special exception):**

The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”

- A site plan has been submitted denoting the location of the two building footprints. Floor plans have been submitted of the accessory structure on the site. The submitted plans indicate that the first floor of the detached accessory structure include “2-car garage” and “work room,” and the second floor include “living room,” “bath,” and “cantilevered balcony.” Building Inspection staff had reviewed the originally submitted floor plans and deemed it a “dwelling unit.”
- According to DCAD records, the “main improvement” at 6938 Wildgrove Avenue is a structure built in 1925 with 3,209 square feet of living area; with “additional improvements” being a “detached garage” with 200 square feet and an “enclosed garage” with 200 square feet.
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachments A and B).

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-10(A) (Single family district 10,000 square feet)  
North: R-10(A) (Single family district 10,000 square feet)  
South: R-10(A) (Single family district 10,000 square feet)  
East: R-10(A) (Single family district 10,000 square feet)  
West: R-10(A) (Single family district 10,000 square feet)

**Land Use:**

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

**Zoning/BDA History:**

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

**Timeline:**

- May 6, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 17, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- May 30, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- June 1, 2012: The Sustainable Development and Construction Department Senior Planner in Historic Preservation indicated he did not have any comments on this application, and submitted documents that the house located at 6938 Wildgrove Avenue is certified in the National Register of Historic Places as the “Dallas Times Herald Pasadena Perfect Home” with a historic subfunction as single dwelling and secondary structure.
- June 5, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- June 8, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

**STAFF ANALYSIS (variances):**

- These requests focus on completing and maintaining a second story addition to align with an existing nonconforming accessory structure (as to its location in the required rear yard setback) located in the eastern side and rear yard setback on this site, and constructing and maintaining an outdoor stairway structure that would attach to this structure and be located in the rear yard setback.
- A site plan has been submitted denoting a portion of a “two story stone/stucco” accessory structure with what appears to be a stairway structure attached to its western wall that is as located 3.8’ from the site’s eastern side property line (or about 2’ 6” into the 6’ required side yard setback) and as close as 0’ from the rear property line (or as much as 6’ into the 6’ required rear yard setback) Or as far as 4’ from the rear property line (or as little as 2’ into the 6’ required rear yard setback).
- The existing accessory structure (constructed in 1925, according to DCAD) *without the recently added 2<sup>nd</sup> story* appears to be a nonconforming structure as to the rear yard setback - a structure that does not conform to the current side and rear yard setback regulations but was lawfully constructed under the regulations in force at the time of construction. (Note that no side yard setback is required for this or any such accessory structure in the rear 30 percent of the lot and not exceeding 15 feet in height on any property zoned R-10(A)).
- The Dallas Development Code states that a person may renovate, remodel, repair, or rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations. The Dallas Development Code states that the right to rebuild a nonconforming structure cease if the structure is destroyed by the intentional act of the owner or the owner’s agent.
- With the exception of an added staircase structure that would be partly located in the site’s rear yard setback, the applicant seeks variance to the side and rear yard setback regulations given this code provision since he proposes to cause the structure to become more nonconforming with regard to the site’s 6’ rear yard setback and with raising the structure above 15’ in height where only at this point a 6’ side yard setback is required. The 2<sup>nd</sup> floor addition requiring variance does not encroach closer to the property lines than what has existed on the property since 1925.
- According to calculations made by the Board Administrator from the submitted site plan, the building footprint of the accessory structure is approximately 530 square feet (19’ x 28’) of which about 40 square feet (or less than 1/10 of the structure) is located in the site’s eastern side yard setback.
- According to calculations made by the Board Administrator from the submitted site plan, the building footprint of the accessory structure is approximately 530 square feet (19’ x 28’) of which about 50 square feet (or about 1/10 of the structure) is located in the site’s rear yard setback.
- According to calculations made by the Board Administrator from the submitted site plan, about ½ of the approximately 54 square foot (9’ x 6’) stairway structure is to be located in the site’s rear yard setback.
- According to DCAD records, the “main improvement” at 6938 Wildgrove Avenue is a structure built in 1925 with 3,209 square feet of living area; with “additional

improvements” being a “detached garage” with 200 square feet and an “enclosed garage” with 200 square feet.

- The subject site is somewhat sloped, virtually rectangular in shape (60’ on the north, 60 feet on the south, 137.5 feet on the east, and 134.7 feet on the west) and according to the application, is 0.18 acres (or approximately 7,800 square feet) in area. The site is zoned R-10(A) where lots in this zoning district are typically 10,000 square feet in area.
- The applicant has submitted exhibits that document among other things how: the property is 3’ longer on its west side than east side (creating a slightly irregular-shaped lot where the existing accessory structure is not equidistant from the rear property line); the existence and location of a 90 year old Pecan tree (with a circumference of 6’ 10”) in the middle of the property.
- The applicant has submitted a document that states among other things how the total living area of the property after completion of the additional dwelling unit would be 3,751 square feet – a size that the applicant states is of similar size as 50 others in the area zoned R-10(A) with 45 have more than his proposal and 6 being with a block of the property.
- The applicant has the burden of proof in establishing the following:
  - That granting the variances to side and rear 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 R-10(A) zoning classification.
  - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-10(A) zoning classification.
- If the Board were to grant the variance requests and impose the submitted site plan as a condition, the structures in the side and rear yard setbacks would be limited to what is shown on this document– which in this case is a structure to be located as close as 3’ 6” from the site’s eastern side property line (or 2’ 6” into this 6’ side yard setback) and as close as on the rear property line (or as much as 6’ into this 6’ rear yard setback).

**STAFF ANALYSIS (single family use special exception):**

- This request focuses on replacing a “living space” that included a full bath and kitchen on the first floor of the accessory structure and completing and maintaining the proposed second story addition/dwelling unit structure on a site currently developed with a dwelling unit/single family home structure.
- The site is zoned R-10(A) (Single family district 10,000 square feet) where the Dallas Development Code permits one dwelling unit per lot. The site is developed with a

single family home/dwelling unit where an additional dwelling unit/accessory structure is proposed on the site hence the special exception request.

- Building Inspection staff has reviewed the submitted floor plans of the proposed two-story accessory structure and deemed it 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.” The submitted floor plans indicate that the first floor of the detached accessory structure includes “2-car garage” and “work room,” and the second floor includes “living room,” “bath,” and “cantilevered balcony.”
- As of June 11, 2012, a petition signed by 26 neighbors/owner (accompanied by individual letters written by each petitioner) had been submitted to staff in support of the request, 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 the request for a special exception to the single family regulations, the Board may want to determine if they feel that imposing a condition that the applicant comply with the submitted site plan and/or floor plan are necessary in assuring that the special exception will not adversely affect neighboring properties. Note that 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 but not limited to setback and 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.

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

**MOTION: Maten**

I move that the Board of Adjustment grant application **BDA 101-073** 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 the intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.
- The property must be deed-restricted to prohibit the additional dwelling unit from being used as rental accommodations.

**SECONDED: Maten**

**AYES:** 5– Richardson, Maten, Coulter, Richard, Duarte

**NAYS:** 0 –

**MOTION PASSED:** 5– 0 (unanimously)

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**FILE NUMBER:** BDA 112-069

**BUILDING OFFICIAL’S REPORT:**

Application of Jonathan Vinson for a variance to the off-street parking regulations at 2728 Cedar Springs Road. This property is more fully described as Lot 1E in City Block 13/958 and is zoned PD-184 (Zone 1), which requires off-street parking to be provided. The applicant proposes to construct a structure for multifamily use and provide 1.5 of the required 2 off-street parking spaces per dwelling unit, which will require a variance to the required off-street parking regulations of 0.5 spaces per dwelling unit for a reduction of 25 percent.

**LOCATION:** 2728 Cedar Springs Road

**APPLICANT:** Jonathan Vinson

**REQUEST:**

- A variance to the applicable off-street parking regulations for the multifamily use of PD 184, Zone 1, is to according to an amended application (see Attachment B) “reduce the currently-required parking ratio for the “multiple family” (per PD 184) multifamily use from 2.0 spaces per dwelling unit to 1.5 spaces per dwelling unit (including the 0.25 unassigned space per unit visitor parking” for a reduction of 25 percent from the currently-required parking ratio.” (The subject site is currently undeveloped).

**STAFF RECOMMENDATION:**

Rationale:

- The applicant had not substantiated the following:
  - a. how a literal enforcement of the code provisions would result in unnecessary hardship (the parking standard requested to be varied was specifically adopted by Council for this specific development site in May of 2008);
  - b. how the variance is necessary to permit development of the subject site in that it is different from other parcels of land by its restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels with the same PD 184 (Zone 1) zoning district (the subject site is the only parcel of land with this zoning);
  - c. nor how the variance is not needed to relieve a self-created or personal hardship, nor for financial reasons only.

- Neither the site's slope nor its irregular shape preclude the applicant from developing the subject site in compliance with the off-street parking regulations of PD 184 (Zone 1) - the only parcel of land with this zoning classification with a specific set of development standards adopted in 2008 for this specific development site.
- The Sustainable Development and Construction Department Engineering Division Assistant Director recommends that this request be denied commenting "Engineering agrees with the parking analysis as submitted but does not support this parking variance as the vehicle to reduce required parking within this PD. No special conditions are evident that would result in an unnecessary hardship on the property if the PD was enforced. It was because of the "public interest" that the parking requirements within PD 184 were created."

**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, lot 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:

- (A) the variance is 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) the variance is 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) the variance is 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.

**GENERAL FACTS:**

- The subject site is zoned PD 184, Zone 1. The subject site is the only property zoned PD 184 (Zone 1); and only one of two properties in PD 184 (the other PD 184-zoned property being located in Zone 2). The parking standards requested to be varied were adopted as part of a zoning amendment that increased height on a portion of the subject site from 196 feet to 299 feet while restricting height on other portions of the site. These amendments were adopted by City Council in May of 2008 and impacted only this specific development site.
- The parking standards adopted as part of the 2008 PD 184 zoning amendment are as follows: a minimum of two off-street parking spaces is required for each dwelling unit, with at least 0.25 of the off-street parking spaces left unassigned for guest parking. Compact parking spaces are prohibited.
- The applicant has submitted an amended application for a variance to the applicable off-street parking regulations for the multifamily use of PD 184, Zone 1 (see Attachment B). The applicant's revised application states that the application is

made “to reduce the currently-required parking ratio for the “multiple family” (per PD 184) multifamily use from 2.0 spaces per dwelling unit to 1.5 spaces per dwelling unit (including the 0.25 unassigned space per unit visitor parking) for a reduction of 25 percent from the currently-required parking ratio.”

- Dallas Development Code Section 51A-4.311(a)(1) states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- However, Dallas Development Code Section 51A-311(a)(6) states that the Board of Adjustment *shall not* grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
  - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
  - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.
- Therefore, because PD 184 expressly specifies the number of off-street parking spaces for multifamily uses, this request to reduce the off-street parking regulations in PD 184 from 2.0 spaces per dwelling unit to 1.5 spaces per dwelling unit, including the 0.25 unassigned space per unit visitor parking, for a reduction of 25 percent the applicant may only apply for a *variance* and only the variance standard applies.
- The subject site has some slope. The site slopes down to Cedar Springs as it crosses under the Katy Trail but is primarily flat from Carlisle back to the Katy Trail.
- The subject site is not strictly rectangular so could be considered somewhat irregular in shape and, according to the application, 2.3 acres in area, which is larger than Zone 2 of Planned Development No. 184 that was developed in 1985.
- DCAD records indicate “no improvements” for property at 2728 Cedar Springs Road.
- On June 8, 2012, the applicant submitted additional information for the board’s consideration beyond what was submitted with the original application (see Attachment C).

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 184 (Zone 1) (Planned Development)  
North: PD 193 (PDS 61) (Planned Development, Planned Development)

South: PD 193 (PDS 61) (Planned Development, Planned Development)  
East: PD 184 (Zone 1) (Planned Development)  
West: PD 193 (HC) (Planned Development, Heavy Commercial)

**Land Use:**

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

**Zoning/BDA History:**

This tract of Planned Development No. 284 was amended on May 28, 2008 to require a minimum of two parking spaces per multifamily dwelling unit. There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

**Timeline:**

- April 27, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 17, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- May 25, 2012: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded an amended application and Building Official’s Report to the Board Administrator (see Attachment A).
- June 5, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Sustainable Development

and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

June 6, 2012: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded an amended application and Building Official's Report to the Board Administrator (see Attachment B).

June 7, 2012: The Sustainable Development and Construction Department Engineering Division Assistant Director has submitted a review comment sheet marked "Recommends that this be denied" commenting "Engineering agrees with the parking analysis as submitted but does not support this parking variance as the vehicle to reduce required parking within this PD. No special conditions are evident that would result in an unnecessary hardship on the property if the PD was enforced. It was because of the "public interest" that the parking requirements within PD 184 were created."

June 8, 2012: The applicant forwarded additional information beyond what was submitted with the original application and beyond what was discussed at the June 5<sup>th</sup> staff review team meeting (see Attachment C).

### **STAFF ANALYSIS:**

- This request focuses on reducing the parking ratio for the "multiple family"/ multifamily use required in PD 184 from 2.0 spaces per dwelling unit to 1.5 spaces per dwelling unit, including the 0.25 unassigned space per unit visitor parking, for a reduction of 25 percent from the ordinance required parking ratio on a site is currently undeveloped.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations of 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 184 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 184 zoning classification.

- The subject site has some slope. The site slopes down to Cedar Springs as it crosses under the Katy Trail but is primarily flat from Carlisle back to the Katy Trail.
- The subject site is not strictly rectangular so could be considered somewhat irregular in shape and, according to the application, 2.3 acres in area, which is larger than Zone 2 of Planned Development No. 184 that was developed in 1985.
- Given that the City Council approved amendments to PD 184 to require 2 off-street parking spaces per multifamily dwelling unit for development on this specific tract as recent as May 28, 2008, staff believes the appropriate forum for this request is an application for a zoning amendment to the parking requirements in PD 184.

The Sustainable Development and Construction Department Engineering Division Assistant Director has submitted a review comment sheet marked "Recommends that this be denied" commenting "Engineering agrees with the parking analysis as submitted but does not support this parking variance as the vehicle to reduce required parking within this PD. No special conditions are evident that would result in an unnecessary hardship on the property if the PD was enforced. It was because of the "public interest" that the parking requirements within PD 184 were created."

**BOARD OF ADJUSTMENT ACTION: JUNE 18, 2012**

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

APPEARING IN OPPOSITION: Frank Stich, 4224 N Hall St., Dallas, TX

MOTION: **Richard**

I move that the Board of Adjustment, in Appeal No. **BDA 112-069**, hold this matter under advisement until **August 13, 2012**.

SECONDED: **Coulter**

AYES: 3–Coulter, Richard, Duarte

NAYS: 2 – Richardson, Maten

MOTION PASSED: 3– 2

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MOTION: **Maten**

I move to adjourn this meeting.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Duarte

NAYS: 0 -

MOTION PASSED: 5 – 0 (Unanimously)

**1:57 P. M.** - Board Meeting adjourned for **June 18, 2012**.

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CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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