

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, SEPTEMBER 15, 2014
AGENDA

BRIEFING	ROOM L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	11:00 A.M.
PUBLIC HEARING	ROOM L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	1:00 P.M.

Donna Moorman, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the August 18, 2014 Board of Adjustment Panel C Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 134-079	2662 Sutton Street REQUEST: Application of Harvey Wright for a variance to the front yard setback regulations	1
BDA 134-089	3706 Duchess Trail REQUEST: Application of John L. Bourret, represented by Amy J. Bourret, for a special exception to the fence height regulations	2

HOLDOVER CASES

BDA 134-059	2114 Clements Street REQUEST: Application of John Moncure Henderson, IV for variances to the front and side yard setback regulations, and a variance to the off-street parking regulations	3
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BDA 134-065D

3005 Fairmount Street

4

REQUEST: Application of Ann Covington-Wilburn, represented by Craig Barnes, for a special exception to the landscape regulations

REGULAR CASE

BDA 134-084

4020 Gilbert Avenue

5

REQUEST: Application of Robert Baldwin for a variance to the off-street parking regulations

EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C August 18, 2014 public hearing minutes.

FILE NUMBER: BDA 134-079

BUILDING OFFICIAL'S REPORT: Application of Harvey Wright for a variance to the front yard setback regulations at 2662 Sutton Street. This property is more fully described as Lot 1, Block 15/1841, and is zoned PD595 (R-5(A)), which requires a front yard setback of 20 feet. The applicant proposes to construct and/or maintain a structure and provide an 11 foot front yard setback, which will require a 9 foot variance to the front yard setback regulations.

LOCATION: 2662 Sutton Street

APPLICANT: Harvey Wright

REQUESTS:

Requests for variances to the front yard setback regulations of up to 9' are made to maintain a porch and ramp structures, part or all of which are located in the site's 20' Sutton Street front yard setback, and to maintain single family home and porch structures, part of which are located in the site's 20' Spring Street front yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The approximately 3,900 square foot subject site is unique and different from most lots zoned PD 595 (R-5) in that:
 - 1) it is a corner lot with a restrictive area due to its size/width and its two front yard setbacks, and
 - 2) its total area is approximately 1,100 square feet less than other lots in this zoning district with 5,000 square feet.

The atypical two front yard setbacks on the approximately 3,900 square foot subject site preclude the applicant from developing it in a manner commensurate with development on other similarly zoned PD 595 (R-5) properties with the typical one front yard setback and with 5,000 square feet.
- The development on the property is a one-story single family home structure with an approximately 1,200 square foot building footprint that appears to of a size similar to the others in the zoning district.
- The subject site has a 25’ width for development once a 20’ front yard setback is accounted for on the southeast and a 5’ side yard setback is accounted for on the northwest of the 50’ wide subject site. If this PD 595 (R-5) zoned property were not a corner lot with two front yard setbacks, there would be a 40’ width for development once two 5’ side yard setbacks are accounted for on this 50’ wide property.

BACKGROUND INFORMATION:

Zoning:

- Site: PD 595 (R-5) (Planned Development, Single family district 5,000 square feet)
- North: PD 595 (R-5) (Planned Development, Single family district 5,000 square feet)
- South: PD 595 (R-5) (Planned Development, Single family district 5,000 square feet)
- East: PD 595 (R-5) (Planned Development, Single family district 5,000 square feet)
- West: PD 595 (R-5) (Planned Development, Single family district 5,000 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north, south, and east are undeveloped; and the area to the west is 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 maintaining a porch and ramp structures, part or all of which are located in the site’s 20’ Sutton Street front yard setback, and maintaining a single family home and porch structures, part of which are located in the site’s 20’ Spring Street front yard setback.

- Structures on lots zoned PD 595 (R-5) are required to provide a minimum front yard setback of 20’.
- The subject site is located at the north corner of Sutton Street and Spring Street. Regardless of how the existing single-family structure is oriented to front Sutton Street and side to Spring Street, the subject site has two 20’ front yard setbacks along both streets. The site has a 20’ front yard setback along Sutton Street, 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 20’ front yard setback along Spring Street, 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 Sutton Street frontage is side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the vacant lot to the northeast zoned PD 595 (R-5) that fronts/is oriented southeastward towards Spring Street.
- The applicant is aware of the fact that the subject site has a 25’ plated building line along Sutton Street in which the existing single family home encroaches into, and that in addition to obtaining a variance to the front yard setback regulations from the Board of Adjustment, he will be required to file an application to the City Plan Commission to remove the platted building line through the re-plat process.
- A scaled site plan has been submitted indicating that a portion of a porch structure and a ramp structure attached to the single family home on the subject site is located as 11’ from the Sutton Street front property line or 9’ into this 20’ front yard setback. The submitted site plan indicates a portion of the single family home structure is located 15’ 3” from the Spring Street front property line or 4’ 9” into this 20’ front yard setback.
- According to calculations taken by the Board Administrator from the submitted site plan, approximately half of the approximately 200 square foot porch structure and the entire approximately 50 square foot ramp structure is located in the site’s 20’ Sutton Street front yard setback; and that approximately 200 square feet (or approximately 16 percent) of the approximately 1,200 square foot single family home is located in the Spring Street front yard setback.
- According to DCAD records, the “main improvement” at 2662 Sutton Street is a structure with 1,300 square feet of living/total area built in 1925. (No additional improvements are noted at this address).
- The applicant has informed the Board Administrator that the porch that he seeks variance for replaced on that had been on the site for decades and that was most likely a nonconforming structure. But the Dallas Development 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, virtually rectangular in shape, (approximately 50’ x 80’), and according to the submitted site plan 3,884 square feet in area. The site is zoned PD 595 (R-5) where lots are typically 5,000 square feet in area, and the site has two 20’ front yard setbacks; and two 5’ side yard setbacks when most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.

- The site has an approximately 25' width for development once a 20' front yard and a 5' side yard setback is accounted for on the approximately 50' wide subject site. 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 40' width for development.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the Sutton Street and Spring 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 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 (R-5) 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 595 (R-5) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structures in the front yard setbacks would be limited to what is shown on this document— which in this case are structures located as close as 11' from the Sutton Street front property line (or 9' into this 20' front yard setback) and 15' 3" from the Spring Street front property line (or 4' 9" into this 20' front yard setback).
- Note that granting the requested variances to the front yard setback regulations and imposing the submitted site plan as a condition will not provide any relief to existing or proposed features on the site that are not compliant with fence height or visual obstruction regulations.

Timeline:

- June 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.
- August 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

August 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 August 27th deadline to submit additional evidence for staff to factor into their analysis; and the September 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 21, 2014: The Board Administrator emailed the applicant the following:

- notice that his application to the board of adjustment was for a variance to the front yard setback regulations on his property that has a front yard setback on Sutton Street and a front yard setback on Spring Street;
- notice that while it appeared that there was a fence higher than 4' in the site's Spring Street front yard (see attached photo) in his field visit last week, the application as submitted does not indicate any fence in this location, and will not provide any relief for any fence located in a front yard setback that is higher than 4 feet in a front yard setback;
- a request for him to touch base no later than August 22nd if for any reason he feels that he would need to add another request to this application to address any fence in noncompliance with the fence height regulations that was attached; and
- notice that the discovery of any additional appeal needed other than front yard variance request would result in postponement of the appeal from September until the panel's next regularly scheduled public hearing.

September 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction 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.



 1:1,200	<h2>ZONING MAP</h2>	Case no: <u>BDA134-079</u> Date: <u>8/20/2014</u>
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1:1,200

AERIAL MAP

Case no: BDA134-079

Date: 8/20/2014



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-079

Data Relative to Subject Property:

Date: 06/25/2014

Location address: 2662 SUTTON STREET Zoning District: PD595 (R-5A)

Lot No.: 1 Block No.: 15/1841 Acreage: .09 Census Tract: 27.02

Street Frontage (in Feet): 1) 50 2) 80 3) _____ 4) _____ 5) _____

5E26A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JSHH PROPERTIES, LLC

Applicant: HARVEY F. WRIGHT Telephone: CELL 214 537 9815 RES 214-6912427

Mailing Address: 6339 TOWN HILL LANE Zip Code: 75214-2046

E-mail Address: harvey.wright.firm@att.net

Represented by: HARVEY F. WRIGHT Telephone: 214 537 9815

Mailing Address: 6339 TOWN HILL LANE Zip Code: 75214

E-mail Address: harvey.wright.firm@att.net

HFW

9) Affirm that an appeal has been made for a Variance, or Special Exception, of porch is 3' 4" feet over building line, in the front yard.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: TO GRANT A VARIANCE FROM THE BUILDING LINE, PORCH IS 3' 4" OVER THE LINE, THE HOUSE WAS MOVED ON TO THE PROPERTY IN 1956. THE PERIMETER OF THE PROPERTY HAS NOT CHANGED. THE VARIANCE IS NECESSARY BECAUSE OF LOT SIZE RESTRAINTS AS COMPARED TO

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period. TO DAYS LOTS AND THE AREA IS RESTRICTED BECAUSE OF IT SIZE.

Affidavit

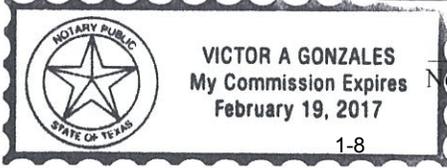
Before me the undersigned on this day personally appeared HARVEY F. WRIGHT (Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

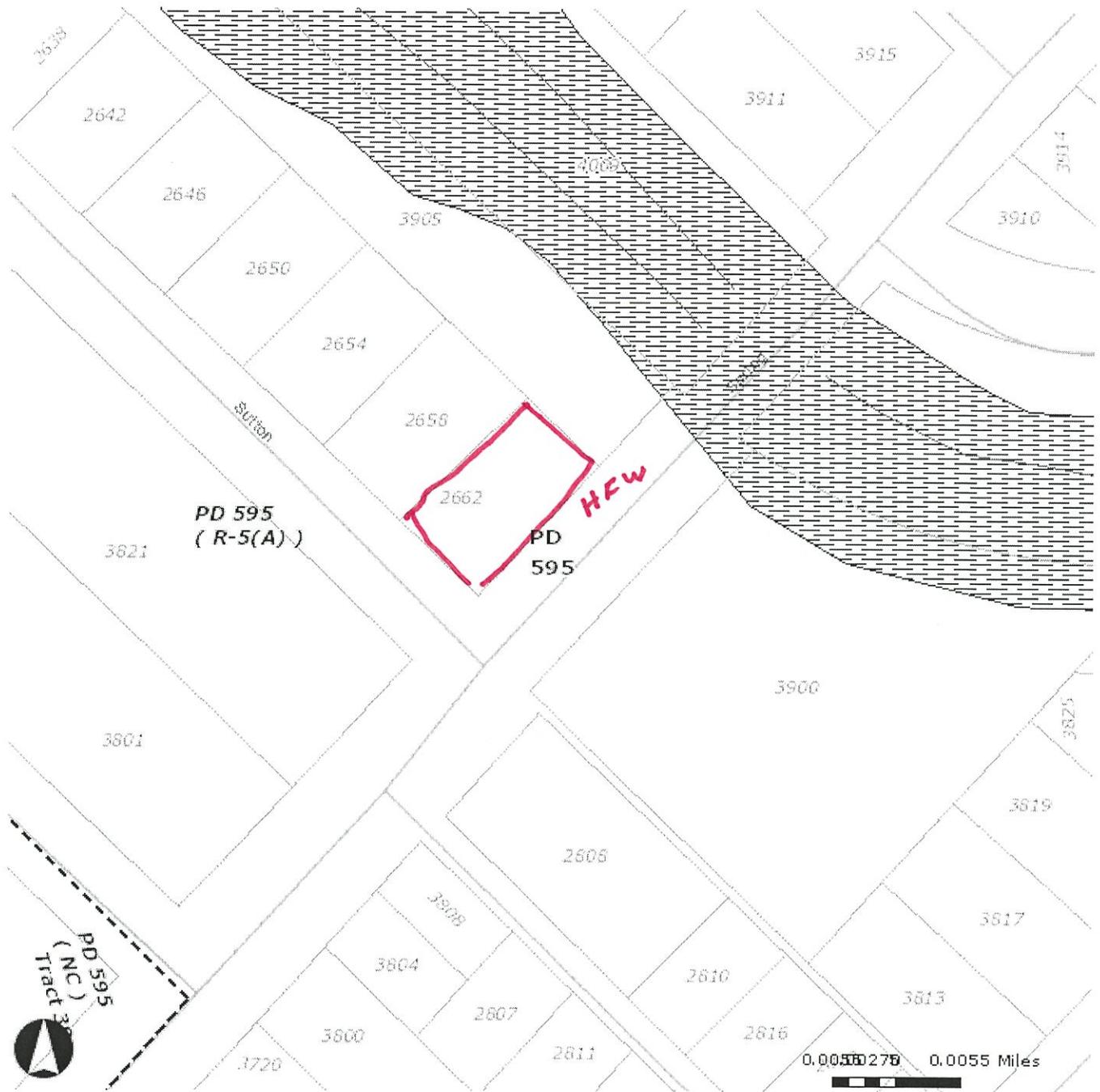
Respectfully submitted: [Signature] (Affiant/Applicant's signature)

Subscribed and sworn to before me this 25th day of June, 2014

(Rev. 08-01-11)



[Signature]
Notary Public in and for Dallas County, Texas



Project Data

Address: 2662 Sutton Street

New Project Data

Property Description: Lot 1 / Blk 15 / 841

Address: 2662 Sutton St.

Site Area: 3,884 s.f.

House Area: 1,247 s.f.

Note:

This house constructed in 1956.
Property Lines have not changed.

Scope of Work

Sitework

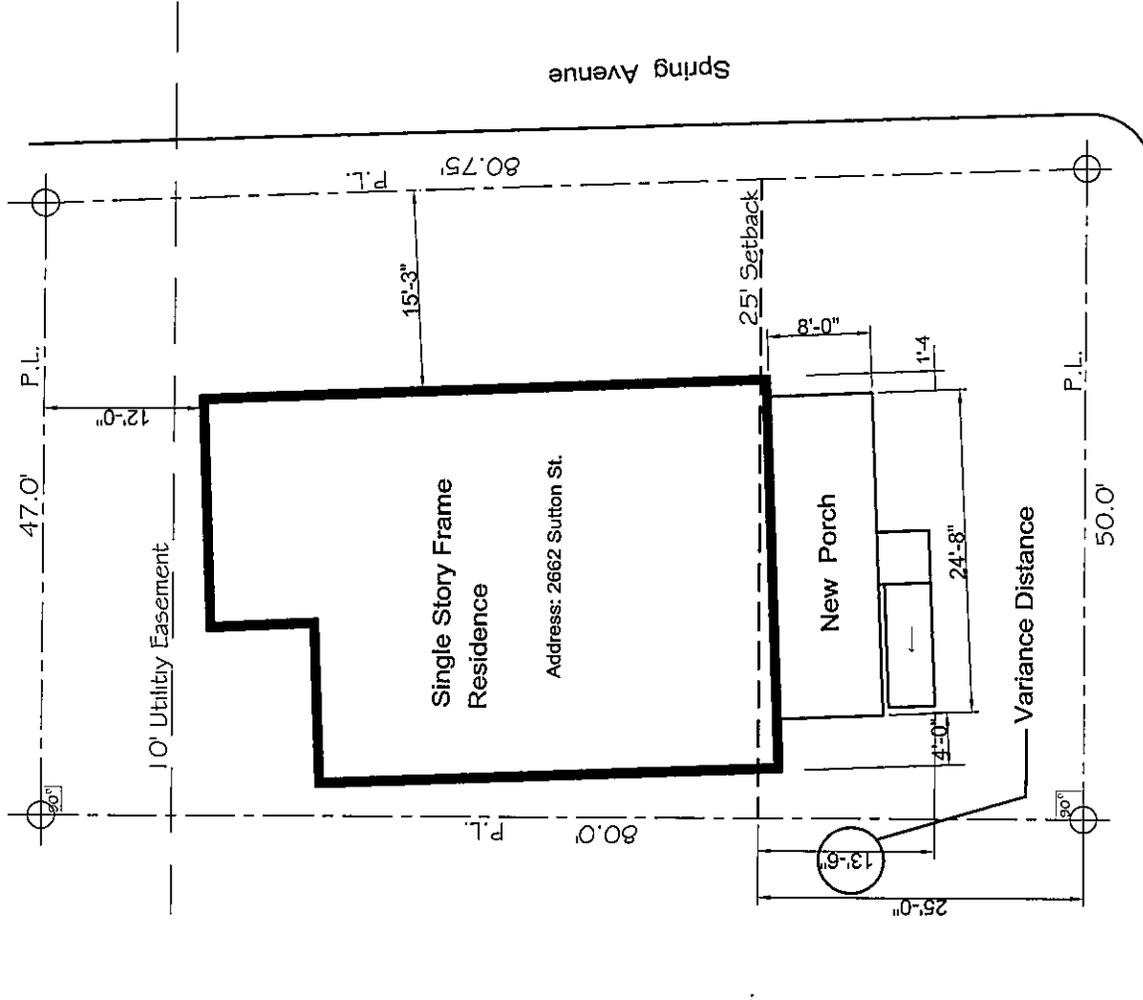
- Clear site of Debris
- Install new electrical service from transformer
- Install new electrical service from transformer

House Exterior

- Update existing foundation
- Renovate existing exterior walls for new wood framing, siding and insulation.
- Renovate existing roof framing, decking and roof shingles.
- Remove existing porch and build new porch and ramp.
- Remove existing windows and doors and install new windows and doors.

House Interior

- Renovate interior wall framing, and wallboard.
- Renovate interior plumbing system.
- Renovate interior electrical system.
- Renovate interior roof framing.
- Renovate interior ceilings.
- Renovate interior lighting.
- Install new HVAC system
- Install new bathroom and kitchen fixtures.
- Renovate rear storage room into new bedroom with closet.



Sutton Street

Site Plan

Scale: 1" = 10'-0"

BOA Drawing A3 for Setback Variance
2662 Sutton, Dallas, Texas

Rgm Architects
10606 Lakemere
Dallas, Texas 75238
214.563.6690

A1
2-25-14

Address: 2662 Sutton Street

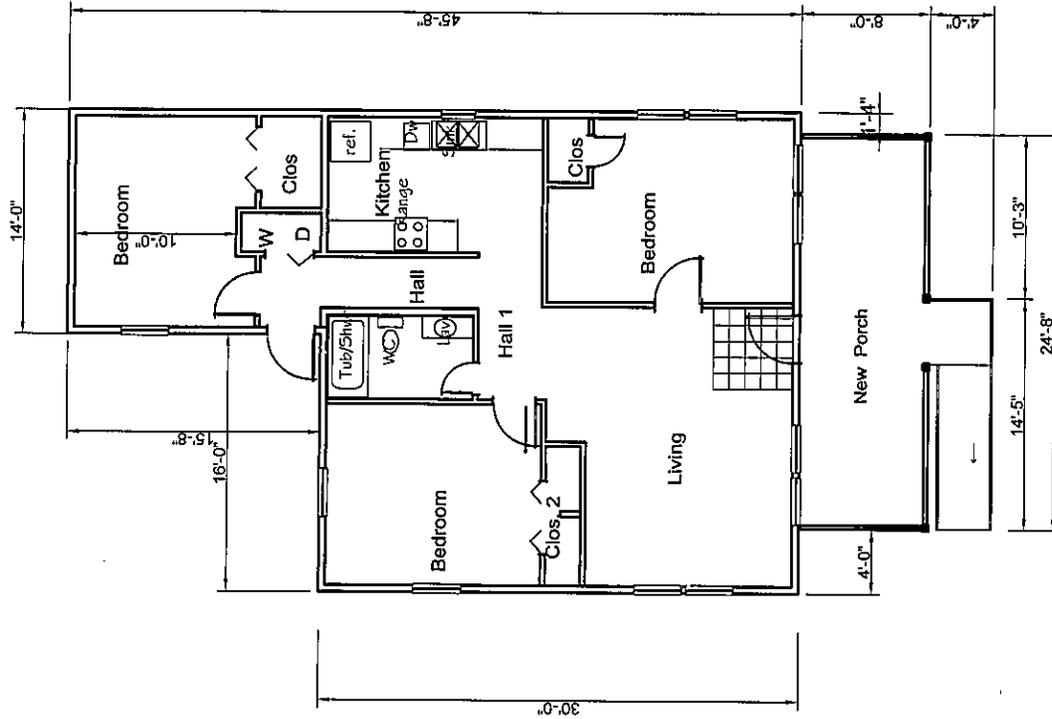
New Project Data

Property Description: Lot 1 / Blk 15 / 1841

Address: 2662 Sutton St.

Site Area: 3,884 s.f.

House Area: 1,247 s.f.

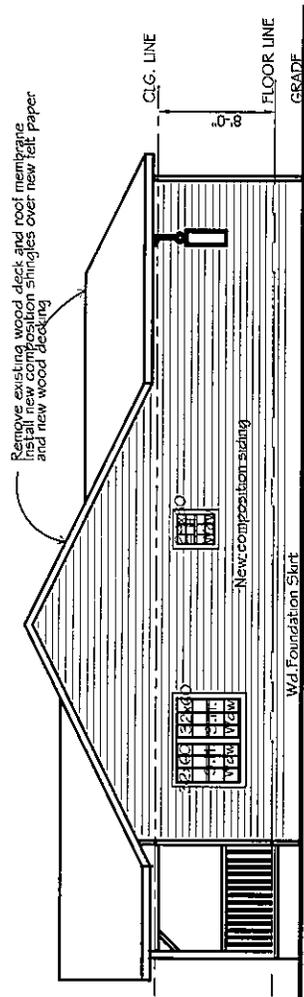


Renovated Floor Plan

Scale: 1/8" = 1'-0"

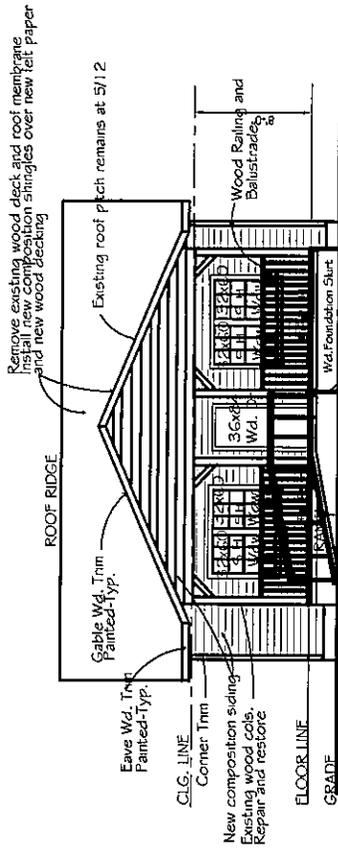
A2

Date: 2-20-14



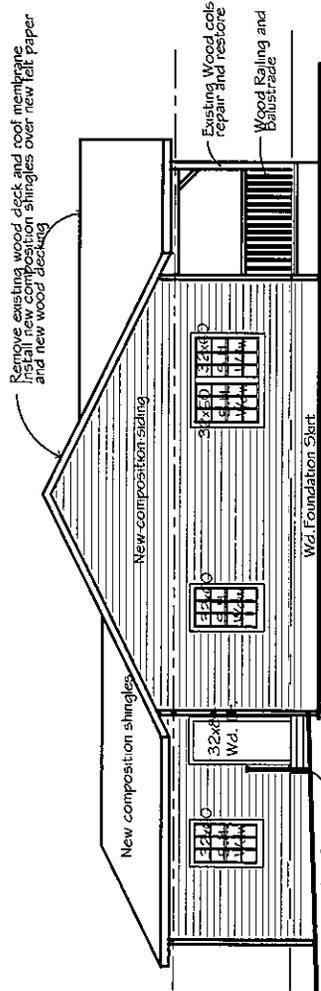
Side (South) Elevation

Scale: 1/8" = 1'-0"



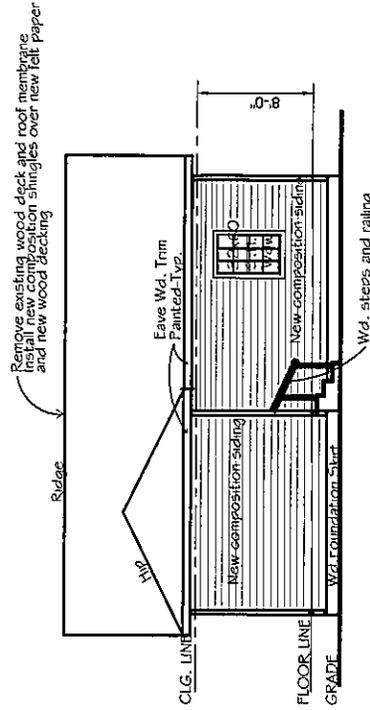
Front (West) Elevation

Scale: 1/8" = 1'-0"



Side (North) Elevation

Scale: 1/8" = 1'-0"



Rear (East) Elevation

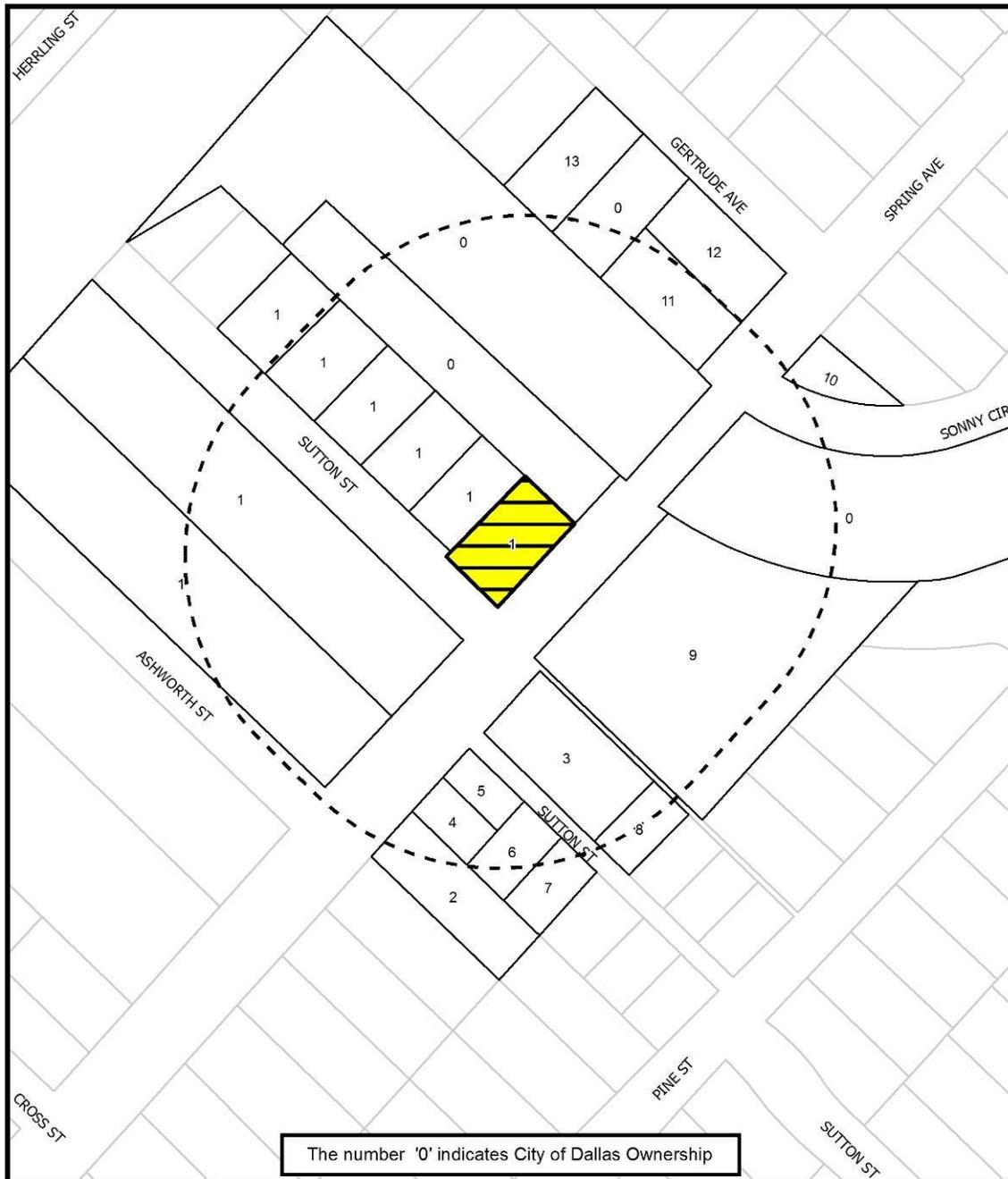
Scale: 1/8" = 1'-0"

BOA Drawing A3 for Setback Variance
2662 Sutton, Dallas, Texas

Rgm Architects
10606 Lakemere
Dallas, Texas 75238
214.563.6690

A3

2-25-14



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">13</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	13	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA134-079 Date: 8/20/2014
200'	AREA OF NOTIFICATION					
13	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA134-079

13 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3821 SPRING AVE	JSHH PPTIES LLC
2	3800 SPRING AVE	COTTON FRAZIER L &
3	2808 SUTTON ST	LUCKY HOMER & QUELLA
4	3804 SPRING AVE	BENNETT IRENE PORTER
5	3808 SPRING AVE	WILKINS THOMAS D
6	2807 SUTTON ST	JEFFERSON LOIS ESTATE OF
7	2811 SUTTON ST	SYLVESTER DAVIDSON
8	2810 SUTTON ST	JONES ANNIE BELL
9	3900 SPRING AVE	JOHNSON MAE HELEN ESTATE
10	3910 SPRING AVE	HAYDEN LISSIE
11	3911 SPRING AVE	KNOX JAMES A &
12	3915 SPRING AVE	DAVIS DOROTHY ANN
13	2719 GERTRUDE AVE	BLUE TOM III

FILE NUMBER: BDA 134-089

BUILDING OFFICIAL'S REPORT: Application of John L. Bourret, represented by Amy J. Bourret, for a special exception to the fence height regulations at 3706 Duchess Trail. This property is more fully described as Lot 1, Block N/6412, and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 9 foot high fence, which will require a 5 foot special exception to the fence height regulations.

LOCATION: 3706 Duchess Trail

APPLICANT: John L. Bourret
Represented by Amy J. Bourret

REQUEST:

A request for a special exception to the fence height regulations of 5' is made to maintain a solid cedar wood fence that reaches 9' in height (given grade changes on the site) and a 7' 3" high gate in the one of the site's two required front yards (Marsh Lane) on a site that is developed with a single family home.

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-16(A) (Single family district 16,000 square feet)
North: R-16(A) (Single family district 16,000 square feet)
South: R-16(A) (Single family district 16,000 square feet)
East: R-16(A) (Single family district 16,000 square feet)
West: R-16(A) (Single family district 16,000 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

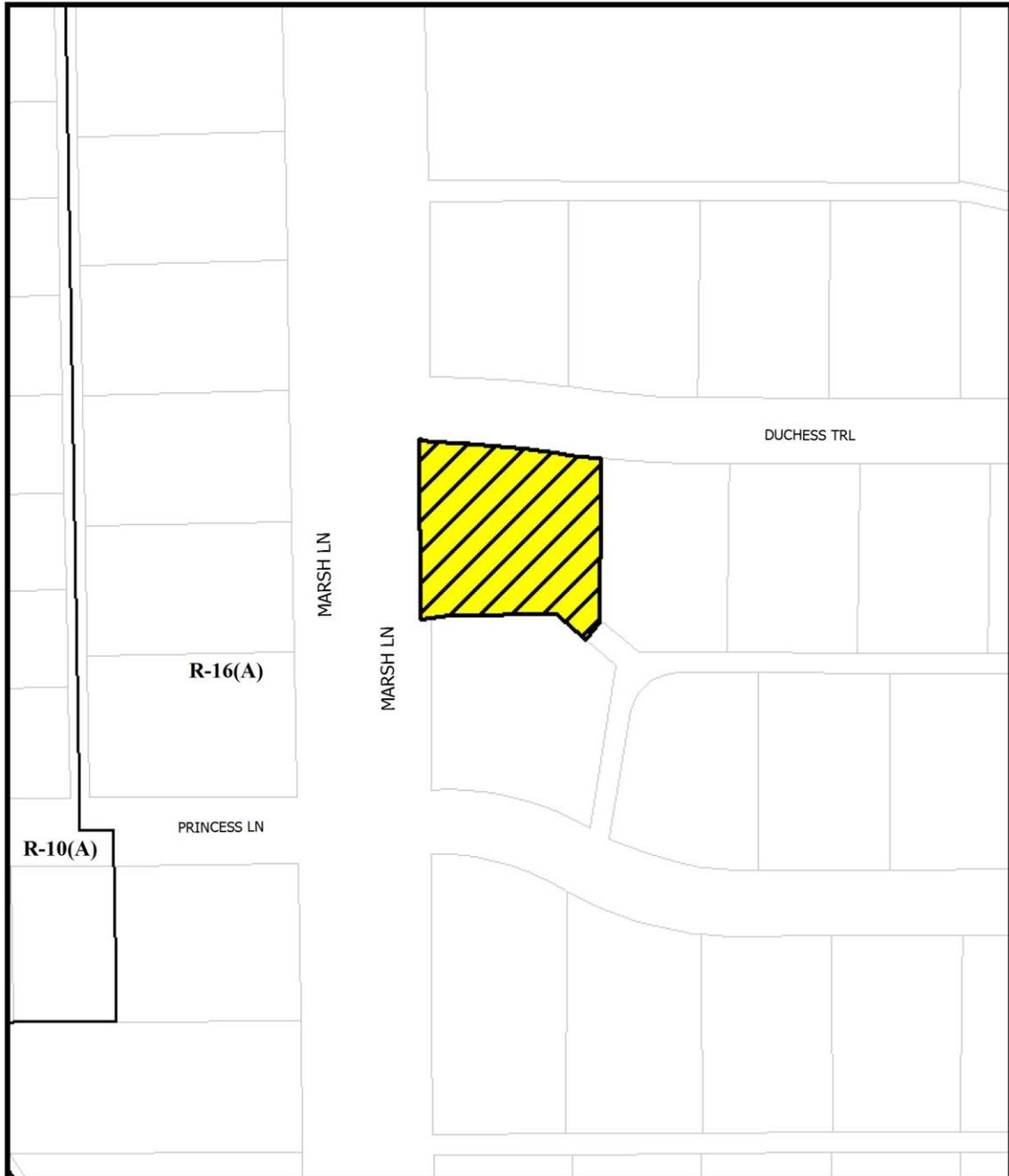
- This request focuses on maintaining a solid cedar wood fence that reaches 9' in height (given grade changes on the site) and a 7' 3" high gate in the one of the site's two required front yards (Marsh Lane) on a site that is developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the southeast corner of Duchess Trail and Marsh Lane. Regardless of how the home on the site is oriented to front northward to Duchess Trail and to side westward onto Marsh Lane, the site has a 15' required front yard along Marsh Lane, the shorter of the two frontages by approximately 3 feet, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 30' required front yard along Duchess Trail, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 9' high fence is allowed by right. But the site's Duchess Trail frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes east of the site that front/are oriented northward towards Duchess Trail.
- The applicant's request in this application is only to maintain fence higher than 4' in the site's front yard setback on Marsh Lane – a setback that functions as is side yard but is a front yard nonetheless because it is 3' shorter than the site's Duchess Trail frontage. No part of the application is made to address any fence in the site's Duchess Trail required front yard.
- The applicant has submitted a site plan and elevations of the proposal in the front yard setback with notations indicating that the fence reaches a maximum height of 9'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 85' in length parallel to the Marsh Lane and approximately 13' perpendicular to Marsh Lane on the north and south sides of the site in this front yard setback.
 - The proposal is represented as being located about 2' from the Marsh Lane front property line or about 12' from the Marsh Lane pavement line.

- The proposal/existing fence is located across from two single family homes, neither of which have fences in their front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence that appeared to be above 4' in height and located in a front yard setback - an approximately 6' high solid wood fence located immediately south of the subject site.
- As of September 8, 2014, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' will not adversely affect neighboring property.
- Granting this special exception of 5' with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4' in height in the Marsh Lane required front yard to be maintained in the location and of the heights and materials as shown on these documents.

Timeline:

- July 22, 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.
- August 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 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 August 27th deadline to submit additional evidence for staff to factor into their analysis; and the September 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- September 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction 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 were submitted in conjunction with this application.

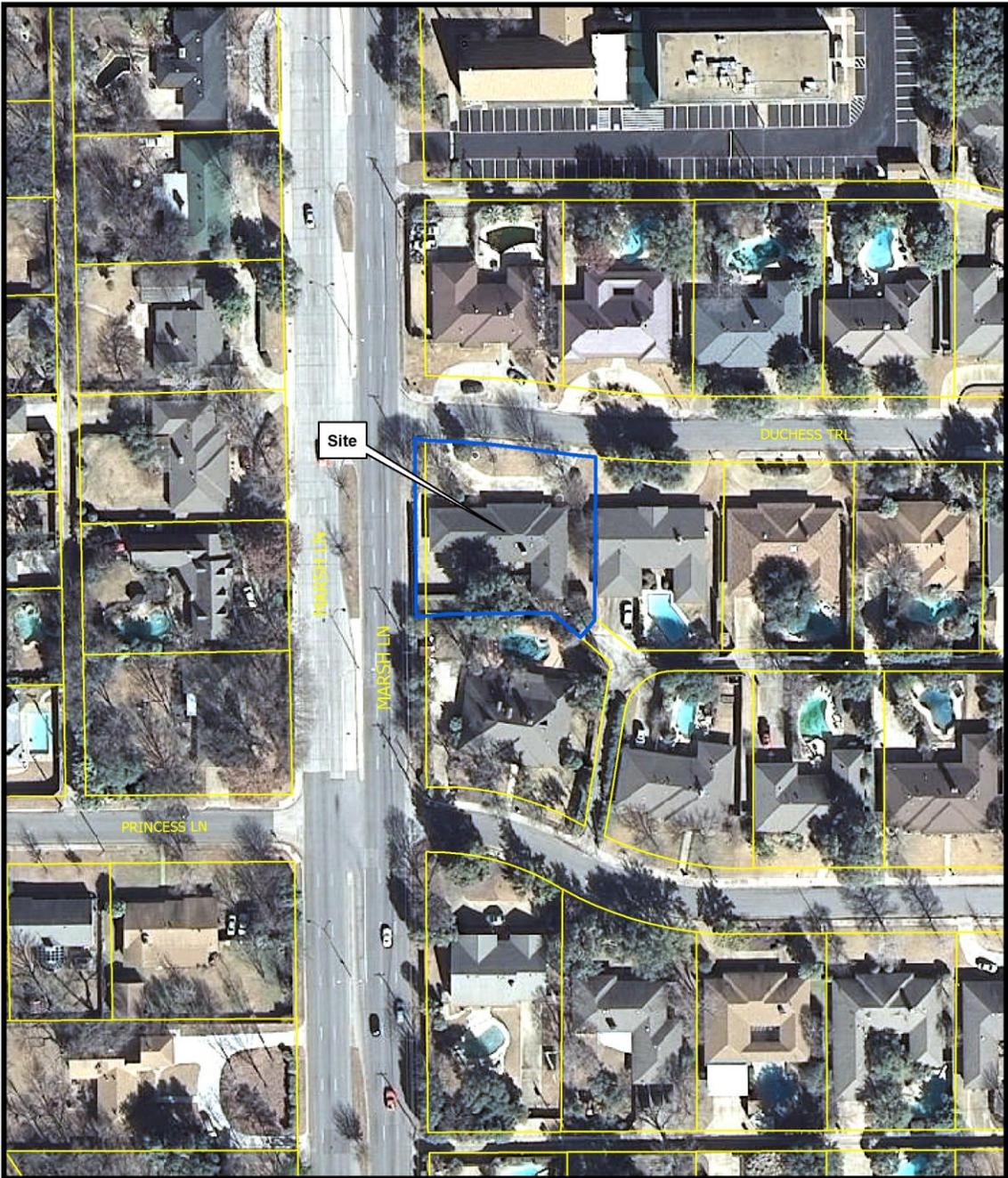


1:1,200

ZONING MAP

Case no: BDA134-089

Date: 8/20/2014



1:1,200

AERIAL MAP

Case no: BDA134-089

Date: 8/20/2014



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-089

Data Relative to Subject Property:

Date: July 22, 2014

Location address: 3706 DUCHESS TRAIL Zoning District: R-16(A)

Lot No.: 1 Block No.: N/6412 Acreage: .396 Census Tract: 95.00

Street Frontage (in Feet): 1) 130 2) 133 3) _____ 4) _____ 5) _____

NW2

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): JOHN L. BOURRET AND CAROLE A BOURRET

Applicant: JOHN L. BOURRET Telephone: 214-3522462

Mailing Address: 3706 DUCHESS TRL Zip Code: 75229

E-mail Address: amyjobo@sbcglobal.net

Represented by: AMY J. BOURRET Telephone: 214-366-2692

Mailing Address: 3706 DUCHESS TRL Zip Code: 75229

E-mail Address: amyjobo@sbcglobal.net

Affirm that an appeal has been made for a Special Exception of 5' in front yd.

TO REPLACE THE EXISITING FENCE WITH A MAXIMUM 9' FENCE AROUND THE EAST, SOUTH AND WEST PROPERTY LINES AND AT THE EASTSIDE OF THE PROPERTY ADJACENT TO THE HOUSE; AND TO INSTALL AN ELECTRIC GATE ACROSS THE DRIVEWAY, ADJACENT TO THE FRONT OF THE HOUSE.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

TO HEAR AND DECIDE SPECIAL EXCEPTIONS EXPRESSLY PROVIDED FOR IN THE ZONING ORDINANCE.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

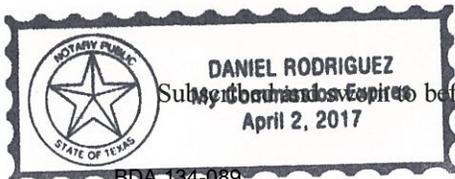
Affidavit

Before me the undersigned on this day personally appeared John L. Bourret Carole A. Bourret
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: John L. Bourret Carole A. Bourret
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 22nd day of July, 2014



BDA 134-089 (Rev. 08-01-11)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

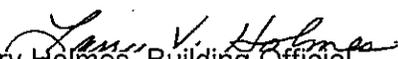
Chairman

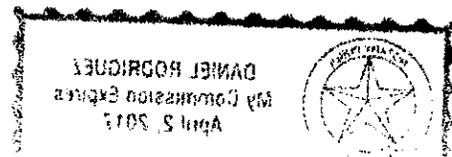
Building Official's Report

I hereby certify that John L. Bourret
represented by AMY BOURRET
did submit a request for a special exception to the fence height regulations
at 3706 Duchess Trail

BDA134-089. Application of John L. Bourret represented by Amy Bourret for a special exception to the fence height regulations at 3706 Duchess Trail. This property is more fully described as Lot 1, Block N/6412, and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 9 foot high fence in a required front yard, which will require a 5 foot special exception to the fence regulation.

Sincerely,

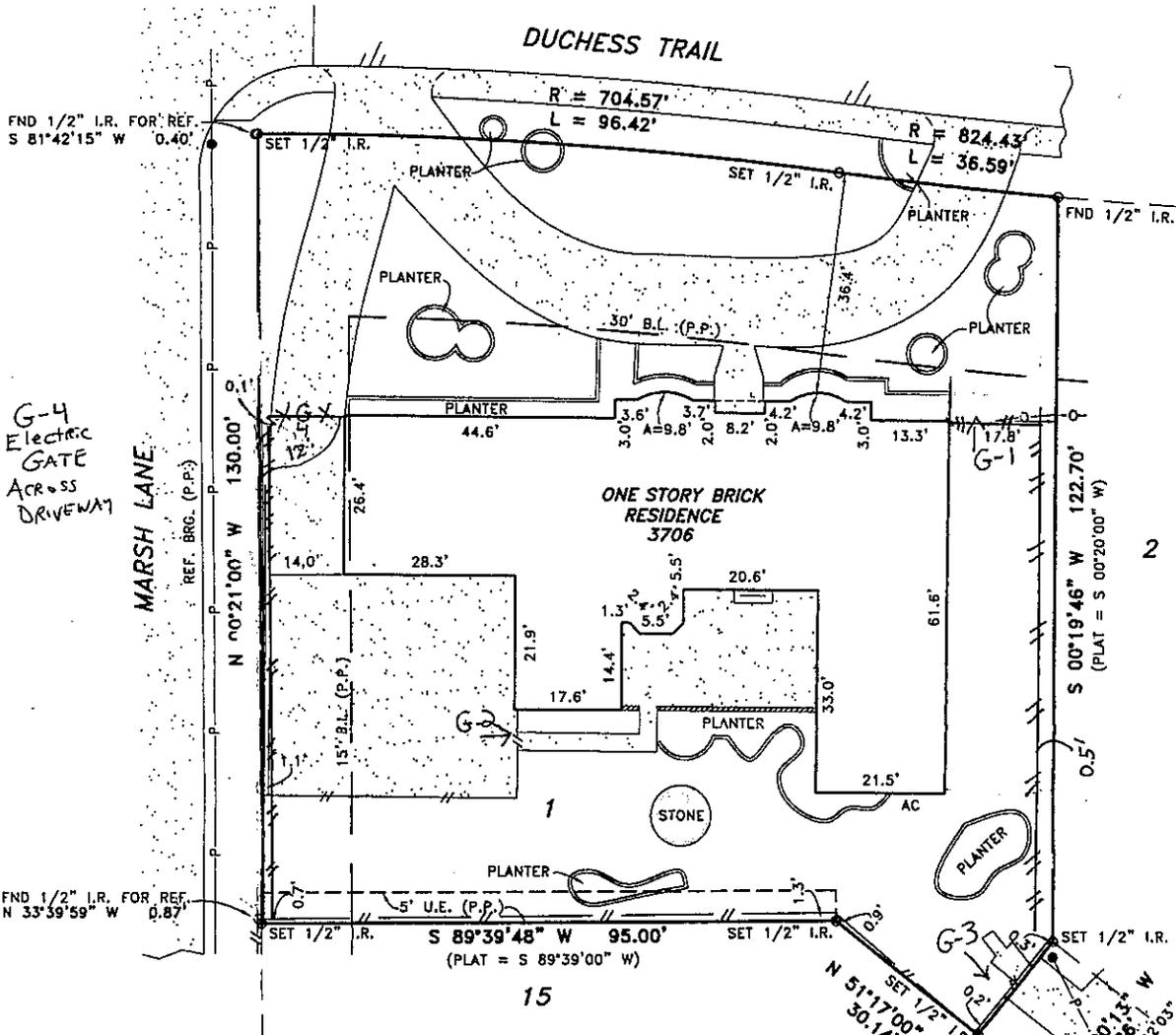

Larry Holmes, Building Official





"LAND TITLE SURVEY"

BEING LOT 1, IN BLOCK N/6412, OF ROYAL MARSH ESTATES,
AN ADDITION TO THE CITY OF DALLAS, TEXAS, ACCORDING
TO THE MAP THEREOF RECORDED IN VOLUME 71064, PAGE 2186,
OF THE MAP RECORDS OF DALLAS COUNTY, TEXAS.



FND 1/2" I.R. FOR REF.
S 81°42'15" W 0.40'

G-4
Electric
GATE
ACROSS
DRIVEWAY

MARSH LANE

FND 1/2" I.R. FOR REF.
N 33°59'59" W 0.87'

NOTES:

- 1) ALL 1/2" IRON RODS SET FOR CORNER AS SHOWN HEREON HAVE A YELLOW CAP STAMPED R.P.L.S. NO. 3963.
- 2) (P.P.) INDICATES THAT BUILDING LINES, EASEMENTS, R.O.W.'S, ETC. AS SHOWN ON THIS SURVEY ARE PER PLAT REFERENCED IN LEGAL DESCRIPTION HEREON.
- 3) ALL DIMENSIONS SHOWN HEREON ARE PER PLAT UNLESS OTHERWISE NOTED.

THIS IS TO CERTIFY THAT NO PORTION OF THE ABOVE SHOWN PROPERTY IS WITHIN THE 100 YEAR FLOOD HAZARD AREA AS PUBLISHED IN COMMUNITY PANEL NO. 480170 0055C ZONE C MAP DATED 03-16-83 OF THE FLOOD INSURANCE RATE MAP.

I, ROBERT C. MYERS, REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF TEXAS, DO CERTIFY THAT THE PLAT HEREON IS A TRUE, CORRECT AND ACCURATE REPRESENTATION OF THE PROPERTY SHOWN HEREON AS DETERMINED BY SURVEY ON THE GROUND UNDER MY SUPERVISION, THE LINES AND DIMENSIONS OF SAID PROPERTY BEING INDICATED BY THE PLAT. THE IMPROVEMENTS ARE WITHIN THE BOUNDARIES OF THE PROPERTY LINES AT THE DISTANCES INDICATED AND THERE ARE NO VISIBLE AND APPARENT EASEMENTS, ENCROACHMENTS, CONFLICTS OR PROTRUSIONS, EXCEPT AS SHOWN ON THE ABOVE PLAT. THIS SURVEY MEETS OR EXCEEDS THE MINIMUM STANDARDS REQUIRED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.

Robert C. Myers
ROBERT C. MYERS R.P.L.S. NO. 3963



LEGEND	
●	POWER POLE
⊕	GAS METER
⊕	WATER METER
—	POWERLINE
—	OVERHEAD SERVICE LINE
—	WOOD FENCE
—	CHAIN LINK FENCE
—	WIRE FENCE
—	WROUGHT IRON FENCE
—	BUILDING LINE
—	EASEMENT LINE
⊠	BRICK COLUMN
⊠	TRANSFORMER AND PAD
—	ASPHALT SURFACE
—	CONCRETE

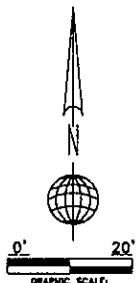
G GATE

THIS SURVEY WAS PERFORMED FOR:

REPUBLIC TITLE

USE OF THIS SURVEY BY ANY OTHER PARTY SHALL BE AT THEIR OWN RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

NAME BOURRET
JOB NO. 64324-01
DATE 08-07-01
GF# ODR11685 PCO
DRN. BY BLM

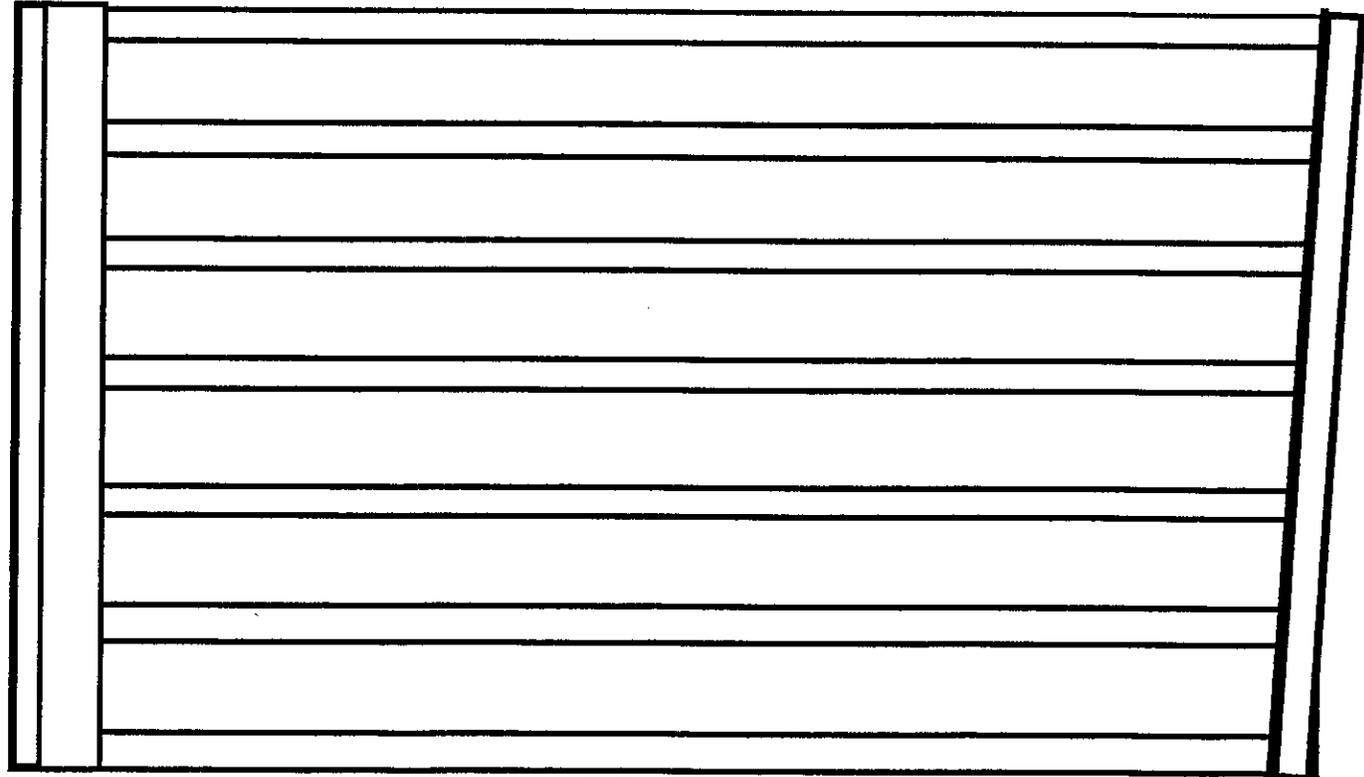


BDA 134089
ROBERT C. MYERS
(972) 272-6287
(972) 272-8407(FAX)

Analytical Surveys, Inc.
"A PROFESSIONAL COMPANY OPERATING IN YOUR BEST INTEREST"

707 EAST STREET
GARLAND, TEXAS
75042

83' OAL
TYP. PANEL
SHOWN



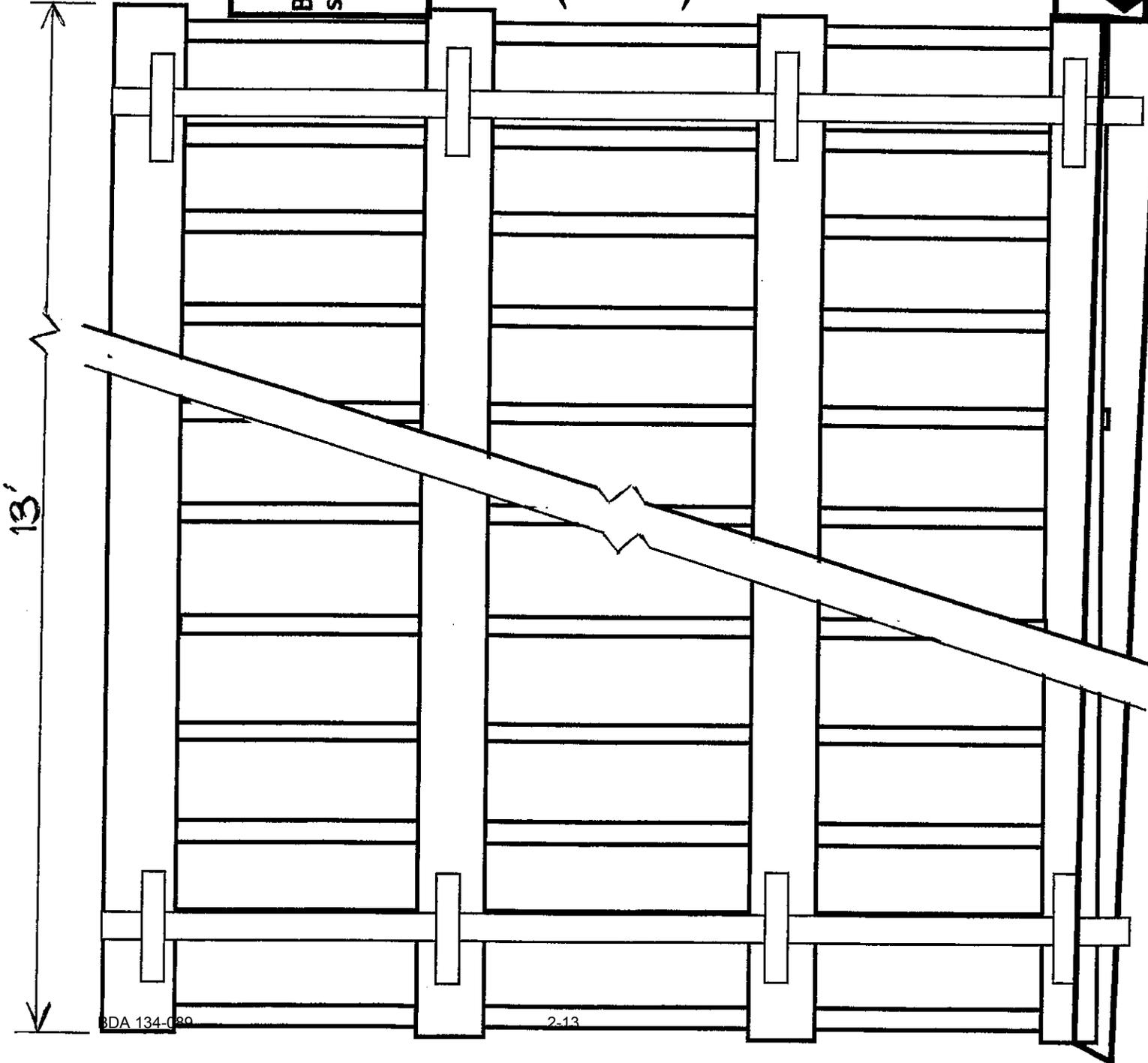
SKETCH A
Front side of fence: 2 x 4 Cedar rails; Board-on-Board with 6" pattern;
4" / 2" flat trim on top; treated base board



Maximum height of 9'
(as adjusted for grade to level top of fence)

Baseboard adjusted for grade,
so that top of fence is level

SCALE:
1" = 10'



SKETCH B

Back side of Fence: AB337 Metal Posts set in concrete every 6' and capped off at top; treated horizontal support beams every 2'.

Maximum height of 9' (as adjusted for grade to level top of fence)



SCALE:
1" = 10'

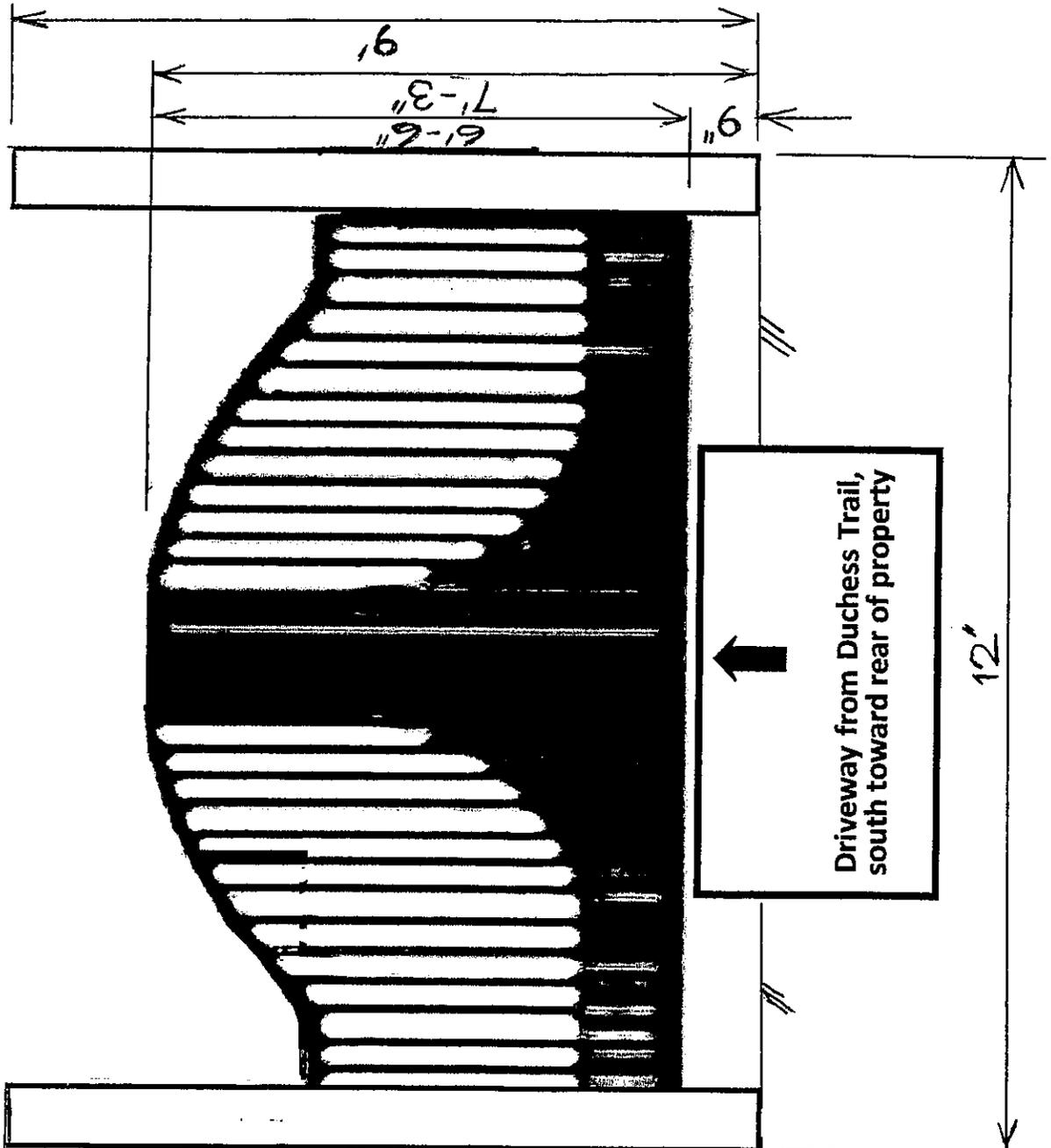
Baseboard adjusted for grade, so that top of fence is level

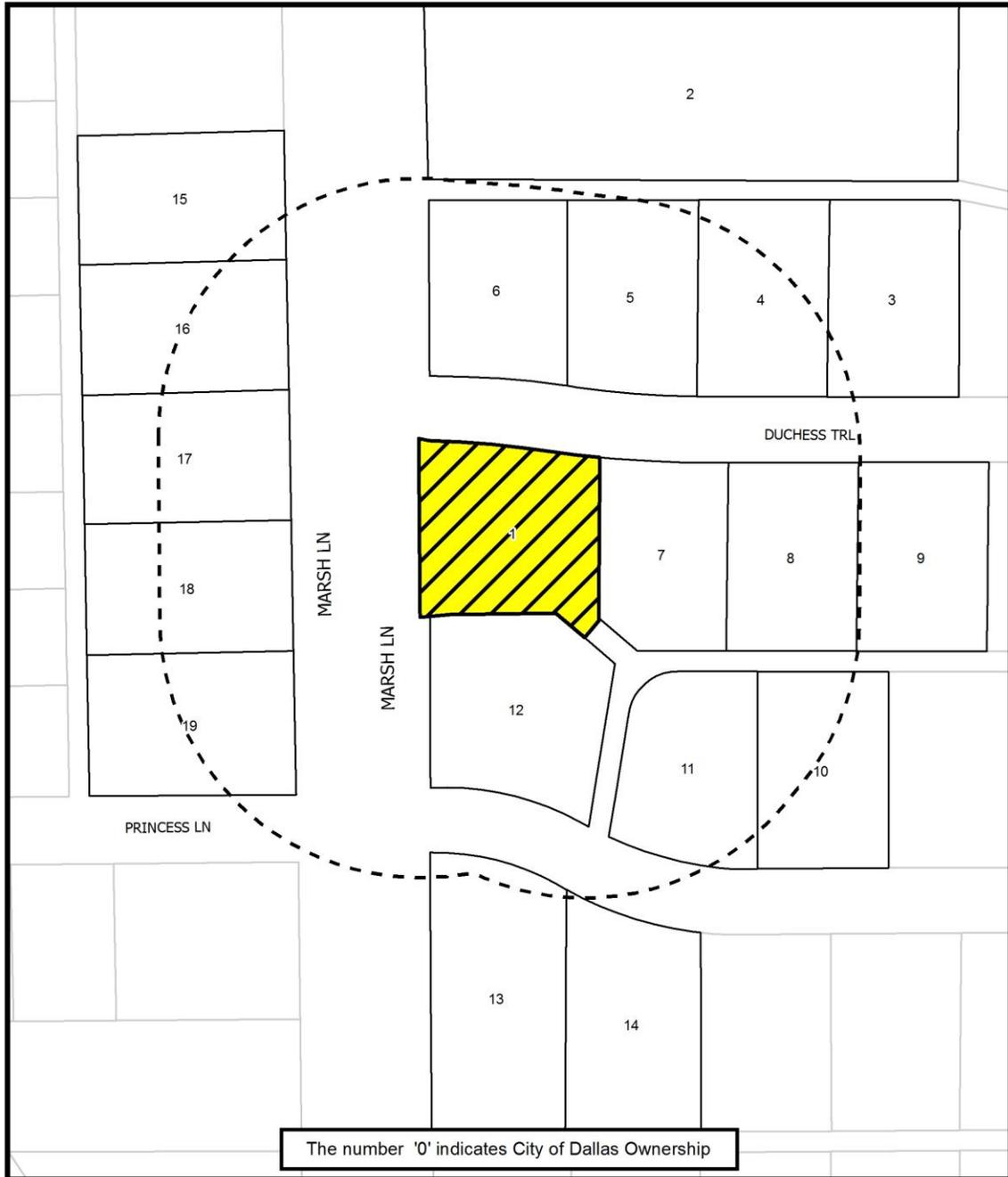


SKETCH G

Electric gate: wrought iron;
center opening;
to span 12' wide driveway at
northeast corner of house.

SCALE:
1" = 20'





 1:1,200	NOTIFICATION	Case no: BDA134-089			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">19</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	19	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
19	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA134-089

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3706 DUCHESS TRL	BOURRET JOHN L &
2	10716 MARSH LN	MARSH LANE BAPT CHURCH
3	3727 DUCHESS TRL	SCOTT PHILIP B III &
4	3717 DUCHESS TRL	TRUNCALE BRIAN K
5	3711 DUCHESS TRL	GRAUL MARTIN SHANE
6	3707 DUCHESS TRL	RUBIO GEORGE & ELENA
7	3710 DUCHESS TRL	HAFNER JAMES R
8	3716 DUCHESS TRL	SMALLWOOD STEVEN C &
9	3726 DUCHESS TRL	BLOUNT PAUL &
10	3727 PRINCESS LN	BELL ANTHONY
11	3717 PRINCESS LN	FELDMETH KAREN M
12	3707 PRINCESS LN	DALAKI MOHAMMAD ALI
13	3708 PRINCESS LN	GIANGIULIO JOSEPH J & MARGARET A
14	3718 PRINCESS LN	SCHRAG STEVEN C
15	10711 MARSH LN	SMITH MICHAEL G & RUTH E
16	10637 MARSH LN	WILLIAMS BRANDON
17	10627 MARSH LN	GALICIA OMAR &
18	10617 MARSH LN	LEVINE HENRY F
19	10607 MARSH LN	GAISBAUER ZELMA HURLEY

FILE NUMBER: BDA 134-059

BUILDING OFFICIAL'S REPORT: Application of John Moncure Henderson, IV for variances to the front and side yard setback regulations, and a variance to the off-street parking regulations at 2114 Clements Street. This property is more fully described as a part of Lot 5, Block 3/2097, and is zoned R-7.5(A), which requires a front yard setback of 25 feet, a side yard setback of 5 feet, and for a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces or can be entered directly from the street. The applicant proposes to construct/maintain a structure and provide a 12 foot front yard setback, which will require a 13 foot variance to the front yard setback regulations, provide a 1 foot 3 inch side yard setback, which will require a 3 foot 9 inch variance to the side yard setback regulations, and to locate/maintain an enclosed parking space that faces and can be entered directly from the street at a distance of 13 feet, which will require a variance of 7 feet to the off-street parking regulations.

LOCATION: 2114 Clements Street

APPLICANT: John Moncure Henderson, IV

REQUESTS:

The following requests were made in conjunction with constructing and maintaining a two-story (with finished attic) single family home structure on a site that is currently developed with a vacant one-story nonconforming single family structure/use that the applicant had intended to demolish:

1. A variance to the front yard setback regulations of 13' had been requested as the proposed structure (roof eave) would be located 12' from the site's front property line or 13' into the required 25' front yard setback.
2. A variance to the side yard setback regulations of 3' 9" had been requested as the proposed structure and roof eaves would be located as close as 1' 3" from the site's southern side property line or 3' 9" into this required 5 side yard setback.
3. A variance to the off-street parking regulations of 7' had been requested as the proposed home would have a parking space enclosed in a proposed attached garage that would be located 13' from the front property/right-of-way line or 7' into the required 20' distance from this street right-of-way.

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 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 (front and side yard setbacks):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff had concluded that the subject site is unique and different from most lots zoned R-7.5(A) in that it is only approximately 2,300 square feet in area or about 5,000 square feet less than the area of most lots in the R-7.5(A) zoning district that have 7,500 square feet.
- Staff had concluded that the applicant had provided information showing how his proposed development on this site (a single family home with about 2,300 square feet of living and garage space) was commensurate with other developments found on similarly zoned properties with an average approximately 2,900 square feet of living and garage space.
- Staff had concluded that granting the variances did not appear to be contrary to public interest in that the proposed single family home would replace an existing nonconforming single family home that is noncompliant with front and side yard setbacks; and as it relates to the front yard variance request, the that fact that the subject site was the only lot in its blockface between Richmond Avenue and Prospect Street with a front yard in which to maintain.

ORIGINAL STAFF RECOMMENDATION (off-street parking variance):

Approval, subject to the following conditions:

1. Compliance with the submitted site plan is required.
2. An automatic garage door must be installed and maintained in working order at all times.
3. At no time may the area in front of the garage be utilized for parking of vehicles.

Rationale:

- Staff had concluded that the subject site was unique and different from most lots zoned R-7.5(A) in that it is only approximately 2,300 square feet in area or about

5,000 square feet less than the area of most lots in the R-7.5(A) zoning district that have 7,500 square feet.

- Staff had concluded that the applicant had provided information showing how his proposed development on this site (a single family home with about 2,300 square feet of living and garage space) was commensurate with other developments found on similarly zoned properties with an average approximately 2,900 square feet of living and garage space.
- Staff had concluded that granting this variance would not appear to be contrary to public interest in that Sustainable Development and Construction Department Project Engineer had no objections if the Board imposed the staff suggested conditions.

REVISED/UPDATED STAFF RECOMMENDATION (all variances):

Denial without prejudice

Rationale:

- Staff supports the applicant’s request of September 5th for the Board to deny the variances without prejudice. If the board were to deny the variance requests **without** prejudice, the applicant/or anyone could refile a new application on this property at any time, as opposed to if the board were to deny the variance requests **with** prejudice where the applicant or anyone would be required to wait two years to refile an new application on this property.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: CD 14 (Conservation District)
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 vacant one-story nonconforming single family home/use. The areas to the north, south, east, and west are developed with single family uses.

Zoning/BDA History:

1. BDA 067-151, Property at 6141 Prospect Avenue (the lot immediately south of the subject site) On November 12, 2007, the Board of Adjustment Panel C granted a variance to the front yard setback regulations of 19’. The board imposed the following condition:

compliance with the submitted site plan is required. The case report stated that the request was made in conjunction with constructing and maintaining a single family home structure in the site's Clements Street 25' front yard setback.

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- This request had focused on constructing and maintaining a two-story (with finished attic) single family structure, part of which would be located in the site's 25' front yard setback on a property developed with a vacant one-story nonconforming single family structure/use that the applicant intends to demolish.
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The applicant had submitted a site plan that showed a structure located 12' from the front property line or 13' into the 25' front yard setback.
- The applicant had also submitted a plan that denoted the building footprint of the existing vacant house on the property that appears to be a nonconforming/ "grandfathered" structure in that it appears to be constructed in 1930's and that it is located 18.2' from the front property line or approximately 7' into the current 25' front yard setback. The Dallas Development 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 applicant had intended to destroy/demolish the existing nonconforming structure hence the request for variance to the front yard setback regulations to replace/relocate a new structure back into the 25' front yard setback.
- According to DCAD records, the "main improvement" for property at 2114 Clements Street is a structure built in 1933 with 440 square feet of living area and 440 square feet of total area; with "additional improvements" of a 200 square foot storage building.
- According to calculations taken from the submitted site plan by the Board Administrator, approximately 275 square feet (or 25 percent) of the total approximately 1,025 square foot building footprint was to be located in the 25' front yard setback.
- The subject site is rectangular in shape (approximately 60' x 38') and according to the application, is 0.052 acres (or approximately 2,300 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant had the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations would not have been 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 would have been 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 have been 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 12’ from the front property line or 13’ into the 25’ front yard setback.
- On September 5, 2014, the applicant informed the Board Administrator that he requested that the Board deny his variances without prejudice.

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request had focused on constructing and maintaining a two-story (with finished attic) single family structure, part of which would be located in the site’s 5’ side yard setback on the south side of the property developed with a vacant one-story nonconforming single family structure/use that the applicant intends to demolish.
- Structures on lots zoned R-7.5(A) are required to provide a minimum side yard setback of 5’.
- The applicant had submitted a site plan that shows the proposed structure and roof eaves located as close as 1’ 3” from the site’s southern side property line or 3’ 9” into this required 5 side yard setback.
- The applicant had also submitted a plan that denoted the building footprint of the existing vacant house on the property that appears to be a nonconforming/ “grandfathered” structure in that it appears to be constructed in 1930’s and that it is located in the two 5’ side yard setbacks. The Dallas Development 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 applicant had intended to destroy/demolish the existing nonconforming structure hence the request for variances to the side yard setback regulations to replace/relocate a new structure back into the 5’ side yard setbacks.
- According to DCAD records, the “main improvement” for property at 2114 Clements Street is a structure built in 1933 with 440 square feet of living area and 440 square feet of total area; with “additional improvements” of a 200 square foot storage building.
- According to calculations taken from the submitted site plan by the Board Administrator, approximately 110 square feet (or 11 percent) of the total approximately 1,025 square foot building footprint is to be located in the southern 5’ side yard setback.
- The subject site is rectangular in shape (approximately 60’ x 38’) and according to the application, is 0.052 acres (or approximately 2,300 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant had the burden of proof in establishing the following:

- That granting the variance to the side yard setback regulations would not have been 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 would have been 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 have been 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 this variance request, and impose the submitted site plan as a condition, the structure in the southern side yard setback would be limited to what is shown on this document– which, in this case, is a structure to be located as close as 3’ 9” into this 5’ side yard setback.
- On September 5, 2014, the applicant informed the Board Administrator that he requested that the Board deny his variances without prejudice.

GENERAL FACTS/STAFF ANALYSIS (off-street parking variance):

- The request had focused on enclosing a parking space with a garage door in the proposed garage attached to the proposed single family home, where the parking space entered from Clements Street would be located less than the required 20’ distance from the street right-of-way line, more specifically where the enclosed parking space in the garage would be located 13’ from the right-of-way line or 7’ into the required 20’ distance from the Clements Street property line/right-of-way line.
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan and 1st floor plan had denoted the location of an enclosed parking space in the proposed structure 13.1’ from the Clements Street street right-of-way line or approximately 31’ from the projected pavement line.
- The subject site is rectangular in shape (approximately 60’ x 38’) and according to the application, is 0.052 acres (or approximately 2,300 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- According to DCAD records, the “main improvement” for property at 2114 Clements Street is a structure built in 1933 with 440 square feet of living area and 440 square feet of total area; with “additional improvements” of a 200 square foot storage building.
- The Sustainable Development and Construction Department Project Engineer had submitted a review comment sheet regarding the applicant’s request marked “Has no objections if certain conditions are met” commenting “subject to provide 15’ of clearance between the face of the proposed garage and the property line instead of

13.1 feet as shown on the site plan.” But at the June 23rd briefing, he informed the Board at the briefing that he no longer felt that imposing the condition that a 15’ clearance between the face of the proposed garage and the property line must be provided and maintained was necessary as long as the Board imposed the condition that at no time may the area in front of the garage be utilized for parking of vehicles.

- The applicant had the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations would not have been 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 would have been 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 have been 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, staff recommends imposing the following conditions:
 1. Compliance with the submitted site plan is required.
 2. An automatic garage door must be installed and maintained in working order at all times.
 3. At no time may the area in front of the garage be utilized for parking of vehicles. (These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- On September 5, 2014, the applicant informed the Board Administrator that he requested that the Board deny his variances without prejudice.

Timeline:

April 24, 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.

May 19, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 19, 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 May 28th deadline to submit additional evidence for staff to factor into their analysis; and the June 13th 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 6, 2014: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator on this application (see Attachment A).

June 10, 2014: 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 Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/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.

June 10, 2014: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" commenting "subject to provide 15 feet of clearance between the face of the proposed garage and the property line instead of 13.1 feet as shown on the site plan."

June 23, 2014: The Board of Adjustment Panel C held a public hearing on this application where the Sustainable Development and Construction Department Senior Engineer informed the Board at the briefing that he no longer felt that imposing the condition that a 15' clearance between the face of the proposed garage and the property line must be provided and maintained was necessary as long as the Board imposed the condition that at no time may the area in front of the garage be utilized for parking of vehicles. The Board delayed action on this application until August 18, 2014.

June 24, 2014: The Board Administrator sent a letter to the applicant that noted the decision of the panel, the July 30th deadline to submit additional evidence for staff review and the August 8th deadline to submit additional evidence to be incorporated into the Board's docket materials.

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 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 additional review comment sheets with comments were submitted in conjunction with this application.

August 6, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application and beyond what was submitted at the June 23rd public hearing (see Attachment B). Note that the applicant made no changes to his plans from what was submitted to the Board at the June 23rd public hearing.

August 18, 2014: The Board of Adjustment Panel C held a public hearing on this application and delayed action on this application per the request of the applicant until September 15, 2014.

August 22, 2014: The Board Administrator sent a letter to the applicant that noted the decision of the panel, the August 27th deadline to submit additional evidence for staff review and the September 5th deadline to submit additional evidence to be incorporated into the Board's docket materials.

September 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction 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 additional review comment sheets with comments were submitted in conjunction with this application.

September 5, 2014: The Board Administrator emailed the applicant a record of their phone conversation of that morning where the applicant informed the Board Administrator that he was requesting that the Board deny his variances without prejudice (see Attachment C).

BOARD OF ADJUSTMENT ACTION: June 23, 2014

APPEARING IN FAVOR: John M. Henderson, IV, 4512 Abbott Ave, Dallas, Texas

APPEARING IN OPPOSITION: Nina J. Denny, 6140 Richmond Ave, Dallas, Texas

MOTION: Beikman

I move that the Board of Adjustment in Appeal No. **BDA 134-059**, hold this matter under advisement until **August 18, 2014**.

SECONDED: Schulte

AYES: 4 – Richardson, Coulter, Schulte, Beikman

NAYS: 1 - Carreon

MOTION PASSED: 4 – 1

BOARD OF ADJUSTMENT ACTION: August 18, 2014

APPEARING IN FAVOR: John M. Henderson, IV, 4512 Abbott Ave, Dallas, Texas

APPEARING IN OPPOSITION: No one

MOTION #1: Beikman

I move that the Board of Adjustment in Appeal No. **BDA 134-059**, hold this matter under advisement until **September 15, 2014** but accept testimony from those who want to speak today.

SECONDED: Schulte

*** Motion was withdrawn by the maker on this matter.**

MOTION #2: Schulte

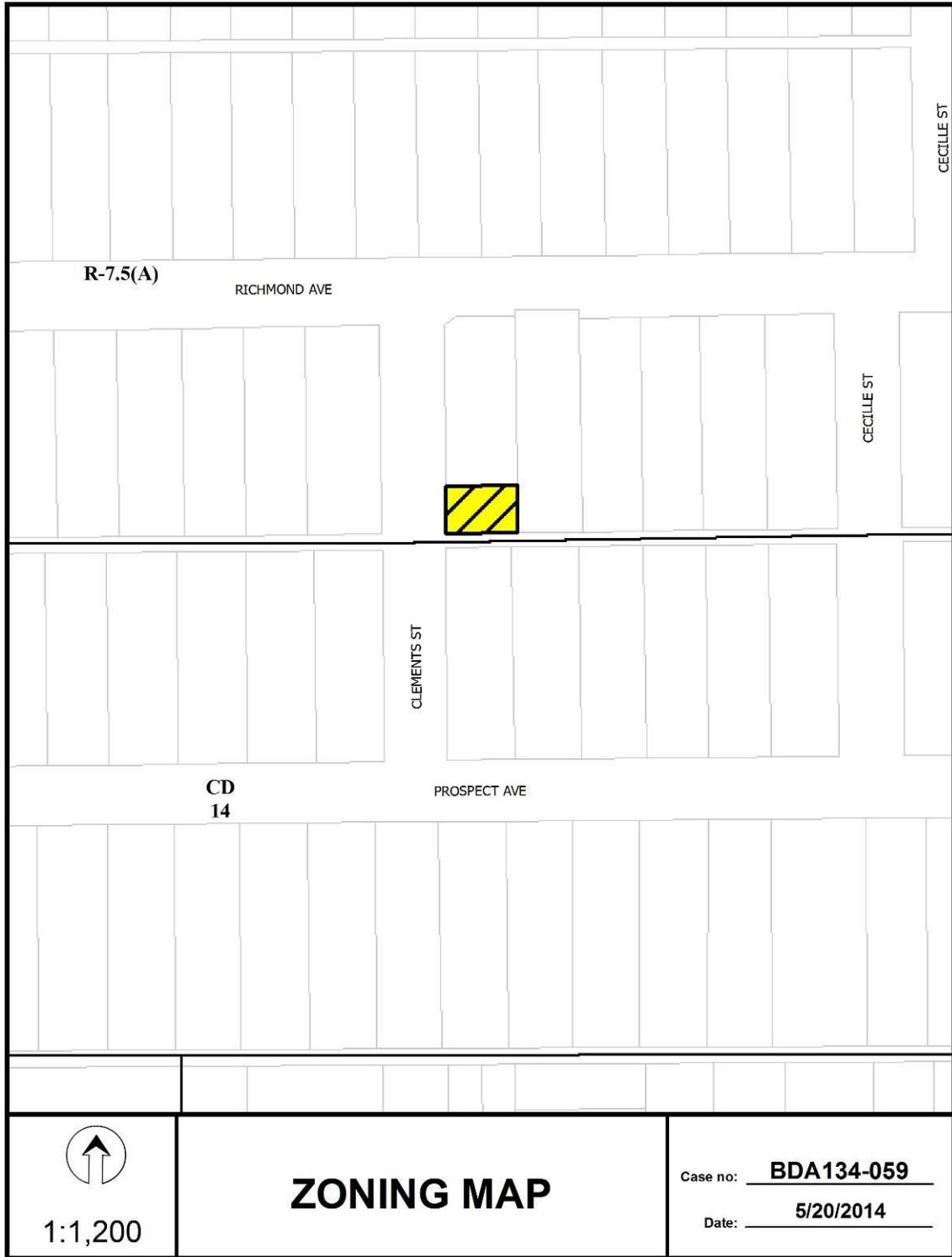
I move that the Board of Adjustment in Appeal No. **BDA 134-059**, hold this matter under advisement until **September 15, 2014**.

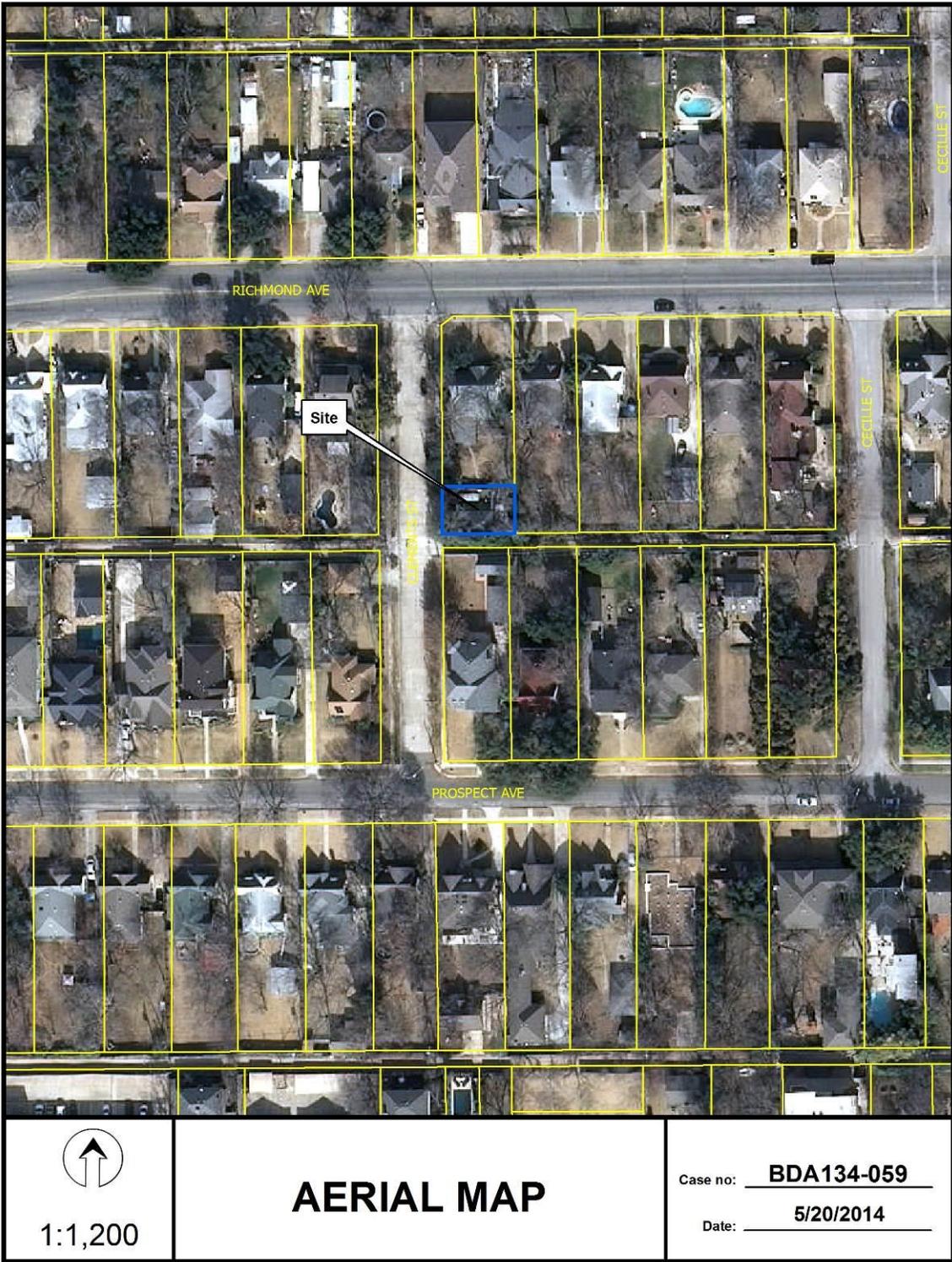
SECONDED: Beikman

AYES: –Coulter, Schulte, Beikman, Bartos

NAYS: 0

MOTION PASSED: 4 – 0





BDA134-059

Attach A

MEMORANDUM OF ACTION TAKEN BY THE BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that John Moncure Henderson, IV

did submit a request for a variance to the front yard setback regulations, and for a variance to the side yard setback regulations, and for a variance to the off-street parking regulation

at 2114 Clements Street

BDA134-059. Application of John Moncure Henderson, IV for a variance to the front yard setback regulations, a variance to the side yard setback regulations, and a variance to the off-street parking regulations at 2114 Clements Street. This property is more fully describe as a part of Lot 5, Block 3/2097, and is zoned R-7.5(A), which requires a front yard setback of 25 feet and requires a side yard setback of 5 feet and requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and maintain a single family residential structure and provide a 12 foot front yard setback, which will require a 13 foot variance to the front yard setback regulation, and construct and maintain a single family residential structure and provide a 1 foot 3 inch side yard setback measured at the roof eave, which w require a 3 foot 9 inch variance to the side yard setback regulation, and to construct and maintain a single family residential structure with a front yard setback of 13 feet for an enclosed parking space, which will require a variance of 7 feet to the off-street parking regulation.

Sincerely,

Larry V. Holmes, Building Official

Long, Steve

From: (Jay Henderson) <.....>
Sent: Wednesday, August 06, 2014 10:25 PM
To: Long, Steve
Subject: 2114 Clements St - Email Record of Meeting Neighbors
Attachments: Gmail - Clements Street Neighbors Emails.pdf

Hi Steve,

As requested by specific members of the BOJ, I met with the neighbors to discuss any possible changes to the design. Attached is our email correspondence setting up the appointment. The neighbors did not request any changes to the proposed design; they just reiterated their general opposition.

I think this should fulfill every thing requested by the Board and the law.

Best Regards,
Jay

--
Jay Henderson

BDA134-059
Attach B ps 2



Jay Henderson <

Clements Street Neighbors

4 messages

(Jay Henderson) <h
To: nina.tenery

Tue, Jul 8, 2014 at 2:09 PM

Hi Nina,

This is Jay Henderson from 2114 Clements Street. Would you and Chad be able to get together an evening this week around 6:30 PM Wednesday or Thursday at the Lakewood Whole Foods cafe? We have to start putting our daughter to sleep at around 7:45. Getting together this week would be good for us as my wife could most likely go into labor next week or the next. Let me know if either evening works for you all.

Best,
Jay

--
Jay Henderson

Nina Tenery <nina.tenery
To: "(Jay Henderson)" <

Tue, Jul 8, 2014 at 4:25 PM

Hi Jay,

Very nice to hear from you- thank you for reaching out. Of course, we would be happy to meet you all- you definitely have a busy few weeks ahead with the pending arrival of your baby. Six-Thirty on Thursday works best for us @ Whole Foods!

See you then,

Nina J Tenery
Corporate Director of Retail
4001 Maple Ave
Suite 500
Dallas Texas 75219

BDA 134-059
Attach B
p3

(972) 871-5533 (o)

nina.tenery

OMNI HOTELS & RESORTS

From: (Jay Henderson) [mailto:]
Sent: Tuesday, July 08, 2014 2:10 PM
To: Nina Tenery
Subject: Clements Street Neighbors

[Quoted text hidden]

Hendersonhenderson ·
To: Carroll Henderson <c

Tue, Jul 8, 2014 at 5:43 PM

Jay Henderson

Begin forwarded message:

From: Nina Tenery <nina.tenery_>
Date: July 8, 2014 at 4:25:05 PM CDT
To: "(Jay Henderson)" <he
Subject: RE: Clements Street Neighbors

[Quoted text hidden]

(Jay Henderson) <f...@gmail.com>
To: Nina Tenery <nina.tenery_>
Bcc: Carroll Henderson <

Tue, Jul 8, 2014 at 7:13 PM

Hi Nina,

Great! I'll put it on our calendar. See you both then.

Best,
Jay

[Quoted text hidden]

--

--

Jay Henderson

BDA 134-059

Attach B

PS 4

Long, Steve

From: Long, Steve
Sent: Friday, September 05, 2014 7:31 AM
To: '(Jay Henderson)'
Cc: Moorman, Donna; Way, Jamilah; Duerksen, Todd
Subject: FW: BDA 134-059, Property at 2114 Clements Street

Dear Mr. Henderson,

Let this email serve as a record of our phone conversation just now where you have informed me that you request for the board to deny your variances in conjunction with your application referenced above without prejudice.

Please be advised that:

- 1) this email will be printed out and forwarded to the board in the docket that is emailed to you and them next week; and
- 2) your application will be called at the September 15th public hearing where the board will have the option to deny your requests without prejudice per your request.

Thank you, and please feel free to write or call me at 214/670-4666 if I can assist you in any other way on this matter.

Steve

From: Long, Steve
Sent: Friday, September 05, 2014 6:52 AM
To: '(Jay Henderson)'
Cc: Way, Jamilah; Duerksen, Todd; Moorman, Donna
Subject: RE: Request for Withdrawal without Prejudice of Application for Variances

Dear Mr. Henderson,

Please be advised that your request below for the board to "withdraw without prejudice" your application for variances is not an option in your application or in any other one – a request for withdrawal is an option when the applicant makes the request before the application is heard by the board, and technically a withdrawal is never requested or acknowledged as "with" or "without" prejudice.

But I believe based on what you and I spoke about earlier this week, that you were intending to request that the board **deny** your application for variances **without** prejudice. This was the option that we discussed where if the board were to deny your variance requests **without** prejudice at the September 15th public hearing, you and/or anyone could refile a new application at any time, as opposed to if the board were to deny your variance requests **with** prejudice where you or anyone would be required to wait two years to refile a new application on this property.

Please let me know if you want to request for the board to **deny** your application for variances **without prejudice**, and write or call me at 214/670-4666 if you have any questions.

Thank you,

Steve

PS: Remember you have until noon today to submit anything else to me that will be forwarded to the board in the docket that is emailed to you and the members next week.

From: (Jay Henderson) [mailto:hendersonhenderson@gmail.com]
Sent: Thursday, September 04, 2014 5:06 PM
To: Long, Steve
Subject: Request for Withdrawal without Prejudice of Application for Variances

Dear Mr. Long,

Please inform the members of the Board of Adjustment that I wish to withdraw without prejudice my application for variances at 2114 Clements Street.

I have appreciated the professionalism of the city staff in assessing my application. Please let me know if there is any further information required.

Please confirm receipt of this request at your earliest convenience.

Thank You,
John M. Henderson IV

--
--

Jay Henderson



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-059

Data Relative to Subject Property:

Date: APRIL 24, 2014

Location address: 2114 CLEMENTS ST., 75214 Zoning District: R-7.5(A)

Lot No.: 5 Block No.: 3/2097 Acreage: 0.052 Census Tract: 11.02

Street Frontage (in Feet): 1) 38 2) _____ 3) _____ 4) _____ 5) _____ SE 2A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JOHN MONCURE HENDERSON IV & CARROLL FINNEY HENDERS

Applicant: JOHN MONCURE HENDERSON IV Telephone: 732-543-4898

Mailing Address: 4512 ABBOTT AVE. #13, DALLAS, TX Zip Code: 75205

E-mail Address: HENDERS.MHENDERSON@GMAIL.COM

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance X, or Special Exception _____, of SIDE YARD SETBACK, FRONT SETBACK, & PARKING VARIANCE
(6.5 FT) (13 FT) (7 FT)

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
THE SIZE OF THE PROPERTY PRESENTS A SEVERE HARDSHIP TO CONSTRUCT A HOUSE OF COMMENSURATE SIZE AND ALSO PROVIDE PARKING, WITHOUT THE USE OF VARIANCES.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared JOHN MONCURE HENDERSON IV
(Affiant/Applicant's name printed)

who on (his/hers) oath certifies that the above statements are true and correct to his/hers best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24th day of APRIL, 2014



[Signature]
Notary Public in and for Dallas County, Texas
BRETT HUNTER

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was—Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that John Moncure Henderson, IV

did submit a request for a variance to the front yard setback regulations, and for a variance to the side yard setback regulations, and for a variance to the off-street parking regulation

at 2114 Clements Street

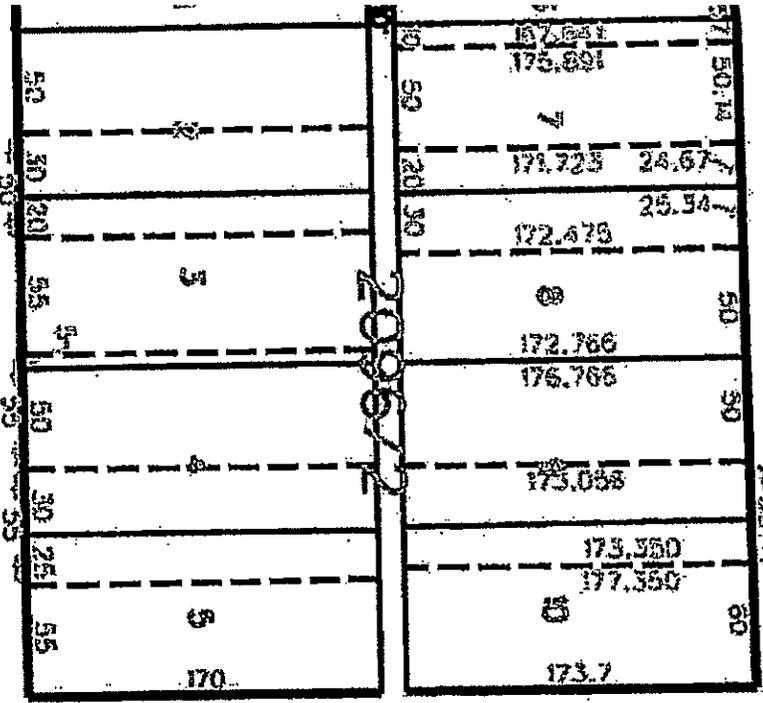
BDA134-059. Application of John Moncure Henderson, IV for a variance to the front yard setback regulations, a variance to the side yard setback regulations, and a variance to the off-street parking regulations at 2114 Clements Street. This property is more fully describe as a part of Lot 5, Block 3/2097, and is zoned R-7.5(A), which requires a front yard setback of 25 feet and requires a side yard setback of 5 feet and requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and maintain a single family residential structure and provide a 12 foot front yard setback, which will require a 13 foot variance to the front yard setback regulation, and construct and maintain a single family residential structure and provide a 1 foot 6 inch side yard setback, which will require a 3 foot 6 inch variance to the side yard setback regulation, and to construct and maintain a single family residential structure with a front yard setback of 13 feet for an enclosed parking space, which will require a variance of 7 feet to the off-street parking regulation.

Sincerely,


Larry Holmes, Building Official

PROSPECT

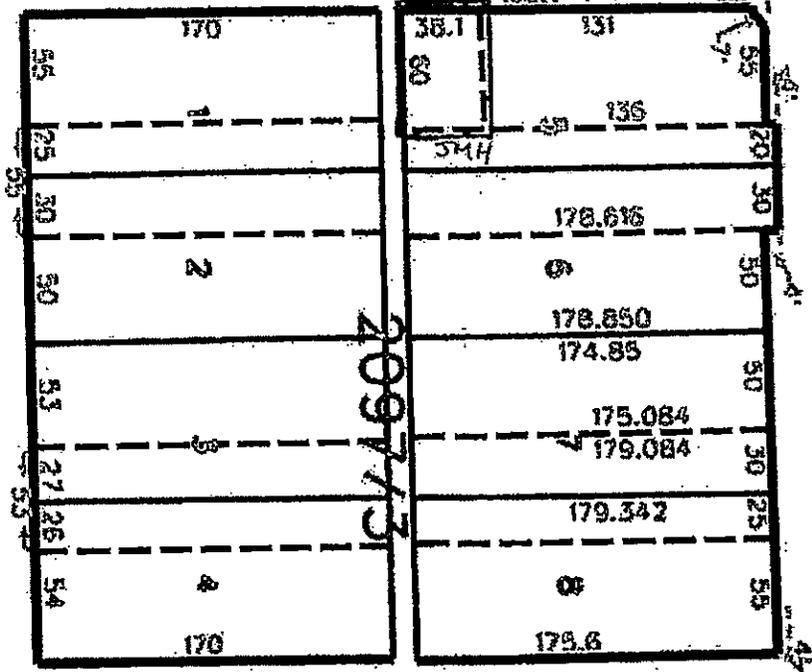
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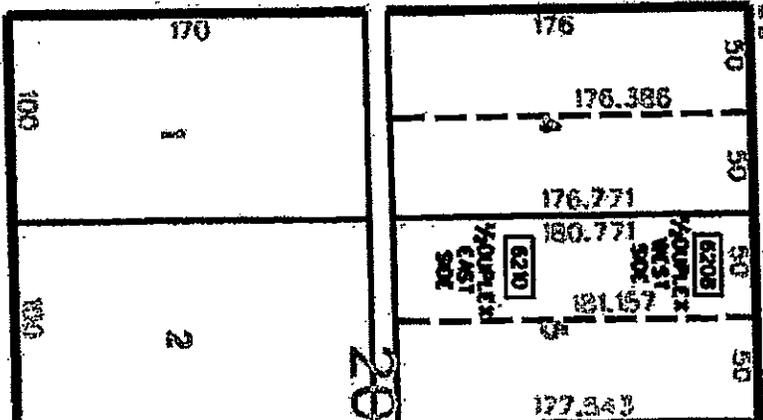
RICHMOND

6100

8 CLEMENTS ST. 2100



50 CECIL AVE. 2100

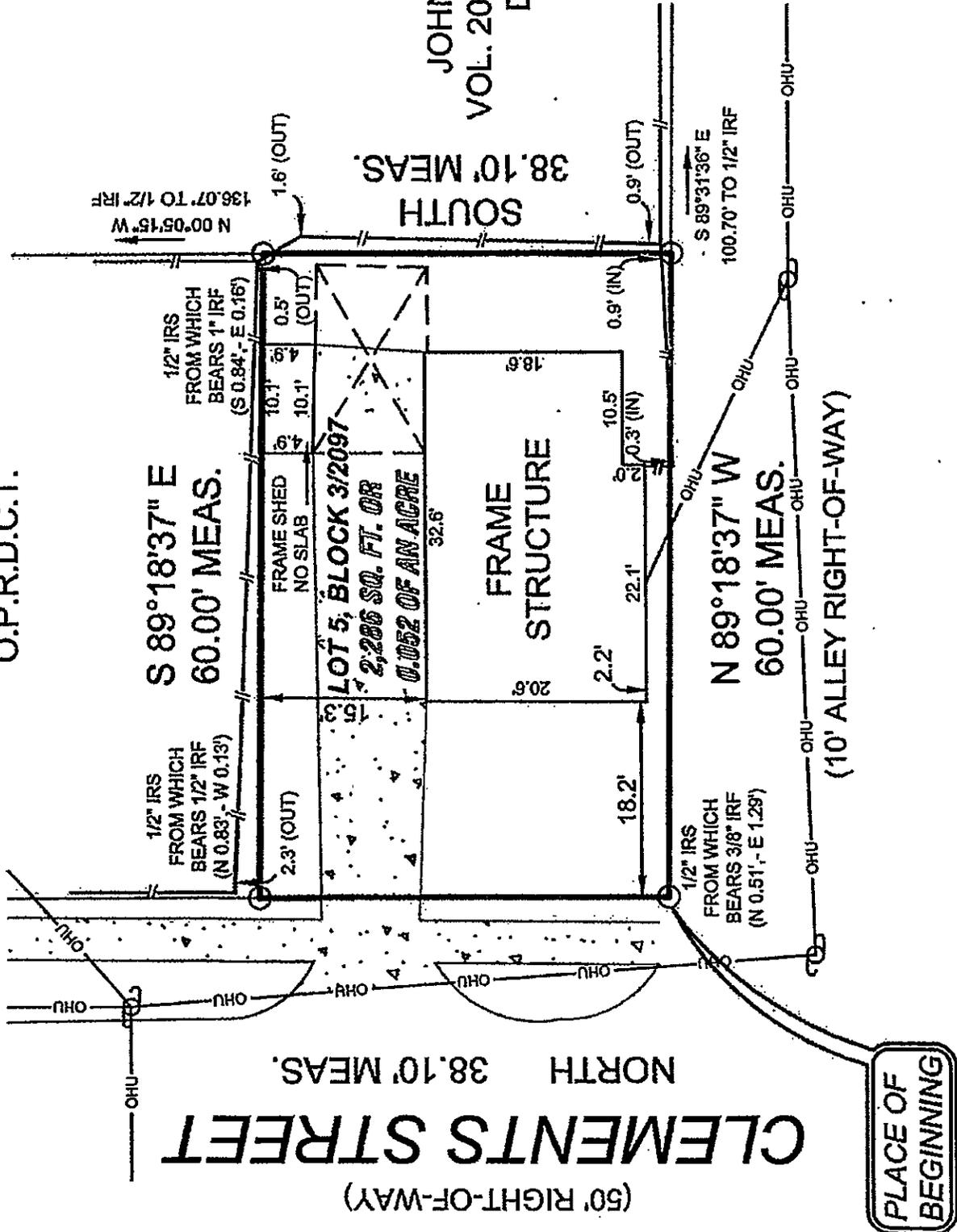


6200

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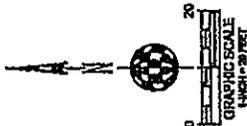
6200

O.P.R.D.C.T.

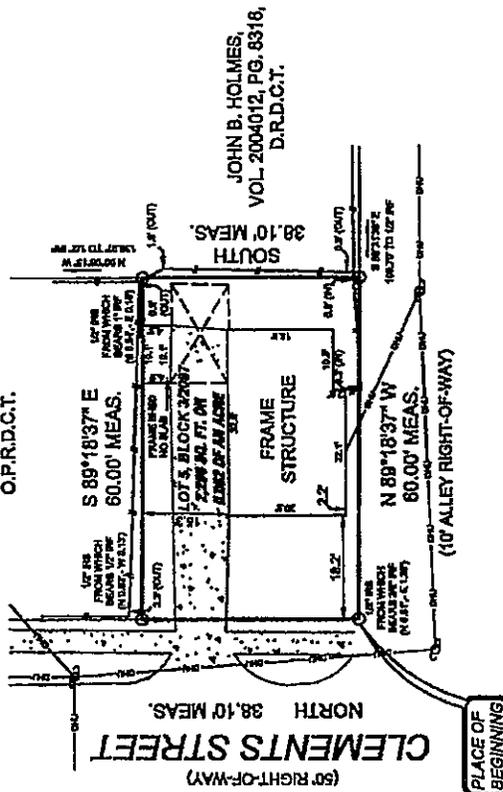


JOHN B. HOLMES,
VOL. 2004012, PG. 8318,
D.R.D.C.T.

SURVEY PLAT



NINA JEAN DENNY,
INST. NO. 201300227820,
O.P.R.D.C.T.



JOHN B. HOLMES,
VOL. 2004012, PG. 8316,
D.R.D.C.T.

SURVEYORS CERTIFICATION

I, John S. Turner, Registered Professional Land Surveyor No. 8316, do hereby certify to John Henderson, that the plat shown hereon was prepared from and represents accurately a survey made, on the ground, under my direction and supervision. Significant improvements to the property are as shown hereon. Valuable evidence of use of the subject property found on the ground is shown hereon. EXCEPT AS SHOWN, there were no visible and apparent easements, encroachments or protrusions of the ground, visible and apparent conflicts with boundaries of adjacent properties shown on the ground (if any) are as shown hereon. The area of the property as shown hereon is correct, always adjacent to the property as shown hereon and recorded plat and other records. This survey was compiled from recorded plat and other records, in conjunction with field measurements and significant and visible monumentation and evidence of boundaries found on the ground. According to the Community Plat No. 461502035 of the Federal Emergency Management Agency flood insurance risk map or flood hazard boundary map dated 08/25/2007, the property shown hereon is located in Zone "X". (This information is protected from F.I.R.M.)



John S. Turner
Professional Land Surveyor
No. 8316
State of Texas

This survey was performed exclusively for the parties in conjunction with the G. F. number shown hereon and is loaned for a single use. This survey remains the property of the Surveyor. Unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright law and international treaties. All rights reserved. Do not make legal copies.

Please note that the use of the word "CERTIFY" or "CERTIFICATE" used hereon constitutes an affirmation of professional opinion regarding those facts or findings which are the subject of the certification, and does not constitute a warranty or guarantee, either expressed or implied.

LEGAL DESCRIPTION

Being a part of Lot 5, Block 32097, of EDGEWORTH PARK, an Addition to the City of Dallas, Dallas County, Texas, according to the Plat thereon recorded in Volume 2, Page 63, Map Records, Dallas County, Texas, and being the same tract of land described in deed to J. Sheffield Wade recorded in Volume 97035, Page 2574, Deed Records, Dallas County, Texas, and being more particularly described as follows:

Beginning at a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 6310" set for corner at the intersection of the North line of a 10-foot alley, with the East line of Clements Street, said point being at the Southwest corner of said Lot 5;

Thence North, along said East line, and being the West line of said Lot 5, a distance of 38.10 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 6310" set at the Southwest corner of that portion of said Lot 5, described in deed to Nina Jean Denny, recorded in instrument No. 201300227820, Official Public Records, Dallas County, Texas;

Thence South 89 deg. 18 min. 37 sec. East, a distance of 60.00 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 6310" set for corner in the West line of that portion of said Lot 5, described in Volume 2004012, Page 8316, Deed Records, Dallas County, Texas, said point being at the Southeast corner of said Denny tract;

Thence South, a distance of 38.10 feet to a 1/2-inch iron rod with a yellow plastic cap stamped "RPLS 6310" set for corner in the said North line of the 10-foot alley right-of-way, and being at the Southwest corner of said Denny tract;

Thence North 89 deg. 18 min. 37 sec. West, along said North line, a distance of 60.00 feet to the PLACE OF BEGINNING and containing 2,288 square feet or 0.052 of an acre of land.

NOTE

This survey was performed without the benefit of an abstractor, therefore, no search of record assessments was performed on subject property.

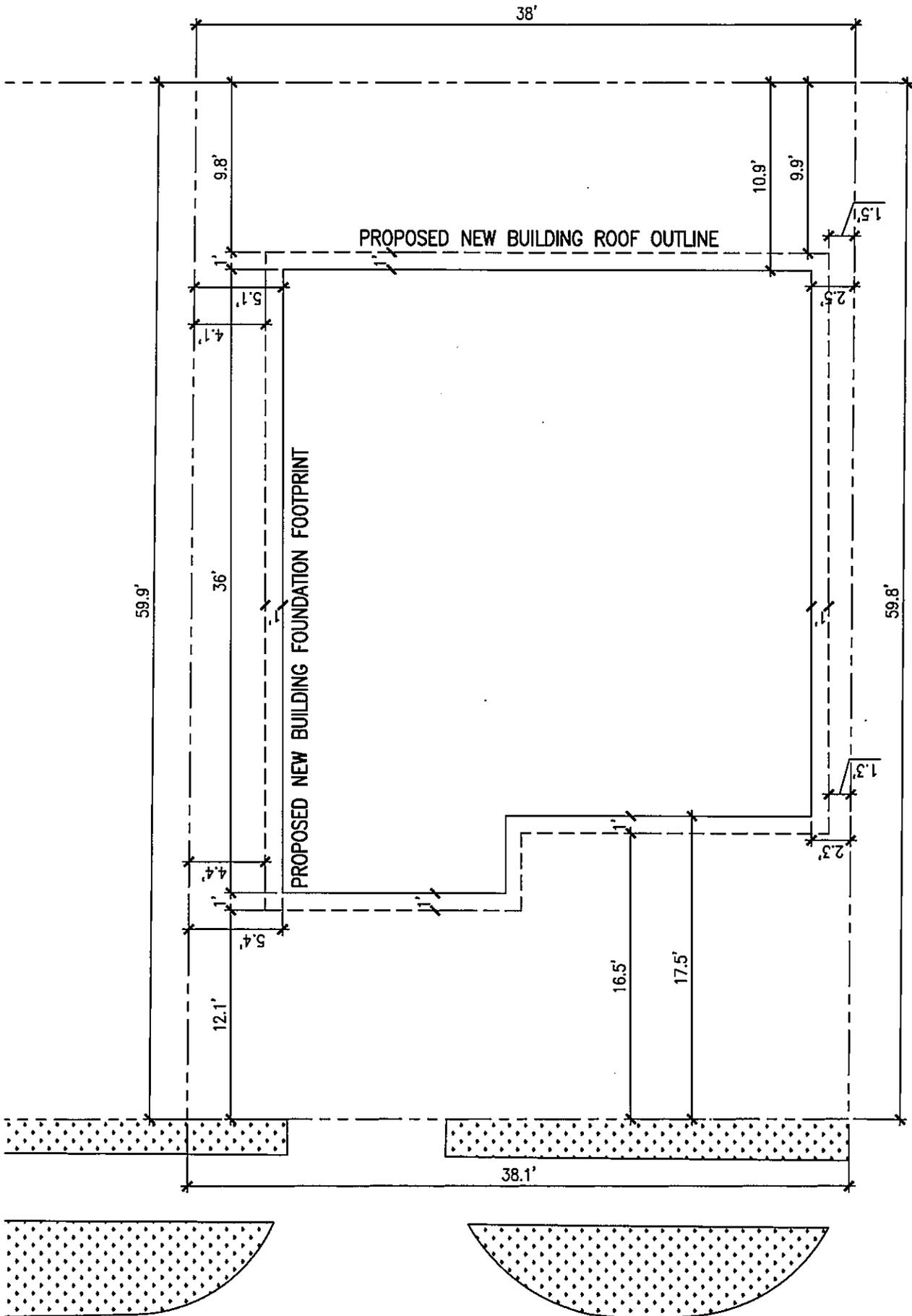
LEGEND

1	TRAIL MARK	14	WATER WALK	24	POST PALE	34	CONCRETE
2	WOOD MARK	15	PIPE	25	IRON NAIL	35	BRICK
3	IRON NAIL	16	WOOD MARK	26	WOOD MARK	36	WOOD MARK
4	WOOD MARK	17	WOOD MARK	27	WOOD MARK	37	WOOD MARK
5	WOOD MARK	18	WOOD MARK	28	WOOD MARK	38	WOOD MARK
6	WOOD MARK	19	WOOD MARK	29	WOOD MARK	39	WOOD MARK
7	WOOD MARK	20	WOOD MARK	30	WOOD MARK	40	WOOD MARK
8	WOOD MARK	21	WOOD MARK	31	WOOD MARK	41	WOOD MARK
9	WOOD MARK	22	WOOD MARK	32	WOOD MARK	42	WOOD MARK
10	WOOD MARK	23	WOOD MARK	33	WOOD MARK	43	WOOD MARK
11	WOOD MARK	24	WOOD MARK	34	WOOD MARK	44	WOOD MARK
12	WOOD MARK	25	WOOD MARK	35	WOOD MARK	45	WOOD MARK
13	WOOD MARK	26	WOOD MARK	36	WOOD MARK	46	WOOD MARK
14	WOOD MARK	27	WOOD MARK	37	WOOD MARK	47	WOOD MARK
15	WOOD MARK	28	WOOD MARK	38	WOOD MARK	48	WOOD MARK
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31	WOOD MARK	44	WOOD MARK	54	WOOD MARK	64	WOOD MARK
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**2114 CLEMENTS STREET
DALLAS, TEXAS**

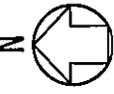
A&W SURVEYORS, INC.
Professional Land Surveyors
P.O. BOX 870204, MCKINNEY, TX 75087
PHONE: (972) 961-4878 FAX: (972) 961-4864
WWW.AANDWSURVEY.COM

FOR INFO: 2020-08-08
DATE: 01-28-2020
OFFICE: 201300227820



10' ALLEY RIGHT-OF-WAY

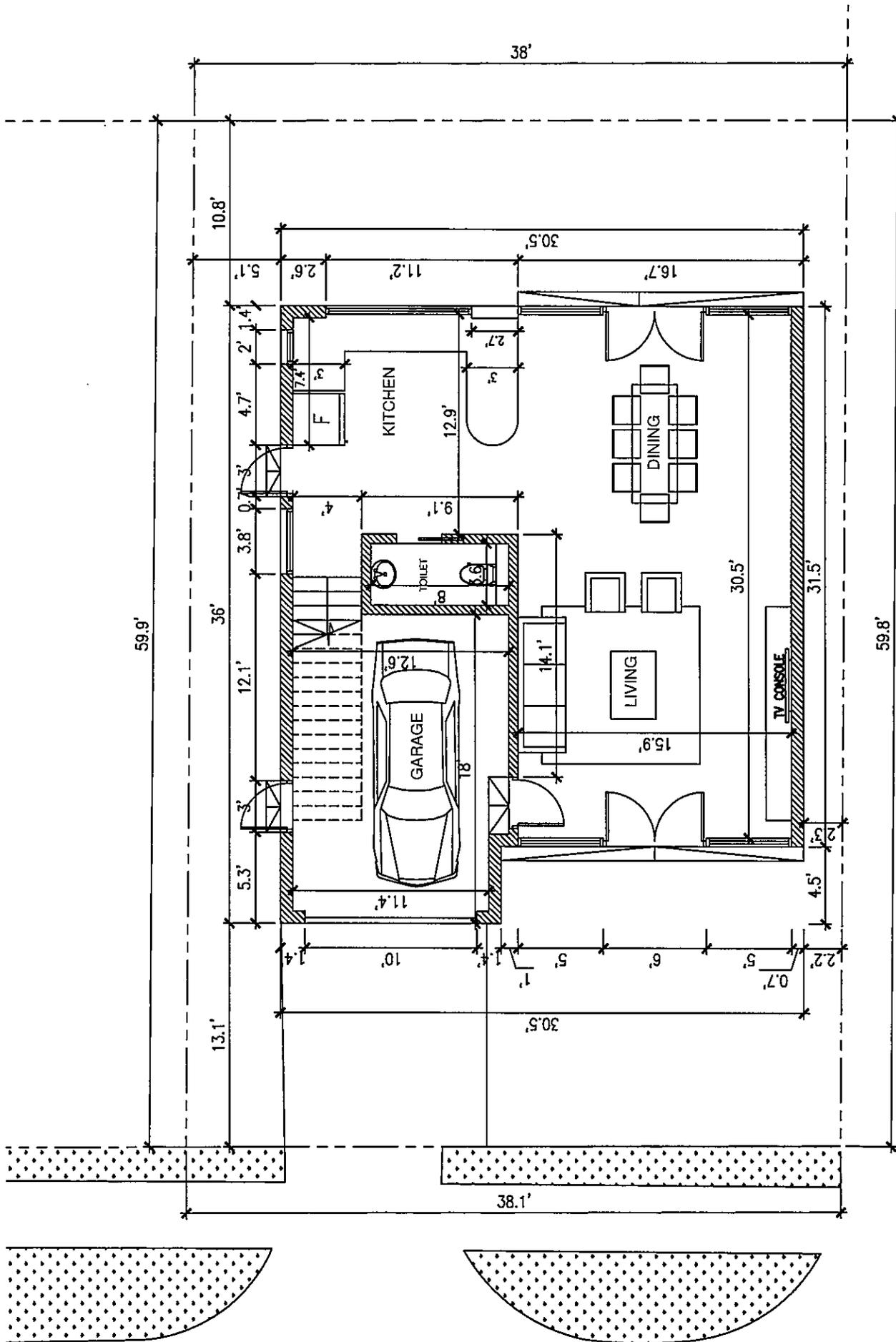
<p>LOT 5, BLOCK 32097 EDGEWORTH PARK ADDITION, 2114 CLEMENTS STREET, CITY OF DALLAS, COUNTY OF DALLAS, TEXAS 75214</p>	
NOTE	
1) LAND AREA = 2076.5 SQFT	
2) MAX ALLOWABLE FOOTPRINT = 65% OF LAND AREA = 1024.4 SQFT	
3) PROPOSED FOOTPRINT AREA = 1017.4 SQFT	



1 PROPOSED NEW BUILDING FOUNDATION FOOTPRINT & ROOF OUTLINE
1/8" TO 1"

(25 APR 2014)

R

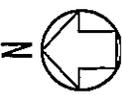


10' ALLEY RIGHT-OF-WAY

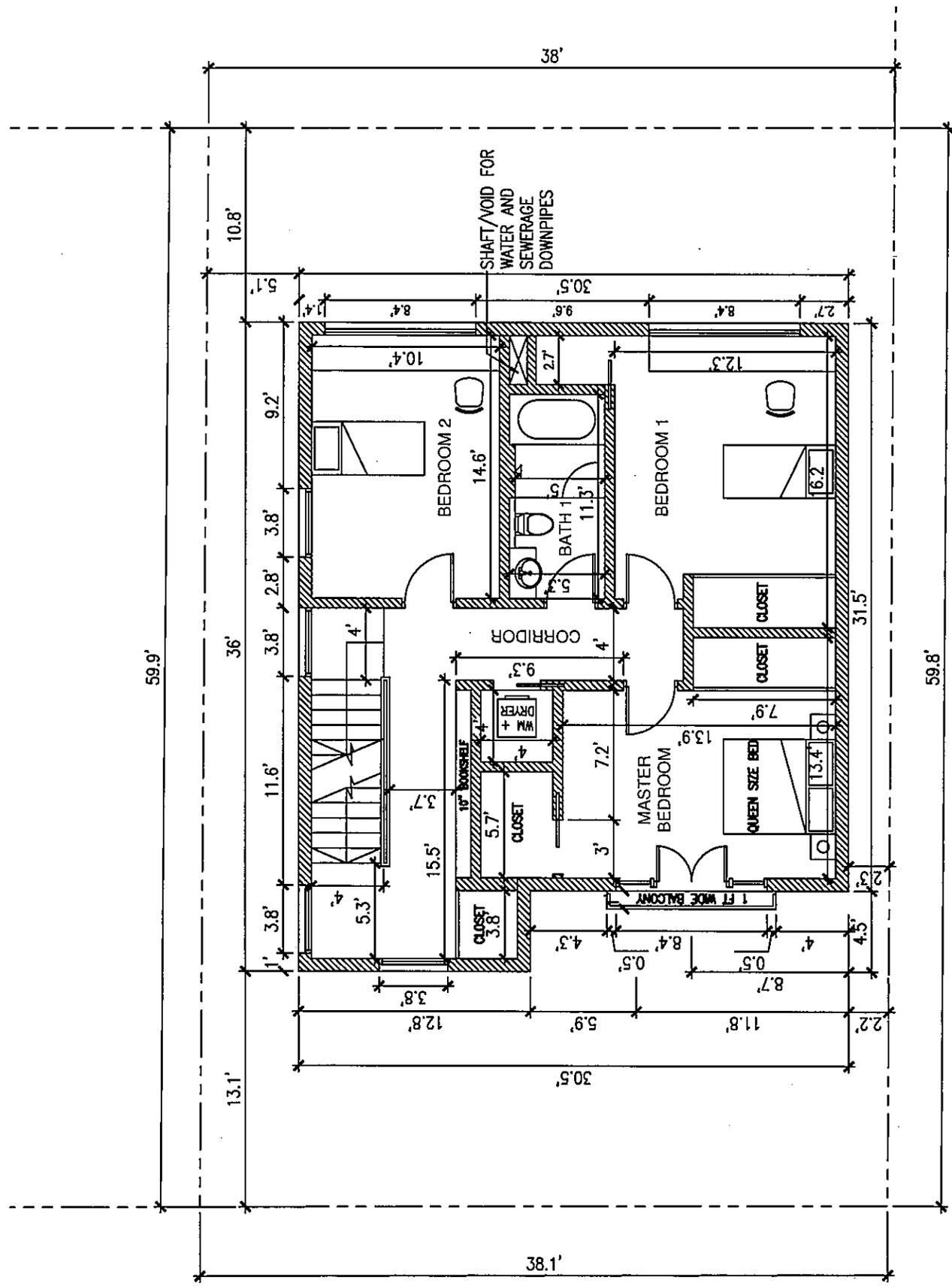
LOT 5, BLOCK 32097 EDMONT PARK ADDITION,
 2114 CLEMENTS STREET, CITY OF DALLAS,
 COUNTY OF DALLAS, TEXAS 75214

NOTE
 1) LAND AREA = 2276.5 SQFT
 2) MAX. ALLOWABLE FOOTPRINT
 = 45% OF LAND AREA = 1024.4 SQFT
 3) PROPOSED FOOTPRINT AREA = 1017.4 SQFT

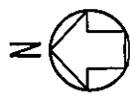
1 1ST STOREY PLAN
 1/8" TO 1"



(25 APR 2014)



10' ALLEY RIGHT-OF-WAY



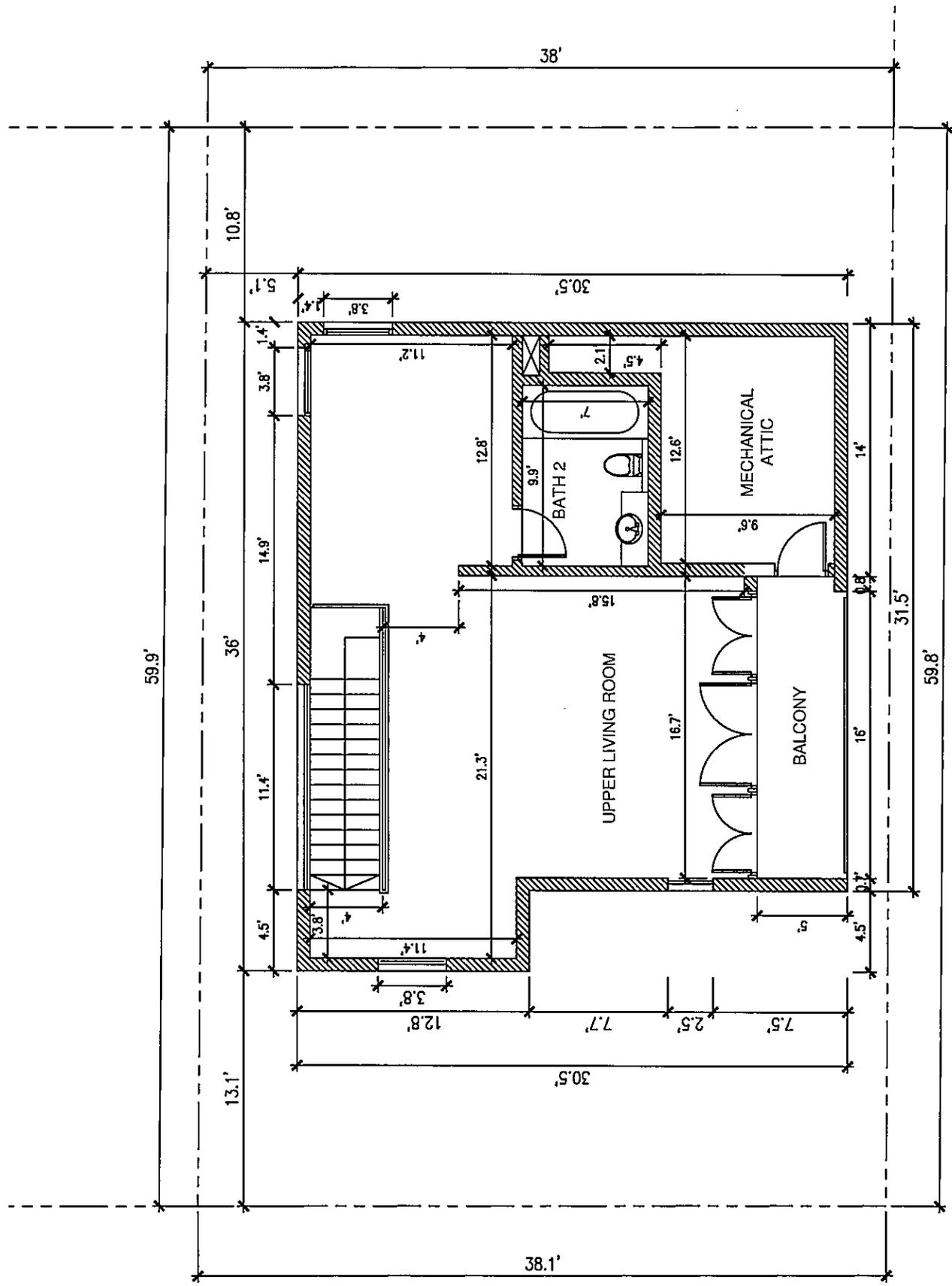
1 2ND STOREY PLAN
1/8" TO 1"

(25 APR 2014)

LOT 5, BLOCK 32097 EDMONT PARK ADDITION,
2114 CLEMENTS STREET, CITY OF DALLAS,
COUNTY OF DALLAS, TEXAS 75214

NOTE
1) LAND AREA = 2276.5 SQFT
2) MAX. ALLOWABLE FOOTPRINT
= 45% OF LAND AREA = 1024.4 SQFT
3) PROPOSED FOOTPRINT AREA = 1017.4 SQFT

R

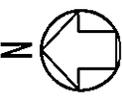


10' ALLEY RIGHT-OF-WAY

LOT 5, BLOCK 62087 EDMONT PARK ADDITION,
2114 CLEMENTS STREET, CITY OF DALLAS,
COUNTY OF DALLAS, TEXAS 75214

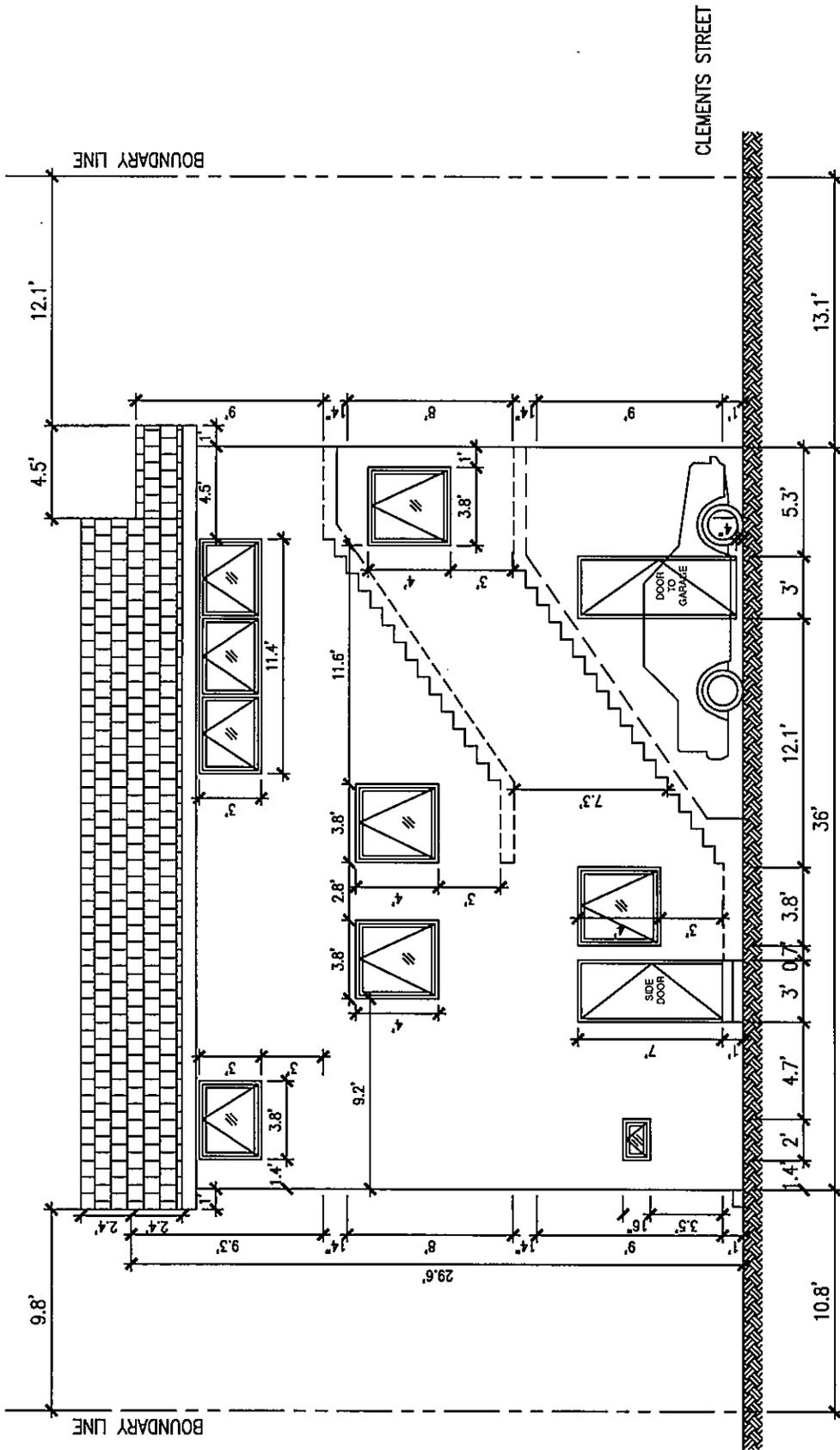
NOTE
1) LAND AREA - 2276.5 SQFT
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= 45% OF LAND AREA = 1024.4 SQFT
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1 3RD STOREY PLAN
1/8" TO 1"



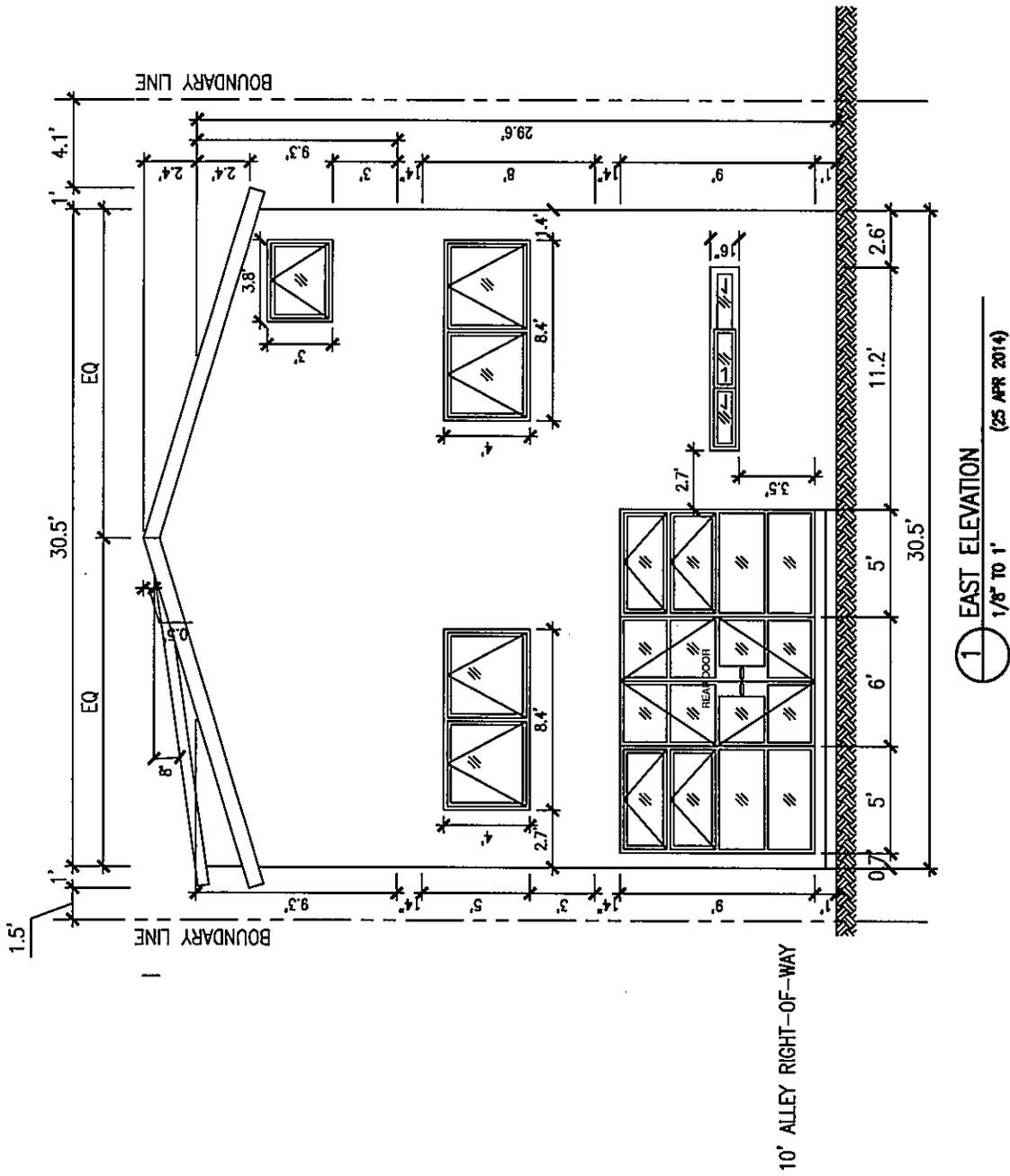
(25 APR 2014)

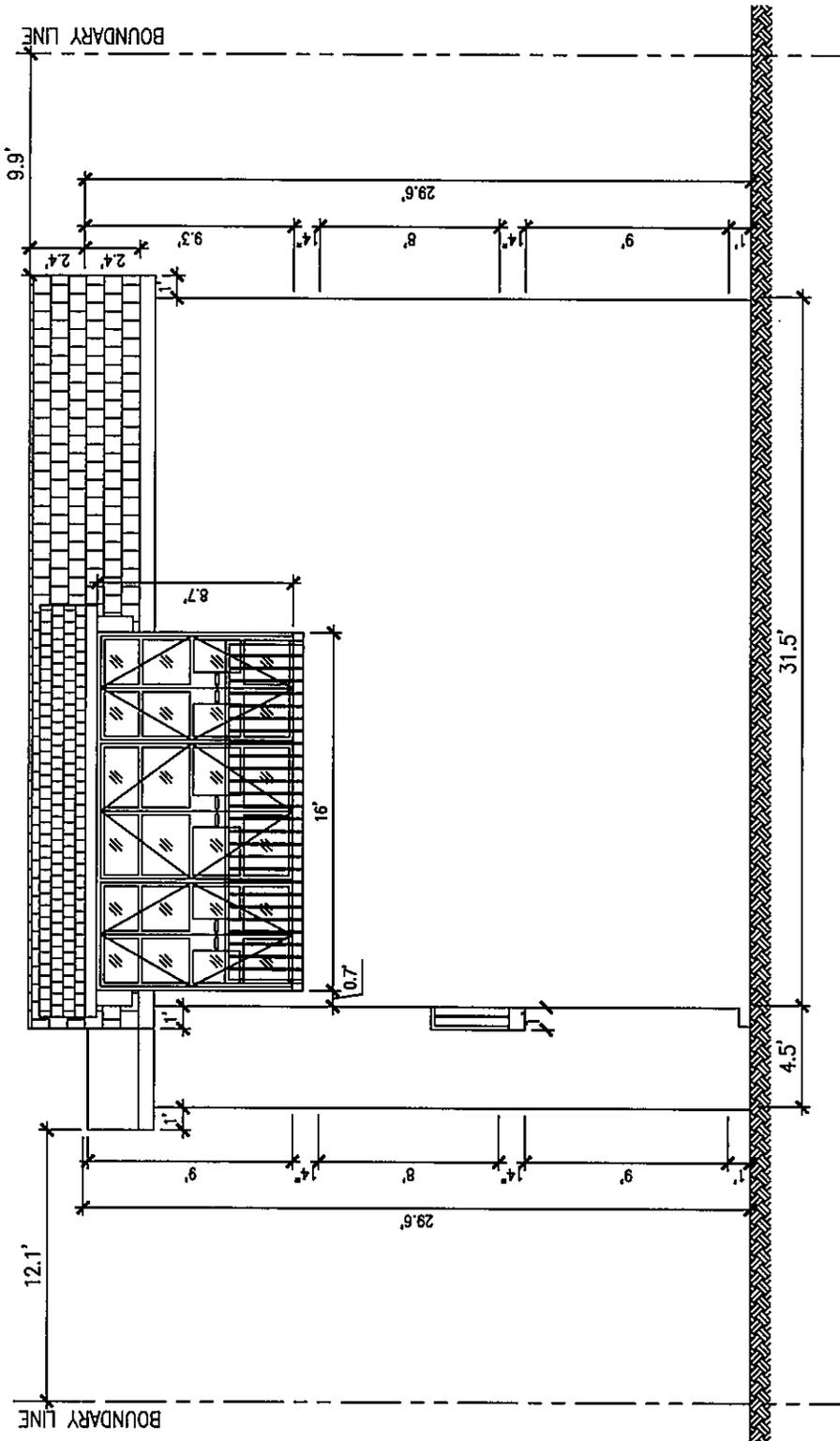
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1 NORTH ELEVATION
1/8" TO 1" (25 APR 2014)

R





1 SOUTH ELEVATION
 1/8" TO 1"
 (25 APR 2014)

R

Variance Application

**John Moncure Henderson IV & Carroll Finney Henderson
2114 Clements St
Dallas, TX 75214**

We want to build a 3 bedroom/2.5 bath house that is commensurate with the other houses in this neighborhood, all of which are under the same R-7.5(A) zoning. The total size of our lot is 2,276.5 sq ft, which is about a third of the size of residential lots in the area.

Even though the size of the lot is much smaller than surrounding lots, it is still subject to the same R-7.5(A) setbacks as the larger lots. These setbacks further reduce the buildable footprint and put a severe hardship on us. Due to the restrictive size of the lot, we are forced to apply for a side yard setback variance, a front yard setback variance and a parking variance.

The primary challenge this lot has is the small area. Under the zoning setbacks, we can only build a structure with a ~28 ft x 30 ft footprint, including a car park area. In addition, our lot is further restricted because the lot adjoins an alleyway. These factors combine to make it extremely difficult to fulfill the parking requirements and build a commensurate house.

We have attempted numerous layout designs with a variety of different setbacks, and we have sought to minimize the deviations from the zoning, but we still need the variances to construct a commensurate structure with livable interior spaces and parking. In terms of setbacks (and also from a visual perspective) we have tried to design a structure that is as similar as possible to the existing ~600 sq ft structure's setbacks. The south side setback that we are requesting is the same as the current existing house and the front setback is only ~5 feet closer to the street than the existing house.

The structure that we are proposing complies with most of the zoning requirements, and we are only seeking what we believe are the minimum variances that would be needed if this lot is to have a building that fits into the surrounding residential neighborhood. In other words, our proposed structure is below the 45% lot coverage requirement; is below the height restrictions of the current zoning; fulfills the rear setback zoning to maintain a usable backyard that can be landscaped, and maintains one side setback at current zoning. The reduced front and side setback that we are applying for are both needed to build a commensurate house with livable interior spaces and fulfill the need for parking.

From a fire code perspective, on the side of the property that we are requesting a reduced setback, our proposed house is ~16 feet away from a small structure across the alley (which is also the case with the existing house

that is currently on the property). Due to the alley, a structure cannot ever be built any closer to our proposed structure closer than ~14 feet away. On the adjoining lots, the closest existing house is ~36 feet away from our property line. None of the other properties that adjoin the alleyway on this block use the alleyway as an access point to their property. We want to keep our proposed house design commensurate with the other houses in the area and use the existing front entry drive way.

Other new houses being built in the area in the same zoning are much larger in footprint, square footage, width, depth, and height. We, obviously, cannot (and do not want to) fit a house of those dimensions on to this lot, but we are in the public interest by building a house that is commensurate with the size of this lot.

We are in the public interest by building a house that is of a similar distance to the street as the other existing houses. The front setback of our proposed house (13 ft) is still larger than the side setbacks that are our house is in visual comparison to, i.e. the house directly south of the lot has a ~5 ft setback to Clements Street and the house directly north of the lot has a ~7 ft setback to Clements Street. Furthermore, both of those adjoining properties have fences that are built to the property line, which visually pushes our house back from the street.

We are in the public interest by investing a significant sum of money to develop a property in the city of Dallas for our family that increases the tax base of the city. We are not investing this money as a developer to flip or sell this house, but to live in it and contribute to the neighborhood.

We are in the public interest by adapting our house design around the existing mature pecan tree on the property. A certified arborist has examined the tree and proposed construction methods to mitigate any impact on the tree. We are in the public interest by designing a house that keeps both a backyard and front yard as a significant percentage of the lot coverage and leaves enough room to plant additional trees.

When taken together, all the above points clearly show that we need the variances to over come the hardship of such a small lot to build a house that is commensurate to other houses in the same zoning.

Long, Steve

From: (Jay Henderson) <hendersonhenderson@gmail.com>
Sent: Monday, May 26, 2014 11:42 PM
To: Long, Steve
Subject: Re: BDA 134-059, Property at 2114 Clements Street
Attachments: 2114.Clements.St.Addition.HENDERSON.pdf

Hi Mr. Long,

Thanks for sending this along. Your email was actually sent to my spam folder, but your emails should come through now that you're in my contacts. I read the application and it seems pretty straightforward without any issues brought up by the building inspector.

Attached is the house size comparison table for R-7.5(A) zoning. Since I am not an expert on this, please let me know if there is any labeling that should change on the table. All of the information is from the DCAD website and all of the addresses are in the immediate vicinity of 2114 Clements St.

Also attached is the proposed building footprint overlaid with the existing building's footprint. I think this pretty clearly shows how the proposed design mimics the existing structure and current driveway.

Please add both of these documents to my file to be given to the board if there is no issue with them.

I'll give you a call on Tuesday morning to make sure you received these.

Thanks,
Jay Henderson

On Mon, May 19, 2014 at 9:54 AM, Long, Steve <steve.long@dallascityhall.com> wrote:

Dear Mr. Henderson,

Here is information regarding your board of adjustment application referenced above, most of which we spoke about on the phone last week:

1. Your submitted application materials- all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled June 23rd Panel C public hearing.
2. The standard as to how the board is able to consider/grant a variance to the front and side yard setback and off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides the public hearing date and other deadlines for submittal of additional information to staff/the board beyond what is included in the attached application materials.
4. The board's rule pertaining to documentary evidence.

Please review the Building Official's Reports/second pages of your applications (page 2 of 15 in the application materials that are attached) and contact Todd Duerksen at 214/948-4475 no later than noon, Wednesday, May 28th with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his report regarding the specific numbers related to required and provided setbacks are incorrect. (Note that the discovery of any additional appeal needed other than the requested front and side yard setback and off-street parking variances will result in postponement of the appeals until the panel's next regularly scheduled public hearing).

Lastly, I would encourage you to contact Ali Hatefi, City of Dallas Sustainable Development Department Senior Engineer at 214/948-5379 to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your off-street parking variance request.

Please write or call me at 214/670-4666 if I can be of any additional assistance to you on this application.

Thanks,

Steve

PS: If there is anything that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address:

Steve Long, Board of Adjustment Administrator

City of Dallas Sustainable Development and Construction

1500 Marilla Street, Room 5BN

Dallas, Texas 75201

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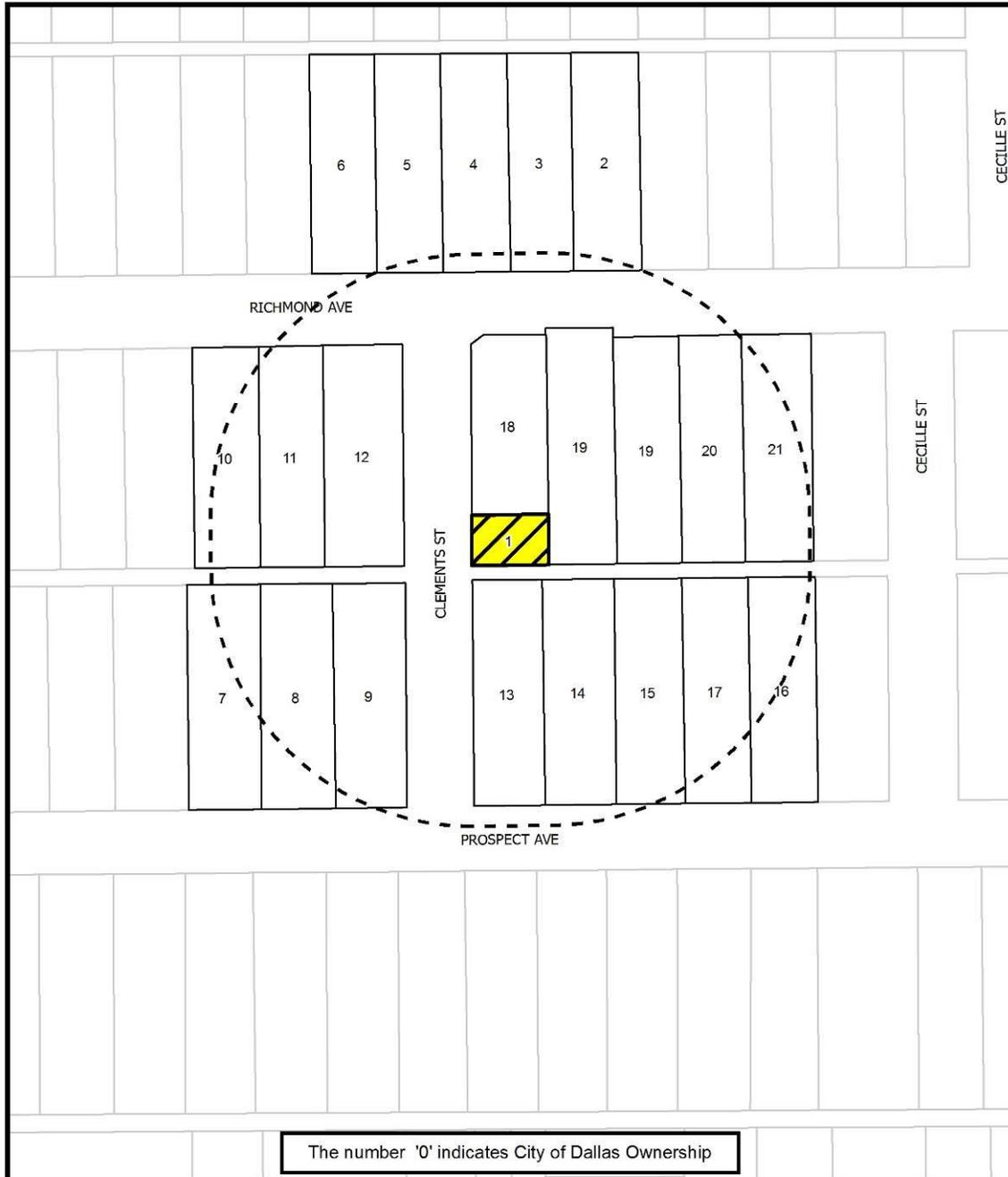
Jay Henderson

House Size Comparison List

Address	Zoning	Living Area Sq. Ft.	Additional Improvement Sq. Ft.
6136 Llano Ave	R-7.5(A)	2,624	520 (Detached Garage)
6237 Belmont Ave	R-7.5(A)	2,358	400 (Detached Garage)
6145 Richmond Ave	R-7.5(A)	2,848	None
6158 Velasco Ave	R-7.5(A)	3,119	483 (Attached Garage)
6127 Goliad Ave	R-7.5(A)	2,888	640 (Detached carport)
6154 Vickery Blvd	R-7.5(A)	2,686	456 (Detached Garage)
6166 Vanderbilt Ave	R-7.5(A)	3,194	598 (Detached Garage)
6230 Marquita Ave	R-7.5(A)	1,460	360 (Detached Garage)
6014 Goodwin Ave	R-7.5(A)	2,744	460 (Attached Garage)
6212 Mercedes Ave	R-7.5(A)	1,509	400 (Detached Garage)

**All information from DCAD website.*

AVERAGE SQ. FT.	2543	432
PROPOSED BUILDING SQ. FT.	~2093	~223
DIFFERENCE	-450 SQ. FT.	-209 SQ. FT



 1:1,200	NOTIFICATION	Case no: BDA134-059			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">21</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	21	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
21	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA134-059

21 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2114 CLEMENTS ST	WADE J SHEFFIELD
2	6147 RICHMOND AVE	GESIN SHERRI
3	6145 RICHMOND AVE	CHEATHAM JUNE GARLAND
4	6139 RICHMOND AVE	BAKER CAROLYN A
5	6133 RICHMOND AVE	M CHRISTOPHER INVESTMENTS LLC 2011
6	6131 RICHMOND AVE	MANKOFF SCOTT
7	6123 PROSPECT AVE	ROWLAND JARROD M & KRISTI M
8	6127 PROSPECT AVE	BAIMA SCOTT A & HAVEN BAIMA
9	6133 PROSPECT AVE	TALLEY OLIVE J
10	6122 RICHMOND AVE	RODELY JACK &
11	6126 RICHMOND AVE	REILLY BOBBIE
12	6130 RICHMOND AVE	SELF JAMES & LANA SELF
13	6141 PROSPECT AVE	CORBEIL STEVE
14	6145 PROSPECT AVE	HARDIE J PAUL
15	6149 PROSPECT AVE	CALDWELL MELISSA W & RICHARD JR
16	6157 PROSPECT AVE	ADKINS MICHAEL J
17	6153 PROSPECT AVE	WEINSTEIN MICHAEL B
18	6140 RICHMOND AVE	DENNY JAY W & BEVERLY T
19	6144 RICHMOND AVE	HOLMES JOHN B
20	6152 RICHMOND AVE	MAJORS KERRI ANNE
21	6156 RICHMOND AVE	BATY R GAINES

FILE NUMBER: BDA 134-065D

BUILDING OFFICIAL'S REPORT: Application of Ann Covington-Wilburn represented by Craig Barnes for a special exception to the landscape regulations at 3005 Fairmount Street. This property is more fully described as Lot 4, Block 9/944, and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 3005 Fairmount Street

APPLICANT: Ann Covington-Wilburn
Represented by Craig Barnes of Shield Engineering Group, PLLC

REQUEST:

A special exception to the landscape regulations is made to convert an existing residence into a twenty (20) space commercial parking lot, and not fully provide required landscaping.

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

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request in that the submitted revised alternate landscape proposal meets the spirit and intent of the PD 193 landscape regulations.

BACKGROUND INFORMATION:

Site: PD 193 (GR) (Planned Development, General Retail)
North: PD 193 (GR) (Planned Development, General Retail) and PD 193, PDS 98
South: PD 193 (LC) (Planned Development, Light Commercial) and PD 193, PDS 39

East: PD 193 (GR) (Planned Development, General Retail)
West: PD 193 (GR) (Planned Development, General Retail), PD 193, PDS 93, and PD 193,
PDS 15

Land Use:

The subject site is developed with a single family residential structure. The areas to the north, east, south, and west are developed with a mix of land 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 new parking lot on an approximately 7,733.5 square foot lot, and not fully providing required landscaping.
- 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.
- Previously, the City of Dallas Chief Arborist had stated in a memo (see Attachment A) that the request in this case was triggered by new construction of a parking lot, and he noted that the site was deficient in meeting the landscape requirements in that the proposed plan did not fully comply with sidewalk, tree planting zone, and off-street parking and screening requirements.
- The Chief Arborist had also highlighted several factors considered in this case, including slope, an existing retaining wall, elevation, alignment of an existing sidewalk along the block face, plants proposed for the site, and existing trees within or on adjacent property boundaries.
- The Chief Arborist had supported the request because the applicant demonstrated that the submitted alternate landscape plan met the spirit and intent of the PD 193 regulations.
- During the August 18th public hearing, the Board voted to hold the application under advisement so that the applicant and representative could revisit the landscape plan and address issues brought forth during the meeting.
- On August 29, 2014, the applicant's engineer submitted a revised alternate landscape plan to the Building Inspection Senior Plans Examiner/Development Code Specialist.
- The City of Dallas Chief Arborist states in an updated memo (see Attachment B) that the amended landscape plan now "more properly demonstrate[s] the area of permeable pavement for the parking spaces," adjusts parking configuration, moves

the desert willow trees closer to the street frontage, and slightly adjusts the location of plant materials.

- The Chief Arborist maintains a recommendation of approval for the proposed amended alternate landscape plan, as it still meets the spirit and intent of the PD 193 regulations.
- As of September 8, 2014, no letters have been submitted in support and 8 letters have been submitted in opposition to the request.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the sidewalk and tree planting zone requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of Section 51P-193-126: Landscape, streetscape, screening, and fencing standards”.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to sidewalk, tree planting zone, and off-street parking and screening requirements of the landscape requirements of the Oak Lawn PD 193 landscape ordinance.

BOARD OF ADJUSTMENT ACTION: August 18, 2014

APPEARING IN FAVOR: Jon Kroehler, 4704 Waterford Dr., Ft, Worth, TX
Ann Covington Wilburn, 2601 Grandview Dr, Dallas, TX
Craig Wallace, 3608 Champion LN., Dallas, TX

APPEARING IN OPPOSITION: Jennifer Baker, 3019 Fairmount, Dallas, TX
Jeremy Burnell, 3015 Fairmount, Dallas, TX
Carol Moore, 3031 Fairmount, Dallas, TX
James French, 3001 Fairmount, Dallas, TX
Sheldon Nagish, 3013 Fairmount, Dallas, TX
Marc Kaminer, 3011 Fairmount, Dallas, TX

MOTION: Schulte

I move that the Board of Adjustment in request No. BDA 134-065D, hold this matter under advisement until **September 15, 2014.**

SECONDED: Beikman

AYES: 3– Coulter, Schulte, Beikman

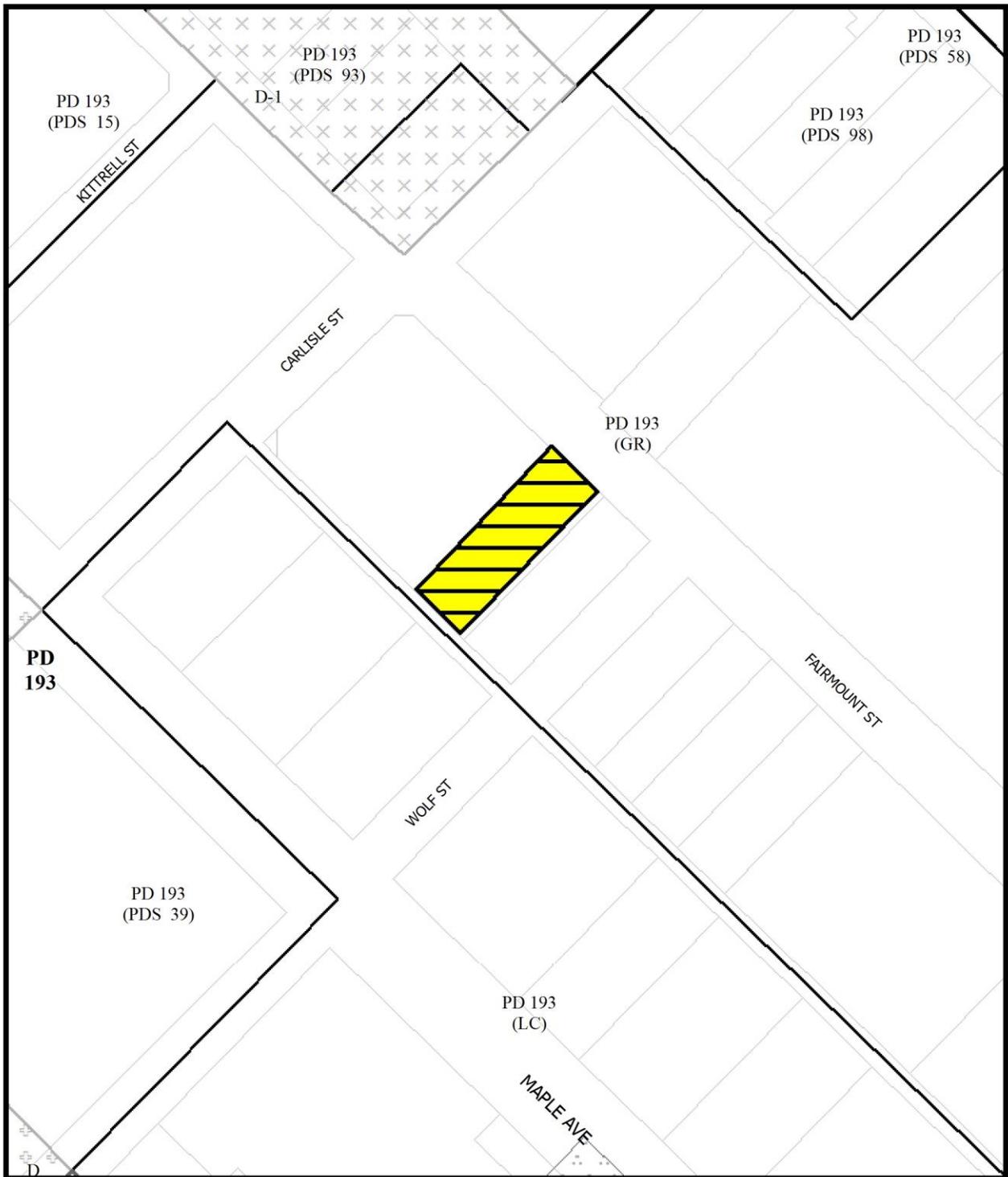
NAYS: 1 – Bartos

MOTION PASSED: 3– 1

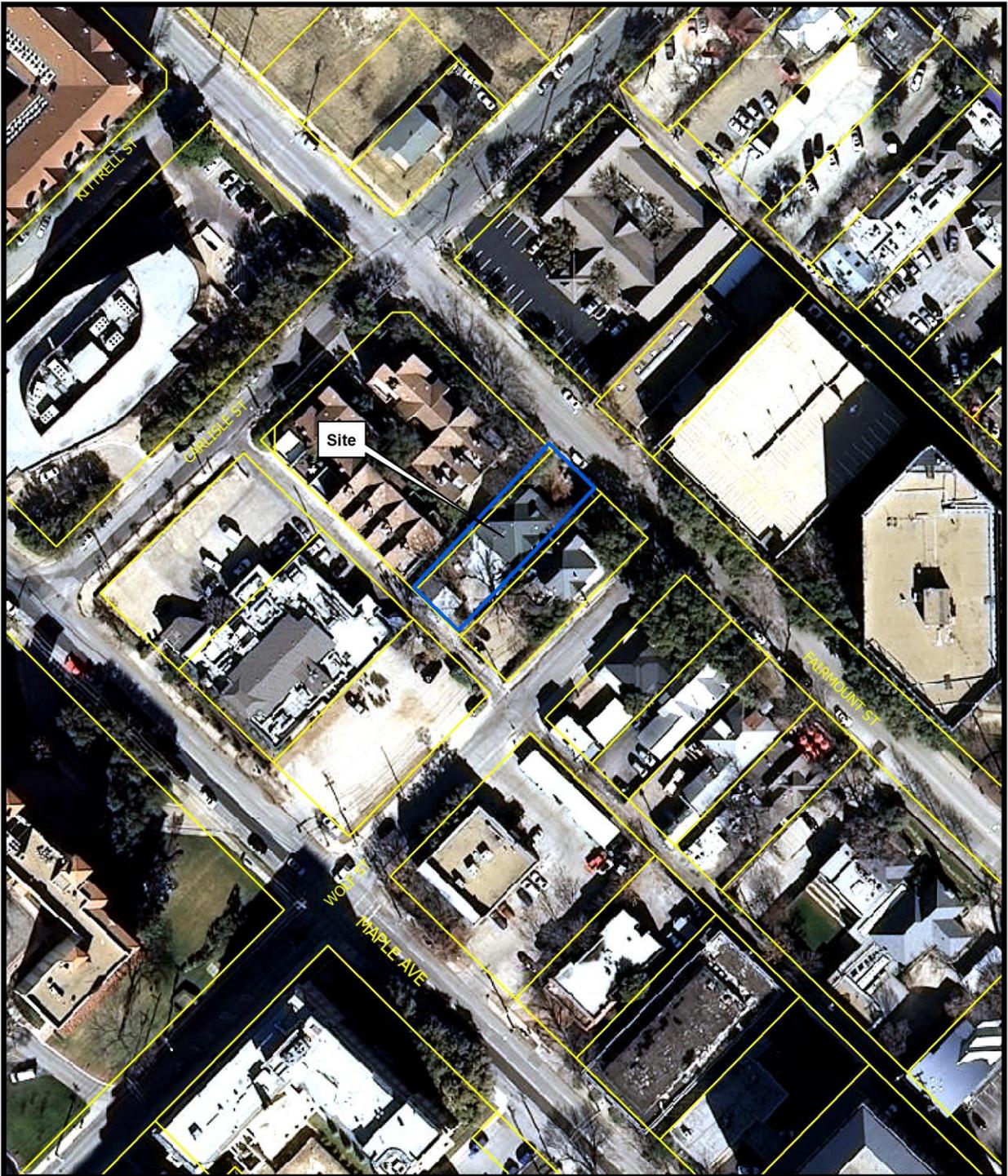
Timeline:

May 6, 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 C.
- July 17, 2014: The Board Planner emailed the following information to the applicant:
- 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.
- August 7, 2014: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment A).
- August 29, 2014: The applicant's engineer submitted a revised alternate landscape plan to the Building Inspection Senior Plans Examiner/Development Code Specialist.
- September 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September 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.
- September 3, 2014: The City of Dallas Chief Arborist submitted a new memo regarding this application (see Attachment B).



 1:1,200	<h1>ZONING MAP</h1>	Case no: <u> BDA134-065 </u> Date: <u> 7/25/2014 </u>
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 1:1,200

AERIAL MAP

Case no: BDA134-065
 Date: 7/25/2014

Memorandum



DATE August 7, 2014

TO

Danielle Jimenez, Planner
Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 134 · 065 3005 Fairmount Street

The applicant is requesting a special exception to the landscape requirements of PD 193 (GR) district.

Trigger

New construction of parking lot.

Deficiencies

The proposed landscape plan is deficient in the requirements for sidewalk (193.126(b)(4)), trees (tree planting zone – 193.126(b)(5)), and off-street parking and screening requirements (193.126(b)(3)).

Factors

The property frontage has a significant slope down to the street level. The retaining wall and existing slope conditions will remain except for where it is removed for the driveway. The surface parking will be at a higher elevation to the roadway.

The proposed sidewalk is in alignment with the existing sidewalk along the block face. A 'clear zone' is proposed at the driveway exit to avoid visual obstructions.

The applicant chose a native plant direction for the landscape plan. The desert willows are proposed to be set back from the street at the higher elevation. The Autumn sage (Salvia) plants, shown to be planted from the top of the slope and downward toward the street, do not meet the technical requirements for a minimum 42" screening height shrub above the parking surface. It is a standard three feet tall/wide shrub. The Texas Native Plants Database lists the character of the Salvia as 'semievergreen'. As always, the success of the landscape along Fairmount Street as a visual buffer will depend on the careful maintenance of the plant material.

The existing trees identified on the plan are within, or on, the boundaries of the adjacent properties. The tree roots cross property boundaries, but the trees are not under this property's ownership. These trees may be removed in the future based on the demands of adjacent properties. Therefore, the trees are not considered as a part of this landscape for inspection.

The applicant is proposing a permeable pavement for the parking spaces on the lot for the decorative function and to minimize the risk of damages to the roots of adjacent trees.

All landscaping is to be fully irrigated.

Recommendation

The chief arborist has no objection to the proposed landscape plan and recommends approval because the applicant has demonstrated an effort to comply with the spirit and intent with PD 193 regulations in creating a parking lot while adapting to topographical challenges along Fairmount Street.

Philip Erwin, ISA certified arborist #TX-1284(A)
Chief Arborist

Memorandum



Date September 3, 2014
To Danielle Jimenez
Subject 134-065 3005 Fairmount revised landscape plan

I have reviewed the amended landscaping plan for the proposed parking lot at 3005 Fairmount Avenue. The plan has been modified to more properly demonstrate the area of permeable pavement for the parking spaces, and has slightly adjusted the parking configuration. The desert willow trees have been moved forward closer to the street frontage. The plant materials have not been altered from the original plan but have slight adjustments for location.

Trees not growing on this property are identified on the plan for reference. However, their location is relevant to the positioning of permeable pavements to minimize damage to tree roots.

I maintain a recommendation of approval for the proposed amended landscape plan.

Philip Erwin
Chief Arborist



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-065

Data Relative to Subject Property:

Date: 3/27/14

Location address: 3005 Fairmount Street Zoning District: PD 193 (GR)

Lot No.: 4 Block No.: 9/944 Acreage: 0.18 Census Tract: 18.00

Street Frontage (in Feet): 1) 50 2) 3) 4) 5) SW 22

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Terrie L Covington

Applicant: Ann Covington-Wilburn Telephone: 214.336.1263

Mailing Address: 2601 Grandview Dr. Plano, TX Zip Code: 75075

E-mail Address: anncovingtonwilburn@gmail.com

Represented by: Craig Barnes - Shield Engineering Group, PLLC Telephone: 817.810.0696

Mailing Address: P.O. Box 470636, Fort Worth, Texas Zip Code: 76147

E-mail Address: craig.barnes@segpllc.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of Alternative Landscape Plan

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The Owner is proposing to convert an existing residence into a 20 space commercial parking lot. The attached alternative landscape plan keeps the existing 4' sidewalk in the current location due to the limited street frontage (50'), existing retaining wall, 5' vertical elevation difference, and ADA accessibility. The attached plan also includes proposed trees and shrubs at different locations to keep street trees out of the sight triangles/clear zone which will improve safety at this driveway. Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Terrie L Covington (Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Terrie L Covington (Affiant Applicant's signature)

Subscribed and sworn to before me this 6th day of May 2014



Sterling M. Mayes Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

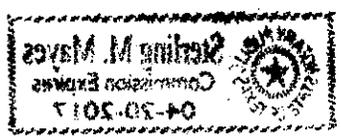
Building Official's Report

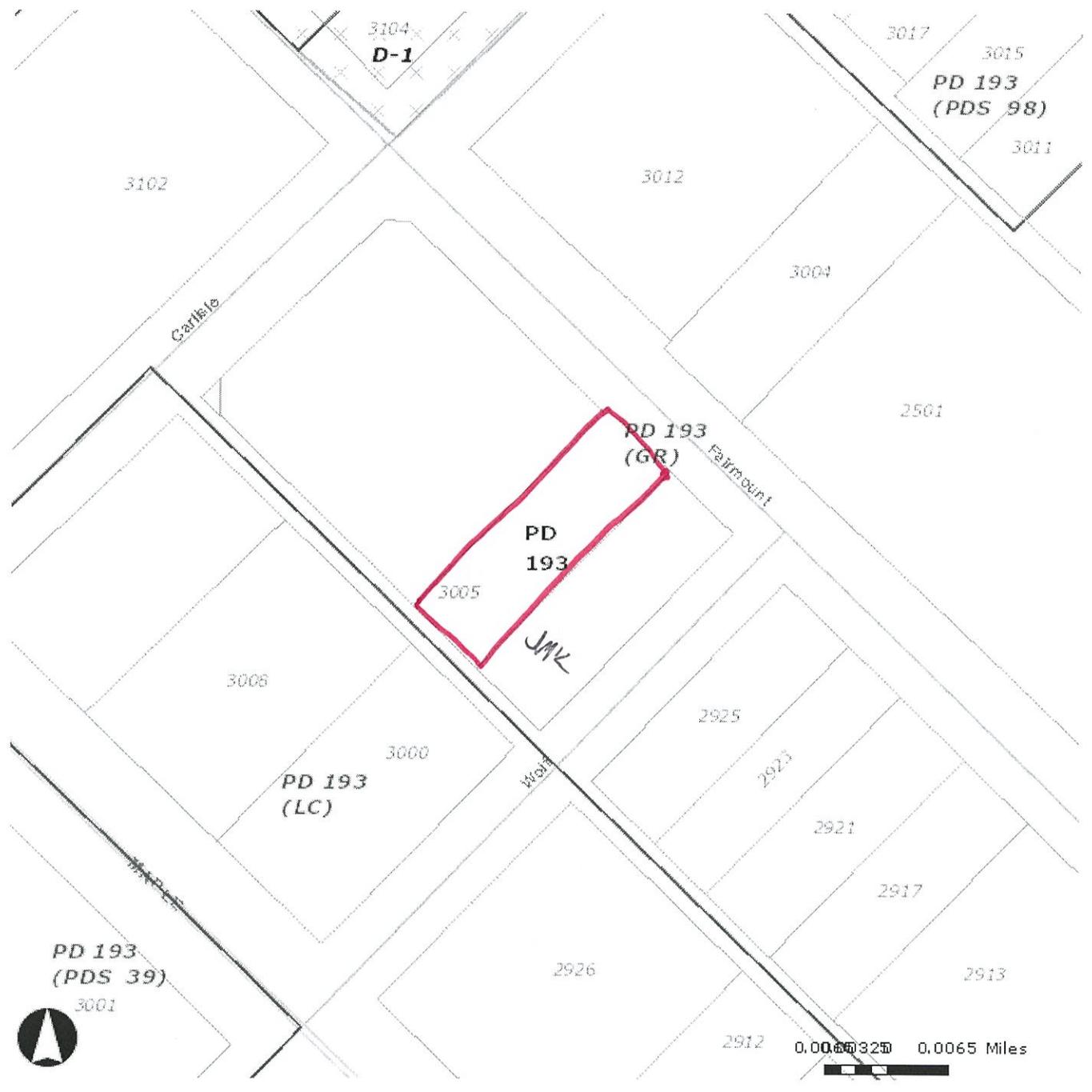
I hereby certify that Ann Covington-Wilburn
 represented by Craig Barnes
did submit a request for a special exception to the landscaping regulations
 at 3005 Fairmount Street

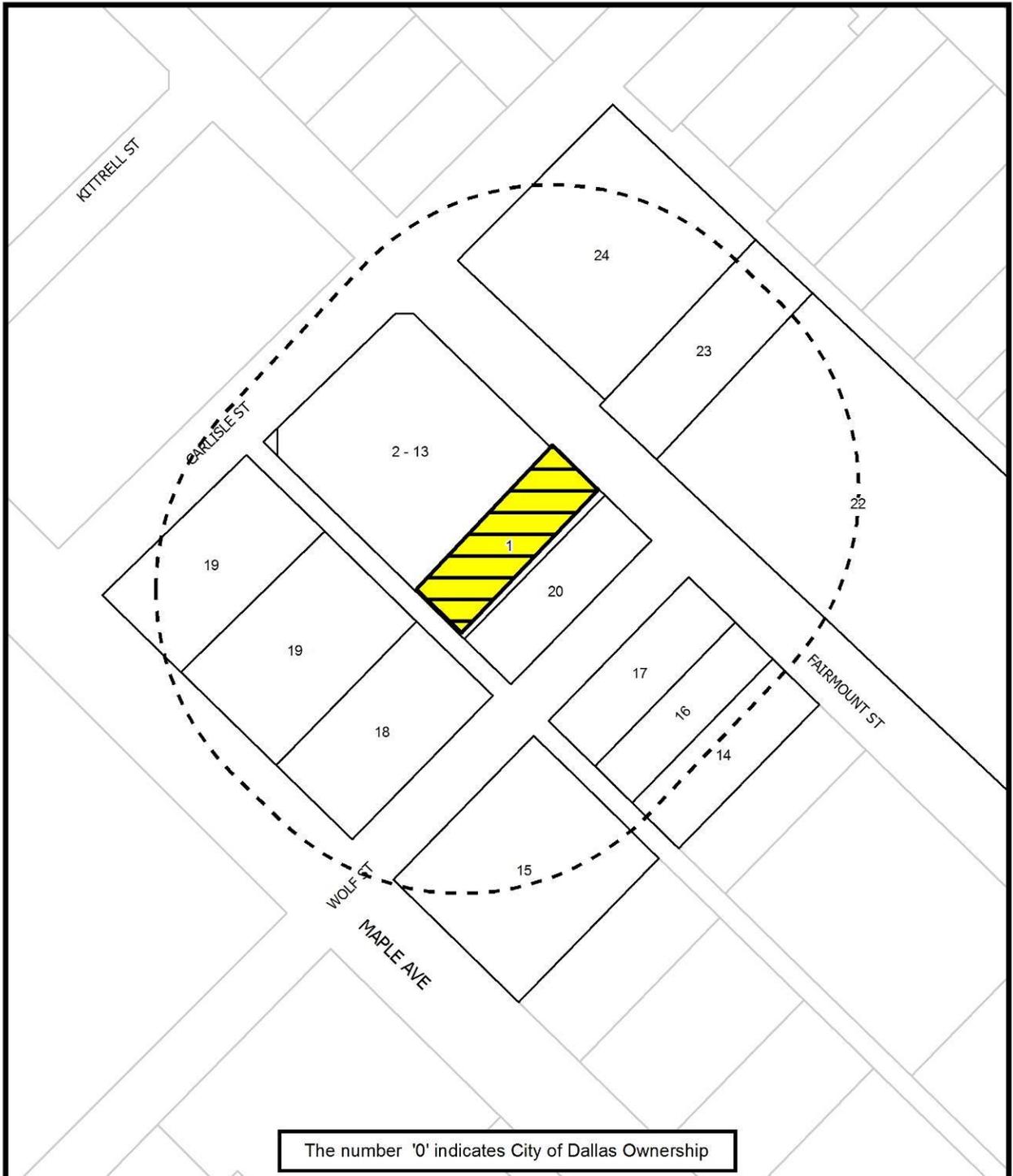
BDA134-065. Application of Ann Covington-Wilburn represented by Craig Barnes for a special exception to the landscaping regulations at 3005 Fairmount Street. This property is more fully described as Lot 4, Block 9/944, and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscaping regulations.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official







 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">24</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	24	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA134-065</u> Date: <u>7/31/2014</u>
200'	AREA OF NOTIFICATION					
24	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA134-065

24 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3005 FAIRMOUNT ST	COVINGTON TERRIE I
2	3033 FAIRMOUNT ST	GIANCASPERO WALDEMAR N
3	3011 FAIRMOUNT ST	KAMINER MARC
4	3013 FAIRMOUNT ST	NAGESH KONANUR
5	3015 FAIRMOUNT ST	BURNELL JEREMY
6	3017 FAIRMOUNT ST	PARRISH ROLAND G
7	3019 FAIRMOUNT ST	BAKER JENNIFER ANNE
8	3021 FAIRMOUNT ST	MEDINA LANA
9	3023 FAIRMOUNT ST	HIRZEL JEFF L & CAROL A
10	3025 FAIRMOUNT ST	VAUGHN ROBERTA R
11	3027 FAIRMOUNT ST	SIMPSON THOMAS A &
12	3029 FAIRMOUNT ST	LEUNG KEVIN
13	3031 FAIRMOUNT ST	MOORE CAROL A
14	2921 FAIRMOUNT ST	CALABAZA HOLDINGS LLC
15	2926 MAPLE AVE	SHIELDS LTD PS
16	2923 FAIRMOUNT ST	PERKINS JAMES M JR &
17	2925 FAIRMOUNT ST	REILLY PARKWAY LTD PTNS
18	3000 MAPLE AVE	GREENWAY 3000 MAPLE LTD
19	3008 MAPLE AVE	MAPLE TREE PARTNERS LTD
20	3001 FAIRMOUNT ST	FRENCH JAMES F &
21	3000 FAIRMOUNT ST	SLOCUM PROPERTIES INC
22	2501 CEDAR SPRINGS RD	CADDO UPTOWN LP
23	3004 FAIRMOUNT ST	3004 FAIRMOUNT LP
24	3012 FAIRMOUNT ST	MAVINA FAIRMOUNT LLC

FILE NUMBER: BDA 134-084

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin for a variance to the off-street parking regulations at 4020 Gilbert Avenue. This property is more fully described as Lot 4A, Block29/1570, and is zoned PD193 (MF-2), which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure and provide 40 of the required 48 off-street parking spaces which will require an 8 space variance to the off-street parking regulations.

LOCATION: 4020 Gilbert Avenue

APPLICANT: Robert Baldwin

REQUEST:

A request for a variance to the off-street parking regulations of 8 spaces is made to construct and maintain a 24,000 square foot multifamily use/development, where the applicant proposes to provide 40 (or 83 percent) of the required 48 required off-street parking spaces on a site that is developed with a multifamily use that the applicant intends to demolish.

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:

Denial

Rationale:

- The site is flat, rectangular in shape, and according to the application, 0.65 acres in area where none of these features/conditions preclude the applicant from developing the subject site in a manner commensurate with the development of other parcels of land in the same PD 193 (MF-2) zoning.
- The applicant has not substantiated how this variance for this specific use (multifamily) at its proposed size is not needed to relieve a self-created hardship. The features/conditions of this flat, rectangular-shaped site do not appear to restrict the applicant from developing it with a smaller sized development that could provide the number of off-street parking spaces required by code.
- Granting the variance appears to be contrary to public interest since the Sustainable Development and Construction Department Project Engineer has recommended that this request be denied based on his conclusion that there is not enough information from the applicant to justify the need for the proposed reduction.

BACKGROUND INFORMATION:

Site: PD 193 (MF-2) (Planned Development, Multifamily)
North: PD 193 (MF-2) (Planned Development, Multifamily)
South: PD 193 (MF-2) (Planned Development, Multifamily)
East: PD 193 (MF-2) (Planned Development, Multifamily)
West: PD 193 (MF-2) (Planned Development, Multifamily)

Land Use:

The subject site is developed a multifamily use that the applicant intends to demolish. The areas to the north, east, south, and west is developed with multifamily uses.

Zoning/BDA History:

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

GENERAL FACTS/ STAFF ANALYSIS:

- The request focuses on constructing and maintaining a 24,000 square foot multifamily use/development, where the applicant proposes to provide 40 (or 83 percent) of the required 48 required off-street parking spaces on a site that is developed with a multifamily use that the applicant intends to demolish.
- The subject site is zoned PD 193 (MF-2) that requires the following off-street parking requirement:
 - Multifamily: 1 space for each 500 square feet of dwelling unit floor area within the building site
- 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

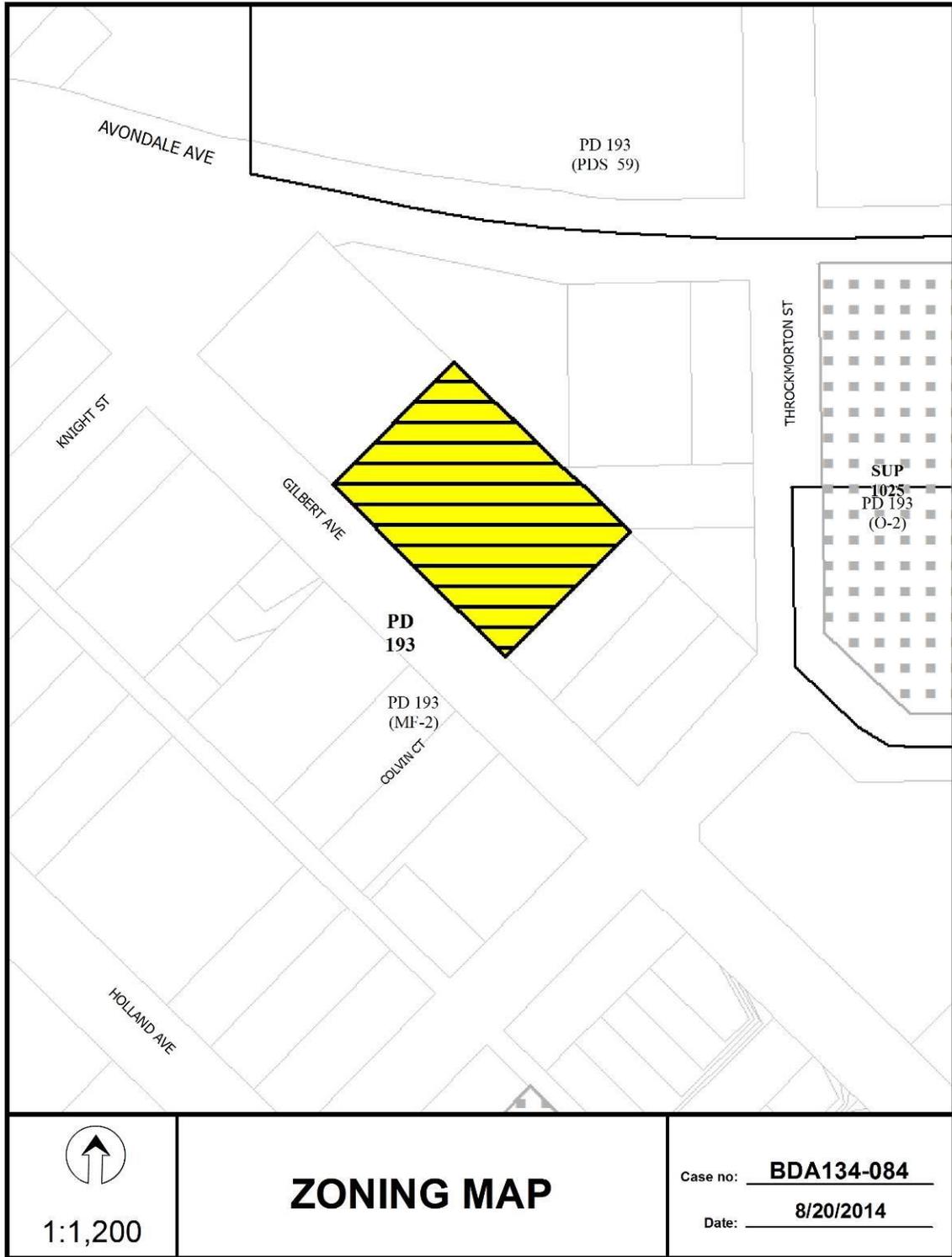
off-street parking spaces required *under this article* if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion 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.

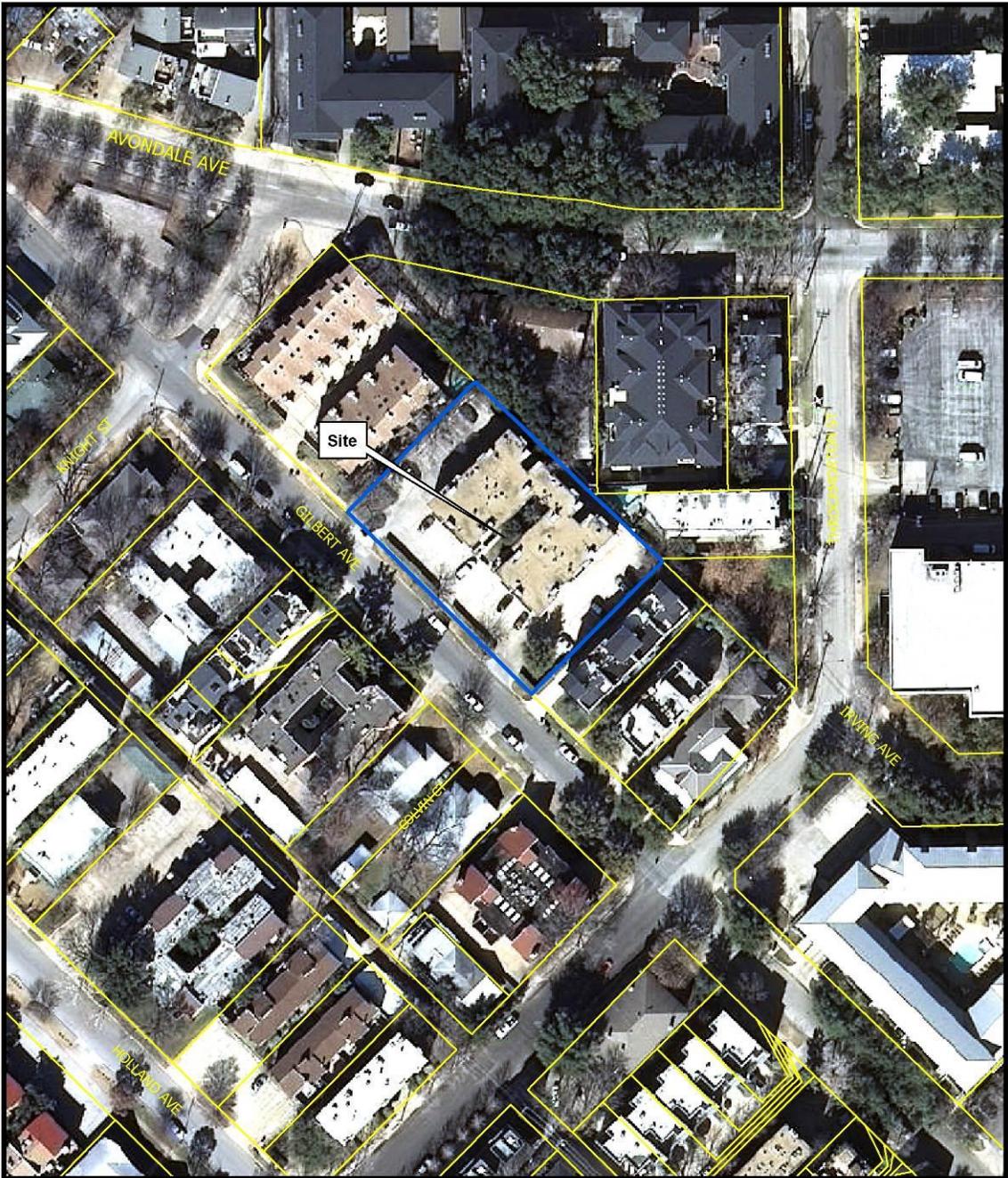
- However, Dallas Development Code Section 51A-311(a)(6) states that the Board of Adjustment *shall not* grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific 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 193 does not make references to the existing off-street parking regulations in Chapter 51 or Chapter 51(A), the applicant may only apply for a *variance* and only the variance standard applies on this request to reduce the off-street parking regulations for multifamily use in PD 193 even though the reduction request is 17 percent of the required off-street parking.
- The Sustainable Development and Construction Department Project Engineer has submitted a Review Comment Sheet marked “Recommends that this be denied” commenting “There is not enough information to justify the need for the proposed reduction.”
- The site is flat, rectangular in shape, and according to the application, 0.65 acres in area. The site is zoned PD 193 (MF-2).
- DCAD records indicate that the “improvements” at 4020 Gilbert is an “apartment” with 20,094 square feet built in 1972.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to off-street parking 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 PD193 (MF-2) 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 (LC) zoning classification.

- If the Board were to grant this request, the applicant would be required to provide 40 (or 83 percent) of the 48 off-street parking spaces required to construct and maintain a 24,000 square foot multifamily use on the subject site.

Timeline:

- June 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.
- August 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 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 August 27th deadline to submit additional evidence for staff to factor into their analysis; and the September 5th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- September 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction 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.
- September 3, 2014: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied” commenting “There is not enough information to justify the need for the proposed reduction.”
- September 5, 2014: The applicant submitted additional documentation on this application beyond what was submitted with the original application and discussed at the September 2nd staff review team meeting (see Attachment A).





1:1,200

AERIAL MAP

Case no: BDA134-084

Date: 8/20/2014

BDA 134-084
Attach A

Baldwin
Associates

September 5, 2014

The Honorable Board of Adjustment
City of Dallas
City Hall
1500 Marilla Street, Room 5BN
Dallas, TX 75201-6390

Re: Board of Adjustment Case 134-084: 4020 Gilbert Avenue

Dear Sir or Madam,

This firm represents GERE Properties in the request for a parking reduction of 8 spaces. The subject property is a 0.65-acre tract of land located in multifamily residential area of Oak Lawn that is seeing an increase in redevelopment of the aging housing stock. We are proposing to redevelop this site with a multifamily use.

The existing multifamily structures were developed in 1972 and contain 30 dwelling units in approximately 21,517 square feet of floor area. The property contains 34 off-street parking spaces, however, based on the current PDD No. 193 parking ratio required, 43 spaces should be required. This means that the property has been functioning with an effective parking rate of 1.17 spaces per dwelling unit.

The proposed multifamily development will contain 33 dwelling units with a total bedroom count of 41. We propose to provide 41 parking spaces, one for each bedroom which is consistent with Chapter 51A parking requirements for multifamily uses. This equates to 1.24 spaces per dwelling unit, which is a slight increase from the current parking on-site. Based on the proposed floor area, PDD No. 193 standards would require 48 parking spaces.

While this application amounts to a request of a 16% reduction in the off-street parking requirements, a variance is the only type of parking reduction available that we can request from the Board of Adjustment since this property is located with PDD No. 193. A reduction in parking will allow for the new structures to be built closer to the street and provide additional landscaping. We respectfully request the Board of Adjustment approve the requested parking reduction to match the city-wide parking requirements.

Thank you for your assistance with this matter. If you have any questions or need any additional information, please do not hesitate to call me.

Very truly yours,



Robert B. Baldwin, AICP

BDA 134-084
Attach B

Baldwin
Associates

September 10, 2014

The Honorable Board of Adjustment
City of Dallas
City Hall
1500 Marilla Street, Room 5BN
Dallas, TX 75201-6390

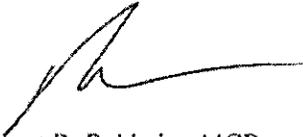
Re: Board of Adjustment Case 134-084: 4020 Gilbert Avenue

Dear Sir or Madam,

This firm represents GERE Properties in the request for a parking reduction of 8 spaces. This case is known as BDA 134-084. Please accept this letter as our request that you deny this case without prejudice. We no longer wish to pursue this variance.

Thank you for your assistance with this matter. If you have any questions or need any additional information, please do not hesitate to call me.

Very truly yours,



Robert B. Baldwin, AICP



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-084

Data Relative to Subject Property:

Date: June 26, 2014

Location address: 4020 Gilbert Avenue Zoning District: PD 193 MF-2

Lot No.: 4-7 4a Block No.: 29/1570 Acreage: 0.65 acres Census Tract: 6.046

Street Frontage (in Feet): 1) 200 ft 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

SW22

Owner of Property (per Warranty Deed): GERE Properties LLC

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance , or Special Exception , of eight (8) off-street parking spaces for a multifamily use

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: Requesting to provide parking in accordance with Chapter 51A for multifamily uses that bases the parking requirement on bedrooms rather than square footage.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

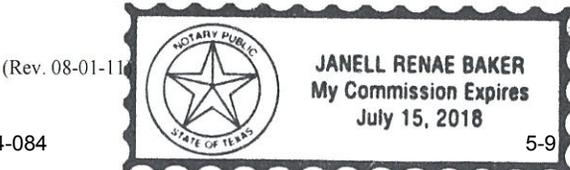
Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin (Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: _____ (Affiant/Applicant's signature)

Subscribed and sworn to before me this 1st day of July 2014



Janell Renae Baker
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

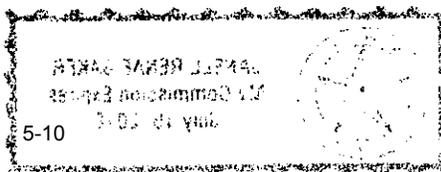
I hereby certify that Robert Baldwin

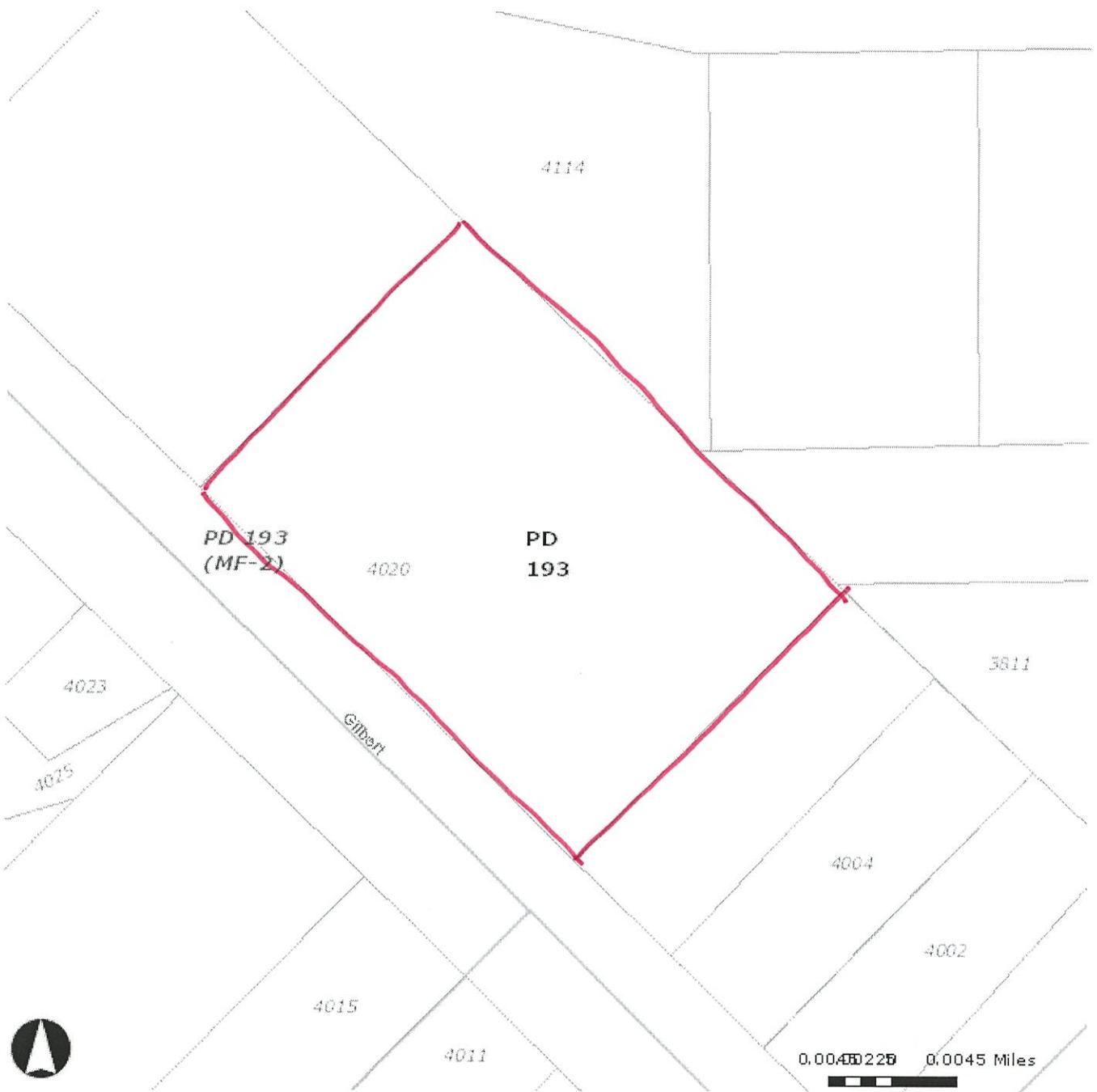
did submit a request for a variance to the parking regulations
at 4020 Gilbert Avenue

BDA134-084. Application of Robert Baldwin for a variance to the parking regulations at 4020 Gilbert Avenue. This property is more fully described as Lot 4A, Block29/1570, and is zoned PD193 (MF-2), which requires parking to be provided. The applicant proposes to construct a multifamily residential structure and provide 40 of the required 48 parking spaces which will require an 8 space variance to the parking regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official





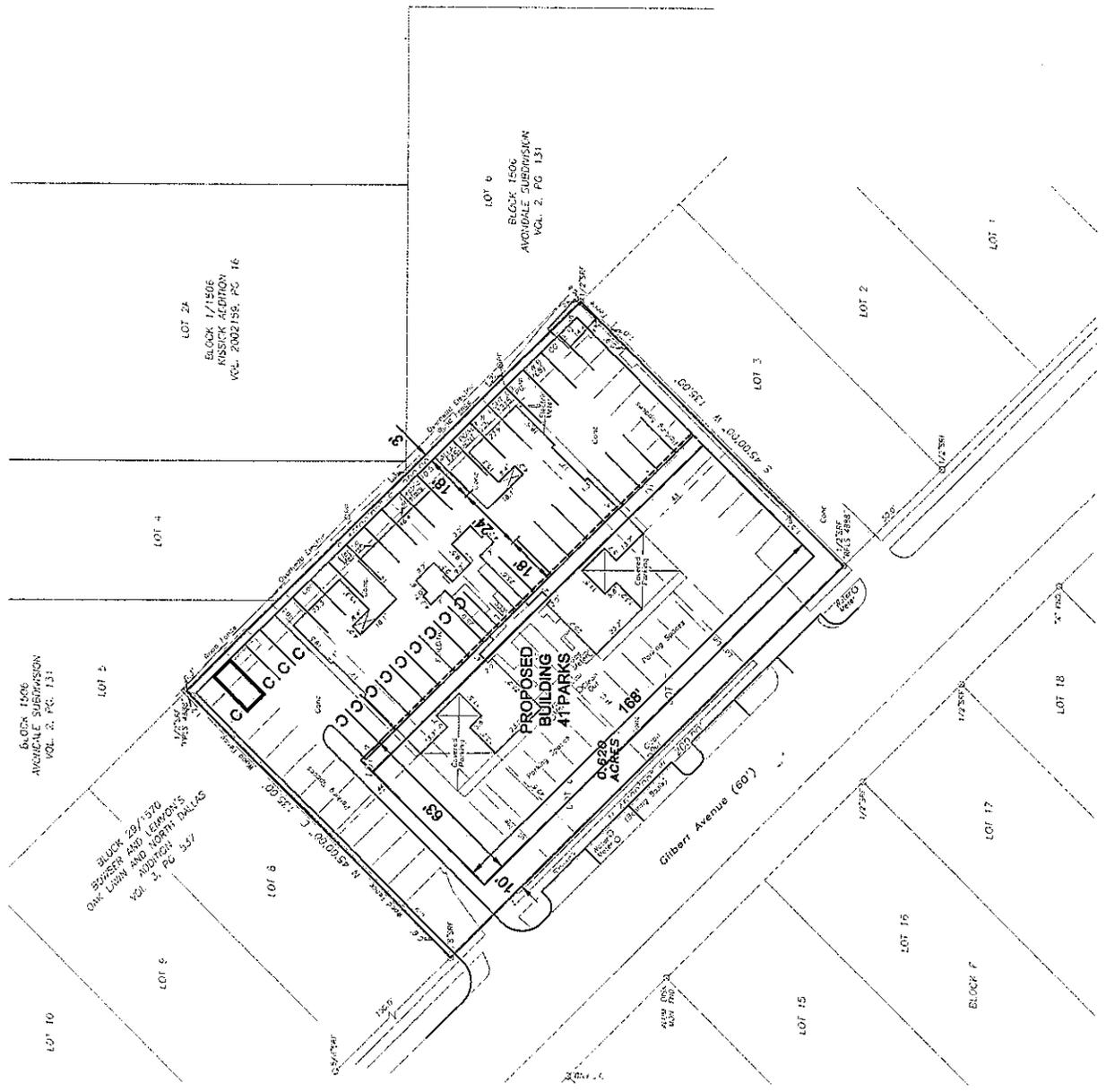
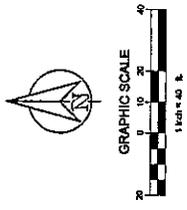
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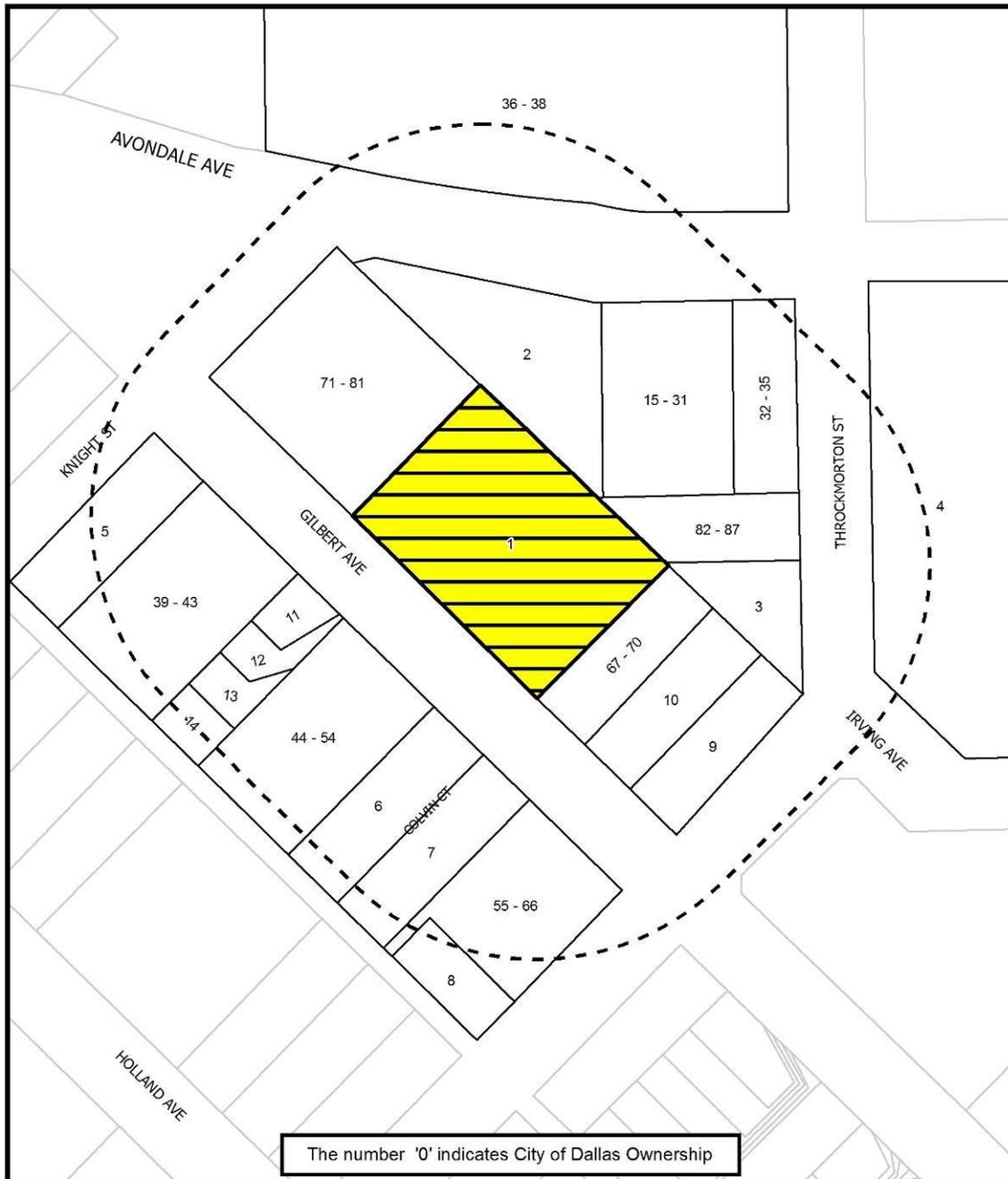
4020 Gilbert Avenue
Parking analysis for variance request

8 space variance request

Multifamily use
PD 193 MF-2

Square footage proposed	24,000
Parking required 1 space per 500 square feet of dwelling unit floor area, maximum of 2 spaces per unit for height less than 36', on-site parking to be ungated and available for guests	48
Parking proposed	40
Variance request	8





 1:1,200	NOTIFICATION		Case no: BDA134-084
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">87</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 8/20/2014	

Notification List of Property Owners

BDA134-084

87 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4020 GILBERT AVE	GERE PROPERTIES LLC
2	4114 AVONDALE AVE	QUIRL WILLIAM C
3	3811 THROCKMORTON ST	CLARK DIANA X
4	4211 IRVING AVE	SOUTHWESTERN BELL
5	4037 GILBERT AVE	GALUE ALBERTO JOSE &
6	4015 GILBERT AVE	LAFLEUR TRACY J
7	4011 GILBERT AVE	SCHROEDER DENNIS L
8	3717 THROCKMORTON ST	DAVIS RICHARD D &
9	4002 GILBERT AVE	WAKIN EDWARD A LIVING TRUST
10	4004 GILBERT AVE	AZAM SAGHIR &
11	4023 GILBERT AVE	GREGG CHARLES REBSTOCK JR
12	4025 GILBERT AVE	HARRISON JOHNS & SUSAN K
13	4027 GILBERT AVE	GUINDI ALFI SAMIR
14	4029 GILBERT AVE	SMEEDING JAMES E
15	4122 AVONDALE AVE	GUILLORY GARY K
16	4122 AVONDALE AVE	JACOB SYBIL M
17	4122 AVONDALE AVE	FLECK JENNA M
18	4122 AVONDALE AVE	BAYSINGER MANDE M
19	4122 AVONDALE AVE	SHORE STEPHANIE
20	4122 AVONDALE AVE	ISHII LETICIA Y
21	4122 AVONDALE AVE	KELLY SEAN PATRICK
22	4122 AVONDALE AVE	SALMON JAMES DAVID
23	4122 AVONDALE AVE	JASCO PPTIES LLC
24	4122 AVONDALE AVE	RABE JEFFREY A
25	4122 AVONDALE AVE	PATEL DIVYA & KEYUR
26	4122 AVONDALE AVE	LINEHAN THOMAS E

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	4122 AVONDALE AVE	LONG DAVID A
28	4122 AVONDALE AVE	AARSEN SARAH E
29	4122 AVONDALE AVE	WELDON CAMERON T
30	4122 AVONDALE AVE	CHRISTIE JOHN S
31	4122 AVONDALE AVE	MIKLASKI CHARLES F
32	4126 AVONDALE AVE	DANG TOAN
33	4126 AVONDALE AVE	BINION DORIS
34	4126 AVONDALE AVE	SADEGHPOUR SIAMAK
35	4126 AVONDALE AVE	MUIRHEAD PAMELA J
36	4107 AVONDALE AVE	AVONDALE LEGACY LLC
37	4121 AVONDALE AVE	AVONDALE LEGACY LLC
38	4121 AVONDALE AVE	BELLINGER CLARISSA A
39	4033 GILBERT AVE	LESZINSKI SLAWOMIR
40	4033 GILBERT AVE	WEISFELD RONALD A
41	4033 GILBERT AVE	SLAVOMIR LESZINSKI LIV TR
42	4033 GILBERT AVE	FIELD DREW
43	4033 GILBERT AVE	LESZINSKI SLAWOMIR TRUST
44	4021 GILBERT AVE	LOARCA LIDIA
45	4021 GILBERT AVE	MCCARTHY COLLEEN A
46	4021 GILBERT AVE	RANDOLPH LARRY LEE
47	4021 GILBERT AVE	BORSKI BRIAN
48	4021 GILBERT AVE	STANDLEE LESLIE D
49	4021 GILBERT AVE	YANNAcone CHRISTOPHER
50	4021 GILBERT AVE	DOPSON PATSY VICK
51	4021 GILBERT AVE	DODSON DAVID LEE
52	4021 GILBERT AVE	BIEDIGER PATRICK
53	4021 GILBERT AVE	PATRIE STEVEN
54	4021 GILBERT AVE	RETZ MICHAEL M
55	4003 GILBERT AVE	BOYD DARYL M
56	4003 GILBERT AVE	MILBURN ROBERT C
57	4003 GILBERT AVE	LESZINSKI SLAWOMIR

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	4003 GILBERT AVE	BIARD MONICA M
59	4003 GILBERT AVE	LENOBLE MARION WARD
60	4003 GILBERT AVE	MORRIS MICHAEL D
61	4003 GILBERT AVE	CAWTHON DONALD D
62	4003 GILBERT AVE	FEDERAL HOME LOAN MORTGAGE CORPORATION
63	4003 GILBERT AVE	KNIGHT SHELLEY G
64	4003 GILBERT AVE	TILLERY REBECCA ANN
65	4003 GILBERT AVE	GUTIERREZ CYNTHIA A
66	4003 GILBERT AVE	KIM STEVE Y K
67	4010 GILBERT AVE	PIRKUL NESET
68	4010 GILBERT AVE	JONES OWEN M
69	4010 GILBERT AVE	YEGANOV VLADISLAV L &
70	4010 GILBERT AVE	SMITH CHRISTINA E
71	4030 GILBERT AVE	GATZKA DONALD H
72	4030 GILBERT AVE	ZHANG YUANYUAN
73	4030 GILBERT AVE	CORDELL DENNIS D
74	4030 GILBERT AVE	JOHNSON KEVIN W
75	4030 GILBERT AVE	DUCATE JEFFREY S
76	4030 GILBERT AVE	LARGO BEVERLY S
77	4030 GILBERT AVE	HASKEL ANNE C
78	4030 GILBERT AVE	GODFREY HIEN DAO
79	4030 GILBERT AVE	SJOBORG JAMES J
80	4030 GILBERT AVE	HERZSTEIN MICHAEL ALLEN TRUST THE
81	4030 GILBERT AVE	DAVID MEGAN
82	3907 THROCKMORTON ST	MCCARTHY KEVIN
83	3907 THROCKMORTON ST	CHANG JOSHUA
84	3907 THROCKMORTON ST	BOOTHE MIKE STEVEN
85	3907 THROCKMORTON ST	SYMNS LARRY D
86	3907 THROCKMORTON ST	ENGLISH JAMES E JR
87	3907 THROCKMORTON ST	REEVES ROGER